



Water Capacity Fee Study

February 27, 2017



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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. 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 calculates *maximum allowable fees* that do not exceed the City's estimated reasonable cost of providing water capacity service to new development. The maximum fees are designed to recover a proportionate share of costs for a) existing and future groundwater and distribution system assets benefitting new development, 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 maximum 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.

From the maximum allowable fee calculation, the report then calculates *proposed reduced fees* that are designed to recover an equitable share of all future costs of facilities that benefit new development. The proposed reduced fees are "forward-looking" charges that exclude cost recovery for facilities that have already been paid for and instead limit the buy-in component for existing groundwater facilities to the proportionate share of outstanding future debt service payments for facilities that benefit new development. Other components of the fee calculation remain the same.

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

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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 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.

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 of water capacity fees;
- Develop an appropriate approach/methodology for updating the City's water capacity fees;
- Develop updated capacity fees that:
 - Recover costs for 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 the Government Code.

This report presents key findings and recommendations. The recommendations presented in this report were developed with substantial input from City staff.

Government Code

Section 66013 of the California Government Code 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 Government 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 B to this report.

Existing Water Capacity Fees

The City's current water capacity fees include a range of fees that vary widely by development area, with minimal 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 capacity 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 adequately recover 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.

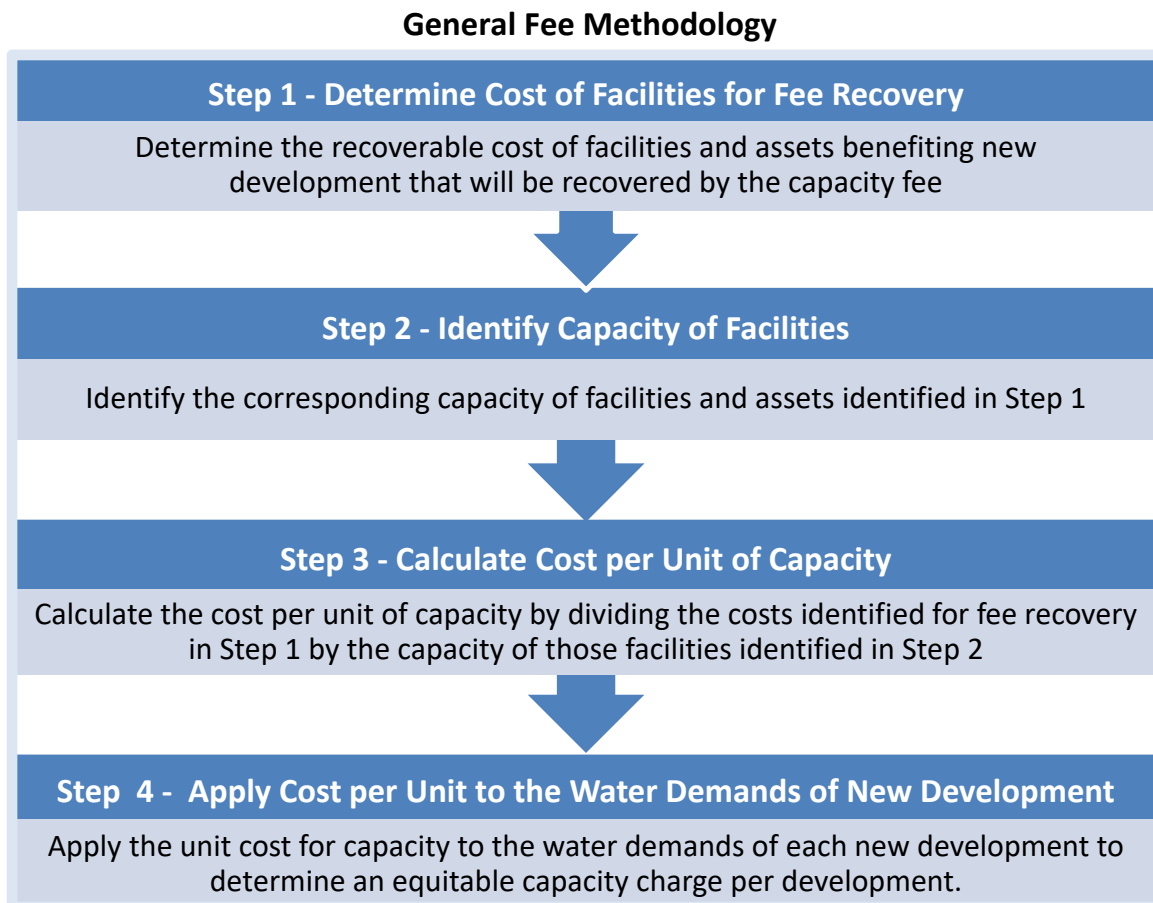
As part of the Recharge Fresno program, the City will be constructing a number of surface water system improvements designed to diversify the City's water supply and improve long-term reliability. The first phase of projects are designed to support the water supply and reliability needs of existing customers. 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 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 because they are required to serve 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.



