

Division III

ANNEXATIONS

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Chapter 1

ANNEXATION PROCEDURE

Sec.

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§ 3100. Request for Annexation.

- (a) Board approval process.

The Board will act to approve annexations in a two step process, unless a member public agency or proposed member public agency (member public agency) requests a one step Board approval process subject to the General Manager's or Executive Committee's approval. 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) Optional 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;

(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).

(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.

§ 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).

(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) Optional one step Board approval process

If requested by the member public agency, 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.

§ 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.

§ 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 water sales 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.

§ 3107. Water Use Efficiency Guidelines.

The member agency representing the parcels considered for annexation shall submit evidence of compliance with the following:

(a) Annual member agency water demand shall be minimized by incorporating water conservation measures into new development plans and service agreements. Use of groundwater, local surface water, and recycled wastewater supplies shall be maximized to reduce demands on the District.

(b) Peak demands on the District shall be minimized by construction and operation of local storage and groundwater production facilities. Member agencies shall offer all District sponsored water conservation programs to new developments and encourage participation in those programs. Member agencies shall offer a specific program, independent of District funding, to new development to encourage water use efficiency of landscapes or other water savings opportunity.

(c) Recycled water of adequate quality shall be used whenever it is available to be used, in accordance with California Water Code Sections 13550-13554.

(d) "Best management practices" conservation measures shall be conditioned on all new developments within the member agency consistent with applicable City or County building codes for areas already within the District, and to District water conservation guidelines for annexing areas.

(e) Local storage, groundwater production capacity, system interconnections, and other measures shall be able to sustain a 7-day interruption in service from the District pursuant to MWD Administrative Code Section 4503 "Suspension of Deliveries."

(f) The member agency, wholesale water agency, and local water purveyor of the annexing area shall be signatories and in compliance with the California Urban Water Conservation Council (CUWCC) Memorandum of Understanding (MOU) Regarding Urban Water Conservation in California. The District may request amendments to the water conservation measures to be imposed on new development within the member agency based on current water-use efficiency policies and reasonable conservation practices and measures.

Reporting Requirements:

The member public agency shall be responsible for assuring compliance with these provisions and shall report to the District on a yearly basis regarding such compliance. Reports would include the following information regarding the member agency:

- (a) Incorporated conservation measures in new development plans and service agreements;
- (b) Recycled water, groundwater, and local surface water use including total annual production of local water supplies;
- (c) 7-day interruption contingency;
- (d) Report as submitted to CUWCC; and
- (e) Member agency and local water purveyor shall have submitted a current Urban Water Management Plan (UWMP) provided the agency or purveyor is required to submit a UWMP under State law.

District staff shall review the reports and provide an annual information report to the Board on member agencies' reporting compliance. District staff will ensure that the annexing member agency is in compliance with its reporting before presenting subsequent annexation requests to the Board. Staff shall provide any prior member agency reports to the Board for its consideration in future annexation requests. The District's CEO or designee is authorized to make minor adjustments to reporting requirements for member agencies as deemed reasonable and appropriate. Reporting requirements under this section of the Code are required for annexation request after April 1, 2005. Reporting will be continuous on an annual basis for a six-year period following the latest annexation by the member agency.

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.

§ 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.

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.

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.

§ 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.