

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF FRESNO ESTABLISHING AND SETTING A SCHEDULE FOR WATER CAPACITY CHARGES UNDER THE MITIGATION FEE ACT, AND AMENDING ARTICLE 5 OF CHAPTER 6 AND ARTICLE 4.5 OF CHAPTER 12 OF THE FRESNO MUNICIPAL CODE.

WHEREAS, the City of Fresno (City) owns, operates, and maintains surface water treatment facilities, groundwater recharge facilities, groundwater pumping facilities, water storage reservoirs, and water distribution pipelines, valves, fire hydrants, and water meters. The City relies on both groundwater and surface water to serve the daily water supply needs of approximately 130,000 existing ratepayers; and

WHEREAS, the City's water utility is operated as an enterprise fund within the City's general government operations. As an enterprise fund, the City's water utility is funded by an independent schedule of rates, fees, and charges that ensures that all current and future users of the City's public water system pay their proportionate share of the management, administration, operations, maintenance, and capital facilities required to deliver potable water service to existing and future connections to the system; and

WHEREAS, the City has relied on groundwater as its primary water supply source for more than 100 years, which groundwater supply is severely strained; and

WHEREAS, the City of Fresno is located within the Kings Subbasin of the Tulare Lake Hydrologic Region (Region); and

1 of 16

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: ABF

Ordinance No.

WHEREAS, the United State Geological Survey (USGS) reports that groundwater extractions in the Region currently exceed the Region's groundwater recharge by approximately 1.5 million acre-feet per year. For comparison, Pine Flat Reservoir has a storage capacity of approximately 1 million acre feet; thus, the annual groundwater overdraft in the region is equivalent to 1.5 times the storage capacity of Pine Flat Reservoir each year; and

WHEREAS, as documented by the California Department of Water Resources (DWR) in Bulletin 118, the Kings Subbasin is one the most critically overdrafted groundwater basins in the State of California based on groundwater data collected and evaluated by DWR for 515 basins throughout the State. Specifically, in January 2015, the DWR ranked the San Joaquin Valley Basin (and therefore the Kings Subbasin) as one of 21 top-priority basins (out of 515 basins) identified by DWR in Bulletin 118 requiring corrective action for overdraft conditions; and

WHEREAS, groundwater levels below the City have fallen at an annual average rate of approximately 1.0 to 1.5 feet per year for approximately 80 years. However, during calendar year 2014, the City's groundwater levels fell an average of 4.0 feet. In calendar year 2015, the City pumped 83,360 acre-feet of groundwater and 28,350 acre-feet of surface water to the distribution system, and recharged 19,778 acre-feet at Leaky Acres and other recharge basins in the area, resulting in a net overdraft of the groundwater aquifer of 63,582 acre-feet; and

WHEREAS, without corrective action, the City was concerned continued groundwater overdraft would result in (1) the migration of existing contamination plumes, (2) an increase in the number of wells requiring treatment, and (3) an increase

in the number of wells that will need to be removed from service due to quality or quantity issues, or both; and

WHEREAS, in September 2014, the Governor signed into law three bills collectively referred to as the Sustainable Groundwater Management Act (SGMA), which includes without limitation Water Code section 113, Water Code sections 10720 *et seq.*, and amendments to provisions of the Government Code; and

WHEREAS, Water Code section 113 states that "[i]t is the policy of the state that groundwater resources be managed sustainably for long-term reliability and multiple economic, social, and environmental benefits for current and future beneficial uses," and, "[s]ustainable groundwater is best achieved through the development, implementation, and updating of plans and programs based upon the best available science"; and

WHEREAS, the SGMA recognizes that excessive groundwater extraction can cause overdraft, failed wells, deteriorated water quality, environmental damage, and irreversible land subsidence – all conditions which currently exist in the City and require state-mandated corrective action; and

WHEREAS, the SGMA requires that by January 31, 2020, all basins designated as high- or medium-priority basins subject to critical overdraft conditions shall be managed under a groundwater sustainability plan (GSP) or coordinated GSP to achieve sustainable groundwater management by implementing measures targeted to ensure that the groundwater basin is operated within its sustainable yield. (See, e.g., Water Code § 10727.) GSPs must include measurable objectives to achieve the sustainability goal in the basin within 20 years of the implementation of the plan, mitigation of

overdraft, replenishment of groundwater extractions, measures addressing groundwater contamination cleanup, and consideration of surface water supply used or available for use for groundwater recharge or in-lieu use; and

WHEREAS, the California Legislature in Water Code section 79770 recognized that prevention and cleanup of groundwater contamination are critical components of successful groundwater management, and that groundwater quality becomes especially important as water providers evaluate investments in groundwater recovery and recharge projects with surface water, storm water, recycled water, and other conjunctive use projects that augment local groundwater supplies to improve regional water self-reliance; and

WHEREAS, the Legislature has also recognized in Water Code sections 79771 and 79773 that preventing or reducing the contamination of groundwater contaminated with various contaminants, including 1,2,3-TCP (trichloropropane), is necessary to protect public health; and

WHEREAS, Water Code section 10726.2 permits the City to transport, reclaim, purify, treat, or otherwise manage and control polluted water for subsequent use in a manner that is necessary or proper to carry out the purposes of the SGMA; and

WHEREAS, Water Code sections 10735.2 and 10735.8 provide that by January 31, 2020, if the City fails to adopt a groundwater sustainability plan or adopts an inadequate groundwater sustainability plan, DWR may place the City on a probationary status and prepare an interim groundwater sustainability plan for the City, which may include restrictions on the City's groundwater extractions, physical solutions, and principles and guidelines for the administration of the City's surface water supplies; and

WHEREAS, in accordance with the SGMA, a group of water supply agencies and local governments within the Kings Subbasin, including the City of Fresno, have agreed to form a Joint Powers Authority designated as the North Kings Groundwater Sustainability Agency (NKGSA). As a joint powers authority, the NKGSA has been established to sustainably manage the groundwater resources within a portion of the Kings Subbasin (Subbasin Number 5-22.08), which is located within the greater San Joaquin Valley Basin (Basin Number 5-22); and

WHEREAS, on January 21, 2015, the City received a letter from the Director of DWR confirming that in the event a local agency, such as the City of Fresno, fails to exercise its responsibilities as stipulated in the SGMA, the State will intervene on an interim basis; and

WHEREAS, the City, in collaboration with the NKGSA member agencies, will be responsible for developing and implementing a GSP. The GSP will define the corrective action measures that the NKGSA member agencies will implement to address the overdraft, failed well, and deteriorated water quality conditions that exist; and

WHEREAS, in response to the City's current groundwater overdraft and contamination conditions and the compliance requirements of the SGMA, the City in cooperation with the State Water Resources Control Board, developed a \$429 million capital investment plan that implemented corrective action to address declining groundwater levels, groundwater contamination, and the requirements of the SGMA; and

WHEREAS, the corrective action plan was designed to use the City's surface water entitlements at Pine Flat Reservoir and Millerton Lake, which total 180,000 acre-

feet per year during a normal precipitation year, to allow the City to reduce groundwater pumping. The corrective action plan includes without limitation the construction of raw water pipelines to deliver surface water to two of the City's surface water treatment facilities, a new 80 million gallon per day surface water treatment facility, and finished water distribution facilities to deliver treated surface water to the community's existing 130,000 water accounts; and

WHEREAS, the current water demands in the City total approximately 128,000 acre-feet per year. To serve the City's existing customers, the funded corrective action plan will allow the City to reduce groundwater extractions to 18,000 acre-feet per year; increase surface water production to 110,000 acre-feet per year, and allow the City to recharge approximately 32,000 acre-feet per year. This will result in a net positive contribution to the groundwater aquifer of 14,000 acre-feet per year; and

WHEREAS, the first phase of projects set forth in the corrective action plan are designed to support the water supply and reliability needs of existing customers, and therefore, will be funded through the City's water rates. The first phase of projects will help bring the groundwater basin back into sustainable balance for existing water customer demands, but it will not be sufficient to meet the new demands placed on the system by new development, which consist of new connections and expanded connections to the water system; and

WHEREAS, to address water supply reliability, and regulatory requirements for serving new development, subsequent phases of improvements will need to be constructed. These facilities will be used to meet the water capacity needs of new development, and therefore, the costs of these improvements should be funded by the

City's water capacity fees to ensure these costs are equitably recovered from new development; and

WHEREAS, the City currently levies a number of water capacity fees, including Urban Growth Management (UGM) fees for 21 areas, Well Head Treatment Fees for five areas, Transmission Grid Main Charges and related Bond Debt Service Charges, Recharge Area Fees, and 1994 Bond Debt Service Fees; and

WHEREAS, under the UGM process, everyone who developed in a UGM area was required to pay their share of UGM fees for the cost of the infrastructure, improvements, and services to provide City services to the development; and

WHEREAS, the City's existing water fee programs were last updated in 2003 (see Ordinance No. 2003-96) and (1) do not recover costs for capacity in existing infrastructure that benefits new development; (2) do not recover costs for future infrastructure and water supply projects needed to meet the demands of growth; (3) fail to recover any costs from non-Urban Growth Management areas; and (4) are administratively burdensome with almost 150 separate UGM funds, and require an update; and