Maximum Capacity Fee Approach

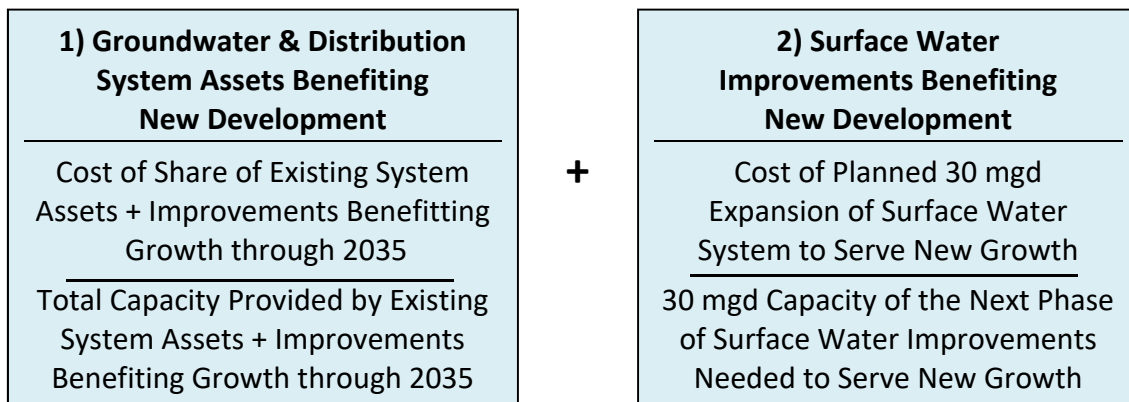
Based on evaluation of a number of approaches for calculating new water capacity fees and input from City staff, this report develops updated capacity fees that include two components as summarized below. The fees are designed to recover an equitable and proportional share of costs for both a) groundwater and distribution system facilities and assets benefitting projected growth through 2035, 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 2035 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 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, 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 2035. This approach ensures new development does not pay for facilities required to serve existing ratepayers. Costs for rehabilitation and replacement of existing assets are also 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. 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. Cost 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 were 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 both current and future customers. As shown on the table, approximately \$1.16 billion of groundwater and distribution system assets are included. The City's existing facilities are not adequate to meet all of the capacity needs of future development, but include some expansion capacity available to serve 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 groundwater and distribution capital improvements required to meet the City's long-term water supply needs and ensure a safe, reliable source of water 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 future projected water production 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. The most recent demand projections are shown in the City’s 2015 Urban Water Management Plan finalized June 2016, which projects that potable water demand will increase to 190,500 AF through 2035, corresponding with the planning horizon of the City’s most recent General Plan update.

The updated potable water demand projection of 190,500 AF equals approximately 81.3% 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 18.7% 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 \$456.2 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>190,500 AF</u>
Reduction AF	43,800 AF
Reduction %	18.69%
Groundwater & Distribution System Capital Improvement Costs	
Prior ³	\$561,119,789
Revised	<u>456,224,156</u>
Reduction \$	104,895,633
Reduction %	18.69%

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

2 Source: 2015 Urban Water Management Plan, Table 4-2, projected water use excluding groundwater recharge/storage/banking through 2035.

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

Table 4 subsequently allocates the \$456.2 million of reduced capital costs to existing customers vs. growth based on each group’s share of total potable water demand through 2035. Demand from existing customers is estimated based on actual potable water production in 2014 of 130,428 AF. This level of demand equals approximately 68.5% of the 190,500 AF of total potable demand used to determine the total costs of the system improvements needed to serve projected demand through 2035. The remaining 60,072 AF, or about 31.5% of the 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 corresponding share of groundwater and distribution system improvements. This results in an allocation of approximately \$144 million of groundwater and distribution system capital improvement costs to growth.

