

**TO:** James L. App, City Manager  
**FROM:** Doug Monn, Public Works Director  
**SUBJECT:** Adoption of Water Capacity Charges  
**DATE:** August 19, 2008

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**NEEDS:** For the City Council to adopt by resolution the proposed water capacity charges (i.e. water connection fees).

**FACTS:**

1. On July 1, 2008, the City Council considered proposed water capacity charges, along with alternative water consumption rate structures, and directed staff to return with a proposed resolution enacting the water capacity charges. The Council is considering changes to water consumption rates in a separate action.
2. Water capacity charges are imposed on new development to help pay for existing and/or new public facilities that are of proportional benefit to those being charged, whereas water consumption rates generate revenues to cover the costs of providing water service to existing customers.
3. Improvements to the City water system are needed, primarily to improve water quality and supply reliability, supplement the limited ground water supply, and also to provide adequate distribution, staffing, and water storage capacity for the existing community and new development.
4. The planned improvements, as outlined in the 2007 Integrated Water Resources Plan and Capital Improvement Program, amount to approximately \$210 million over the coming decade, including the Nacimiento Water Project supply and treatment capital costs, as well as other distribution system capital costs plus financing and operations costs.
5. On January 15, 2008, Council directed that studies of water consumption rates and water connection fees (water capacity charges) be prepared in light of both the Nacimiento Water Project and other planned water system improvements. The firm of HF&H Consultants, LLC, was retained to analyze the City's revenues and costs with respect to the water capacity charges; the firm of Kennedy/Jenks Consultants analyzed water consumption rates.
6. The revenues generated by the existing connection fees (water capacity charges) are inadequate to cover the costs of new development's share of the existing and future facilities set forth in the Integrated Water Resources and Capital Improvement Plan.
7. Based on HF&H's analysis, future facilities such as the Nacimiento Water Project pipeline and new water treatment plant will have the capacity to serve both existing and future customers. Therefore the proposed capacity charges are based on the total cost of providing that capacity divided among the total number of equivalent meter units at build-out, to ensure that new development would pay its proportionate share of the capacity being provided. In addition, these proposed capacity fees include the cost of obtaining additional water from Nacimiento for new development.

8. The City wishes to ensure the ability to produce water to meet peak demands, extend water reliability, and improve water quality. A phased connection fee will provide the necessary funding to provide a reliable, well-maintained, infrastructure system and reliable water resource to serve the needs of future customers; water consumption rates will provide the funds necessary to assure the same benefits for existing customers.

**ANALYSIS &  
CONCLUSION:**

Since the July 1<sup>st</sup> Council meeting, staff met with representatives of the Homebuilders Association of the Central Coast and responded to their comments. Relevant correspondence is attached.

The water capacity charges are based on new development's share in the cost of the existing community water system, future facilities such as the City's Nacimiento Water Supply Project entitlement and the planned water treatment plant; share in conveyance costs, and additional future water supply needed to support growth.

The following table lists the proposed capacity charges by connection (meter) size:

**Water Connection and Capacity Charges**

Connection Size	Current Charge as of July 1, 2008	Charge as of <sup>1</sup>		
		January 1, 2009 <sup>2</sup>	January 1, 2010 <sup>3</sup>	January 1, 2011 <sup>4</sup>
5/8" and 3/4"	\$9,119	\$17,352	\$21,686	\$28,654
1"	\$15,226	\$28,921	\$36,143	\$47,757
1-1/2"	\$30,364	\$57,841	\$72,286	\$95,513
2"	\$48,601	\$92,546	\$115,657	\$152,822
3"	\$97,292	\$173,524	\$216,857	\$286,540
4"	\$152,002	\$289,206	\$361,428	\$477,567
6"	\$303,914	\$578,413	\$722,856	\$955,135
8'	\$486,280	\$925,460	\$1,156,569	\$1,528,216
10"	\$699,100	\$1,330,349	\$1,662,568	\$2,196,810

<sup>1</sup> Beginning on January 1, 2010 and each January 1 thereafter, rates shown in the table shall be adjusted based on the change in the Engineering News Cost Record construction cost index: (or equivalent publication) as reported for the twelve month period ending October 31st of the prior year.

<sup>2</sup> Water capacity charges do not include the water treatment plant and additional future water supply components.

<sup>3</sup> Charges include the water treatment plant component.

<sup>4</sup> Charges include additional future water supply.

Details regarding the derivation of the proposed water capacity charges are addressed in the attached report, "Water Capacity Charge Study - Final" by HF&H Consultants dated August 2008.

Several aspects of the study have been revised and refined since the publication of the draft dated June 2008. For one, debt service is not impacted by inflation. Secondly, the capital improvement program was updated to include land acquisition of a storage tank site. Additionally a proportional share of the central support system for a remote read meter system project (software and computer equipment) was incorporated.

As for implementation of the water capacity charges, the following are recommended:

- a. That City Council approve and adopt the schedule of water connections fees (water capacity charges) reflect in the attached resolution as Exhibit 'A' August 19<sup>th</sup>, 2008, to become effective January 1, 2009.
- b. That beginning January 1, 2010 and each January 1 thereafter, the fees shown on Exhibit A shall be adjusted based on the change in the Engineering News Cost Record construction cost index (or equivalent publication) as reported for the twelve month period ending October 31st of that year. Further, that said water connection fees (water capacity charges) shall be reviewed no less than biennially (every two years) in conjunction with the update of the City's four-year financial plan to ensure that the water connection fees (water capacity charges) then in existence do not exceed the estimated reasonable cost of providing the public facilities and services for which they are imposed.
- c. That building permits approved and obtained by December 31, 2008 shall be subject to the capacity charges currently in effect, and those obtained on or after January 1, 2009 shall be subject to the capacity charges set forth in Exhibit A of the proposed resolution. Applications shall be processed on a first-come, first-served basis, in accordance with the City's standard policies.

**POLICY**

**REFERENCE:** General Plan, Economic Strategy; Urban Water Management Plan; Integrated Water Resource Plan; Nacimiento Water Project Entitlement Contract.

**FISCAL IMPACT:** The need to implement new water capacity charges to increase revenues is directly related to the requirement to make new development pay for its share of the Nacimiento bond debt payments, treatment plant construction, and other conveyance system improvements. If revenues through new capacity charges to pay for new development's share of those costs are not sufficient, the General Fund will ultimately have to make up any shortfall. The General Fund funds operations such as, library services, children's and senior programs, parks, as well as police and fire, and other City amenities. Serious budget cuts and significant reductions in some programs would result.

- OPTIONS:**
- a. Approve Resolution No. 08-XX establishing the Water Capacity Charges (i.e. water connection fees).
  - b. Amend, modify, or reject the above option.

Attachments

1116749v8 33444/0003

- 1) "Water Capacity Charge Study - Final" dated August 2008, prepared by Hilton, Farnkopf & Hobson Consultants
- 2) Correspondence with Homebuilders Association of the Central Coast
- 3) Resolution No. 08-xx



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August 7, 2008

Mr. Jim App  
City Manager  
City of Paso Robles  
1000 Spring Street  
Paso Robles, CA 93446

Subject: **Water Capacity Charge Study: Final Report**

Dear Mr. App:

With this letter I would like to submit our final report on our analysis of the City of Paso Robles' water capacity charge. This report describes the study background, approach, analysis, and summarizes our recommendations; a copy of the model is attached. This report also incorporates modifications that address certain concerns raised by the Home Builder's Association of the Central Coast.

## **1.0. INTRODUCTION**

The scope of this study was to update the City's water capacity charge based on the best available data and in conjunction with an update of the City's water rates. In this way, the same set of assumptions concerning capital costs and growth rates were used in both studies.

## **2.0. BACKGROUND**

The City charges new development a one-time capacity charge at the time that the connection is made to the City's water facilities. The purpose of the capacity charge is to ensure that development pays its fair share of the costs associated with providing capacity. Capacity charges are a type of development impact fee that public agencies may impose as a condition of development under the authority of California Government Code Section 66000 *et seq.*, the Mitigation Fee Act. The Act requires that "those fees or charges shall not exceed the estimated reasonable cost of providing the service"<sup>1</sup>. Because the Act does not prescribe a formula or procedure for determining

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<sup>1</sup> Mitigation Fee Act Section 66013(a).

"the estimated reasonable cost," it is the responsibility of the analyst to employ a method that yields a reasonable result.

The courts generally regard fees as being reasonable if they are not capricious, arbitrary, or discriminatory. Fees are capricious if there is no factual basis for the underlying data used to make the calculations. Fees are arbitrary if there is no logical rationale for choosing among alternatives. Fees are discriminatory if they disproportionately allocate costs to one class of service to the benefit of another class. The purpose of this report is to document that the conditions have been met to establish that the City's water capacity charge is reasonable.

Figure 1 summarizes the City's current capacity charges, which became effective July 1, 2008. Residential connections pay the fees shown in Table A. For non-residential connections, the applicable fee is the higher of Table A or Table B. It is the City's practice to conduct studies to periodically update its capacity charge calculations with the latest capital costs. The capacity charges are escalated annually between studies to reflect inflationary cost increases. The current fees reflect a study conducted in 2004<sup>2</sup>, and have been increased subsequently by the increase in the Engineering News Record's (ENR) Construction Cost Inflation index.

Figure 1. Current Capacity charges (Effective July 1, 2008)

<i>Table A</i>		<i>Table B</i>	
Type of Development	Fee	Meter Size	Fee
Single-Family Residence	\$9,119	3/4"	\$9,119
Multi-Family Residence	\$7,230 per unit	1"	\$15,226
Mobile Home Park	\$9,119 per space	1 1/2"	\$30,364
Mobile Home Subdivision Lot	\$9,119 per lot	2"	\$48,601
Commercial/Industrial	\$9,119 + \$626 per unit	3"	\$97,292
Hospital/Convalescent	\$9,119 + \$626 per room	4"	\$152,002
Motel/Hotel	\$9,119 + \$626 per room	6"	\$303,914
School	\$9,119 + \$626 per classroom	8"	\$486,280
		10"	\$699,100

<sup>2</sup> Foresight Consulting Services. This study also derived water capacity charges based on equivalent dwelling units; water capacity charges are now charged based on the size of the water service connection.

### **3.0. APPROACH AND ANALYSIS**

The approach used to calculate the water capacity charges derives the capacity charges that represent the average unit cost of facilities required to provide capacity for growth. The average cost is determined by dividing the cost of all existing and future facilities by the associated units of capacity. In this way, all customers participate equally in the system capital.

