



# FORT ORD REUSE AUTHORITY

## **SPECIAL MEETING**

### **FORT ORD REUSE AUTHORITY (FORA) WATER/WASTEWATER OVERSIGHT COMMITTEE**

**Monday, December 2, 2019 at 10:00 a.m.**

920 2<sup>nd</sup> Avenue, Suite A, Marina CA 93933 (FORA Office)

## **AGENDA**

- 1. CALL TO ORDER/ESTABLISHMENT OF QUORUM**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS AND CORRESPONDENCE**
- 4. PUBLIC COMMENT PERIOD**

*Members of the public wishing to address the Committee on matters within its jurisdiction, but not on this agenda, may do so for up to 3 minutes and will not receive Committee action. Whenever possible, written correspondence should be submitted to the Committee in advance of the meeting, to provide adequate time for its consideration.*

- 5. APPROVAL OF MEETING MINUTES** **ACTION**
  - a. October 24, 2019 Minutes

- 6. BUSINESS ITEMS** **INFORMATION/ACTION**

*Business items are for Committee discussion, debate, direction to staff, and/or action. Comments from the public are not to exceed 3 minutes or as otherwise determined by the Chair.*

- a. Consider MCWD DRAFT Capacity Fee recommendation.
  - i. Building Industry Association (BIA) Bay Area comments on Capacity Fee Study.
- b. Nominate and appoint a WWOC chair.

- 7. ITEMS FROM MARINA COAST WATER DISTRICT (MCWD)**

- 8. ITEMS FROM MEMBERS**

*Receive communication from Committee members as it pertains to future agenda items.*

- 9. ADJOURNMENT**

**NEXT MEETING: December 12, 2019**

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**FORT ORD REUSE AUTHORITY  
WATER/WASTEWATER OVERSIGHT COMMITTEE  
MEETING MINUTES**

920 2<sup>nd</sup> Avenue, Suite A, Marina CA 93933 | FORA CIC  
10:00 A.M., Thursday, October 24, 2019

**1. CALL TO ORDER/ESTABLISHMENT OF QUORUM**

Chair Reidl called the meeting to order at 10:01 AM

**Committee Members Present:**

Mike Lerch, California State University Monterey Bay (CSUMB)  
Brian McMinn, City of Marina  
Steve Matarrazo, University of California Santa Cruz (UCSC)  
Melanie Beretti, County of Monterey  
Dino Pick, City of Del Rey Oaks  
Rick Riedl, City of Seaside

**Committee Members Absent:**

Elizabeth Caraker

**Other Attendees:**

Kelly Cadiente, Marina Coast Water District (MCWD)  
Mike Wegley, Marina Coast Water District  
Andre Racz, Marina Coast Water District  
Doug Dove, Bartle Wells Associates  
Abigail Seaman, Bartle Wells Associates  
Tony Akel, Akel Engineering Group  
Kevin Tuttle, Akel Engineering Group  
Ray Pyle, California State University Monterey Bay (CSUMB)

Jeff Cooks, Nathen Castanos Homes  
Mary Kelasen, Shea Homes  
Dennis Martin, Building Industry Association Bay Area

**FORA Staff**

Peter Said, Senior Project Manager  
Harrison Tregenza, Administrative Assistant

**2. PLEDGE OF ALLEGIANCE**

The pledge of Allegiance was led by Committee member Mike Lerch from CSUMB.

**3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE**

Peter Said noted that FORA staff have received multiple correspondences, which he passed along to the WWOC. The first was an email from Doug Young, the second was a letter from Wanger, Jones, Helsley, and the third was a letter from BIA Bay Area. All three pieces of communication were a request to the WWOC to delay voting on the capacity fee item.

**4. PUBLIC COMMENT PERIOD**

There were no public comments

**5. APPROVAL OF MEETING MINUTES**

**MOTION:** On motion by Committee member McMinn and second by Committee member Pick the Water/Wastewater Oversight Committee (WWOC) approved the September 19, 2019 meeting minutes.

