RESOLUTION NO. 2764-11 WWD

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR ACTING AS THE WINDSOR WATER DISTRICT BOARD APPROVING UPDATED WATER CAPACITY FEES FOR FUTURE DEVELOPMENT WITHIN THE TOWN OF WINDSOR AND SUPERSEDING THE EXISTING WATER CAPACITY FEE ESTABLISHED BY RESOLUTION NO. 916-00 AND AMENDED BY RESOLUTION NO. 1630-04

RECITALS

WHEREAS, the General Plan ("General Plan") of the Town of Windsor ("the Town") was adopted March 13, 1996 and amended on July 17, 1996 by Resolution 538-96, on April 2, 1997 by Resolution 622-97, on January 6, 1998 by Resolution 679A-98, on September 15, 1999 by Resolution 842-99 and on March 15, 2000 by Resolution No. 889-00, on February 19, 2003 by Resolution 1346-03, on March 19, 2003 by Resolution 1358-03, on July 20, 2005 by Resolution 1787-05, and on March 4, 2009 by Resolution 2437-09; and

WHEREAS, the General Plan applies to a Planning Area which includes the Town and land outside the Town in unincorporated Sonoma County which must also be considered to properly plan for the Town's future; and

WHEREAS, the Town Planning Area encompasses approximately 13,200 acres, 4,130 of which are within the Town and 9,070 of which are outside the Town in unincorporated Sonoma County; and

WHEREAS, the General Plan outlines future land uses for approximately 4,130 acres within the Town; and

WHEREAS, the General Plan area is shown on the Land Use Map contained in the General Plan; and

WHEREAS, the General Plan summarizes the policy for financing the cost of improvements required to accommodate new development in the Town as follows: "the community services and facilities policies make clear that capital facility needs generated by new development should be financed by new development," and that accordingly, future development in the Town should pay its fair share of needed infrastructure (See General Plan pp. 3-4, 3-5, 4-31, 4-35, 8-4); and

WHEREAS, a Program Environmental Impact Report ("E.I.R.") was prepared for the General Plan pursuant to the California Environmental Quality Act ("C.E.Q.A.") and certified by the Town Council on March 13, 1996 by Resolution Number 505-96; and

WHEREAS, RMC Water and Environment prepared a document entitled Draft Water Master Plan Update, dated June, 2009 ("Draft Master Plan"), outlining water and related facility demands for the Town; and

WHEREAS, on November 18, 2009 the Town Council accepted by resolution the Draft Water Master Plan Update; and

WHEREAS, The capacity fee increase is a government funding mechanism pursuant to CEQA Guidelines section 15378(b)(4) that does not involve any commitment to any specific water facility or improvement project and is not a project under CEQA and no further environmental review is required; and

WHEREAS, the Town acknowledges that if and to the extent the Town determines that it is required to comply with CEQA with respect to any specific water facility or improvement project identified in the CIP that is proposed for construction and implementation, the Town shall comply with CEQA at that time; and

WHEREAS, the Town Council, acting on behalf of the Town of Windsor Water District Board adopted Resolution Number 236-93 on September 8, 1993, establishing fees for water and other specified Town services applicable to development within the Town; and

WHEREAS, the Town Council, Acting on behalf of the Windsor Water District Board adopted Resolution Number 531-96 on June 19, 1996 reducing water connection fees established by Resolution 236-93; and

WHEREAS, the Town Council, Acting on behalf of the Windsor Water District Board adopted Resolution Number 916-00 on May 17, 2000 adopting a water capacity fee for future development within the Town of Windsor and superseding the existing water impact fee; and

WHEREAS, the Town Council, Acting on behalf of the Windsor Water District Board adopted Resolution Number 1630-04 on June 16, 2004 amending resolution 916-00 adopted May 17, 2000 imposing a water capacity fee for future development to reduce the fee applicable to residential development with 1" meters; and

WHEREAS, the Town of Windsor retained The Reed Group, Inc. to assist the Town in reviewing and updating the Town's water capacity fee to reflect changes in water facilities costs since the Town water capacity fee was adopted; and

WHEREAS, The Reed Group, Inc. has prepared a report dated November 9, 2010, entitled "Water Capacity Fee Study, Revised Final Draft" which is attached as Exhibit A (hereafter the "Report"); and

WHEREAS, the Master Plan and Report list certain water facilities, further described below, that are necessary to accommodate future development in the Town, and

WHEREAS, the Master Plan and the Report demonstrate the appropriateness of modifying the Town's water fee in certain respects based on current estimates of the need for and cost of water facilities needed to accommodate new development; and

WHEREAS, the Town of Windsor Code establishes a water capacity fee applicable to development within the Town; and

WHEREAS, in accordance the Government Code, at least 14 days prior to the public hearing at which this Resolution was adopted, notice of the time and place of the hearing was mailed to eligible interested parties who filed written requests with the Town for mailed notice of meetings on new or increased fees or service charges; and

WHEREAS, in accordance with the Government Code, the Master Plan and Report were available for public review and comment for ten days prior to the public hearing at which this Resolution was adopted; and

WHEREAS, 10 days advance notice of the public hearing at which this Resolution was adopted was given by publication in accordance with Section 6062a of the Government Code; and

FINDINGS

WHEREAS, the Town Council finds as follows:

A. The purpose of the water capacity fee set forth in this Resolution is to finance water facilities to reduce the impacts caused by future development in the Town. Such facilities, described in Exhibit 3 of the Report and in the Master Plan, including the proportionate share for future customers by project, include the following:

- New Facilities: construction of new wells, water storage tanks, distribution pipelines, and other associated infrastructure throughout the service area.
- Program Studies: a variety of Water Master Plan-related studies are planned to support the Water Master Plan's goals for operation and maintenance of the water system infrastructure, as well as long-term planning for potable and recycled water. Studies included in the Water Master Plan are an urban recycled water master plan, groundwater use and storage studies, off-river supply development, demand/billing compilations, leak detection programs, and hydrant maintenance and identification program.

B. The water capacity fee collected pursuant to this Resolution shall be used to finance the water facilities described in the Master Plan and Report and/or alternative facilities in accordance with this Resolution.

C. After considering the Report, the testimony received at this noticed public hearing, the agenda statements, the General Plan, the General Plan E.I.R., the Master Plan, the Engineer's Report, the Water Capacity Fee Report, and all correspondence received (together, "Record"), the Town Council approves and adopts the Report and incorporates such Report, Master Plan and Engineer's Report herein and further finds that further development in the Town will generate the need for the water facilities described in the Master Plan and Report and that such water facilities are consistent with the General Plan.

D. In adopting the water capacity fee set forth in this Resolution, the Town Council is exercising its powers under Article XI, Section 7 of the California Constitution.

E. The Record establishes:

1. That there is a reasonable relationship between the use of the water capacity fee set forth in this Resolution (payment for certain listed water facilities) and the type of development projects on which such fee is imposed in that all development in the Town - both residential and non-residential - generates or contributes to the need for the facilities listed in the Master Plan and Report; and

2. That there is a reasonable relationship between the need for the facilities listed in the Master Plan and Report and the type of development projects on which the water capacity fee set forth in this Resolution is imposed in that new development in the Town - both residential and non-residential - will generate persons who live, work and/or shop in the Town and who generate or contribute to the need for the facilities listed in the Master Plan and Report; and

3. That there is a reasonable relationship between the amount of the water capacity fee set forth in this Resolution and the cost of the facilities listed in the Master Plan and Report or that portion of such facilities attributable to the development on which such fee is imposed in that such fee is calculated based on the total cost of construction of such facilities, the anticipated demand for water facilities within the Town, the anticipated water facility service population in the Town and the percentage by which development within the Town contributes to the need for such facilities; and

4. That in accordance with Government Code Section 66013(a), the cost estimates set forth in the Master Plan and Report concerning the land and construction costs of the water facilities listed in the Master Plan and Report are reasonable estimates, and the fees expected to be generated by future development will not exceed the estimated reasonable cost of such water facilities; and

5. That the method of allocation of the fee set forth in this Resolution to a particular development bears a fair relationship, and is roughly proportional, to each development's burden on, and benefits from, the water facilities to be funded by such fee, in that such fee is calculated based on the size and hydraulic capacity associated with each water meter.

