



# Water Capacity Charge Update

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**BARTLE WELLS ASSOCIATES**  
INDEPENDENT PUBLIC FINANCE ADVISORS

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# 1. Background, Objectives, & Government Code

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## District Overview

The Mid-Peninsula Water District (MPWD or District) provides water service to a population of approximately 27,000 in the City of Belmont and adjacent portions of the City of San Carlos and unincorporated San Mateo County. The District's service area covers about 5 square miles. MPWD is located about 30 miles south of San Francisco in San Mateo County. MPWD was formed in 1929 as a County Water District and is governed by a five-member board of directors.

The District currently purchases all of its water from the San Francisco Public Utilities Commission (SFPUC). The District is a member of the Bay Area Water Supply and Conservation Agency (BAWSCA) which represents the collective interests of 26 regional water purveyors receiving water supply from SFPUC. SFPUC water is treated and delivered to the District's 7,900 accounts through two service connections. The District owns and operates a water distribution system that includes 9 pressure zones, 19 pumps, 11 water tanks, 20 water regulating valves, 790 fire hydrants and 94 miles of water mains.

## Background & Objectives

MPWD levies an *Existing Facilities Charge* on new or expanded connections as a condition of development. This charge was established to recover the cost of capacity in District facilities benefitting new development. The current fee was adopted in 1993 and has not been updated in over 20 years. This report refers to this type of development impact fee as a "capacity charge", in line with terminology used in California Government Code. New connections also pay a *Meter Charge* to recover the cost of the water meter and a *Service Line Charge* to pay for the District's costs of installing the service line and making the physical connection to the water main.

The District’s current fees for new development are shown on Table 1.

**Table 1. Current Connection Charges**

Meter Size	Meter Charge	Service Line Charge	Existing Facilities Charge	Total Service Connection Charges
5/8 x 3/4"	\$100	\$3,450	\$1,450	\$5,000
1"	\$150	\$3,450	\$2,400	\$6,000
1-1/2"	Actual*	Actual*	\$4,000	tbd
2"	Actual*	Actual*	\$6,000	tbd
4"	Actual*	Actual*	\$13,000	tbd
6"	Actual*	Actual*	\$40,000	tbd
8"	Actual*	Actual*	\$50,000	tbd

\* Subject to a deposit based on the District's estimate of the cost of installation.

In 2014, MPWD retained Bartle Wells Associates to independently review and update the District’s capacity charges. Key objectives of the study include developing new capacity charges for the MPWD that:

- Recover the full costs of water system infrastructure and assets that benefit new or expanded development to help ensure that growth pays its own way;
- Equitably recover costs from each connection based on the new or increased capacity needs of each new development;
- Are consistent with industry-standard practices and methodologies;
- Comply with government code.

## Government Code

Development impact fees are governed by California Government Code Section 66000 et. seq. This section of the Code was initially established by Assembly Bill 1600 (AB 1600) and is commonly referred to as the Mitigation Fee Act. Pursuant to the Code, a development impact fee is not a tax or special assessment, but is instead voluntary charge levied to defray the cost of public facilities needed to serve a new development.

Section 66013 of the Code specifically governs water capacity charges. This section of the Code defines a “capacity charge” to mean *“a charge for public facilities in existence at the time a charge is imposed or charges for new public facilities to be acquired or constructed in the future that are of proportional benefit to the person or property being charged.”* The Code distinguishes “capacity charges” from “connection fees” which are defined as fees for the

physical facilities necessary to make a water or water connection, such as costs related to installation of meters and pipelines from a new building to a water or water main. According to the Section 66013, a water or water capacity charge “shall not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed” unless approved by a two-thirds vote. As such, the capacity charges calculated in this report represent the maximum charges that the District can levy. Section 66013 does not detail any specific methodology for calculating capacity charges.

Section 66013 also identifies various accounting requirements for capacity charge revenues, notably that such revenues cannot be co-mingled with other District revenues and must be used for the purpose for which the charge was imposed. Section 66016 of the Code identifies the procedural requirements for adopting or increasing water and water capacity charges and Section 66022 summarizes the general process by which the charges can be legally challenged. The full text of Sections 66013, 66016 and 66022 are attached in Appendix A.

## Summary of Recommendations

### Water System Capacity Charges

BWA recommends that MPWD update its capacity charges based on a *system buy-in approach*, under which new or expanded connections would “buy in” for their proportionate share of costs (in current dollars) for capacity needed in the District’s water system. With the proposed charges, each new development project would pay for its share of infrastructure costs based on the estimated amount of additional demand the project places on the water system. The current and proposed charges for a typical single family home are as follows:

<u>Current</u>	→	<u>Proposed</u>
\$1,450		\$9,375

Proposed charges for other connections are based on meter size, with higher charges for larger meters in proportion to the increased demand placed on the water system. The proposed charges are standard fees the District can levy on new or expanded connections to the water system. The District should retain the authority to levy different charges on a case-by-case basis to ensure the charges appropriately reflect the water demand of each new development and to ensure the District can recover costs for other facilities that may be required to serve new development on case-by-case basis.

## Proposed Water System Capacity Charges

<b>RESIDENTIAL</b>		<u>Water Demand<sup>1,2</sup></u>	<u>Capacity Charge</u>
<i>Charge applies per residential dwelling unit</i>			
<b>Single Family Detached Dwelling Unit</b>		200 gpd	\$9,375
<i>Charge applies to residential dwelling units served by meters up to 1-inch</i>			
<b>Multi-Family Dwelling Unit</b>		120 gpd	\$5,625
<i>Includes: apartments, townhouses, condominiums, and other developments with multiple residential units and separate irrigation meters as designated by the District</i>			
<hr/>			
<b>OTHER CONNECTIONS</b>			
<i>Charge applies based on meter size</i>			
<u>Meter Size</u>	<u>Meter Capacity Ratio<sup>3</sup></u>	<u>Water Demand<sup>4</sup></u>	<u>Capacity Charge</u>
Up to 3/4"	1.00	200 gpd	\$9,375
1"	1.67	333 gpd	15,625
1-1/2"	3.33	667 gpd	31,250
2"	5.33	1,067 gpd	50,000
3"	10.00	2,000 gpd	93,750
4"	16.67	3,333 gpd	156,250
6"	33.33	6,667 gpd	312,500
8"	53.33	10,667 gpd	500,000
<hr/>			
1 Single family residential demand based on average water use in 2013/14 reduced to account for 10% additional conservation.			
2 Multi-family demand estimated at 60% of single family detached water demand accounting for minimal to no outdoor irrigation and reduced average occupancy per dwelling unit.			
3 Based on standard American Water Works Association meter capacities.			
4 Demand conservatively estimated based on 200 gpd multiplied by meter capacity ratio.			
<i>Note: Standard charges shown. The District reserves the right to calculate alternative charges on a case-by-case basis to ensure charges reflect estimated water demand and/or recover the full costs of facilities benefiting new or expanded water service connections.</i>			

Other recommendations and observations regarding the proposed Water System Capacity Charges include:

- BWA recommends that MPWD rename its capacity charges from the current *Existing Facilities Charge* to *Water System Capacity Charge* to better reflect terminology of state government code.
- These proposed capacity charges represent a conservative and reasonable estimate of the maximum charges the District can levy. Under government code, the District may

not levy charges in excess of the maximum fees calculated, but can charge lower fees or can phase in the charges if preferred.

