



Water Capacity Fee Study

August 26, 2016



BARTLE WELLS ASSOCIATES
INDEPENDENT PUBLIC FINANCE ADVISORS



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August 26, 2016

City of Fresno
2600 Fresno Street
Fresno, CA 93721

RE: Water Capacity Fee Study

Bartle Wells Associates is pleased to submit the attached *Water Capacity Fee Study*. The study develops updated capacity fees that are designed to equitably recover the costs of infrastructure and assets benefiting new development. The proposed fees are designed to recover a proportionate share of costs for a) existing and future groundwater and distribution system assets benefitting new development through buildout, and b) the next 30 mgd expansion of the City's surface water supply and regional distribution facilities needed to address water supply and reliability needs for serving new development and comply with the new State regulatory requirements of the Sustainable Groundwater Management Act. The proposed water capacity fees exclude cost recovery for the City's first phase of surface water system improvements that are designed to benefit the City's existing customer base.

The proposed fees represent a transition from the City's current method of calculating and applying water connection charges. A key recommendation of the report is to transition to a single, consistent system of water capacity fees that can be applied uniformly to all future development within the City's service area, regardless of where development occurs.

The report recommends a proposed capacity fee of \$6,373 per standard new 1-inch meter connection, the typical meter size for a new single family home. This fee is in the middle range compared to other large regional and statewide agencies.

We enjoyed working with the City on this assignment and appreciate the input and assistance received from City staff throughout the project. Please contact us anytime if you have questions about this report or related capacity fee issues.

BARTLE WELLS ASSOCIATES

Alex Handlers, CIPMA
Principal/Vice President

Michael DeGroot
Financial Analyst

| Proposed Water Capacity Fees | | | |
|-------------------------------------|----------------------|--------------------------------|--------------------|
| Meter Size | Meter Capacity Ratio | Annual Water Demand (hcf/year) | Water Capacity Fee |
| Capacity Fee Unit Cost (\$ per hcf) | | | \$25.493 |
| <u>Water Capacity Fees</u> | | | |
| Up to 3/4" | 0.625 | 156.25 | \$3,983 |
| 1" | 1.00 | 250.00 | 6,373 |
| 1-1/2" | 1.25 | 312.50 | 7,967 |
| 2" | 2.50 | 625.00 | 15,933 |
| 3" | 4.00 | 1,000.00 | 25,493 |
| 4" | 6.25 | 1,562.50 | 39,833 |
| 6" | 12.50 | 3,125.00 | 79,666 |
| 8" | 60.00 | 15,000.00 | 382,398 |

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1. Background, Objectives, & Government Code

Background

The City of Fresno provides water service to over 131,000 residential, commercial, and industrial customers located within the City and surrounding unincorporated areas. The City encompasses over 114 square miles and has a population of approximately 520,000.

The City's water system includes approximately 260 groundwater wells, a surface water treatment facility, and over 1,775 miles of water pipelines. The City historically relied solely on groundwater as its sole source of water supply. However, in order to ensure the long-term sustainability of the City's water supply, the City has been moving forward with a program to reduce reliance on groundwater via conservation and a transition to imported surface water. In future years, the City plans to increase surface water supply to meet new water demands from growth and develop a recycled water system to offset potable demand.

The City levies a number of development impact fees on new development within the City's service area. These impact fees are generally designed to recover costs for facilities that benefit growth and include a number of charges that recover costs for capacity in water system infrastructure. This report develops updated capacity fees for new and expanded connections to the City's water system. These fees are termed Water Capacity Fees, in line with the terminology used in California Government Code.

The City's current water capacity fees vary widely by Urban Growth Management (UGM) area and include only minimal capacity fees in the City's core or other non-UGM areas. The current system of water capacity fees a) does not fully recover costs for capacity in existing infrastructure that benefits new development, b) does not recover costs for future infrastructure and water supply projects needed to meet the demands of growth, and c) is administratively burdensome with almost 150 separate UGM funds, predominantly for water and sewer.

Water and sewer capacity fees are governed by California Government Code Section 66013, which states that the fees cannot exceed the estimated reasonable cost of providing the service for which the fee is imposed. Water capacity fees are separate from the City's ongoing rates and service charges. The City's ongoing rates and service charges are restricted from exceeding the cost of providing the service by Article XIII D, Section 6 of the California Constitution, established by Proposition 218. *The capacity fees developed in this report are designed to ensure that both ratepayers and new connections each pay their proportionate share of costs for water system infrastructure and assets.*

Objectives

Bartle Wells Associates was retained to update the City's water capacity fees. Water capacity fees are one-time fees charged to new or expanded connections to the City's water system designed to recover the costs of infrastructure, assets, and water supply benefiting new development.

A key recommendation of the report is to transition to a single, consistent system of water capacity fees that can be applied uniformly to all future development within the City's service area, regardless of where the development occurs. Key objectives of the study include:

- Provide independent review of the City's current system water capacity fees;
- Develop an appropriate approach/methodology for updating the City's water capacity fees;
- Develop updated capacity fees that:
 - Recover the costs of infrastructure, assets, and water supply that benefit new development;
 - Equitably recover costs from new connections to the City's water system;
 - Are consistent with industry-standard practices and methodologies;
 - Comply with government code.

This report presents key findings and recommendations. The recommendations presented in this report were developed with substantial input from City staff and the City's independent legal counsel.

Government Code

Development impact fees are governed by California Government Code Section 66000 et. seq. commonly known as AB1600. The Code refers to water and sewer impact fees as *capacity charges* since their purpose is to recover an equitable share of costs for capacity in infrastructure.

Section 66013 of the Code specifically governs water and sewer capacity charges and states that the fee *"shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed"* unless approved by a two-thirds vote.

The Code also states that *"Capacity charge means a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged."* The Code does not detail any specific method for determining an appropriate fee.

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1. Background, Objectives, & Government Code

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The City's water system includes approximately 260 groundwater wells, a surface water treatment facility, and over 1,775 miles of water pipelines. The City historically relied solely on groundwater as its sole source of water supply. However, in order to ensure the long-term sustainability of the City's water supply, the City has been moving forward with a program to reduce reliance on groundwater via conservation and a transition to imported surface water. In future years, the City plans to increase surface water supply to meet new water demands from growth and develop a recycled water system to offset potable demand.

The City levies a number of development impact fees on new development within the City's service area. These impact fees are generally designed to recover costs for facilities that benefit growth and include a number of charges that recover costs for capacity in water system infrastructure. This report develops updated capacity fees for new and expanded connections to the City's water system. These fees are termed Water Capacity Fees, in line with the terminology used in California Government Code.

The City's current water capacity fees vary widely by Urban Growth Management (UGM) area and include only minimal capacity fees in the City's core or other non-UGM areas. The current system of water capacity fees a) does not fully recover costs for capacity in existing infrastructure that benefits new development, b) does not recover costs for future infrastructure and water supply projects needed to meet the demands of growth, and c) is administratively burdensome with almost 150 separate UGM funds, predominantly for water and sewer.

Water and sewer capacity fees are governed by California Government Code Section 66013, which states that the fees cannot exceed the estimated reasonable cost of providing the service for which the fee is imposed. Water capacity fees are separate from the City's ongoing rates and service charges. The City's ongoing rates and service charges are restricted from exceeding the cost of providing the service by Article XIII D, Section 6 of the California Constitution, established by Proposition 218. *The capacity fees developed in this report are designed to ensure that both ratepayers and new connections each pay their proportionate share of costs for water system infrastructure and assets.*

Objectives

Bartle Wells Associates was retained to update the City's water capacity fees. Water capacity fees are one-time fees charged to new or expanded connections to the City's water system designed to recover the costs of infrastructure, assets, and water supply benefiting new development.

A key recommendation of the report is to transition to a single, consistent system of water capacity fees that can be applied uniformly to all future development within the City's service area, regardless of where the development occurs. Key objectives of the study include:

- Provide independent review of the City's current system water capacity fees;
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- Develop updated capacity fees that:
 - Recover the costs of infrastructure, assets, and water supply that benefit new development;
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This report presents key findings and recommendations. The recommendations presented in this report were developed with substantial input from City staff and the City's independent legal counsel.