F. The Master Plan and Report are a detailed analysis of how public services will be affected by development in the Town and the water facilities required to accommodate that development.

ADOPTION OF FEE

NOW, THEREFORE, the Town Council of the Town of Windsor does resolve as follows:

1. Definitions.

a. "Development" shall mean the construction, alteration or addition of any building or structure, other than by the Town, within the Town of Windsor, within the Town of Windsor Water District, and within any areas served by the Town outside the jurisdictional limits of the Town.

b. "Facilities" shall include those facilities that are described in the Report and in the Findings, above. "Facilities" shall also include comparable alternative facilities should later changes in projections of development in the region necessitate construction of such alternative facilities; provided that the Town Council later determines in accordance with applicable law (1) that there is a reasonable relationship between Development within the Town and the need for alternative facilities (2) that the alternative facilities are comparable in purpose and benefit to the facilities listed in the Report, and (3) that revenue from fees charged pursuant to this Resolution will be used only to pay new Development's fair and proportionate share of the alternative facilities.

c. "Fee" shall mean the charge or charges imposed on Development to fund the Facilities to ensure that such Development pays its fair share of facilities needs generated by such Development pursuant to this Resolution and applicable law.

2. Water Capacity Fee Imposed.

In accordance with Government Code Section 66013, a Water Capacity Fee ("Fee") shall be imposed and paid at the times, and in the amounts and otherwise apply and be administered as prescribed in this Resolution on all new or enlarged water service connections to the potable water system, based on the size (or change in size) of the water meter.

3. Time for Imposing Fee for Residential Subdivisions.

In accordance with Government Code Section 65961, the Fee for subdivisions for Single Family and Multiple Family subdivision Development for which tentative or parcel maps are required pursuant to the Subdivision Map Act (Government Code Section 66410 *et seq.*) shall be imposed at the time of setting the conditions that apply to the tentative or parcel map for such residential subdivision Development, as applicable. Payment of the Fee shall be deemed to be a condition of all such tentative or parcel maps. Notwithstanding this Section 3, the time for payment of the Fee for all Development, including Single Family and Multiple Family subdivisions, shall be as specified in Section 4, below.

4. Time for Fee Payment.

a. A Fee shall be charged and paid for each Single Family and Multiple Family residential Development, for each non-residential Development, including Commercial, Industrial and Office Development, and for each Mixed Development upon issuance of the building permit for such Development.

b. A Fee shall be charged and paid for each change in use of Town water system capacity that requires discretionary Town approval upon issuance of such approval.

5. Amount of Fee.

a. The amount of the Fee shall be as follows:

Residential

Single Family with 5/8" meters (*)	$4,546
Single Family with 3/4" meter **	$6,785

* Note – Single-family residences qualify for the 5/8" connection fee only under the condition that it is a single-family residence on a lot of 4,000 square feet or less and has a building square footage of less than or equal to 1,200 square feet. 5/8" residential meter fee also applies to 1" residential meters when needed for fire suppression sprinkler systems.
** Note - 3/4" residential meter fee also applies to 1" residential meters when needed for fire suppression sprinkler systems.

Multiple Family, and Non-Residential (Commercial, Office, Industrial)

1" meters	$11,332
1-1/2" meters	$22,595
2" meters	$36,166
3" meters	$67,854
4" meters	$113,113
6" meters	$226,158
8" meters	$361,867

6. Use of Fee Revenue.

In accordance with Government Code Section 66013(c), the revenues raised by payment of the Fee shall be placed in a separate, interest bearing account to permit accounting for such revenues and the interest which they generate. Such revenues and interest shall be used only for the Facilities and the purposes for which the Fee was collected, which are the following:

a. To pay for acquisition of the Facilities;

b. To pay for design, engineering, construction of and property acquisition for, and reasonable costs of outside consultant studies related to, the Facilities;

c. To reimburse the District for the Facilities constructed by the District with funds from other sources including funds from other public entities, unless such funds were obtained from grants or gifts intended by the grantor to be used for the Facilities.

d. To reimburse developers that have designed and constructed any of the Facilities with prior Town approval and have entered into an agreement, as provided in Section 13 below; and

e. To pay for and/or reimburse costs of program development and ongoing administration of the Fee program, including, but not limited to, the cost of studies, legal costs, and other costs of updating the Fee.

7. Standards.

The Standards upon which the need for the Facilities is based are the standards of the Town, including the standards contained in the General Plan, the E.I.R., the Master Plan, and those Town standards reflected in the Report.

8. Periodic Review.

In accordance with Government Code Section 66013(d), the Town shall make available to the public, within 180 days after the last day of each fiscal year, the following information for that fiscal year:

a. A description of the charges deposited in the account.

b. The beginning and ending balance of the account and the interest earned from investment of moneys in the account.

c. The amount of charges collected in that fiscal year.

d. An identification of all of the following:

i. 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.

ii. Each public improvement on which charges were expended that was completed during that fiscal year.

iii. Each public improvement that is anticipated to be undertaken in the following fiscal year.

iv. 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.

The information required pursuant to this Section 8 may be included in the Town's annual financial report.

The information prescribed in this Section 8 shall not apply to: 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 Government Code Section 66003, or to 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.

9. Subsequent Analysis and Revision of the Fee.

The Fee set herein is adopted and implemented by the Town Council in reliance on the Record identified above. The Town may continue to conduct further study and analysis to determine whether the Fee should be revised. When additional information is available, the Town Council may review the Fee to determine that the Fee amounts are reasonably related to the impact of development within the Town. In addition to the inflation adjustments pursuant to Section 10, below, the Town Council may revise the Fee to incorporate the findings and conclusions of further studies and any standards in the General Plan or the Master Plan, as from time to time amended by the Town.

10. Fee Adjustments.

The purpose of this Section 10 is to provide for annual adjustments of the Fee for inflation, beginning July 1, 2011 and each July thereafter, as follows:

a. Project Cost. The water system capacity fees shall be adjusted annually for the affects of inflation using the *Engineering News Record's* 20-Cities construction cost index (20-cities CCI). For cost indexing purposes, the capacity fee schedule contained in this Resolution shall be multiplied by the 20-cities CCI value for June of each year and then divided by the 20-cities CCI value of 8,578 for June 2009.

