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**Title:** Action pertaining to proposed water capacity fees (Citywide):  
1. \*\*\*BILL NO. B-17 (Intro. 4/6/2017) (For adoption) - Amending Article 5 of Chapter 6 of the Fresno Municipal Code and Article 4.5 of Chapter 12 to repeal various fees associated with providing water capacity for new and expanded connections to the water system and create a new Water Capacity Fee classification, and to adopt Water Capacity Fees as proposed by and justified in the nexus study prepared by Bartle Wells Associates.

**Sponsors:** Department of Public Utilities

**Indexes:**

**Code sections:**

**Attachments:** 1. 1 -Fresno Water Capacity Fee Study - February 27 2017.pdf, 2. 2- Water Capacity Fee Ord and Exhibit A 3 23 17.pdf, 3. 3 - 530th Amend to the MFS\_initialied 3 9 17.pdf, 4. Supplemental - 17-0013 Letter from Jeffrey Reid.pdf, 5. Supplemental - 17-0013 Staff Presentation.pdf, 6. Letter to City regarding Water Fee.pdf, 7. Letter re Water Capacity Fees.pdf, 8. Supplement - Letter re Water Capacity Fees.pdf, 9. Supplement 17-389 - Letter dated 3-21-2017.pdf, 10. Supplement - PowerPoint for Water Capacity Fees.pdf, 11. Supplement - Letter.pdf, 12. Ltr Mayor Lee Brand Re Proposed Modification of Water Capacity Fees.pdf, 13. Supplement 11AM2 17-458 - Letter from Jeff Reid.pdf, 14. Supplement to Water Capacity item.pdf, 15. Supplement - PowerPoint - Response to Council Questions.pdf

Date	Ver.	Action By	Action	Result
4/13/2017	1	City Council	adopted	Pass

## REPORT TO THE CITY COUNCIL

**April 13, 2017**

**FROM:** THOMAS C. ESQUEDA, Director  
Department of Public Utilities

## SUBJECT

Action pertaining to proposed water capacity fees (Citywide):  
1. \*\*\*BILL NO. B-17 (Intro. 4/6/2017) (For adoption) - Amending Article 5 of Chapter 6 of the Fresno Municipal Code and Article 4.5 of Chapter 12 to repeal various fees associated with providing water capacity for new and expanded connections to the water system and create a new Water Capacity Fee classification, and to adopt Water Capacity Fees as proposed by and justified in the nexus study prepared by Bartle Wells Associates.

## RECOMMENDATION

Staff recommends City Council hold a public hearing for the proposed Water Capacity Fees, and approve a bill (for introduction) adopting the proposed Water Capacity Fees as justified in the nexus study prepared by Bartle Wells Associates and amending Article 5 of Chapter 6 of the Fresno Municipal Code (FMC) and Article 4.5 of Chapter 12 of the FMC to repeal various fees associated with providing water capacity for new and expanded connections to the water system and create a new Water Capacity Fee classification.

## **EXECUTIVE SUMMARY**

The City's existing Urban Growth Management (UGM) water-related capacity and treatment fees include a range of fees that vary widely by development areas along the perimeter of the City's boundaries. The current fees include (1) UGM Water Supply Fees (21 areas); (2) Well Head Treatment Fees (5 areas); (3) Transmission Grid Main (TGM) Charges; (4) Transmission Grid Main Bond Debt Service Charges; (5) Recharge Area Fees, and (6) 1994 Bond Debt Service Fees. The City does not impose water-related capacity fees in non UGM areas.

These fees are more than 10 years old and (1) do not recover the costs to provide capacity for new or expanded connections to the existing water system; (2) do not fully recover the costs to build new water system infrastructure to meet the demands of new or expanded connections to the water system; (3) do not recover any costs from non-Urban Growth Management areas to provide water system infrastructure needed to meet the demands of new or expanded connections to the water system; and (4) are administratively burdensome with almost 150 separate Urban Growth Management funds, predominantly for water and sewer services.

The current fees are insufficient for multiple reasons. The current fees were calculated based on the City's historic water supply management practices, which relied solely on groundwater as its primary water supply source for more than 100 years. However, that systems is coming under increasingly difficult and expensive challenges, including groundwater depletion and contamination, and the additional requirements that must be implemented as part of the Sustainable Groundwater Management Act (SGMA), which the Governor signed in September 2014. To meet these challenges, the City must develop new water system infrastructure, including new surface water supplies, which will allow the City to reduce reliance on groundwater as required by the SGMA. As such, the current fees are insufficient to meet the City's capital requirements to ensure water supply availability, reliability and drought resiliency for new and expanded connections to the City water system.

