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San Diego County Water Authority Annexation Packet

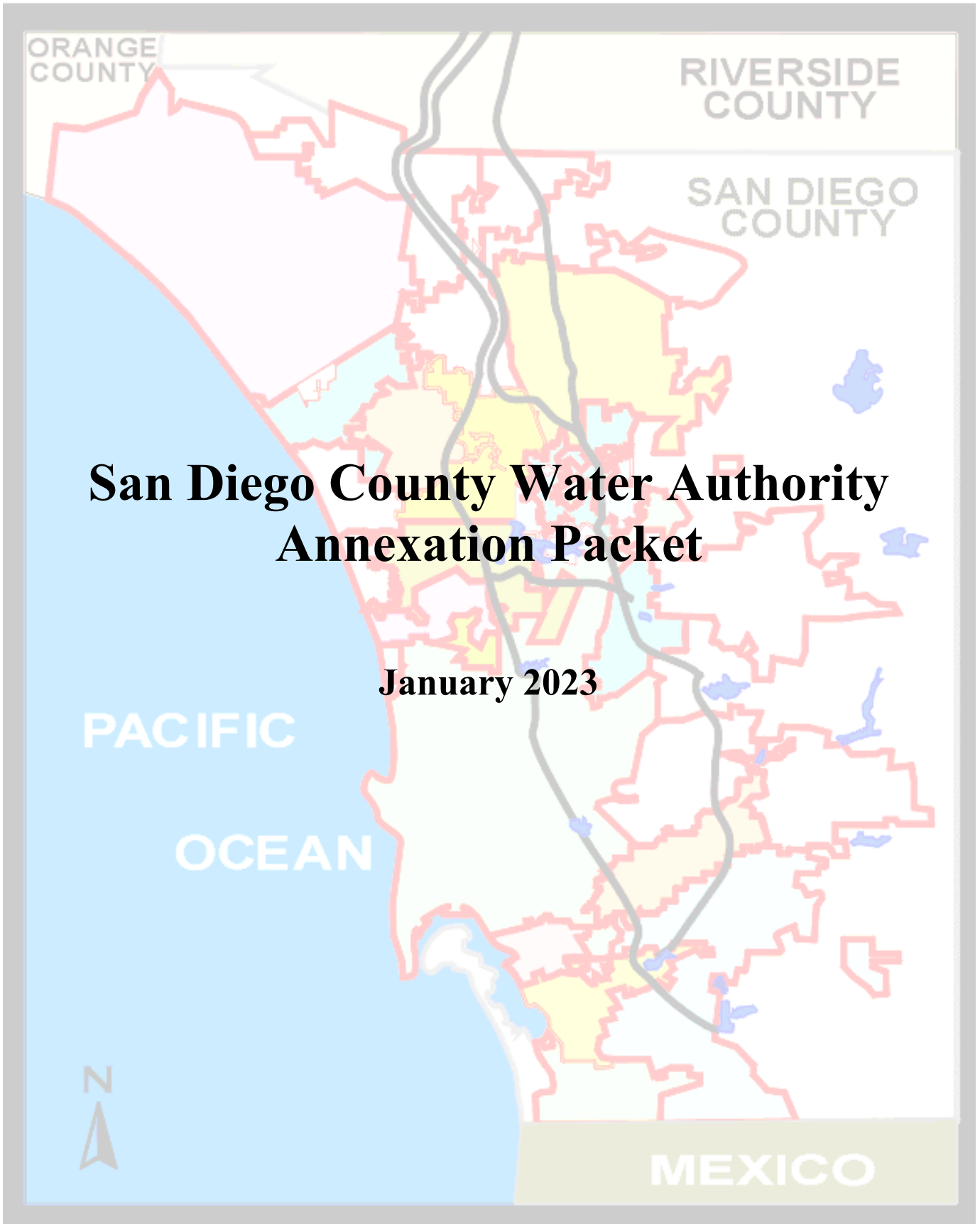
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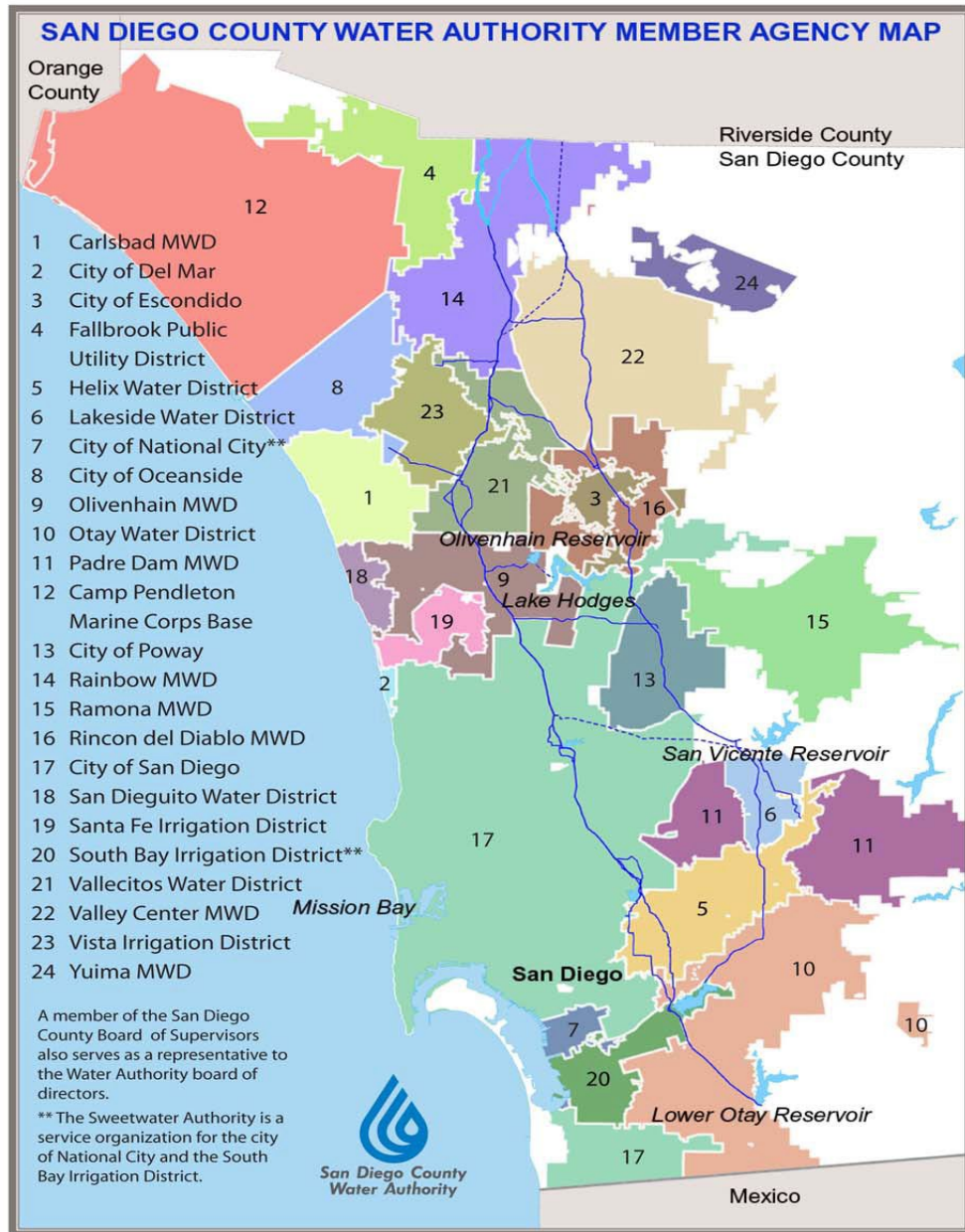


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Section 1 – Introduction

The San Diego County Water Authority (Water Authority) is a public agency serving the San Diego region as a wholesale supplier of water. The Water Authority works through its 24 member agencies to provide a safe and reliable water supply to support the region’s economy and the quality of life of over 3.3 million residents. The Water Authority’s services area includes more than 1,490 square miles and spans from Riverside County to the U.S./Mexico border and from the coastline to the East County.