11. Credits and Reimbursement for Developer Constructed Facilities.

The Town and a developer may enter into an improvement agreement to allow the developer to construct certain of the Facilities. Such an agreement is totally discretionary on the part of the Town. Such agreement shall provide for security for the developer's commitment to construct the Facilities and shall refer to this Resolution for credit and reimbursement. If the Town enters into such an agreement with a developer prior to construction of one or more of the Facilities, the Town shall provide the developer a credit in accordance with the following:

a. Credit Amount. The credit shall be in the amount of the lowest bid received for construction of the facility, as approved by the Town Engineer. However, in no event shall a credit pursuant to this provision exceed the current facility cost. For the purposes of this Section 11, such current facility cost shall be the amount listed in Exhibit 3 of the Report for that particular facility as subsequently adjusted pursuant to Sections 9 and 10 of this Resolution prior to issuance of the building permit for that facility. Once issued, credit pursuant to this Section 11 shall not be adjusted for inflation or any other factor. Credit provided pursuant to this Section 11 is not transferable.

b. Application of Credit. Credit pursuant to this Section 11 may be applied by developers against the Fee applicable to a particular project until the credit is exhausted or an excess credit results. The total credit shall be divided by the number of units (for a residential project) to determine the amount of credit which can be applied against the Fee for each unit and, if the credit per unit is less than the Fee per unit, the developer shall pay the difference for each unit. If a credit pursuant to this Section 11 is less than the Fee applicable to a particular non-residential development project, the developer shall pay the Town the balance in cash.

c. Reimbursement for Excess Credit. Reimbursement for excess credit shall only be from remaining unspent Fee revenues. Once all the Facilities have been constructed or acquired and to the extent Fee revenues are sufficient to cover all claims for reimbursement of Fee revenues, including reimbursement for excess credit, developers with excess credit shall be entitled to reimbursement, subject to such developers certifying in writing to the Town that the cost of constructing the facility which resulted in an excess credit was not passed on to homeowners, and indemnifying the Town from land owner claims for reimbursement under Government Code Section 66000 *et seq.* and Section 66001 in particular. If remaining fee revenues after all of the facilities have been constructed or acquired are insufficient to cover all claims for reimbursement of fee revenues, such claims, including claims for reimbursement of excess credit, shall be reimbursed on a pro rata basis in accordance with applicable law.

12. Effective Date.

This Resolution shall become effective 60 days from adoption (of this Resolution). The Fee shall become effective and supersede the predecessor water capacity fee established and adopted by Resolution Number 236-93 and revised by Resolution Number 531-96.

13. Severability.

Each component of the Fee and all portions of this Resolution are severable. Should any individual component of the Fee or any portion of this Resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining Fee components and/or Resolution portions shall be and continue in full force and effect, except as to those Fee components and/or Resolution portions that have been adjudged invalid. The Town Council of the Town of Windsor hereby declares that it would have adopted this Resolution and each section, subsection, clause, sentence, phrase, and other portion thereof, irrespective of the fact that one or more section, subsection, clause, sentence, phrase, or other portion may be held invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED this 19th day of January, 2011, by the following vote:

AYES:	**MEMBERS FUDGE, GOBLE, SALMON, AND CHAIR ALLEN**
NOES:	**MEMBER SCHOLAR**
ABSENT:	**NONE**
ABSTAIN:	**NONE**

STEVE ALLEN, CHAIR

ATTEST:

MARIA DE LA O, SECRETARY

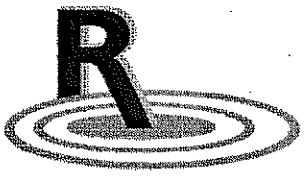
Attachment:
Exhibit A: Water Capacity Fee Study

TOWN OF WINDSOR

Water Capacity Fee Study

FINAL DRAFT REPORT

November 9, 2010



THE REED GROUP, INC.

3053 Freeport Boulevard #158 • Sacramento, CA 95818-4346 • (916) 444-9622 • www.thereedgroup.org

EXHIBIT A

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WATER CAPACITY FEE STUDY

SUMMARY AND RECOMMENDATIONS

In January 2009, the Town of Windsor retained The Reed Group, Inc. to assist with calculating new water system capacity fees. Capacity fees are the one-time fees charged for new service connections to the Town's water system. The fee is intended to reflect the estimated reasonable cost of capacity in the system and capacity fee revenue is used to help pay for the capacity in the system needed to serve new development.

The Reed Group, Inc. prepared an administrative draft of the *Water Capacity Charge Study* report in June 2009 based on the Town's draft *Water Master Plan Update*[1]. However, subsequent to the preparation of the administrative draft report, the Town determined it needed to revise water demand estimates and other information related to proposed water system improvements. As a result, the completion of the water capacity fee study was delayed. A final draft of the *Water Capacity Charge Study* was prepared on July 18, 2010 based on information contained in the *Engineer's Report*[2] prepared in November 2009. This Water Capacity Fee Study final report contains final recommendations and reflects comments from staff, as well as from developer representatives who attended a meeting on September 8, 2010 to review the fee proposal.

Current water capacity fees were last adjusted in July 2010 as part of an annual inflationary adjustment. This report presents proposed water capacity fees for FY 10-11 and describes the calculation methodology, underlying data and assumptions, and benefits of the proposed fees. **Exhibit 1** summarizes the proposed water capacity fees ($6,785 for a typical single family residence). The proposed capacity fees reflect the cost of capacity in the water system that is expected to be available to meet the service requirements of future development.

Water system capacity fees are proposed to increase due primarily to the high cost of developing groundwater well capacity to meet the supply needs of new development[3]. The capacity fee calculations also reflect the cost of storage capacity, capacity within the transmission and distribution system, supply reliability improvements, and certain planning studies.

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1 *Town of Windsor Water Master Plan Update – Draft Report*, Town of Windsor, prepared by RMC, July 2008.

2 *Town of Windsor Engineer's Report: Justification and Cost Allocation for Proposed Water System Improvements – Draft Report*, Town of Windsor, prepared by RMC, November 18, 2009.

3 Under the current fee structure a single family residence with a 60-foot frontage would pay a $1,611 capacity fee, plus a $1,860 front footage fee, for a total of $3,471. The proposed water capacity fee would replace these two existing fees. A meter installation fee is also charged for new service installations to recover the cost of actual meter installation.

Exhibit 1
Town of Windsor -- Water Utility
Proposed Water Capacity Fees

	Proposed
Single Family Residential	
5/8" meter (1)	$ 4,546
3/4" & 1" meters (2)	$ 6,785
Multi-Family, Non-Residential, and Irrigation	
Up to 1" meter	$ 11,332
1 1/2" meter	$ 22,595
2" meter	$ 36,166
3" meter	$ 67,854
4" meter	$ 113,113
6" meter	$ 226,158
8" meter	$ 361,867

Notes:

(1) Single family residences with lots up to 4,000 sq. ft. and building size up to 1,200 sq. ft. may qualify for a 5/8" meter.

(2) Standard meter size for single family residences is 3/4". However, in some cases 1" meters are installed to accommodate fire suppression sprinkler systems.

The balance of this report describes (1) the statutory requirements for capacity fees as well as the methodology used herein, (2) underlying assumptions and information used in the calculations, (3) capacity fee calculations and proposed schedule, and (4) administrative and future update recommendations. Once new water capacity fees are adopted and implemented, the Town should continue its practice of annually adjusting the level of the fees based on inflation.

LEGAL REQUIREMENTS AND CAPACITY CHARGE[4] METHODOLOGIES

There are numerous methods to calculate capacity charges. Each method has varying advantages and disadvantages and no method is universally recognized as the best. The methodology appropriate for any particular service or utility is dependent on a number of issues including the availability of a defined capital improvement program and the extent to which the utility's infrastructure is built out. Any methodology used for calculating capacity charges should be:

[4] The fees under consideration in this report are *capacity charges*, as defined by Government Code Section 66013. However, the Town uses the term *capacity fee*. This report uses the term capacity charge when referring broadly to this type of charge, and capacity fee when referring to the Town's specific fee.