**MOTION PASSED: UNANIMOUSLY**

6. **BUSINESS ITEMS** **INFORMATION/ACTION**  
 a. **Consider Final Draft Water, Sewer, and Recycled Water Master Plans as the Basis for Capacity Fees**

District engineer Mike Wegley reported there were no changes to the Master Plans since the last stakeholder input meeting. A discussion occurred regarding the contingency and soft costs associated with the Master Plan. With the permission of the chair, Jim Brezack gave a quick presentation on the developer community’s concerns regarding the master plan during public comment.

**MOTION:** On motion by Committee member Pick and second by Committee member Beretti, the WWOC moved to consider final draft water, sewer, and recycled water master plans as the basis for capacity fees with the amendment that MCWD hold a meeting with the developer’s engineers before the next WWOC meeting.

**Motion Passed by Majority (5 AYES; 1 ABSTENTION)**

<i>Item 6a: Motion</i>	
<i>Member Pick</i>	<i>YES</i>
<i>Member McMinn</i>	<i>YES</i>
<i>Member Reidl</i>	<i>YES</i>
<i>Member Beretti</i>	<i>YES</i>
<i>Member Matarrazo</i>	<i>YES</i>
<i>Member Lerch</i>	<i>Abstention</i>

- b. **Consider Recommending the Draft Capacity Fees Report**

The WWOC received a presentation from Abigail Seaman regarding the draft capacity fees report. A robust discussion ensued regarding many different aspects of the report, including changes, CFDs, and the report’s timeline with regard to FORA’s sunset.

**MOTION:** On motion by Committee member Beretti and second by Committee member McMinn, the WWOC moved to continue the discussion until December 2 so that MCWD can inform the WWOC of the engineers meeting with the intention to vote on recommending the Capacity Fees to the FORA Board.

**Motion Passed by Majority (5 AYES; 1 ABSTENTION)**

<i>Item 6b: Motion</i>	
<i>Member Pick</i>	<i>YES</i>
<i>Member McMinn</i>	<i>YES</i>
<i>Member Reidl</i>	<i>YES</i>

<i>Member Beretti</i>	<i>YES</i>
<i>Member Matarrazo</i>	<i>YES</i>
<i>Member Lerch</i>	<i>Abstention</i>

**7. ITEMS FROM MCWD**

None.

**8. ITEMS FROM MEMBERS**

Chair Rick Reidl also noted that his last day with the City of Seaside will be November 27, and that Vice-Chair McMinn will take over as acting chair until a new chair is voted on.

**9. ADJOURNMENT:** Chair Reidl adjourned the meeting at 11:55 AM.

Minutes Prepared by:  
Harrison Tregenza  
Administrative Assistant

DRAFT

# WATER WASTE WATER OVERSIGHT COMMITTEE

## BUSINESS ITEMS

<b>Subject:</b>	Consider MCWD DRAFT Capacity Fee recommendation	
<b>Meeting Date:</b>	December 2, 2019	<b>ACTION</b>
<b>Agenda Number:</b>	6a	

### RECOMMENDATION(S):

Provide the FORA Board with a recommendation for consideration at its next meeting.

### BACKGROUND:

In 1998, following a public request for proposals, the Fort Ord Reuse Authority (FORA) Board selected Marina Coast Water District (MCWD) as purveyor and signed the 1998 Facilities Agreement (FA) for the provision, construction, and operation of facilities for the former Fort Ord Project Area. As a result of this agreement, FORA formed the Water Wastewater Oversight Committee (WWOC) which is tasked to review and recommend:

- 1) Appropriate actions regarding facilities operation
- 2) Operating and Capital improvement budgets (compensation plans)
- 3) Public sewer and water facilities Master Plan
- 4) Adequacy of service provided by MCWD to FORA
- 5) Long term financial planning and fiscal management advice, and to
- 6) Coordinate and Assure MCWD facilities compliment the Base Reuse Plan, and the FORA Capital Improvement Plan

MCWD annually presents to the WWOC a Compensation Plan for its rates and capacity fees. The rates are set through a State 218 process. Capacity fees are based on approved Master Plans which identify existing and future facilities needed to implement the Base Reuse Plan. The WWOC's role is to 1) review and recommend Master Plans as a basis for capacity fees, then 2) make a compensation plan recommendation to the FORA Board. The FORA Board then considers adoption of the annual compensation plan.