WHEREAS, the City's authority to impose capacity charges for the privilege of connecting property to the City's water systems is governed in part by the Mitigation Fee Act (Gov. Code § 66000 et seq.), particularly Government Code 66013 and 66016. The Mitigation Fee Act requires that when a local agency, such as a City, imposes fees for water connections or sewer connections, or imposes capacity charges, those fees or charges must not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed. (Gov. Code § 66013.) Accordingly, the City has

worked with a consultant, Bartle Wells Associates, to develop a Water Capacity Fee Study (Study), dated February 27, 2017, set forth in Attachment 1 and incorporated herein, which develops updated capacity fees (Water Capacity Fees) and establishes the reasonable relationship between the City's fees and the City's estimated reasonable costs of providing water capacity service to new development; and

WHEREAS, the Water Capacity Fees are designed to recover costs for facilities needed to address water supply and reliability needs for serving new development, and a share of costs for existing assets benefitting new development through buildout; and

WHEREAS, the Water Capacity Fees exclude cost recovery for the City's first phase of surface water system improvements, which were designed to benefit the City's existing customer base; and

WHEREAS, the Water Capacity Fees effectuate a transition to a single, consistent system that can be applied uniformly to all future development within the City's service area, regardless of where development occurs, reducing administrative burden; and

WHEREAS, the City must amend the Fresno Municipal Code (FMC) to repeal and amend sections relating to the UGM fees to be replaced with the Citywide water capacity fee program set forth herein; and

WHEREAS, the City Council has determined it is necessary to increase water capacity fees and costs to (1) provide water facilities necessary to serve new development, and (2) protect public health and safety.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

Section 1. The above recitals are true and correct, are material to the adoption



of this ordinance, and are incorporated herein by reference.

Section 2. In addition to the findings set forth in the recitals, the City Council hereby finds and determines as follows:

A. The City Council has received and reviewed the Water Capacity Fee Study dated February 27, 2017, by Bartle Wells Associates, independent public finance advisors, setting forth recommendations for the water capital improvements together with necessary financial requirements.

B. The purpose of the Water Capacity Fees is to provide revenue to recover costs for existing facilities and facilities to be acquired or constructed in the future that are of proportional benefit to new development.

C. The Water Capacity Fees are to be used to finance installation of new water related infrastructure, assets, and water supply to serve new development. The fees will also be used to reimburse individuals who construct capital facilities above their conditions of approval and Water Capacity Fee obligation.

D. The Water Capacity Fees ensure new development and infill development will pay for water system infrastructure and assets benefitting growth, but will not pay for facilities required to serve existing ratepayers

E. The Water Capacity Fees are based on maintaining a level of service consistent with the, goals, policies and objectives of the adopted Fresno General Plan, as analyzed in the Master Environmental Impact Report (MEIR) prepared for the Fresno General Plan (State Clearing House # 2012111015), and supporting documents

F. The Water Capacity Fee Study complies with the Mitigation Fee Act, including without limitation Government Code section 66013, by determining the estimated reasonable costs of providing water capacity facilities and infrastructure that are of proportional benefit to new development.

G. The Water Capacity Fees will be used to cover the costs of existing public facilities and new public facilities to be acquired or constructed in the future that are of proportional benefit to new development, as detailed in the Bartle Wells Associates Study.

H. The Water Capacity Fees will be applied to projects approved under the Subdivision Map Act (Government Code sections 66410 et seq.) in accordance with the provisions of that Act.

I. The Water Capacity Fees enacted herein are not levied as an incident of property ownership but are levied solely at the request of a property owner or its agent for the privilege of gaining access to use of the City's systems and facilities. The revenues derived from the Water Capacity Fees do not exceed the estimated reasonable costs of providing the service for which the fees are imposed.

J. After considering the specific infrastructure systems and cost estimates identified in the Water Capacity Fee Study, the City Council approves such descriptions and cost estimates, and finds them reasonable as the basis for calculating and imposing the updated Water Capacity Fees as set forth herein; and

K. Pursuant to California Government Code section 66016, at least 14 days before the public hearing, the City mailed notice of the public hearing and the City's consideration of the updated fee to any party that filed a written request for mailed notice of meetings on new or increased fees or services charges that included a general explanation of the matter to be considered and a statement that the data indicating the amount of the cost, or estimated costs, required to provide the water capacity service for which the capacity fees are imposed and the revenue sources anticipated to provide the service, is publicly available.

L. Pursuant to California Government Code section 66016, at least 10 days before the public hearing, the City made available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including General Fund revenues. The published information included the notice of the public meeting on March 9, 2017, at 10:15 a.m. in the Council Chambers of the City of Fresno, 2600 Fresno Street, Fresno, CA 93721, as part of a regularly scheduled City Council meeting, during which the City Council gave members of the public the opportunity to make oral or written presentations to the City Council on the proposed changes to the water fees and charges and the analysis included in the Study; and

M. On March 23, 2017, at 10:15 a.m., the City held a duly noticed public meeting in the Council Chambers of the City of Fresno, 2600 Fresno Street, Fresno, CA 93721, to consider oral or written presentations regarding the proposed fees and charges as set forth in this ordinance.

Following the consideration of all comments at the public meeting, the City Council determined to establish the structure and fees and charges detailed herein for water connections to the City's systems.

Section 3. The Water Capacity Fees reflected in the Bartle Wells Associates Water Capacity Fee Study are hereby adopted as the new Water Capacity Fees for all parcels within the City and these Water Capacity Fees shall replace the transmission grid main charge, UGM water supply fee, well head treatment fee, recharge fee, transmission grid main bond debt service charge, and bond debt service fee set forth in previous ordinances, last amended by Ordinance No. 2003-96.

Section 4. The funds generated by the imposition of the Water Capacity Fees shall be deposited in a separate Capacity Fee account and will be used solely for the purposes for which the fees were collected and/or for reimbursing developers who funded infrastructure as part of the Water Capacity Fee program beyond that needed to serve the developers' project or projects. The Water Capacity Fees shall be deposited, accounted for, and expended in accordance with the Mitigation Fee Act and all other applicable provisions of law.

Section 5. The Water Capacity Fees shall automatically increase on July 1 in each year hereafter, commencing on July 1, 2018, in accordance with any increases in the Engineering News Record Construction Cost Index (20-city average) in the twelve months from April 1 of the fiscal year preceding said July 1 and March 30 of the fiscal year ending on such July 1.

Section 6. Annually, the City Manager or his or her designee shall make available to the public information to the extent required by section 66013(d) of the

Government Code, as it may be amended from time to time.

Section 7. The Water Capacity Fee program shall be administered in accordance with procedures outlined in Section 6-513 of the Fresno Municipal Code as hereby amended.

Section 8. Article 5 of Chapter 6 and Article 4.5 of Chapter 12 of the Fresno Municipal Code are amended to read as set forth in Exhibit A, which is hereby incorporated as though set forth in its entirety herein.

Section 9. The City Council hereby finds and determines as follows:

A. Council, as lead agency under the California Environmental Quality Act ("CEQA"), has evaluated the potential environmental impacts of adopting the Water Capacity Fees. As the decision making body for the City of Fresno, the Council has reviewed and considered the information contained in the administrative record for the adoption of the Water Capacity Fees.

B. The Council finds the Water Capacity Fee program is intended to fund as-yet unknown, future projects and programs, which may include potential infrastructure related to growth. These fees do not commit the City to approve any particular project, program, or capital improvement, but will be placed in a separate fund for potential unidentified future projects. Any activities, including infrastructure improvements, which may be funded by these Water Capacity Fees will be subject to future environmental review under CEQA, as applicable, prior to Council approval.

C. The Council therefore finds the Water Capacity Fees are not subject to environmental review under CEQA. First, the Water Capacity Fees, in and of

themselves, do not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and therefore are not considered a "project" under CEQA. (Pub. Resources Code, § 21065, 14 Cal. Code Regs., § 15378, subd. (a).) Further, the Water Capacity Fees are considered a government funding mechanism that do not involve any commitment on behalf of the City to any specific project which may result in a potentially significant physical impact on the environment. (14 Cal. Code Regs., § 15378, subd. (b)(4).) Even with adoption of the fee structure, projects that may be funded by the Water Capacity Fees may never be built and in this way, remain speculative. As such, adoption of the Water Capacity Fee involves no commitment whatsoever to any project which may result in a significant physical impact on the environment.

D. The Council has considered any comments received at the public hearing on March 23, 2017, prior to adoption of this Ordinance.

E. The determination that the Water Capacity Fees are not subject to CEQA review reflects the Councilmembers' independent judgment and analysis.

Section 10. If any provision or clause, or paragraph of this ordinance or the imposition of the Water Capacity Fees for any project within the City or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this ordinance or other fees levied by this ordinance which can be given effect without the invalid provisions or application of fees, and to this end the provisions of the ordinance are declared to be severable.

Section 11. The City Manager or his or her designee is hereby authorized and directed to execute documents pertaining to this ordinance and the Water Capacity Fee program for and on behalf of the City of Fresno.