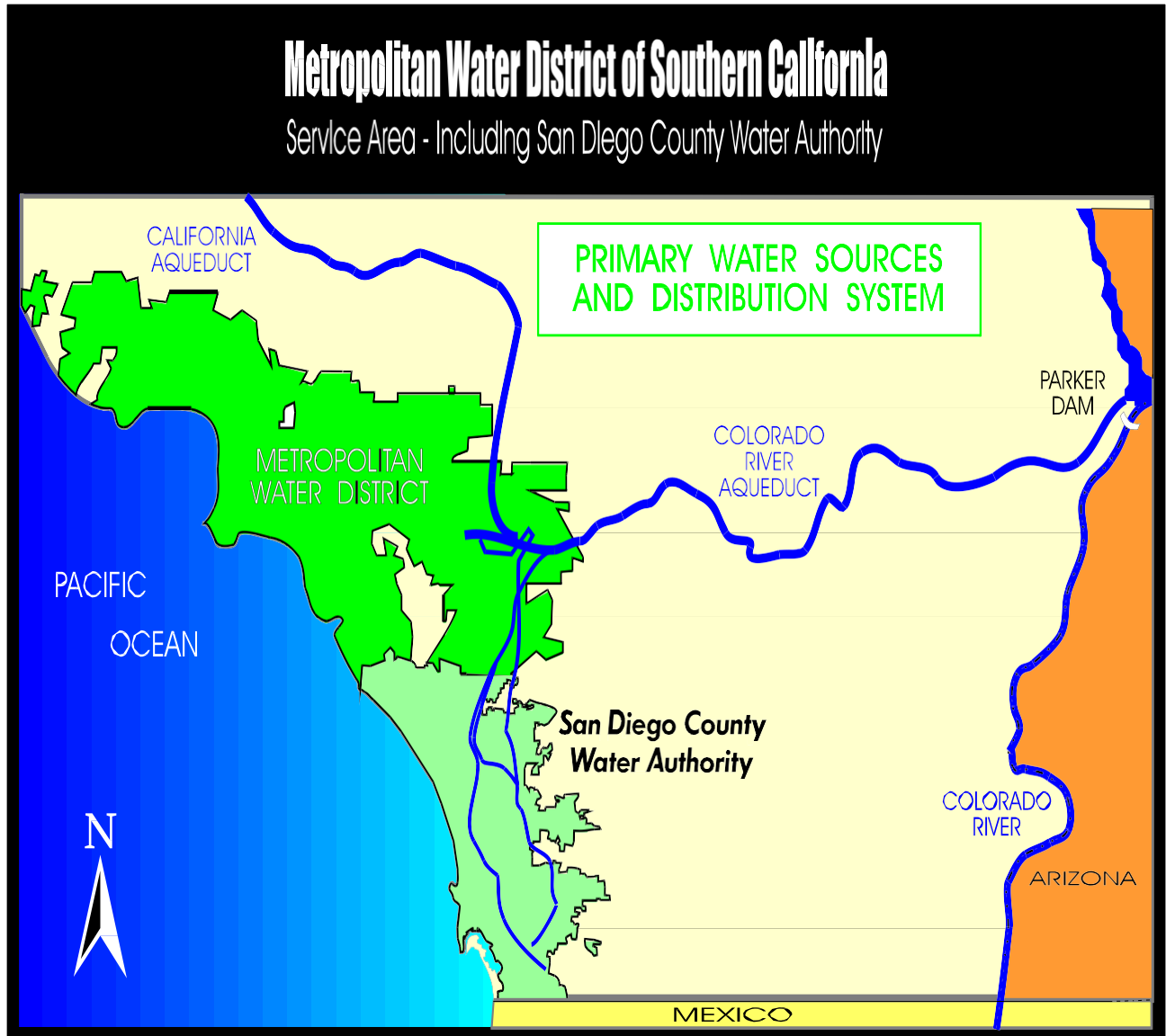
WATER AUTHORITY SERVICE AREA



Section 2 – Overview

The Water Authority Board of Directors, as far as practicable, shall provide each of its member agencies with adequate supplies of water to meet their expanding and increasing needs. Periodically, the Water Authority receives requests from its member agencies to expand the Water Authority's boundary through the annexation of property. A property is annexed concurrently into the local water agency, the Water Authority, and to the Metropolitan Water District of Southern California (MWD), by meeting the terms and conditions fixed by each agency's board and in accordance with each agency's policies and procedures.

MWD SERVICE AREA



Section 3 – Annexation Policies

In February 2006, the Water Authority Board of Directors (Board) adopted annexation policies that provide guidance to staff, member agencies and the public on how the Water Authority processes annexation requests. Since adoption in 2006, the Board has amended the policies twice. In April 2016, Policy #12, Administrative Costs, was amended to address issues related to defense and indemnification. In July 2017, Policy #4, System Cost Recovery, and Policy #12, Annexation Application Fee, were amended to address revisions to the annexation fee structure that were approved by the Board in June 2017. In addition, in April 2010, the Board approved procedures for implementation of Policy #2, to guide applicants, member agencies, and Water Authority staff on implementation of the policy. The 13 annexation policies are listed below.

1. Relationship to San Diego Local Agency Formation Commission (LAFCO) and Metropolitan Water District of Southern California (MWD) Policies

Any annexation to the Water Authority shall be in accordance with the County Water Authority Act and applicable provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code Section 56000 et seq.). Any annexation to the Water Authority shall not conflict with Division III, Annexations, of the MWD Administrative Code.

2. Protection of Member Agency Supply Reliability

The Water Authority shall evaluate the adequacy of water supplies and facilities to meet the needs of the proposed annexed territory based on adopted Water Authority facilities and supply plans, including without limitation the 2014 Regional Water Facilities Optimization and Master Plan Update and the 2020 Urban Water Management Plan, or the most recent update of either. The Board may deny an annexation if it determines the annexation would adversely affect water supply reliability to Water Authority member agencies, or may approve an annexation upon compliance with conditions to mitigate, or avoid adverse effects to water supply reliability of member agencies. Costs of such mitigation should generally be borne by the annexing territory unless the Board finds a regional benefit that justifies regional allocation of such costs or a portion of such costs.

3. Conservation and Local Supply Use Requirements

- a. In addition to any condition imposed pursuant to Policy #2, to reduce demand on, and enhance reliability of, Water Authority water supplies, the Board may condition an annexation to require developments and development projects in the annexed territory to:
 - i. Utilize recycled water in accordance with California Water Code;
 - ii. Incorporate water conserving design and improvements within subdivisions, both residential and commercial;
 - iii. Incorporate water conserving design and improvements in building, grading, landscaping, and other similar development and construction plans; and
 - iv. Require maintenance of water conserving landscape through CC&Rs.

