

RESOLUTION NO. 2010-19

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT
ESTABLISHING WATER STANDBY AND AVAILABILITY FEES FOR 2010-2011**

WHEREAS, the Phelan Pinon Hills Community Services District ("the District") is a Community Services District organized and operating pursuant to Government Code 61000 et seq.

WHEREAS, the District is authorized by Government Code Section 61124(a) to impose standby charges for water services pursuant to the Uniform Standby Charge Procedures Act, Government Code Section 54984 et seq. ("the Act").

WHEREAS, under the Act, the District is authorized to fix before August 10 of any given year a water standby charge on land within its jurisdiction to which water service is made available for any purpose by the District, whether the water services are actually used or not.

WHEREAS, under the Act, the District's Board of Directors ("the Board") may establish schedules varying the charge according to land uses, benefit derived or to be derived from the use, availability of facilities to provide water service, the degree of availability or quantity of the use of the water to the affected lands, and may restrict the assessment to one or more improvement districts or zones of benefit established within the jurisdiction of the District, and may impose the charge on an area, frontage, or parcel basis, or a combination thereof.

WHEREAS, pursuant to Resolution No. 2994 of the Local Agency Formation Commission of the County of San Bernardino ("LAFCO"), the District is the successor agency to County Service Area 9, County Service Area 56 Improvement Zone F-1, and County Service Area 70 Improvement Zones L and P-4 ("the CSAs").

WHEREAS, Condition No. 14 of LAFCO Resolution No. 2994 expressly states that "[a]ll previously authorized charges, fees, assessments, and/or taxes of [the CSAs] in effect upon the effective date of this reorganization shall be continued and assumed by the [District], as the successor agency, in the same manner as provided in the original authorization pursuant to the provisions of Government Code Section 56886(t) ..."

WHEREAS, Government Code Section 56886(t) provides that LAFCO Resolution No. 2994 contains the exclusive terms and conditions for the change of organization from the CSAs to the District is it related to the "extension or continuation of any previously authorized charge, fee, assessment, or tax by [the District as the] successor local agency in the affected territory."

WHEREAS, prior to the adoption of LAFCO Resolution No. 2994, the territory within the CSAs was subject to a water standby and availability charge that had been fixed, levied, and imposed upon such lands.

WHEREAS, the Board wishes to continue, extend, and assume all previously authorized water standby and availability charges that had been fixed, levied, and imposed upon lands within the CSAs.

WHEREAS, on May 19, 2010, the Board adopted Resolution No. 2010-16 initiating proceedings to fix, adjust, levy, and collect water standby and availability fees for 2010-2011 in accordance with Government Code Section 54984.3 and scheduled a public protest hearing on June 16, 2010.

WHEREAS, beginning on or about June 2, 2010, the District published a Notice of Public Hearing concerning the Board's intent to adopt water standby and availability fees for 2010-2011 in a newspaper of general circulation within the District once a week for two successive weeks pursuant to the Act and Government Code Section 6066.

WHEREAS, on June 16, 2009, at 7:00 p.m., at the Phelan Community Center located at 4128 Warbler Road, Phelan, California, the Board held a public protest hearing to hear and consider any and all objections or protests regarding the imposition of the charge, which hearing was duly conducted in the manner set forth in the Act.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Phelan Pinon Hills Community Services District as follows:

1. The public interest and necessity requires the Board to adopt this Resolution hereby fixing, levying, and collecting water standby and availability charges on all properties within the District which are within six hundred sixty (660) feet of a water main from which water service is furnished by the District pursuant to applicable law, including but not limited to the pertinent provisions of the Act, Condition No. 14 of LAFCO Resolution No. 2994, and/or Government Code Section 56886(t).
2. The written protests received by the Board which were not withdrawn at the time of its determination represented less than fifteen percent (15%) of the parcels subject to the charges set forth herein.
3. The standby charge hereby levied by the Board is based upon the report of a qualified engineer, which is on file with the District. The content and findings of said report are hereby adopted in full by the Board and are incorporated herein in full by this reference, including, but not limited to, any and all statements and determinations specifically relating to each of the following:
 - a. A description of the charge and the method by which it is proposed to be imposed;
 - b. A compilation of the amount of the charge proposed for each parcel subject to the charge;
 - c. A statement of the methodology and rationale followed in determining the degree of benefit conferred by the service for which the proposed charge is made;

d. The District's legal ability to fix and adjust a standby charge, the amount of the proposed charge, and the properties affected thereby;

e. A description of the lands upon which the charge is proposed to be imposed; and

f. The amount of the proposed charge for each of the lands so described.

4. The Board, acting in its capacity as the governing body of the District, hereby resolves and orders:

a. That there are hereby fixed, in and for the District, water standby charges for each parcel of real property therein in the amount of twenty dollars (\$20.00) per full acre in a parcel, plus the proportionate share of the change of ten dollars (\$10.00) for any portion of a parcel which may exceed an exact number of acres.

b. That for parcels of less than one (1) acre total, the water standby charges continued herein for the District shall be twenty dollars (\$20.00).

c. That water availability or standby charges shall apply to each parcel of real property within the District which is within six hundred sixty (660) feet of a water main from which water service is furnished by said District.

d. That the sewer availability or standby charges shall apply to each parcel of real property within the respective county service areas or zones which is within two hundred (200) feet of a sewer main from which sewer service is furnished by said District.

e. That the charges fixed and established herein shall be effective on and after July 1, 2009, and shall be operative during Fiscal Year 2010-2011.

5. The Board hereby authorizes the District's General Manager to take any and all actions necessary to carry out the intent of the Board as set forth herein, and to cause the charges fixed and established herein to be collected at the same time, and in the same manner, as the levying of special assessments on the 2010-11 San Bernardino County Tax Roll, and/or to be otherwise collected in accordance with all legally-permissible methods available under applicable law. If any charge hereby adopted becomes delinquent, the amount of the delinquency, together with any interest and penalties thereon, shall constitute a lien on the affected property to the fullest extent legally allowable under applicable law.