Section 12. Any judicial action or proceeding to attack, review, set aside, void, or annul this ordinance shall be brought pursuant to Government Code section 66022.

Section 13. Pursuant to Government Code section 66017(a), this ordinance shall become effective and in full force and effect at 12:01 a.m. on the sixty-first day after its final passage.

\* \* \* \* \*

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2017  
Mayor Approval/No Return: \_\_\_\_\_, 2017  
Mayor Veto: \_\_\_\_\_, 2017  
Council Override Vote: \_\_\_\_\_, 2017

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN,  
City Attorney

BY: \_\_\_\_\_  
Amanda B. Freeman Date  
Deputy

ATTEST:  
YVONNE SPENCE, CMC  
City Clerk

BY: \_\_\_\_\_  
Deputy

Attachment: Exhibit A



EXHIBIT A  
REVISIONS TO THE FRESNO MUNICIPAL CODE

The following revisions to the Fresno Municipal Code shall become effective on the effective date of the above-referenced ordinance.

1. Subsection (ff) of Section 6-501 of the Fresno Municipal Code is repealed.
2. Subsection (gg) of Section 6-501 of the Fresno Municipal Code is repealed.
3. Subsection (hh) of Section 6-501 of the Fresno Municipal Code is repealed.
4. Subsection (ll) of Section 6-501 of the Fresno Municipal Code is repealed.
5. Subsection (mm) of Section 6-501 of the Fresno Municipal Code is repealed.
6. Subsection (nn) of Section 6-501 of the Fresno Municipal Code is repealed.
7. Subsection (oo) of Section 6-501 of the Fresno Municipal Code is repealed.
8. Subsection (pp) of Section 6-501 of the Fresno Municipal Code is amended to read:

(pp) [All connection to the water system shall be metered, and "[l]iving unit equivalent" means the equivalence of one net acre to 5.8 living unit equivalent to compute the UGM water supply, well head treatment recharge, and bond debt service fees [each metered connection to the city water system shall be converted to an equivalent number of one-inch water meters for the purposes of computing water capacity fees. The conversion factors for equivalent one-inch meters shall be as defined by the American Water Works Association, Manual of Water Supply Practices M6.]

9. Subsection (qq) of Section 6-501 of the Fresno Municipal Code is amended to read:

(qq) "Demand per unit" means a projected water demand of 2.12 gallons per minute [per unit, and 1.51 gallons per minute per unit, for single-family residential projects and multi-family residential projects, respectively.] ~~for single-family residential projects and 1.51 gallons per minute for multiple-family residential projects.~~ The single family residential [per unit] water demand [factors] shall be used for the purposes of calculating ~~living equivalents~~ [peak hour water demands for single-family and multi-family residential development projects].

10. Subsection (rr) of Section 6-501 of the Fresno Municipal Code is amended to read:

(rr) "Water Supply Facility" means a [groundwater] well~~[:]~~ ~~by means of which water is removed to the surface from its natural position in the ground below, a storage tank which is used to collect and store groundwater for distribution into transmission grid mains, and facilities to collect, treat, and distribute surface water into transmission grid mains.~~ [facilities to collect, treat, and distribute surface water; storage facilities to collect and store groundwater or treated surface water; transmission grid mains to distribute groundwater or surface water; other infrastructure related to production and distribution of water supply; or recharge facilities used to restore the groundwater aquifer.]

11. Subsection (ss) of Section 6-501 of the Fresno Municipal Code is amended to read:

(ss) "Frontage Charge" [or "Frontage Fee"] means a fee charged against the property for the right to connect to a public water main where the property has not participated in the cost of constructing said line.

12. Section 6-501 of the Fresno Municipal Code is amended by adding subsection (tt) to read:

[(tt) "Water Capacity Fee" means a fee for the right to connect to the City water system, said fee to be used to cover the costs of water facilities that are of proportional benefit to new growth, including the redevelopment of properties with existing service connections.]

13. Section 6-501 of the Fresno Municipal Code is amended by adding subsection (uu) to read:

[(uu) "Service Connection Charge" or "Service Connection Fee" means a fee to install a new or replacement service connection, equal to the cost of labor (including overhead), equipment and materials, including the meter where applicable.]

14. Section 6-507 of the Fresno Municipal Code is amended to read:

SECTION 6-507. - PERMIT TO CONNECT WATER REQUIRED:  
PAYMENT OF CHARGES.

(a) No person shall connect any lot[, property, parcel or premise] to the city water system without a permit from the Director of the Development [and Resource Management] Department unless the applicable charges designated in the Master Fee Resolution have been paid.

~~(1) Transmission Grid Main Charge. A transmission grid main charge shall be required for all property sought to be connected to the city water system in the amount designated in the Master Fee Resolution. Parcels of land proposed for subdivision shall be assessed on a gross acreage or net acreage basis unless this amount is less than the minimum charge established in the Master Fee Resolution. Area calculations shall be based upon the following:~~

~~(i) Gross acreage shall be calculated to include the street right-of-way, and shall include one-half of the right-of-way on boundary streets excluding the established freeway rights-of-way.~~

~~(ii) Net acreage shall be calculated to exclude area dedicated or condemned for public street and alley purposes.~~

~~(iii) Property which has wholly or proportionately paid the transmission grid main charge, when such fact has been or can be established to the satisfaction of the Director, need pay only the transmission grid main charge applicable to the portion of the property for which the charge has not been paid. A property or portion thereof which has had city water service (except for water service~~

~~solely for the fire protection) since July 1, 1954, shall be deemed to have paid the transmission grid main charge.~~

~~(iv) When only a portion of a lot is developed, and the remaining portion is to continue undeveloped or is to be used solely for the growing of agricultural crops, or for public recreation uses not enclosed in a building, the Director may require the payment of the transmission grid main charge applicable only to that portion of the lot developed or to be developed, provided that the parcel for which such fees are charged shall have an area of not less than twelve thousand five hundred square feet. When the balance of the lot is developed, the transmission grid main charge shall be paid regardless of whether or not additional water service is required. The Director shall fix the portion of the lot which is to be considered as developed.~~

~~(v) In the R-A, AE-5 and AE-20 zone districts on a developed lot at least two net acres in size, when a portion of not less than twelve thousand five hundred square feet of such lot is to be improved with one additional single-family residence or the existing residence is to be connected to the city water system, the Director may require the payment of the transmission grid main charge~~

~~applicable only to the portion of such lot to be improved or occupied by the existing residence to be connected to the city water system. When the land use on the balance of the lot changes either through district amendment or special permit, the transmission grid main charge shall be paid regardless of whether or not additional water service is required. The Director shall fix the portion of such lot which is to be considered as improved or occupied.~~

~~(vi) On separate major maintenance facilities within cemeteries and on facilities used for other than cemetery purposes, the Director shall fix the area for charges based on the dimensions of the property actually used for such purposes.~~

~~(vii) In areas designated by the Council, where a city water system is to be constructed to reduce public health hazard related to contaminated groundwater and where service connections to the water system are limited to serving only the existing residential dwelling and an auxiliary water supply is to continue to be utilized for irrigation of other portions of the lot, the Director shall require payment of the transmission grid charge applicable only to a portion of such lot occupied by the residence to be~~

~~connected to and served by the city water system, provided that the portion of such lot for which fees are to be charged shall have an area of not less than twelve thousand five hundred square feet or the actual square footage of the lot, whichever is the lesser. When the land use on the balance of the lot changes either through land division, district amendment or special permit, city water is used for non-domestic uses, or the auxiliary water supply serving the lot is abandoned, the remaining balance of the transmission grid main charge shall be paid regardless of whether or not additional water service is required. The Director shall fix the portion of such lot which is to be considered as improved, occupied, or irrigated with city water. [Repealed.]~~

(2) Frontage Charge. A frontage charge shall be required for each lot[, parcel, property, or premise] sought to be connected to the city water system, in the amount designated in the Master Fee Resolution per front foot. The front footage shall be calculated as follows:

(i) On a corner lot, [parcel, property, or premise] by adding both street frontages, excluding up to the first one hundred fifty feet on one of the street frontages to be selected by the Director.

(ii) On a lot abutting streets on three sides, by dividing the lot into two equal corner lots, calculating the front footage for each as provided by paragraph (i) above, and adding the two calculations.

(iii) On a lot with the side property lines nonparallel, the calculation for frontage shall be the distance measured between the side property lines midpoint between the frontage and the rear property lines of the lot.

(iv) Portions of the lot utilized as a public street or alley shall be excluded from the above calculations.

(v) On an irregularly shaped lot, the Director shall determine the front footage consistently with the foregoing principles of calculation.

(vi) Property which has not previously had city water service (except for water service solely for fire protection) shall pay a front footage charge only to the extent that such front footage charge or the cost of the main serving the premises has not heretofore been paid by the applicant or his predecessor in interest, provided that no such charge shall be collected for that portion of the frontage where the applicant is required to extend a main



across his property frontage as a condition precedent to receiving service.

