

EXHIBIT C

**MODESTO CITY COUNCIL
RESOLUTION NO. 2004-627**

**A RESOLUTION RESCINDING ALL PREVIOUS WATER FEE RESOLUTIONS,
ESTABLISHING A SINGLE RATE BASE, AND ESTABLISHING FEES FOR
THE PROVISION OF WATER AND ALL FEES ASSOCIATED WITH WATER
OPERATIONS AND MANAGEMENT.**

WHEREAS, Section 11-1.04 of the Modesto Municipal Code authorizes the Council, by resolution, to establish charges for water service installation, and MMC Section 11-1.05 authorizes the Council, by resolution, to establish charges for water main connection charges, and MMC Section 11-6.05 authorizes the Council, by resolution, to establish charges for metered water services, and MMC Section 11-6.06 authorizes the Council, by resolution, to establish charges for unmetered water services, and

WHEREAS, MMC Section 11-6.02 authorizes the Council, by resolution, to establish charges for deposits for utility services, and MMC Section 11-6.08 authorizes the Council, by resolution, to establish charges for use of fire hydrants, and

WHEREAS, the City Council intends to rescind all previous resolutions specifying fees for the provision of water or for fees related to water operations and management, and to enact new fees therefore, and

WHEREAS, the City Council has reviewed and approved the reports of rate-setting and engineering consultants, and based proposed water service fee increases on the recommendations of those reports, and

WHEREAS, notice was provided to the City's water ratepayers on October 8, 2004, of the water fee increases proposed, and a majority protest was not received by the close of the public hearing on November 23, 2004, all in accordance with Article XIII D, Section 6 of the California Constitution,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

DEFINITIONS:

A. Connection Charge - A one-time prorata charge to be paid by or on behalf of a prospective ratepayer for facilities existing in, or planned to be added to the City water system, minus deficiencies (previously known as Water System Fee).

B. City Water System ("System") - The City's physical assets dedicated to the provision of water to the public for human consumption, including assets for the collection, treatment, pumping, storage and distribution of water under the control of the City's operator.

C. Connection - The attachment of pipe facilities to the City water System for one or more water service uses.

D. Costs of Service - All costs appropriately borne by the entire rate base, calculated on a consumption basis to the extent practicable, and consisting of a fixed component, and a variable component including the distribution of estimated costs of service obligations allocated to the System by the City Council on a System-wide basis. Such costs shall exclude all capacity charges, and include all deficiency charges.

E. Deficiencies - Water facilities required by law or recommended by generally recognized authority as being necessary to the provision of a modern, safe, adequate, water system of the City's size, with prudent reserves of quantity, pressure and transmission infrastructure to meet reasonably foreseeable contingencies that are absent from the City water System at any particular point in time.

F. MMC - Modesto Municipal Code.

G. Standard Billing Cycle - A standard period of time, usually consisting of one 28-35 day month commencing from date of initiation of water service, and continuing until water service termination. The Finance Director, or designee, shall have the authority to, from time to time, redefine the standard billing cycle to better fit the needs and requirements of the City.

H. Water Acquisition Costs - All direct and indirect costs to the City for water purchase, treatment and transmission to a connection with the System.

SECTION 1. WATER CHARGES BASED SOLELY ON COST OF SERVICES TO THE RATEPAYER. In accordance with law, the charge for all water delivered by the System shall be based solely on the cost of service to the ratepayer. Costs of service, in turn, shall consist of two components: fixed costs, such as those for billing, meter reading where applicable, and other general overhead, and variable costs, such as proportionate costs of the acquisition and transmission of water, removal of deficiencies, higher operating and maintenance costs apportioned to ratepayers with service demands requiring larger meters, and the costs of the commitment of the System to high-quality maintenance, and the provision of clean water at adequate pressure under all circumstances under the System's control, or as mandated by agencies outside the City as elaborated more fully below.

The City Council has evaluated the costs of service, including the costs of correcting existing deficiency in its water System and of growth, and of underwriting certain commitments to its rate base on a System-wide basis. The City's water utility is regional in nature, and its revenue requirements, or cash needs, have been attributed to the System as a whole. In certain cases, costs of only the engineering characteristics of the System may vary with a ratepayer's location. Nevertheless the Council believes the cost of service exceeds asset costs, because the Council has committed to intangible service elements in addition to fixed asset costs. These are:

1. To provide high-quality maintenance at cost.
2. To plan for and provide adequate future supplies of water for the metropolitan area.
3. To act promptly to assure a clean water supply in light of the likelihood that unpredictable and possibly dramatic changes in the regulatory climate will occur.
4. To provide clean water at adequate pressures under all reasonable circumstances.