Table 4 - Allocation of Water Demand & Capital Costs to Existing Customers vs. Growth						
	Existing Customers		Growth		Total	
Water Demand (AF) ¹	130,428	68.5%	60,072	31.5%	190,500	100.0%
Capital Costs	\$312,359,077	68.5%	\$143,865,079	31.5%	\$456,224,156	100.0%

1 Source: 2015 Urban Water Management Plan, Table 4-1, 2014 total water production.

2 Source: 2015 Urban Water Management Plan, Table 4-2, projected water use excluding groundwater recharge/storage/banking through 2035.

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.

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	100%	23,000,000	0%	0
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>	<u>100%</u>	<u>82,500,000</u>	<u>0%</u>	<u>0</u>
TOTAL	429,100,000	100%	429,100,000	0%	0

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 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 future 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)	\$82,419,000
Regional Transmission Mains	<u>78,600,000</u>
TOTAL	161,019,000

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

Maximum Water Capacity Fee Calculation

Table 7 on the following page shows the maximum water capacity fee calculation. The maximum capacity fee totals \$25.371 per hcf of annual new demand including two fee components:

- A buy-in charge for the proportionate share of existing and future groundwater and distribution system assets benefitting growth through the General Plan horizon ending 2035. 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 2035 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 resulting in a fee component of approximately \$14.371 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 \$11.000 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 - Maximum Water Capacity Fee Calculation

1) GROUNDWATER & DISTRIBUTION SYSTEM ASSETS BENEFITTING GROWTH	
Buy-In for Existing Infrastructure Benefitting Growth	
Existing Assets for Fee Recovery (Table 1)	\$1,160,980,050
Conservative Est. of % of Existing System Capacity Available to Serve Growth ¹	<u>20%</u>
Subtotal	232,196,010
Capital Improvements Benefitting Growth	
Groundwater & Distribution Capital Improvements Through Buildout ²	\$143,865,079
Subtotal	\$376,061,089
Projected Increase in Demand Through Buildout (AF)²	60,072
Cost per Unit	
\$/AF	\$6,260
\$/HCF	\$14.371
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 ³	<u>\$161,019,000</u>
Subtotal	\$161,019,000
Expansion Capacity	
mgd	30
AF	33,604
Cost per Unit	
\$/AF	\$4,792
\$/HCF	\$11.000
TOTAL CAPACITY FEE PER UNIT	
Groundwater & Distribution System Assets	
<i>Average Cost per Unit Through Buildout (\$/hcf)</i>	\$14.371
Surface Water Improvements for Growth	
<i>Expansion Cost per Unit (\$/hcf)</i>	<u>\$11.000</u>
Total	\$25.371

1 Source: Conservatively estimated based on maximum annual historical production of 165,542 AF in 2002 less 2014 production of 130,428 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

2 Source: Table 4

3 Source: Table 6

Proposed Reduced Capacity Fees Approach

The maximum capacity fee calculation includes a buy-in component for the full value of existing groundwater facilities that are of proportional benefit to new development. That buy-in component includes costs related to existing groundwater facilities that were previously funded by the City. To exclude cost recovery for facilities that have already been paid for, the maximum fee calculation was used to develop a reduced capacity fee calculation that limits the buy-in component for existing groundwater facilities to the proportionate share of outstanding future debt service payments for facilities that benefit new development.

This proposed reduced fee eliminates most of the buy-in component for existing groundwater and distribution system assets that were previously oversized to provide capacity to serve growth. The proposed reduced fee instead limits the buy-in component of the maximum allowable fee to 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 development. Hence, the reduced fee is a forward-looking fee that only recovers future costs for existing groundwater facilities that are of proportional benefit to new development.

Both fee approaches comply with the Government Code and do not exceed the City's estimated reasonable costs of providing water capacity services to new development. However, City staff's recommendation is for the City Council to adopt the proposed reduced capacity fee.

2010 Bond-Funded Projects Benefitting Current & Future Customers

Table 8 shows a list of capital projects funded by the City's 2010 Water System Revenue Bonds that have capacity to serve growth.