Section 3 – Annexation Policies

- b. The member agency with jurisdiction over the parcels considered for annexation shall submit evidence of the following prior to Water Authority Board approval of the annexation:
 - i. A regulatory plan to require all new developments within proposed annexing territories and member agency’s service area to incorporate water conserving design and improvements based on current Water Authority water-use-efficiency policies and reasonable conservation practices and measures;
 - ii. A regulatory plan to require all new developments within proposed annexing territories to use recycled water in accordance with California Water Code, or explain why such use is infeasible;
 - iii. The member agency has accounted for groundwater and surface water supplies available to the annexing territory in the member agency’s water management plan and where appropriate and feasible, intends to use for consumptive purposes;
 - iv. The member agency is maximizing use of recycled water and groundwater throughout its service area or has conducted feasibility studies that have determined that development of recycled water is not practical or feasible; and
 - v. The member agency is offering Water Authority and MWD sponsored water conservation programs to new development and encouraging participation.

4. System Cost Recovery

The cost of Water Authority facilities and supplies of benefit to the member agencies or the annexed territory shall be collected for each annexing parcel through the System and Treatment Capacity Charges. The Board may deny an annexation if it determines that the annexation would result in an increase in cost of service to the member agencies.

5. Priority Given to Annexations to Member Agency

Priority shall be given to proposals for annexation to an existing member agency. Addition of territory through annexation of a new member agency shall be discouraged in order to promote efficiency in water supply delivery and governance.

6. Concurrent Annexation to MWD, Water Authority, and Member Agency

Proposals for annexation to a member agency shall be processed concurrently with an application for annexation to the Water Authority and MWD, unless the annexed territory will have a permanent water supply that is wholly independent of the Water Authority. Proposals for annexation as a separate entity to the Water Authority shall be processed concurrently with an application for annexation to MWD.

7. Facilities Necessary to Connect Annexing Territory or New Member Agency

Facilities and works necessary to connect annexed territory or new member agency to Water Authority facilities and works shall be provided at the cost of the annexed territory or new member agency, as determined by the Board.

Section 3 – Annexation Policies

8. Environmental Compliance

Annexation to the Water Authority is a project subject to the California Environmental Quality Act (CEQA) and, if applicable, the National Environmental Policy Act (NEPA), and shall be reviewed pursuant to Section 8 of the Water Authority’s Administrative Code. The applicant for annexation is responsible for paying the cost of environmental review.

9. Consistent with Land-Use Approvals

The member agency with jurisdiction over the annexing territory shall provide certification from the city with jurisdiction over the annexing territory that the annexation is consistent with and supports the timing, location, and development intensity of the city’s general plan and applicable specific plans. If the annexing territory is not located in a city, the county shall provide the certification.

10. Total Annexation of Ownership Lands

All parcels within an area proposed for annexation under single ownership or development control shall be annexed concurrently unless the member agency and city with jurisdiction over the annexing territory provide evidence that partial annexation is consistent with land use policies of the city. The Board may exclude from the annexation, or exempt from payment of taxes, fees, or charges, lands committed in perpetuity to open space by conservation easement, title restriction, public dedication, or other similar instrument. If the annexing territory is not located in a city, the county shall provide the certification.

11. Avoid Formation of Islands/Windows

Proposals for annexation that would leave an unannexed area entirely surrounded by annexed territory (create a “window”) shall not be approved unless the Board of Directors determines that the Water Authority’s interests will not be adversely affected by the existence of the window.

Proposals for annexation that would leave an annexed area entirely surrounded by unannexed territory (create an “island”) shall not be approved unless the Board finds that the Water Authority’s interests will not be adversely affected by the existence of such an island.

12. Annexation Application Fee

Prior to acceptance by the Water Authority of an application for annexation, the applicant shall provide the Water Authority an amount reasonably estimated by the Water Authority’s General Manager to cover all administrative, processing, investigation, and review costs, including costs of Water Authority staff and retained consultants, reasonably expected to be incurred by the Water Authority as a result of annexation proceedings. Additionally, to the extent the General Manager deems appropriate, the annexation applicant shall also provide a written agreement to defend and indemnify the Water Authority from any claims that some or all of a proposed annexation is in any manner unlawful.

Section 3 – Annexation Policies

13. Annexation of Tribal Lands

Indian tribal lands may be annexed in compliance with all other policies and the policies of this section. Before approval of the annexation, the tribal government shall enter into a contract with the Water Authority to assure implementation of annexation conditions and requirements. In addition to other items, the contract shall address:

- a. Payment to the Water Authority in-lieu of taxes, assessments, and other charges from within tribal lands that would otherwise be exempt.
- b. Tribal government waiver of sovereign immunity from suit for purposes of enforcing the contractual arrangement.

Section 4 – Procedure for Implementation of Annexation Policy #2

A. Introduction

These procedures are intended to guide applicants, member agencies, and Water Authority staff in the implementation of this policy. Generally, the Water Authority will not accept or process applications for annexation during an emergency condition declared pursuant to Water Authority Administrative Code § 2.04.050, a water shortage emergency declared by the Water Authority pursuant to Water Code § 350 et seq., or if the Water Authority has activated its Water Shortage Contingency Plan at a mandatory regional water shortage level (Levels 2-6). At all other times, the Water Authority will accept applications for annexation upon payment of the required annexation application processing fee, and the Board retains discretion to consider each annexation on a case-by-case basis and approve, conditionally approve, or deny the annexation based on the circumstances at that time. Annexation of property does not provide a guarantee that water will be actually available to serve the property at the time a request is made for connection to the member agency system. Subsequent determinations of actual water supply availability will be made by the member agency pursuant to applicable law.

B. Determination of Water Supply Requirements

The following information is required. When the application is for concurrent annexation to the Water Authority and a member agency, the information will be submitted through the member agency.

1. Information to be supplied by applicant

- a. Information regarding current and proposed general plan and zoning for annexing territory.
- b. Information regarding proposed development design, density, intensity, and improvements.
- c. Information regarding proposed water conservation improvements and plans, including landscape restrictions and plans for reclaimed water usage.
- d. Information regarding proposed timing, pace, and phasing of development of the annexing property.
- e. Information necessary to permit the Water Authority to comply with the CEQA.

2. Information to be supplied by member agency

- a. Estimated average annual and peak water demand of the property based on current and proposed land use and development (Please see Paragraph C. below).
- b. Estimates for use of member agency local supplies to serve the annexing property, including any potential supplies generated from “off-set” programs implemented by the member agency for the property proposed to be annexed. (Guidelines for member agency offset program to be utilized as part of annexation request are included in Paragraph F of this packet, under Guidelines for Member Agencies Utilizing Offset Programs).
- c. Member agency infrastructure requirements to serve the annexing property.
- d. Information regarding planned additional water demands of the member agency and whether the demands of the annexing parcel are included in planning documents.
- e. Information regarding current and planned supplies of the member agency.

Section 4 – Procedure for Implementation of Annexation Policy #2

C. Calculating Estimated Water Use of the Proposed Annexing Property

The member agency in which the annexing property is located, or to which concurrent annexation is proposed, is responsible for providing the estimated annual average and peak water demands of the annexing parcel based on the information provided by the applicant and other information available to the member agency. The member agency's determination is subject to verification by Water Authority staff and Board. Water Authority staff may require the member agency to submit supplemental information as necessary to allow staff to verify the water demand projections for the annexing territory. Demand projections shall be based on a 25-year planning horizon.