(vii) When only a portion of a lot[, parcel, property, or premise] is developed and the remaining portion is to continue undeveloped or is to be used solely for the growing of agricultural crops, the Director may require the payment of the front footage charge applicable only to that portion of the lot developed or to be developed, provided that the parcel for which such fees are charged shall have an area of not less than twelve thousand five hundred square feet. When the balance of the lot is developed, the front footage on that portion shall be paid regardless of whether or not additional water service is required. The Director shall fix the portion of the lot which is to be considered as developed.

(viii) Where a property fronts on a street in which there is an existing main from which service could be rendered, but the applicant elects to install water mains to serve all or portions of said property in streets or other rights-of-way which he dedicates within his property, he shall pay frontage charges for the portions of his property served from the additional mains in an amount equal to

one-half of the frontage charges calculated on the basis of the frontage of said portions prior to said dedications, provided that this subsection shall not apply to the frontage of his property where it is necessary to extend the existing main as required under Subsection 6-514 street adjacent to the property to be served.

(x) In the R-A, AE-5 and AE-20 zone districts on a developed lot at least two net acres in size, when a portion of not less than twelve thousand five hundred square feet of such lot is to be improved with one additional single-family residence or the existing residence is to be connected to the city water system, the Director may require the payment of the frontage charge applicable only to the portion of such lot to be improved or occupied by the existing residence to be connected to the City water system. When the land use on the balance of the lot changes either through district amendment or special permit, the frontage charge shall be paid regardless of whether or not additional water service is required. The Director shall fix the portion of such lot which is to be considered as improved or occupied.

(xi) On separate major maintenance facilities within cemeteries and on facilities used for other than cemetery purposes, the Director shall fix the front footage for charges based on the dimensions of the property used for such purposes.

(xii) In areas designated by the Council, where a city water system is to be constructed to reduce public health hazard related to contaminated groundwater and where service connections to the water system are limited to serving only the existing residential dwelling and an auxiliary water supply is to continue to be utilized for irrigation of other portions of the lot, the Director shall require payment of the frontage charge applicable only to a portion of such lot occupied by the existing residence to be connected to and served by the city water system, provided that the fee to be charged shall be for a minimum of one hundred lineal feet or the actual front footage of the lot whichever is the lesser. When the land use on the balance of the lot changes either through land division, district amendment or special permit, city water is used for nondomestic purposes, or the auxiliary water supply serving the parcel is abandoned, the remaining balance of

the frontage charge shall be paid regardless of whether or not additional water service is required. The Director shall fix the portion of the lot which is to be considered as improved, occupied, or irrigated with city water.

(3) Service Connection Charges. For each lot which requires a new service connection, or revised service connection, to a main determined by the Director to be in active service, the applicant shall pay to the city a ~~charge for the cost[-] of[-] the service installation charge to install the new or revision~~ [replacement service connection. The cost-of-service charge shall] equal ~~to~~ the cost of labor (including overhead), equipment and materials, including the meter where applicable. For services two inches in diameter or smaller, such charges may be fixed uniformly by the Council and designated in the Master Fee Resolution.

(4) [REPEALED]

~~(5) UGM Water Supply Fee. A water supply fee shall be required for each lot or property within the Urban Growth Management Area, as designated on the Official Urban Growth Management Area Map. The amount of the fee for each Water Supply Area shall be as designated in the Master Fee Resolution. The water supply fee for single well areas shall be based on area~~

~~calculations determined in the same manner as provided in subdivision (1) of this subsection for the transmission grid main charge, including deferments for undeveloped properties. The water supply fee for multi-well areas shall be in the amount per unit, as defined in Subsection (k) of Section 6-601 and as designated in the Master Fee Resolution.~~

~~(i) Property which has wholly or proportionately paid the cost of a well providing primary service thereto, when such fact has been or can be established to the satisfaction of the Director, need pay only the water supply fee applicable to the portion of the property for which the fee has not been paid.~~

~~(ii) In the R-A, AE-5, and AE-20 zone districts on a developed lot at least two net acres in size, when a portion not less than twelve thousand five hundred square feet of such lot is to be improved with one additional single-family residence or the existing residence is to be connected to the city water system, the Director may require the payment of the water supply fee applicable to the portion of such lot to be improved or occupied by the existing residence to be connected to the city water system. When the land use on the balance of the lot changes~~

~~through district amendment or special permit, the water supply fee shall be paid regardless of whether or not additional water service is required. The Director shall fix the portion of such lot which is to be considered as improved or occupied.~~

~~(iii) In areas designated by the Council, where a city water system is to be constructed to reduce public health hazard related to contaminated groundwater and where service connections to the water system area are limited to serving only the existing residential dwelling and an auxiliary water supply is to continue to be utilized for irrigation of other portions of the lot, the Director shall require payment of the water supply fee applicable only to a portion of the lot occupied by the existing residence to be connected to and served by the city water system, provided that the area of the lot for which such fees are to be charged shall be a net area of not less than twelve thousand five hundred square feet or the actual area of the lot whichever is the lesser. When the land use on the balance of the lot changes either through land division, district amendment or special permit, city water is used for nondomestic use, or the auxiliary water supply serving the~~

~~parcel is abandoned, the water supply fee shall be paid regardless of whether or not additional water service is required. The Director shall fix the portion of such lot which is to be considered as improved, occupied, or irrigated with city water. [REPEALED.]~~

~~(6) — Well Head Treatment Fee. A well head treatment fee shall be required for each unit sought to be connected to the city water system within a Well Head Treatment Area established by the Director. The amount of the fee for each Well Head Treatment Area shall be in the amount per unit designated in the Master Fee Resolution.~~

~~(i) — When only a portion of a lot is developed, and the remaining portion is to continue undeveloped, the Director shall require payment of the well head treatment fee applicable only to the number of units, as defined in Subsection (kk) of Section 6-501, connected to the city water system. When the balance of the lot is developed, the well head treatment fee shall be per additional unit connected to the city water system.~~

~~(ii) — Where an industrial lot or portion of such lot is used for a warehouse, loft building, storage area or similar facility, the Director, upon receipt of an application from the~~

~~owner, may fix a lower number of units for such lot or portion thereof based upon the estimated burden such use will impose on the city water system.~~

~~(iii) Where a development is for open recreation and sport use, or as a city park the Director, upon receipt of an application from the owner, may fix a lower number of units for such development. The number of units charges shall be based on living unit equivalents for the land area of improvements, or one unit per one-quarter acre or fraction thereof of net land area of development, whichever is the lesser.~~

~~(iv) Where for all uses other than residential the actual or projected water use exceeds 50% or more than the scheduled water demands for similar uses, based on an equivalent residential water use per unit, then the Director shall determine a higher number of units based on additional water use on a pro-rata water demand basis.~~

~~(v) Where there is a change in the use or the operation of a development, having paid a well head treatment fee, and the Director determines that this change in use or operation will impose an added burden on the City water system, the owner of such development shall pay an~~



~~additional well head treatment fee per number of added units as determined by the Director. Payment of these additional well head treatment fees shall be a condition of approval of any permit if required for such change in use or operation or in the event a permit is not required, payment shall be made within twelve months of the date of written notice of such determination by the Director. If payment is not made as required above, it constitutes a violation of this section and the water service for such lot or parcel shall be discontinued for nonpayment. Upon the Director's determination that such payment was not made as required, Director shall notify the City Controller who shall proceed to collect payment or discontinue water service in the same manner as provided in Section 6-106 which outlines the procedure to follow in order to collect payment or discontinue water service. [REPEALED.]~~

~~(7) Recharge Fee. A recharge fee shall be required for each unit sought to be connected to the city water system within Recharge Areas established by the Director. The amount of the fee for each Recharge Area shall be the amount per unit designated in the Master Fee Schedule.~~

~~(i) When only a portion of a lot is developed, and the remaining portion is to continue undeveloped, the Director shall require payment of the recharge fee applicable only to the number of units, as defined in Subsection (kk) of Section 6-501, connected to the city water system. When the balance of the lot is developed, the recharge fee shall be per additional unit connected to the city water system.~~

~~(ii) Where an industrial lot or portion of such lot is used for a warehouse, loft building, storage area or similar facility, the Director, upon receipt of an application from the owner, may fix a lower number of units for such lot or portion of thereof based upon the estimated burden such use will impose on the city water system.~~

~~(iii) Where a development is for open recreation and sport use, or as a city park the Director, upon receipt of an application from the owner, may fix a lower number of units for such development, in which event the number of units charged shall be based on living unit equivalent for the net land area of improvements, or one unit per one quarter acre or fraction thereof of net land area of development, whichever is the lesser.~~

~~(iv) Where for all uses other than residential the actual or projected water use exceeds 50% or more than the scheduled water demands for similar uses, based on an equivalent residential water use per unit, then the Director shall determine a higher number of units based on additional water use on a pro-rate water demand basis.~~

~~(v) Where there is a change in the use or the operation of a development, having paid a recharge fee, and the Director determines that this change in use or operation will impose an added burden on the City water system, the owner of such development shall be responsible for payment of an additional recharge fee per number of added units as determined by the Director. Payment of these additional recharge fees shall be a condition of approval of any permit if required for such change in use or operation or in the event a permit is not required, payment shall be made within twelve months of the date of written notice of such determination by the Director. If payment is not made as required above, it constitutes a violation of this section and the water service for such lot or parcel shall be discontinued for nonpayment. Upon the Director's determination that such payment was~~

~~not made as required, Director shall notify the City Controller who shall proceed to collect payment or discontinue water service in the same manner as provided in Section 2-1106 which outlines the procedure to follow in order to collect payment or discontinue water service.~~

~~[REPEALED.]~~

~~(8) Bond Debt Service Fee. A Bond Debt Service Fee shall be required for each unit sought to be connected to the city water system within a Bond Debt Service Area established by the Director. Fees for each Bond Debt Service Area shall be in the amount per unit designated in the Master Fee Resolution and, when applicable, in the manner as provided in Section 6-507(a) 5 (i) through (iii).~~ ~~[REPEALED.]~~

[9) Water Capacity Fee. A water capacity fee shall be required for all water service connections to the City water system, except for connections solely for fire protection. The amount of the fee for each water service shall be determined by meter size as designated in the Master Fee Resolution.]

