City of Clearlake

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August 24, 2026

Lake County Board of Supervisors
County of Lake
255 N. Forbes St.
Lakeport, CA 95453

Dear Board Members,

Re: Follow-Up Comments Regarding Proposed Special Districts User Fees

Dear Board Members:

On August 17, 2026, the City of Clearlake submitted comments regarding the proposed Special Districts user fees and identified several legal, financial, and policy questions that we believed should be answered before the Board adopted a new fee schedule. We appreciate the additional information subsequently provided (indirectly) by Special Districts Administration and LT Municipal Consultants. The revised material provides additional explanation regarding Proposition 26 and confirms the general cost methodology used to calculate the proposed fees. However, most of the fundamental questions raised in the City's August 17th letter remain unanswered.

The City is not suggesting that applicants should never be responsible for reasonable costs uniquely attributable to their projects. The concern is whether the proposed fees are being imposed by the proper governmental entity, pursuant to appropriate statutory authority and process, without duplicating costs already recovered from utility customers, and in a manner consistent with the County's economic-development objectives.

1. What Has Changed Still Has Not Been Explained

The City's August 17th letter asked a straightforward question: What has changed that requires these fees now?

Many of the affected activities—including plan review, inspections, site visits, sewer permits, main-line review, regulatory enforcement, and development coordination—appear to have been performed by Special Districts staff for many years. The City therefore asked how those activities were historically funded, whether a new law or regulatory requirement created additional costs, whether a funding shortfall had developed, and why full cost recovery through separate applicant fees is now necessary.

The revised materials do not answer those questions. Instead, they state that Special Districts Administration does not receive General Fund or outside-agency funding for these activities and that charging less than full cost would create a funding gap. That does not explain how the same work has been funded historically or what changed in FY 2026-27.

Before creating a substantial new layer of fees, the Board should know whether this proposal responds to a newly identified fiscal problem or simply reflects a new policy decision to separately charge for activities previously incorporated into utility operations.

2. The Question of Existing Ratepayer Funding Remains Unanswered

The City's August 17th letter specifically asked whether existing water and wastewater rates already recover any of these costs.

The proposed fees are largely based on the salaries and benefits of existing Special Districts employees. The revised study confirms that fee calculations use the fully burdened hourly cost of employees performing the work, together with materials, vehicles, and a 5% indirect-cost allocation.

What has still not been demonstrated is how those same employees are currently funded. If employee salaries, benefits, supervision, vehicles, administrative support, or other costs are presently included in adopted utility budgets and revenue requirements, the Board should understand how the new fee revenue will be credited or otherwise accounted for so that the same underlying costs are not recovered once through utility rates and again through applicant fees.

The statement that these activities are charged to County General and Administrative accounts does not answer that question. An accounting designation does not establish that rate revenues have not historically supported the employees or activities involved.

3. The Legal Authority to Impose Each Fee Remains Unaddressed

This remains one of the most significant unanswered questions. The revised LT study explains Proposition 26 and concludes that all of the proposed charges qualify as regulatory fees. It does not identify the statute or ordinance authorizing Lake County, as distinguished from an individual special district, to impose each fee.

Proposition 26 determines whether a charge constitutes a tax. It does not independently grant regulatory jurisdiction or fee-setting authority. This distinction is especially important for LACOSAN following establishment of its separate governing board.

County employees may continue to provide administrative, engineering, permitting, inspection, or other services to LACOSAN. A cost study may appropriately establish the County's cost of providing those services. But neither fact necessarily establishes that the Board of Supervisors, acting for the County, has authority to impose charges upon LACOSAN customers, developers, or permit applicants for LACOSAN functions.

The issue is particularly apparent for:

- sewer permits authorizing connection to the public sewer system;
- review of extensions of sewer mains;
- grease-interceptor requirements intended to protect wastewater infrastructure;
- utility plan reviews and inspections; and
- enforcement of LACOSAN requirements.

For each fee, the Board should identify:

(1) the legal entity performing the governmental function;
(2) the statute or ordinance authorizing that entity to perform it;
(3) the statute or ordinance authorizing imposition of the fee; and
(4) the governmental fund or entity that will receive the resulting revenue.

The revised materials do not provide that analysis.

4. Government Code § 66018 Raises an Additional Procedural Question
The revised study states that because the proposed fees fall within an exception to Proposition 26's definition of a tax, they "can therefore be adopted at any time through a vote of elected officials." That conclusion appears incomplete.

Even if the County is correct that these charges are Proposition 26 regulatory fees and are not property-related water or sewer charges subject to Proposition 218, that does not eliminate other statutory procedures governing adoption of local fees. Government Code § 66018(a) provides that, before adopting a new fee or increasing an existing fee to which the section applies, a local agency shall hold a public hearing as part of a regularly scheduled meeting and publish notice pursuant to Government Code § 6062a.

The City recognizes that § 66018(d) excludes "rates or charges for water, sewer, or electrical service." However, the County's stated legal position is that these proposed charges are not water or sewer service rates, but instead are separate regulatory charges governed by Proposition 26.

The Board should therefore obtain a clear opinion from County Counsel addressing: If these charges are regulatory fees rather than water or sewer service rates, why are they not subject to Government Code § 66018's noticed public-hearing requirements?