D. Considerations for Evaluating Impact

When evaluating the impact of a proposed annexation, the Water Authority staff may consider the following:

1. Whether existing Water Authority facilities are sufficiently sized to provide average annual demand of the annexing territory without diminishing the Water Authority's ability to meet average annual demands at existing service levels to any Water Authority member agency.
2. Whether existing Water Authority facilities are sufficiently sized to provide peak service to the annexing territory without diminishing the Water Authority's ability to provide peak service at existing service levels to any Water Authority member agency.
3. Whether the projected water use demand for the annexing property is included in the member agency's current adopted UWMP.
4. Whether the projected water use demand for the annexing property is included in the Water Authority's current adopted UWMP.
5. Current and planned water supplies of the member agency.
6. Current and planned water supplies of the Water Authority.
7. Proposed timing, pace, and phasing of development of the annexing property, correlated to the current and planned water supplies and projected demands of the member agency and Water Authority.
8. Proposed water conservation measures incorporated into the design, improvement, and development plans of the annexing property.
9. Proposed water demand offset measures of the member agency.
10. Proposed water supplies to be obtained by the owner of the annexing property and provided to the member agency or Water Authority as a condition of annexation.

E. Determination of Adverse Effect

1. *When water demands of annexing property have been included in the Water Authority's adopted UWMP*

When the water demands of the annexing property have been included in the Water Authority's adopted UWMP, annexation of property generally will not have an adverse impact on water supply reliability of the Water Authority member agencies, provided the Water Authority finds that existing facilities are sufficient to provide average annual and peak deliveries.

Section 4 – Procedure for Implementation of Annexation Policy #2

a. When the Water Authority Board has implemented its Water Shortage Contingency Plan (WSCP)

If, at the time of annexation, the Board has implemented allocations under the WSCP allocation methodology, the annexation may be conditioned that the member agency's allocation base period demand will not be increased to account for the increased demand of the annexing territory as long as allocations remain implemented.

If, at the time of annexation, the Board has implemented the WSCP but not put into effect the allocation methodology, the annexation may be conditioned that if the Water Authority implements the allocation methodology during the same shortage period, the agency's allocation base period demand will not be increased to account for the increased demand of the annexing territory.

b. When Water Authority's current demands exceed forecasted demands

If, at the time of annexation, the current demands on the Water Authority exceed those forecasted in the UWMP, the annexation will be evaluated under Paragraph E.2.

2. When water demands of the annexing property have not been included in the Water Authority's adopted UWMP

When the water demands of the annexing property have not been included in the Water Authority's adopted UWMP, annexation of property generally will have an adverse impact on water supply reliability of the Water Authority member agencies, unless the Water Authority finds that additional supplies are reasonably available to meet the long-term demands of the annexing property and that existing facilities are sufficient to provide average annual and peak deliveries.

a. When the Water Authority Board has implemented its WSCP

If the Water Authority finds that additional supplies are reasonably available to meet the long-term demands of the annexing property and the Board has implemented the allocation methodology under the WSCP, the annexation may be conditioned that the member agency's allocation base period demand will not be increased as long as the allocation methodology is implemented to account for the increased demand of the annexing territory. If the Board has implemented the WSCP but not put into effect the allocation methodology, the annexation may be conditioned that if the Water Authority implements the allocation methodology during the same shortage period, the agency's allocation base period demand will not be increased to account for the increased demand of the annexing territory.

b. When the impact associated with the annexation is insignificant

When demands associated with the annexing territory are not included in the UWMP, but are less than or equal to an average five acre-feet per year of usage, the annexation will generally not have an adverse impact on water supply reliability of the Water Authority member agencies.

Section 4 – Procedure for Implementation of Annexation Policy #2

c. When the annexation is for existing domestic uses for health and safety purposes

When the annexation is to replace an unexpected, unplanned, loss of a local supply for existing domestic consumptive purposes and cannot be restored, the Board may waive the provisions of this policy.

Water Authority staff will notify the member agency in writing with supporting information that it has concluded that the proposed annexation has an adverse effect, prior to submitting any findings of adverse effect regarding the annexation for Board consideration. The member agency will have the right to meet with the Water Authority staff within 30 days of receiving the notice of adverse effect to discuss the results of the Water Authority’s analysis and provide to the Water Authority any additional information not previously considered by the Water Authority in arriving at the finding. Subsequently, Water Authority staff will report to the Board within 90 days of the date initial notice was provided to the member agency on the proposed annexation’s compliance with Policy #2 and its finding of adverse effect, if any. The Board will have the discretion to consider each annexation on a case-by-case basis and deny the annexation based on the adverse effect determination and not satisfying Policy #2. The member agency maintains the right to withdraw its request for annexation at any time.

Table 1 - Regional Adverse Effect Situations and Possible Mitigation Measures

| Potential Regional Adverse Effect Situations | Possible Mitigation Measures |
|--|--|
| Potential annexation demand not included in the Water Authority’s UWMP | Requirement for member agency to develop additional supply (offset project) |
| Actual demands exceed forecast | Water Authority identifies additional supplies (no requirement for offset project) |
| WSCP activated | Member agency allocation is not increased by annexation demands during shortage period |
| Facility constraints | Potential mitigation based on specific situation |

F. Guidelines for Member Agencies Utilizing Offset Programs

Under situations where a member agency or applicant utilizes an offset program to mitigate an adverse effect determination associated with the annexation demands not being included in the Urban Water Management Plan (UWMP), or regional demands are exceeding the forecasted demands included in the UWMP, the information below serves as guidelines. The Board has the discretion to modify, eliminate, or impose additional requirements based on the annexation

Section 4 – Procedure for Implementation of Annexation Policy #2

and supply situation.

1. The member agency will be responsible for identifying, developing, and maintaining the offset project. The member agency will work with annexing territory in regard to development of the project and any payment/fee to be made by the annexing territory related to the offset project.
2. Prior to final approval of the potential annexation, member agency must provide detailed information on specific offset project that will be used for mitigation (cost, yield, schedule, etc.) and agree that deliveries of imported water will not be made to the annexing territory until the offset project is completed and producing yield.
3. Member agency will certify to the Board that the offset project is in place and producing yield – prior to delivery of imported supplies to annexing parcel.
4. Member agency will be responsible for derivation of estimated demands, which shall be verified by Water Authority staff. Demands to be offset include existing demands of annexing territory or demands tied to development project plans, environmental documentation, or Tentative Map that will be developed on the annexing territory. Once territory is annexed, customer will be treated like similar classes of service in regard to provision of water delivery and implementation of the WSCP allocation methodology or subsequent methodology approved by the Board.
5. Additional offsets will not be required if demands increase on the annexing parcel in the future beyond development plans in place or proposed at time of annexation. Future increases in demands will be captured in future planning documents.
6. Offset will be considered a new supply or savings, become a part of member agency municipal supply, and be included in member agency planning documents as assisting in meeting supply reliability for the region. The offset project will not be tied to the annexing parcel for purposes of water management, such as allocation of supplies.
7. Through annual reporting, member agency will provide the Board status on development and yield of offset project.

Section 5 – Annual Reporting

The member agency shall annually submit to the Water Authority information required to comply with MWD's Administrative Code Section 3107 (Water Use Efficiency Guidelines.) In addition, the member agency shall submit information on any offset project implemented to mitigate an adverse effect determination in order to comply with Water Authority Annexation Policy #2. The information shall include status of development, or if completed, the annual yield. The Board may impose additional reporting requirements based on the specific annexation and conditions imposed. Water Authority staff will ensure that the member agency is in compliance with its reporting before presenting subsequent annexation requests from that member agency to the Board. Staff shall provide any prior member agency reports to the Board for its consideration as part of future annexation requests.