Table 8 - 2010 Bond-Funded Projects Benefitting Current & Future Customers	
<u>Bond-Funded Project</u>	<u>Project Cost</u>
Water Main Extensions	\$1,501,224
City Recharge Basins	255,124
T-3 (2MG Tank in SE Fresno)	18,158,922
SE Fresno Transmission Pipeline	37,252
T-4 Downtown Tank and Well	2,021,683
W. California Water Main	596,865
Downtown Water Supply Main	8,640,323
Total	31,211,393

Source: City of Fresno Public Utilities Department.

As shown on Table 9 on the following page, these improvements accounted for approximately 24.7% of the total projects funded by the 2010 bonds.

Table 9 - Project Cost Allocation for 2010 Water Bonds	
2010 Bond Project Funding	
Total 2010 Bond Project Fund Deposit	\$126,382,369
Projects Benefitting Existing Customers & Growth Through Buildout	31,211,393
% of Total	24.7%

As such, 24.7% of future 2010 Bond debt service payments are allocated for fee recovery as shown on Table 10. These debt service payments are discounted back to current dollars resulting in a present value of approximately \$40.3 million for future bond payments associated with capital improvements that benefit both existing customers and growth.

Fiscal Year	Debt Service*	Applicable %	Applicable		Present Value
			Debt Service	Period	(Discounted at 3%)
2017/18	\$12,012,498	24.7%	\$2,966,607	0	\$2,966,607
2018/19	12,010,298	24.7%	2,966,063	1	2,879,673
2019/20	12,015,886	24.7%	2,967,443	2	2,797,100
2020/21	12,082,336	24.7%	2,983,854	3	2,730,649
2021/22	12,086,136	24.7%	2,984,792	4	2,651,949
2022/23	12,082,436	24.7%	2,983,879	5	2,573,920
2023/24	12,085,861	24.7%	2,984,724	6	2,499,660
2024/25	8,314,836	24.7%	2,053,432	7	1,669,628
2025/26	8,312,033	24.7%	2,052,740	8	1,620,452
2026/27	8,312,048	24.7%	2,052,744	9	1,573,257
2027/28	8,314,458	24.7%	2,053,339	10	1,527,877
2028/29	8,313,841	24.7%	2,053,186	11	1,483,266
2029/30	8,314,985	24.7%	2,053,469	12	1,440,262
2030/31	8,243,277	24.7%	2,035,760	13	1,386,253
2031/32	8,112,565	24.7%	2,003,479	14	1,324,536
2032/33	8,050,951	24.7%	1,988,263	15	1,276,190
2033/34	8,050,424	24.7%	1,988,133	16	1,238,939
2034/35	8,053,929	24.7%	1,988,998	17	1,203,377
2035/36	8,050,808	24.7%	1,988,228	18	1,167,874
2036/37	8,050,839	24.7%	1,988,235	19	1,133,863
2037/38	8,053,367	24.7%	1,988,860	20	1,101,183
2038/39	8,052,732	24.7%	1,988,703	21	1,069,026
2039/40	<u>8,053,496</u>	24.7%	<u>1,988,892</u>	22	<u>1,037,988</u>
Total	215,030,040		53,103,823		40,353,528

* Debt Service net of Refundable Credit for 2010 Taxable Series A-2 (Build America Bonds).

Proposed Reduced Capacity Fee Calculation

Table 11 shows the proposed reduced fee calculation. The only difference between the maximum fee calculation and the proposed reduced fee calculation is that the reduced fee limits the buy-in component for existing assets benefitting growth to the proportionate share of the remaining, unpaid costs for these facilities. The proposed reduced fee includes cost recovery for a proportionate share of the present value of 2010 Bond debt service associated with improvements benefitting new development, but excludes cost recovery for facilities that were previously funded. This results in a substantial reduction to the buy-in component of the fee and results in an approximately 33% reduction to the total fee calculation. With the proposed reduced fees, the underlying unit fee decreases from \$25.371 per hcf under the maximum fee calculation, to \$16.984 per hcf.