- The District will need to determine or approve the meter size for new developments to ensure the meter size is appropriate for the anticipated water demands of each new connection.
- Redevelopment projects should only be assessed a capacity charge based on the increase in water demand resulting from the project.
- Due to changes in plumbing code requirements, a remodel of an existing building may occasionally result in the need to upsize the meter to meet newer fire flow requirements, even though the customer's underlying water demand is not changing. In such cases, BWA does not recommend levying any capacity charge since there is no increase in demand.
- The District can update its capacity charges annually or periodically based on the change in the Engineering News-Record Construction Cost Index, a widely used measure of construction cost inflation.
- MPWD should evaluate its capacity charges in response to substantial changes in its capital improvement program or significant changes to its water supply. BWA generally recommends that agencies review their capacity charges not less than once every five years to ensure the charges remain appropriate.

### **Water Demand Offset Charges**

MPWD is at risk for not having adequate water supply to meet future demand. To mitigate the impacts on water supply and reliability from new development, the District should consider adopting a Water Demand Offset (WDO) Charge. Revenues from the charge would be used to fund initiatives to reduce long-term water demand. This report includes a schedule of proposed WDO Charges corresponding with the four UWMP Water Shortage Response Stages. Under the proposed system of charges, the District would levy a range of WDO Charges designed to offset 25% to 100% of water demand depending on the Water Shortage Stage in effect at the time the fees are paid. The proposed charges are based on a conservative estimate of the cost of new high-efficiency toilets (net of the current BAWSCA rebate of \$75 per toilet) needed to offset demand from a new single family home or equivalent non-residential connection with 200 gpd of estimated water demand.

### Proposed Water Demand Offset Charges

	UWMP Water Shortage Response Stages				
	Stage 1	Stage 2	Stage 3	Stage 4	
Water Supply Reduction	Up to 11%	12% - 18%	19% - 32%	33% - 50%	
Required Water Demand Offset	25%	50%	75%	100%	
<b>RESIDENTIAL</b>					
<i>Charge applies per residential dwelling unit</i>					
<b>Single Family Detached Dwelling Unit</b>	\$633	\$1,217	\$1,800	\$2,383	
<i>Applies to residential dwelling units served by meters up to 1-inch.</i>					
<b>Multi-Family Dwelling Unit</b>	\$380	\$730	\$1,080	\$1,430	
<i>Includes: apartments, townhouses, condominiums, and other developments with multiple residential units and separate irrigation meters as designated by the District</i>					
<b>OTHER CONNECTIONS</b>					
<i>Charge based on meter size</i>					
<u>Meter Size</u>	<u>Water Demand</u>				
Up to 3/4"	200 gpd	\$633	\$1,217	\$1,800	\$2,383
1"	333 gpd	1,055	2,028	3,000	3,972
1-1/2"	667 gpd	2,110	4,057	6,000	7,943
2"	1,067 gpd	3,376	6,491	9,600	12,709
3"	2,000 gpd	6,330	12,170	18,000	23,830
4"	3,333 gpd	10,550	20,283	30,000	39,717
6"	6,667 gpd	21,100	40,567	60,000	79,433
8"	10,667 gpd	33,760	64,907	96,000	127,093

#### Other Related Charges

The District should also consider updating its *Meter Charge* and *Service Line Charge* to ensure these charges reflect the current costs of providing these services. The *Service Line Charge* can be renamed the *Service Line and Meter Installation Charge* to more accurately reflect the purpose of this fee.



## Customer Base and Consumption

Table 2 shows the current number of customers by meter size. MPWD currently provides water service to over 7,900 accounts. The majority of the District’s customer base is single family residential, comprising 90% of all customers. The District’s base meter size is 5/8” x 3/4”; which represents 89% of all meters.

Table 3 summarizes annual consumption and monthly average use per account. Based on 2013/14 usage data, the average monthly use for single family residential customers is 9.1 hundred cubic feet (hcf) or approximately 224 gallons per day (gpd). One hcf is equivalent to approximately 748 gallons.

**Table 2. Accounts by Class and Meter Size**

Meter Size	Single Family			Other Public		% of Total Meters
	Residential	Apartment	Commercial	Authority	Total	
5/8 x 3/4"	6,780	20	267	25	7,092	89%
1"	330	61	92	18	501	6%
1-1/2"	27	48	54	20	149	2%
2"	3	64	56	24	147	2%
3"	0	5	33	4	42	1%
4"	0	4	11	4	19	0%
6"	<u>0</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>6</u>	<u>0%</u>
Total	7,140	204	515	97	7,956	100%
% of Total Accts	90%	3%	6%	1%	100%	

**Table 3. Accounts and Use by Customer Class**

<b>Customer Accounts</b>		
<i>May include ~60 inactive accounts</i>	<u>Accounts</u>	<u>% of Total</u>
Single Family Residential	7,130	90.2%
Apartments	204	2.6%
Commercial	477	6.0%
Other Public Authority	<u>97</u>	<u>1.2%</u>
Total	7,908	100.0%
<b>Billed Water Usage</b>		
	<u>Use (hcf)</u>	<u>% of Total</u>
Single Family Residential	779,127	60.1%
Apartments	214,216	16.5%
Commercial	218,774	16.9%
Other Public Authority	<u>83,953</u>	<u>6.5%</u>
Total	1,296,070	100.0%
<b>Average Use per Account</b>		
	<u>hcf/month</u>	<u>gpd</u>
Single Family Residential	9.1	224
Apartments	87.5	2152
Commercial	38.2	940
Other Public Authority	<u>72.1</u>	<u>1774</u>
Total	13.7	336

The District has experienced minimal growth since 2006. As shown on Table 4, the District has averaged 2 new connections each year since 2006. Due to current plumbing code requirements for new homes and major remodels to installing fire sprinklers, most new single family homes will be required to install a 1-inch meter to both meet customer water demand and provide adequate fire flow capacity. These new homes served by a 1-inch meter are expected to have the same underlying water demand as existing homes, which are predominantly served by 5/8 x 3/4-inch meters.

**Table 4. New Connections by Meter Size**

Meter Size	2006	2007	2008	2009	2010	2011	2012	2013	2014
5/8 x 3/4"	-	-	-	1				1	1
1"	2	-	2	3	2	1	1	2	1
1-1/2"	-	-	-	-	-	-	-	-	-
2"	-	-	-	-	-	-	-	-	-
3"	-	-	-	-	-	-	2	-	-
4"	-	-	-	-	-	-	-	-	-
6"	-	-	-	-	-	-	2	-	-
Total	2	0	2	4	2	1	5	3	2

Based on the 2010 Urban Water Management Plan (2010 UWMP), the population served by the District is expected to grow at an average rate of about 0.48% per year through 2035. This growth would result in approximately 38 new service connections per year on average, assuming the housing supply increases at the same rate as future population growth.

## 2. Capacity Charge Methodology

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### System Buy-In Approach

BWA recommends use of a *system buy-in approach* to calculate an updated water capacity charge for MPWD. Under this approach, new connections “buy in” for their proportionate share of capacity needs in existing and future water system facilities and assets that will serve the District through build-out. Key factors for this recommendation include:

- The District’s existing distribution system has capacity available to serve projected development. While some improvements are needed to increase capacity and mitigate bottlenecks for peak demands and fire flow in certain areas, the existing infrastructure is largely capable of handling the capacity demands of growth through projected buildout.
- Improvements identified in the District’s Capital Improvement Plan (CIP) are required to address current distribution system deficiencies, enhance reliability, and expand capacity in undersized pipelines. These projects benefit both existing customers and growth. As such, the share of project costs related to system upgrades, expansion, and upsizing should be included in fee recovery as these upgrades are needed to ensure adequate capacity and reliability through build-out.
- The System Buy-In Approach is one of the most widely used and accepted approaches for calculating capacity charges, particularly for utilities with capacity available in existing infrastructure available to serve growth.