The City's consultant, Bartle Wells Associates ("BWA"), prepared a Water Capacity Fee Study (Attachment 1) to establish a fee schedule based on the nexus between water demands associated with new or expanded connections to the water system and costs of providing water system infrastructure to meet water demands associated with new and expanded connections to the water system. The Water Capacity Fee Study presents the technical and financial justifications for the proposed Water Capacity Fees that are one-time fees charged to new or expanded connections to the City's water system and are designed to recover the costs of infrastructure, assets, and water supply resources that directly benefit new or expanded connections to the water system. BWA and the City's outside legal counsel have both determined that the proposed Water Capacity Fees do not exceed the estimated reasonable cost of providing the service, as required by Government Code sections 66013 and 66016.

The proposed Water Capacity Fees would replace various water-related treatment and capacity fees currently imposed by the City. Thus, to enact the proposed Water Capacity Fees, staff recommends

the City Council revise the Fresno Municipal Code to repeal several water-related treatment and capacity fees and to replace those fees with the proposed Water Capacity Fees, and adopt the Water Capacity Fees in the amounts proposed and justified by the Water Capacity Fee Study. Staff also recommends that the Council update the Master Fee Schedule to reflect the new Water Capacity Fees.

## **BACKGROUND**

The City of Fresno 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. During calendar years 2013, 2014, 2015, and 2016, the City delivered 47.8, 42.5, 36.4, and 36.2 billion gallons of water to existing ratepayers, respectively.

## **WATER-RELATED RATES FEES AND CHARGES**

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 include water rates, which are charged to provide water service to existing users, and water capacity fees, which are imposed to recover the costs of providing water capacity in the City's water system to new and expanded water connections.

The water capacity fees proposed for adoption here are one-time fees, separate from the water rates adopted by Council in February 2015, and the revenue derived from the fees will be kept in a separate and independent account within the Water Division Enterprise Fund.

### **Water Capacity Fees for Connecting to Public Water Supplies**

A water capacity fee is a one-time fee charged to new or expanded connections to the City's water system, and is designed to recover the costs of infrastructure, assets, and water supply resources that benefit new or expanded connections to the water system.

The City has a system of disparate water capacity and treatment fees, which are imposed on new development in limited areas of the City. The City's existing fees vary widely among different development areas along the perimeter of the City's boundaries, with no capacity fees levied in the City's downtown core or other non UGM areas. The existing fees include a range of overlapping charges:

1. UGM Water Supply Fees (21 areas)
2. Well Head Treatment Fees (5 areas)
3. Transmission Grid Main (TGM) Charges
4. TGM Bond Debt Service Charges
5. Recharge Area Fees, and
6. 1994 Bond Debt Service Fees

With the exception of the fees associated with the southeast portion of the City, which were adopted in 2005, the existing UGM water capacity fees are based upon capital infrastructure estimates and rates adopted during the 1990's. Given changes to the City's water supply conditions (particularly, to the City's groundwater resources, including quality and quantity changes), and new regulatory requirements imposed by the State (particularly the Sustainable Groundwater Management Act), the current fees are insufficient to meet the City's capital requirements to ensure water supply availability, reliability and drought resiliency for new and expanded connections to the City's water system.

## **EXISTING GROUNDWATER AQUIFER CONDITIONS**

The City of Fresno relied on groundwater as its primary water supply source for more than 100 years.

### **Groundwater Overdraft**

The City of Fresno is located within the Kings Subbasin of the Tulare Lake Hydrologic Region (Region), and the United States 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 purposes, 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. Further, as documented by the California Department of Water Resources (DWR) in Bulletin 118, the Kings Subbasin is one of 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, the Kings Subbasin is one of 21 top-priority basins (out of 515 basins) identified by DWR in Bulletin 118 requiring corrective action for overdraft conditions.

### **SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA)**

In September 2014, the Governor of California signed into law three bills collectively referred to as the Sustainable Groundwater Management Act (SGMA). The SGMA recognizes that excessive groundwater extraction can cause overdraft, failed wells, deteriorated water quality, environmental damage, and irreversible land subsidence - all conditions which exist in the City of Fresno and require corrective action.

To comply 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). The San Joaquin Valley Basin has been identified by the State Department of Water Resources as a "high-priority" groundwater basin for corrective action.

As required by the SGMA, the City of Fresno, in collaboration with the NKGSA member agencies, will be responsible for developing and implementing a groundwater sustainability plan ("GSP") for the NKGSA boundary. 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.