The Council is advised that some, or perhaps many, of the assets planned to insure its promises will be located geographically apart from existing System

components because different areas of a large regional System will have differing physical asset requirements through time. Thus, the primary benefit of the System to any individual ratepayer will be in the fulfillment of the Council's commitments, in contrast to the ratepayer's proximity to any specific existing or planned physical asset. In sum, the principal service of the System is and shall be the keeping of its commitments, not the geographical distribution of its physical components, or their physical effects on the water commodity those assets provide.

SECTION 2. COST OF DELIVERED WATER BASED ON QUANTITY USED IN BILLING CYCLE. It is the policy of the City of Modesto that all charges for water delivered by the System shall be determined by the quantity of water used in a standard billing cycle as determined from metered water usage for metered services, and estimated usage of unmetered (flat-rate) services, where services are metered and said meters are read for billing purposes. All estimated flat rate services will be a metered rate as services are converted and/or as funds become available.

SECTION 3. PAYMENT OF CONNECTION CHARGES. In the case of new subdivisions or parcel maps, this charge shall be paid at the time of filing the final subdivision or parcel map. If no parcel or subdivision map is required for the development of the property, then the fee shall be collected upon the issuance of the building permit.

SECTION 4. DEFICIENCY CHARGES. System modernization and improvement, as opposed strictly to expansion, benefits all of the rate base. Accordingly, the cost of removing deficiencies shall be borne by the entire rate base as a component of the variable cost per 100 cubic feet of delivered water.

SECTION 5. ALLOCATION OF WATER ACQUISITION AND TRANSMISSION COSTS. Water acquisition and transmission costs for the System are appropriately apportioned between existing deficiencies and growth requirements. Accordingly, an engineering determination has been made in the West Yost "Justification

and Cost Allocation for Proposed Water System Improvements Study", accepted by Council on September 14, 2004, that 74.2% of the City's water-acquisition costs be included in deficiency charges, and that the remaining 25.8% be attributed to growth, and apportioned to and collected in connection charges.

SECTION 6. DETERMINATION OF FIXED AND VOLUME BASED CHARGES FOR DELIVERY OF WATER TO RATEPAYERS. The charge for all water delivered through a metered service where the meters are read for billing purposes, as practical, and as determined by the Finance Director, or designee, with the concurrence of the Public Works Director after December 31, 2004, set forth in the *Water Utility Cost of Service Rate Study* prepared by Foresight Consulting, accepted by Council on September 14, 2004, shall be:

Proposed Monthly Metered Water Rates (by meter size)					
	Year 1 1-Jan-05	Year 2 1-Jul-05	Year 3 1-Jul-06	Year 4 1-Jul-07	Year 5 1-Jul-08
Volume-based Rate (\$/hcf)	\$0.84	\$1.01	\$1.16	\$1.22	\$1.28
Fixed Monthly Meter Charge (in addition to volume-based charges)					
5/8"-3/4" meter	\$9.01	\$10.82	\$12.44	\$13.06	\$13.71
1" meter	\$12.78	\$15.34	\$17.64	\$18.52	\$19.45
1-1/2" meter	\$22.13	\$26.55	\$30.53	\$32.06	\$33.66
2" meter	\$33.38	\$40.06	\$46.06	\$48.37	\$50.79
3" meter	\$63.43	\$76.12	\$87.53	\$91.91	\$96.51
4" meter	\$97.19	\$116.63	\$134.13	\$140.83	\$147.88
6" meter	\$190.95	\$229.14	\$263.51	\$276.68	\$290.51
8" meter	\$303.49	\$364.19	\$418.82	\$439.76	\$461.75
10" meter	\$434.84	\$521.80	\$600.07	\$630.08	\$661.58
12" meter	\$809.95	\$971.95	\$1,117.74	\$1,173.62	\$1,232.31

hcf = Hundred cubic feet.