### Facility Cost Valuation

There are a number of widely-used methods for valuing infrastructure and assets for cost recovery via capacity charges. BWA evaluated various valuation methods summarized below. The capacity charges calculated in this report are based on conservative engineering estimates of the current replacement cost of District infrastructure.

**A) Replacement Cost New Less Depreciation** – This approach escalates the depreciated accounting book value of each asset escalated into current dollars based on the change in the Engineering News-Record (ENR) Construction Cost Index from each asset’s acquisition date. The ENR index is a widely-used index for determining construction cost inflation. This method has a couple of shortfalls including: a) it is based on a conservative estimate of depreciable life used for accounting purposes, which can be significantly shorter than the actual life of assets, b) it puts the full burden of depreciation on the existing customer base, even though facilities

were sized and constructed to serve growth. For example, if a facility cost \$100,000 and had capacity to serve 100 connections, the average cost per connection would be \$1,000. However, under this valuation approach, a customer connecting in 20 years might only have to pay the equivalent of \$500 adjusted for inflation if the asset had a 40 year accounting life. This approach is not recommended as capacity charges calculated under this approach do not reimburse the existing customer base for the full inflation-adjusted cost of facilities they funded.

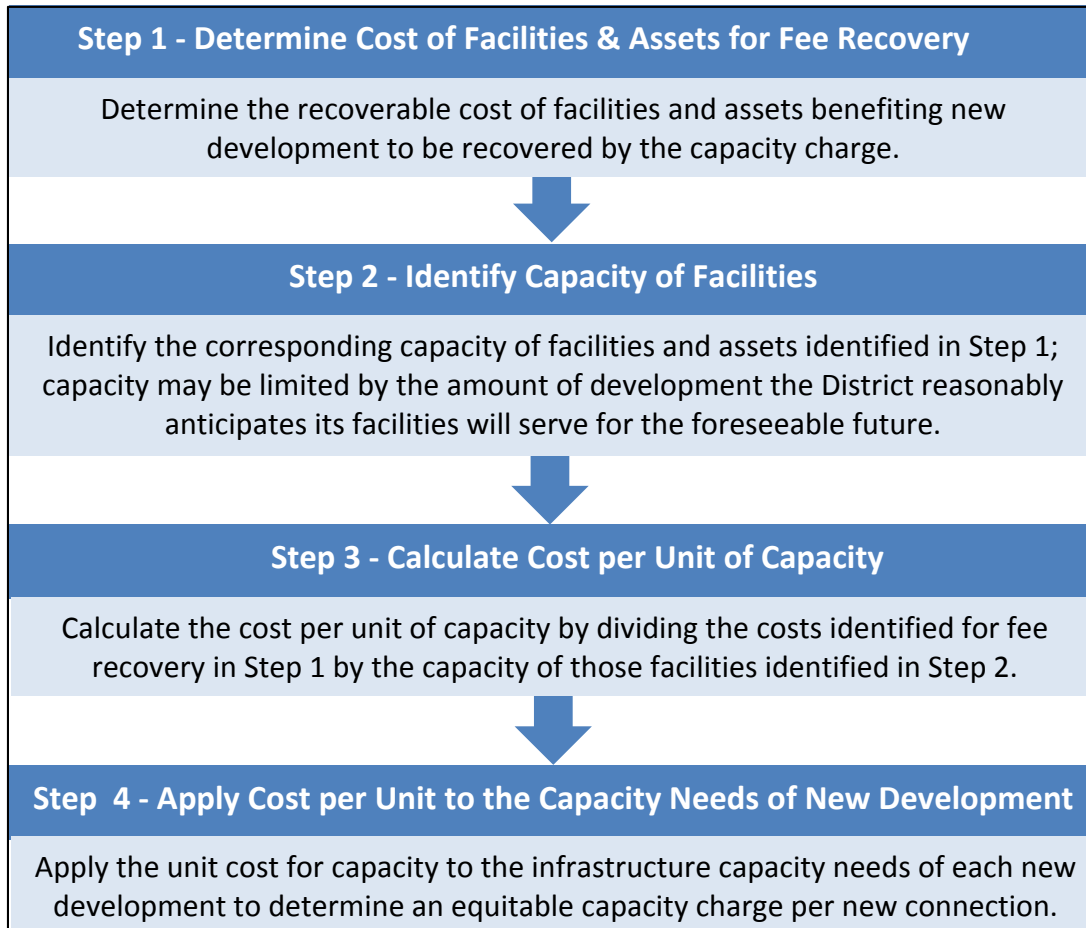
**B) Original Cost Escalated into Current Dollars** – This approach escalates the acquisition price of each asset into current dollars using the ENR Construction Cost Index to account for construction cost inflation. This approach ensures that new connections buy-in for the full inflation-adjusted cost of facilities. At the same time, this approach a) may substantially underestimate the actual replacement cost of existing facilities, b) does not account for the theoretical cost of interest that future customers would have to pay existing customers for the implicit loan provided by existing customers prefunding facilities for growth, and c) does not account for the cost of maintaining capacity in existing infrastructure for growth. This approach is not recommended due to informational deficiencies in the District’s records of existing fixed assets.

**C) Estimated Replacement Cost** – Under this approach, the current (or replacement) value of existing facilities is estimated based on an inventory of existing assets (e.g. pipelines by linear footage) and the current estimated costs of constructing those facilities. BWA recommends using conservative engineering cost estimates under this approach for determining the “buy-in” cost of existing infrastructure in current dollars.

## Capacity Charge Methodology

The general methodology used to calculate an updated water capacity charge for MPWD is summarized below.

### Capacity Charge Methodology



### 3. Water Capacity Charge Calculation

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#### Facilities & Assets for Cost Recovery

Under the system buy-in approach used in this report, updated water capacity charges recover:

- The costs of existing water system facilities and assets in current dollars;
- The cost of capital improvements needed to address existing deficiencies, increase capacity via upsizings, and improve reliability in the current distribution system;
- A proportionate share of certain fund reserves accrued from existing ratepayers.

#### Existing Water Facilities & Assets

Tables 5 and 6 show the recoverable costs of existing water system infrastructure and assets in current dollars. Table 5 shows an inventory of existing water distribution system pipelines along with current engineering cost estimates for these facilities. Table 6 lists water system facilities other than pipelines along with current engineering cost estimates of these facilities.

Table 5 shows an inventory of water system pipelines throughout the District along with pipeline replacement cost estimates based on information provided by the District's engineering consulting firm. These costs are based on recent regional construction bids for water pipelines plus 15% to conservatively account for design, construction management, and minimal contingency that would be required. The table excludes the cost of pipelines smaller than 4-inches in diameter under the assumption that such pipelines exclusively serve certain properties and do not provide any system-wide benefit.

**Table 5. Water System Pipelines**

<b>Pipeline Diameter</b>	<b>Linear Feet</b>	<b>Linear Miles</b>	<b>% of Total</b>	<b>Unit Cost per LF</b>	<b>Cost Estimate</b>	<b>Total Cost (Oct-2014)</b>
2"	2,661.74	0.50	0.54%	<i>n/a</i>	<i>Excluded</i>	<i>Excluded</i>
3"	284.16	0.05	0.06%	<i>n/a</i>	<i>Excluded</i>	<i>Excluded</i>
4"	44,417.05	8.41	8.95%	186	65% of 8" Unit Cost	\$8,261,572
6"	202,512.31	38.35	40.82%	243	85% of 8" Unit Cost	49,210,491
8"	148,313.41	28.09	29.90%	287	District Engineer's Est.*	42,565,949
10"	24,475.03	4.64	4.93%	327	District Engineer's Est.*	8,003,334
12"	33,325.40	6.31	6.72%	373	District Engineer's Est.*	12,430,375
14"	3,971.97	0.75	0.80%	429	115% of 12" Unit Cost	1,703,977
18"	8,415.37	1.59	1.70%	472	130% of 12" Unit Cost	3,972,056
20"	21,738.92	4.12	4.38%	519	145% of 12" Unit Cost	11,282,501
24"	5,971.09	1.13	1.20%	571	160% of 12" Unit Cost	3,409,490
<b>Total</b>	<b>496,086.46</b>	<b>93.96</b>	<b>100.00%</b>			<b>140,839,745</b>

\* Unit costs for 8" - 12" lines based on District Engineer's cost estimates for pipeline construction based on recent regional construction bids, plus 15% to conservatively account for design, construction management, and contingency.