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Development impact fees are governed by California Government Code Section 66000 et. seq. commonly known as AB1600. The Code refers to water and sewer impact fees as *capacity charges* since their purpose is to recover an equitable share of costs for capacity in infrastructure.

Section 66013 of the Code specifically governs water and sewer capacity charges and states that the fee *"shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed"* unless approved by a two-thirds vote.

The Code also states that *"Capacity charge means a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged."* The Code does not detail any specific method for determining an appropriate fee.

Section 66013 also identifies various accounting requirements for capacity fee revenues, notably that such revenues cannot be co-mingled with other City revenues and must be used solely for the purpose for which the fee was imposed. Section 66016 of the Code identifies the procedural requirements for adopting or increasing a water or sewer capacity charge. The full text of Sections 66013 and 66016 are attached in Appendix C to this report.

As previously noted, the City's capacity fees are designed to ensure that the City's ongoing ratepayers are not required to subsidize the costs of facilities benefiting new development and that both ratepayers and new connections each pay their proportionate share of costs for water system infrastructure and assets. This approach complies with the Government Code and Article XIII, D, Section 6 of the California Constitution, established by Proposition 218.

Existing Water Capacity Fees

The City's current water capacity fees include a range of fees that vary widely by development area, with no capacity fees levied in City's downtown core or other non-UGM areas. Current fees include a range of overlapping charges including:

- UGM Water Supply Fees for 21 areas
- Well Head Treatment Fees for 5 areas
- Transmission Grid Main (TGM) Charges and related TGM Bond Debt Service Charges
- Recharge Area Fees, and
- 1994 Bond Debt Service Fees

In some cases, the fees applicable to an area can vary depending on if the subdivision map was deemed complete prior to certain dates. A schedule of existing water connection fees is included in Appendix A.

The City's current system of water capacity fees a) only recovers costs for some infrastructure benefiting new development, b) does not recover costs for future infrastructure and water supply projects that the City has identified as necessary to meet the demands of growth, c) fails to recover any costs from non-UGM areas, and d) is administratively burdensome.

Sustainable Groundwater Management Act & Recharge Fresno

The City has historically relied primarily on groundwater to meet the demands of the City's water customers. On September 16, 2014, California Governor Jerry Brown signed into law a three-bill legislative package, collectively known as the Sustainable Groundwater Management Act of 2014 (SGMA). The SGMA provides a framework for sustainable management of groundwater supplies

by local authorities, with the potential for state intervention if necessary to protect the resource. The act requires the formation of local groundwater sustainability agencies (GSAs) that must assess conditions in their local water basins and adopt locally-based management plans. The groundwater basin that serves the City has been designated by the Department of Water Resources as high-priority and subject to a condition of critical overdraft.

To address the City's critical water supply issues and comply with the new State regulations, the City has been moving forward with a water supply and reliability improvement program termed Recharge Fresno. Recharge Fresno includes water system facility improvements to diversify the City's water supply and maximize use of available surface water that originates in the Sierra Nevada Mountains. These improvements include raw water supply pipelines to convey surface water from the Kings River and the Friant-Kern Canal, surface water treatment facilities, regional distribution pipelines to convey the treated water throughout the City, and groundwater recharge basins. The program also includes continued focus on conservation.

The program will diversify the City's water supply, reduce the City's dependence on groundwater, enable the City to recharge the depleted groundwater aquifer in normal and wet years, and enhance groundwater supplies for use during dry years, when surface water is less available. Ultimately, the City will rely on a balance of groundwater and surface water to meet its long-term water supply needs.

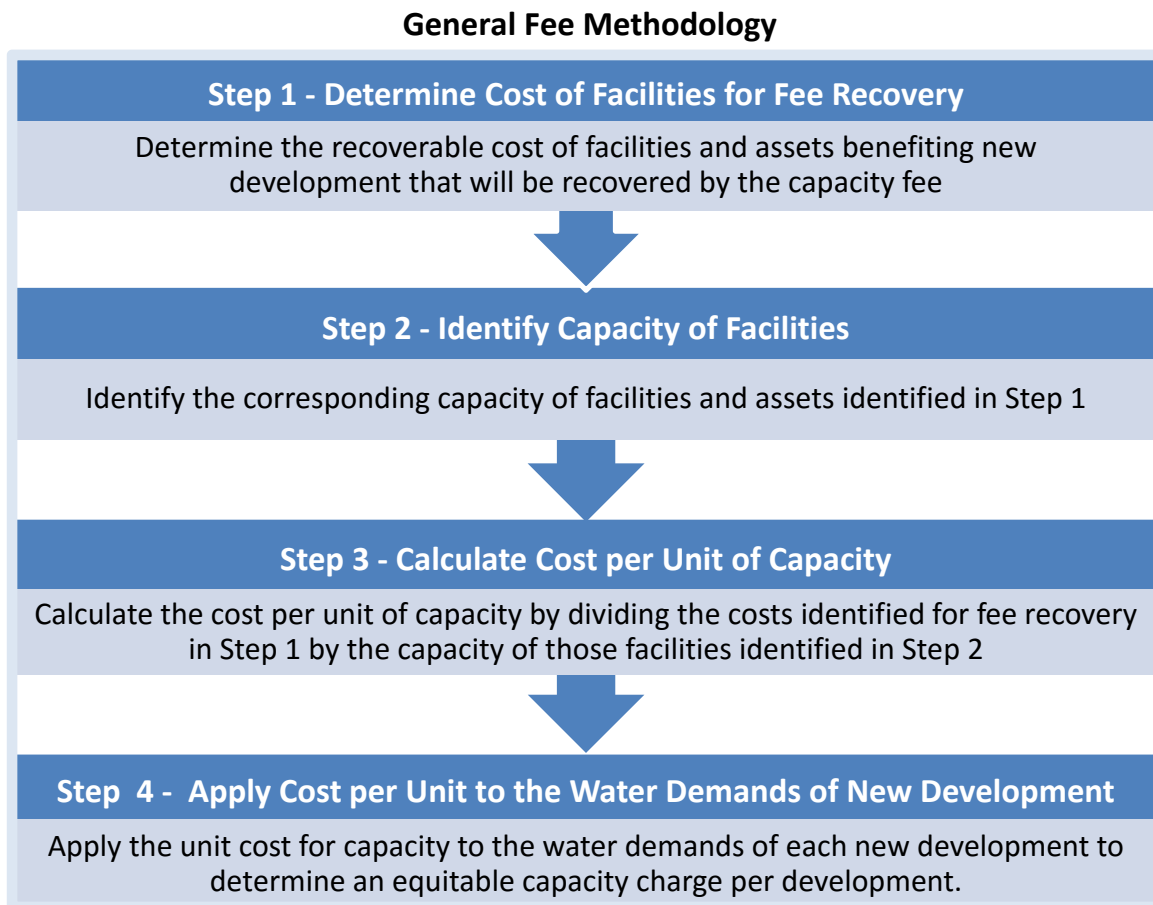
As part of the Recharge Fresno program, the City will be constructing a number of surface water system improvements designed to diversify the City's water supply and improve long-term reliability. The first phase of projects are designed to support the water supply and reliability needs of existing customers. These projects will be funded through the City's water rates and are excluded from cost recovery in the updated water capacity fees. The first phase of projects will help bring the groundwater basin back into sustainable balance for existing water customer demands. However, new development will place new demands on the system.

To address the water supply, reliability, and regulatory requirements for serving growth, subsequent phases of surface water system improvements will need to be constructed. The costs of the next phase of these improvements should be funded by the City's water capacity fees to ensure these costs are equitably recovered from new development.

2. Capacity Fee Approach & Calculations

General Fee Methodology

There are many methods for calculating capacity fees. The general methodology used in this report is summarized below.