Consistent with MWD's Administrative Code Section 3107, reporting will be continuous on an annual basis for up to five years following annexation or until the new territory is included in the annexing member agency's Urban Water Management Plan.

Section 6 – Summary of the Annexation Process

Annexation to MWD, the Water Authority, and the corresponding member agency is required prior to delivery of imported water to territory currently outside these agencies' boundaries. The Water Authority's member agency originates the annexation request and works with the Water Authority and the San Diego Local Agency Formation Commission (LAFCO) to satisfy all the annexation requirements. The Water Authority works directly with MWD to ensure that all of MWD's requirements are met. The entire annexation process takes approximately 18 months to complete. Completion of documentation to comply with CEQA and, if applicable, NEPA may lengthen the annexation process timeline. The annexation process is summarized below:

1. Formal annexation request made to the Water Authority's member agency by the property applicant.
2. Member agency adopts a resolution requesting concurrent annexation to the Water Authority and MWD.
3. Member agency submits to the Water Authority information required to process the annexation request, as described in Section 8 of this packet, which includes:
 - a. Annexation request consistent with the Water Authority's Annexation Policies (Section 3 of this packet), the Procedures for Implementing Annexation Policy #2 (Section 4 of this packet), and MWD's Administrative Code Section 3100(a) and (b) (Section 7 of this packet);
 - b. Information described in Section 8 of this packet;
 - c. Water Authority's annexation application fee; and
 - d. MWD's processing fee.
4. Water Authority board adopts resolution setting preliminary, informal terms and conditions, and requesting MWD set formal terms and conditions.
5. Property owner(s) and the Water Authority shall enter into an agreement regarding the imposition of the standby charges in accordance with Section 45-5.2 of the County Water Authority Act.
6. Member agency submits the following to the Water Authority for review, and then the Water Authority forwards to MWD:
 - a. Any changes to the annexation documents submitted previously; and
 - b. Documents complying with the California Environmental Quality Act (CEQA).
7. MWD board adopts resolution setting formal terms and conditions of the annexation.
8. Member Agency adopts resolution accepting the Water Authority and MWD's terms and conditions.
9. Water Authority board adopts resolution approving annexation and verifying policies have been met.

Section 6 – Summary of the Annexation Process

10. At the request of LAFCO, the Water Authority, its member agency, and MWD will each submit to LAFCO a Subject Agency Supplemental Information Form regarding the proposed annexation.
11. Member agency obtains LAFCO resolution approving annexation.
12. Member agency forwards annexation payment to MWD and Water Authority, based on current fees and charges.
13. Member agency certifies with LAFCO that all conditions are met.
14. LAFCO records certificate of completion.
15. Following annexation, the member agency shall annually submit to the Water Authority for up to a five-year period the information required to comply with the Water Authority’s reporting requirements (Section 5 of this packet) and with MWD’s Administrative Code Section 3107 on Water Use Efficiency Guidelines.

The process will stop, if at any step, the Water Authority or MWD denies approval, but the agencies may reinstate the process upon later application.

Table 2 provides a summary of the major actions taken to process an annexation.

| Table 2 - Summary of Major Actions Required to Process an Annexation |
|--|
| Member Agency Board requests concurrent annexation |
| Water Authority Board establishes preliminary informal terms and conditions |
| Water Authority Board requests MWD adopt formal terms and conditions |
| MWD Board consents to the annexation, fixes terms and conditions |
| Member Agency Board accepts Water Authority and MWD terms and conditions |
| Water Authority Board grants final approval of annexation verifying terms and conditions have been met |

Section 7 – MWD Administrative Code Sections 3100 - 3300

Division III

ANNEXATIONS

| Chapter | Section |
|---------|--|
| 1..... | Annexation Procedure 3100 |
| 2..... | Policies Related to Annexations 3200 |
| 3..... | Financial Policies Related to Annexations 3300 |

Section 7 – MWD Administrative Code Sections 3100 - 3300

Chapter 1

ANNEXATION PROCEDURE

Sec.

- 3100. Request for Annexation
- 3101. Submittal of Request
- 3102. Board Consideration of Request for Annexation
- 3103. Board Approval of Request for Annexation
- 3104. Mandatory Terms and Conditions
- 3105. Waiver of Charge and Fee
- 3106. Payment Requirement
- 3107. Water Use Efficiency Guidelines
- 3108. Time for Completion of Annexation

§ 3100. Request for Annexation.

- (a) Board approval process.

The Board will act to approve annexations in a one or two step process. The member public agency shall indicate its preference for a one or two step process, with the process selected subject to the approval of the General Manager or Executive Committee. In either case, all annexation requests must comply with all requirements of Section 3100(b), (c) and (d).

- (1) Two step Board approval process.

In a two step Board approval process, the member public agency shall submit requirements of Section 3100(b) for conditional Board consideration and thereafter, when appropriate, the requirements of Section 3100(c) for final Board consideration.

- (2) One step Board approval process.

If a one step Board approval process is selected, a notice of intent, legal description and map (Section 3100(b) 1) must be received and approved by the District prior to filing a submittal request with the Local Agency Formation Commission (LAFCO). Within 30 days of receipt, the District will review, and approve or comment upon these materials. Once LAFCO approval and all other requirements pursuant to Section 3100(b) and (c) have been obtained, the member public agency shall submit said documentation to the District for Board consideration.

- (b) Conditional approval submittal requirements.

A request for annexation of area to the District shall be made in writing and executed on behalf of the member public agency or proposed member public agency within which the area is or is proposed to be situated.

The request shall include:

- (1) A legal description and a detailed map of the area proposed to be annexed, clearly indicating the metes and bounds of the area and the gross and net acreage for the area with sufficient documentation to support the gross and net acreage specified;

Section 7 – MWD Administrative Code Sections 3100 - 3300

(2) A certificate from the assessor of the county within which the area proposed to be annexed is situated setting forth the assessed valuation of each parcel included within the area;

(3) Identification of the ownership of each parcel included within the area proposed to be annexed;

(4) A statement setting forth whether the number of voters within the area proposed to be annexed is less than 12, or 12 or more; and

(5) A description of:

(i) Present use of each of the parcels included within the area proposed to be annexed;

(ii) Existing or proposed development plans for such parcels;

(iii) An estimate of total annual and peak demands for water service to the area proposed to be annexed; and

(iv) An estimate of the portion of such annual and peak demands to be supplied by the District.

(6) A plan for implementing the water use efficiency guidelines set forth in Section 3107;

(7) Payment of \$5,000 processing fee to cover the District's cost of handling the request for annexation, unless waived pursuant to Section 3105;

(8) A statement indicating if it is proposed that payment for the annexation charge is to be pursuant to Sections 3106(b) and (c), and sufficient justification to demonstrate security for future payments, in a form approved by the General Counsel with Board approval; and

(9) The member public agency within which the area is situated shall furnish such other information as may be requested by the District's General Manager.

(c) Final approval submittal requirements.

Prior to final approval of the proposed annexation, as provided in Section 3103, the request shall be supplemented by the member public agency with the following materials:

(1) Any changes to the annexation documentation submitted previously;

(2) Certified copy of member public agency resolution requesting approval of the annexation; and

(3) Documents complying with the California Environmental Quality Act (CEQA).