If the use of a property, lot, parcel, or premise changes, and a larger service connection and meter are required to serve the new uses on the property, the water capacity fee obligation shall be based upon the incremental difference in cost between the water

capacity fee charge for the larger meter size and the water capacity fee charge for the existing meter size, or the existing meter size may be estimated based upon the 10-year historical average water use on the property, whichever is less. No water capacity fee credit will be owed by the City when the new meter size is smaller than the prior meter size or the estimated meter size.]

(b) Payment of fees and issuance of permits pursuant to this section does not authorize the permittee to perform or cause to be performed work specified in this article to be performed by the city.

(c) Whenever the Council, the Board of Supervisors, or the Board of a special district, whichever is applicable, has adopted a resolution of intention to construct water system improvements, no permit for additions to or connection to the city water system to serve any lot included in the district subject to said resolution shall be issued until the hearing or protest has been finally determined in favor of the protestants or the proposed work has been consummated sufficiently to allow the lot to be served by said water system improvements.

(d) Payment of water connection and related charges payable because of connection of existing single-family residences, and existing commercial or industrial development in the Enterprise Zone, may be deferred by entering into an agreement with the city to pay such charges together with interest on the unpaid balance, over a period of not more

than fifteen years, in accordance with the procedures established in Section 6-305 of this Code for the deferment of sewer connection charges.

(e) Payment of ~~transmission grid main charges pursuant to subsection 6-507(a)(1)~~, frontage charges pursuant to subsection 6-507(a)(2), and service connection charges pursuant to subsection 6-507(a)(3), may be deferred until issuance of a certificate of occupancy pursuant to an agreement which conforms to the requirements of section 12-4.604.

~~f) In all zone districts, payment of Bond Debt Service Fees pursuant to subsection 6-507(a)(8) may be deferred until issuance of an occupancy permit pursuant to an agreement which conforms to the requirements of Section 12-4.604. [Repealed.]~~

15. Section 6-508 of the Fresno Municipal Code is amended to read:

SECTION 6-508. REFUNDS AND REIMBURSEMENTS.

~~(a) Transmission Grid Mains. When a water main installed by a person is required by the Director to be constructed to a transmission grid main size or of specially selected materials because he has determined it to be a transmission grid main, the city shall reimburse such person as designated in the Master Fee Resolution. The amount to be reimbursed shall be credited against the transmission grid main charge to be paid on behalf of all property contributing to the cost thereof~~

~~in proportion to the amount of such contribution. If the credit for any such property exceeds the transmission grid main charge, then a sum equal to the difference shall be paid from the water connection charge fund upon completion of the main.~~

~~When a transmission grid main installed by a person is required by the Director to be constructed in an existing paved street, the city shall reimburse such person in an amount designated in the Master Fee Resolution. The amount to be reimbursed shall be credited against the transmission grid main charge to be paid on behalf of all property contributing to the cost thereof in proportion to the amount of such contribution. If the credit for any such property exceeds the transmission grid main charge, then a sum equal to the difference shall be paid from the water connection charge fund upon completion of the main.~~

[REPEALED.]

(b) [Repealed]

(c) Water Mains.

(1) This subsection shall be applicable to water mains installed after July 1, 1975, except when constructed by special assessments.

(2) Any person installing a water main shall, prior to construction of the main, file with the Director a legal description of the properties on behalf of which contributions have been made to

the cost of the construction, and a statement of the proportions of the cost borne by each property, and within ninety days following city acceptance of the main shall file with the Director a project accounting stating the cost (excluding any city reimbursement) of the construction of the main. In the event a project accounting has not been filed with the Director within such period, then reimbursement under subsection (c)(3), below, shall not be made in the event additional property is connected to the main constructed. If an ownership statement is not filed prior to construction, only the property served by the main, owned by the person who installed the main on the date of commencement of installation will be deemed to have paid for the installation; provided, that if within seven years after the date of commencement of installation such person acquires in fee property served by the main which would otherwise be subject to payment of frontage charges, such person shall also be deemed to have paid the frontage charges for such property.

(3) During the initial reimbursement period or, if applicable the extended reimbursement period, as such terms are defined in Section 12-4.501[5] 4-F of this Code, following city acceptance of a water main referred to in subsection (c)(1) above, the person or persons bearing the cost of such water main



construction may be reimbursed pursuant to this subsection (c). The frontage charges collected by the city pursuant to this article for connection to such water main shall be paid by the city proportionately to the owner or owners of property on behalf of which contributions were made to the cost of construction of such water main. ~~When a person is entitled to an UGM fee reimbursement under this subsection, the city shall make semiannual payments, in amounts determined by the Director, in the manner and for the period prescribed by Section 12-4.504-C of this Code.~~ However, neither shall the total reimbursement exceed the sum of (1) one hundred per cent of the cost of constructing water mains which do not front on any contributing property, and (2) fifty per cent of the cost of constructing water mains fronting on properties on behalf of which such contributions were made; nor shall the total reimbursement exceed the total amount of the frontage charges which would have been payable by property on behalf of which no contribution was made to the cost of installation as of the date of city acceptance of the main. Such reimbursements shall be paid from the applicable water connection charge fund.

(4) If the total amount of the frontage charges (based on fees in effect on the date of city acceptance of the main) which

would be collectible from property on behalf of which no contribution has been made to the cost of installation is less than one thousand dollars, the Director may elect to proportionately reimburse from the applicable water connection charge fund, after city acceptance of the main, to the person or persons contributing to the cost of constructing the main said frontage charges which would be collectible from noncontributing property. If the Director elects to reimburse in that manner, such person or persons will neither be eligible for the exemption provided in subsection (c)(2) above nor for further refunds provided in subsection (c)(3) above.

(5) For purposes of reimbursements, where a property has more than one frontage, the actual front footage charge paid shall be apportioned between the frontages on which the calculation of charges was based, in the ratio of the total length of each frontage.

~~(d) Reimbursements Within Urban Growth Management Area.~~

~~The following provisions shall apply within the Urban Growth Management Area, as designated on the Official Urban Growth Management Area Map;~~

~~(1) Transmission grid main service areas shall be established for all land located within the Urban Growth Management Area, the boundaries of which areas shall reflect that~~

~~territory which the Director determines will receive primary service from existing or projected facilities identified by the Director.~~

~~(i) The maximum reimbursement for transmission grid main costs which may be paid from the water connection charge fund upon completion of a main shall be in an amount as designated in the Master Fee Resolution.~~

~~(ii) All subsequent reimbursements in amounts designated in the Master Fee Resolution shall be determined semiannually on or about each April first and October first following city acceptance of the transmission grid main and shall occur only to the extent transmission grid main charges are paid on behalf of noncontributing properties located within the service area of the transmission grid main for the duration of the appropriate reimbursement period, as defined in Section 12-4.501.5-F of this Code. The order of reimbursements shall be based on the dates of submittal of project accountings to the Director. Reimbursements shall not be initiated for a transmission grid main until reimbursements are complete for such mains covered by previously submitted project accountings. Project accountings must be filed with the Director within ninety days of city acceptance of the main.~~

~~Reimbursements shall not be made if project accountings are not so filed within such period.~~

~~(iii) In the event all construction which would be subject to payment of the transmission grid main charge which would be used for reimbursement purposes within an UGM Service Area is effectively barred or prohibited by a governmental agency having superior jurisdiction to the city, or by any legal action initiated by or on behalf of any such agency, the applicable reimbursement period as defined in Section 12-4.501.5-F of this Code shall be extended on a day-to-day basis for the duration of any such moratorium, but not exceeding the appropriate cumulative reimbursement period.~~

~~(iv) Reimbursements in excess of the maximum reimbursement amount may be paid only after such amount has been repaid through the collection of transmission grid main charges within the service area of the subject transmission grid main. A credit shall be given against the transmission grid main charge on those properties required to construct a transmission grid main whenever the estimated cost of construction exceeds the fee obligation.~~

~~(2) Reimbursements for water supply wells shall be in accordance with Section 12-4.510-G of this Code. [Repealed.]~~

~~(e) Fees and Reimbursements. When reimbursements are made pursuant to subsections (c) or (d) of this Section 6-508, the city shall retain an administrative charge from the accrued interest of the UGM funds as prescribed by Section 12-4.504-C of this Code [Repealed.]~~