- *Cost-Based* – Capacity charges should reflect the estimated reasonable cost of providing capacity to new development and should be effective in covering the costs of providing such additional capacity.
- *Equitable* – Capital improvement costs should be allocated on a proportional basis that is reasonably related to the needs that are created and the benefits that are received by new development.
- *Administratively Feasible* – Capacity charges should be administratively simple and easily explained and understood by developers and the public.
- *Legally Justifiable* – Capacity charges must be developed in accordance with California statutes and applicable court decisions.

Legal Requirements

The Town has broad authority to charge users for capital facilities. The limitations of that authority are encompassed by the requirement that charges on new development bear a *reasonable relationship* to the needs created by, and the benefits accruing to that development. California courts have long used that *reasonableness* standard or *nexus* test to evaluate the constitutionality of exactions, including water system capacity charges.

During the 1988 session of the California Legislature sections of the Government Code were added to codify constitutional and decisional law related to fees imposed on new development. Assembly Bill 1600 (AB 1600) enacted Government Code Sections 66000-66003 related to development fees. These code sections generally contain three requirements:

1) Local agencies must follow a process set forth in the statutes and make certain determinations regarding the purpose and use of the fee and to establish a nexus or connection between a development project and the public improvement being financed with the fee.
2) The fee revenue must be segregated from the general fund in order to avoid commingling of impact fees and the general fund.
3) If a local agency has unspent or uncommitted development impact fees for five years or more, then it must make annual findings describing the continuing need for that money or it must refund the fees.

Since the passage of AB 1600 various code sections have been added and modified to further clarify and expand the requirements related to developer fees. In particular, Government Code Section 66013 contains requirements specific to water and wastewater capacity charges. **Appendix A**, at the end of this report, includes Section 66013 of the Government Code, as well as other related code sections.

The key to the statutory requirements is that water system capacity charges shall not exceed the *estimated reasonable cost* of providing service. Capacity charges should also meet the reasonable relationship standard or nexus test mentioned earlier and should reflect consideration of the

following criteria, which would likely be considered by a court in evaluating the validity of the fees:

- *Need* – Capacity charges should only be imposed on development that will need capacity in facilities provided by the Town.
- *Benefit* – Improvements to be funded (or costs to be reimbursed) by capacity charges should satisfy the service needs related to the development on which the charges are imposed.
- *Amount* – The amount of the capacity charges should reflect the reasonable cost of providing service capacity and the share of the costs attributable to the service needs of new development.
- *Earmarking* – Revenue from capacity charges should be segregated from other funds and used solely to pay for the facilities for which the charge was imposed.
- *Timely Expenditure* – Revenue from capacity charges should be expended within a reasonable time after it is collected.

Applying these criteria to the Town's situation requires an understanding of how improvement needs are established, how capacity is provided to new development, how costs are estimated and allocated, and how capacity charge revenues are accounted for and spent. The Town's water system capacity fees presented herein are based the Town's planning documents, including the *Water Master Plan Update* and the *Engineer's Report.*

Methodology for Calculating Capacity Charges

There are numerous methodologies for calculating capacity charges. The number has proliferated with the growing popularity of this type of fee. Various methodologies have evolved to meet changing public policy, legal requirements, and the unique or special circumstances of each local agency.

Several major publications regarding capacity charges for various infrastructure needs, including water and wastewater system improvements, are generally recognized in the industry. These publications include:

- Development Impact Fees, Arthur C. Nelson, 1998.
- Principles of Water Rates, Fees, and Charges, Manual M1, American Water Works Association, 5th Edition, 2000.
- Comprehensive Guide to Water and Wastewater Finance and Pricing, Second Edition, George A. Raftelis, 1993.
- System Development Charges for Water, Wastewater, and Stormwater Facilities, Arthur C. Nelson, 1995.

These publications describe a number of methodologies including their applicability to various situations and the relative advantages and disadvantages of each. Within all of the available methodologies there are two primary approaches – the system buy-in methodology and the

incremental-cost methodology. Other methodologies are usually some variation or combination of these two methods. The two primary methods are generally described below to illustrate the different perspectives that can be used to determine appropriate capacity charges. In addition, a third method is described which incorporates aspects of both primary methodologies.

System Buy-In Method

The system buy-in method is based on the average investment in the capital facilities by current customers. Raftelis describes the system buy-in methodology as follows: "Under this approach, capital recovery charges are based upon the 'buy-in' concept that existing users, through service charges, tax contributions, and other up-front charges, have developed a valuable public capital facility. The charge to users is designed to recognize the current value of providing the capacity necessary to serve additional users. The charge is computed by establishing fixed asset value under a historical or reproduction cost basis and deducting relevant liabilities (long-term debt, loans, etc.) from this amount. The number of units of service is then divided into this difference (considered to be the utility's equity) to establish the capital recovery charge."

More simply, the buy-in charge is determined by taking the current value of assets (historical cost escalated to current dollars and adjusted for depreciation) divided by the current number of customers (expressed in equivalent residential units). By paying capacity charges calculated on this basis new development buys into the existing capital facilities on par with existing development. Responsibility for new capital improvements is then shared equally by all customers.

The basic equation for calculating the water capacity charges using the system buy-in method would be:

$$\frac{\text{Present Value of Existing Facilities}}{\text{Total Existing Units of Development}}$$

The system buy-in methodology has four distinct advantages:

- The buy-in methodology is a common and generally well accepted methodology for calculating capacity charges. The method is popular with developers in part because it can result in lower fees than other methods (depending on the valuation methods used).
- The buy-in methodology includes only the cost of existing facilities and excludes the costs of future or planned facilities; therefore, it does not require a formal capital improvement program.
- The buy-in methodology does not necessarily depend on an assessment of existing capacity availability; it therefore does not require the more detailed capacity analyses required to justify fees based on other methodologies.

- Capacity charges based on the buy-in method are a reimbursement for past capital costs. Therefore, the *use* of the fees is to reimburse the utility (or existing development). Once reimbursed, the utility is able to spend fee revenue as it desires. As a result, detailed accounting of impact fee expenditures is greatly simplified[5].

The system buy-in method is best applied in areas that are largely buildout and with infrastructure already in place. However, if significant expansion of utility systems is required and future costs may be significantly different from historical costs then the system buy-in approach may not be the best approach. The system buy-in method may also be problematic if fixed asset records poorly describe the assets that are included, or do not adequately categorize facilities into asset classes, such as supply, treatment, storage, distribution, pumping, etc.

Incremental Cost Method

The incremental cost methodology is a fairly common approach for capacity charges, particularly for communities experiencing considerable new growth. The approach is based on the cost of new or planned capital facilities. The cost of growth-related facilities is allocated to the new development to be served by the facilities. Allowances for existing capacity that may also serve new connections are often not made or only included on a limited basis. Under this approach, new customers pay for the incremental investment necessary for system expansion. The incremental approach is most commonly applied when new facilities are required to provide capacity for new development.

For example, when new customers connect to a utility system they use either reserve capacity available to existing customers (which then needs to be replaced), or they require new capacity which must be added to the system. The goal of this method is to minimize or eliminate the need to raise rates in order to provide for system expansion. Consequently, new customers pay fully for additional capacity in new facilities to avoid imposing a burden on existing customers.