Section 7 – MWD Administrative Code Sections 3100 - 3300

(d) Annexation completion requirements.

Prior to submitting a request to LAFCO for recording the Certificate of Completion for the proposed annexing area, the member public agency must submit to the District the following materials:

- (1) Certified copy of member public agency resolution(s) accepting District final terms and conditions and ordering a reorganization;
- (2) Payment of the annexation charge pursuant to Section 3106(a) or provision of appropriate and fully executed documentation pursuant to Section 3106(b); and
- (3) Certified copy of LAFCO resolution approving the annexation to the member public agency.

(e) Reattachment requests.

The General Manager is authorized to approve, without payment of processing fees or annexation charges, the reannexation of any territory which has deannexed from the District under reasonable terms and conditions as may be established by the General Manager, which shall include payment of any property taxes, standby charges or other avoided charges for the period of deannexation.

M.I. 38048 – January 9, 1990; subparagraph (a)(5) added and amended by M.I. 38538 - October 9, 1990, paragraph (a) amended by M.I. 40406 - August 24, 1993; amended by M.I. 41898 - May 14, 1996; paragraph (a) amended by M.I. 42193 - December 10, 1996; paragraphs (a), (a)(1), (b), (b)(9), (c)(2) amended, (c)(3) deleted, (c)(4) renumbered, paragraphs (d)(1) and (2) amended, (d)(3) added, and paragraph (e) amended by M. I. 44582 – August 20, 2001; paragraph (a) amended, and subparagraph (a)(2) amended by M.I. 50155 - June 9, 2015.

§ 3101. Submittal of Request.

A request for annexation and all information required in connection therewith shall be submitted to the General Manager.

M.I. 38048 – January 9, 1990; amended by M. I. 44582 – August 20, 2001.

§ 3102. Board Consideration of Request for Annexation.

The Board, and any standing committee of the Board reviewing a request for annexation, will consider such request at their next regular meeting taking place no earlier than 75 days after receipt by the District of the request for annexation and all information required to be submitted by the one or two step Board approval process.

M.I. 38048 – January 9, 1990; amended by M.I. 38538 - October 9, 1990, amended by M.I. 40406 - August 24, 1993; amended by M.I. 41898 - May 14, 1996; amended by M. I. 44582 – August 20, 2001.

§ 3103. Board Approval of Request for Annexation.

(a) Two step Board approval process

Unless otherwise stated in the request for annexation, the Board will act on the request:

- (1) By establishing preliminary terms and conditions for the conditional approval of the annexation upon filing of the submittals required by Section 3100(b).

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(2) By considering final approval of the annexation subject to terms and conditions then to be established after receipt of the submittals required by Section 3100(c)

(b) One step Board approval process

The Board will consider approval of the annexing area subject to terms and conditions then to be established after receipt of all submittals required pursuant to Sections 3100(b) and (c).

M.I. 38048 – January 9, 1990; paragraph (a) amended and paragraph (b) added by M.I. 41898 - May 14, 1996; paragraphs (a)(1) and (a)(2) amended by M. I. 44582 – August 20, 2001; paragraph (b) amended by M.I. 50155 - June 9, 2015.

§ 3104. Mandatory Terms and Conditions.

All terms and conditions of annexation shall contain the following provisions:

(a) The sale and delivery of all water by the District, regardless of the nature and time of use of such water, shall be subject to regulations promulgated from time to time by the District.

(b) Except upon terms and conditions specifically approved by the Board, water sold and delivered by the District shall not be used in any manner which intentionally or avoidably results in the direct or indirect benefit of areas outside the District including use of such water outside the District or use thereof within the District in substitution for other water used outside the District.

(c) No District water shall be sold or delivered to any member public agency for use, directly or indirectly, for agricultural purposes as defined in Section 4106 within the annexing area.

(d) The District shall not be obligated to provide additional works or facilities, necessitated by the annexing area, for the delivery of water from works owned and operated by the District.

(e) The annexation shall be completed by the date established pursuant to Section 3108(a).

M.I. 38048 - January 9; 1990, paragraph (e) added by M.I. 40406 - August 24, 1993.

§ 3105. Waiver of Charge and Fee.

The processing fee and the annexation charge may be waived in cases where the Board itself requests a small annexation to prevent or close a "window" in an existing member public agency or pursuant to Section 3100(e).

M.I. 38048 – January 9, 1990; amended by M.I. 41898 - May 14, 1996.

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§ 3106. Payment Requirements.

(a) All annexation charges shall be paid in full in cash prior to completion of the annexation except where the Board approves installment payments pursuant to Section 3106(b) and (c).

(b) Subject to Board approval, a portion of the annexation charge may be paid in installments upon terms and conditions listed in Section 3106(c), and in form approved by the General Counsel, if the member public agency assumes the obligation for said payments, to be collected as part of monthly invoices, or other security is provided which guarantees said payments.

(c) Installment payments shall be subject to the following terms and conditions pursuant to each ownership:

- (1) Minimum down payment of 10%.
- (2) Maximum term of 15 years.
- (3) Interest at the greater of the weighted average yield on invested funds of the District or the Districts then current cost of borrowing funds.
- (4) Minimum net annexation acreage of 50 acres; or
- (5) Under such other conditions as may be determined by the Board of Directors.

M.I. 38048 – January 9, 1990; paragraph (a) amended and paragraphs (b) and (c) added by M.I. 41898 - May 14, 1996; paragraph (b) amended by M.I. 51417 – December 11, 2018.

§ 3107. Water Use Efficiency Guidelines.

(a) **Water Use.** To minimize all water demands on the District including, but not limited to, peak demands, the member agency representing the parcels considered for annexation (“annexing member agency”) shall submit evidence of compliance with all of the following:

- (1) Annual Water Use. Minimizing annual water demand by:
 - i. Incorporating water conservation measures throughout the service area;
 - ii. Maximizing use of groundwater, local surface water, and recycled wastewater supplies;
 - iii. Constructing and operating local storage and groundwater production facilities, as required by California Water Code Sections 10700-10717 (Groundwater Resources); and
 - iv. Conditioning all new territory within each annexing member agency to be consistent with all applicable city, county, and state laws.

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- (2) Recycled Water. Using recycled water of adequate quality whenever it is available to be used, in accordance with California Water Code Sections 13550-13557 (Water Reuse).
 - (3) Local Resources. Establishing local storage, groundwater production capacity, system interconnections, and other measures able to sustain a seven-to 21-day interruption in service from the District pursuant to MWD Administrative Code Section 4503(b) (Suspension of Deliveries).
- (b) **Reporting to District.** The annexing member agency shall be responsible for assuring compliance with these provisions and shall report to the District annually for five years following annexation of the new territory regarding such compliance or until the new territory is included in the annexing member agency's Urban Water Management Plan (UWMP). Annual reports shall include all of the following information regarding the annexing member agency:
- (1) Conservation measures incorporated in the new territory;
 - (2) Total annual production of local water supplies including, but not limited to, recycled water, groundwater, and local surface water use;
 - (3) Evidence of sufficient resources to sustain interruptions of District deliveries of seven-to 21 –days, as described in MWD Administrative Code Section 4503(b). Specifically, each member agency shall have sufficient resources such as local reservoir storage, groundwater production capacity, system interconnections, or alternate supply source to sustain:
 - i. A seven-day interruption in District deliveries from raw and treated water distribution facilities based on average annual demand of the affected facility
 - ii. For service connections installed or modified after December 31, 2008, on raw water conveyance facilities, a seven-to 21-day interruption in District raw water deliveries based on average annual demand of the affected facility;
 - (4) Confirmation that the annexing member agency has:
 - i. Submitted a current UWMP;
 - ii. The UWMP includes a narrative description addressing the nature and extent of each water demand management measure implemented over the past five years, as required by California Water Code Section 10631(f); and
 - iii. The UWMP adequately addresses California Water Code requirements; and
 - (5) The status of implementing the water plans, projects, and programs described in the UWMP to implement California Water Code Section 10620 et seq.

