COON CREEK WATERSHED DISTRICT
Request for Board Action

MEETING DATE: October 28, 2019
AGENDA NUMBER: 11
ITEM: Escrow Return Process

AGENDA: Discussion

ACTION REQUESTED
Discussion

BACKGROUND
On October 23 President Wilder contacted the District indicating that he had been contacted by Manager Herbst and asking to have this item placed on the agenda.

The District adopted an escrow return policy in 1988. The policy has been reviewed 21 times between 1988 and 2009 which has the last time it was amended. The return process is as follows.

Refund Unneeded Performance Escrows:
Policy

Upon completion of the project, or identifiable phase, in accordance with District standards and requirements, the applicant is entitled to a refund of all, or a portion, of the posted performance escrow pursuant to notifying the District and the District confirming that:

   1. The project is complete
   2. The project is built according to the approved plans
   3. The site is stabilized
   4. The project is ready for final inspection
   5. The applicant would like return of their escrow

The District will inspect the project for conformance with the permitted plans and remaining or existing threats to water resources associated with the implementation of those plans resulting from construction.

   If the project is not complete and/or not stabilized the District will inform the applicant in writing of work that remains to be done.

Amount

   Full amount

Calculation

   Finding
   The project is complete

   Measure
   All grading and construction of approved water resource infrastructure is complete
The project is built according to the approved plans

The site and water resource features conform to the plan approved and permitted by the District

The site is stabilized

All critical areas, or areas subject to erosion are treated with an appropriate best management practice to ensure their stability,

The project is ready for final inspection

Formal statement that the above three items are true.

The applicant would like return of their escrow

Formal request for return of the escrow. This may also include authorization to apply the escrow to another project

### Payment

If the project is complete and stabilized the District will execute the appropriate refund at their next regularly scheduled meeting where the Board pays bills (typically the second Monday of each month).

### ISSUES/CONCERNS

1. **2017 Board Direction for Full Cost Recovery from Chargeable Services**: During development of the 2018 budget the Board directed staff to be more aggressive at recovering cost from chargeable services. This discussion was repeated during development of both 2019 and 2020 budgets. Elements of this policy that have been discussed on at least two occasions since then are:
   a. Sufficiency of collected review and inspection fees
   b. Adequacy of escrows
   c. Differentiation of escrow amounts based on project size or complexity

2. **Timing of Invoices for Recoverable Costs**: Since May 2019, the District has relied heavily on Wenck to conduct inspections including close out inspections. Invoices for project review and inspection services typically lag 2 – 2.5 months from when the services were performed. The policy to fully recover billable costs and the 2 - 2.5-month lag in invoicing renders the ability of “the District will execute the appropriate refund at their next regularly scheduled meeting where the Board pays bills (typically the second Monday of each month)” doubtful to impossible.

3. **Sufficiency of Review and Inspection Fees**: Since 2000 staff has periodically come to the Board to review and discuss both the amount collected for review and
inspection and the amount collected for escrows. Since 2017 the Board has not wanted to increase the amount collected ($1,500). In 2019 the Board did review and consider breaking up the schedule for review and inspection based on size and type of project.

Because the amount collected for review and inspection has been insufficient to fully recover chargeable costs, many projects are asked for permission to deduct remaining balances from their escrow return or pay a final invoice prior to refund. Most choose the deduction option. While this can speed up the refunding process, it does not reflect the lag in invoicing.

PRIOR DECISIONS

**November 2006**: Board adopts amendment to Fees and Escrows Policy

**June 2017**: Board directs staff to be more aggressive at recovering related costs, to ensure Fee for Service Revenues are realized.

OPTIONS AND ACTIONS BEING TAKEN

1. **Evaluate methods to shorten final billing and close out**
   a. Accelerate Erin’s training and return final inspection responsibilities to District &/or share on an as needed basis (In process)
   b. Request Wenck to accelerate billing and close out on (Request made 10/24)
      i. Special requests (Wenck & Staff preference)
      ii. All permit close outs

2. **Continue developing revised fee schedule**: Scheduled to be worked on during third quarter with report to Board in Dec or early January

3. **Pay escrow returns twice a month**: Currently being discussed and worked during evaluation period of the timing of financial reports to the Board

RECOMMENDATION

None