This approach generally follows the "buy-in" or "average cost" methodology, which is one of the two most common methods for calculating capacity charges, the other being the "incremental cost" methodology. By using the buy-in methodology, it was not necessary to determine the portion of facilities attributable to growth, as is required when using the incremental cost methodology. Whereas the buy-in method is based on the average cost of capacity, which is the same for existing and new connections, the incremental cost method is based on the current increment of cost, which could be arbitrarily high or low compared with the average cost, and ignores capacity in existing facilities that is used by growth.

Existing facilities are included in the capacity charge calculation because they provide capacity for growth. The existing facilities constitute a network with capacity for both existing rate payers as well as capacity for growth. Existing facilities are included in the capacity charge calculation so that growth reimburses existing rate payers for the investment made on behalf of growth. Future facilities were also included in the capacity charge calculation whether they are required by existing or future customers. These future facilities will be integral with the existing facilities.

To make the calculation, existing and future facilities were identified, their values determined, the capacity associated with the facilities determined, and, by dividing the values by the corresponding capacity, the unit cost of capacity charge was calculated. A spreadsheet model was prepared to make the calculations. Each of these steps is described below.

#### **3.1. Facilities Included in Calculation**

An inventory of the existing and future facilities based on fixed asset records, facilities master plans, and related engineering data was compiled. It is likely that the inventory of existing facilities is not comprehensive and that facilities exist that are undocumented and have thus been omitted. Most of the existing facilities constitute the transmission pipelines, which are well documented. All of these facilities are known to exist and constitute a city-wide network of pipelines that provide capacity for growth. Existing

wells and distribution system reservoirs are also included. Again, these facilities are an integral part of the water supply network that provides capacity for growth.

The future facilities are derived from the water master plan and related documents. These facilities will provide capacity for growth as well as benefit existing rate payers by improving reliability and upgrading facilities between now and build-out as documented in the city's general plan.

The combination of the existing and future facilities represents all water system infrastructure known at this time that will be required to meet demands at build-out. There will no doubt be additional facilities that should be included in future updates. There will also be other facilities that are currently projected for future construction that are modified or replaced by other facilities. Changes like this can be reflected in future updates. We note that City staff have reviewed the list of existing and future facilities to ensure that there are no existing facilities that are also included in the future facilities.

### **3.2.1. Value of Existing Facilities**

It is our understanding that none of the existing facilities was funded from debt. Hence, there are no financing costs to include in valuing the facilities. The historical cost of existing wells and reservoirs was escalated to 2008 using the Engineering News Record construction cost index.

The value of transmission mains was derived from an inventory of the length of pipe of each diameter. The cost was determined by multiplying the number of linear feet of each size of pipe by the cost per linear foot. The resulting value of the transmission mains represents the estimated construction cost. By using historic book values and current construction costs, it is possible that other indirect overhead costs have been omitted. For example, land acquisition, legal, management, and similar project overhead may not be reflected in the historical costs or in the unit costs used in this report for estimating current construction cost.

The resulting value of existing facilities reflects full replacement cost; depreciation was not deducted. Deducting depreciation from the replacement cost is a valuation technique appropriately used in determining the fair market value of utilities for purposes of selling the systems. In selling a system, a buyer will be unwilling to purchase used facilities at today's cost of new facilities. Deducting depreciation to determine fair market value is therefore necessary to attract buyers.



Some analysts deduct depreciation when calculating capacity charges. In our opinion, this practice confuses fair market value with cost reimbursement. By paying capacity charges, development does not acquire any ownership interest in the facilities. Paying a capacity charge reimburses rate payers for costs they incurred in providing surplus capacity for growth at such time as growth occurs. Hence, the capacity charge recovers costs, but does not purchase capacity. In calculating capacity charges, using depreciated replacement cost undervalues the assets and does not fully recover growth's share of costs.

As part of the reimbursement of costs, it is appropriate to include a risk premium. Rate payers do not have to provide surplus capacity. When they do, they do so with no certain payback. When new facilities are debt financed, as is the City's case, rate payers assume the risk of servicing growth's share of the debt service when growth slows down. In return, rate payers should receive a return on their investment to provide an incentive for fronting the cost for growth. Using full replacement cost recognizes the total investment made by rate payers on behalf of growth and provides a premium only insofar as the value of the rate payer investment is not eroded by deducting depreciation.

The investment in capacity made by rate payers is appropriately valued at replacement cost to give effect to the appreciation in value since the original cost was incurred, as well as the value of subsequent maintenance. The value of maintenance is reflected in replacement cost because, since their construction, all facilities have been maintained, not just the portion used by existing rate payers. Through maintenance, the capacity available to growth provides service indistinguishable from facilities constructed today.

In the end, the capacity charge is intended to reimburse rate payers for costs they incur to provide capacity for growth. Depreciation is one of those costs. The water rates are set to cover the cost of depreciation. Depreciation needs to be included in the capacity charge to ensure that rate payers are fairly reimbursed.

### **3.2.2. Value of Future Facilities**

The cost of future facilities was based on current engineering cost estimates and escalated to the projected date of construction. It is our understanding that these cost estimates include all associated engineering and construction costs but may not include the cost of City overhead. As such, the costs slightly underestimate the total system cost.

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The Nacimiento regional pipeline will be debt-financed and the City's obligation for bond payments commences in 2010. It was assumed that the cost of the Nacimiento water treatment plant would be debt-financed as well and that all other project costs would be funded on a pay-as-you-go basis. Financing costs were included in the value of these two debt-financed future facilities. The financing costs that were provided with the cost estimates include interest payments and issuance costs. The effect of including financing costs in the value of these two assets roughly doubles their value.

It was assumed that nearly all future facilities would be of common benefit to existing and future rate payers. By common benefit, we mean that their capacity provides for both existing and future rate payers. There is one exception, however: The cost of future water supply in addition to the City's current 4,000 acre-feet of Nacimiento water was considered of benefit to growth only.

The inventory of future facilities in our draft report dated June 25, 2008, was reviewed and updated by Public Works Staff. For example, the original calculations included a \$4.7 million budget associated with the remote meter read program in FY 10/11. The City agrees that the portion of this budget associated with the centralized system supporting remote reading should be shared between existing customers and new development. The portion associated with meter replacement benefits only existing customers. The result is that only \$2.9 million of that particular program is included in the cost sharing calculations.

Also, a water storage tank site acquisition was added to the capital improvement program. This added \$1.7 million in FY 09/10. The revised calculations also reflect an inflationary adjustment, added only to the currently existing facilities, beginning in Year 4.

The net effect of the Public Works review was a slight reduction in the capacity charge as compared to the June 25<sup>th</sup> calculation.

**3.3. Projected Equivalent Meter Units**

Figure 2 shows the derivation of the total and growth-related equivalent meter units (EMUs<sup>3</sup>) at build-out. The projection is based on an extrapolation of population figures from the City's General Plan. The data indicate the distribution of EMUs for each meter size in 2008, the estimated EMUs in 2025, and the incremental EMUs for each meter size. The projection shows an increase in EMUs from 12,106 to 20,716, an increment of growth of 8,610 EMUs.

**Figure 2. Equivalent Meter Units**

(1) Meter Size	(2) EMU Multiplier <sup>1</sup>	(3) 2008		(5) 2025		(7) Growth Increment	
		(3) Accounts <sup>2</sup>	(4) EMUs (2)*(3)	(5) Accounts (3)*% Incr.	(6) EMUs (2)*(5)	(7) Accounts (5)-(3)	(8) EMUs (6)*(4)
5/8" & 3/4"	1.00	8,961	8,961	15,342	15,342	6,381	6,381
1"	1.67	503	838	861	1,435	358	597
1 1/2"	3.33	144	480	247	823	103	343
2"	5.33	215	1,147	368	1,963	153	816
3"	10.00	24	240	41	410	17	170
4"	16.67	18	300	31	517	13	217
6"	33.33	1	33	2	67	1	33
8"	53.33	2	107	3	160	1	53
10"	76.67	0	0	0	0	0	0
12"	116.67	0	0	0	0	0	0
		9,868	12,106	16,895	20,716	7,027	8,610
<b>Population:</b>	1/1/2008	29,934	<sup>3</sup>				
	2025	51,251	<sup>4</sup>				
	Increase	21,317					
	Increase	71%	Used to escalate accounts in column 5 above				
1. AWWA <i>Water Meters - Selection, Installation, Testing, and Maintenance</i> 2. City of Paso Robles; CY 2007 water usage by class data; does not include unbillable accounts. 3. Source: California Department of Finance, E-4 Population Estimates, May 2008. 4. Buildout to 2025 is from City Council resolution adopting new general plan buildout population of 44,000 plus potential for 7,251 residents beyond General Plan associated with potential annexations and/or General Plan amendments.							

<sup>3</sup> The capacity of a 3/4" meter is considered one meter unit. The capacity of larger meters, divided by the capacity of a 3/4" meter, equals a ratio referred to as the "EMU multiplier." As shown in Figure 2, a 1" meter equals 1.67 EMUs. The EMU multipliers are taken from American Water Works Association standards.

**3.4.1. Capacity Charges**

The capacity charge is calculated by dividing the value of the existing and future facilities by the associated units of capacity. Figure 3 summarizes this calculation for each future and existing facility.

