

# ORLAND-ARTOIS WATER DISTRICT ANNEXATION POLICY AND CRITERIA

Adopted by the Board of Directors on March 19, 2019

## *SECTION 1 – Intent of the Board Relative to Annexation:*

1.1. Background. Entitlements to water and to water service from Orland-Artois Water District (the “District”) are valuable. When the District was formed in 1954, a specific plan was submitted to the community offering water service. Based upon the responses to that plan, the Bureau of Reclamation (“USBR”) and the District designed the distribution system to serve those areas which expressed the interest and commitment to pay the indebtedness to be incurred. Where it was economically practical to construct and maintain the distribution system, and where the landowners had the foresight to see the value of surface water and a distribution system to provide for economic delivery of that water, those systems were generally included in the original plan. At the time the District water system was constructed and placed into service, certain landowners declined to be included in the boundaries of the District.

1.2. Purpose of Annexation Policy. The purpose of this Annexation Policy is to provide guidance to District staff and landowners who desire to annex lands not served by the District into its territory for the purpose of accessing surface water supplies. This policy also is intended to outline the criteria that the District’s Board of Directors will use to determine in its sole discretion whether to annex lands proposed for inclusion in the District.

1.3. Annexation is not a right. Land will not be annexed into the District if there is any potential of the land proposed for annexation will not bear all of the costs of receiving water service, or if there is any potential that District water service to the annexed land would reduce service to existing lands within the District that already have paid their fair share of the cost of District operation and maintenance. Therefore, annexation into the District cannot be guaranteed and no landowner is entitled to consider the District’s consideration of an application for annexation as a commitment, right or entitlement. Land should not be purchased or leased on the basis that the land is assured of annexation and water service.

### 1.4. Factors to be Considered in Annexation.

- a. Lands Outside the Place of Use. Lands proposed to be annexed to the District must be located within the District’s Place of Use as established by the State Water Resources Control Board for waters provided from USBR’s Central Valley Project. If the lands are not within the Place of Use, the District will not petition for changes of Place of Use to USBR, which in turn must petition the State Water Resources Control Board for such a change because of the time, expense and difficulty of applying for a change in Place of Use.
- b. Lands Within the Place of Use. Lands within the Place of Use expressing an interest in annexation for agricultural water service and those lands within the place of use expressing an interest for annexation for what will primarily be municipal and industrial use will be considered on a case-by-case basis. Requests for annexation will be placed on an “Annexation Request List” for consideration as staff time allows. Expressing an interest does not entitle a landowner to obtain a decision on a set schedule. While the District

understands that landowners desire to know whether their lands can be annexed, water planning for potential annexations takes time and must be second in priority to the Board's and staff's obligation to operate the District for the benefit of its existing landowners and water users.

- c. Expansion of District Water System to Annexed Lands. As a general rule, a landowner proposing to annex into the District will be required to provide upgrades in capacity and/or an extension of the District water system because most existing capacity in the system is being utilized by existing water users. As a result, landowners applying to annex to the District generally will be required to retain an engineer at their sole expense for designing and estimating the cost of expanding or extending District water service facilities. Subject to District review and approval in its sole discretion, a landowner's private engineer can estimate that there be a need for some expansion of capacity of existing lines required by either installing a parallel pipeline or by installing larger pipe to replace existing facilities. In certain cases, the District may approve (subject to any additional approvals from USBR and the TCCA) the installation of a new diversion directly from the Tehama-Colusa Canal and construction of a private lateral to serve annexed lands. These types of capacity determinations should be estimated in advance of filing an application for annexation to permit a landowner to determine if an annexation is likely to be cost-effective. If a landowner chooses to proceed after obtaining this initial estimate, the District will perform additional engineering and capacity studies to determine the best means of serving lands proposed for annexation without impacts to existing water users. A landowner also will be required to pay all costs of studies performed by the District and will be required to deposit the estimated costs of them as a condition of the District issuing its initial approval of any annexation application. The District's performance of such studies shall not constitute a commitment by the District to provide final approval for an annexation or any proposed upgrade or extension of the District water system to serve lands proposed for annexation.

1.5. The Board's Role in Requiring Annexed Lands to Fully Contribute to and Not Burden the District. The District Board of Directors will not specify or express a commitment to a proposed annexation prior to the completion of all capacity, cost and feasibility studies reasonably required to make an informed decision. An annexation proposal will not be approved if it will adversely impact water service to existing water users or if the proposed annexation would adversely impact the overall financial stability and health of the District. Thus, an applicant will be required to provide a clear showing that the lands proposed for annexation will bear all costs of receiving District water service, including all fixed and variable costs incurred by the District for providing the requested service in accordance with District policies and regulations.

## ***SECTION 2: Annexation Policy and Criteria:***

2.1. Annexation Requirements. There are a number of basic requirements that all annexations must meet before the Board of Directors can consider or approve them. The Secretary/Manager may deny applications that do not meet all of these requirements without consultation with the Board.

- a. The land is contiguous to the District service area.