Capacity Fee Approach

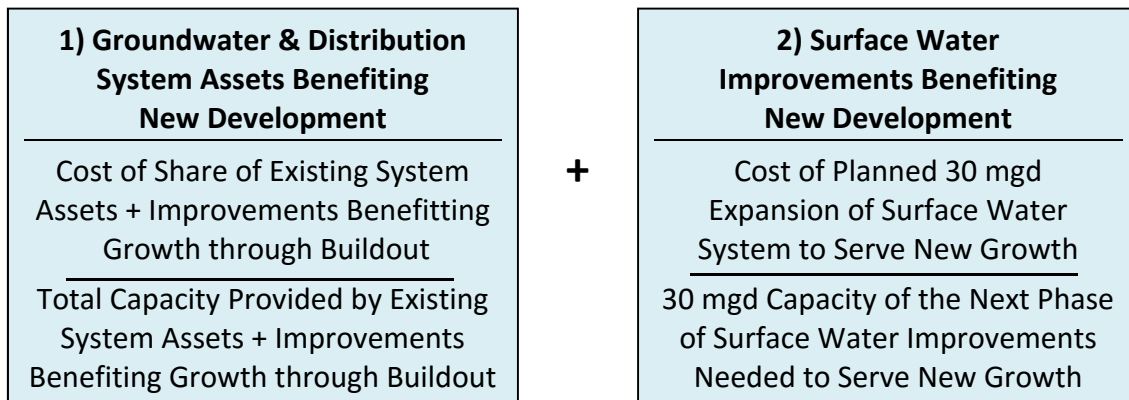
Based on evaluation of a number of approaches for calculating new water capacity fees and input from City staff, this report develops updated capacity fees that include two components as summarized below. The fees are designed to recover an equitable and proportional share of costs for both a) groundwater and distribution system facilities and assets benefitting growth through buildout, and b) future surface water improvements required to support a sustainable and reliable water supply to meet the next 30 mgd of water demand for growth.

- 1) **Buy-In for Groundwater & Distribution System Assets:** The fee for this component is based on the cost of existing and future groundwater and distribution system assets

benefitting growth through buildout divided by the projected expansion capacity provided by these facilities. Costs for fee recovery include a) a conservative estimate of the share of existing system assets available to serve growth, plus b) groundwater and distribution system capital improvements benefitting growth through projected buildout in 2035. The expansion capacity of these facilities is based on the difference between the City’s total water production in 2014 and the City’s latest projections of total potable water demand through 2035 buildout, which is used to calculate the projected costs of the system improvements needed to meet that demand. . Under this fee approach, new connections would buy in for a proportionate share of expansion-related groundwater and distribution system assets benefitting growth through buildout. This approach ensures new development pays for water system infrastructure and assets benefitting growth, but does not pay for facilities required to serve existing ratepayers. Costs for rehabilitation and replacement of existing assets are excluded from fee recovery to ensure no double-counting of existing assets plus replacement of those same assets.

2) Expansion Cost for Surface Water System Improvements Benefitting New Development:

This fee component recovers the cost of existing and future surface water supply projects needed to meet the next 30 mgd capacity needs of growth. This fee component is based on the costs of expanding the Northeast Surface Water Treatment Plant from 30 to 60 mgd, as well as related costs of regional transmission main improvements and a portion of the Friant-Kern surface water supply pipeline. These costs are divided by the expansion capacity these facilities provide of 30 mgd, equal to about 33,600 AF. Costs for surface water improvements benefitting existing customers are excluded from fee recovery. This approach is appropriate because it excludes cost recovery for the first phase of surface water improvements, which benefit existing ratepayers, but requires new development to fund the next phase of surface water system improvements needed to meet the capacity needs for serving the next phase of growth.



Existing Groundwater & Distribution System Assets

Table 1 shows existing groundwater and distribution system assets with replacement cost estimates. Costs estimates developed in 2014 are updated to January 2016 dollars based on the change in the Engineering News-Record Construction Cost Index, a widely used measure of construction cost inflation. The table excludes a) the cost of distribution system pipelines under the assumption that these pipelines will be installed by developers, b) water meters and water services which are funded separately from capacity fees, and c) some other minor miscellaneous items, but does include the value of water rights that benefit all customers through buildout. As shown on the table, approximately \$1.16 billion of groundwater and distribution system assets are included for cost recovery via updated water capacity charges. The City's existing facilities are not adequate to meet the capacity needs of growth through buildout, but include some expansion capacity available for new development.

| Table 1 - Groundwater & Distribution System Assets | | |
|---|-------------------------------|---------------------|
| | Asset Replacement Cost | |
| | <u>Annual Average 2014</u> | <u>January 2016</u> |
| ENR-CCI (20-Cities Average) | 9806 | 10133 |
| EXISTING GROUNDWATER & DISTRIBUTION SYSTEM ASSETS | | |
| Well Sites | \$178,368,032 | \$184,316,058 |
| Transmission Mains | 778,184,814 | 804,134,889 |
| Buildings/Structures | 6,637,280 | 6,858,613 |
| Tank 1 & 2 | 5,766,087 | 5,958,368 |
| Tank 3 | 21,113,000 | 21,817,054 |
| Tank 4 | 14,297,000 | 14,773,761 |
| Groundwater Recharge (Leaky Acres) | 4,018,797 | 4,152,812 |
| Warehouse Physical Inventory | 1,655,000 | 1,710,189 |
| Hydrants | 38,489,408 | 39,772,912 |
| Valves | 52,285,738 | 54,029,307 |
| Water Rights | 15,663,100 | 16,185,416 |
| Sample Points | 478,534 | 494,492 |
| Blowoffs | 1,080,801 | 1,116,842 |
| Tools & Equipment | 4,228,758 | 4,369,774 |
| SCADA System | <u>1,247,948</u> | <u>1,289,563</u> |
| TOTAL | \$1,123,514,297 | \$1,160,980,050 |
| ASSETS EXCLUDED FROM CAPACITY FEE RECOVERY | | |
| Services | \$150,785,742 | \$155,813,984 |
| Distribution Lines | 891,374,255 | 921,098,850 |
| Furniture | 116,801 | 120,696 |
| Domestic Meters | 37,013,188 | 38,247,464 |
| Irrigation Meters | 1,365,756 | 1,411,300 |
| SFR Meters | <u>76,829,572</u> | <u>79,391,602</u> |
| TOTAL EXCLUDED ASSETS | \$1,157,485,314 | \$1,196,083,896 |

Source: City of Fresno, Water Division, Asset Cost Replacement Schedule 2014.

Groundwater & Distribution Supply Improvements for Growth

The City's Metro Plan Update Phase 3 Report from January 2011 identifies a number of capital improvements required for meeting the City's long-term water supply needs and ensuring a safe, reliable source of supply. Table 2 summarizes the Metro Plan Update improvements identified for the City's groundwater and distribution system. The costs, which were originally calculated as of May 2010, are escalated based on the change in the Engineering News-Record Construction Cost Index (20-Cities Average) to account for construction cost inflation through January 2016.

As shown on Table 2 below, the Metro Plan Update Phase 3 Report identifies approximately \$561 million (January 2016 dollars) of groundwater and distribution system improvements needed to meet projected future City potable water demand of 234,300 acre-feet (AF). This level of demand equals total projected water production through buildout of 259,300 AF less 25,000 AF of anticipated recycled water supply.

| Table 2 - Groundwater & Distribution System Improvements | |
|---|----------------------------|
| ENR-CCI (20-Cities Average) | <u>May 2010</u> |
| | 8762 |
| GROUNDWATER & DISTRIBUTION IMPROVEMENTS | |
| Transmission Grid Main (TGM) System | \$151,800,000 |
| Potable Water Storage | 50,200,000 |
| Groundwater Production | 51,000,000 |
| Groundwater Treatment | 104,700,000 |
| Groundwater Recharge Facilities | <u>127,500,000</u> |
| TOTAL | \$485,200,000 |
| ENR-CCI (20-Cities Average) | <u>January 2016</u> |
| | 10133 |
| GROUNDWATER & DISTRIBUTION IMPROVEMENTS | |
| Transmission Grid Main (TGM) System | \$175,552,317 |
| Potable Water Storage | 58,054,850 |
| Groundwater Production | 58,980,028 |
| Groundwater Treatment | 121,082,526 |
| Groundwater Recharge Facilities | <u>147,450,068</u> |
| TOTAL | \$561,119,789 |

Source: Metro Plan Update Phase 3 Report, January 2011, Table ES-5.

