

RESOLUTION NO. 2022-24
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT
ESTABLISHING WATER STANDBY AND AVAILABILITY FEES FOR 2022/2023

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 18, 2022, the Board adopted Resolution No. 2022-14 initiating proceedings to fix, adjust, levy, and collect water standby and availability fees for 2022/2023 in accordance with Government Code Section 54984.3 and scheduled a public protest hearing on July 20, 2022.

WHEREAS, beginning on or about June 30, 2022, the District published a Notice of Public Hearing concerning the Board's intent to adopt water standby and availability fees for 2022/2023 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 July 20, 2022, at 6:00 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 charge 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).

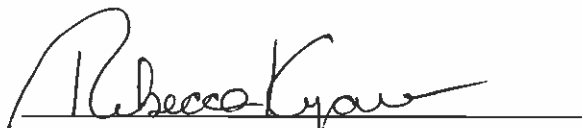
c. That water availability or standby charges shall apply to each parcel of real property within the District which is within six hundred sixty (660) feet of a water main from which water service is furnished by said District.

d. That the charges fixed and established herein shall be effective on and after July 1, 2022, and shall be operative during Fiscal Year 2022/2023.

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 2022/2023 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.

PASSED AND ADOPTED by the Board of Directors of the Phelan Piñon Hills Community Services District, State of California, this 20th day of July 2022, by the following vote:

AYES:	Directors:	Hoffman, Kujawa, Philips, Roberts
NOES:	Directors:	
ABSENT:	Directors:	
ABSTAIN:	Directors:	



President of Phelan Piñon Hills
Community Services District and of the Board of
Directors thereof.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, Kimberly Ward, Clerk of the Board of Directors of the Phelan Pinon Hills Community Services District, California, hereby certify the foregoing to be a full, true and correct copy of the record of the action as the same appears in the Official Minutes of said Board at its meeting of July 20, 2022.

Kimberly Ward
Secretary, Board of Directors
Phelan Pinon Hills Community Services District

By  _____

Public Hearing
July 20, 2022

Annual Standby Report

Phelan Piñon Hills
Community Services District



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Phelan Piñon Hills CSD – FY 2023 Annual Standby Charge Report

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Phelan Piñon Hills CSD – FY 2023 Annual Standby Charge Report

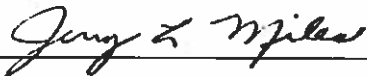
Affidavit for the Engineer's Report

This Report describes the annual Standby Charge of the Phelan Piñon Hills Community Services District (the CSD), which was initially formed by the County of San Bernardino and assumed by the CSD as part of the reorganization pursuant to Condition 14 of LAFCO Resolution No. 2994, adopted March 18, 2008. This Report outlines the assessment methodology, affected parcels, and assessments to be levied for Fiscal Year 2022-2023 (FY 2023). Reference is hereby made to the San Bernardino County Assessor's Maps for a detailed description of the lines and dimensions of parcels that are subject to the Standby Charge. The undersigned respectfully submits the enclosed Report as directed by the District Board.

Dated this 20th day of July, 2022.

By: 

Don Bartz
General Manager

By: 

Jerry L. Miles, P.E.

Jerry L. Miles, P.E.
P.O. Box 1861
Apple Valley, CA 92307

Phelan Piñon Hills CSD – FY 2023 Annual Standby Charge Report

Overview

Introduction

The Pursuant to the provisions the Uniform Standby Charge Procedures Act (Gov. Code, §§ 54984- 54984.9; “Act”), public agencies may set a water standby charge each year for making water available to property “whether the water services are used or not.” (§ 54984.2). On November 5, 1996, the electorate adopted an initiative measure (“Proposition 218”), amending the California Constitution by adding articles XIII C and XIII D. Under Article XIII D, new limitations, and procedural requirements for assessments on real property were established and Section 6.b.4 of Article XIII D specifically states:

“Standby Charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.”

However, notwithstanding the following, any assessment/standby charge that was in effect prior to the effective date of Proposition 218 that was imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control shall be exempt from the procedures and approval process set forth in Section 4. Therefore, the CSD’s existing standby charge is not required to re-notice and undergo a Proposition 218 Majority Protest Balloting, unless the CSD wishes to increase the standby charge above its current rate. In addition, as parcels subdivide each year and the configuration of each parcel changes or the District’s water system expands in certain areas, the proximity to a water main may also change and trigger the need to recalculate the standby charges annually based on the requirement that each affected parcel must be within 660 feet of a water main.