Table 6 shows a summary of existing water system facilities other than pipelines, along with a current conservative engineering cost estimate for each facility of type of asset. The table excludes costs for a) water distribution pipelines, which are calculated separately on Table 5, and b) equipment and vehicles, which are assumed to be funded via ongoing water rates and not included in capacity charge fee recovery.

**Table 6. Other Water System Facilities**  
(Tanks, Pump Stations and Other Facilities)

<b>Facility/Asset</b>	<b>Cost (2014 \$)*</b>
<b>Tanks &amp; Pump Stations</b>	
Hallmark Tank Site	\$4,000,000
West Belmont Tank Site	1,500,000
Dekoven Tank Site And Pump Station	2,000,000
Buckland Tank Site And Pump Station	3,000,000
Exbourne Tank Site And Pump Station	3,800,000
Hersom Tank Site And Pump Station	2,000,000
Hallmark Pump Station	750,000
West Belmont Pump Station	1,000,000
Tunnels Pump Station	2,000,000
Hannibal Pump Station	<u>1,000,000</u>
Subtotal	21,050,000
<b>Other Facilities</b>	
12 Regulator Stations	250,000
Administration Building 3 Dairy Lane	2,500,000
Property/Building 1513 Folger Drive	1,000,000
Property/Building 1510 Folger Drive	<u>2,000,000</u>
Subtotal	5,750,000
<b>Total</b>	<b>26,800,000</b>
* Source: MPWD engineering cost estimates 2014.	

## Capital Improvement Program

Table 7 shows estimated costs for future infrastructure improvements based on the District’s 2014 Capital Improvement Program (CIP) prepared by Pakpour Consulting Group, the District’s consulting engineer. These improvements are needed to address existing deficiencies, increase fire flow and water service capacity, and improve reliability in the current distribution system. Engineering cost estimates were developed based on an evaluation of Zones 3, 4, 5, 6, and 9. The average cost per account or service from these zones was used to conservatively estimate capital improvement costs for the District’s remaining zones.

Based on input from the District engineer, 50% of CIP costs are allocated to replacement and rehabilitation and 50% of costs are allocated to upgrade/upsizing. The updated capacity charges only include cost recovery for the share of costs allocated to upgrades and upsizings. Costs for replacing or rehabilitating existing facilities are not included in the fee calculation to ensure no double-counting of existing infrastructure and its replacement.

**Table 7. Capital Improvement Program Summary**

		<b>Cost (2014 \$)</b>
<b>CIP Cost Subtotal for Zones 3, 4, 5, 6, 9<sup>1</sup></b>		\$10,700,000
Accounts/Services in Zones		2,552
Average Cost per Account/Service		\$4,193
<b>Estimated CIP Costs for Zones 1, 2, 7, 8<sup>2</sup></b>		
Accounts/Services in Zones		5,423
Average Cost per Account/Service		\$4,193
Estimated CIP Costs		\$22,700,000
<b>Total CIP Costs</b>		<b>\$33,400,000</b>
<b>Cost Allocation<sup>3</sup></b>		
Replacement/Rehabilitation	50%	\$16,700,000
Upgrade/Upsize/Expansion	50%	\$16,700,000
<p>1 Source: MPWD Capital Improvement Program with Engineering Cost Estimates.</p> <p>2 Capital improvement costs for these zones are conservatively estimated based on the average cost per account/service from zones already evaluated. Initial engineering estimates indicate capital improvement costs for these zones will likely be higher.</p> <p>3 Source: Engineering estimate of share of CIP projects for replacement/rehab vs. upgrade/expansion for capacity improvements and reliability.</p>		

## Water Fund Reserves

Table 8 summarizes the District’s fund reserves as of July 1, 2014, the start of the current fiscal year. Most of these reserves have been accrued from ongoing service charges levied on the District’s customer base over time and are financial assets that benefit new connections to the water system. The updated capacity charges include cost recovery for a proportionate share of the almost \$3.9 of fund reserves designated as capital reserves.

**Table 8. Water Fund Reserves**

<b>Reserve Account</b>	<b>Beginning Balance July 1, 2014</b>
Capital Reserve	\$1,876,967
Emergency Reserve (Capital)	<u>2,000,000</u>
Subtotal Capital Reserves	3,876,967
Working Capital Reserve (Operating Reserve)	500,000
Total Reserves	4,376,967

## Water System Capacity & Demand Projections

Table 9 summarizes projected future water demand class from the 2010 UWMP. The demand projections shown represent the total customer demand that the City’s water system will need to serve through 2035. The UWMP projects a roughly 8% increase in overall demand over the next 20 years. The demand projections include approximately 6% for unaccounted for water due to system losses and other factors.

**Table 9. Projected Water Demand** (Table 12 from the 2010 Urban Water Management Plan)

	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>	<b>2035</b>
<b>Projected Water Demand (AFY)</b>					
Single Family Residential	2,234	2,256	2,256	2,265	2,282
Multi-Family Residential	586	605	605	618	590
Commercial	588	645	645	659	760
Industrial	277	282	282	329	338
<u>Public Authority</u>	<u>235</u>	<u>242</u>	<u>242</u>	<u>247</u>	<u>255</u>
Total Projected Water Demand (AFY)	3,920	4,030	4,030	4,118	4,225
Total Projected Water Demand (ccf)	1,707,552	1,755,468	1,755,468	1,793,801	1,840,410
<b>Water Production/Supply Requirement</b>					
Unaccounted for Water (AFY)	224	225	225	250	255
Production Requirement (AFY)	4,144	4,255	4,255	4,368	4,480
Production Requirement (ccf)	1,805,126	1,853,478	1,853,478	1,902,701	1,951,488

Table 10 shows the District’s annual water supply allocation from the SFPUC. In 2009, MPWD, along with 25 other Bay Area water suppliers signed a Water Supply Agreement (WSA) with the SFPUC, supplemented by an individual Water Supply Contract. These contracts, which expire in 25 years, provide for a 184 million gallon a day (mgd, expressed on an annual average basis) Supply Assurance to the SFPUC's wholesale customers collectively. The District’s Individual Supply Guarantee (ISG) is 3.891 MGD (or approximately 4,358.50 acre-feet per year). Although the WSA and accompanying Water Supply Contract expire in 2034, the Supply Assurance (which quantifies San Francisco's obligation to supply water to its individual wholesale customers) survives their expiration and continues indefinitely.

As part of a regional water conservation plan, in October 2008 the SFPUC imposed an Interim Supply Limitation that limits the volume of water that wholesale member agencies collectively purchase from the SFPUC to 265 MGD until at least 2018. Based on the SFPUC’s Final Interim Supply Allocation that was adopted in December 2010, MPWD’s Interim Assurance Supply Assurance through 2018 is 3.710 MGD (or approximately 4,158.91 acre-feet per year), representing a 5% decrease from the District’s allocation for a normal year.