After the Metro Plan Update was developed, the City’s water demands decreased and the City reduced its projections of future water demand through buildout. The most recent projections are developed in the City’s January 2014 Metro Plan Update Addendum which projects that potable water demand will increase to 195,100 AF through buildout in 2035. This level of demand is equal to the total projected demand of 220,100 AF (based on the 2035 General Plan Population with SBx7-7 Water Conservation Act compliance), less an estimated 25,000 AF of anticipated future recycled water supply.

The updated potable water demand projection of 195,100 AF equals approximately 83.3% of the initial 234,300 AF demand projection that served as a basis for the capital needs identified in Table 2, and represents roughly a 16.7% reduction in projected demand. In order to account for this reduction, the cost of groundwater and distribution system capital improvements identified in Table 2 (in 2016 dollars) are also correspondingly reduced by the same percentage resulting in a reduction in costs from approximately \$561.1 million to \$467.3 million as shown below in Table 3. These improvements are needed to both serve existing customers and provide expansion capacity to meet the demands of growth.

| Table 3 - Reduction in Projected Demand & Capital Costs | |
|--|--------------------|
| Projected Potable Water Demand Through General Plan Buildout | |
| Prior ¹ | 234,300 AF |
| Revised ² | <u>195,100 AF</u> |
| Reduction AF | 39,200 AF |
| Reduction % | 16.73% |
| Groundwater & Distribution System Capital Improvement Costs | |
| Prior ³ | \$561,119,789 |
| Revised | <u>467,240,593</u> |
| Reduction \$ | 93,879,196 |
| Reduction % | 16.73% |

1 Source: Metro Plan Update Phase 1 Report, December 2007

2 Source: Metro Plan Update Addendum, January 2014

3 Source: Metro Plan Update Phase 3 Report; May-2010 Costs adjusted to Jan-2016

Table 4 subsequently allocates the \$467.3 million of reduced capital costs to existing customers vs. growth based on each group’s share of potable water demand through buildout. Demand from existing customers is estimated based on actual potable water production in 2014 of approximately 130,400 AF as shown on Table 6-1 of the City’s 2010 Urban Water Management Plan. This level of demand equals approximately 66.8% of the 195,100 AF of total potable demand used to determine the total costs of the system improvements needed to serve the demand. The remaining 64,700 AF, or about 33.2% of total, represents potable water demand from growth. Capital improvement costs are correspondingly allocated to existing customers vs. growth based on each group’s proportional share of future water demand and correspond share of groundwater and distribution system improvements. This results in an allocation of approximately \$155 million of groundwater and distribution system capital improvement costs to growth.

| Table 4 - Allocation of Capital Costs to Existing Customers vs. Growth | | | | | | |
|---|--------------------|-------|---------------|-------|---------------|--------|
| | Existing Customers | | Growth | | Total | |
| Water Demand (AF) ¹ | 130,400 | 66.8% | 64,700 | 33.2% | 195,100 | 100.0% |
| Capital Costs | \$312,292,021 | 66.8% | \$154,948,572 | 33.2% | \$467,240,593 | 100.0% |

1 Source: Existing Customers' demand based on 2010 UMWP Table 6-1; 2014 total water production

Surface Water Improvements for Existing Customers

As part of the Recharge Fresno program, the City will be constructing a number of surface water system improvements designed to diversify the City’s water supply and improve long-term reliability. Table 5 lists the projects included in the first phase of surface water improvements. These projects are designed to support the water supply and reliability needs of existing customers. The costs of these projects are being funded through the City’s water rates and are excluded from cost recovery in the updated water capacity fee calculation. One project, the Friant-Kern Raw Water Pipeline, will be oversized to provide additional capacity for the benefit of future development. The water capacity fees presented in this report only include cost-recovery for the expansion component of this raw water pipeline.

| Table 5 - Surface Water Improvements Phase 1 (Existing Customers) | | | | | |
|--|-------------------|----------------------------------|-------------------|-------------------------------|--------------|
| | Total Cost | Allocation to Existing Customers | | Allocation to New Development | |
| SURFACE WATER IMPROVEMENTS | | | | | |
| <i>Mostly for Existing Customer Base</i> | | | | | |
| Groundwater Recharge Facilities | \$6,400,000 | 100% | \$6,400,000 | 0% | \$0 |
| Friant-Kern Raw Water Pipeline | 23,000,000 | 50% | 11,500,000 | 50% | 11,500,000 |
| Kings River Raw Water Pipeline | 75,400,000 | 100% | 75,400,000 | 0% | 0 |
| Surface Water Treatment Facilities | 186,400,000 | 100% | 186,400,000 | 0% | 0 |
| Finished Water Distribution Pipelines | 55,400,000 | 100% | 55,400,000 | 0% | 0 |
| Pipeline and Well Rehab & Replacement | <u>82,500,000</u> | 100% | <u>82,500,000</u> | 0% | <u>0</u> |
| TOTAL | \$429,100,000 | | \$417,600,000 | | \$11,500,000 |

Source: City of Fresno, Water Financial Plan and Rate Study, February 2015.

Surface Water Improvements for Growth

Future development will place an increasing strain on the City's water supply. In order to generate additional surface water supply and improve reliability to meet the needs of growth, the City plans to construct additional surface water system improvements in future years as shown on Table 6. These improvements will provide surface water system capacity to meet the next 30 mgd of water demand required by new development. The updated water capacity fees recover the costs of these future facilities to ensure that growth pays for its share of surface water system improvements.

| Table 6 - Surface Water Improvements for Growth | |
|---|-------------------|
| SURFACE WATER SUPPLY IMPROVEMENTS FOR GROWTH | |
| NE Surface Water Treatment Plant Expansion (30 mgd to 60 mgd) | \$82,000,000 |
| Regional Transmission Mains | 78,600,000 |
| Expansion Share of Friant-Kern Raw Water Pipeline | <u>11,500,000</u> |
| TOTAL | \$172,100,000 |

Source: City of Fresno, Water Division CIP Implementation Program, CIP Project Validation Report, CH2MHill, August 2014.

Water Capacity Fee Calculation

Table 7 on the following page details the updated water capacity fee calculation. The updated capacity fee totals \$25.49 per hcf of annual new demand including two fee components:

- A buy-in charge for the share of existing and future groundwater and distribution system assets benefitting growth through buildout. This fee component recovers costs for a) a conservative estimate of the share of existing groundwater and distribution system facilities and assets available to serve growth, plus b) the cost of expansion-related capital improvements needed to serve the demands of growth through buildout accounting for reduced water demand projections and a proportional reduction in infrastructure needs from the original Metro Plan Update estimates. These costs are divided by the projected increase in potable water demand created by growth through buildout, resulting in a fee component of approximately \$13.74 per hundred cubic feet (hcf) of future water capacity needs.
- Cost recovery for planned surface water system improvements needed to provide water supply and reliability to meet the needs of the next 30 mgd of new development. This fee component equals approximately \$11.76 per hcf of new water demand. This fee component excludes cost recovery for any prior oversizing of the NE Surface Water Treatment Plant and for the first phase of surface water system improvements that is designed to benefit the City's existing customer base.