Parcels that are within 660 feet but still require an extension of the water main will receive a credit for the portion of the capacity fee associated with transmission & distribution. However, the amount of the credit may not be equal to the actual cost of the main line extension.

Accordingly, the CSD is authorized by law to provide water service, and may fix, before August 10 of any given year, a water standby charge, on land within the jurisdiction of the CSD to which water services are made available for any purpose by the CSD, whether the water service is actually used or not.

Upon approval and adoption of the annual standby charge by the CSD Board, the standby charges for FY 2023 shall be submitted to the San Bernardino County Auditor/Controller for inclusion on the property tax roll for each parcel.

For the purposes of this Report, the word “parcel” refers to an individual property assigned its own Assessor Parcel Number by the San Bernardino County Assessor’s Office.

Historical Background and Current Legislation

In November 1996, California voters approved Proposition 218 that established specific requirements for the ongoing imposition of taxes, assessments, and fees. The provisions of Proposition 218 are now contained in the California Constitutional Articles XIIC and XIID. All assessments described in this Report and approved by the District Board are prepared in accordance with Uniform Standby Charge Procedures Act (the “Act”), LAFCO Resolution No. 2994 and in compliance with the provisions of the Constitution.

Pursuant to the Article XIID Section 5 of the Constitution, certain existing assessments and, in this case, standby charges, were exempt from the substantive and procedural requirements of the Article XIID Section 4. Therefore, a property owner balloting is not required until such time that a new or increased standby charge is proposed. At this time, the CSD does not intend to increase the existing standby charge and this Engineer’s Report is in connection with the continued collection of the current standby charge for FY 2023.

The standby charge of the CSD may be used for any purpose pursuant to the Act, commencing with Government Code Section 54984.2, whether the water service is actually used or not. The standby charge may also vary according to land uses, benefit derived or to be derived from the use or availability of facilities to provide water, or the degree of availability or quantity of the use of the water to the affected lands. The charge may be imposed on an area, frontage, or parcel basis, or a combination thereof.

The exiting standby charge methodology is employed throughout the CSD service area and is only levied against undeveloped parcels to provide equity between existing ratepayers and future customers that are not currently connected to the system by charging a portion of the cost to maintain the water system to undeveloped parcels that have the potential to develop in the future.

The existing standby charge generates approximately \$286,000 annually compared to an annual budget for the Water Enterprise Fund over \$9.4 Million.

Water Services

The CSD is located in the High Desert area of San Bernardino County between Palmdale and Victorville and has a population of approximately 21,000. The CSD's water service area is approximately 118.7 square miles and the CSD provides water to 7,075 service connections as reported within the CSD's 2021 Cost-of-Service Rate Study. Nearly 99 percent of water service connections service single-family residences. The CSD has not experienced much growth in recent years; however, the service area has a high potential for growth as there are 3,641 undeveloped parcels subject to the standby charge that may be further subdivided into developable lots. This potential development at buildout could generate a total of at least 10,716 connections at buildout, if each undeveloped parcel represents one additional connection.

In general, the CSD provides for the continued delivery of water service to its service area, including the operation, maintenance, servicing, repair and rehabilitation, and expansion of water facilities. These services are required and provide a special benefit to parcels that are not currently developed and connected to the water system as water must be available for the orderly development of such properties. Therefore, many water agencies impose a water standby charge against undeveloped parcels until such time that the property is developed and connected to the water system as a ratepayer. Standby charges provide a means to charge undeveloped parcels a proportional share of the cost of the water utility that provides a special benefit to undeveloped parcels, including, but not limited to, water resources, repair and replacement of existing facilities, new capital improvements, and operations (Water Services).

Method of Assessment

Benefit Analysis

Similar to many other water purveyors in the State, water standby charges provide a means to charge undeveloped parcels a proportional share of the cost of the water utility as a means to spread Water Service costs between existing ratepayers and undeveloped parcels. These undeveloped parcels will generate future water customers when parcels are developed to their maximum potential. Water Services not only provides a direct benefit to existing customers, but also a special benefit to undeveloped parcels as the CSD continues to provide service now and for future generations through the ongoing operations of water resource management, water production, water quality, and the repair, replacement, and expansion of related capital improvements.