16. Section 6-510 of the Fresno Municipal Code is repealed.
17. Section 6-511 of the Fresno Municipal Code is repealed.
18. Section 6-512 of the Fresno Municipal Code is repealed.
19. Section 6-513 of the Fresno Municipal Code is amended to read:

~~SEC. 6-513. UGM WATER SUPPLY.~~

~~A. PURPOSE. The purpose of this section is to insure the provision of an adequate water supply to the Urban Growth Management Area and to provide a means for the levying and collection of fees to be used for the purpose of locating, designing, and constructing water wells, water supply facilities and appurtenances or equivalent water delivery facilities, storage tanks, surface water treatment facilities, and all financing costs to serve Water Supply Areas.~~

~~B. UGM WATER SUPPLY AREAS. The Director of Public Utilities shall establish Water Supply Areas within the Urban Growth Management Area and shall file with the City Clerk an Official Water Supply Map designating all~~

~~established Water Supply Areas. The map may be amended by the Director of Public Utilities to reflect unusual water production characteristics if such additional characteristics become evident as water supply facilities are constructed and to reflect modifications in urban land use boundaries.~~

~~C. UGM WATER SUPPLY FEE.~~

~~1. The Council shall designate in the Master Fee Resolution a schedule of water supply fees for each Water Supply Area. The total amount of fees to be generated shall be based on the cost of the well or wells, water supply facilities or equivalent water delivery facilities constructed or to be constructed in the UGM Water Supply Area. The cost of a well, or equivalent water supply facilities shall include all of the costs for the pump station including, but not limited to, site acquisition, special permits, required test boring, groundwater research and exploration, drilling, casing, well development, motors and pumps, electrical service and telemetering equipment, connection to water main, transmission grid mains, noise suppression facilities, landscaping, site improvements, engineering and inspection fees, storage tanks, surface water treatment facilities, all of the financing costs for these facilities, and any other appropriate requirement or special permit to meet state water quality standards.~~

~~2. The UGM Water Supply Fee shall be determined as follows:~~

~~(a) In single-well supply areas, the UGM Water Supply Fee per acre of area in the supply area will equal the actual cost of the water well.~~

~~(b) In multi-well supply areas the UGM Water Supply Fee per unit in the supply area will equal the sum of the actual cost of water wells, water supply facilities, the estimated cost of uncompleted wells or equivalent water supply facilities such as water storage tanks or surface water treatment facilities required to serve the area. The Council may review and amend the fees set forth in the Master Fee Resolution from time to time but no less than annually to reflect the actual cost of completed water supply facilities and changes in the factors which were considered in estimating the cost of water supply facilities supplying water to a supply area.~~

~~D. FEES PAYABLE UPON GRANT OF DEVELOPMENT ENTITLEMENT. The UGM Water Supply fee allocable to any lot or unit shall be payable prior to the recordation of any final subdivision or parcel map at the rate in effect on the date of such recordation. For all other lot development~~

~~subject to a special permit, such fee shall be payable prior to the issuance of a building permit.~~

~~E. UGM WATER SUPPLY FUND.~~

~~1. All water supply fees collected from development within an established UGM Water Supply Area shall be deposited in a UGM Water Supply fund for the area in which collected. Each fund established for single well supply areas shall be used solely for the purpose of providing reimbursements to those developers, or their heirs and successors, who constructed the water supply facility. Each fund established for multi well supply areas shall be used solely for the purpose of locating, designing, and constructing water wells or equivalent water supply facilities within that supply area except that monies accumulated in that fund may be loaned to another supply area as provided in this section. Interest accumulated in the UGM Water Supply Funds shall be used to reduce the Water Supply fees for the undeveloped property in the respective area. The Council may authorize the use of funds accumulated in a Water Supply Area for construction of transmission grid mains or other water delivery facilities in that supply area in the event these mains are necessary to complete the transmission grid system in order to supply an adequate supply of water to development in that same supply area which exists or for which building permit or permits have been issued, provided the Director of Public Utilities makes the following findings:~~



~~(a) Due to a lack of uncontaminated groundwater, construction of a standard water well is not feasible or possible either temporarily or permanently.~~

~~(b) An adequate supply of water is required to serve existing development in that service area.~~

~~(c) A supply of water adequate to serve both the source location and receiving location is available at another location within the Water Supply Area.~~

~~(d) The connection to the transmission grid main that is sized to serve the development lacking water will not adversely affect the quantity of water available to the area supplying water. The monies used to construct transmission grid mains shall be repaid to the Water Supply Fund as connection fees and charges are collected as connections to the main are made.~~

~~2. The Council may authorize the loan of funds accumulated in one Water Supply Area for construction of a water supply facility or well in another such area, provided Council can make a finding that the existing water supply in the supply area with excess funds is adequate to provide service to the existing and approved development. The funds borrowed from a Water Supply Area, including interest at a rate determined by the Director of Finance to be the average annual rate received by the City of Fresno for its investments, shall be repaid from~~

~~Water Supply Charges paid by subsequent development in the Water Supply Area in which the Water Supply facility was constructed.~~

~~3. The Water Supply Charges collected in a UGM Water Supply Area shall be used in the following order of priority:~~

~~(a) Loans from other Water Supply Areas including interest shall be repaid in an order of priority based on the date Council approved the loans.~~

~~(b) One-half of water supply charges paid in a multi-well supply area shall be reimbursed to developers, or their heirs and successors, who paid for the full cost of a water supply facility or well based on the date of acceptance of the well by the city; except that the total Water Supply Charges shall be paid in cases wherein the Director of Public Utilities determines the water supply charges are paid by developers who receive direct benefit from the well or water supply. If funds are borrowed from another Water Supply Area to construct a required water supply facility in the same supply area in which the subject well is located before the reimbursements are complete, the reimbursement will cease until the loan is repaid.~~

~~(c) In the event there are no reimbursements due to developers who constructed wells and no required loan payments, all water supply charges shall be deposited in the UGM Water~~

~~Supply Fund for that supply area to accumulate funds for future water supply facility construction. Upon completion of the water supply facilities required to supply water, repayment of all loans, and completion of all reimbursements, in a UGM Water Supply Area, any surplus funds remaining in the respective UGM Water Supply Fund shall be transferred to adjacent Water Supply Areas in proportion to the approximate remaining undeveloped acreage in such supply areas.~~

~~F. CONSTRUCTION OF WATER SUPPLY FACILITIES. The City shall be responsible for the construction of water supply facilities in a manner which will supply water to all properties developed as an orderly extension of existing development. The City shall construct the water supply facilities and conduct groundwater research and exploration, testing and site acquisition with the use of proceeds from bonds or other instruments of debt or unobligated funds accumulated in the UGM Water Supply Fund for the Water Supply Area in which the water supply facility is to be constructed. The Council may require, as a condition of development in a Water Supply Area, the construction of water supply facilities if one or more of the following conditions exist:~~

~~1. The Director of Public Utilities determines that the proposed development is of such a size that a water supply facility is needed to serve only that development.~~

~~2. The Director of Public Utilities determines that the proposed development is not an orderly extension of existing development.~~

~~3. The total unobligated funds in other Water Supply Area accounts are not sufficient to cover the cost of the water supply facility.~~

~~A developer may elect to construct a water well rather than to extend transmission grid mains to provide two points of water connection. The location of the well will be subject to approval of the Director of Public Utilities based on data provided by the developer indicating an adequate water supply. If the well is not connected to two separate transmission grid mains, the Director of Public Utilities may require installation of a surge tank and appurtenances, the cost of which shall not be subject to future reimbursement. The Council may require as a condition of development in a Water Supply Area, the dedication or acquisition of property for a well site if the Director of Public utilities determines that a water well is needed either within or in close proximity to the proposed development. The developer shall be given a credit against the UGM water supply well fees amounting to the fair market value of unsubdivided land in the surrounding area of the well site as determined by the Director of Public Utilities. The cost of any street improvements constructed by the developer adjacent to the well site will be considered as eligible for reimbursement. In the event a prospective developer dedicates or acquires a well site at the request of the City in~~

~~advance of approval of development, he shall be eligible for reimbursement or given a fee credit as determined above. In the event a developer is required to assume the responsibility for the construction of a water well, he may either construct the water well or he may contract with the city for construction. Construction shall be in accordance with standards and specifications determined by the Director of Public Utilities. The developer shall be reimbursed in accordance with the reimbursement process described below based on the full cost of the well less the UGM water supply fees on his property. Reimbursement will be from UGM Water Supply fees paid by subsequent developers in that supply area in accordance with the reimbursement order described in Section 6-513.E.~~

~~G. REIMBURSEMENTS. Where as a condition precedent to approval of development, a person has been required to construct a water supply facility which has been accepted by the city, he shall file with the Director of Public Works, within ninety days following acceptance of the well, a project accounting stating the total cost of construction of the water facility. The project accounting shall include the costs for the pump station, including site acquisition, landscaping, site improvements, required test borings, groundwater research and exploration, drilling, casing and well development, motors and pumps, electrical service and telemetering equipment, connection to water mains, noise suppression facilities, and other appropriate requirements or~~