### DISCUSSION:

#### **Why consider a compensation plan in 2020?**

The 1998 Facilities Agreement contractually requires FORA to review and approve the MCWD budget (compensation plan) annually, and prior to June 30. Therefore, the FORA Board must consider a MCWD compensation plan for updated capacity fees prior to its sunset on June 30, 2020.

It is also important to understand that the FORA Board functions as the representative body for the Water District in the Project Area, while the sole owners were the Jurisdictions. Multiple property owners now exist as a result of the FORA's reuse and redevelopment efforts in the development areas. However, these multiple owners need adequate

representation on the Special District's Board. Therefore, the WWOC advocated for MCWD annexation of the redeveloped areas of the former Fort Ord into the MCWD Service Area. In Fiscal Year 2018/2019, MCWD annexed portions of the former Fort Ord and identified other potential areas dependent upon future development. The annexed area will be able to vote for representation starting November 2020.

However, there will be a gap between FORA sunset and November 2020 when the Ord Community will be un-represented and in which MCWD must continue to operate. Therefore, in addition to its contractual obligation, FORA should approve a compensation plan to carry MCWD through until a representative is voted in.

### **The MCWD Master Plans (Water, Sewer, Recycled)**

After reviewing the Master Plans, the WWOC voted to recommend them as a basis for the capacity fees on October 24, 2019. The Master Plans used the jurisdictional land use assumptions for 2019. These assumptions included projected development on specific parcels. The land use assumptions, including the Base Reuse Plan resource constrained buildout cap, allowed MCWD Master Planning Consultant Tony Akel, to evaluate and project the existing and future demand and the necessary infrastructure improvement needed over the next 10 years. A proposed capital improvement program (CIP) reflects these plans. The WWOC coordinated and assured the Master Plans CIP complimented the Base Reuse Plan's CIP. The Master Plans CIP provided construction cost estimates for each project, and the aggregate CIP cost is the basis for the Capacity Fee. The updated September 18, 2019 Master Plans for Water, Sewer, and Recycled Water (3 separate documents) can be found on MCWD website:

[www.mcwd.org](http://www.mcwd.org)

### **The MCWD Capacity Fee methodology change**

MCWD prepared a Capacity Fee Report (**Attachment 1**) summarized the Fee tables (**Attachment 2**) provided the proposed use factors (**Attachment 3**) and received comments from the public and including an engineer peer review at the direction of this committee on 9/20, 10/10, 10/24, and 11/8 and they have provided the questions and MCWD's responses (**Attachment 4**).

The updated Capacity Fee Report proposes a different methodology from the previous Capacity Fee Report. The existing capacity fee used a "combined buy-in (Existing Asset Value) and future cost (Total CIP)" approach resulting in fees charged based on Equivalent Dwelling Unit (EDU) evaluation of each customer (Total Units).

#### **Current Methodology: Average Cost**

$$\frac{\text{Existing Asset Value} + \text{Total CIP}}{\text{Total Units}}$$

The proposed 2019 Capacity Fee recommends a change in methodology to one that is a summation of the average existing asset value and the average future user share. This method is meant to recover the cost of existing recycled water not anticipated in the previous study, water, and wastewater system facilities in present value, as well as the cost of future system expansion.

### **Proposed Methodology: Hybrid Buy-In + Marginal Future Cost**

$$\frac{\textit{Existing Asset Value}}{\textit{Total Units}} + \frac{\textit{Future User Share of CIP}}{\textit{Future Units}}$$

### **Staff Analysis**

The Proposed change to the Ord Community Capacity Fee results in an increase from \$8,010 per EDU to \$19,104 per EDU. However, Staff Analysis shows this change to be a 24.2% increase in cost on average once the FORA Community Facilities District Special Tax (CFD) is accounted for as well as a cost indexing of the fee to the present value using the 20 City Construction Cost Index between January 2013 and 2019.