As referenced in the Overview Section of this Report, a standby charge is considered an assessment under the provisions of Article XIID of the State Constitution. Therefore, all parcels which will have a special benefit conferred upon them and upon which the standby charge will be imposed must be identified (the Assessment Roll). The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the costs of the capital water improvement, the maintenance and operation expenses of such improvement, and the cost of the property-related service being provided. In addition, no standby charge shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. In addition to the elements identified above, the standby charge of the CSD may also be used for any purpose pursuant to the Act, commencing with Government Code Section 54984.2. Therefore, the CSD may use standby charge revenue to fund any portion of its annual budget. However, as the standby charge is only levied against undeveloped property and has not been increased since the original formation, the CSD's annual expenses for Water Services far exceed revenue generated by the Standby Charge.

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Phelan Piñon Hills CSD – FY 2023 Annual Standby Charge Report

Assessment Methodology

The current standby charge was originally established by the County of San Bernardino and transferred to the CSD through the LAFCO proceedings that created the CSD. More specifically, Condition 14 of LAFCO Resolution No. 2994 specifically states:

“All previously authorized charges, fees, assessments, and/or taxes...in effect upon the effective date of this reorganization shall be continued and assumed by the Phelan Piñon Hills CSD.”

The CSD does not intend to change the assessment methodology nor increase the existing standby charge; therefore, the continued collection of the current standby charge complies with the Act and Article XIID of the State Constitution.

An assessment is not considered to be “increased” if the amount adjusts in accordance with a schedule of adjustments that was adopted prior to 1996 or the rate is not increased beyond the level previously approved by the agency and the methodology previously approved by the agency is not revised resulting in an increase in the amount being levied on any person or parcel.

The benefit formula used for apportioning cost over affected parcels reflects the composition of the parcels and the Water Services provided. Therefore, as undeveloped parcels are the only parcels subject to the existing standby charge, the most appropriate allocation basis to use to fairly apportion the costs based on the special benefits to each assessable parcel is by assigning Equivalent Benefit Units (EBUs) to each parcel based on the lot size of such parcel. Only undeveloped parcels with Water Service readily available to the parcel are assessed. In determining access, the original criterion established for determining development potential is property within 660 feet of a water main. In addition, billable acreage excludes territory of a parcel that cannot access Water Services due to unique circumstances, such as, railroad or road impediments, pressure breaks, and drainage easements or other types of easements that restrict the parcel's access to Water Services.

As parcels subdivide each year and the configuration of each parcel changes or the District's water system expands in certain areas, the proximity to a water main may also change and trigger the need to recalculate standby charges for certain parcels based on the requirement that each affected parcel must be within 660 foot of a water main. The District maintains a GIS water main database that is updated annually and identifies the distance of each parcel to the closest water main.

Phelan Piñon Hills CSD – FY 2023 Annual Standby Charge Report

Equivalent Benefit Units

To assess benefits equitably it is necessary to relate each property's proportional special benefits to the special benefits of all other properties that are subject to the Standby Charge. The method of apportionment most commonly used for assessments/standby charges is based on a weighted method of apportionment known as an EBU methodology. This proportional weighting may be based on several factors that may include but are not limited to the type and status of development (land use), size of the property, location of the property, parcel frontage, or other property related factors. In the case of the CSD, 1 EBU is equal to one Acre of land and the standby charge is assessed only against undeveloped property.

The assessable land area of a parcel reflects the development potential of a parcel and the special benefit that the parcel would receive from the Water Services. The total number of EBUs assigned to each parcel equals 1 EBU per acre plus 0.5 EBUs per acre for each fraction of an acre, with a minimum assignment of 1 EBU to assessable parcel. The reduced 0.5 EBUs per acre for each fraction of an acre accounts for the reduced potential of development as the primary zoning within the CSD's service area is lot sizes exceeding 1-acre. Therefore, the following formulas are used to calculate each parcel's EBUs and the total EBUs that are assessed the standby charge:

Parcel's EBUs = 1 EBU per Billable Acre + 0.5 EBUs x fractional Billable Acreage

Ex)

5.6 Acres =

5 EBUs for the first five acres +

0.5 times the remaining fractional acreage of 0.6 = $(0.5 \times 0.6) = 0.3$ EBUs

Total EBUs = 5.3 EBUs

The total number of EBUs equals the sum of all EBUs assigned to Undeveloped Parcels. For FY 2023, current undeveloped parcels represent 14,774.23 EBUs. The existing Standby Charge, equal to \$20 per EBU, is then applied to each parcel's individual EBUs to determine the parcel's proportionate benefit and total obligation. The following formulas are used to calculate each parcel's annual Levy Amount.