**Figure 3. Facility Costs and Capacity Charge**

	Project Costs			Capacity Charge Components		
	Cash Funded	Debt Funded <sup>1</sup>	Cost in 2008 Dollars	Common Benefit (20,716 EMUs)	Growth-Only Increment (8,610 EMUs)	Total Capacity Charge Per EMU
<b>Existing Facilities</b>						
Supply	\$3,033,386	\$0	\$3,033,386	\$146	\$0	\$146
Treatment	\$0	\$0	\$0	\$0	\$0	\$0
Conveyance	\$174,168,967	\$0	\$174,168,967	\$8,407	\$0	\$8,407
<b>Existing Facilities Total</b>	<b>\$177,202,353</b>	<b>\$0</b>	<b>\$177,202,353</b>	<b>\$8,554</b>	<b>\$0</b>	<b>\$8,554</b>
<b>Future Facilities</b>						
Supply						
Nacimiento Regional Pipeline	\$0	\$144,190,000	\$144,190,000	\$6,960	\$0	\$6,960
Other	\$7,371,372	\$0	\$7,371,372	\$356	\$0	\$356
	\$7,371,372	\$144,190,000	\$151,561,372	\$7,316	\$0	\$7,316
Treatment						
Nacimiento Treatment Plant	\$0	\$89,770,000	\$89,770,000	\$4,333	\$0	\$4,333
Other	\$6,843,741	\$0	\$6,843,741	\$330	\$0	\$330
	\$6,843,741	\$89,770,000	\$96,613,741	\$4,664	\$0	\$4,664
Conveyance	\$23,870,121	\$0	\$23,870,121	\$1,152	\$0	\$1,152
Additional Future Water Supply	\$60,000,000	\$0	\$60,000,000	\$0	\$6,968	\$6,968
<b>Future Facilities Total</b>	<b>\$98,085,234</b>	<b>\$233,960,000</b>	<b>\$332,045,234</b>	<b>\$13,132</b>	<b>\$6,968</b>	<b>\$20,100</b>
<b>All Facilities Total</b>	<b>\$275,287,587</b>	<b>\$233,960,000</b>	<b>\$509,247,587</b>	<b>\$21,686</b>	<b>\$6,968</b>	<b>\$28,654</b>

1. Costs comprised of all principal and interest to be paid over the 30-year term of the bond.

The project costs are itemized into cash-funded and debt-funded components (the cost for the debt-funded component comprises cumulative principal and interest payments). The capacity charge is itemized into the components that are of common benefit and of benefit to growth alone. The result shows a capacity charge of \$28,654 per EMU. Figure 4 itemizes the capacity charge for each meter size.

**Figure 4. Proposed Capacity Charges by Meter Size**

<b>Meter Size</b>	<b>Maximum Capacity<sup>1</sup></b>	<b>Equivalent Meter Units</b>	<b>Capacity Charge<sup>2</sup></b>
5/8" & 3/4"	30	1.00	\$28,654
1"	50	1.67	\$47,757
1 1/2"	100	3.33	\$95,513
2"	160	5.33	\$152,822
3"	300	10.00	\$286,540
4"	500	16.67	\$477,567
6"	1,000	33.33	\$955,135
8"	1,600	53.33	\$1,528,216
10"	2,300	76.67	\$2,196,810
12"	3,500	116.67	\$3,342,972

1. Rated maximum capacity in gallons per minute; Source: AWWA Water Meters -Selection, Installation, Testing, and Maintenance  
 2. Year 3 charges listed

Note that the proposed capacity charges are listed by meter size only. The City currently has two schedules of charges, one based on development type and the other based on service connection size. The industry standard for water capacity charges is to charge on the basis of meter size, not development type. Development type matters with sewer capacity charges because there is a difference in wastewater loadings among classes of development. With water capacity charges, however, capacity does not vary by development type. The capacity in a two-inch connection, for example, is the same regardless of what type of development uses the capacity.

**4.0. RECOMMENDATIONS**

The proposed capacity charges are significantly higher than the current charges. We recommend that the City phase in the new capacity charges over a three-year period, as shown in Figure 5.

**Figure 5. Phased-In Capacity Charges**

Meter Size	Proposed Charge as of:				
	1/1/2009	1/1/2010	1/1/2011	1/1/2012	1/1/2013
5/8" and 3/4"	\$17,352	\$21,686	\$28,654	\$29,124	\$29,621
1"	\$28,921	\$36,143	\$47,757	\$48,541	\$49,368
1 1/2"	\$57,841	\$72,286	\$95,513	\$97,082	\$98,736
2"	\$92,546	\$115,657	\$152,822	\$155,331	\$157,978
3"	\$173,524	\$216,857	\$286,540	\$291,245	\$296,208
4"	\$289,206	\$361,428	\$477,567	\$485,408	\$493,680
6"	\$578,413	\$722,856	\$955,135	\$970,817	\$987,361
8"	\$925,460	\$1,156,569	\$1,528,216	\$1,553,307	\$1,579,778
10"	\$1,330,349	\$1,662,568	\$2,196,810	\$2,232,878	\$2,270,930

Note: Fee phased in as described in *TJC Jul 1 08 Rate Study Conn Fee SR n Resol final Rev01*, page 5. Year 1 omits Nacimiento Water Treatment Plant and future supply; Year 2 omits future supply only; Year 3 includes all components; inflation on existing system valuation is applicable beginning in Year 4.

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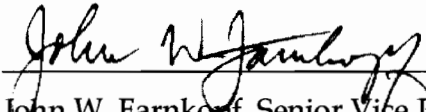
At the completion of the phase-in period, we recommend that the capacity charges be increased annually by escalating the cash-funded portion based on an appropriate construction cost index. The debt-funded portion is fixed and should not be escalated.

We also recommend maintaining an accounting of the capital expenditures so that, as future facilities are constructed, any variance in cost can be reflected in an updated capacity charge.

Please do not hesitate to call if you have any questions. Thank you for choosing HF&H to assist with this matter.

Very truly yours,

HILTON FARNKOPF & HOBSON, LLC

  
John W. Farnkopf, Senior Vice President  
Edmund Jones, Senior Associate

Attachment: Water Capacity Charge Model

	A	B	C	D	E	F	G
1		<b>City of Paso Robles</b>					
2		<b>Water Connection Fee Study</b>					
3		<b>Table 1 - Water System CIP Cost Allocation</b>					
4							
5							
6					<b>Year of Cost Estimate</b>	<b>Escalation Factor (Table 4)</b>	<b>Cost in 2008 Dollars</b>
7		<b>Future Projects</b>					
8		<b>Nacimiento Water Project</b>					
9		Nacimiento WTP	c.	\$89,770,000	2008	1.00	\$89,770,000
10		Nacimiento Regional Pipeline	c.	\$144,190,000	2008	1.00	\$144,190,000
11		Additional 4,000 AFY Nacimiento Entitlement	c.	\$60,000,000	2009	1.00	\$60,000,000
12		Subtotal - Nacimiento Water Project		\$293,960,000			\$293,960,000
13		<b>Wells</b>					
14		New Sherwood Well #11 Installation	a.	\$500,000	2008	1.00	\$500,000
15		Sherwood Well Arsenic Treatment System	a.	\$2,096,241	2008	1.00	\$2,096,241
16		Ronconi Filtration Relocation	a.	\$4,747,500	2008	1.00	\$4,747,500
17		Annual Well Rehabilitation	a.	\$2,916,700	2008	1.00	\$2,916,700
18		New Well Drilling Program	a.	\$3,954,672	2008	1.00	\$3,954,672
19		Subtotal - Wells		\$14,215,113			\$14,215,113
20		<b>Tank, Booster Station and Metering Projects</b>					
21		FE7 - 21st Reservoir Construction	a.	\$10,321,353	2008	1.00	\$10,321,353
22		Acquire Water Tank Site	a.	\$1,669,538	2008	1.00	\$1,669,538
23		Water Tanks - Coating Repairs	a.	\$291,670	2008	1.00	\$291,670
24		W16 - Fire Pump & 8" Water Line at HP Booster Station	a.	\$253,221	2008	1.00	\$253,221
25		Remote Read Meter System	a.	\$2,935,603	2008	1.00	\$2,935,603
26		Water Meter Replacement	a.	\$332,724	2008	1.00	\$332,724
27		Subtotal - Tank, Booster Station & Metering		\$15,804,109			\$15,804,109
28		<b>Pipeline Improvements</b>					
29		W14 - 8" Water Line in Highland Park Zone	a.	\$343,784	2008	1.00	\$343,784
30		E4 - 12" Water Line in Miller Court	a.	\$202,676	2008	1.00	\$202,676
31		W13 - 8" Water Line in 15th Street	a.	\$90,673	2008	1.00	\$90,673
32		W17 - 12" Water Line in Nacimiento Lake Drive	a.	\$480,633	2008	1.00	\$480,633
33		W4 - 10" Water Line in 36th Street	a.	\$444,300	2008	1.00	\$444,300
34		W5 - 8" Water Line in 22nd Street	a.	\$76,995	2008	1.00	\$76,995
35		W6 - 10" Water Line in 22nd Street	a.	\$161,228	2008	1.00	\$161,228
36		W10 - 8" Water Line in Olive Street	a.	\$329,803	2008	1.00	\$329,803
37		W7 - 10" Water Line in 24th Street	a.	\$412,325	2008	1.00	\$412,325
38		W8 - 8" Water Line in Oak Street	a.	\$410,956	2008	1.00	\$410,956
39		W9 - 8" Water Line in 2nd Street	a.	\$307,826	2008	1.00	\$307,826
40		W1 - 12" Water Line in Spring Street	a.	\$1,846,387	2008	1.00	\$1,846,387
41		W2 - 8" Water Line in Oak Street	a.	\$398,917	2008	1.00	\$398,917
42		W18 - 14" Water Line in Pine Street	a.	\$1,216,753	2008	1.00	\$1,216,753
43		FE6 - 16" Water Line in Linne Road	a.	\$1,342,756	2008	1.00	\$1,342,756
44		Subtotal - Pipeline Improvements		\$8,066,012			\$8,066,012
45		<b>Total - Future Projects</b>		<b>\$332,045,234</b>			<b>\$332,045,234</b>