~~special permits to meet state water quality standards, and engineering and inspection fees. The Director of Public Works shall determine semiannually on or about each April first and each October first following city acceptance of the water supply facility those portions of the Water Supply Area served by such water supply facilities which have been connected to the city water system during the preceding six months, provided that such determination shall cease at the end of the appropriate reimbursement period as provided in Section 6-513.C of this Code. Following each such determination, there shall be paid from the UGM Water Supply Fund for the Water Supply Area served by such water supply facility to the person who constructed such a sum equal to the total water supply fees collected by the city as a result of such connections; provided, that payments may not be made to such persons in excess of the cost of the water supply facility as shown on the project accounting, and provided further than neither determination nor payment may be made if the project accounting is not timely filed as required above. Where a Water Supply Area encompasses and provides primary service to an existing development outside the Urban Growth Management Area, the city will pay to the person constructing the water supply facility a sum calculated with Section 6-513.E on behalf of such development. Such payment shall be made at the time of and as part of the first water supply fee reimbursement specified above. Subject to compliance with all other restrictions described above, the Public Works Director may authorize reimbursements at other than the semi-annual periods~~

~~prescribed above for the completed and accepted components of a water supply facility as defined in Section 6-513.C(1). The reimbursements for components may be made provided the Director of Public Works determines the public interest would be served by such intermediate disbursements in order to expedite the construction of a UGM water supply facility. The person constructing the water supply facility may make application for reimbursement for completed components by submitting a projecting accounting stating the actual cost of the completed component within thirty days following acceptance of the completed component by the city. Reimbursements for completed components will be from UGM Water Supply fees paid by developers in that supply area in accordance with the reimbursement order of priority described in Section 6-513.E except that reimbursements due on previously completed and accepted water supply facility in that service area shall be completed prior to payment of reimbursements for components on partially completed water supply facility.~~

[SECTION 6-513. WATER CAPACITY FEE.

(a) PURPOSE. The purpose of this section is to ensure water supply availability, reliability and drought resiliency for new and expanded connections to the City water system, and to provide a means for levying and collecting fees to finance the planning, permitting, designing, acquiring of and constructing of water facilities required to serve new and expanded connections to the City water system.

(b) WATER CAPACITY FEE AMOUNT.

(1) The Council shall designate in the Master Fee Resolution a schedule of Water Capacity Fees by meter size.

(2) The Water Capacity Fee shall be determined based on a Water Capacity Fee Study. The Water Capacity Fee Study shall establish a nexus between the Water Capacity Fee and the estimated reasonable cost of providing water capacity service to new or expanded connections to the water system. .

(c) FEES PAYABLE UPON GRANT OF DEVELOPMENT ENTITLEMENT. The Water Capacity Fee for any new or expanded service connection shall be payable prior to the issuance of a building permit at the fee level in effect on the date such permit is issued.

Payment of Water Capacity Fees may be deferred by entering into a development agreement with the city to pay such charges after issuance of the building permit, but not later than prior to issuance of the certificate of occupancy.

(d) WATER CAPACITY FUND.

(1) A Water Capacity Fund is hereby established.

(2) All Water Capacity Fees collected by the city shall be deposited in a Water Capacity Fund for the purpose of funding public facilities reasonably necessary to provide water capacity service to new or expanded connections to the city water system.



(3) The revenue from the Water Capacity Fees collected shall be allocated on an annual basis as follows:

a. Fifty percent of the Water Capacity Fees shall be allocated to repay loans or other debt financing instruments used by the City to plan, permit, design, and construct water facilities to serve new or expanded connections to the City's water system. The priority for applying this fifty percent Water Capacity Fee allocation to existing loans or debt financing instruments shall be based on the date Council approved the loan or debt financing instrument. The highest priority shall be assigned to the oldest loans and debt financing instruments.

b. Fifty percent of the Water Capacity Fees shall be allocated to reimburse developers, or their heirs and successors, who as a condition precedent to approval of development, were required to construct water facilities. Developer reimbursements from the Water Capacity Fund shall be completed in accordance with 6-513(f).

c. In the event no payments are required for loans or debt instruments, and no reimbursements are due to developers who constructed water facilities as a condition precedent to approval of development, then all Water Capacity Fees paid shall be deposited in the Water Capacity Fund and

designated for planning, permitting, designing, acquiring and constructing water facilities, or purchasing water supply sources, to accommodate new or expanded connections to the city water system.

(4) The City shall annually review and report on the fund for the Water Capacity Fees as set forth by Government Code section 66013(d).

(e) WATER SUPPLY FACILITY CONSTRUCTION. The City shall be responsible for constructing water supply facilities in a manner which will supply water to all properties developed in an orderly sequence as defined in the City's then-current General Plan.

(1) The Council may require, as a condition precedent to approval of development, a developer to construct water supply facilities in accordance with City standards, if the City Manager or his or her designee determines one or more of the following conditions exist:

a. The water demands for the development can be served with a dedicated water supply facility that only serves that development;

b. The proposed development is not consistent with the orderly sequence of development as defined in the City's then-current General Plan;

c. It is in the best interest of the city water system for the developer to construct the required water supply facility, and to request reimbursement in accordance with 6-513(f).

(2) The Council may require as a condition precedent to approval of development, the dedication or acquisition of property for a water supply facility if the Director of Public Utilities determines a water supply facility is needed either within or in close proximity to the proposed development.

a. The developer shall be issued a fee credit against the Water Capacity Fee equal to the fair market value of the dedicated property, and the fair market value shall be based on the properties surrounding the water supply facility, or as determined by the Director of Public Utilities.

b. In the event a prospective developer dedicates or acquires a water supply facility at the request of the City in advance of approval of development, the developer shall be eligible for reimbursement or issued a fee credit in a manner as described above.

(3) In the event a developer is required to assume the responsibility for the construction of a water supply facility, construction shall be in accordance with city standards and specifications, or as determined by the Director of Public Utilities.

The developer shall be reimbursed based on the full, audited and approved cost of the water supply facility less the Water Capacity Fees due for the development. Reimbursements shall be processed in accordance with 6-513(f). Reimbursements shall be issued from Water Capacity Fee revenues in accordance with the fee allocation methodology described in Section 6-513(d).

(f) REIMBURSEMENTS FROM THE WATER CAPACITY FEE FUND. When, as a condition precedent to approval of development, a person, whose project is subject to the Water Capacity Fees, has been required to construct a water supply facility which has been accepted by the City, the person shall file with the Director of Public Works, within ninety days following acceptance of the water supply facility, a project accounting stating the total cost of construction of the water supply facility.

(1) The project accounting shall include the costs for the water supply facility, including site acquisition, design, construction, inspection, permitting, and commissioning.

(2) The terms, conditions, and expiration date for reimbursement shall be specified in a reimbursement agreement executed between the developer and the City.

(3) Annual reimbursements shall be based on funds available in the Water Capacity Fund for developer reimbursements. On or about April 1<sup>st</sup> of each year, the Director of Public Works shall

determine the amount of funding available from the Water Capacity Fund to reimburse those persons who have:

a. Constructed a water supply facility that has been accepted by the City; and

b. A valid reimbursement agreement.

(4) Following the annual determination of Water Capacity Fees available for developer reimbursement, there shall be paid from the Water Capacity Fund, to persons that constructed water supply facilities as a condition precedent to approval of development, a sum equal to the proportionate share of the Water Capacity Fees available for developer reimbursement. The proportionate share shall be calculated based on the current value of the unreimbursed portion of the water supply facility to the total value of all water supply facilities accepted by the City and approved for reimbursement, provided, that payments may not be made to such persons in excess of the cost of the water supply facility as shown on the project accounting

(5) If the project accounting is not timely filed as required above, the City will not enter into a reimbursement agreement or make any reimbursement payments to the person that constructed the water facilities.

(g) EFFECT ON URBAN GROWTH MANAGEMENT WATER FEES AND FUND BALANCES. As of the effective date of the Ordinance adopting this Section, fund balances remain in existing water-related Urban Growth (UGM) accounts created for water-related fee revenues. The existing fund balances shall remain in separately designated water-related UGM accounts to be used for the purposes for which they were collected in accordance with the UGM water-related fee regulations, as set forth in Ordinance 95-38 and amended by Ordinance 95-74, under which they were imposed (“UGM Regulations”).

(1) The existing balances in the UGM water-related fee accounts shall remain available for (i) reimbursing developers that were required to construct water supply facilities as a condition precedent to approval of the development project, and (ii) use by the City for the designated purposes defined for the UGM account. Reimbursements from existing UGM water-related fee accounts shall be completed in accordance with the UGM Regulations.

(2) When there are no valid reimbursement agreements relating to a UGM water-related fee account and no pending projects in a UGM area that could potentially qualify for reimbursement under the UGM Regulations, any funds remaining in the existing UGM water-related fee accounts shall be deposited into

the Water Capacity Fund, and the City may use those funds in accordance with the priorities described in 6-513(d).