With FORA Sunset June 30, 2020 it is necessary to create a FORA community facilities district special tax (CFD Fee) fee replacement in order to continue implementing the BRP. This includes the BRP's required water augmentation CEQA mitigation. With MCWD becoming the successor agency to this mitigation for which reuse within the Ord Community is dependent, it is important for MCWD to shift from receiving a portion of the CFD Fee from FORA to directly collecting a capacity fee. This "Hybrid Buy In" method allows for MCWD to collect capacity fees for the existing and future Water Augmentation mitigations needed to implement the Base Reuse Plan. Table 3 of the Capacity Fee Report (**Attachment 2**) shows the added cost of the Recycled Water Capital Improvement Plan. This includes the existing cost for the Regional Urban Water Augmentation Project (RUWAP) and the shared pipeline facilities with Pure Water Monterey.

The MCWD Capacity Fee Report is a present value assessment. FORA staff analyzed the proposed capacity fee to understand the impact of shifting the responsibility of FORA mitigations to MCWD. First staff adjusted the existing capacity fee to account for inflation since 2013, secondly staff estimated a 14.3 percentage of the total BRP CEQA mitigations are for Water Augmentation. Please note: FORA functions on a "pay-as-you-go" structure. The CFD Fee is not meant to be split by percentage; however, for purposes of this analysis, staff considered 14.3% of the developer fee as a means to compare the impacts. Lastly, staff compared the existing capacity fee and the proposed capacity fee. This per unit comparison is shown below.

**Ord Community**

<b>Proposed Capacity Fees - Hybrid Approach (Nearterm)</b>	<b>Current</b>	<b>Proposed</b>	<b>\$ Increase (Decrease)</b>
Water Capacity Fee - \$/EDU	\$8,010	\$19,104	\$11,094
Sewer Capacity Fee - \$/EDU	\$3,322	\$5,930	\$2,608
<b>Total Capacity Fee</b>	<b>\$11,332</b>	<b>\$25,034</b>	<b>\$13,702</b>

<b>FORA Staff Analysis of MCWD existing Capacity Fee + FORA CFD Fee in comparison to Proposed Capacity inclusive of CFD replacement</b>	<b>Residential 9-12 units/acre</b>	<b>Multi- Family Apt</b>	<b>Hotel per Room</b>	<b>Retail (Grocery Store) 5,000 SF</b>
Existing Fee	\$ 8,010	\$ 8,010	\$ 8,010	\$ 8,010
<b>Existing Use Factors (EDU)</b>	<b>1.000 (.33/.33)</b>	<b>1.000 (.33/.33)</b>	<b>0.515 (.17/.33)</b>	<b>5.909 (.00039/.33) x 5000 SF</b>
Per Unit (Existing Fee* EDU rate)	\$ 8,010	\$ 8,010	\$ 4,126	\$ 47,332
37% Construction Cost Index (2013-2019)	\$ 2,964	\$ 2,964	\$ 1,527	\$ 17,513
14.3% FORA CFD Fee (per use)	\$ 3,627	\$ 3,627	\$ 809	\$ 9,803
Present Value of FORA CFD + Capacity Fee	\$ 14,601	\$ 14,601	\$ 6,462	\$ 74,648
Proposed Fee inclusive of FORA CFD	\$ 19,104	\$ 19,104	\$ 19,104	\$ 19,104
<b>Proposed Use Factors (EDU)</b>	<b>.848 (.28/.33)</b>	<b>0.857 (.21/.33)</b>	<b>0.393 (.11/.33)</b>	<b>5.893 (.00033/.33) x 5000 SF</b>
Per Unit (Proposed Fee* proposed EDU rate)	\$ 16,209	\$ 16,375	\$ 7,505	\$ 112,577
\$ Change between existing and proposed	\$ 1,609	\$ 1,774	\$ 1,043	\$ 37,929
% Change between existing and proposed	11%	12%	16%	51%