Table 7 - Capacity Fee Calculation

| 1) GROUNDWATER & DISTRIBUTION SYSTEM ASSETS BENEFITTING GROWTH | |
|--|----------------------|
| Share of Existing Assets Benefitting Growth | |
| Existing Assets (Table 1) | \$1,160,980,050 |
| % of Existing System Capacity Available for Growth ¹ | <u>20%</u> |
| Existing Assets Benefitting Growth | 232,196,010 |
| Capital Improvements Benefitting Growth | |
| Expansion-Related Capital Improvements Through Buildout | \$154,935,110 |
| Subtotal | \$387,131,120 |
| Projected Increase in Demand Through Buildout (AF)² | 64,700 |
| Cost per Unit | |
| \$/AF | \$5,983 |
| \$/HCF | \$13.74 |
| 2) SURFACE WATER IMPROVEMENTS FOR GROWTH | |
| Expansion Capacity (Oversizing) of Existing NE Surface Water Treatment Plant | Excluded |
| Surface Water Improvements Phase 1: for Existing Customers | Excluded |
| Surface Water Improvements Phase 2: for Next 30 mgd of Growth | <u>\$172,100,000</u> |
| Subtotal | 172,100,000 |
| Expansion Capacity | |
| mgd | 30 |
| AF | 33,604 |
| HCF | 14,638,059 |
| Cost per Unit | |
| \$/AF | \$5,121 |
| \$/HCF | \$11.76 |
| TOTAL CAPACITY FEE PER UNIT | |
| Groundwater & Distribution System Assets | |
| <i>Average Cost per Unit Through Buildout (\$/hcf)</i> | \$13.74 |
| Surface Water Improvements for Growth | |
| <i>Expansion Cost per Unit (\$/hcf)</i> | <u>\$11.76</u> |
| Total | \$25.49 |

1 Source: Conservatively estimated based on maximum annual historical production of 165,542 AF in 2002 less 2014 production of 130,429 AF, resulting in known expansion capacity of roughly 35,000 AF, or a little over 20% of maximum historical production previously served by the existing water system.

2 Source: January 2014 Metro Plan Update Addendum projected potable water demand of 195,100 AF through buildout incorporating per capita water use targets required by the Water Conservation Act of 2009 (SBx7-7), less 2014 water production of approximately 130,400 AF.

Residential & Non-Residential Water Demand Estimates

The water capacity fees developed in this report are based on meter size, which serves as a reasonable proxy for water demand. Customers with higher levels of water use require larger water meters and more capacity in water system infrastructure to meet their water demands. As such, the City's capacity fees should be appropriately sized to recover the cost of facilities required to meet the water demands from each meter size.

BWA evaluated various sources of information to estimate the water demands of new residential and non-residential water connections. Based on this evaluation, the projected water system capacity needs for serving a standard new connection served by a 1-inch meter is conservatively projected at 250 hcf per year. In order to serve this level of demand, the City actually needs to produce slightly more water to account for operational water use, system loss, and other factors. However, to be conservative, the demand estimates used for determining capacity fees are not adjusted to account for the additional production needs.

- **Metered Water Use Data for FY 2014** – Based on City water use data for all metered single family residential accounts in 2014, annual consumption per single family residence averaged 294 hcf in 2014, including all meter sizes. Single family residential 3/4" metered usage averaged 264 hcf, while single family residential 1" meters averaged 281 hcf. The average use of combined 3/4" and 1" meters was 279 hcf.
- **2010 Urban Water Management Plan** – The 2010 UWMP developed water demand projections that incorporate compliance with the requirements of the Water Conservation Act of 2009 (SBx7-7). In compliance with SBx7-7 the City adopted per capita water use targets that include a 20% reduction in demand from historical baseline per capita water use by 2020. These targets are reflected in demand projections of 77,441 AF of single family water deliveries to 133,691 single family accounts as shown on Table 6.8 of 2010 UWMP. This equates to single family residential demand of a little less than 0.58 AF, or 252 hcf, per account by 2020.

Non-Residential Water Consumption Data from 3 Fiscal Years Prior to the Current Drought – BWA analyzed water consumption data for non-residential accounts for fiscal years 2011/12, 2012/13, and 2013/14. The analysis excluded water use from industrial water accounts, which use substantially more water per meter size than other types of non-residential customers. Average annual water use for non-residential 1-inch meters in fiscal year 2013/14 was 256 hcf, while the average over the 3-year period was calculated at 251 hcf per year. For comparison, average annual use for all 1" residential and non-residential water meters in fiscal year 2013/14 was 280 hcf. Based on a broader

analysis of water use by all meter sizes over the 3 years, average annual water demand was calculated at 506 hcf per each non-residential 1-inch meter equivalent, based on the same meter capacity ratios uses in the 2014 Water Rate Study.

The City's base meter size for new connections is assumed to be a 1-inch meter. The capacity fees developed in this report conservatively assume average annual water demand of 250 hcf per each new 1-inch meter connection. This level of annual demand is equivalent to approximately 0.574 acre-feet per year or 512 gallons per day.

Water demand projections for other meter sizes are based on the capacity of each meter size in relation to the capacity of the base 1-inch meter size based on meter equivalency factors used in the 2015 Water Utility Financial Plan & Rates Study. The meter equivalency factors used in this report represent the relative capacity of each meter size in proportion to the capacity of the base 1-inch meter as estimated by the American Water Works Association (AWWA). For example, based on the factors used, a 3-inch meter has 4.0 times the capacity of the base meter size and would correspondingly pay a capacity fee that is 4.0 times that of the base 1-inch meter.

Proposed Water Capacity Fees

Table 8 shows a schedule of proposed Water Capacity Fees. The fees for each meter are based on the amount of estimated water system capacity needed to serve each meter size. Most new single family homes are served by 1-inch meters and would be assessed a City-wide Water Capacity Fee of \$6,373. Fees for larger meters are proportionally higher corresponding with the higher level of water system capacity needs for serving each meter size.

| Table 8 - Proposed Water Capacity Fees | | | |
|---|-----------------------|--------------------------------|--------------------|
| Meter Size | Meter Capacity Ratio* | Annual Water Demand (hcf/year) | Water Capacity Fee |
| Capacity Fee Unit Cost (\$ per hcf) | | | \$25.493 |
| <u>Water Capacity Fees</u> | | | |
| Up to 3/4" | 0.625 | 156.25 | \$3,983 |
| 1" | 1.00 | 250.00 | 6,373 |
| 1-1/2" | 1.25 | 312.50 | 7,967 |
| 2" | 2.50 | 625.00 | 15,933 |
| 3" | 4.00 | 1,000.00 | 25,493 |
| 4" | 6.25 | 1,562.50 | 39,833 |
| 6" | 12.50 | 3,125.00 | 79,666 |
| 8" | 60.00 | 15,000.00 | 382,398 |

* Meter capacity ratios based on American Water Works Association (AWWA) Manual of Water Supply Practices M6, Water Meters - Selection Installation, Testing and Maintenance, 2012 Fifth Edition. These are based on the same capacity ratios used in the 2015 Water Utility Financial Plan & Rates Study.

3. Capacity Fee Application

The proposed capacity fees represent a change in approach from the City's historical practices. This section highlights some key issues regarding the application and implementation of the new capacity fees.

General Recommendations

City Should Retain Authority to Determine Appropriate Meter Size: The City should retain the authority to determine or validate the appropriate meter size to ensure the proper meter size is installed for future developments. Alternatively, the City could verify the minimum appropriate meter size for future developments. Some agencies have experienced problems when developers have purchased undersized meters in an effort to minimize costs, resulting in meters that are inadequate for the demands of the development and require frequent replacement.

Capacity Fees Should Only be Applicable for Term of Will-Serve Letter: Capacity fees should be paid up front as a condition of issuing the permit or will-serve letter. The fee should remain in effect for the term of the permit or will-serve letter, at which point the developer should be responsible for paying for any increase in adopted capacity fees.

Developer Reimbursements

The City will continue to require developers to install and oversize facilities to ensure facilities are properly sized to account for future development and/or redevelopment. Developers are currently reimbursed from capacity fees paid by new users that connect to the oversized facilities. The City anticipates continuing to reimburse developers in cases where the City requires a developer to oversize facilities. However, under proposed recommendations, the source of funds for the reimbursements and the method by which those funds are allocated would be modified.