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 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. GSPs must include measurable objectives to achieve the sustainability goal in the basin within 20 years of the implementation of the plan.

If the City fails to adopt a GSP by January 31, 2020, or adopts an inadequate GSP, the DWR may place the City on a probationary status and prepare an interim GSP for the City, which could include restrictions on the City's groundwater extractions, physical solutions, and principles and guidelines for the administration of the City's surface water supplies.

In advance of these regulatory deadlines, the City's existing ratepayers are funding Recharge Fresno, which is a SGMA Corrective Action Plan as described below. Recharge Fresno will reduce groundwater pumping by constructing \$429 million in capital improvements to deliver surface water in-lieu of groundwater to the City's existing ratepayers. In accordance with Article XIII D of the California Constitution, the \$429 million capital investment by existing ratepayers does not fund water system infrastructure improvements to benefit new or expanded connections to the water system.

### **Recharge Fresno - A SGMA Corrective Action Plan**

To comply with the requirements of the SGMA, the City, in cooperation with the State Water Resources Control Board, developed a \$429 million capital investment plan that implements corrective action to address groundwater quantity and quality issues for existing ratepayers. In recognition of the critical importance of implementing correction action as soon as practicable, the State of California agreed to provide 100-percent financing for the City's corrective action plan (Recharge Fresno) to address the critical overdraft and contamination conditions.

The City's SGMA corrective action plan is to use more surface water than groundwater to meet existing ratepayer demands by relying on 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. By delivering surface water in-lieu of groundwater to the City's 130,000 existing water accounts, the City will reduce groundwater pumping from 84,000 acre-feet per year to 18,000 acre feet per year. The City's SGMA corrective action plan, financed by the State of California and paid for by existing ratepayers, is currently being constructed, and includes 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.

The current water demands in the City of Fresno total approximately 128,000 acre-feet per year. Based on this demand, the ratepayer funded SGMA corrective action plan will allow the City to increase surface water production to 110,000 acre-feet per year; reduce groundwater extractions to 18,000 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. If no new connections are allowed to be made to the City's water supply system, this \$429 million investment by the City's existing ratepayers will create a surplus of 14,000 AF per year to recharge the aquifer.

The annual net-positive contribution to the groundwater aquifer will serve as the foundation for the City's SGMA corrective action plan. The SGMA corrective action plan is specifically intended to recharge and restore the City's groundwater aquifer on an annual basis when surface water supplies are available, so that when drought conditions exist, and surface water supplies are reduced or unavailable, the City's existing ratepayers can then rely on banked groundwater to meet water demands. It is important to note that the SGMA allows for overdrafting during periods of drought, provided that groundwater extractions and recharge are managed as necessary to ensure that reductions in groundwater levels during periods of drought are offset by increases (net-positive contributions) in groundwater levels during other periods when surface water is available in sufficient quantities. The Recharge Fresno corrective action plan, funded by existing ratepayers, is consistent with the requirements of the SGMA.

The corrective action plan is designed to support the water supply and reliability needs of existing customers, and therefore, will be funded through the City's water rates. However, to address water supply reliability and regulatory requirements for serving new or expanded connections to the water system, subsequent water system infrastructure improvements will need to be constructed. Those additional facilities will be used to meet the water capacity demands of new and expanded connections to the water system, and therefore, the costs of these improvements will be funded by the City's proposed Water Capacity Fees.

## **PROPOSED WATER CAPACITY FEES**

The City currently imposes different water capacity related fees according to UGM areas (with no capacity fees levied in non UGM areas). Given the promulgation of the SGMA and the age of the City's existing water capacity and treatment fees (in excess of 10 years), new and expanded connections to the City's water system require the City to generate sufficient revenue to construct water system infrastructure improvements to ensure water supply availability, reliability and drought resiliency. The City's current system of UGM water capacity and treatment fees:

1. Do not recover the costs to provide capacity for new or expanded connections to the existing water system;
2. Do not fully recover the costs to build new water system infrastructure to meet the demands of new or expanded connections to the water system;
3. Do not recover any costs from non-Urban Growth Management areas to provide water system infrastructure needed to meet the demands of new or expanded connections to the water system; and
4. Are administratively burdensome with almost 150 separate Urban Growth Management funds, predominantly for water and sewer services.