A	B	C	D	E	F	G
1	<b>City of Paso Robles</b>					
2	<b>Water Connection Fee Study</b>					
3	<b>Table 1 - Water System CIP Cost Allocation</b>					
4						
5						
6				<b>Year of Cost Estimate</b>	<b>Escalation Factor (Table 4)</b>	<b>Cost in 2008 Dollars</b>
46	<b>Existing Facilities</b>					
47	<b>Wells</b>					
48	Well	b.	\$8,135	1984	1.8086	\$14,713
49	Well	b.	\$33,061	1983	1.7826	\$58,934
50	Ronioni Well	b.	\$77,339	1984	1.8086	\$139,874
51	Tbird Well	b.	\$57,596	1984	1.8086	\$104,168
52	Osborne Well	b.	\$56,175	1988	1.5924	\$89,455
53	Butterfield Well Rehab	b.	\$16,668	1989	1.5393	\$25,656
54	Borcherdt Well Rehab	b.	\$43,044	1989	1.5393	\$66,256
55	Well #11 Rehab	b.	\$59,937	1989	1.5393	\$92,260
56	Barney Swartz Well Install	b.	\$208,646	1991	1.4677	\$306,219
57	Ronconi Well Install	b.	\$102,872	1991	1.4677	\$150,980
58	Well Fencing	b.	\$9,991	1991	1.4677	\$14,664
59	Rehab Sherwood Well #9	b.	\$30,373	1991	1.4677	\$44,577
60	Rehab Thunderbird Well	b.	\$39,355	1993	1.4097	\$55,478
61	Airport Well Installation	b.	\$223,701	1993	1.4097	\$315,346
62	Ronconi Well Rehab	b.	\$6,470	1993	1.4097	\$9,121
63	Upgrade Barney Schwartz Well	b.	\$19,432	1993	1.4097	\$27,393
64	Thunderbird Well #17 install	b.	\$123,704	1994	1.3984	\$172,984
65	Tarr Airport Well	b.	\$50,400	1994	1.3984	\$70,478
66	Airport well upgrade	b.	\$23,555	1995	1.3924	\$32,799
67	Thunderbird Well upgrade	b.	\$20,488	1995	1.3924	\$28,528
68	Rehab Thunderbird Well #17	b.	\$9,930	1996	1.3774	\$13,678
69	Rolling Hills Well Installation	b.	\$131,809	1996	1.3774	\$181,557
70	Rehab Sherwood well #11	b.	\$6,383	1996	1.3774	\$8,792
71	Thunderbird Well Install	b.	\$10,995	1996	1.3774	\$15,145
72	Royal Oak #20 Well Installation	b.	\$168,652	1997	1.3567	\$228,804
73	Rehab Sherwood #9 well	b.	\$30,952	1997	1.3567	\$41,992
74	Fox Well #21 Well Installation	b.	\$98,814	1997	1.3567	\$134,057
75	Tbird #5 Well Installation	b.	\$95,492	1999	1.3396	\$127,924
76	Tbird #5 Well Installation	b.	\$31,285	1999	1.3396	\$41,911
77	Rehab Sherwood #9 well	b.	\$36,413	1999	1.3396	\$48,780
78	Rehab Butterfield Well #12	b.	\$37,938	2001	1.2342	\$46,822
79	Rehab Well #6	b.	\$13,490	2002	1.1946	\$16,114
80	Tarr #19 Well Complete (352)	b.	\$25,909	2004	1.1098	\$28,754
81	Royal Oaks Well (496)	b.	\$29,432	2004	1.1098	\$32,664
82	Rehab Butterfield Well #12 (351)	b.	\$109,919	2006	1.0025	\$110,198
83	Rehab Cuesta Well # 500	b.	\$28,568	2006	1.0025	\$28,640
84	Rehab Fox Well #21 #565	b.	\$107,399	2006	1.0025	\$107,672
85	Subtotal - Existing Facilities, Wells		\$2,184,323			\$3,033,386
86	<b>Water Supply</b>					
87	Paint Water Storage Tanks	b.	\$22,577	1993	1.4097	\$31,827
88	Booster Station Upgrade @ Yard	b.	\$9,016	1994	1.3984	\$12,608
89	Re-coat GH Water Tank Interior	b.	\$213,442	2003	1.1724	\$250,245
90	GH Water Tank #2	b.	\$2,897,941	2003	1.1724	\$3,397,628
91	SE Tank and Water Main #555	b.	\$245,347	2006	1.0025	\$245,970
92	Golden Hill Rd. Water Tank 1	b.	\$1,253,606	2006	1.0025	\$1,256,792
93	Golden Hill Rd. Water Tank 2	b.	\$122,100	2006	1.0025	\$122,411
94	Subtotal - Existing Facilities, Water Supply		\$4,764,029			\$5,317,481
95	<b>Transmission Projects</b>					
96	All mains	d.	\$168,851,486	2008	1.0000	\$168,851,486
97	Subtotal - Existing Facilities - Transmission		\$168,851,486			\$168,851,486
98	<b>Total - Existing Facilities</b>		<b>\$175,799,838</b>			<b>\$177,202,353</b>
99	<b>Total All Projects</b>		<b>\$507,845,072</b>			<b>\$509,247,587</b>
100						
101	a. Christine Halley, TJ Cross Engineers, Paso Robles 10-year capital improvement program					
102	b. City of Paso Robles Depreciation Schedule FY 2006 - Asset Value at year of completion					
103	c. Christine Halley, TJ Cross Engineers, Paso Robles 10-year capital improvement program; Includes all financing costs					
104	d. Inventory: Paso_Mplan.wtg; received from Christopher Alakel, P.E., City of Paso Robles; see Table 5					

	A	B	C	D	E	F	G
1	<b>City of Paso Robles</b>						
2	<b>Water Connection Fee Study</b>						
3	<b>Table 2 - Fee Calculation</b>						
4							
5		<b>Project Costs</b>			<b>Capacity Charge Components</b>		
6		<b>Cash</b>	<b>Debt</b>	<b>Cost in 2008</b>	<b>Common</b>	<b>Growth-Only</b>	<b>Total Capacity</b>
7		<b>Funded</b>	<b>Funded<sup>1</sup></b>	<b>Dollars</b>	<b>Benefit</b>	<b>Increment</b>	<b>Charge Per</b>
8					<b>(20,716 EMUs)</b>	<b>(8,610 EMUs)</b>	<b>EMU</b>
9	<b>Existing Facilities</b>						
10	Supply	\$3,033,386	\$0	\$3,033,386	\$146	\$0	\$146
11	Treatment	\$0	\$0	\$0	\$0	\$0	\$0
12	Conveyance	\$174,168,967	\$0	\$174,168,967	\$8,407	\$0	\$8,407
13	<b>Existing Facilities Total</b>	<b>\$177,202,353</b>	<b>\$0</b>	<b>\$177,202,353</b>	<b>\$8,554</b>	<b>\$0</b>	<b>\$8,554</b>
14	<b>Future Facilities</b>						
15	Supply	\$0	\$144,190,000	\$144,190,000	\$6,960	\$0	\$6,960
16	Nacimiento Regional Pipeline	\$0	\$0	\$0	\$356	\$0	\$356
17	Other	\$7,371,372	\$0	\$7,371,372	\$7,316	\$0	\$7,316
18	Treatment	\$7,371,372	\$144,190,000	\$151,561,372	\$7,316	\$0	\$7,316
19	Nacimiento Treatment Plant	\$0	\$89,770,000	\$89,770,000	\$4,333	\$0	\$4,333
20	Other	\$6,843,741	\$0	\$6,843,741	\$330	\$0	\$330
21	Conveyance	\$6,843,741	\$89,770,000	\$96,613,741	\$4,664	\$0	\$4,664
22	Additional Future Water Supply	\$23,870,121	\$0	\$23,870,121	\$1,152	\$0	\$1,152
23	<b>Future Facilities Total</b>	<b>\$98,085,234</b>	<b>\$233,960,000</b>	<b>\$332,045,234</b>	<b>\$13,132</b>	<b>\$6,968</b>	<b>\$20,100</b>
24	<b>All Facilities Total</b>	<b>\$275,287,587</b>	<b>\$233,960,000</b>	<b>\$509,247,587</b>	<b>\$21,686</b>	<b>\$6,968</b>	<b>\$28,654</b>
25							
26							
27							
28							
29							
30							
31	1. Costs comprised of all principal and interest to be paid over the 30-year term of the bond.						

	A	B	C	D	E	F	G	H
1	<b>City of Paso Robles</b>							
2	<b>Water Connection Fee Study</b>							
3	<b>Table 3 - Fee Per Equivalent Meter Unit</b>							
4								
5	<b>Growth Estimate</b>							
6	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
7			<b>2008</b>		<b>2025</b>		<b>Growth Increment</b>	
8	<b>Meter Size</b>	<b>EMU Multiplier<sup>1</sup></b>	<b>Accounts<sup>2</sup></b>	<b>EMUs (2)*(3)</b>	<b>Accounts (3)*% Incr.</b>	<b>EMUs (2)*(5)</b>	<b>Accounts (5)-(3)</b>	<b>EMUs (6)*(4)</b>
10								
11	5/8" & 3/4"	1.00	8,961	8,961	15,342	15,342	6,381	6,381
12	1"	1.67	503	838	861	1,435	358	597
13	1 1/2"	3.33	144	480	247	823	103	343
14	2"	5.33	215	1,147	368	1,963	153	816
15	3"	10.00	24	240	41	410	17	170
16	4"	16.67	18	300	31	517	13	217
17	6"	33.33	1	33	2	67	1	33
18	8"	53.33	2	107	3	160	1	53
19	10"	76.67	0	0	0	0	0	0
20	12"	116.67	0	0	0	0	0	0
21			9,868	12,106	16,895	20,716	7,027	8,610
23	<b>Population:</b>	1/1/2008	29,934	<sup>3</sup>				
24		2025	51,251	<sup>4</sup>				
25		Increase	21,317					
26		Increase	71%	Used to escalate accounts in column 5 above				
27	1. AWWA Water Meters - Selection, Installation, Testing, and Maintenance							
28	2. City of Paso Robles; CY 2007 water usage by class data; does not include unbillable accounts.							
29	3. Source: California Department of Finance, E-4 Population Estimates, May 2008.							
30	4. Buildout to 2025 is from City Council resolution adopting new general plan buildout population of 44,000 plus potential for 7,251 residents beyond General Plan associated with potential annexations and/or General Plan amendments.							
31								

	A	B	C	D	E	F
1	<b>City of Paso Robles</b>					
2	<b>Water Connection Fee Study</b>					
3	<b>Table 4 - ENR Construction Cost Index History</b>					
4						
5						
6	Source: McGraw-Hill Construction Engineering News Record -					
7	San Francisco Construction Cost Index History					
8	www.enr.com					
9	Base: 1913=100					
10	December 31 values					
11						
12	<b>Year</b>	<b>Index</b>	<b>Factor</b>		<b>% Increase</b>	
13	1978	3,412.20	2.6762			
14	1979	3,806.14	2.3992		11.55%	
15	1980	4,371.96	2.0887		14.87%	
16	1981	4,592.45	1.9884		5.04%	
17	1982	4,993.30	1.8288		8.73%	
18	1983	5,122.74	1.7826		2.59%	
19	1984	5,049.13	1.8086		-1.44%	
20	1985	5,055.04	1.8065		0.12%	
21	1986	5,508.43	1.6578		8.97%	
22	1987	5,732.37	1.5930		4.07%	
23	1988	5,734.48	1.5924		0.04%	
24	1989	5,932.57	1.5393		3.45%	
25	1990	6,055.61	1.5080		2.07%	
26	1991	6,222.06	1.4677		2.75%	
27	1992	6,294.84	1.4507		1.17%	
28	1993	6,477.95	1.4097		2.91%	
29	1994	6,530.35	1.3984		0.81%	
30	1995	6,558.16	1.3924		0.43%	
31	1996	6,629.61	1.3774		1.09%	
32	1997	6,731.08	1.3567		1.53%	
33	1998	6,845.59	1.3340		1.70%	
34	1999	6,816.70	1.3396		-0.42%	
35	2000	7,447.99	1.2261		9.26%	
36	2001	7,399.07	1.2342		-0.66%	
37	2002	7,644.46	1.1946		3.32%	
38	2003	7,788.80	1.1724		1.89%	
39	2004	8,228.39	1.1098		5.64%	
40	2005	8,462.45	1.0791		2.84%	
41	2006	9,108.66	1.0025		7.64%	
42	2007	9,131.81	1.0000		0.25%	