**Table 10. Water Supply Allocation**

	hcf	mgd
<b><u>SFPUC Annual Water Supply Allocations</u></b>		
<b>Supply Assurance (Normal Year)<sup>1</sup></b>	1,898,707	3.891
Less Est. 6% Unaccounted for Water	<u>(113,922)</u>	<u>(0.233)</u>
Supply Available for Customer Demand	1,784,785	3.658
<b>Interim Supply Allocation (Through 2018)<sup>2,3</sup></b>	1,810,240	3.710
Less Est. 6% Unaccounted for Water	<u>(108,614)</u>	<u>(0.223)</u>
Supply Available for Customer Demand	1,701,626	3.487
<p>1 Source: Water Supply Agreement, July 2009.</p> <p>2 Source: SFPUC Final Interim Supply Allocation, adopted December 14, 2010.</p> <p>3 Future SFPUC Interim Supply Allocations may be lower than 3.71 mgd, particularly since the allocations were partially based on projected purchases of 3.61 mgd (approx. 1,176,000 hcf) in 2017/18, which is over 20% higher than actual 2013/14 by the District.</p>		

## Water Capacity Charge Calculation

Table 11 calculates an updated water capacity charge based on a *system buy-in approach*. The charge is designed to recover costs for:

- Existing water distribution and assets (in current dollars) serving the entire District. To be conservative, the charge only recovers 90% of the current estimated cost of existing water system infrastructure.
- The share of improvements identified in the District's capital improvement plan that are required to address current distribution system deficiencies, enhance reliability, and expand capacity in undersized pipelines. These costs account for approximately 10% of the total costs included in the fee calculation. Costs associated with replacing or rehabilitating existing pipelines and facilities are excluded from the fee calculation to ensure no double counting of existing facilities and their replacements.
- District fund reserves that have been funded by existing customers. These costs account for approximately 2% of the total costs included in the fee calculation.

The total costs identified for fee recovery are divided by MPWD's Supply Assurance from the SFPUC, which represents the District's maximum ongoing water supply under normal-year conditions, resulting in an average unit cost of \$46.875 per gallon per day (gpd) of water demand.

As shown on Table 12, the updated water capacity charge for a single family residence is calculated at \$9,375 by multiplying the average unit cost by the capacity requirements of a typical new single family detached home. For purposes of fee calculation, the capacity requirements of a single family home are conservatively estimated at 200 gpd based on current average single family water demand of 224 gpd reduced by slightly over 10 percent to account for additional future conservation. This charge would apply to new single family residential accounts served by meters up to 1-inch, to account for updated plumbing code and fire flow requirements. Capacity charges for single family homes requiring meter sizes greater than 1-inch should be calculated on a case-by-case basis based on estimates of underlying water demand.

The proposed capacity charges for new connections other than single family homes are calculated based on meter size and meter capacity by multiplying the charge for the base

5/8 inch x 3/4-inch meter by the corresponding equivalent meter capacity ratio. For example, a 3-inch meter has approximately 10 times the capacity as the base meter size and would therefore be assessed a corresponding charge that is 10 times the capacity charge of the base 5/8-inch x 3/4-inch meter. The meter capacity ratios shown are based on standard capacity estimates from the American Water Works Association (AWWA).

**Table 11. Water System Capacity Charge Calculation**

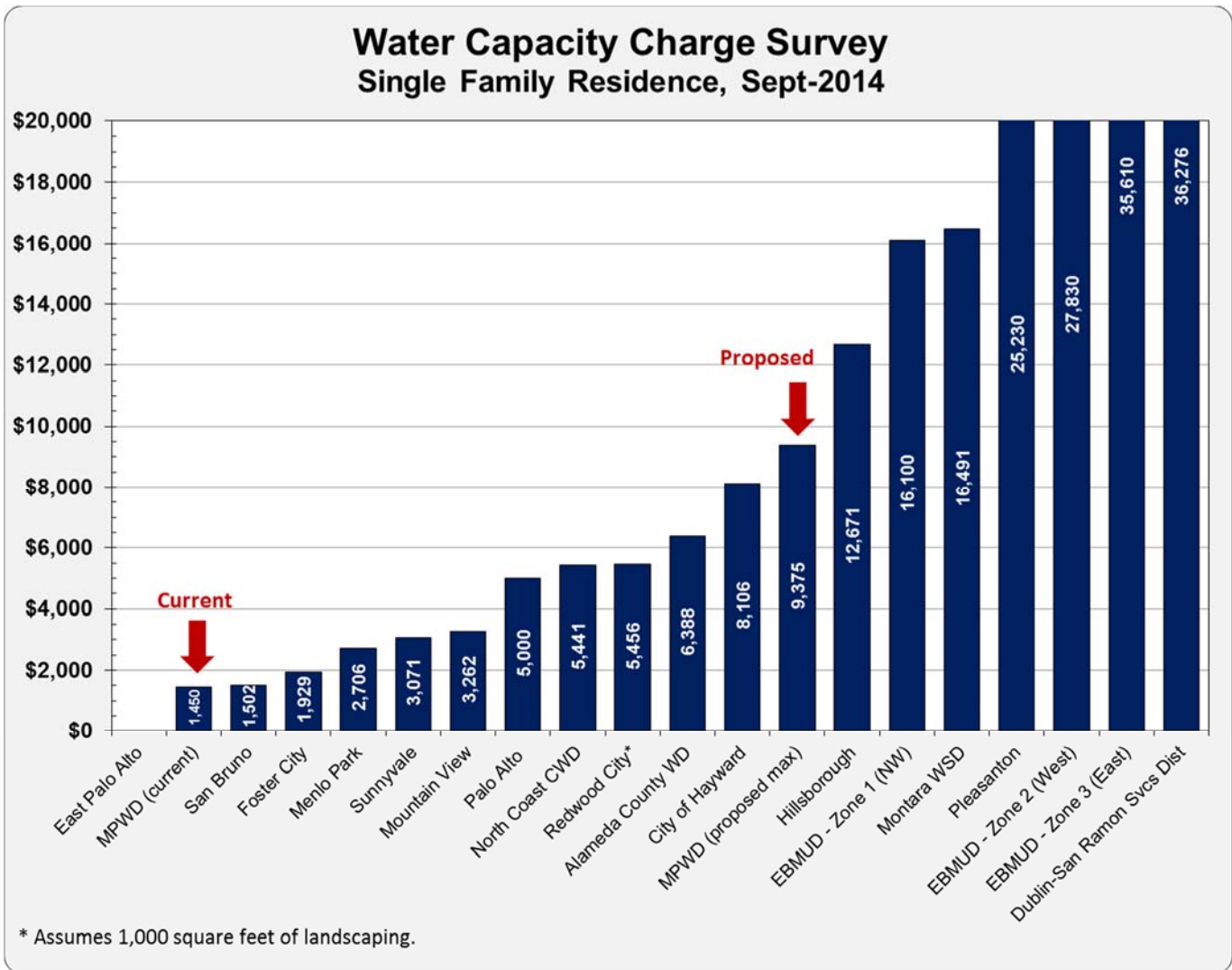
<b>FACILITY &amp; ASSET COST FOR FEE RECOVERY</b>	
<u>Water System Facilities</u>	
Water Distribution Pipelines	\$140,839,745
Tanks & Pump Stations	21,050,000
Other Facilities	<u>5,750,000</u>
Subtotal	167,639,745
Cost Recovery %	90%
Cost Recovery \$ (rounded)	150,870,000
<u>Capital Improvement Program</u>	
Replacement/Rehabilitation Share of CIP Projects	Excluded
Upgrade/Upsize/Expansion Share of CIP Projects	16,700,000
Buy-In to Fund Reserves (Capital Reserves)	3,876,967
<b>Total Costs for Fee Recovery</b>	<b>171,446,967</b>
<b>WATER SYSTEM CAPACITY (MGD)</b>	
SFPUC Supply Assurance (Normal Year)	3.8910
Less 7% Estimate for Unaccounted for Water	<u>(0.2335)</u>
SFPUC Maximum Supply Available for Customer Demand (Normal Year)	3.6575
<b>CAPACITY CHARGE PER UNIT</b>	
Cost Per MGD	\$46,874,940
Cost Per GPD	\$46.875