Table 11 - Proposed Reduced Water Capacity Fee Calculation

1) GROUNDWATER & DISTRIBUTION SYSTEM ASSETS BENEFITTING GROWTH	
Buy-In for Existing Infrastructure Benefitting Growth	
Buy-in for Previously-Funded Infrastructure with Capacity to Serve Growth	Excluded
Present Value of 24.7% of Future 2010 Water Bond Payments ¹	<u>\$40,353,528</u>
Subtotal	\$40,353,528
Share Allocable to Growth % ²	31.5%
Share Allocable to Growth \$	\$12,725,024
Capital Improvements Benefitting Growth	
Groundwater & Distribution System Capital Improvements ²	\$143,865,079
Subtotal	\$156,590,103
Projected Increase in Demand Through Buildout (AF)²	60,072
Cost per Unit	
\$/AF	\$2,607
\$/HCF	\$5.984
2) SURFACE WATER IMPROVEMENTS FOR GROWTH	
Expansion Capacity (Oversizing) of 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 ³	<u>\$161,019,000</u>
Subtotal	\$161,019,000
Expansion Capacity	
mgd	30
AF	33,604
Cost per Unit	
\$/AF	\$4,792
\$/HCF	\$11.000
TOTAL CAPACITY FEE PER UNIT	
Groundwater & Distribution System Assets	
<i>Average Cost per Unit Through Buildout (\$/hcf)</i>	\$5.984
Surface Water Improvements for Growth	
<i>Expansion Cost per Unit (\$/hcf)</i>	<u>\$11.000</u>
Total	\$16.984

1 Source: Tables 8-10

2 Source: Table 4

3 Source: Table 6

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 set 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.
- **2015 Urban Water Management Plan** – The 2015 UWMP projects single family residential water demand of 91,200 AF in 2035 (as shown on Table 4.4 of the 2015 UWMP). The 2015 UWMP also projects a population increase from 525,575 in 2015 to 753,128 in 2035, equal to an increase of approximately 43.3%. Applying this increase proportionally to the number of single family residential water connections results in an increase of single family connections from 113,510 in 2015 (as shown on Table 3-1 of the UWMP) to 162,655 in 2035. Dividing the projected single family demand of 91,200 AF by projected

single family connections, results in a projected single family residential water demand of a little over 244 hcf in 2035.

- **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 Reduced Water Capacity Fees

Table 12 shows a fee schedule with the proposed reduced 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 by 1-inch meters and would be assessed a water capacity fee of \$4,246. Fees for larger meters are proportionally higher corresponding with the higher level of water system capacity needs for serving each meter size.

Table 12 - Proposed Reduced Water Capacity Fees			
Meter Size	Meter Capacity Ratio*	Annual Water Demand (hcf/year)	Water Capacity Fee
Capacity Fee Unit Cost (\$ per hcf)			\$16,984
Water Capacity Fees			
Up to 3/4"	0.625	156.25	\$2,654
1"	1.00	250.00	4,246
1-1/2"	1.25	312.50	5,308
2"	2.50	625.00	10,615
3"	4.00	1,000.00	16,984
4"	6.25	1,562.50	26,538
6"	12.50	3,125.00	53,076
8"	60.00	15,000.00	254,763

* 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.*

For reference purposes only, the maximum water capacity fee calculation of \$25.371 per hcf of new annual water demand, shown on Table 7, would have resulted in a fee of \$6,343 for a typical new single family home served by a 1-inch meter. The proposed reduced water capacity fee of \$4,246 for a 1-inch meter is \$2,097 lower than the maximum fee calculation for that meter size.

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 meter 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 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 existing developer reimbursements, BWA recommends that a portion of future water capacity fees collected in UGM areas – equal to the amount of fees that would have been collected under the City’s current fee structure – be set aside and used to pay funding obligations for existing developer agreements.

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.