The basic equation for calculating the water capacity charges using the incremental cost method would be:

$$\frac{\text{Present Value of Facilities Needed for Future Growth}}{\text{Total Future Units of Development to Be Served}}$$

The incremental cost methodology often requires more detailed analyses in order to satisfy nexus requirements. First, the capacity requirements of new development must be defined. Second, the amount of capacity provided by new facilities must be determined, and capacity enhancements required to address existing deficiencies should be considered. To the extent that existing capacity does not provide the specified level of service to existing development, new facilities must be identified to correct these deficiencies, and fees paid by new development can

[5] By accepting fee payments from new development the utility is indicating a willingness and ability to provide service. Therefore, it is recommended that capacity charge revenues be utilized for capital improvements that enhance service delivery capabilities.

not be used to correct existing deficiencies. As a result, it is fairly common for only a portion of new capital facility costs to be included in fee calculations.

The incremental cost methodology is simplified when all-new infrastructure is required to serve new development areas. In this situation, service level standards are defined, new facilities identified, and costs are determined. The cost of facilities is then allocated (or spread) across all new development to be served by the facilities. Units of development must be defined as well as demand factors for different types of development. Capacity charges based on the incremental cost methodology are subject to statutory accounting requirements because capacity charge revenue must be expended on specific capital improvement projects.

Combined Method – Future System Buy-in

Some capacity charge approaches combine both existing and planned facilities into capacity charge calculations. This is because new development frequently benefits from both surplus capacity in existing facilities, but also requires new facilities to provide required capacity. Many facilities are oversized when initially constructed for economies of scale and in anticipation of future development. Examples are water supply facilities, treatment facilities, transmission pipelines, etc. These major facilities are difficult and more costly to add incrementally. Other facilities, such as distribution pipelines, water storage tanks, and others can be added incrementally as development proceeds.

One of the challenges in using a combined approach for capacity charges is to make certain that new development is not paying for needed capacity in both existing and new facilities. For example, it would be inappropriate to charge new development for capacity in both an existing and a new water treatment plant. It may be appropriate, however, to charge new development for new and existing facilities that are part of a broad system. For example, in may be reasonable to charge new development for proportionate share of costs associated with an existing water distribution system, as well as new distribution facilities that extend into newly developing areas. In this case, new development needs the new facilities but also benefits from the existing distribution system network which serves to convey water to customers.

One approach that combines both existing and new facilities is the future system buy-in methodology[6]. The future system buy-in method is similar to the system buy-in method described previously, except that it views and assesses the system at some point in the future. The basic equation for calculating the water capacity charges using this methodology would be:

$$\frac{\text{Present Value of Existing and Planned Facilities}}{\text{Total Units of Development to Be Served}}$$

Whereas the typical system buy-in approach divides the existing system value by the current number of units of development, the future buy-in approach considers what the system will be like at some future planning horizon and divides this by the total number of units of

6 Nelson has referred to this type of approach as the average cost method.

development to be served at that point in time. The planning horizon could be the General Plan, ultimate buildout, or a point used in master plans or other planning documents.

This future system buy-in method is based on a system-wide philosophy. That is, the entire (future) system is intended to benefit all customers equally, and all customers should bear responsibility for the entire system cost in proportion to the total number of users. The approach avoids the need to consider the precise impacts of individual projects or the specific capacity requirements of certain elements of the water system (e.g., water supply).

The future buy-in approach can have a stabilizing effect on the level of capacity charges over time in that each unit of new development would be effectively paying an "average" unit cost of the entire water system. Therefore, capacity charges would be less subject to dramatic changes due to the potential variability in incremental system improvements.

Because the capacity charge calculation formula uses the total units of demand in the denominator, there is no need to distinguish between replacement, upgrade, and expansion projects. While this may be a difficult concept to convey initially, it greatly simplifies the requirements for separately tracking replacement and upgrade costs from expansion costs.

Proposed Capacity Charge Methodology for the Town of Windsor

After considering (1) the situation in Windsor, (2) the availability of planning documents and the water system master plan, and (3) information on existing water system assets, as well as discussing options with Town staff, it is recommended that the Town follow the incremental cost methodology for calculating water system capacity fees. This recommendation is supported by the availability of the new *Water Master Plan Update* and the *Engineer's Report*, which describe needed new facilities to meet current and future water demands.

CURRENT WATER CAPACITY FEES

Current water system capacity fees are presented in **Exhibit 2**. The fees were adjusted for inflation in July 2010; inflationary adjustments are made annually using the 20-cities construction cost index published by the *Engineering News Record*. The last comprehensive review of water system capacity fees was made in 2000.

In addition to the water system capacity fee, the Town charges a front footage fee intended to reflect the cost of the water main fronting the property. The current residential front footage fee is $31 per lineal foot of frontage for mains serving both sides of the street, and $62 per lineal foot of frontage for mains service one side of the street. The current non-residential front footage fee is $62 per lineal foot of frontage for mains serving both sides of the street, and $126 per lineal foot of frontage for mains service one side of the street.

The proposed water capacity fees are intended to replace the existing water capacity fees, as well as the front footage fee. The front footage fee is outdated and not applicable with the methodology chosen for fee calculation. A water meter installation charge may also be applicable to cover the cost of the Town physically installing the water meter for the new service connection. Meter installation fees are not addressed in this study.

Exhibit 2
Town of Windsor -- Water Utility
Current Water Capacity Fees (1)

	Current
Single Family Residential	
Up to 1" meter	$ 1,611
Multi-Family, Non-Residential, and Irrigation	
Up to 1" meter	$ 2,550
1 1/2" meter	$ 4,830
2" meter	$ 7,296
3" meter	$ 12,880
4" meter	$ 20,128
6" meter	$ 37,567
8" meter	$ 55,817

Notes:
(1) Current fees became effective July 1,2010. Current charges also include meter & installation fees, as well as front foot fees, which are excluded from this exhibit (see text of report). Capacity fees do not apply to recycled water connections.

WATER CAPACITY FEE CALCULATIONS

Capacity fee calculations contained herein rely primarily on data and information contained in the *Town of Windsor Engineer's Report: Justification and Cost Allocation for Proposed Water System Improvements – Draft Report*, prepared by RMC, November 18, 2009. The information and assumptions used in capacity fee calculations, as well as the calculations themselves are described below.

Planned Capital Improvement Projects

Planned capital improvement projects incorporated into the water capacity fee analysis were identified in the *Engineer's Report* and the Town's capital improvement program (CIP) for FY 2009/10 through FY 2013/14. Projects identified in these documents are summarized in **Exhibit 3**, on the following page, including estimated construction costs for each project.