	A	B	C	D	E
1	<b>City of Paso Robles</b>				
2	<b>Water Connection Fee Study</b>				
3	<b>Table 5 - AWWA Meter Equivalencies</b>				
4					
5					
6					
7					
8					
9	<b>Meter Size</b>	<b>Maximum Capacity<sup>1</sup></b>	<b>Equivalent Meter Units</b>	<b>Capacity Charge<sup>2</sup></b>	<b>Notes</b>
10	5/8" & 3/4"	30	1.00	\$28,654	From Table 2
11	1"	50	1.67	\$47,757	
12	1 1/2"	100	3.33	\$95,513	
13	2"	160	5.33	\$152,821	
14	3"	300	10.00	\$286,540	
15	4"	500	16.67	\$477,567	
16	6"	1,000	33.33	\$955,133	
17	8"	1,600	53.33	\$1,528,213	
18	10"	2,300	76.67	\$2,196,807	
19	12"	3,500	116.67	\$3,342,967	
20					
21					
22	1. Rated maximum capacity in gallons per minute; Source: AWWA				
23	Water Meters -Selection, Installation, Testing, and Maintenance				
24	2. Year 3 charges listed				

	A	B	C	D	E	F	G	H	I
1	City of Paso Robles								
2	Water Connection Fee Study								
3	Table 6 - System Cost Calculations								
4									
5									
6									
7									
8	Diameter (Inches)	PVC	ACP	Cast Iron	Galv. Iron	Ductile Iron	Total	Unit Cost	Total Cost
9	2.0	0.0	0.0	0.0	6,590.0	0.0	6,590.0	\$158	\$1,037,925
10	3.0	0.0	0.0	796.0	426.0	0.0	1,222.0	\$158	\$192,465
11	4.0	1,056.0	26,159.0	45,645.0	392.0	70.0	73,322.0	\$158	\$11,548,215
12	5.0	0.0	0.0	0.0	0.0	10.0	10.0	\$158	\$1,575
13	6.0	19,962.0	77,378.0	21,898.0	0.0	415.0	119,653.0	\$158	\$18,845,348
14	8.0	204,280.5	158,878.0	422.0	0.0	9,131.0	372,711.5	\$158	\$58,702,061
15	10.0	39,122.0	77,220.0	7,361.0	0.0	1,366.0	125,069.0	\$165	\$20,636,385
16	12.0	41,340.0	45,864.0	7,029.0	0.0	1.0	94,234.0	\$233	\$21,909,405
17	14.0	5,615.0	8,367.5	1,164.0	0.0	1.0	15,147.5	\$255	\$3,862,613
18	16.0	31,784.0	4,125.0	0.0	0.0	52,326.0	88,235.0	\$300	\$26,470,500
19	24.0	2,837.0	0.0	0.0	0.0	10,140.0	12,977.0	\$435	\$5,644,995
20	Total	345,996.5	397,991.5	84,315.0	7,408.0	73,460.0	909,171.0		\$168,851,486
21	To Table 1								
22	Source: Project Inventory: Paso_Mplan.wtg; received from Christopher Alakei, P.E., Water Resources Manager, City of Paso Robles								
23									

BRYAN W. WENTER, AICP

July 1, 2008

**VIA E-MAIL**

Honorable Mayor Frank Mecham and  
Members of the City Council  
City of Paso Robles  
1000 Spring Street  
Paso Robles, CA 93446

**Re: City of Paso Robles, Nacimiento Water Project  
Proposed Water Rate Structures and Capacity Charge Increases  
Agenda Item #4**

Dear Mayor Mecham and Members of the City Council:

This firm represents the Home Builders Association of the Central Coast ("HBACC") in connection with the City of Paso Robles' proposal to increase water user rates and water capacity or connection charges to fund the Nacimiento Water Project. We apologize in advance for the need to provide this letter at such a late date, but this matter has arisen without any notice to us, and our recent requests for a continuance of tonight's public hearing were rejected.

As you will hear tonight, HBACC communicated early and openly with the City about these issues last year, but only learned through a June 19, 2008 article in The Tribune about today's City Council hearing to consider the significant increases proposed, and the July 15, 2008 hearing at which it is planned to consider a resolution adopting such increases. The lack of City outreach to a key stakeholder, and the consequent limited time for us to review the information purportedly justifying these dramatic increases<sup>1</sup> has been so significant that our client, which still desires to work productively with the City, directed us to send this letter before it had any chance to review the comments contained herein.

As it has in the past, to assist in its analysis the HBACC retained Brion & Associates, a well-regarded urban economics consulting firm whose report is attached hereto. While the issues

<sup>1</sup> In particular, we have preliminarily reviewed the 59 page City staff report, which includes Water Rate and Revenue Analysis prepared by Kennedy/Jenks Consultants, Revised Draft Projected Water Supply Plan and 10-Year CIP prepared by TJ Cross Engineers, and Water Capacity Charge Study prepared by HF&H Consultants, LLC.

As it has in the past, to assist in its analysis the HBACC retained Brion & Associates, a well-regarded urban economics consulting firm whose report is attached hereto. While the issues identified at this stage in the analysis represent the HBACC's initial concerns, collectively they make the impact on the City's rate payers unknown. Thus far, it appears that the proposed increases are plagued by legal deficiencies that undermine the justifications upon which the increases are based. Among other things, the proposed increases appear to violate constitutional legal requirements codified in the state's Mitigation Fee Act (Govt Code section 66000, et seq). Importantly, the legislature has expressly recognized that imposing fees for public facilities in excess of constitutional and statutory limits improperly adds to the costs of providing much-needed housing in California, and has condemned such practices. See Government Code § 53395(b). So that we can adequately and productively address these issues with the City, the HBACC requests that the July 15 hearing date be postponed.

## **I. OVERVIEW OF LEGAL PRINCIPLES LIMITING WATER RATES AND CAPACITY CHARGES**

### **A. DEVELOPMENT FEES IN GENERAL**

The City's proposed rate and capacity increases are subject to the underlying legal principles that limit development fees and exactions in general. Such constitutional limitations provide the boundaries between permissible police power regulation and unconstitutional regulatory "taking" of property for which just compensation must be paid. U.S. Const. amend. V. The U.S. Supreme Court has identified at least two constitutional constraints on such fees and exactions imposed as conditions of property development: (1) the "rational relationship" test which requires the fee to be reasonably related to adverse impacts attributable to proposed development; and (2) the "rough proportionality" requirement under which such requirements must be "roughly proportional" to the costs or impacts imposed on the public agency as a result of the proposed development activity. *Nollan v. California Coastal Comm.*, 483 U.S. 825 (1987); *Dolan v. City of Tigard*, 512 U.S. 374 (1994).

While developers are expected to provide or pay for infrastructure needed to serve their development projects and to mitigate adverse impacts on public facilities that are attributable to such new development, California law also recognizes and enforces limits on fees or exactions that can be imposed for public facilities. The courts have held that developers cannot

"be required to shoulder the entire burden of financing public facilities for all future users. '[T]o impose the burden on one property owner to an extent beyond his [or her] own use shifts the government's burden unfairly to a private party . . . . It follows that facilities fees are justified only to the extent that they are limited to the cost of increased services made necessary by virtue of the development. The [public agency] imposing the fee must therefore show that a valid method was used for arriving at the fee in question, 'one that established a reasonable



relationship between the fee charged and the burden posed by the development.’ ”  
*Shapell Industries, Inc. v. Governing Board of the Milpitas School District*, 1  
Cal.App.4th 218, 234-35 (1992) (citing *Bixel Assoc. v. City of Los Angeles*, 216  
Cal.App.3d 1208, 1219 (1989)).

## **B. WATER CONNECTION FEES AND CAPACITY CHARGES**

The Mitigation Fee Act applies to fees imposed by a local agency, such as the City, on development projects to fund public facilities. Gov't Code § 66000 et seq. The Act specifically limits water connection fees and capacity charges and requires the City to determine that a reasonable relationship exists between the fee's use and the type of development project upon which the fee is imposed, Gov't Code § 66001(a), the need for the public facility funded by the fee and the type of development project upon which the fee is imposed, Gov't Code § 66001(a), and the amount of the fee and the cost of the public facility attributable to the development upon which the fee is imposed, Gov't Code § 66001(b). Moreover, section 66013 of the Act provides that “fees for water connection or sewer connections, or . . . capacity charges . . . shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed.” See also *Rincon del Diablo Municipal Water Dist. v. San Diego County Water Authority*, 121 Cal.App.4th 813, 818 (2004).

## **II. INITIAL COMMENTS ON PROPOSED WATER RATE STRUCTURES AND CAPACITY CHARGE INCREASES**

### **A. The City's Burden to Provide Evidence Justifying the Proposed Increases**

To lawfully impose the proposed fee increases, the City must, at a minimum provide evidence of the estimated reasonable cost of the services or facilities actually planned to be provided with the proceeds of the fees. See, e.g., *Shapell Industries, Inc. v. Governing Board of the Milpitas School District*, 1 Cal.App.4th 218 (1992); *Bixel Assoc. v. City of Los Angeles*, 216 Cal.App.3d 1208 (1989); *Russ Building Partnership v. City and County of San Francisco*, 199 Cal.App.3d 1496 (1987); *Beaumont Investors v. Beaumont-Cherry Valley Water District*, 165 Cal.App.3d 227 (1985); *J.W. Jones Companies v. City of San Diego*, 157 Cal.App.3d 745 (1984). The City has the burden to produce evidence in the administrative record to demonstrate the propriety and amount of the proposed fees. *Bixel Associates*, 216 Cal.App.3d 1208 (fire hydrant connection fees held invalid due to insufficient evidence to justify allocation of costs to new development); *Oildale Mutual Water Co. v. North of the River Municipal Water Dist.*, 215 Cal.App.3d 1628 (1989) (water service fee held invalid where the district failed to demonstrate that its fee did not exceed the reasonable costs of service).