The above listed fixed meter charges shall be charged to all ratepayers in every billing cycle. This fixed cost will be charged whether or not any water is actually used by a ratepayer in a given billing cycle until such time as water service is terminated by the customer.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

SECTION 7. CHARGES FOR UNMETERED WATER SERVICES.

The charge for all water delivered from an unmetered service after December 31, 2004, has been cost-estimated as closely as possible to average metered rates as follows: Until such time as the subject residential property is billed at a metered rate:

Proposed Monthly SFR Flat Water Rates*					
	Year 1	Year 2	Year 3	Year 4	Year 5
	1-Jan-05	1-Jul-05	1-Jul-06	1-Jul-07	1-Jul-08
0-5,000 sq. ft. lot	\$24.47	\$29.36	\$33.77	\$35.45	\$37.23
5,001-7,000 sq. ft. lot	\$27.81	\$33.37	\$38.38	\$40.30	\$42.31
7,001-11,000 sq. ft. lot	\$33.00	\$39.60	\$45.54	\$47.82	\$50.21
11,001-17,000 sq. ft. lot	\$35.03	\$42.04	\$48.34	\$50.76	\$53.30
Over 17,000 sq. ft. lot	\$41.19	\$49.42	\$56.84	\$59.68	\$62.66

SFR = Single Family Residential

* If a SFR property has a water meter that is read, then the appropriate Metered Water Rate will be used.

The proposed rate increase(s) are based on currently available information. The actual bills are rounded and may be slightly different than listed above.

When water service is turned on or off anytime between the beginning and end of a billing cycle, the amount charged to an unmetered (flat-rate) service shall be pro-rated.

SECTION 8. RESCISSION OF ALL PREVIOUS RESOLUTIONS RELATING TO WATER DELIVERY OR WATER OPERATIONS AND MANAGEMENT. All resolutions of the City Council setting any rates or fees whatsoever for the delivery of water, or for costs associated with operation or management of the water System, are hereby rescinded; except that water rates

established by the rescinded resolutions shall remain in effect until the rates established in this resolution take effect on January 1, 2005. This resolution shall be the sole basis for determining any water fee to be charged to a ratepayer or potential ratepayer, or paid on behalf of a potential ratepayer by the City on and after January 1, 2005.

SECTION 9. COST OF METERS AND INSTALLATION. The cost of meters and of meter installation and repair for existing ratepayers when this resolution is enacted has been included in the fixed cost assigned to the rate base for water consumption, since metering has been determined to benefit the rate base as a whole.

SECTION 10. CONNECTION FEES. The law requires that charges attributable purely to growth (new connections) be borne solely by those new connections. Accordingly, the planned infrastructure cost for deficiencies in the existing System, and for costs associated with new growth have been apportioned as follows: 74.2% attributable to existing deficiencies and 25.8% attributable to new growth. These percentages have been applied to anticipated capital costs on a going forward basis for the five-year period following the date of this resolution. Combined with the growth-induced component of water acquisition costs and the apportioned cost of "buying-into" the existing system, this will result in the establishment of connection charges. The connection fee study is incomplete at the date of this resolution. This resolution will be restated and amended to include appropriate charges when the City Council has accepted the subject report. Until then, existing connection fees are restated and made applicable to growth by Section 14 of this resolution.

SECTION 11. WATER DISCOUNT FOR LOW INCOME SENIOR CITIZENS AND LOW INCOME DISABLED. The law prohibits all such cross-category

subsidies requiring one ratepayer to subsidize the costs of another. Accordingly, the City Council may from time to time, by separate resolution, enact subsidies for certain categories of ratepayers, as the City Council may see fit, provided that the source(s) of funds to implement such subsidies are source(s) separate from the water enterprise fund.

SECTION 12. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE. The costs of service set forth above shall be re-examined every two years by engineers, consultants, and professionals competent in the field. Such engineers, consultants and professionals shall provide a report to the City updating both fixed and volume based costs as appropriate and as recommended to the Council by the Finance Director and the Public Works Director. After June 30, 2009, the Finance Director, or designee, with the concurrence of the Public Works Director, shall have the authority, on an annual basis, to raise either fixed or variable costs, or both, as appropriate, by an amount not to exceed the percentage increase in the Consumer Price Index (CPI), Urban Wage Earners and Clerical Workers Series for the San Francisco CMSA, as prepared by the California Department of Finance Demographics Research Unit.