## **Water Capacity Fee Study**

The Government Code requires that when a local agency, such as a city, imposes fees for water 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). To determine the reasonable costs required to serve new development, a fee study is commissioned. For the fee before Council today, the City retained an independent financial consultant, Bartle Wells Associates ("BWA"), who prepared a Water Capacity Fee Study. Additionally, the City retained the law firm of Burke, Williams, & Sorensen to confirm the methodology and approach used to calculate the water capacity fee conformed to the Government Code.

The objective of the City's Water Capacity Fee Study is to establish a proposed fee schedule based on a nexus between the water demands associated with new or expanded connections to the water system and the costs to provide water system infrastructure to serve the water demands associated with new and expanded connections to the water system.

The Government Code prohibits local agencies from imposing fees for water capacity services that exceed the estimated reasonable cost of 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 new or expanded water connections (Gov. Code § 66013.). However, the Code does not detail any specific method for calculating capacity fees and provides agencies with sufficient flexibility to tailor such fees to best reflect the interests and needs of the local community.

BWA first implemented widely-used methodology to calculate the maximum allowable water capacity fees ("max fee"), which included a proportionate share of costs for, a) existing and future groundwater and distribution system assets benefitting new or expanded connections to the water system, and b) the next 30 mgd expansion of the City's surface water treatment and regional transmission mains needed to comply with the SGMA and provide water availability, reliability and drought resiliency for new or expanded connections to the water system. The max fee methodology excluded cost recovery for the City's Recharge Fresno corrective action plan (which is designed to benefit the City's existing ratepayers), and did not exceed the City's estimated reasonable costs of providing water capacity service to new or expanded connections to the water system. The max fee calculation included a buy-in component for the full value of existing groundwater facilities that are of proportional benefit to new or expanded connections to the water system. That buy-in component permissibly included costs related to existing groundwater facilities previously funded by the City.

Subsequently, City staff directed BWA to develop a reduced water capacity fee by limiting the buy-in component for existing groundwater facilities. BWA calculated a reduced water capacity fee including only the proportionate share of outstanding, future debt service for existing groundwater facilities funded by the 2010 Water System Revenue Bonds that provide benefit to new or expanded connections to the water system. Hence, the reduced water capacity fee before Council today only recovers future, proportional bond debt service costs for existing groundwater facilities which benefit new or expanded connections to the water system.

Both fee approaches comply with the Government Code and do not exceed the City's estimated reasonable costs of providing water capacity to new or expanded connections to the water system. However, City staff's recommendation is for the City Council to adopt the proposed, reduced water capacity fees ("Water Capacity Fees"), which limit cost recovery for capacity in existing groundwater facilities available to serve new or expanded connections to the water system.

Based on BWA's findings, the Administration recommends the City transition to these citywide Water Capacity Fees, which will be applied uniformly and consistently to all new or expanded connections to the City's water supply system, regardless of the geographic location of the development within the City's water service area. The Water Capacity Fees will recover an equitable and proportionate share of water supply facility costs that benefit new or expanded connections to the water supply system.

Table 1 shows a fee schedule with the proposed Water Capacity Fees. The fees for each meter size are based on the amount of estimated water system capacity needed to serve that meter size. Most new single family homes are served with by a 1-inch meter and would be assessed a Water Capacity Fee of \$4,246. For reference purposes only, the max fee initially calculated by BWA was \$6,343 for a 1-inch meter, which is \$2,097 higher than the proposed Water Capacity Fees before Council today.

Meter Size	Meter Capacity Ratio	Annual Water Demand (hcf/year)	Water Capacity Fees
<b>Capacity Fee Unit Cost, \$ per Hundred Cubic Feet, \$16.984</b>			
Up to ¾"	0.625	156	\$2,654
1"	1.00	250	4,246
1-1/2"	1.25	313	5,308
2"	2.50	625	10,615
3"	4.00	1,000	16,984
4"	6.25	1,563	26,538
6"	12.50	3,125	53,076

8"	60.00	15,000	254,763

## PROPOSED MUNICIPAL CODE AMENDMENTS

The adoption of the proposed Water Capacity Fee requires the City to amend the Municipal Code to repeal various water capacity related fees and replace them with a new Water Capacity Fee classification.

Specifically, staff proposes to repeal and delete the following fees from the Fresno Municipal Code (FMC): 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. The fees proposed for repeal are set forth in the revisions to the FMC in the proposed amendments, including the amendments to section 6-501 [definitions]; section 6-507, subdivisions (a)(1), (a)(5), (a)(6), (a)(7) and (a)(8); and sections 6-510 through 6-512 [repealing provisions regarding calculation of, and uses for, repealed fees]. (See Attachment 2, Section 8.)