The Town plans to make significant improvements in water supply facilities through the construction of local groundwater wells. The Town currently receives most of its water supply from the Russian River Well Field (RRWF). However, for reasons explained in the *Engineer's Report*, the RRWF probably cannot be counted on for additional water supplies during peak demand months. However, water may be available in the Russian River during high-flow winter months. The Town and the Sonoma County Water Agency (SCWA) are considering strategies of groundwater banking, whereby excess Russian River water can be withdrawn and

stored in the groundwater basin for subsequent withdrawal. This conjunctive use strategy is one of the more viable options available to the Town for meeting future water demands. In addition, the *Engineer's Report* considered the potential consequences of near-term limitations on use of Russian River water during peak summer months. The analyses presented herein are consistent with the reduced supply conditions described in the *Engineer's Report.*

Exhibit 3
Town of Windsor -- Water Utility
Capital Improvement Program -- Project Cost Summary

Proj. No.	Project Description	Location	Size	Estimated CIP Cost	Current Alloc. %	Future Alloc. %
Water Supply Projects						
W-1	New supply well	Bluebird well site	270-600 gpm	$ 3,832,000	95%	5%
W-2	New supply well	Esposti well site	270-600 gpm	$ 4,373,000	26%	74%
W-3	New supply well	Hiram Lewis Park	270-600 gpm	$ 4,596,000	58%	42%
W-4	New well	Russian River well field	1300 gpm	$ 1,455,000	63%	37%
W-5	Suppl. water supply study			$ 1,500,000	0%	100%
W-6	Recycled water master plan			$ 500,000	0%	100%
	Water Supply Sub-Total			**$16,256,000**	51%	49%
Storage Projects						
ST-1	New storage tank	Chalk Hill Road	3.0 MG	$ 4,782,000	32%	68%
WM-1	New pipeline to storage tank	Pleasant Avenue	5,495 LF @ 12"	$ 1,110,000	32%	68%
ST-2	New storage tank	Lakewood Hills	1.5 MG	$ 3,168,000	0%	100%
WM-12	Upsize discharge piping	Lakewood tank site	715 LF @ 16"	$ 322,000	0%	100%
	Storage Project Sub-Total			**$ 9,382,000**	20%	80%
Water Main Projects						
WM-2	Replace metering pipeline	East of RRWF	65 LF @ 18"	$ 98,000	100%	0%
WM-3	Replace piping btwn pumps 7 & 8	RRWF	85 LF @ 12"	$ 75,000	70%	30%
WM-4	Replace piping btwn pumps 7 & 9	RRWF	85 LF @ 12"	$ 75,000	70%	30%
WM-5	Replace existing 10" pipe	Old Redwood Hwy.	2,245 LF @ 12"	$ 652,000	67%	33%
WM-6	Construct parallel pipeline	RRWF to Eastside Rd.	2,440 LF @ 18"	$ 2,040,000	60%	40%
WM-7	Replace existing 8" pipeline	Kensington Ln.	150 LF @ 10"	$ 94,000	73%	27%
WM-8	Construct new pipeline	Herb Rd.	5,410 LF @ 10" & 12"	$ 1,185,000	84%	16%
WM-9	Construct new pipeline	Starr Rd.	1,180 LF @ 12"	$ 730,000	91%	9%
WM-10	Construct new pipeline	Old Redwood Hwy.	680 LF @ 12"	$ 206,000	97%	3%
WM-11	Construct new pipeline	Faught Rd, Chalk Hill Rd.	6,595 LF @ 12"	$ 1,332,000	0%	100%
WM-13	Construct new pipeline	Emmerson St.	1,685 LF @ 12"	$ 358,000	50%	50%
WM-14	Construct new pipeline	East of Eriksen Ln.	2,875 LF @ 12"	$ 625,000	79%	21%
WM-15	Construct new pipeline	Hembree, Vinecrest, Jensen	5,130 LF @ 8" & 12"	$ 970,000	95%	5%
	Water Main Project Sub-Total			**$ 8,440,000**	64%	36%
FY 2009/10 through FY 2013/14 CIP						
	Water Tank Recoating			$ 1,700,000	100%	0%
	Water Meter Replac. Program			$ 690,000	100%	0%
	Pruitt Creek Main Relocation			$ 300,000	100%	0%
	Wtr. Mstr. Plan CEQA Review			$ 100,000	62%	38%
	FY 2010-2014 CIP Sub-Total			**$ 2,790,000**	99%	1%
	Capital Improvement Program Total			**$36,868,000**	50%	50%

Other planned capital improvement projects include additional water storage tanks and a number of transmission and distribution pipelines to improve capacity and reliability within the water system. Other projects, including planning studies are also included in the list of planned projects.

The capital improvement project list contained in the *Engineer's Report* includes allocations of project costs to current users and future customers. In general, projects that are needed to rehabilitate or upgrade the water system for the benefit of existing users are allocated to current customers, while projects that expand the water system to provide additional capacity to serve new customers are allocated to new development. Many projects provide multiple benefits and are allocated to both existing and future users. Only the costs allocated to future users are included in capacity fee calculations. Exhibit 3 shows how each capital improvement project has been allocated between current and future users.

Current and Future Demand, Demand Factors, and Service Level Standards

The *Engineer's Report* includes details of current and projected future water demands. For purposes of calculating water system capacity fees, the increase in estimated water demands from 2010 to 2035 were considered. **Exhibit 4** summarizes information contained in the *Engineer's Report*. Average day demand is estimated to increase from 3.98 million gallons per day (MGD) in 2010 to 6.36 MGD in 2035. This represents a 60 percent increase in water demand.

Exhibit 4
Town of Windsor -- Water Utility
Current and Projected Future Water Demands (1)

		Current (2010)	Future (2035)	Increase
		(MGD)	(MGD)	(MGD)
Avg. Day Dmd. (ADD)		3.98	6.36	2.38
Max. Day Dmd. (MDD)	1.9 x ADD	7.56	12.08	4.52
Peak Hour Dmd. (PHD)	2.9 x ADD	11.54	18.44	6.90
Annual Volume (AF)		4,458	7,124	2,666
3/4" Eq. Mtrs. (w/ Loses) (2)		11,603	18,542	6,939
			Growth 2010-2035 -->	60%

Notes:
(1) From Town of Windsor Engineer's Report: Justification and Cost Allocation for Proposed Water System Improvments - Draft Report prepared by RMC, November 18, 2009.
(2) Average water demand for single family residence (3/4" equiv. meter) is 319 gpd. Water system loses of 7 percent are added to this to arrive at a residential demand requirement of 343 gpd for a 3/4" equivalent meter.

Maximum day demands have been estimated to be 1.9 times the average day demand, and peak hour demands have been estimated to be 2.9 times the average day demand.

Existing average day single family residential demand is 319 gallons per day (gpd) based on recent billing records. This residential demand is defined as the demand for a ¾" equivalent meter (one unit of demand). All water systems experience some water losses between points of water production and delivery to end-users. The Water Master Plan Update includes an unaccounted for water system loss factor of 7 percent (i.e., water delivered to end users is

assumed to be 7 percent less than the volume of water placed into the water system). Therefore, a unit of water demand (at the production end) is 343 gpd (or 0.38 acre-feet annually) for a ¾" equivalent meter. These demand factors (from both the end user and system requirement perspectives) are summarized at the top of **Exhibit 5**.

As shown at the bottom of Exhibit 4, the estimated increase in water demands from 2010 through 2035 is estimated to be equivalent to 6,939 additional ¾" equivalent meters.

The demand factors and units of estimated new demands are used in the calculation of water system capacity fees presented herein.

Exhibit 5
Town of Windsor -- Water Utility
Demand Factors and Service Level Standards

Demand Factors (1)	**End User**	**System Rqmt.**	
Average day demand (ADD) for 3/4" Eq. Mtr.	319	343	gpd
Maximum day demand (MDD) = 1.9 x ADD	606	652	gpd
Peak hour demand = 2.9 x ADD	925	995	gpd
Annual volume for 3/4" meter	0.36	0.38	AF
Service Level Standards			
Water supply requirement	1.00	x MDD	
Operational storage	0.25	x MDD	
Fire flow storage	3,000	gpm for 3 hours	
Emergency storage	1.00	x ADD	
Minimum distribution system pressure	35	psi	
Minimum pressure w/ fire flow	20	psi	
Maximum velocity in trans. pipelines	5-10	fps	
Maximum headloss in trans. pipelines	5-10	ft. per 1,000 ft. of pipeline	

Notes:
(1) End-users demands do not reflect unaccounted for water system losses. Water system capacity analysis includes a 7 percent unaccounted for water loss factor to arrive at system sizing requirements.