Standby Charge per EBU x Parcel's EBUs = Parcel's Levy Amount

Ex) 5.6 Acres = $\$20 \times 5.3\text{EBUs} = \106

Phelan Piñon Hills CSD – FY 2023 Annual Standby Charge Report

District FY 2023 Budget

The following provides the preliminary proposed budget of the Water Enterprise Fund and for FY 2023. The budget includes the District's estimate of anticipated expenditures associated with the water utility. Pursuant to Section 54984.2 of the Act, the Standby Charge may fund any expenditure type of the proposed budget.

Table 1: FY 2023 Budget

Operating Expenses	Total (\$)
Water Purchases	\$119,000
Salaries & Benefits	\$3,008,509
Board Compensation	\$117,200
Professional Fees	\$509,524
Service and Supplies	\$1,695,658
Utilities	\$1,096,705
Depreciation	\$1,771,079
Other	\$11,402
Non-Operating Expenses (Debt, admin, taxes, etc.)	\$1,823,311
Total	\$9,459,996

In determining the portion of the budget that may be funded by the standby charge, the current undeveloped parcels of are the CSD's most recent Urban Water Management Plan was reviewed to determine total demand at buildout. If all current 3,641 undeveloped parcels did not further subdivide and each develops as one additional connection, undeveloped parcels represent 34% of the CSD's total potential water service connections. Therefore, the portion of the CSD's budget that is authorized to be funded by the Standby Charge and represents the special benefit conferred on the undeveloped property is \$3,214,245 (34% x \$9,459,996). The 34% of total potential new connections at buildout shall be updated each year as development occurs.

As such, based on the authorized total expenses of \$3,214,245, the maximum standby charge per EBU would be equal to \$217.56 for FY 2023 ($\$3,214,245 / 14,774.23 \text{ EBUs} = \217.56 per EBU). However, the current rate of \$20 per EBU may not be increased without a majority protest ballot proceeding pursuant to Article XIID Section 4(d) of the State Constitution. The CSD does not intend to increase the existing standby charge at this time and will continue to levy and collect the current standby charge for FY 2023.

Appendix 1: District Boundary Diagram

The boundaries subject to the standby charge are equivalent to the water service area of the CSD and, by reference are hereby made part of this Engineer's Report. However, only undeveloped parcels are subject to the Standby Charge. For more detailed specifications on the CSD's service area, diagrams are available for inspection at the administration office during normal business hours.

Appendix 2: FY 2023 Assessment Roll

Parcel identification, for each lot or parcel subject to the standby charge, shall be the parcel as shown on the San Bernardino County Assessor Parcel Maps and/or the San Bernardino County Secured Tax Roll for the year in which this Report is prepared. The proposed standby charge for each parcel has been prepared in accordance with the original rate established as part of the original formation and the method of apportionment described in this Report and has been presented to the Board Secretary.

The standby charge information for each parcel as outlined in this Engineer's Report and confirmed by the CSD Board, shall be submitted to the County Auditor/Controller, and included on the property tax roll for FY 2023. If the parcels referenced by this Engineer's Report are re-numbered, re-apportioned or changed by the County Assessor's Office after approval of the Report, the new parcel(s) with the appropriate standby charge amount will be submitted to the County Auditor/Controller.

As part of preparing the FY 2023 Assessment Roll, parcels that were recently developed or pulled a permit since the last levy submittal were removed. In addition, parcel changes were captured related to subdivisions and parcel mergers throughout the year. As a result, the Assessment Roll for FY 2023 now includes 3,641 parcels. The Assessment Roll has been provided to the Board Secretary separately and is made part of this Engineer's Report by reference as it is too voluminous to include herein.