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- (c) **District Reviews.** District staff shall review the reports and provide an annual information report to the Board on the annexing member agencies' reporting compliance. District staff will ensure that each annexing member agency is in compliance with the District's reporting requirements before presenting subsequent annexation requests to the Board.
- (d) **General Manager Authority.** The District's General Manager or designee is authorized to make minor adjustments to reporting requirements herein for annexing member agencies as deemed reasonable and appropriate. In addition, the annexing member agency shall furnish such other information as may be requested by the District's General Manager or designee.

M.I. 38538 – October 9, 1990; amended by M.I. 39787 - August 20, 1992; amended by M.I. 41898 - May 14, 1996; paragraphs (a), (b), (c), (d), and (e) amended, and paragraph (f) added by M. I. 45941 – October 12, 2004; amended paragraph (c) by M.I. 50990 – October 10, 2017; added numbering (a) to first paragraph and amended same, renumbered former paragraph (a) to paragraph (a)(1), added numbering to paragraphs (a)(1)i, and (a)(1)ii and amended same, deleted former paragraph (b), added paragraphs (a)(1)iii and (a)(1)iv, renumbered former paragraph (c) to paragraph (a)(2) and amended same, deleted former paragraph (d), renumbered former paragraph (e) to paragraph (a)(3) and amended same, deleted former paragraph (f), added numbering to new paragraph (b) and amended same, renumbered former paragraph (a) to (b)(1), renumbered former paragraph (b) to (b)(2), and renumbered former paragraph (c) to (b)(3) and amended same, added new paragraphs (b)(3)i, (b)(3)ii, (b)(4) and (b)(5), added numbering to paragraphs (c) and (d) and amended same by M.I. 51390 - November 6, 2018 .

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§ 3108. Time for Completion of Annexation.

(a) The annexation shall be completed by December 31 of the year following the year in which the annexation receives approval of the Board. If the annexation is not completed by that date, a new request in conformance with Section 3100(b) and (c) must be made. A one year extension of the time in which to complete the annexation may be granted if a request for the extension is made in writing by the member public agency prior to the expiration date. The request for extension of time shall include the following:

- (1) Specific details as to why the annexation could not be completed within the time provided;
- (2) A resolution from the member public agency requesting an extension of time and reaffirmation of the terms and conditions established by the Board;
- (3) Any changes that have occurred in the circumstances of the annexation since the terms and conditions were established;
- (4) Payment of a \$1,500 processing fee to cover the District's costs of handling the request for time extension;
- (5) A certificate from the assessor of the county within which the area proposed to be annexed is situated setting forth the assessed valuation of each parcel included within the area; and
- (6) Any other information as may be requested by the District's General Manager.

(b) If the General Manager finds that there is no significant change in the circumstances surrounding the annexation, he shall grant an extension for one year subject to any new mandatory terms and conditions which have been adopted by the Board since the original approval of the annexation, and further subject to payment of the current annexation charges. If the General Manager finds that there are significant changes in the circumstances surrounding the annexation, he shall submit the request for extension to the Board in accordance with Section 3102.

(c) The General Manager shall find that there is a significant change in the circumstances surrounding the annexation if the size of the annexation area changes, the proposed water usage in the annexation area increases, the intensity or type of land use changes, the CEQA documents are modified or additional documents are issued, or there is any other change in the circumstances of the annexation which the General Manager deems to be significant.

M.I. 40406 - August 24, 1993; amended by M.I. 41898 - May 14, 1996.

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Chapter 2

POLICIES RELATED TO ANNEXATIONS

Sec.

3200. Water Availability

3201. Annexation Criteria - Avoidance of Windows

§ 3200. Water Availability.

In treating with application for annexation as member public agencies the District will give its favorable consideration only to areas of sufficient size and water requirements to justify as economically feasible the delivery of imported water. Preferably such areas should be so located as to control the entire production of water from local underground water basins affected.

Section 301.1.2 - Special Water Problems Committee - October 26, 1938. Section 301.1.2 repealed and Section 3100 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; renumbered Section 3200 by M.I. 38048 - January 9, 1990; amended by M.I. 41898 - May 14, 1996.

§ 3201. Annexation Criteria - Avoidance of Windows.

An area proposed for annexation shall not, after annexation, leave an unannexed area entirely surrounded by area annexed to the District ("window") unless the Board finds that the District's interests will not be adversely affected by the existence of such window.

Section 301.5 based on Water Problems Committee Statement - November 19, 1962; amended by M.I. 36333 - October 14, 1986. Section 301.52 repealed and Section 3102 adopted by M.I. 36464 - January 13, 1987, effective April 1, 1987; renumbered Section 3201 by M.I. 38048 - January 9, 1990.

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Chapter 3

FINANCIAL POLICIES RELATED TO ANNEXATIONS

Sec.

3300. Annexation Charge Computation

3301. Taxes for Past Annexations

§ 3300. Annexation Charge Computation.

Annexation Charge - The annexation charge for areas newly annexing to the District shall be the greater of the amounts computed under Sections 3300(a) and 3300(b):

(a) Back-Tax Computation - The annexing area shall be required to pay an amount that bears the same relation to total District taxes levied and annexation taxes to be levied (both exclusive of interest or adjusting factors) as the assessed valuation of the annexation area bears to the assessed valuation of the District, all data to be as of the August 31 preceding the year in which the annexation will be effective, and back interest to be simply calculated by multiplying the amount established as the bare back tax obligation by 5 percent and the resultant by half the number of years since taxes were first levied by the District.

(b) Per-acre Charge - The annexation charge per acre of land, other than land devoted to public roads, streets, highways, and freeways, to be paid by the annexing areas shall be determined by dividing the sum of the estimated replacement cost of the District's facilities and the participation rights in facilities of the State Water Project and other non-District owned projects in which Metropolitan participates, less accumulated depreciation of the District's facilities and participation rights on a replacement cost basis, less outstanding bonded indebtedness of the District's facilities and participation rights, by the total acreage within the service area of the District, all as of the end of the recently completed fiscal year.

M.I. 38048 – January 9, 1990; amended by M.I. 38304 - June 12, 1990; paragraph (b) amended by M.I. 39744 - July 14, 1992; paragraph (b) amended by M.I. 40406 - August 24, 1993; amended by M.I. 41204 - January 10, 1995; paragraph (b) amended by M. I. 46106 – February 8, 2005.

Section 7 – MWD Administrative Code Sections 3100 - 3300

§ 3301. Taxes for Past Annexations.

(a) Effective with the 1981-82 fiscal year a tax rate of 18.75 cents per \$100 of assessed valuation (to be stated as .1875% for tax levying and collecting purposes) has been established to collect annexation charges from areas annexed to the District after September 13, 1966 and before July 1, 1978 and such rate shall be continued until the annexation charge and interest on unlevied balances thereof have been raised provided, however, that in an area annexing after August 19, 1976 and before July 1, 1978 such rate shall in no event be levied for any fiscal year following the fiftieth year after the area has been annexed to the District.