BWA recommends that the City transition from reimbursing developers on a regional basis (with various overlapping reimbursement districts for wells, storage tanks, transmission lines, etc.) to reimbursing developers on a City-wide basis. Under this approach, developers that paid the updated capacity fees would be reimbursed for oversizing requirements from new development regardless of where growth occurs.

To continue providing funding for developer reimbursements, BWA recommends that a portion of all future water capacity fees be set aside into a separate fund that will be used to reimburse developers for the oversizing requirements.

The City has historically reimbursed developers on a first in/first out basis. This approach benefits the first developer to the detriment of subsequent developers. To improve equity in distribution of funds over time, BWA recommends that the City transition to reimbursing all developers each year based on each developer's proportionate share of total eligible reimbursable costs.

Capacity Fee Credits for Redevelopment

Capacity fees for redevelopment projects should be based on the incremental water demand generated from the project with a fee credit provided for the water demand of the existing property.

- In general, when redevelopment occurs on a property that is served by an existing water connection, the capacity fee should be based on the incremental difference between the capacity fee applied to the prior meter size and the new meter size. For example, when a property served by a 2-inch meter is redeveloped and requires a 4-inch meter, the capacity fee would be based on the incremental difference between the 2-inch fee and 4-inch fee based on fees in effect at the time of calculation.
- In rare cases, where a property is served by a large meter but has historically had very low water use (e.g. a warehouse served by a 4-inch meter redeveloped as a residential or commercial development), the credit provided to the property could alternatively be based on 10-year historical average water use. This level of credit represents the average system capacity the account has historically been paying to use and maintain.

Capacity Fees for Meter Upsizings due to Fire Flow & Low Pressure

In cases where a domestic water meter is upsized to account for factors that do not reflect the underlying water demand of a new connection – such as if a meter upsizing is needed to meet fire flow requirements or to compensate for a low pressure area – the water capacity fee should be based on the charge for the meter size appropriate to meet the development's underlying water demand.

Fees for Developments with Vested Maps

A limited number of developments within the City have vested maps, which may limit the City's ability to adjust development impact fees on these properties. For existing developments with vested maps, the City may be able to levy the proposed water capacity fees subject to Section 66498.1(c)(1) of the California Government Code since failure to collect the updated fee (or at least the component that recovers costs for water supply and reliability identified in the Metro Plan Update), would result in inadequate water supply to meet reliability and fire flow requirements of new development thereby creating a "condition dangerous" to the "health or safety" of the "subdivision or the immediate community".

To help ensure that future developments with vested maps pay for their proportionate share of infrastructure costs in future years, the City's fee ordinance should include an automatic cost escalator as described below.

Water Capacity Fee Ordinance: Purpose of Fee

Pursuant to Government Code, revenues derived from the City's water capacity fee can only be used for the purpose for which the fee is collected. In order to give the City maximum flexibility for use of capacity fee revenues, BWA recommends that the City's fee ordinance broadly define the purpose of the water capacity fee, such as to recover costs for existing and future water system facilities and assets that provide benefit to new development.

Future Fee Adjustments

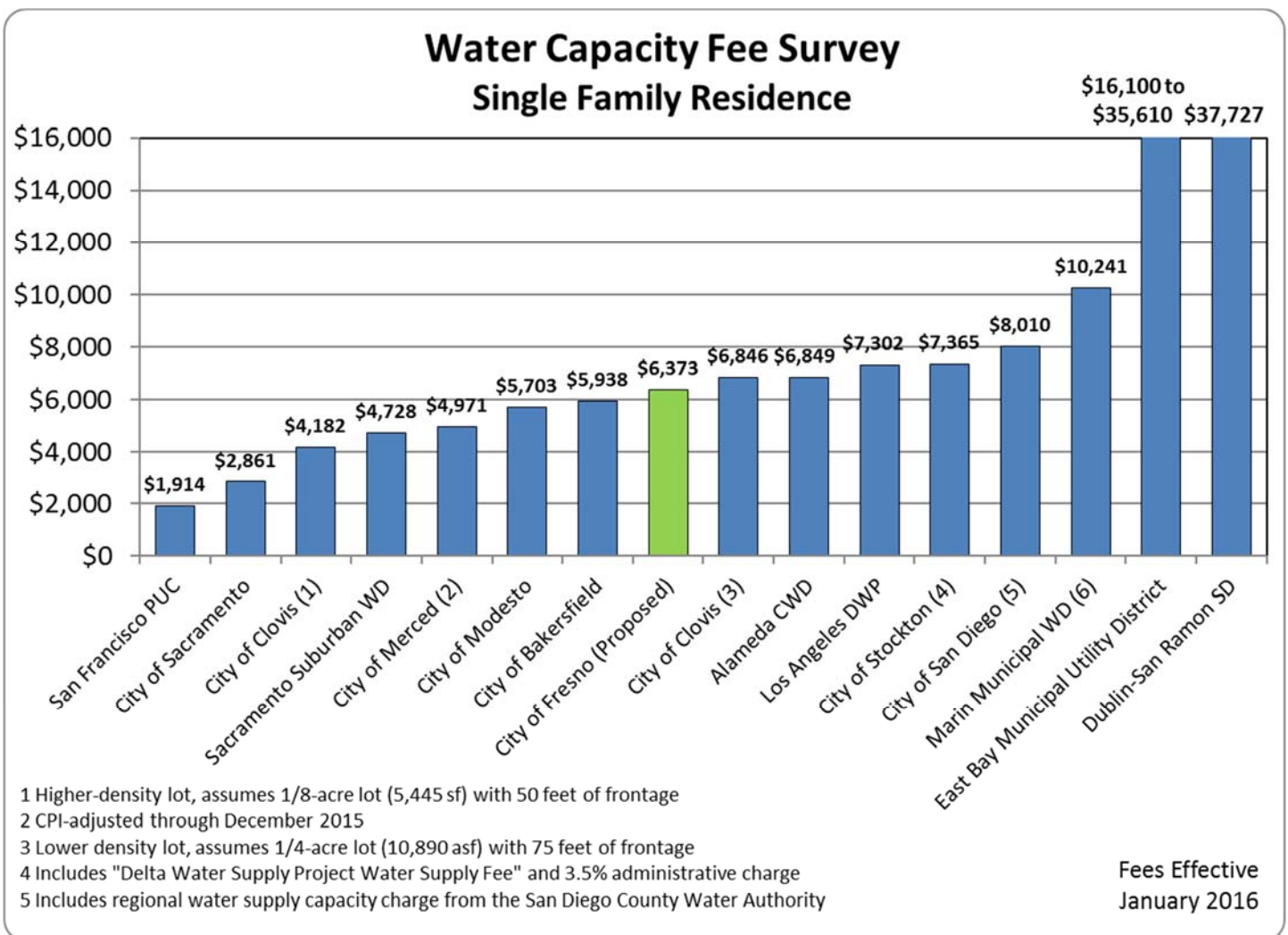
In future years, BWA recommends the City update its capacity fees annually or periodically by adjusting the fees by the change in the ENR Construction Cost Index (20-Cities Average) to account for future construction cost inflation. The fee adjustment should be based on the change in the ENR index from the most recent preceding fee update, which allows for a multi-year adjustment if the City ever defers an annual adjustment. The City's capacity fee ordinance should include language facilitating an automatic annual fee adjustment.

Additionally, the City should review and consider updating its capacity fees when substantial revisions are made to anticipated capital improvement needs. In general, BWA recommends that capacity charges be independently reviewed and/or updated at least once every five years.

4. Water Capacity Fee Comparisons

Water Capacity Fee Survey

The chart below compares the proposed water capacity fees for the City of Fresno to other large water agencies from the Central Valley and the State. Capacity charges vary widely based on a wide range of factors. As shown, the proposed fees are in the upper-middle range compared to the other agencies surveyed.