If the County instead contends that they fall within § 66018(d)'s exclusion because they are water or sewer service charges, that characterization should also be reconciled with the current Proposition 26 analysis.

The City believes this procedural issue should be resolved before adoption rather than afterward.

5. Several Specific Fee Questions Remain Unanswered
The City previously identified several fees requiring additional explanation.

Letter of Violation Fee – $141.97. The City asked for the statutory authority to impose an enforcement charge, when liability for the fee arises, how a person may contest the violation or fee, and evidence supporting the assumption of two hours of staff time. Those questions have not been answered.

Main Line Extension Deposit – $997.54. The City asked whether historical workload data supports the assumption of ten total staff hours involving five staff classifications. The revised materials do not provide that historical information.

CEQA Review Deposit – $1,008.46. The City asked the County to distinguish between CEQA work performed when the applicable entity is the lead agency and review of environmental documents prepared by another lead agency, such as a city. The revised materials do not identify the CEQA role for which this fee would be imposed or the authority for charging it.

Grease Trap Inspection Fee – $70.98. The proposed schedule now describes this as a fee for County staff to "inspect and clean" grease traps. The Board should clarify whether Special Districts personnel actually clean privately owned grease traps. If they do not, the description should be corrected. If they do, the County should explain why grease-trap cleaning is characterized as a County regulatory activity rather than a specific utility service.

6. Refund of Unused Deposits Still Has Not Been Addressed
The City previously noted that several proposed charges are described as deposits and that applicants may be billed additional time and materials when actual costs exceed the deposit.

Neither the original nor revised material states that the reverse will occur. If these fees are justified as reimbursement of actual reasonable governmental costs, the policy should expressly provide that: actual costs exceeding the deposit may be billed to the applicant, and unused deposit balances will be refunded when actual costs are lower.

Cost recovery should operate in both directions.

7. The 5% Overhead Allocation Still Requires Support
The revised presentation identifies a 5% indirect-cost allocation for administrative overhead. The City previously asked for the factual basis supporting that percentage. That question remains unanswered.

If 5% is based on an adopted County cost-allocation plan or documented indirect-cost methodology, that information should be presented. If it is simply an estimate, the Board should know that before incorporating it into every fee.

8. Expected Revenue Has Still Not Been Identified
The City's August 17th letter asked how much revenue the County expects the proposed fees to generate. The revised materials provide no estimate. That information is important for at least two reasons. First, it would help establish the magnitude of the alleged funding gap the fees are intended to address. Second, comparing projected fee revenue against the costs currently budgeted for these activities would help demonstrate whether the County is actually recovering applicant-specific costs rather than generating revenue beyond the reasonable costs associated with the services.

9. The Economic-Development Question Has Not Been Addressed
The City's August 17th letter asked the Board to evaluate the cumulative effect of these charges on new utility connections, housing production, business investment, and economic development. The revised materials do not address that issue.

The proposed schedule could require a single project to pay multiple deposits and fees for plan review, site visits, inspections, sewer permitting, main-line extensions, CEQA review, additional time and materials, and potentially outside engineering consultants. Whether each individual fee can be mathematically justified does not answer whether the cumulative structure represents sound public policy.

The County has repeatedly identified housing production, economic development, business investment, and expansion of the local tax base as priorities. Public utility systems also benefit from responsible expansion of their customer bases. New connections can generate recurring rate revenue and spread fixed system costs among more customers.

The Board should therefore consider whether imposing multiple new and potentially open-ended charges on projects seeking public water and wastewater service advances—or works against—those broader objectives.

Questions That Remain Unanswered
Of the eight questions included in the City's August 17th letter, the revised material provides additional information regarding the calculation methodology, but leaves the central questions unresolved:

(1) What has changed that requires these fees now?

(2) How have these services historically been funded?
(3) Are any of these costs already recovered through existing utility rates?
(4) What statutory authority allows the County or Board of Supervisors to impose each fee, particularly for LACOSAN activities?
(5) What evidence supports the assumed staff hours and 5% overhead allocation?
(6) Will unused deposits be refunded?
(7) What total annual revenue is expected from the proposed fees?
(8) Has the County evaluated the cumulative effect on utility connections, housing, business investment, and economic development?

If these are Proposition 26 regulatory fees rather than water and sewer service rates, what public-hearing and notice requirements apply under Government Code § 66018?

Requested Action
Given these unresolved issues, the City respectfully requests that the Board not adopt the proposed fee schedule at this time and instead direct staff and County Counsel to return with: a fee-by-fee identification of statutory authority and the governmental entity legally authorized to impose each charge; documentation showing how each affected service and employee position is currently funded and whether any portion is recovered through utility rates; the underlying workload and cost assumptions supporting each fee and the 5% overhead allocation; a policy requiring reconciliation and refund of unused deposits; an estimate of annual revenue anticipated from the fees; an evaluation of the cumulative effect on development and new utility connections; and a written determination regarding the applicability of Government Code § 66018 and any other required notice or public-hearing procedures.

The City supports fair allocation of costs uniquely attributable to individual applicants and developments. The Board should nevertheless ensure that any new charges are imposed by the correct governmental entity, pursuant to proper statutory authority and procedure, supported by an adequate factual record, and structured in a manner consistent with the County's broader policy objectives.

Sincerely,

Alan Flora
City Manager

Cc: Clearlake City Council