**Table 12. Proposed Water System Capacity Charges**

<b>RESIDENTIAL</b>		<u>Water Demand<sup>1,2</sup></u>	<u>Capacity Charge</u>
<i>Charge applies per residential dwelling unit</i>			
<b>Single Family Detached Dwelling Unit</b>		200 gpd	\$9,375
<i>Charge applies to residential dwelling units served by meters up to 1-inch</i>			
<b>Multi-Family Dwelling Unit</b>		120 gpd	\$5,625
<i>Includes: apartments, townhouses, condominiums, and other developments with multiple residential units and separate irrigation meters as designated by the District</i>			
<b>OTHER CONNECTIONS</b>			
<i>Charge applies based on meter size</i>			
<u>Meter Size</u>	<u>Meter Capacity Ratio<sup>3</sup></u>	<u>Water Demand<sup>4</sup></u>	<u>Capacity Charge</u>
Up to 3/4"	1.00	200 gpd	\$9,375
1"	1.67	333 gpd	15,625
1-1/2"	3.33	667 gpd	31,250
2"	5.33	1,067 gpd	50,000
3"	10.00	2,000 gpd	93,750
4"	16.67	3,333 gpd	156,250
6"	33.33	6,667 gpd	312,500
8"	53.33	10,667 gpd	500,000
<p>1 Single family residential demand based on average water use in 2013/14 reduced to account for 10% additional conservation.</p> <p>2 Multi-family demand estimated at 60% of single family detached water demand accounting for minimal to no outdoor irrigation and reduced average occupancy per dwelling unit.</p> <p>3 Based on standard American Water Works Association meter capacities.</p> <p>4 Demand conservatively estimated based on 200 gpd multiplied by meter capacity ratio.</p> <p><i>Note: Standard charges shown. The District reserves the right to calculate alternative charges on a case-by-case basis to ensure charges reflect estimated water demand and/or recover the full costs of facilities benefiting new or expanded water service connections.</i></p>			

## Water Capacity Charge Survey

The following chart compares a number of Bay Area water capacity charges for a new single family detached home. The chart includes MPWD’s current and proposed capacity charges for a typical new residential connection. As shown on the chart, the District’s existing capacity charge among the lowest in the regional while the proposed charge is in the upper-middle range compared to the other regional water agencies surveyed.





## 4. Capacity Charge Application

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This section highlights some key issues regarding the application and implementation of the updated capacity charges.

### **Capacity Charge Ordinance: Purpose of Charge**

Pursuant to Government Code, revenues derived from MPWD's capacity charges can only be used for the purpose for which the charges are collected. In order to maximize MPWD's flexibility for use of capacity charge revenues, BWA recommends that the District's ordinance broadly define the purpose of the water capacity charge, such as to recover a proportionate share of costs for existing and future water system facilities and assets from new or expanded connections to the water system.

### **Use of Capacity Charge Revenues**

Approximately 90% of the updated capacity charge recovers costs for buying in to existing water system facilities and assets. As such, 90% of the charge represents a reimbursement to MPWD's existing customer base for previously-funded facilities and assets and therefore may potentially be used for any purpose. However, to be conservative, BWA recommends that MPWD use capacity charge revenues to fund capital improvements, including improvements that benefit the existing customer base.

### **Capacity Charge Credits for Redevelopment**

Capacity charges for redevelopment projects and/or expansions should be based on the incremental increase in demand or meter size generated from each project. Under this approach, the redevelopment project gets credited for the existing meter and pays the incremental increase to the larger meter size. For example, a commercial building with a 1-inch meter that is being redeveloped and needs a 3-inch meter would only have to pay for the difference between the 3-inch meter and the 1-inch meter.

The one exception to this approach is if a remodeling project results in the requirement to upsize the meter solely to meet new plumbing code requirements without placing any new demand on the water system. In such cases, BWA recommends the developer pay for the costs of the new meter and installation, but not be assessed an incremental capacity charge.

## **Limited Term of Application for an Adopted Capacity Charge**

Other California agencies have experienced problems with developers purchasing capacity many years in advance of anticipated development in order to lock in lower fees. To avoid these problems, the District should require that capacity charges be paid up front as a condition of development and should allow the charge to be effective for a limited period of time (typically one to two years) after which the developer or property owner would be responsible for paying for any increases to the charge.

## **Future Fee Adjustments**

In future years, BWA recommends that MPWD update its capacity charges annually or periodically by adjusting the charges by the change in the ENR Construction Cost Index (20-Cities Average) to account for future construction cost inflation. The fee adjustment should be based on the change in the ENR index from the most recent preceding fee update, which allows for a multi-year adjustment if the District opts to defer adjusting the charges for a period of time. The District's capacity charge ordinance can allow for automatic annual fee adjustment.

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

## 5. Water Supply Impact Fees

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### Cost Recovery for Water Supply

In addition to levying a Water System Capacity Charge to recover the costs of capacity in District facilities and assets, the District can also consider levying two other types of charges related to providing water supply to new development:

1. A capacity charge to recover costs for existing SFPUC water supply infrastructure that will benefit new development, and
2. A water demand offset charge to recover costs for projects/programs needed to offset the increase in water supply required by new development.

### Potential Capacity Charge for SFPUC Water Supply Infrastructure

Existing SFPUC water supply infrastructure has predominantly been funded via the wholesale water supply charges levied by SFPUC. As such, the existing customer base has helped fund water supply infrastructure for growth. New or expanded water connections could be required to pay an additional capacity charge to buy-in to SFPUC water supply facilities that have been funded by District ratepayers. However, BWA is not aware of any other BAWSCA agency that levies such a charge.

### Potential Water Demand Offset Charge

Based on UWMP projections, MPWD's Supply Assurance from the SFPUC may not be adequate to meet UWMP water demand projections through buildout. Additionally, in periods of drought or water shortages, the SFPUC may reduce the amount of water allocated to MPWD, such as is currently occurring under the Interim Water Shortage Contingency Plan, which could result in a future supply shortfall.