Comparison of Existing & Proposed Fees

The following table shows a comparison of the City's existing water capacity charges and the proposed capacity fees by applying the current and proposed fees to four new developments. Because the City's current fees can vary widely depending on where new development occurs, the table compares fees in UGM 501-S and non-UGM areas.

| Table 9 - Examples of Current vs. Proposed Fees in UGM and Non-UGM Areas | | | | | | | | | |
|--|----------------------|--|----------------------|---|----------------------|--|----------------------|---|----------------------|
| | | UGM 501-S FEE EXAMPLES | | | | NON-UGM FEE EXAMPLES | | | |
| | | RESIDENTIAL | | COMMERCIAL | | RESIDENTIAL | | COMMERCIAL | |
| | | NWC Armstrong & Kings Canyon Tract No. 4677 | | NEC Clovis & Jensen 2567 S. Clovis Ave | | NEC Armstrong & Butler Tentative Tract # 5953 | | NEC Chestnut & McKinley Parcel Map # 1985-78 | |
| Acreage | | 23.10 | | 6.49 | | 19.35 | | 8.78 | |
| Frontage Feet | | 1,231 | | 955 | | 1,733 | | 1,109 | |
| Units / L.U.E. | | 95 | | 31 | | 94 | | 44 | |
| Current Water Connection Charges | | <u>Charges</u> | | <u>Charges</u> | | <u>Charges</u> | | <u>Charges</u> | |
| Frontage Charge | | \$8,002 | | \$6,208 | | \$11,265 | | \$7,209 | |
| Transmission Grid Main Charge | | 14,853 | | 4,173 | | 12,442 | | 5,646 | |
| TGM Bond Debt Service Charge | | 5,613 | | 1,577 | | 4,702 | | 2,134 | |
| Wellhead Treatment 501 | | 7,505 | | 2,449 | | - | | - | |
| Recharge Area 501 | | 5,320 | | 1,736 | | - | | - | |
| 1994 Bond Debt Service 501 | | 8,835 | | 2,883 | | - | | - | |
| U.G.M. Water Supply 501-S | | 165,110 | | 53,878 | | - | | - | |
| Total Current Charges | | \$215,238 | | \$72,904 | | \$28,409 | | \$14,988 | |
| Proposed Water Capacity Fees | | | | | | | | | |
| <u>Meter Size</u> | <u>Capacity Fees</u> | <u>Meters</u> | <u>Capacity Fees</u> | <u>Meters</u> | <u>Capacity Fees</u> | <u>Meters</u> | <u>Capacity Fees</u> | <u>Meters</u> | <u>Capacity Fees</u> |
| 1" | \$6,373 | 95 | \$605,435 | 1 | \$6,373 | 94 | \$599,062 | 1 | \$6,373 |
| 1-1/2" | 7,967 | | | | | | | 1 | \$7,967 |
| 2" | 15,933 | | | 3 | \$47,799 | | | 3 | \$47,799 |
| 3" | 25,493 | | | | | | | | |
| 4" | 39,833 | | | | | | | | |
| 6" | 79,666 | | | | | | | | |
| 8" | 382,398 | | | | | | | | |
| Fire Service | No Capacity Fee | | | 2 | no charge | | | 2 | no charge |
| Total Proposed Capacity Fees | | \$605,435 | | \$54,172 | | \$599,062 | | \$62,139 | |

APPENDIX A

Schedule of Current Water Connection Fees

**CITY OF FRESNO
MASTER FEE SCHEDULE**

PUBLIC UTILITIES DEPARTMENT

WATER RATES**

| <u>Fee Description & Unit/Time</u> | <u>Current</u> | <u>Amnd</u> |
|---|-----------------------|--------------------|
| Well Inspection, per well site | | |
| Well Abandonment | 62.00 | 500 |
| Well Destruction | 236.00 | 500 |
| Monitoring Well Destruction | 174.00 | 500 |
| Well Destruction Inspection Reschedule (when not ready on inspection day) | 46.00 | |
| After Hours Well Abandonment | 78.00 | 500 |
| After Hours Monitoring Well Destruction | 285.00 | 500 |
| Underground Utility Remark Fee (per call back) | 133.00 | 500 |
| Sale of Surplus Dirt | | |
| City load / per yard of dirt | 5.00 | 456 |
| Customer pick-up / per yard of dirt | 1.20 | |

WATER CONNECTION CHARGES (FMC 6-507)

| <u>Fee Description & Unit/Time</u> | <u>Current</u> | <u>Amnd</u> |
|---|------------------------|--------------------|
| Deferment of Payment applicable to existing single-family residences Same basis and fees as sewer connection charges. | See FMC Sctn 6-305 (c) | |
| Frontage Charge | | |
| Front foot or fraction | 6.50 | |
| Installation Charges | | 464 |
| Meter & Service Installation (when installed together) | | |
| 1-inch | 2,241.00 | |
| 1-1/2-inch | 2,508.00 | |
| 2-inch | 2,671.00 | |
| Minimum residential service connections: | | 489 |
| Lots less than 20,000 square feet (1-inch) | | |
| Lots 20,000 square feet or greater (1-1/2-inch) | | |
| Meter Installation (when installed on existing services) | | 415 |
| 1-inch | 330.00 | |
| 1-1/2-inch | 455.00 | |
| 2-inch | 530.00 | |
| Larger than 2-inch (FMC 6-507(a)(3)) | | |
| Cost plus overhead | 100% | |

**CITY OF FRESNO
MASTER FEE SCHEDULE**

PUBLIC UTILITIES DEPARTMENT

WATER CONNECTION CHARGES (FMC 6-507)

| <u>Fee Description & Unit/Time</u> | <u>Current</u> | <u>Amnd</u> |
|---|-----------------------|--------------------|
| Installation Charges (continued): | | |
| Service Installation (without meter) | | 464 |
| Service to house (between property line and house) can be reduced based upon setback, fixtures, etc., as provided in the UPC and UBC. (includes tap, service line, corp stop, curb stop and fittings) | | |
| 1-inch | 2,178.00 | |
| 1-1/2-inch | 2,363.00 | |
| 2-inch | 2,486.00 | |
| Larger than 2-inch (FMC 6-507(a)(3)) | | |
| Cost plus overhead | 100% | |
| Recharge Area Fee | | |
| Area (per unit**) | 160.00 | 438 |
| † *No. 101 | -0- | |
| † † *No. 101 | -0- | |
| No. 201 | -0- | |
| No. 301 | -0- | |
| No. 401 | -0- | |
| ***No. 501 | 56.00 | |
| Transmission Grid Main (TGM) Charge | | |
| | | 417 |
| For parcels in the UGM area, TGM charges are deposited in separate UGM-TGM charge service area accounts. | | |
| Aggregate gross area: | | |
| Less than 5 acres | | |
| Net acre or fraction | 804.00 | |
| Minimum charge | 80.00 | |
| 5 acres or more | | |
| Gross acre or fraction | 643.00 | |
| Transmission Grid Main Bond Debt Service Charge per FMC Section 6-507(a)(8) | | |
| Less than 5 acres | | |
| Net acre or fraction | 304.00 | |
| Minimum charge | 100.00 | |
| 5 acres or more | | |
| Gross acre or fraction | 243.00 | |