Here, it appears that the City has fallen grossly short of the threshold requirement that it provide evidence to justify the sharp increases in connection fees. Specifically, the connection fee would dramatically increase from the current of approximately \$9,100 per equivalent meter

unit ("EMU") to almost \$29,000 per EMU—a 222% increase. Because documents that claim to justify these figures fail to include the underlying data upon which they should be based, it is impossible to see how they show the estimated reasonable cost of the facilities planned to be provided. The public is in the dark about how the City and its consultants reached the conclusion that the current connection fee should more than triple.

### **B. The "Buy-In" Approach Must be Fair and Equitable**

The proposed fee increase includes a "buy-in" component that was not contained in the City's earlier nexus studies. The "buy-in" approach to infrastructure fees is uncommon in California because it is premised on the assumption that the existing community has already built and paid for, and that facilities have excess capacity available to be used by and sold to new development. Such circumstances do not frequently occur in California's rapidly-developing communities, where new development typically must pay for the marginal costs of creating new capacity to accommodate its needs. This major change from past practice is highly suspect, legally vulnerable, and raises important questions that have not been answered. For example, what is the basis for adding existing improvements into the fee structure given that many of the improvements are fully funded, may not serve new development, and are old? A fundamental principle of setting fees for public facilities is that fees on new development or new connections cannot include any costs that are attributable to the costs of repairing, replacing, or otherwise curing existing deficiencies. *Bixel Associates*, 216 Cal.App.3d at 1218-9.

Even in states where the use of this "buy-in" approach is more common, however the courts have required that such buy in charges must be "fair and equitable" and "uniform and nondiscriminatory," and have invalidated buy in charges that failed to meet these standards. *See, e.g., State ex rel Waterbury Dev. Co. v. Witten*, 377 N.E.2d 505 (Ohio 1978) (invalidating town's \$500 "equity value" portion of water connection charge as not reasonably related to costs of providing water service); *Deerfield Estates v. Township of East Brunswick*, 286 A.2d 498 (N.J. 1972) (invalidating arbitrary connection charges imposed on developer); *Driefels v. South Panorama Sanitary Dist.*, 474 N.W.2d 567 (Iowa 1991) (invalidating \$1,500 connection fee to be imposed on new homes to fund system wide improvements as discriminatory buy-in charge). We are not aware of any reported California case that has approved such a "buy in" approach to calculating water capacity charges or connection fees.

The buy-in methodology the City seeks to rely on here is problematic in several ways and is therefore legally questionable. Among other things, the consultant's reports have increased the value of the existing facilities in their 2007 study from \$30.1 million to \$177.2 million today, which represents a nearly 500% increase. Some \$73.5 million of this value is now being allocated to new development even though most of the system does not serve new development. Moreover, the reports fail to show that the existing system has any capacity for new development to buy into or that the system is adequate to serve such development. It also appears that the proposed buy-in would reimburse existing users so that they are provided a return on investment.

Honorable Mayor Frank Mechem and  
Members of the City Council  
July 1, 2008  
Page 5

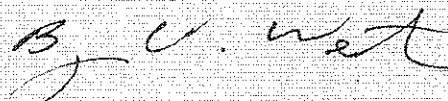
This approach improperly assumes that the existing system is in the nature of an "investment" and that existing users should get the benefit of inflationary increases in the costs of construction, regardless of what the existing users actually spent to build the system and how they financed it.

### III. CONCLUSION

Coupled with the more detailed analysis prepared by Brion & Associates, the foregoing comments highlight HBACC's initial concerns with the proposed fee increases. HBACC continues to seek a productive working relationship with the City, and requests a delay in the July 15 hearing so that these concerns can be addressed after all of the relevant documentation has been fully considered and a legally defensible fee program can be developed.

Sincerely,

MORGAN MILLER BLAIR

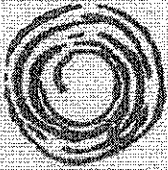


BRYAN W. WENTER, AICP

BWW:

Attachment: Letter from Brion & Associates dated July 1, 2008

cc: Jim App, City Manager  
Jim Throop, Administrative Services Director  
John Falkenstien, P.E., City Engineer  
Jerry Bunin, HBACC  
Daniel A. Muller, Esq.



## BRION & ASSOCIATES

July 1, 2008  
Jerry Bunin  
Government Affairs Director  
Home Builder's Association of the Central Coast  
811 El Capitan Way, Suite 120  
San Luis Obispo, CA 93401-3333

Subject: Review of City of Paso Robles Water Connection Fee Study by HF&F (June 2008) and Water Rate User Fee Study by Kennedy/Jenks (June 2008); B&A 2310-08

Dear Jerry,

I have received the two studies listed above and prepared a very preliminary review of these materials. As you know, I received these documents on June 25<sup>th</sup> and I understand that you forwarded them to me as soon as you received them. The City is expected to go to Council with these two studies on July 1, 2008 and my comments and questions will be sent directly to the City. Therefore as you requested, given the tight time frame, you are unlikely to have time to review my comments beforehand and have indicated that I should just forward them to the City. The water connection fee is proposed to increase to about \$28,700 per EMU. The current water connection fee is about \$8,900 per EMU and the proposed rate in 2007 was about \$12,500 per EMU. As you know my firm prepared a detailed assessment of the City's analysis and their consultants' studies in 2007 and we raised significant questions about the proposed water connection fee. At that time, we felt that a more reasonable and legally defensible connection fee should be about \$9,200 per unit or EMU.

In September 2007 you submitted a detailed letter listing very specific questions and comments regarding the entire water nexus study. Today, the city sent you a letter that purportedly addresses those comments and questions. However, all of the responses are vague and general in nature. Further, that letter does not mention that the current study proposes an even more severe increase in the water connection fees. I will provide some specific responses to that letter as part of my comments on the 2008 HF&H Study.

I have the following general comments to make before getting into the more substantive comments on the two studies.

- The following represent our preliminary comments and questions regarding the proposed fee increases. Given that these documents were released to the public just over a week before the hearing, does not allow us adequate time to review them in any detail. Further, the 2008 HF&H Study does not provide any appendices or back up data for us to review. There are only the most general summary numbers in the letter. Thus, we reserve the right to submit

additional comments as more data and information is provided on these two fee studies.

- A letter from HF&M does not constitute a nexus study or a water connection fee study sufficient to meet the requirements of The Mitigation Fee Act. There is no supporting information to justify the proposed water connection fee.
- We are certain that our comments and questions will have direct impacts and implications on the water user rate study and the resulting proposed rates. To the extent that project costs are being allocated to new development unfairly, as appears to be the case, implies that both existing and new rate payers will have to make up the difference and that their user fees will need to increase. These impacts and potential increased rate implications are unknown at this time.
- Given the complexity of the studies, the lack of detailed supporting data, the magnitude of the connection fee increase – 129% increase over the proposed 2007 rate and 222% increase over the existing rate, we strongly suggest that the City Council postpone the July 15<sup>th</sup> hearing at which time, the fee studies and new rates are scheduled to be adopted.

**Table S-1** summarizes the improvement costs and other assumptions from the City's four recent water connection fee studies, including three prepared by HF&F, and one by Foresight Consulting.

**Review of "Water Capacity Charge Study, Public Review Draft" dated June 20, 2008 by HF&H Consultants, LLC – prepared for City of Paso Robles<sup>1</sup>**

The HF&F Study comprises a 9-page letter to the City Manager, Jim App. The letter proposes a new connection fee that is more than triple the current fee and greater than double the 2007 proposed fee. HF&F is the same firm that prepared the 2007 Study. This new letter includes no appendices, lists of project costs, or detailed supporting information used to create the water connection fee. This letter does not constitute an adequate fee study with which the City can establish a water connection fee. The study does not provide adequate detail on the cost assumptions, debt service, growth assumptions and cost allocations between new and existing development to allow the reader to validate the reasonableness of the proposed fee increase. Given that this new fee is more than double the proposed 2007 rate and \$20,000 higher than the existing fee, makes the entire study suspect.

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<sup>1</sup> The City's letter to the HBA references a HF&H Study of June 25, 2008; we have reviewed a letter dated June 20, 2008 as part of this effort and assume it is the most current study.

Table S-1  
Comparison of Capital Costs by Study  
Sewer and Water Fee Critique  
City of Paso Robles

Item	HF&H 2001 Nexus Study (1)	Forecast 2004 Update (2)	Percent Increase over 2001	HF&H 2007 Update (3)	Percent Increase over 2004	HF&H 2008 Update Total Costs (5)	HF&H 2008 Update New Dev (5)
<b>Water Improvements</b>							
Water Supply/Wells	\$1,710,000	\$48,180,000	2718%	\$6,070,000	-87%	\$12,296,241	\$5,105,730
Storage Reservoirs	\$6,970,000	\$13,890,000	99%	\$22,700,000	63%	\$26,479,662	\$11,003,580
Transmission Projects	\$17,320,000	\$21,660,000	22%	\$50,906,000	135%	\$177,202,353	\$73,572,954
Existing Facilities - Buy-In				\$30,078,354		\$233,960,000	\$97,232,730
Naomicto Treatment/Pipeline Project				\$85,000,000		\$60,000,000	\$60,000,000
Additional Water Supply				\$7,479,500			
Recycled Water							
Storm Drainage							
<b>Total Water Costs</b>	<b>\$26,500,000</b>	<b>\$83,730,000</b>	<b>216%</b>	<b>\$202,233,854</b>	<b>142%</b>	<b>\$509,938,256</b>	<b>\$246,914,994</b>
Increase over 2007						152%	144%
<b>Amount of Water Allocated to</b>							
New Development	\$18,840,000	\$53,200,000	282%	\$101,121,355	90%	\$246,914,994	144%
% of Total Costs	71%	64%	-8%	50%		48%	
<b>Water Connection Fee per EMU</b>				<b>\$12,518</b>		<b>\$28,687</b>	129%

(1) City of Paso Robles; Final Report, Water and Sewer Development Impact Fee Study 11-26-2001. Prepared by Hilton, Farnkopf and Hobson LLC. It does not appear that any existing projects have been allocated to new development.

(2) Foresight Consulting Services; Final Letter Report-Updated Water and Sewer Connection Fees, Paso Robles, CA. May 24, 2004. It does not appear that any existing projects have been allocated to new development.

(3) Draft Report: Water and Sewer Connection Fee Update, City of Paso Robles. August 9, 2007 Prepared by Hilton, Farnkopf and Hobson LLC.

(4) Water Resources Plan Integration and Capital Improvement Program. Prepared for City of El Paso de Robles by TJ Cross Engineers, February 2007. This Study does not make allocations to new development.