(3) Notwithstanding any other provision of this section, in order to honor valid reimbursement agreements issued under the UGM Regulations, the City shall make available revenue from the Water Capacity Fee Fund to the UGM water-related fee accounts for reimbursements pursuant to the UGM Regulations. Funds made available to each UGM water-related fee account for reimbursements pursuant to the UGM Regulations shall be limited to the amount of revenue that would have been collected for each UGM water-related account, from persons within the corresponding water-related UGM area, under the UGM Regulations. In no event will any person with a reimbursement agreement issued under the UGM Regulations receive a greater right to reimbursement than he or she would have had under the UGM Regulations.

20. Section 6-514 of the Fresno Municipal Code is amended to read:

SECTION 6-514. WATER SYSTEM CONSTRUCTION.

(a) Any person desiring to make an addition to the water system of the city to serve property shall make a request in writing of the Director for preliminary investigation into the feasibility of such addition. If the addition as requested is found to be feasible by the Director, such addition may be made to the water system of the city in accordance with

the provisions of this chapter. The director shall cause the installation to be inspected, and shall allow the final connection to the city system only if it is found that such additions conform in all respects with the standard specifications for water facilities of the city, with applicable health laws, and with the lines and grades designated by the Director.

(b) If a right-of-way is needed for an addition to the water system, the person constructing the addition shall obtain such right-of-way for the city, or pay the cost to the city of acquiring such right-of-way.

(c) When a new, enlarged, or additional water service is required to serve a property, mains shall be installed across the full frontages of the property unless the Director determines that mains are not required at that time across the full frontage to serve other properties or because an undeveloped portion of the subject property does not require water or fire service. Where the provisions of this section would require a main extension past a planned valve location, the Director may require the payment of frontage charges in lieu of main construction. Where a property has more than one frontage on which main installation would be required by this subsection, the Director may require payment of frontage charges in lieu of main installation along such additional frontages unless said mains are required for fire service to the property. Frontage charges collected pursuant to this subsection shall be deemed as reimbursable pursuant to subsection 6-508(c)(3).



(d) Specifications and plans for the installation of additions to the city water system shall be prepared by a registered civil engineer and shall be approved by the Director before a permit for doing the work may be issued.

(e) When a water main, fire hydrant, or water service, except for back flow prevention devices, has been installed in a public street or easement pursuant to the requirements of the city and has been accepted by the Director, then the main, hydrant, or service shall become the property of the city and a part of the water system of the city.

(f) The person constructing an addition to the city water system shall reimburse the city for its cost of labor (including overhead), equipment, and materials for the following:

(1) Connections between additions to the city water system and existing portions of the system which are determined by the Director to be in active service.

(2) Review and approval of specifications and plans submitted by the applicant for proposed additions to the water system.

(3) Preliminary investigation of the feasibility of additions to the water system.

(4) Any design, surveying, inspection or testing performed by the city in connection with an addition to the water system.

Such reimbursements may be made at standard rates to cover costs as designated in the Master Fee Resolution.

~~(g) For purpose of this article, except in the Urban Growth Management Area, as designated on the Official Urban Growth Management Area Map, wells and pumps for supply to the city water system shall not be deemed to be additions to said system.~~ [REPEALED.]

(h) Although it is the intent of this article that arrangements necessary to install water mains required to serve property shall be the responsibility of the person desiring such service, an exception is necessary to facilitate minor additions to the system. The city may, upon written request of the applicant, take all steps necessary to complete the total installation, subject to the following conditions:

(1) Total of front footage for which frontage charges would be payable if mains existed, plus off-site main required is three hundred feet or less.

(2) Applicant pays the ~~transmission grid main~~ [frontage] charge and front footage charge for his ~~his~~ [for the applicant's]

property as though water mains already existed on the property frontage.

(3) Applicant reimburses the city in accordance with this article for the water service connection (including meter if applicable), connections to mains in service, and preliminary investigation.

(4) Applicant pays to the city the fee designated in the Master Fee Resolution to cover the cost of design, surveying, inspection, and testing.

(i) Connections to mains in other than dedicated and surfaced streets or alleys shall not be permitted where service can be rendered from dedicated and surfaced streets or alleys by extension or otherwise.

21. Section 6-515 of the Fresno Municipal Code is amended to read:

SECTION 6-515. WATER CONNECTION CHARGE FUND.

(a) A water connection charge fund is hereby established.

(b) All revenue obtained from ~~transmission grid main charges,~~ frontage charges, and service connection charges as required under Section 6-507 shall be deposited into said [Water Connection Charge F]fund, [and] shall be accounted for separately, and shall be expended for acquisition, construction and reconstruction of the city water system including payment of interest and principal on bonds issued for that

purpose. Said fund may also provide a capital reserve for depreciation and enlargement of the city water system.

(c) The terms ~~transmission-grid-main-charge~~, frontage charge, and service connection charge herein referred to shall apply only to those funds collected for use of the city water system and shall not be construed to affect revenues derived from plumbing permit fees.

(d) Nothing contained in this section shall be construed to restrict or prohibit the making of transfers from said [Water Connection Charge F] fund for the purpose of making temporary loans to one or more of the various departments of the government of the city; and provided further that all such temporary loans shall bear interest at not less than the current rate earned by other city trust funds and shall be restored annually to the water connection charge fund on or before the last day of each fiscal year.

22. Section 6-516 of the Fresno Municipal Code is amended to read:

~~SECTION 6-516. TIME, AMOUNT OF REIMBURSEMENTS.~~

~~Notwithstanding other provisions of this article, and in addition to other reimbursements provided herein, the city shall pay to any person installing a water main six inches or larger in diameter in the city water system in public streets or alleys, upon completion thereof, an amount as follows for each portion of water main completed within the time period stated:~~

~~For each foot of installed water main completed between July 1, 1975 and June 30, 1976, four dollars.~~

~~For each foot of installed water main completed between July 1, 1976 and June 30, 1977, two dollars.~~

~~The said payments shall be made from the capital improvement funds appropriated for the water division.~~

[TRANSMISSION GRID MAIN REIMBURSEMENTS. Notwithstanding other provisions of this article, and in addition to other reimbursements provided herein, the City shall pay to any person installing a water main larger than eight inches in diameter in the City water system in public streets or alleys, upon completion thereof, an amount as set forth in the Master Fee Schedule. Such payments shall be made from funds appropriated by the City Council to the Department of Public Utilities' Water Capacity Fund.]

23. Subsection (c) of Section 6-536 of the Fresno Municipal Code is amended to read:

(c) All development for which building permits have not yet been issued in any area of the city, as provided in Subdivision (a) where water capacity is uncertain, shall be subject to all fees established by the Council for water system enhancements, including but not limited to the ~~well head treatment~~ [water capacity fee] and the ~~recharge fee~~ in accordance with the provisions of ~~Section 14-110(d) and (j)~~. [Section 6-507 and the Master Fee Resolution.]

24. Section 12-4.504 of the Fresno Municipal Code is amended to read:

A. GENERAL. The Urban Growth Management Process includes consideration of the contents of a Service Delivery Plan which shall be prepared at the time of processing of a tentative tract map or a special permit, in accordance with the "Urban Growth Management Process" document referred to in Section 12-4.501 and as more particularly set forth in this article.

B. ANNUAL REPORT. The Chief Administrative Officer shall submit to the Council, as early as is practicable during each fiscal year or more frequently as he chooses, a report concerning the effects of the provisions contained in the "Urban Growth Management Process" document referred to in Section 12-4.501. Such report may recommend to Council modifications of such provisions. The provisions of such document shall be modified solely by Council resolution.

C. FEES AND REIMBURSEMENTS. As UGM fees are collected, they shall be reimbursed in the manner and for the period set forth in this section. All UGM fees include an administrative charge which the Public Works Director determines quarterly based on actual costs during the previous three months for establishing the fees, maintaining records and accounts, and administering the reimbursement process. Administrative charges are those charges other than for capital improvement expenditure and not limited to labor, overhead and equipment. These charges shall be imposed and collected from the accrued interest of the UGM funds each quarter from UGM

funds on deposit just prior to payment of reimbursements pursuant to this section, in an equitable cost allocation manner as determined by the Finance Director in consultation with the Public Works Director.

When a developer is entitled to be reimbursed out of UGM fees by reason of his having paid or having been credited with fees in excess of his pro-rata fee obligation, he shall be reimbursed in semiannual payments as described above. When UGM fees have been collected for the purpose of such reimbursement, the city shall make semiannual payments, provided sufficient funds for doing so are available, in amounts determined by the Public Works Director, on or about April first and October first, commencing April first or October first following city acceptance of complete financial statements for the accepted facilities, improvements, right-of-way and site, as appropriate, and for the duration of the appropriate reimbursement period, as defined in Section 12-4.501.5-F of this Code. Should city fail to pay any reimbursement within sixty days of the dates referenced above when such payments are due, and such delay is not due to any fault of the person to whom reimbursement is owed, then city shall add an amount to such payment equal to the net interest actually earned by the city on the amount to be reimbursed. ~~Subject to compliance with all other restrictions described above, the Public Works Director may authorize reimbursements for water supply wells at other than the semi-annual periods prescribed above whenever he or she determines that the public interest would be served by~~

~~such intermediate disbursements in order to expedite the construction of such wells.~~

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