The Town's water system has been sized in accordance with specific service level standards. These service level standards are described in detail in the *Engineer's Report,* and are summarized in the lower portion of **Exhibit 5**. In short, the capital improvements identified in the *Engineer's Report* are those needed to accommodate future water demands at the levels of services specified. Where deficiencies exist, improvement costs were allocated to existing users (as upgrade costs). Only the costs associated with providing the required levels of service to new, future customers were allocated to new development.

Water Capacity Fee Components

Water capacity fee calculations are comprised of several different components, each related to different parts of the water system and planned capital improvement projects.

Water Supply Component

The *Engineer's Report* specifies that water supply facilities should provide sufficient capacity to meet 1.0 times the maximum day water demand (MDD). Planned water supply facilities include new well fields to utilize the local groundwater resource, as well as improvements to improve existing supply reliability, as well as deal with seasonal limitations on taking water from the Russian River. A promising water supply strategy may entail using the local groundwater aquifer to store Russian River water during periods of high flow and availability for use (extraction) when water from the Russian River is not available for diversion. Two planned well projects are intended to serve the storage and recovery purpose (i.e., conjunctive use). However, a third well project has been identified as providing additional water supply capacity for new development. The Hiram Lewis Park well field (Project W-3) is identified in the Engineer's Report as needed to supply water for future development. The cost of this project is used to calculate the water supply component of the water capacity fee.

Exhibit 6 presents the calculation of the water supply component. Each new unit of demand (3/4" equivalent meter) will require supply capacity of 652 gpd or 0.45 gallons per minute (gpm). The Hiram Lewis Park well field has an estimated cost (see Exhibit 3) of $4,596,000 and estimated capacity between 270 gpm and 600 gpm. Using an average (435 gpm) capacity within this potential range, the estimated unit cost of water supply capacity is $10,566 per gpm. Multiplying the $10,566 per gpm cost of capacity by the 0.45 gpm capacity requirement for a ¾" equivalent meter results in a water supply component of $4,782.

Exhibit 6
Town of Windsor -- Water Utility
Water Supply Capacity Fee Component

		Current (2010)	Future (2035)	3/4" Eq. Mtr.	
		(MGD)	(MGD)		
Supply Capacity Rqmts.	1.00 x MDD	7.56	12.08	652	gpd
	Supply Requirement w/ Loses (1)-->			**0.45**	**gpm**
	Cost per gpm (2) -->			**$ 10,566**	
	Water Supply Component (for 3/4" meter) -->			**$ 4,782**	

Notes:
(1) Based on MDD of 1.9 times ADD and assumed 7 percent unaccounted for loss factor.
(2) Based on the unit cost of capacity from the planned Hiram Lewis Park well field assuming 435 gpm.

Water Storage Component

As previously shown in Exhibit 5, storage requirements are comprised of operational storage, fire storage, and emergency storage requirements. Based on these requirements, the water storage needed for a ¾" equivalent meter is equal to 535 gallons. It should be noted that the storage capacity for operations and emergencies are discreet allocations of storage for each unit of demand. However, fire flow capacity is a shared capacity across the entire water system.

Therefore, as the Town grows the amount of storage for fire flow per customer decreases as the number of customers increase.

Exhibit 7 summarizes the calculation of the water storage capacity fee component. Two new storage reservoirs are planned. The Chalk Hill reservoir will have a 3.0 million gallon (MG) capacity, and the Lakewood Hills reservoir will have a 1.5 MG capacity. Because the current water system is deficient in water storage capacity, 0.97 MG of the Chalk Hill reservoir is assigned to existing customers as an upgrade cost. This leaves 2.03 MG in the Chalk Hill reservoir for new development, as well as the entire Lakewood Hills reservoir.

Exhibit 7
Town of Windsor -- Water Utility
Water Storage Capacity Fee Component

		Current (2010)	Future (2035)	3/4" Eq. Mtr.	
		(MG)	(MG)	(gal.)	
Operational Storage	0.25 x MDD	1.89	3.02	163	
Fire Flow Storage	3 hrs @ 3,000 gpm	0.54	0.54	29	
Emergency Storage	1.00 x ADD	3.98	6.36	343	
		6.41	9.92	535	
			Storage Requirement w/ Loses (1) -->	**535**	**gal.**
			Cost per gallon (2) -->	**$ 2.12**	
			Water Storage Component (for 3/4" meter) -->	**$ 1,133**	

Notes:
(1) Based on assumed 7 percent unaccounted for loss factor.
(2) Based on weighted average cost to new development of 3.0 MG from Chalk Hill tank and 1.5 MG from Lakewood Hills tank, including required pipelines.

The cost of storage for new development is based on the weighted average cost of capacity. This calculation also includes consideration of the pipeline necessary to make the reservoir usable. Based on cost information contained in Exhibit 3, the cost of storage capacity for new development is $2.12 per gallon. Applying this cost to the 535 gallons needed for a ¾" equivalent meter results in a water storage component of $1,133.

Miscellaneous Components

There are three additional, and relatively minor components included in the water capacity fee calculation. Each of these follows a similar calculation, and they are presented together. They include a transmission/distribution component, a water supply reliability component, and a planning study component. The calculation of each of these components is shown in **Exhibit 8**.

The *Engineer's Report* includes a number of transmission and distribution pipeline improvements that are intended to help maintain flow and pressure within the distribution system, as well as improve system reliability and redundancy. The *Engineer's Report* includes allocations of project costs to existing and future users, based on the benefits derived from each project. The calculation of the transmission/distribution component is derived by dividing the

costs assigned to future users divided by the total number of new users (in 3/4" equivalent meters) estimated between 2010 and 2035. As shown in the top portion of Exhibit 8, this results in a transmission/distribution component of $440 for a ¾" equivalent meter. It should be noted that this is a conservative calculation, in that it does not include any value associated with the existing water transmission/distribution network, but only planned new additions.

Exhibit 8
Town of Windsor -- Water Utility
Miscellaneous Water Capacity Fee Components

Transmission/Distribution Component		
Water Main Project Costs Allocated to Future Growth (1)	$	3,053,770
No. of New 3/4" Eq. Mtrs. (2) -->		6,939
Trans./Distrib. Component (for 3/4" meter) -->	**$**	**440**
Supply Reliability Component		
Water Supply Reliability Project Costs Allocated to Future Growth (3)	$	948,600
No. of New 3/4" Eq. Mtrs. (2) -->		6,939
Supply Reliability Component (for 3/4" meter) -->	**$**	**137**
Planning Study Component		
Planning Study Costs Allocated to Future Growth (4)	$	2,038,000
No. of New 3/4" Eq. Mtrs. (2) -->		6,939
Planning Study Component (for 3/4" meter) -->	**$**	**294**

Notes:
(1) Includes costs for main projects and CIP improvements shown in Exhibit 3 multiplied by the future allocation percentage for each project.
(2) From Exhibit 4.
(3) RRWF and local well field improvement costs multiplied by future allocation percentage from Exhibit 3. Only 5 percent of the cost of the Esposti well project is used in this calcualtion (as the reliability benefit).
(4) Includes all study costs shown in Exhibit 3 multiplied by the future allocation percentages.