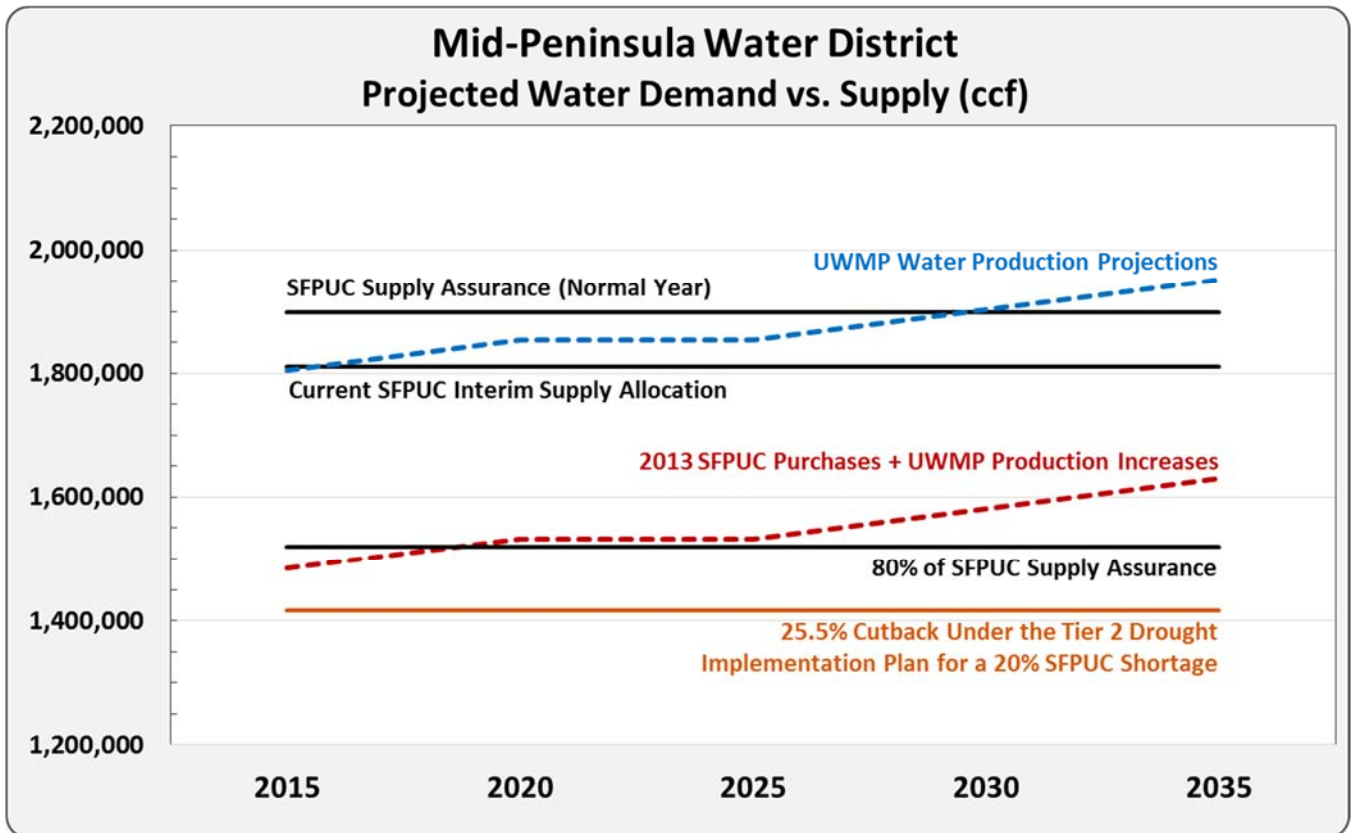
In order to mitigate new development's impact on the District's limited water supply, MPWD can establish a Water Demand Offset Charge or similar type of charge. Revenues recovered from this charge would be used to help recover costs for reducing water demand from existing and future customers in order to free up water supply to meet new demands from growth and mitigate the impacts on supply reliability during periods of drought and reduced water supplies.

### Water Demand vs. Supply

The chart on the following page compares various water supply and demand projections. As shown on the chart the District's water supply may be adequate to accommodate new

demands from growth under some scenarios, but may be inadequate to meet future water supply needs under other scenarios. The chart compares:

- The District’s normal-year SFPUC Supply Assurance
- The current SFPUC Interim Supply Allocation under which the District’s allowable water supply has been reduced by a little less than 5% due to the current drought.
- A hypothetical future SFPUC Interim Supply Allocation under which the District would face a 20% cutback in water supply, similar to what happened in the major drought in the early 1990s.
- The District’s Interim Supply Allocation under the Tier 2 Drought Implementation Plan (DRIP) with a 20% system-wide water shortage. A 20% system-wide shortage results in an estimated 25.5% cutback in the District’s Supply Allocation.
- 2010 Urban Water Management Plan (UWMP) water production projections.
- 2013 District water production adjusted to account for 2010 UWMP projected increases in future water demand.



As shown on the chart, the 2010 UWMP's water demand projections (shown by the blue dashed line) exceed the District's normal-year SFPUC Supply Assurance in future years. However, the water use estimates developed in the UWMP were based on District water use prior to 2010, when water demand was higher. Water demand has since declined, which could indicate a new lower baseline level of water supply needs for the existing customer base.

The red dashed line projects future water supply needs based on the District's 2013 SFPUC water supply purchases adjusted for the UWMP's projected growth in demand. If this scenario is accurate, then the District's SFPUC Supply Assurance would remain about 16% higher than peak demand in 2035 and appears to be adequate to meet the District's needs except in times of a significantly worse water shortage than experienced in 2014/15.

However, continued drought conditions are expected to place additional strain on the SFPUC's ability to deliver water. In anticipation of a more severe water shortage, BAWSCA agencies developed a framework for allocating water among member agencies. Under the adopted Tier 2 Drought Implementation Plan, the District's water allowance would be cut back by approximately 25.5% in response to a 20% system-wide SFPUC water shortage. Under this scenario, the District's demands already exceed the District's Tier 2 DRIP allocation and the shortfall would be exacerbated as demands increased with growth.

Ultimately, MPWD is at risk for not having adequate water supply to meet future demand. The District can reduce this risk and enhance future supply reliability by taking measures to reduce long-term demand.

## Basis for a Water Demand Offset Charge

Permanent reductions in water demand can be achieved by a wide range of approaches. The cost for implementing these alternatives can provide a basis for calculation of a Water Demand Offset Charge. The following two tables show sample Water Demand Offset Charges under a) various versions of high-efficiency toilet rebate or retrofit program, and b) hypothetical construction of a recycled water system to reduce potable water demand.

<b>Example A: High-Efficiency Toilet Rebate or Retrofit Program</b>			
<i>WDO program funds a toilet retrofit program</i>	Rebate Only	Toilet	With Installation
Cost per unit	\$100.00	\$250.00	\$250.00
Less BAWSCA rebate contribution	(75.00)	(75.00)	(75.00)
Cost of installation	<u>0.00</u>	<u>0.00</u>	<u>150.00</u>
Net cost per toilet	25.00	175.00	325.00
District Administration	50.00	50.00	50.00
Demand per single family home or equivalent (gpd)	200	200	200
Water savings per high-efficiency toilet (gpd)	15	15	15
Number of toilets required	13.33	13.33	13.33
<b>Water Demand Offset Charge</b>			
<i>Per Single Family Dwelling or Equivalent (200 gpd)</i>			
100% offset	\$383	\$2,383	\$4,383
75% offset	300	1,800	3,300
50% offset	217	1,217	2,217
25% offset	133	633	1,133

<b>Example B: Recycled Water System for Offsetting Potable Demand</b>		
<i>WDO program funds a recycled water project</i>		
Recycled water system cost	\$10,000,000	\$20,000,000
Recycled water provided (AFY)	500	500
Cost per AFY	\$20,000	\$40,000
Cost per gpd	\$22.40	\$44.81
Demand per single family home or equivalent (gpd)	200	200
<b>Water Demand Offset Charge</b>		
<i>Per Single Family Dwelling or Equivalent (200 gpd)</i>		
100% offset	\$4,481	\$8,961
75% offset	3,360	6,721
50% offset	2,240	4,481
25% offset	1,120	2,240

## Proposed Water Demand Offset Charges

The District’s 2010 Urban Water Management Plan includes a Water Shortage Contingency Plan that identifies a staged response plan for responding to water supply shortages. The plan includes four stages of water demand cutbacks that would be triggered by the District in response to escalating levels of water supply shortages.

The following table shows a system of proposed Water Demand Offset Charges corresponding with the four UWMP Water Shortage Response Stages. Under the proposed system of charges, the District would levy a range of WDO Charges designed to offset 25% to 100% of water demand depending on the Water Shortage Stage in effect at the time the fees are paid. The proposed charges are based on a conservative estimate of the cost of new high-efficiency toilets (net of the current BAWSCA rebate of \$75 per toilet) needed to offset demand from a new single family detached home or equivalent non-residential connection with 200 gpd of estimated water demand. The charges would be higher for larger meters in proportion to the estimated water demand of each meter size.