The Water Capacity Fee is defined in section 6-501 and described in sections 6-507(a)(9) and 6-513 of the proposed amendments. (See Attachment 2, Section 8.) Section 6-513(a) of the proposed amendments describes the purpose of the proposed Water Capacity Fee as follows: "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 supply facilities required to serve new and expanded connections to the City water system."

Section 6-513(d) establishes a Water Capacity Fund and sets forth how funds will be allocated in subdivision (d)(3):

- a. 50-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 supply facilities to serve new or expanded connections to the City water system. The priority for applying this 50-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. 50-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 supply 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 supply 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, and constructing water supply facilities, or purchasing water supply sources, to accommodate new or expanded connections to the City water system.

(See Attachment 2, section 8.)

Section 6-513(d)(4) provides for the City to annually review and report on the Water Capacity Fund. (See Attachment 2, section 8.)

Section 6-513(f) sets forth the process by which a developer may seek reimbursement for the construction of a water supply facility, which the developer was required to construct, after acceptance by the City. (See Attachment 2, section 8.)

Section 6-513(g) explains how the City will handle the balances in the Urban Grown Management Funds and reimbursements due under the UGM regulations:

As of the date of this public hearing, fund balances remain in existing water-related UGM accounts created for water-related fee revenues. The existing fund balances shall remain in separately designated water-related UGM accounts to be used (i) for reimbursing developers that were required to construct water supply facilities as a condition precedent to approval of their development projects, and (ii) 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.

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 as described above.

In order to honor valid reimbursement agreements issued under the UGM Regulations, the City shall use revenues from the Water Capacity Fee Fund for reimbursements pursuant to the UGM Regulations. Funds made available 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.

(See Attachment 2, section 8.)

The proposed ordinance includes several other associated amendments, as reflected in Attachment 2, section 8.

## **NOTICE AND PUBLIC HEARING**

Pursuant to the Government Code (specifically, Gov. Code § 66016), the City provided notice of a public hearing regarding the proposed Water Capacity Fees, including by publication in The Business Journal on February 27, 2017, ten days prior to today's public hearing. In addition, this Staff Report, the proposed Ordinance and Resolution, and attachments were available as part of the City Council meeting Agenda at least 72 hours prior to the meeting in accordance with the Brown Act.

As described in the notice, at least ten 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.



## RECOMMENDATION

The City has conducted a technical, regulatory and financial analysis of the water supply facilities required to meet the water demands of new or expanded connections to the City's public water supply system through the year 2035. The analyses have considered the compliance requirements of the SGMA. Based on these analyses, the City has determined the existing UGM water-related capacity fees and treatment fees are insufficient to cover the costs of providing water capacity to new and expanded connections to the City's water system. Therefore, to comply with regulatory requirements of the SGMA, it is necessary for the City to repeal the UGM water-related capacity fees and treatment fees, and replace those fees with a single, citywide water capacity fee that will apply to all new or expanded connections to the City's water system.

The Administration recommends the Council of the City of Fresno hold a public hearing regarding the Water Capacity Fees, and, after considering comments and testimony and adopting the environmental findings set forth below, introduce the proposed Water Capacity Fees and amend the Fresno Municipal Code so the proposed Water Capacity Fees will be imposed in lieu of various water-related capacity fees, along with associated amendments.

## ENVIRONMENTAL FINDINGS

The Water Capacity Fee item is not a project pursuant to California Environmental Quality Act (CEQA) Guidelines section 15378. 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).)

The Water Capacity Fee program is intended to fund as-yet unknown, future projects and programs, which may include potential infrastructure related to growth. The proposed Water Capacity 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. Adoption of the Water Capacity Fee involves no commitment to any project which may result in a significant physical impact on the environment. Any activities, including infrastructure improvements, which may be funded by these Water Capacity Fees will be subject to future environmental review under CEQA, if applicable, prior to Council approval.

## LOCAL PREFERENCE

Local preference was not implemented because the proposed Bill and Master Fee Resolution amendment do not include an award of construction or services contract.

## FISCAL IMPACT

Approval of the proposed Water Capacity Fees will not impact the General Fund. Pursuant to Government Code, revenues generated by the Water Capacity Fees can only be used for the purpose for which the fees were collected. Revenues from Water Capacity Fees will be deposited in the Water Capacity Fund established for the purpose of financing the construction of water supply facilities and to reimburse developers for the construction of water supply facilities that are of proportional benefit to new and expanded connections to the City's water system.

### Attachments:

Water Capacity Fee Study (Attachment 1)

Bill for Introduction (Attachment 2)