- b. The landowner must accept a second priority for excess water service only, or provide its own supplies.
- c. Water service must be economically feasible for the District.
- d. Conveyance capacity is or can be made available in the District system.
- e. Agricultural lands must have sufficient drainage to avoid impacts to adjacent landowners.
- f. Annexation applicants must pay all deposits and fees require to process the annexation.
- g. Once annexation is complete, the land is bound to pay all water service O&M charges.
- h. Canalside facilities will be built to the specifications of the OAWD, TCCA, and USBR. The landowner will be responsible for costs of power and for any associated costs of the installation and maintenance of power service.
- i. The landowner must install all facilities and equipment for receiving District water service within one year of final approval of the annexation.

***SECTION 3: Application Procedure:***

3.1. A landowner desiring to annex lands to the District must file a written application with the District on an application form provided by the District. The application must include:

- a. A description of the property, including APNs and legal descriptions for each parcel, number of acres, and legal ownership. If only part of a parcel is proposed for annexation, the landowner or agent must provide a map showing actual acres to be annexed. If a lot line adjustment is required, the landowner must separately process it through the county.
- b. Proposed use of the land. If the use is agricultural, include cropping history.
- c. Acknowledgement of responsibility to pay for all District costs, including but not limited to, all costs for the District to process the annexation application.
- d. The landowner will deposit a sum designated by the Board in an annexation agreement to pre-fund District processing costs and will timely pay any request for replenishment if the deposit is exhausted. The District will not expend any of its funds to process an annexation.
- e. A statement by the landowner that they will execute an agreement and any other documents required by the District, USBR, TCCA, and Glenn County LAFCO to complete the annexation.
- f. Acknowledgement that final approval of any annexation is subject to the landowner's satisfaction of all applicable legal and administrative requirements and conditions, and discretionary approvals of the LAFCO, USBR, TCCA, and the District.
- g. Acknowledgement that District water supply is not guaranteed and any water the District makes available will be excess to first priority needs of existing District lands and any prior

annexed lands entitled to priority service. This condition will not apply to any water supplies privately purchased by a landowner for use on its lands.

3.2. The Board will consider annexation applications in the order of the date received. The Board has determined that if an annexation will require a pro rata share of the District's existing contractual water supply, then the Board will direct the application to proceed no further in the annexation process because the District has insufficient existing firm supplies to allocate to additional lands. If the Board determines that the annexation application will not require a pro rata share of the District's existing contractual water supply, the Board will consider the application on a case by case basis according to the following procedure.

- a. The application will be referred to a committee of the Board and the District's General Manager, and legal and engineering consultants for review.
- b. Upon completion of review and preparation of a recommendation by the committee based on advice and study of District management and consultants, the Board will then consider the application at its next regular or a special meeting. The landowner will be notified of the time of the meeting and of the committee's recommended decision on the application. A decision approving the application will be by resolution of the Board, and subsequent submittal of the application to the LAFCO, USBR and, if applicable, TCCA for approval.
- c. After the Board issues its approval, an annexation agreement between the District and the landowner must be executed.
- d. The applicant will prepare necessary engineering and legal documents and take all appropriate action for obtaining approval of the application by LAFCO, USBR and TCCA, including payment of all required environmental documentation.
- e. If an application is denied, the Board will advise the applicant of the reasons for the denial. An applicant may request that the application remain on file with the District pending further investigations and actions by the applicant to attempt to correct any deficiencies in the application and requests that the Board consider further action on the application or the applicant withdraws it.

#### ***SECTION 4: Water Service Contract.***

4.1. Upon final approval of an annexation, the owners of lands annexed to the District shall execute a long-term contract for District water service, consistent with the terms of the District's acceptance of the application. The District will promptly record the contract against the annexed lands and the obligations in that contract shall bind all future owners and buyers of the lands. The contract shall contain the terms and conditions for the "Contract Water Service" to the annexed property consistent with a secondary right to water and secondary right to facilities capacity. The landowner shall commence Contract Water Service to the annexed lands by the following USBR water year, which currently is March 1 through the last day of February of the following calendar year. On or before November 1 of the previous USBR water year, the landowner shall notify the District of its election of one of the following options:

- a. The landowner desires to receive Contract Water Service to the annexed lands during the next USBR water year. Contract Water Service and the provisions for payment for such service provided in the recorded water service contract shall become effective on January 1 of the next calendar year and for each year thereafter during the term of the contract.
- b. The landowner desires to request an extension of time to begin water service for one USBR water year for all or a portion of the annexed lands. The granting of an extension will be in the sole discretion of the Board.

In the event that Water User fails to exercise one of the options set forth above, or a request for extension is denied, then the water service contract shall be subject to termination on the last day of February of the current USBR water year. Consideration shall be given by the Board to the final annexation approval date and USBR's water supply announcements in determining the application of the deadlines specified herein. Nothing in this section excuses the landowner's obligation to install all facilities and equipment necessary to receive District water service within one year of final approval of the annexation.

4.2. Water Policy and Rules and Regulations. Water service to lands annexed to the District shall be pursuant to the Orland-Artois Water District's "Rules and Regulations for Agricultural Water Service", and any amendments thereto, copies of which are available for inspection at the District office.

#### ***SECTION 5: Amendment of Policy***

5.1. The District reserves the right to amend this policy at any time or to modify its application in whole or in part with respect to all annexation applications or a particular annexation application when, in the sole judgment of the District, it deems it in the best interest of the District and its landowners to do so or when it is required for the equitable application of this policy.