(b) Effective with the 1981-82 fiscal year a tax rate of 18.75 cents per \$100 of assessed valuation (to be stated as .1875% for tax levying and collecting purposes) has been established to collect the balance of the annexation charges from areas which annexed to the District prior to September 13, 1966, and such rate shall be continued until said balance of the annexation charges and interest on unlevied balances thereof have been raised.

(c) If for any reason (due to adoption in this State of tax limitation Constitutional initiatives, legislation or otherwise), any or all of the District's taxes to raise the minimum annexation charge are unable to be levied, then the Board shall have the option to collect such charge, or unlevied balances thereof, with interest at 5 percent per annum, within said area through any lawful means now, or to become, available to the District.

M.I. 38048 – January 9, 1990; paragraph (a) & (b) amended by M. I. 47286 - November 20, 2007.

Section 8 – Information Required to Begin Processing Annexation Requests

This section provides a summary of the information that the Water Authority and MWD require to begin processing annexation requests. Additional information may be requested based on the unique nature of each annexation proposal.

The annexation request shall be consistent with the Water Authority’s Annexation Policies and Procedures for Implementing Annexation Policy #2, Protection of Member Agency Supply Reliability. The request shall also be consistent with MWD’s Administrative Code Section 3100.

The following should be provided by the member agency to the Water Authority as part of the annexation request:

1. Member agency resolution requesting concurrent annexation to the Water Authority and MWD. Resolution should contain:
 - a. A legal description and a detailed map of the area proposed to be annexed, clearly indicating the metes and bounds of the area and the gross and net acreage for the area with sufficient documentation to support the gross and net acreage specified.
 - b. Annexation will be in accordance with the County Water Authority Act and applicable provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code Section 56000 et seq.), and not to conflict with Division III, Annexations, of the Metropolitan Water District of Southern California Administrative Code [Annexation Policy #1].
 - c. Facilities and works necessary to connect annexed territory to Water Authority facilities and works shall be provided at the cost of the annexed territory, as determined by the Board [Annexation Policy #7].
2. A detailed explanation of the reason(s) for the annexation request.
3. Payment of the Water Authority’s \$11,556 annexation application fee.
4. Identification of the ownership of each parcel included within the area proposed to be annexed.
5. A certificate from the assessor of the county within which the area proposed to be annexed is situated setting forth the assessed valuation of each parcel included within the area.
6. Current and proposed general plan and zoning for annexing territory. Include the present land use of each of the parcels within the area proposed to be annexed.
7. Existing and proposed development plans for the parcels. Include proposed development design, density, intensity, and improvements. Include proposed timing, pace, and phasing of development of the annexing property.

Section 8 – Information Required to Begin Processing Annexation Requests

8. Whether the proposed project associated with the annexation includes land already within the Water Authority’s service area.
9. Whether the property is within the member agency’s sphere of influence.
10. Preliminary estimate of current water use, and projected average annual and daily peak demands for water service to the area proposed to be annexed, including the portion to be supplied by the Water Authority (imported supply), and that to be supplied by local sources. Demands should be provided for both current and proposed land use and development. Describe method used to determine local and imported water demands. Include relevant supporting documentation, such as water quality testing or groundwater well analyses.
11. Information regarding proposed water conservation improvements and plans, including landscape restrictions and plans for recycled water usage.
12. Information regarding current and planned supplies of the member agency.
13. Whether the proposed annexation and demands were included in the member agency’s planning documents.
14. Estimates for use of member agency local supplies to serve the annexing property, including any potential supplies generated from “off-set” programs implemented by the member agency for the property proposed to be annexed. Guidelines for member agency offset program to be utilized as part of annexation request are included in Section 4, Paragraph F of this packet, under *Guidelines for Member Agencies Utilizing Offset Programs*.
15. Member agency infrastructure requirements to serve the annexing property.
16. Information necessary to permit the Water Authority to comply with the CEQA. Current information regarding documentation necessary to comply with the California Environmental Quality Act (CEQA), and the National Environmental Policy Act (NEPA), if applicable. As responsible agency under CEQA, the Water Authority should receive all distributed public drafts, and be consulted early in the process. Compliance with CEQA and NEPA must be met before MWD and the Water Authority would consider final approval of an annexation.

In addition, following establishment of initial terms and conditions by the Water Authority and before MWD’s Board would consider annexation, the following must also be submitted:

1. A plan for implementing the water use efficiency guidelines set forth in MWD’s Administrative Code Section 3107. Water Authority staff will work with its requesting member agency on development of the proposed plan.
2. MWD’s \$5,000 processing fee will be required before MWD considers the annexation.

Section 9 – Summary of Annexation Fees and Charges

Annexation charges and fees will be consistent with the Water Authority’s Act, Board actions and Annexation Policies, and MWD’s administrative code.

The Water Authority will accept applications for annexation upon payment of the required application fee to cover costs associated with processing the annexation. Before consideration of the proposed annexation by MWD, and following action by the Water Authority Board of Directors to establish preliminary terms and conditions, the owner(s) of the annexing territory shall provide payment of MWD’s processing fee. Administrative fees are:

- Water Authority annexation application fee: \$11,556
- MWD processing fee: \$5,000

The owner(s) of the annexing territory shall provide payment of annexation fees upon final approval of the annexation by the member agency, Water Authority, and MWD before LAFCO files a notice of completion. The annexation fees as of January 2023 are:

- Calendar Year 2023 MWD annexation fee: \$6,875 per acre of annexed land

The Water Authority “buy-in” costs of the annexing territory are collected through the Water Authority capacity charges, which are paid to the Water Authority when the water meter(s) serving the annexing parcel are purchased. Capacity charges are on-time fees charged to recover the proportionate cost of the system necessary to serve that meter. There are two types of capacity charges.

System Capacity Charge – This charge recovers a portion of the capital costs for the conveyance and storage facilities necessary to operate the delivery system. The Calendar Year 2023 charge is \$5,700 per meter equivalent.

Water Treatment Capacity Charge (WTCC) – This charge recovers a portion of the cost of the regional water treatment facility to be collected from all future users of the facility. In keeping with the Water Authority’s policy of exempting agencies that cannot benefit from a service, the WTCC excludes customers from the City of Del Mar, City of Escondido, and City of Poway. The Calendar Year 2023 WTCC is \$159 per meter equivalent.

Table 3 presents a summary of the capacity charge schedule for Calendar Year 2023.

| Table 3 – Calendar Year 2023 Water Authority Capacity Charges | | | |
|---|--------|-----------------------------|--------------------------------------|
| Meter Size (Inches) | Factor | System Capacity Charge (\$) | Water Treatment Capacity Charge (\$) |
| Under 1 | 1 | 5,700 | 159 |
| 1 | 1.6 | 9,120 | 254 |
| 1.5 | 3 | 17,100 | 477 |
| 2 | 5.2 | 29,640 | 827 |
| 3 | 9.6 | 54,720 | 1,526 |
| 4 | 16.4 | 93,480 | 2,608 |

| | | | |
|----|-----|---------|--------|
| 6 | 30 | 171,000 | 4,770 |
| 8 | 52 | 296,400 | 8,268 |
| 10 | 78 | 444,600 | 12,402 |
| 12 | 132 | 752,400 | 20,988 |