(5) From Page 7, Figure 3. Facility Costs and Capacity Charges, Water Capacity Charge Study, Public Review Draft, June 20, 2008, by HF&H Consultants, LLC. Costs to new development are estimated based on cost per EMU noted in new development EMUs of 8.610, as show in headers of Figure 3.

Sources: City of Paso Robles; HF&H Consultants, LLC; Brton & Associates

The City's recent letter to the HBA, dated June 26, 2008 but provided on June 30, 2008, makes no mention of the huge change in costs and fee rates and purports that this new study is merely an update of the 2007 analysis.

We have the following preliminary comments on the 2008HF&H Study.

- 1. The value of existing facilities used for the "buy-in" calculations from the 2007 HF&H study to the 2008 study has increased from \$30.1 million to \$177.2 million or almost 500%. The 2007 Study's Buy-In fee was about \$4,700 per EMU unit and now it is \$8,550 per EMU with no justification or explanation.*

We do not believe that a Buy-in fee is justified or appropriate in the City, as we stated in 2007. The City's prior water fee studies in both 2001 and 2004 did not include a buy-in fee. Only as of 2007, has the City considered adopting a buy-in fee. We will comment more specifically, later in this letter.

In September 2007, we had comments and questions on the validity of the original \$30 million value of existing facilities from last year's study by HF&H and believe that the portion of the existing system which would actually serve new development should be valued at \$14.5 million. The study now values the same facilities at \$177 million or \$8,554 EMU. About \$73.5 million of this "value" is being allocated to new development in a Buy-In fee. Most of this system does not serve new development, which will be placed primarily on the east side of the river. The study also does not establish that the system has any existing "capacity" which new development is buying into or that the existing system has not deteriorated and is not in need of improvement and replacement, which is the case in most cities.

How could the same consultant, within the bounds of one year, change their mind concerning the value of existing improvements which serve new development, increasing that value from \$30 million to \$73.5 million? This buy-in charge represents 30% of the proposed new fee of \$28,900.

There is no explanation provided of how this valuation could have changed so drastically and dramatically. No details are provided to allow us to validate any of the analysis or cost estimates. The cost estimates have increased by 489% since the 2007 study.

There is a statement about how existing users are being "reimbursed" for their expenditures and being provided a "return on investment." New development will also pay user fees. I am curious if the new user fee rate study reduces existing development's user fee rates, which would account for this additional buy-in charge, which equals about 35% of the total \$509 million water improvement plan. The City's letter suggests that existing rate payers need to receive a return on their investment. However, connection fees paid for the prior system improvements; the existing rate payers did not finance the system solely through user fees.

The rhetoric in the City's justification of the charge of a buy-in fee blurs private sector economics with public sector economics. Cities are not in the business of expecting a "return on investment" and neither are existing residents and businesses. Residents and businesses pay for public infrastructure to serve their needs. The need of new growth's impact is paid for through impact fees and connection fees. User fees are expected to pay for service, operations and maintenance and capital replacement.

As discussed under the KJ User Rate Study, the consultant states that the City does assume depreciation of existing facilities, first and foremost, which the City Public Works Director suggests isn't appropriate, and then KJ suggests that the City "fund" this expense through some type of capital replacement charge. Ostensibly, this buy-in fee should be applied to that cost, if in fact, that was the true reason for charging that cost, but the KJ study merely applies the buy-in fee towards the annual debt service or non operating expenses. Thus, the buy-in fee is being charge as another means of increasing the connection fee, in appropriately.

- 2. HF&H's new approach to allocating costs to new development masks existing deficiencies and imbeds them in the calculation of the connection fee in a manner that does not allow the reader to make or verify these calculations.***

The prior 2007 study includes a series of appendix tables, outlining the detailed improvement items, and assigned a cost allocation factor to each improvement. The reader could then determine whether they agreed with this assumption. The new approach takes total costs at a "buildout" year, and divides them by the total EMUs at this year, and then assigns an average cost per EMU that does not vary by existing development and new development. This is a clever technique for allocating existing deficiencies to new development and it is not possible for the reader to clearly understand which portion of the new fee is related to existing deficiencies. It has the appearance of being a simple calculation but in reality imbeds many assumptions and inappropriate cost allocations in the analysis. We strongly recommend that the City and HF&H return to the prior method of determining the fees. The fact that the fee increased so significantly from 2007 to 2008, suggests that the embedding of existing deficiencies is taking place.

- 3. Total Water project costs have increased from \$202 million to \$509 million in one year and new development's share of these costs has increased from 50% in 2007 to 69% in 2008, without any explanation or justification.***

The total water plan costs in the water connection fee study are now \$509 million, which represents an increase of 247% increase from the 2007 study. The 2007 study costs represented a 152% increase over the 2004 study. The 2004 study costs presented a 216% increase over the 2001 study, which was prepared by HF&H as well. Total water project costs in 2001 were \$26.5 million and now are \$509 million, or a 1,824% increase. We



understand, logically, some of this cost increase is related to the new Nacimiento project. The Nacimiento project cannot explain or justify the entire increase, however.

There was very little change in the development forecasts or EMU estimates from the 2007 to 2008 studies to account for the shift of costs from 50% new development to almost 70%. The prior study provided more detail on how new development was being allocated the individual improvement costs. This study does not.

***4. The EMU charge for new development to buy into the existing system is higher than the average of all the surrounding cities entire water connection fees, which is \$8,087.***

The cost of the **buy-in fee**, at \$8,554 per EMU, is actually slightly higher than the average of the other cities' **total** water connections fees, which as staff notes is \$8,087. Staff's comparison is misleading as they put the new fee for Paso Robles at \$17,386 in their memo to City Manager, dated July 1, 2008. In reality, the fee will increase to over \$28,000 in a couple of years. This is the fee rate that most new units will pay and should be compared to other cities water connection fees. The City's proposed rate is about **\$20,000 higher** than all of its competitors for new development. The City fails to recognize that this new fee will have significant economic impacts on the City's ability to attract new development.

In all my experience reviewing fee studies, I have never seen a water connection fee that was even close to this proposed rate. The sheer magnitude of the connection fee compared to other cities, alone makes it suspect. The East Bay Municipal Water District's water connection fees are considered the highest in the Bay Area and are about \$13,000 per single family unit.

***5. None of our original comments or questions from September 2007 has been addressed in this new study.***

There is even less detail and documentation provided in the 2008 HF&H Study than that provided in the 2007 study. In the 2007 study, at least, we could recreate all their calculations on a line item basis and decide if we agreed with it or not. Now, we can verify only the most basic and simple calculations, but cannot point to any specific improvement costs or assumptions because we don't have any detail to review.

The tone of the new Public Works Director's memo suggests he neither reviewed nor considered our comments from 2007. It also appears that these comments and questions were not provided to HF&F or if so, they chose to ignore them.

In our assessment last year, we felt that the connection fee proposed at about \$12,800 should actually be about \$9,200 or 28% less. This new 2008 proposed fee is over twice the 2007 proposed fee, with neither explanation nor reference to the 2007 study.

The Public Works Director's letter to the HBA dated June 26, 2008 suggests that our original comments were considered in the preparation of the new HF&H Study. This seems unlikely, because the proposed analysis, cost allocations, and documentation are less detailed than what was provided in 2007. The City's letter, rather than responding to our specific comments, goes into a lengthy discussion and justification for the City to charge new development for improvements which are already completely funded and built, make a profit from the situation, and charge new development a premium for buying into a system which will not serve most of the new development on the east side of the City. The overall tone, general nature of the response and vagueness suggests that the City is not interested in addressing our comments or concerns.

The City has stated in a letter to the HBA in February 2008: it would organize a developers' workshop to review our comments and discuss the new connection fee study. The City did not follow through with this offer and in fact, has kept the development community in the dark as to its intention to adopt a \$28,600 connection fee per EMU. The HBA was made aware of this fee increase by an article in the local paper. The City has now offered to set up a meeting on July 9<sup>th</sup> to discuss our concerns, but will move forward with the July 15<sup>th</sup> hearing to adopt the fee studies and proposed fee rates as planned. It is obvious that the City has no intention of seriously considering our questions and concerns as there would not be adequate time to review the studies, in order to integrate our input between July 9<sup>th</sup> and July 15<sup>th</sup>.

**Review of "City of Paso Robles Water Rate and Revenue Analysis – Public Review Draft" dated June 23, 2008, prepared by Kennedy/Jenks Consultants**

We have had only a short time to review the water user rate study and have the following general comments and questions. We expect to delve more deeply into these questions and comments before the July 9<sup>th</sup> meeting with the City and will provide more detailed discussion of these comments by then.

6. The City's water rate study discusses the use of depreciation of existing capital improvements throughout the study, and shows "expenses" for this depreciation, which equals about \$850,000 in FY 06-07. The City Public Works Director states it is not appropriate to depreciate existing facilities for the purposes of calculating a "buy-in" fee. In subsequent years, depreciation is estimated at \$1.5 million. It states that the City should consider capturing this cost through the user fees. It is interesting that the "buy-in" charge which is part of the new connection fee, at \$8,550 per EMU, should be appearing in the user fee rate study to cover this cost, IF indeed this is the actual purpose of this buy-in fee. This inconsistency needs to be explained by staff and their consultants.

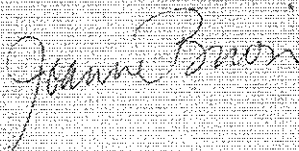
7. The City's letter, in response to our comments, suggests that conservation is not significant enough to impact demand and the sizing of required facilities, while the City's consultant, Kennedy/Jenks goes into quite a bit of discussion of how conservation, lower demand as a result of higher rates, etc. is factored into the analysis of the new user rates.
8. The KJ Study implies a total debt service cost of the Nacimiento pipeline at about \$126 million while the HF&H Study puts the cost at \$144.2 million. Combined with the treatment plant cost differences, the two studies are off by \$20 million.
9. It states that the proposed \$28,687 connection fee will be increased at 5.5% per year based on the construction index. It is not necessary to increase the portion of the connection fee based on the debt service payments. The improvements funded with this portion of the fee have been constructed and thus, will not occur in the future at higher inflated construction costs as would be the case with a normal pay-as-you-go improvement plan. Therefore, the proposed fee will be overcharging new development over the life of the General Plan, and this overcharge will be significant. If the water fund analysis depends on this fee rate increase, then this is a significant and perhaps fatal flaw in the analysis because the fee cannot be increased at 5.5% per year. Only the portion of the fee that covers project costs that have not been constructed should be increased based on a construction cost index. About 40% of the proposed fee is related to the Nacimiento project, and another 25% is related to water supply purchases. Water purchases are also not subject to changes in construction costs and should include a separate inflation factor, based on the CPI, which has been substantially less than the ENR.
10. The proposal to adjust the fixed meter charge to account for meter size is a good proposal to ensure that users pay their fair share of costs. Larger users with larger meters generate more costs for the City.
11. The KJ study presents information on other cities monthly water charges assuming an average use of 30 HCF per month. This compares the City's proposed rates assuming the first year's increase charge per HCF of \$2.56, which results in a monthly charge of about \$92. The analysis assumes that the actual costs will be \$4.13 and higher per HCF after the first year and thus, the comparison is misleading and makes it appear that Paso Robles new user rates will be comparable to the current average of other cities. As shown on Table 9 of the KJ Study, a user that uses 30 HCF per month in FY 10/11 would pay \$168 per month, which is almost double the average of \$95 per month for all the other cities.