**CITY OF FRESNO
MASTER FEE SCHEDULE**

PUBLIC UTILITIES DEPARTMENT

WATER CONNECTION CHARGES (FMC 6-507)

| Fee Description & Unit/Time | Current | Amnd |
|---|----------------|-------------|
| UGM Water Supply Fee | | 417 |
| Single-Well Supply Areas (per gross acre) | | |
| No. 11A | 172.00 | |
| No. 86 | 678.00 | |
| No. 90 | 322.00 | |
| No. 91 | 609.00 | |
| No. 102 | 511.00 | |
| No. 107 | 609.00 | |
| No. 113 | 609.00 | |
| No. 132 | 385.00 | |
| No. 136 | 356.00 | |
| No. 137 | 356.00 | |
| No. 141 | 408.00 | |
| No. 142 | 379.00 | |
| No. 153 | 557.00 | |
| No. 308 | 563.00 | |
| No. 310 | 505.00 | |
| Multi-Well Supply Areas (per unit**) | | 438 |
| † (northeast) No. 101-S | 567.00 | |
| † † (northeast) No. 101-S | 456.00 | |
| (northwest) No. 201-S | 407.00 | |
| (west) No. 301-S | 508.00 | |
| (southwest) No. 401-S | 371.00 | |
| *** (southeast) No. 501-S | 1,738.00 | |
| Well Head Treatment Fee - Area (per unit**) | | 438 |
| † *No. 101 | 179.00 | |
| † † *No. 101 | -0- | |
| No. 201 | -0- | |
| No. 301 | 221.00 | |
| No. 401 | 31.00 | |
| ***No. 501 | 79.00 | |
| 1994 Bond Debt Service Fee - Area (per unit**) | | 438 |
| † No. 101 | 281.00 | |
| † † No. 101 | 895.00 | |
| No. 201 | -0- | |
| No. 301 | 60.00 | |
| No. 401 | -0- | |
| ***No. 501 | 93.00 | |

* Service Area No. 101 was established by the Department of Public Utilities Director on March 19, 1995 in accordance with the provisions of Ordinance No. 95-4; the provisions of Resolution No. 90-18 remain in effect for development in the Woodward Park Community Plan Area.

** Unit as defined in FMC 6-501(kk)

*** 501 Emergency Measure, Resolution No. 95-18

† For subdivision maps deemed complete prior to June 10, 1997

† † For subdivision maps deemed complete on or after June 10, 1997

**CITY OF FRESNO
MASTER FEE SCHEDULE**

WATER CONNECTION CHARGES (FMC 6-508)

| <u>Fee Description & Unit/Time</u> | <u>Current</u> | <u>Amnd</u> |
|---|---|-------------|
| Water main reimbursement for installation | See FMC 6-508(c) | |
| Transmission Grid Main (TGM) credit/reimbursement for private installation when required to be constructed to transmission grid size (per linear foot): | | |
| 12-inch diameter | 10.00 | |
| 14-inch diameter | 14.50 | |
| 16-inch diameter | 31.00 | |
| 24-inch diameter | 41.00 | |
| UGM area maximum (except as provided in FMC 6-508(d)) | 10,000.00 | |
| Trench surfacing credit for TGM installations (per linear foot): | | |
| In existing asphalt concrete streets | 10,000 or construction costs, whichever is less | |
| In existing non-asphalt concrete streets | 6.00 or construction cost, whichever is less | |

APPENDIX B

**California Government Code Pertaining to
Water and Wastewater Connection Fees**

California Government Code
Key Sections Pertaining to Water & Wastewater Capacity Charges
Sections 66013, 66016, & 66022

66013

(a) Notwithstanding any other provision of law, when a local agency imposes fees for water connections or sewer connections, or imposes capacity charges, those fees or charges shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed, unless a question regarding the amount of the fee or charge imposed in excess of the estimated reasonable cost of providing the services or materials is submitted to, and approved by, a popular vote of two-thirds of those electors voting on the issue.

(b) As used in this section:

(1) "Sewer connection" means the connection of a structure or project to a public sewer system.

(2) "Water connection" means the connection of a structure or project to a public water system, as defined in subdivision (f) of Section 116275 of the Health and Safety Code.

(3) "Capacity charge" means a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged, including supply or capacity contracts for rights or entitlements, real property interests, and entitlements and other rights of the local agency involving capital expense relating to its use of existing or new public facilities. A "capacity charge" does not include a commodity charge.

(4) "Local agency" means a local agency as defined in Section 66000.

(5) "Fee" means a fee for the physical facilities necessary to make a water connection or sewer connection, including, but not limited to, meters, meter boxes, and pipelines from the structure or project to a water distribution line or sewer main, and that does not exceed the estimated reasonable cost of labor and materials for installation of those facilities.

(6) "Public facilities" means public facilities as defined in Section 66000.

(c) A local agency receiving payment of a charge as specified in paragraph (3) of subdivision (b) shall deposit it in a separate capital facilities fund with other charges received, and account for the charges in a manner to avoid any commingling with other moneys of the local agency, except for investments, and shall expend those charges solely for the purposes for which the charges were collected. Any interest income earned from the investment of moneys in the capital facilities fund shall be deposited in that fund.

(d) For a fund established pursuant to subdivision (c), a local agency shall make available to the public, within 180 days after the last day of each fiscal year, the following information for that fiscal year:

(1) A description of the charges deposited in the fund.

(2) The beginning and ending balance of the fund and the interest earned from investment of moneys in the fund.

(3) The amount of charges collected in that fiscal year.

(4) An identification of all of the following:

(A) Each public improvement on which charges were expended and the amount of the expenditure for each improvement, including the percentage of the total cost of the public improvement that was funded with those charges if more than one source of funding was used.

(B) Each public improvement on which charges were expended that was completed during that fiscal year.

(C) Each public improvement that is anticipated to be undertaken in the following fiscal year.

(5) A description of each interfund transfer or loan made from the capital facilities fund. The information provided, in the case of an interfund transfer, shall identify the public improvements on which the transferred moneys are, or will be, expended. The information, in the case of an interfund loan, shall include the date on which the loan will be repaid, and the rate of interest that the fund will receive on the loan.

(e) The information required pursuant to subdivision (d) may be included in the local agency's annual financial report.

(f) The provisions of subdivisions (c) and (d) shall not apply to any of the following:

(1) Moneys received to construct public facilities pursuant to a contract between a local agency and a person or entity, including, but not limited to, a reimbursement agreement pursuant to Section 66003.

(2) Charges that are used to pay existing debt service or which are subject to a contract with a trustee for bondholders that requires a different accounting of the charges, or charges that are used to reimburse the local agency or to reimburse a person or entity who advanced funds under a reimbursement agreement or contract for facilities in existence at the time the charges are collected.

(3) Charges collected on or before December 31, 1998.

(g) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion imposing a fee or capacity charge subject to this section shall be brought pursuant to Section 66022.

(h) Fees and charges subject to this section are not subject to the provisions of Chapter 5 (commencing with Section 66000), but are subject to the provisions of Sections 66016, 66022, and 66023.

(i) The provisions of subdivisions (c) and (d) shall only apply to capacity charges levied pursuant to this section.

(Amended by Stats. 2007, Ch. 94, Sec. 1. Effective January 1, 2008.)

66016

(a) Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. At least 10 days prior to the meeting, the local agency shall make 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. Unless there has been voter approval, as prescribed by Section 66013 or 66014, no local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which the fee or service charge is levied. If, however, the fees or service charges create revenues in excess of actual cost, those revenues shall be used to reduce the fee or service charge creating the excess.

(b) Any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution. The legislative body of a local agency shall not delegate the authority to adopt a new fee or service charge, or to increase a fee or service charge.

(c) Any costs incurred by a local agency in conducting the meeting or meetings required pursuant to subdivision (a) may be recovered from fees charged for the services which were the subject of the meeting.

(d) This section shall apply only to fees and charges as described in Sections 51287, 56383, 65104, 65456, 65584.1, 65863.7, 65909.5, 66013, 66014, and 66451.2 of this code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code.

(e) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion levying a fee or service charge subject to this section shall be brought pursuant to Section 66022.

(Amended by Stats. 2006, Ch. 643, Sec. 19. Effective January 1, 2007.)

66022

(a) Any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge, or modifying or amending an existing fee or service charge, adopted by a local agency, as defined in Section 66000, shall be commenced within 120 days of the effective date of the ordinance, resolution, or motion.

If an ordinance, resolution, or motion provides for an automatic adjustment in a fee or service charge, and the automatic adjustment results in an increase in the amount of a

fee or service charge, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 120 days of the effective date of the increase.

(b) Any action by a local agency or interested person under this section shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(c) This section shall apply only to fees, capacity charges, and service charges described in and subject to Sections 66013, 66014, and 66016.

(Amended by Stats. 2006, Ch. 643, Sec. 20. Effective January 1, 2007.)