Future Fee Adjustments

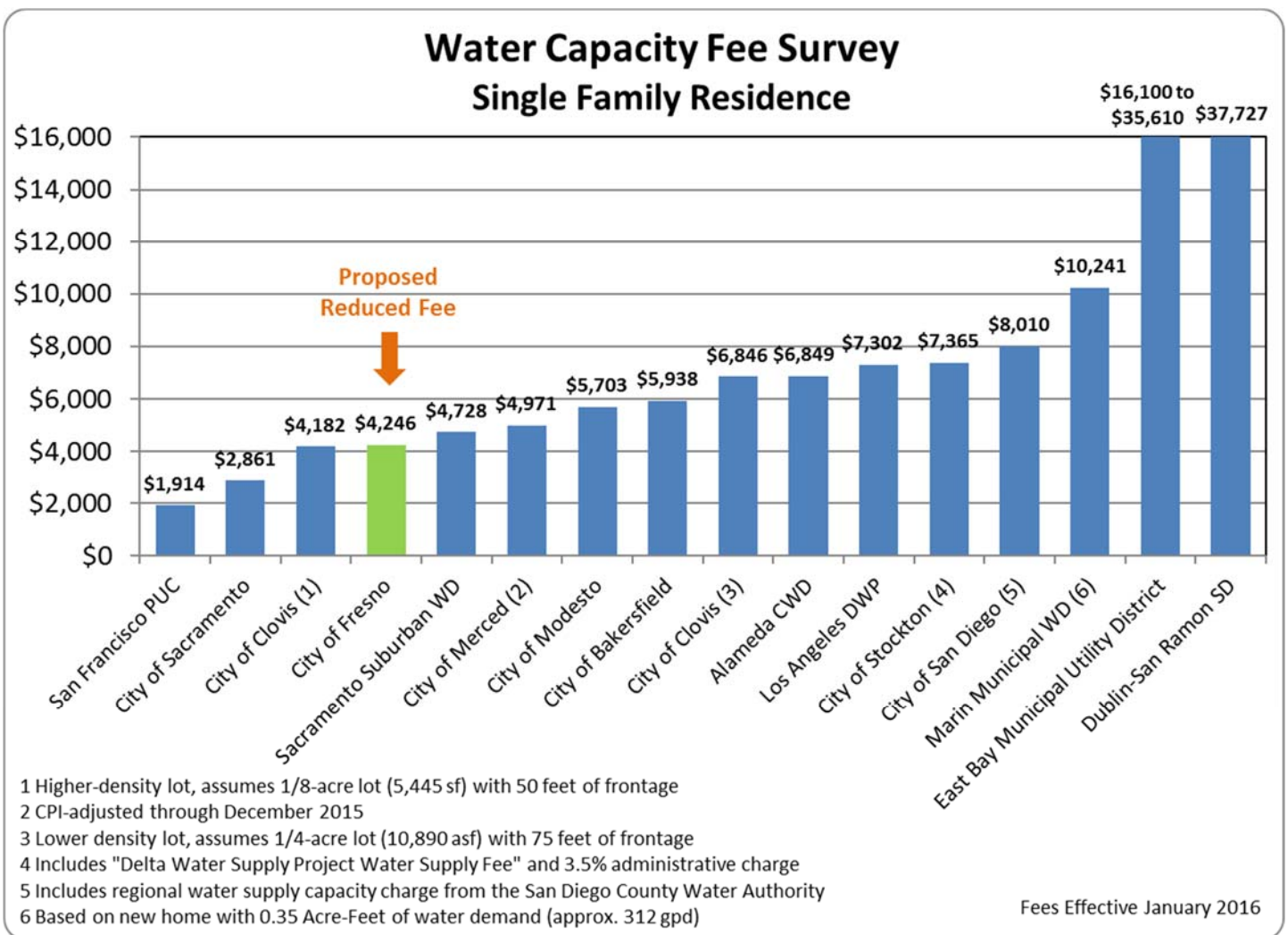
In future years, BWA recommends the City update its capacity fees annually or periodically by adjusting the fees by the change in the ENR Construction Cost Index (20-Cities Average) to account for future construction cost inflation. The fee adjustment should be based on the change in the ENR index from 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 reduced water capacity fees for a typical new single family residential connection in 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 reduced fee is in the lower range compared to the other agencies surveyed.



Examples of Current vs. Proposed Fees

Table 13 compares the City's current fees for four developments to the proposed reduced water capacity fees. Under the proposed fees, a single, consistent system of water capacity fees would be applied uniformly to all future development within the City's service area, regardless of where the development occurs.

Table 13 - Examples of Current vs. Proposed Reduced 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	
Reduced 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"	\$4,246	95	\$403,370	1	\$4,246	94	\$399,124	1	\$4,246
1-1/2"	5,308							1	\$5,308
2"	10,615			3	\$31,845			3	\$31,845
3"	16,984								
4"	26,538								
6"	53,076								
8"	254,763								
Fire Service	No Capacity Fee			2	no charge			2	no charge
Frontage Charge (no change)			\$8,002		\$6,208		\$11,265		\$7,209
Total Charges with Reduced Fees			\$411,372		\$42,299		\$410,389		\$48,608

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.)