SECTION 13. WATER CHARGES FOR WATER USED DURING BUILDING CONSTRUCTION.

- (a) The water service charge furnished to single-family residences, duplexes, and triplexes that are under construction will be a flat rate charge based on the formula below. This charge will be assessed and paid at the time of building permit issuance.

120 Day Residential Construction Water Rate:
Current Flat Rate for Smallest Lot Area + Current City
Utility Tax x 4 months

- (b) The water service charge specified in the first paragraph provides for water service for 120 days. Subsequent to that time, the water service fee shall be collected on a regular monthly billing based on

the full size of the lot unless the owners request the water to be turned off at the end of 120 days.

- (c) In the event construction ceases before the building is completed, the water to the building site will be turned off unless the property owner has made arrangements for regular service.
- (d) In the event a structure is occupied before final inspection of the structure, or water is used for other than normally required for construction, the water service charge will be made at the established rate for regular service.
- (e) Charges for water services during the construction of apartments, commercial buildings, and industrial buildings will be at the regular metered water service charge.

SECTION 14. Fixed fees for all System operations and management

services have been calculated and are hereby imposed as follows:

FEE	AMOUNT
Deposit	Not to exceed 3 times the estimated average bill or 2 times the normal monthly bill.
Disconnect	\$10.00
Reconnect	\$10.00
Late Payment Penalty	\$4.35
Returned Check	\$10.00
Collection Agency	\$16.50
Water Disconnection Notice (final notice mailed or doorhangers)	\$10.00
Unauthorized Reconnect (illegal on)	\$25.00
Lock Breakage/Lock Replacement	\$75.00
Disconnect Waterline at Main for Non-payment (line cut)	\$375.00
Connection Charge	\$.05 per sq. ft. of gross lot area
Water Main Installation Charge	\$18.00 per lineal foot of lot frontage
Water Service Installation Charge	
1" Service	\$1,108.00
1-1/2" Service	\$1,130.00
2" Service	\$1,156.00
4" Service	\$2,131.00
6" Service	\$2,131.00
8" Service	\$2,347.00
10" Service or larger	At Cost

Water Meter Fee	
1" Meter/New Service - pedestrian lid	\$115.00
1" Meter/New Service - traffic lid	\$176.00
1" Meter/Retrofit Service - pedestrian lid	\$520.00
1" Meter/Retrofit /Service - traffic lid	\$600.00
1-1/2" Meter with pedestrian lid	\$484.00
1-1/2" Meter with traffic lid	\$545.00
2" Meter with pedestrian lid	\$520.00
2" Meter with traffic lid	\$582.00
4" Meter	\$1,820.00
6" Meter	\$2,400.00
8" Meter	\$3,350.00
10" Meter or larger	At Cost
Pavement	\$439.00 for each trench
Parcel Reduction	\$37.00
Water Connection for Main extension	\$2,820.00
Reimbursement Agreement Preparation	\$175.00
Outside City Limits Agreement	\$35.00
Fire Hydrant Installation (each)	\$2,635.00
Fire Hydrant Line from Main per Lineal Foot	\$3.00
Pavement Replacement	\$439.00
Fire Main Test	\$90.00
Deposit to Install Meter on Fire Hydrant for Construction Water	\$500.00
Fire Hydrant Meter Use Deposit	\$500.00
Fire Service Installation Inspection/Test	\$90.00
Install 4" Single Check Valve	\$390.00
Install 6" Single Check Valve	\$479.00
Install 8" Single Check Valve	\$688.00
Voluntary Installation of Fire Sprinklers, Apartments	8.3% of normal charge
Voluntary Installation of Fire Sprinklers, SFD, Duplexes; Townhouses	\$50.00

SECTION 15. This resolution shall become effective on and after January 1, 2005.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of November, 2004, by Councilmember Dunbar, who moved its adoption, having duly noted the failure of the rate base to protest under Sections 13C and 13D of the California constitution, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh,
Mayor Ridenour

NOES: Councilmembers: O'Bryant

ABSENT: Councilmembers: None

ATTEST: Jean Zahr
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Michael D. Milich
MICHAEL D. MILICH, City Attorney

