

ORDINANCE NO. 07-02

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE LINDEN COUNTY WATER DISTRICT
ESTABLISHING ANNEXATION FEES**

WHEREAS, on August 12, 1987, the Board adopted Ordinance No. 87-13, which established annexation fees for the Linden County Water District and which was amended by Ordinance Number 89-1 enacted by the Board on January 11, 1989;

WHEREAS, the Board has determined that the annexation fees set forth in Ordinance 87-13, as amended by Ordinance 89-1, no longer reflect the District's costs of providing annexation services and therefore, the Board desires to repeal District Ordinance Nos. 87-13 and 89-1 and to enact new regulations concerning District annexation fees;

WHEREAS, the Linden County Water District has the authority under subdivision (a) of Water Code section 31007 and Government Code sections 66014, 66016, and 66018 to impose fees and charges to reimburse its costs for providing the public with services related to annexing real property into the District;

WHEREAS, the General Manager has prepared data and records to determine the estimated cost, including staff time on a per hour basis, required to provide the services necessary to process an application for annexation to the District for which the fees and service charges provided in this ordinance are imposed, and such records are available to the public upon request;

WHEREAS, notice was mailed to all parties requesting such notice fourteen days prior to the Board of Directors' hearing concerning the adoption of this ordinance and the District made available the data indicating the amount of estimated cost required to provide annexation services for which the fees are proposed to be levied and the revenue sources anticipated to provide the service ten days before the hearing;

WHEREAS, prior to the adoption of this ordinance, the Board of Directors has noticed a public hearing and published such notice twice in the Stockton Record, and held a public hearing concerning the proposed fees and service charges pursuant to the requirements of Government Code sections 66016 and 66018; and

WHEREAS, the Board has determined that it is in the best interest of the District and its ratepayers to ensure that the District obtains full reimbursement of all costs for processing applications for annexing real property into the District to avoid any improper ratepayer subsidization of the costs of providing such services.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Linden County Water District as follows:

1. The District will charge an applicant to annex his or her real property into the District the actual costs incurred by the District for processing the application. The costs that the District may incur and that will be charged to the applicant include: (1) staff time; (2) engineering fees, costs and expenses; (3) attorneys' fees, costs and expenses; and (4) such other reasonable fees, costs and expenses actually incurred by the District to initiate annexation proceedings and to process the application.

2. The applicant for annexation into the District will be responsible to directly pay all fees, charges and other sums imposed by any other public agency, including the San Joaquin County Local Agency Formation Commission ("LAFCO") and the State Board of Equalization, for any such agency's services and proceedings related to the annexation.

3. Upon application for annexation into the District, the applicant shall advance \$1,500 to the District, which will constitute the non-refundable "Minimum Charge." The District shall draw against the Minimum Charge to reimburse it for the fees, costs and expenses incurred by the District to conduct proceedings and to process the application. If the amount of fees, costs and expenses incurred by the District exceed the Minimum Charge, then the District shall provide periodic statements to the applicant billing the additional amount of reimbursable fees, costs and expenses incurred by the District to process the application for the previous billing period. The applicant must pay the amounts charged in such statements within 15 days from the day each statement is received by the applicant. Within 30 days of LAFCO's final approval of the application for annexation to the District as measured by LAFCO's recording of a notice of completion, the District shall return to the applicant any unused money that was advanced to the District.

4. The District shall provide periodic reports to the applicant that itemize and reasonably explain each of the fees, costs and expenses incurred by the District for processing the application for annexation during the previous period.

5. The Board of Directors finds and determines that the fees, costs and expenses described in this ordinance will not exceed the estimated reasonable cost of providing the services for which such fees, costs and expenses will be charged.

6. The Board of Directors finds that the fees and charges described in this ordinance are for the purpose of meeting the District's operating expenses (including labor, supplies, equipment and materials). Accordingly, the Board determines that this fee increase is exempt from the California Environmental Quality Act and CEQA Guidelines. (Public Resources Code § 21080(b)(8); CEQA Guidelines § 15273.) The General Manager is directed to prepare and file a notice of exemption with the San Joaquin County Clerk.

9. This ordinance supersedes and repeals all other prior District ordinances, codes, regulations, resolutions, policies and procedures that are inconsistent with this ordinance, including but limited to Ordinance Nos. 87-13 and 89-1.

10. This ordinance shall be posted in three places within the District and shall take effect 60 days after its adoption.

PASSED AND ADOPTED at a public hearing held by the Board of Directors of the Linden County Water District on the _____ day of _____, 2007, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

By: _____
Board President

ATTEST:

By: _____
Teresa Tanaka, Board Secretary

LINDEN COUNTY WATER DISTRICT

Request for Annexation to the District and Agreement to Pay Fees and Charges

I, _____, on behalf of myself or representing _____, request that the District process my application for annexation of the following real property into the District: *[Describe real property below by address, APN, etc.]*

As a condition of providing such services, [I] / [_____] (*name of entity*) understand(s) that the District requires me to deposit a non-refundable \$1,500 Minimum Charge, which the District will draw against to reimburse it for reimbursable fees and charges incurred by the District to process the application. The \$1,500 Minimum Charge is due and payable to the District upon the filing of an application for annexation to the District. I understand that [I] / [_____] (*name of entity*) may be required to pay fees and charges in excess of \$1,500. If the fees and charges exceed \$1,500, [I] / [*name of entity*] will pay all amounts billed within 15 days of receiving a statement from the District for fees, costs and charges exceeding the amount of the initial deposit and will pay all such subsequent periodic statements until [I] / [_____] (*name of entity*) withdraw the application for annexation or the San Joaquin Local Agency Formation Commission records a notice of completion finally approving the annexation.

By signing below, I am authorizing the District to process the application for annexation of [*my*] / [*name of entity's*] real property to the District and agreeing to pay for such services on the terms and conditions provided in this request and any attachments, and as provided in District Ordinance 07-__ establishing annexation fees, as it may be amended from time to time. I further represent that I am authorized by the requesting party named on this form to request the described services and to bind the named party to the District for the payment of such services. I understand that [*my*] / [*name of entity's*] failure to pay for the services requested above may result in the District's immediate termination of annexation services and withholding of any requested information or documents related to the annexation until such payment is made.

Dated: _____, 20__

By: _____
[For: (*name of entity, if not an individual*)]
[Its: (*title of authorized person*)]