A new well at the Russian River well field (project W-4) is intended to increase water supply redundancy and thereby improve reliability of water supply for the benefit of all water system customers. Future customers have been allocated about 37 percent of the cost of this project because of the anticipated benefits. In addition, new wells at the Bluebird and Esposti sites (projects W-1 and W-2) are intended to help enable the Town to store surface water in the groundwater aquifer for subsequent extraction and use. In effect, these projects will also help improve the Town's overall water supply reliability and efficiency. The *Engineer's Report* allocates a small portion (5 percent) of the Bluebird well project to future customers due to the reliability benefit. This same allocation is also applied to the Esposti well project cost for this supply component to reflect the reliability benefit to future development. This water supply reliability component is calculated by dividing the portion of project costs allocated to future

users by the total number of estimated new users between 2010 and 2035. This results in a water supply reliability component of $137 for a ¾" equivalent meter.

Finally, the *Engineer's Report* and the Town's FY 2009/10 through FY 2013/14 capital improvement program include several planning studies. These studies serve various purposes, but all provide benefits to both existing and new customers. The planning study component of the capacity fee is derived by multiplying the estimated cost of each study by the future allocation percentage and dividing this total by the estimated number of new users between 2010 and 2035. This results in a planning study component of $294 for a ¾" equivalent meter.

Total Water Capacity Fee

The total water system capacity fee is the sum of all the components, or $6,785, as shown below. This is a significant increase from the current capacity fee of $1,611 for a ¾" equivalent meter. However, as mentioned previously, it is also recommended that the Town eliminate the existing front footage fee with the adoption of the proposed new fee.

Water supply component	$4,782
Water storage component	$1,133
Transmission/distribution component	$440
Water supply reliability component	$137
Planning study component	$294
Total for ¾" equivalent meter	$6,785

Proposed Water Capacity Fee Schedule

The proposed water capacity fee schedule is presented in **Exhibit 9.** Most single-family residences have ¾" water meters (as the standard residential meter size). However, in recent years, some residences have been equipped with 1" water meters in order to provide the flow capacity associated with residential fire suppression systems. Since fire suppression is not an ongoing use of the water system, the Town's current practice is to maintain uniform capacity fees for single family residences, based on the ¾" meter size. Other new water service connections (i.e., multi-family, commercial, and irrigation) are subject to water system capacity fees based on the size of the water meter. This practice is also continued with the proposed fee schedule. The scaling of capacity fees across the various meter sizes is done in proportion with the hydraulic capacity associated with each meter size, and is a standard practice for this type of fee.

The Town is encouraging a variety of different types of development, including more dense single family development that may more efficiently use resources and lessen impacts on the environment. Because smaller residential development may place a lesser demand on the water system, staff has proposed that 5/8" water meters be allowed for single family residences with parcel less than or equal to 4,000 sq. ft. and building sizes of less than or equal to 1,200 sq. ft. In response to this allowance, a 5/8" water capacity fee of $4,546 is also proposed.

Exhibit 9	
Town of Windsor -- Water Utility	
Proposed Water Capacity Fees	
	Proposed
Single Family Residential	
5/8" meter (1)	$ 4,546
3/4" & 1" meters (2)	$ 6,785
Multi-Family, Non-Residential, and Irrigation	
Up to 1" meter	$ 11,332
1 1/2" meter	$ 22,595
2" meter	$ 36,166
3" meter	$ 67,854
4" meter	$ 113,113
6" meter	$ 226,158
8" meter	$ 361,867
Notes:	
(1) Single family residences with lots up to 4,000 sq. ft. and building size up to 1,200 sq. ft. may qualify for a 5/8" meter.	
(2) Standard meter size for single family residences is 3/4". However, in some cases 1" meters are installed to accommodate fire suppression sprinkler systems.	

CAPACITY FEE ADMINISTRATION AND UPDATES

While not reviewed in detail, we believe that the Town currently follows required steps for accounting for capacity fee revenues and expenditures. For reference, **Appendix A**, at the end of this report, includes statutory requirements for accounting for capacity fees.

Annual Adjustments for Inflation

It is recommended that the Town of Windsor annually adjust the water system capacity fees for the affects of inflation using the *Engineering News Record's* 20-Cities construction cost index (20-cities CCI). The capacity fees presented herein have been based on cost estimates presented in the November 2009 *Engineer's Report*. The *Engineer's Report* contains cost estimates consistent with the June 2009 *Draft Water Master Plan Update*. While that report does not specify a reference date for cost indexing purposes, it is recommended that the capacity fee presented herein be indexed based on a 20-cities CCI value of 8,578 for June 2009. The 20-cities CCI is a broadly accepted and used construction cost index that attempts to reflect the monthly changes in general construction costs. Adjusting capacity fees annually using this index can help the Town maintain fees commensurate with inflationary cost changes between periodic comprehensive updates.

Formal Updates

It is recommended that the Town formally review and/or update water system capacity fee calculations at least once every three to five years. Capital improvement plans, cost estimates, and financing terms all evolve over time and periodically updating the calculations will help ensure that new development is paying fair and proportionate share of water system costs.

Adjustments for Financing Costs

The water capacity fees presented herein do not include any costs associated with the debt financing of facilities. Financing costs, including interest and issuance costs, can be included in fee calculations as they can be real costs associated with acquiring needed capital facilities. Traditional financing, such as revenue bonds or certificates of participation, can add on the order of 75 percent to the cost of a project (in present value terms) assuming a 30-year term, a 6.0 percent interest rate, and 4 percent issuance costs. To the extent that the Town has plans to debt finance some or all of the planned facilities included in the capacity fee calculations it is possible to add financing costs into the fee calculation. However, because plans for debt financing (as well as specific terms) can change, a more conservative approach may to wait to add financing costs until a firm commitment to financing is made (e.g., debt is actually issued).

Capacity Fees as a Means of Equity, Rather Than Financing

The statutory requirements for capacity fees are primarily intended to ensure that new development is not required to pay more than a proportionate share of costs associated with the cost of capacity. It is primarily a means of equity. Capacity fee revenue is used to help pay for needed capital improvements. However, capacity fee program have their limitations as a means of financing.

Annual capacity fee revenues are subject to the fluctuations in the pace of new development. However, they are often also used as a major source of capital improvement revenue. Caution should be exercised when relying upon capacity fee revenue as a predictable or stable revenue source. While capacity fee revenue can be used to make debt service payments, because capacity fee revenue is subject to the fluctuation inherent in the pace of development activity, relying on capacity fee revenue for debt payments involves a certain level of risk. Prudent financial planning will consider this risk in developing a sound financial strategy.

APPENDIX A - GOVERNMENT CODE SECTIONS 66013, 66016, 66022, AND 66023

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.

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.

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.

66023. (a) Any person may request an audit in order to determine whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product or service provided by the local agency. If a person makes that request, the legislative body of the local agency may retain an independent auditor to conduct an audit to determine whether the fee or charge is reasonable.

(b) Any costs incurred by a local agency in having an audit conducted by an independent auditor pursuant to subdivision (a) may be recovered from the person who requests the audit.

(c) Any audit conducted by an independent auditor to determine whether a fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of providing the product or service shall conform to generally accepted auditing standards.

(d) The procedures specified in this section shall be alternative and in addition to those specified in Section 54985.

(e) The Legislature finds and declares that oversight of local agency fees is a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that this chapter shall supersede all conflicting local laws and shall apply in charter cities.

(f) This section shall not be construed as granting any additional authority to any local agency to levy any fee or charge which is not otherwise authorized by another provision of law, nor shall its provisions be construed as granting authority to any local agency to levy a new fee or charge when other provisions of law specifically prohibit the levy of a fee or charge.