**Water Demand Offset Charges per Water Shortage Stage**

	UWMP Water Shortage Response Stages			
	Stage 1	Stage 2	Stage 3	Stage 4
Water Supply Reduction	Up to 11%	12% - 18%	19% - 32%	33% - 50%
Required Water Demand Offse	25%	50%	75%	100%
WDO Charge per 200 gpd*	\$633	\$1,217	\$1,800	\$2,383
* Based on a conservative estimate of the cost for new high-efficiency toilets (net of BAWSCA rebate) required to offset the water demand from a new single family home or equivalent non-residential connection with 200 gpd of water demand.				

The following table shows a schedule of Water Demand Offset Charges. Charges would correspond with the water demand estimates applicable to Water System Capacity Charges.

**Proposed Water Demand Offset Charges**

	UWMP Water Shortage Response Stages				
	Stage 1	Stage 2	Stage 3	Stage 4	
Water Supply Reduction	Up to 11%	12% - 18%	19% - 32%	33% - 50%	
Required Water Demand Offset	25%	50%	75%	100%	
<b>RESIDENTIAL</b>					
<i>Charge applies per residential dwelling unit</i>					
<b>Single Family Detached Dwelling Unit</b>	\$633	\$1,217	\$1,800	\$2,383	
<i>Applies to residential dwelling units served by meters up to 1-inch.</i>					
<b>Multi-Family Dwelling Unit</b>	\$380	\$730	\$1,080	\$1,430	
<i>Includes: apartments, townhouses, condominiums, and other developments with multiple residential units and separate irrigation meters as designated by the District</i>					
<b>OTHER CONNECTIONS</b>					
<i>Charge based on meter size</i>					
<u>Meter Size</u>	<u>Water Demand</u>				
Up to 3/4"	200 gpd	\$633	\$1,217	\$1,800	\$2,383
1"	333 gpd	1,055	2,028	3,000	3,972
1-1/2"	667 gpd	2,110	4,057	6,000	7,943
2"	1,067 gpd	3,376	6,491	9,600	12,709
3"	2,000 gpd	6,330	12,170	18,000	23,830
4"	3,333 gpd	10,550	20,283	30,000	39,717
6"	6,667 gpd	21,100	40,567	60,000	79,433
8"	10,667 gpd	33,760	64,907	96,000	127,093

If the District adopted Water Demand Offset Charges, the District could potentially offer fee reductions to incentivize new development to install higher-efficiency irrigation systems, toilets, and other fixtures that would offset the requirement for the District to offset demand, such as by providing high-efficiency toilets at little to no cost to customers with older, less-efficient toilets.



# **APPENDIX A**

**Mid-Peninsula Water District  
2014 Capital Improvement Program**

Table A-1  
Mid-Peninsula Water District  
Capital Improvement Program

Project No.	Description	Total Cost (2014 \$) <sup>1</sup>
<b>ZONE 3</b>		
15-09	Dekoven Tank Utilization Project	\$1,005,000
15-10	Notre Dame Avenue Loop Closure Project	918,000
15-11	Carmelita Avenue Water Main Improvement Project	565,000
15-12	Buena Vista Avenue Improvement Project	525,000
15-13	Monroe, Bellemonti, Coronet Avenue Water Mains Improvement Project	1,408,000
15-14	Mezes Avenue Water Main Improvement Project	155,000
15-15	Shirley Road Water Main Improvement Project	287,000
15-16	Williams Avenue, Ridge Road, Hillman Avenue Water Main Improvements Project	1,046,000
15-17	Monte Cresta Drive, Alhambra Drive Water Main Improvement Project	978,000
15-18	Pine Knoll Drive Water Main Improvement Project	224,000
15-19	Oak Knoll Drive Water Main Project	583,000
15-20	Thurm and Bettina Avenues Water Main Improvement Project	480,000
15-21	Lincoln, Monserat Avenues Water Main Improvement Project	100,000
15-22	Arhtur Avenue Water Main Improvement Project	385,000
15-23	Dekoven Tanks Structural and Seismic Evaluation	55,000
15-24	San Juan Boulevard Water Main Improvements Project	257,000
15-25	Lyons Avenue Extended Period Simulation - TBD	tbd
15-26	Cipriani Blvd Extended Period Simulation - TBD	tbd
	<b>Total Zone 3</b>	<b>8,971,000</b>
<b>ZONE 4</b>		
15-08	Zone 4 Water Main Improvement Project	\$693,000
	<b>Total Zone 4</b>	<b>693,000</b>
<b>ZONE 5</b>		
15-01	Buckland / Shelford Avenue Improvement Project	\$92,000
15-02	Courtland Road Water Main Improvement Project	315,000
15-03	Spring Lane Water Main Improvement Project	126,000
15-04	Rose Lane Water Main Improvement Project	91,000
15-05	Calwater Intertie	152,000
15-06	Zone 5 Fire Hydrant Upgrade Project	115,000
	<b>Total Zone 5</b>	<b>891,000</b>
<b>ZONE 6</b>		
15-07	Zone 6 Water Main Improvement Project	\$174,000
	<b>Total Zone 6</b>	<b>174,000</b>
<b>ZONE 9</b>		
None		
	<b>Total Zone 9</b>	<b>0</b>
<b>SUBTOTAL ZONES 3, 4, 5, 6, 9 (rounded)</b>		<b>\$10,700,000</b>
Accounts/Services		2552
Average Cost per Account/Service		\$4,193
<b>ADDITIONAL ZONES</b>		
<i>Note: Conservative cost estimates shown; actual costs for these zones are anticipated to be higher based on initial engineering estimates.</i>		
<b>ZONES 1, 2, 7, 8</b>		
Accounts/Services		5423
Average Cost per Account/Service		\$4,193
<b>SUBTOTAL ZONES 1, 2, 7, 8 (rounded)</b>		<b>\$22,700,000</b>
<b>GRAND TOTAL ALL ZONES</b>		<b>\$33,400,000</b>
<b>Cost Allocation: Replacement/Rehabilitation<sup>2</sup></b>		<b>50% \$16,700,000</b>
<b>Cost Allocation: Upgrade/Upsize/Expansion<sup>2</sup></b>		<b>50% \$16,700,000</b>

1 Source: Mid-Peninsula Water District Capital Improvement Program with Engineering Cost Estimates (2014 \$)

2 Source: Engineering estimate of share of CIP projects for replacement/rehab vs. upgrade/expansion for capacity improvements and reliability

# **APPENDIX B**

**California Government Code:  
Key Sections Pertaining to Water & Water Capacity Charges**

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

**66013**

(a) Notwithstanding any other provision of law, when a local agency imposes fees for water connections or water 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) “Water connection” means the connection of a structure or project to a public water 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 water connection, including, but not limited to, meters, meter boxes, and pipelines from the structure or project to a water distribution line or water main, and that does not exceed the estimated reasonable cost of labor and materials for installation of those facilities.

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

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

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

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

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

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

(4) An identification of all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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## **66016**

(a) Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. At least 10 days prior to the meeting, the local agency shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the service

for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including General Fund revenues. Unless there has been voter approval, as prescribed by Section 66013 or 66014, no local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which the fee or service charge is levied. If, however, the fees or service charges create revenues in excess of actual cost, those revenues shall be used to reduce the fee or service charge creating the excess.

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

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

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

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

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

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## **66022**

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

If an ordinance, resolution, or motion provides for an automatic adjustment in a fee or service charge, and the automatic adjustment results in an increase in the amount of a fee or service charge, any action or proceeding to attack, review, set aside, void, or

annul the increase shall be commenced within 120 days of the effective date of the increase.

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

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

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

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