In closing, in a comparison of the two studies, the User Rate Study by Kennedy Jenks provides more detail and supporting information than the HF&H Study; both studies would significantly benefit from including all the supporting tables and data used in the

*Jerry Bunin*  
*HBA of the Central Coast*  
*June 30, 2008*  
*Page 9 of 9*

analyses. I do not believe that the HF&H Study meets any of the requirements of The Mitigation Fee Act. I hope you find this information useful in our efforts to work with the City. If you have questions or comments, please call me at 707-570-1477 or email me at [joanne@brionassociates.com](mailto:joanne@brionassociates.com).

Sincerely,



Joanne Brion  
Principal

cc: Dan Muller, Morgan Miller Blair  
Bryan Wenter, Morgan Miller Blair

THE *Newspaper of the Central Coast*  
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In The Superior Court of The State of California  
In and for the County of San Luis Obispo  
AFFIDAVIT OF PUBLICATION

AD #6744070  
CITY OF PASO ROBLES  
PUBLIC WORKS

STATE OF CALIFORNIA,  
ss.  
County of San Luis Obispo

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen and not interested in the above entitled matter; I am now, and at all times embraced in the publication herein mentioned was, the principal clerk of the printers and publishers of THE TRIBUNE, a newspaper of general Circulation, printed and published daily at the City of San Luis Obispo in the above named county and state; that notice at which the annexed clippings is a true copy, was published in the above-named newspaper and not in any supplement thereof – on the following dates to wit; JULY 30, 2008 that said newspaper was duly and regularly ascertained and established a newspaper of general circulation by Decree entered in the Superior Court of San Luis Obispo County, State of California, on June 9, 1952, Case #19139 under the Government Code of the State of California.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

  
(Signature of Principal Clerk)

DATED JULY 30, 2008  
AD COST: \$85.14

CITY OF EL PASO DE ROBLES  
PUBLIC NOTICE  
NOTICE OF PUBLIC HEARING  
OF THE CITY COUNCIL ON  
PROPOSED INCREASE IN WATER  
CAPACITY CHARGES

NOTICE IS HEREBY GIVEN that the City Council of the City of El Paso de Robles (the "CITY COUNCIL") will hold a public hearing on Tuesday, August 19, 2008, at 7:30 p.m., at City Hall, located at 1000 Spring Street, Paso Robles, California, to consider the adoption of increased water capacity charges.

Copies of the staff report for the July 1, 2008 City Council meeting and other supporting documents required by Government Code section 66016 are available for public review and inspection at the Paso Robles Library, 1000 Spring Street, Paso Robles, California. They are also available on-line at the city's website at [www.prcity.com](http://www.prcity.com), and at the office of the City Clerk. In addition, any additional supporting documentation shall be available no later than August 9, 2008.

At the time and place noted, above, all persons interested in the above matter may appear and be heard.

Deborah Robinson  
Deputy City Clerk

Dated: July 30, 2008

July 30, 2008 6744070

RECEIVED

AUG 01 2008

City of Paso Robles  
Public Works Dept

PROOF OF PUBLICATION  
LEGAL NEWSPAPER NOTICES  
CITY COUNCIL  
PROJECT NOTICING

Newspaper: Paso Robles Press

Date of Publication: August 1, 2008

Meeting Date: August 19, 2008

**Project:**  
Notice of Public Hearing  
Water Connection Fees

I, Deborah Robinson, employee of the of the City of El Paso de Robles do hereby certify that this notice is a true copy of a published legal newspaper notice for the above named project.

Signed:   
Deborah Robinson

Pub: 7/18, 7/25,  
8/1/2008  
Legal #1870

CITY OF EL PASO DE  
ROBLES

PUBLIC NOTICE

NOTICE OF PUBLIC  
HEARING  
OF THE CITY COUNCIL  
ON  
PROPOSED INCREASE  
IN WATER CAPACITY  
CHARGES

NOTICE IS HEREBY  
GIVEN that the City  
Council of the City of El  
Paso de Robles (the  
"CITY COUNCIL") will  
hold a public hearing on  
Tuesday, August 19,  
2008, at 7:30 p.m., at  
City Hall, located at  
1000 Spring Street,  
Paso Robles, California,  
to consider the adoption  
of increased water  
capacity charges.

Copies of the staff report  
for the July 1, 2008 City  
Council meeting and  
other supporting docu-  
ments required by  
Government Code sec-  
tion 66016 are available  
for public review and  
inspection at the Paso  
Robles Library, 1000  
Spring Street, Paso  
Robles, California. They  
are also available on-line  
at the city's website at  
[www.prcity.com](http://www.prcity.com), and at  
the office of the City  
Clerk. In addition, any  
additional supporting  
documentation shall be  
available no later than  
August 9, 2008.

At the time and place  
noted, above, all per-

sons interested in the  
above matter may  
appear and be heard.

Deborah Robinson  
Deputy City Clerk  
Dated: July 30, 2008

Pub: 8/1/2008  
Legal #1873

RESOLUTION NO. 08-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
MODIFYING AND ADOPTING WATER CONNECTION AND CAPACITY CHARGES

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WHEREAS, improvements to the City water system are needed, primarily to supplement the limited ground water supply, and also to provide adequate distribution, staffing, and water storage capacity; and

WHEREAS, the planned improvements as outlined in the 2007 Integrated Water Resources Plan and Capital Improvement Program amount to approximately \$210 million over the coming decade, including Nacimiento supply and treatment capital costs as well as other distribution system capital costs plus financing and operations costs; and

WHEREAS, on January 15, 2008, Council directed that studies of water rates and water connection fees (water capacity charges) be prepared in light of both the Nacimiento project and other planned water system improvements; and

WHEREAS, the City retained the firm of HF&H Consultants, LLC to analyze the City's costs for existing and future facilities as well as the proportional share of such costs that should be borne by new development through water capacity charges; and

WHEREAS, HF&H determined that the revenues generated by the existing connection fees (water capacity charges) are inadequate to pay for new development's proportional costs of those improvements set forth in the Integrated Water Resources and Capital Improvement Plan which are necessary to sustain water system operations and water production in compliance with State Dept of Public Health, local fire code, and other requirements; and

WHEREAS, the City wishes to ensure the ability to produce water to meet peak demands, extend water reliability and improve water quality; and

WHEREAS, a phased connection fee will provide the necessary funding to provide a reliable, well-maintained, infrastructure system and reliable water resource to serve the needs of its existing and future customers; and

WHEREAS, notices and information regarding the August 19, 2008 public hearing on the adoption of the proposed capacity charges, in compliance with the requirements of Government Code section 66016, were sent to interested parties.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City Council of the City of El Paso de Robles hereby finds and determines that the proposed water connection and capacity charges do not exceed the estimated reasonable cost of providing the service for which the fee is to be charged. This finding is based on the study conducted by HF&H, dated June 25, 2008, as amended to date, and incorporated herein

by reference, the staff report and other testimony and information presented at the public hearing.

SECTION 2. The City Council of the City of El Paso de Robles does hereby approve and adopt the schedule of water connections fees (water capacity charges) attached hereto as Exhibit 'A' and incorporated herein by reference, to become effective January 1, 2009.

SECTION 3. Beginning January 1, 2010 and each January 1 thereafter, the fees shown on Exhibit A shall be adjusted based on the change in the Engineering News Cost Record construction cost index (or equivalent publication) as reported for the twelve month period ending October 31st of the prior year. Further, that said water connection fees (water capacity charges) shall be reviewed no less than biennially (every two years) in conjunction with the update of the City's four-year financial plan to ensure that the water connection fees (water capacity charges) then in existence do not exceed the estimated reasonable cost of providing the public facilities and services for which they are imposed.

SECTION 4. Building permits approved and secured by the project owner or agent on or before December 31, 2008, shall be subject to the connections fees in effect immediately prior to the adoption of this Resolution. Permits secured January 2, 2009 or later shall be subject to the fees adopted by this Resolution. All building permit applications received after August 19, 2008, shall be processed on a first-come, first-served basis, in accordance with the City's standard policies.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 19th day of August 2008 by the following votes:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

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Frank R. Mecham, Mayor

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Deborah D. Robinson, Deputy City Clerk



EXHIBIT 'A'  
TO RESOLUTION 08- XX

Water Connection and Capacity Charges

Connection Size	Current Charge as of July 1, 2008	Charge as of <sup>1</sup>		
		January 1, 2009 <sup>2</sup>	January 1, 2010 <sup>3</sup>	January 1, 2011 <sup>4</sup>
5/8" and 3/4"	\$9,119	\$17,352	\$21,686	\$28,654
1"	\$15,226	\$28,921	\$36,143	\$47,757
1-1/2"	\$30,364	\$57,841	\$72,286	\$95,513
2"	\$48,601	\$92,546	\$115,657	\$152,822
3"	\$97,292	\$173,524	\$216,857	\$286,540
4"	\$152,002	\$289,206	\$361,428	\$477,567
6"	\$303,914	\$578,413	\$722,856	\$955,135
8'	\$486,280	\$925,460	\$1,156,569	\$1,528,216
10"	\$699,100	\$1,330,349	\$1,662,568	\$2,196,810

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<sup>1</sup> Beginning on January 1, 2010 and each January 1 thereafter, rates shown in the table shall be adjusted based on the change in the Engineering News Cost Record construction cost index (or equivalent publication) as reported for the twelve month period ending October 31st of the prior year.

<sup>2</sup> Water capacity charges do not include the water treatment plant and additional future water supply components.

<sup>3</sup> Charges include the water treatment plant component.

<sup>4</sup> Charges include additional future water supply.