**Public Comments**

Members of the development community provided comments at the multiple meetings held by MCWD and to the WWOC. BIA has submitted comments for the WWOC consideration of a recommendation. (**Attachment 5**)

FORA staff summary of the public questions is as follows:

What methods are available to the District to decrease the capacity fee impacts to developers as a result of the Districts estimate of conservative construction cost plus 81% Contingency (cost x 25% project related costs x 48.5% contingency)? How can MCWD better assess the risk and adjust the contingency prior the proposed fee implementation on July 1, 2020?

**RECOMMENDATION:**

Given the contractual requirement to recommend a compensation plan (capacity fees) to the FORA Board, and given the WWOC has reviewed this issue with MCWD and the public, including holding an additional unrequired engineers meeting on 11/8, it is staff's position the WWOC move the approval of the capacity fees forward to the FORA Board for their consideration.

**FISCAL IMPACT:**

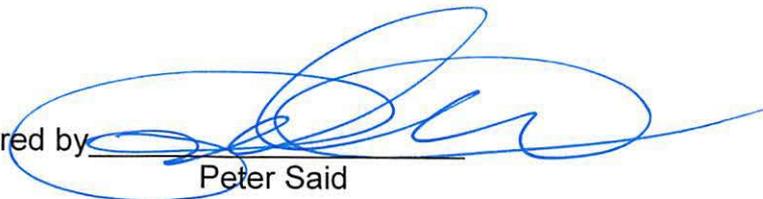
Reviewed by FORA Controller \_\_\_\_\_

Staff time for this item is included in the approved annual budget.

**COORDINATION:**

Marina Coast Water District

Prepared by \_\_\_\_\_

  
Peter Said

Attachments 1-4 to Item 7d  
Water/Wastewater Oversight Committee

- [https://fora.org/WWOC/2019/Materials/1\\_MCWD\\_Capacity\\_Fee\\_Report\\_DRAFT\\_%2011-25-19.pdf](https://fora.org/WWOC/2019/Materials/1_MCWD_Capacity_Fee_Report_DRAFT_%2011-25-19.pdf)
- [https://fora.org/WWOC/2019/Materials/2%20MCWD\\_Capacity\\_Fee\\_Tables\\_DRAFT\\_11-25-19.pdf](https://fora.org/WWOC/2019/Materials/2%20MCWD_Capacity_Fee_Tables_DRAFT_11-25-19.pdf)
- [https://fora.org/WWOC/2019/Materials/3\\_Appendix\\_C.pdf](https://fora.org/WWOC/2019/Materials/3_Appendix_C.pdf)
- [https://fora.org/WWOC/2019/Materials/4\\_MP-Capacity\\_Fee\\_Study\\_Comments-Responses.pdf](https://fora.org/WWOC/2019/Materials/4_MP-Capacity_Fee_Study_Comments-Responses.pdf)



November 18, 2019

MCWD  
Mr. Michael Wegley, PE, District Engineer  
2840 4<sup>th</sup> Avenue  
Marina, CA 93933  
[mwegley@mcwd.org](mailto:mwegley@mcwd.org)

**RE: Building Industry Associates (BIA) comments regarding MCWD Draft Capacity Fee Study for Water, Wastewater and Recycled Water**

*Executive Summary*

BIA has formed and coordinated the development of a review team to obtain insights and identify issues that need to be addressed in MCWD's Draft Capacity Fee Study for Water, Sewer and Recycled Water. Pursuant to our September 20, 2019, letter to you we are now providing you with additional information for your consideration as you seek to finalize the Capacity Fee study and its associated master plan reports.

This Peer Review Technical Memorandum is intended to provide an initial review of the proposed Capacity Fees and master plan reports prepared by MCWD and its consultants. Conclusions of these documents are understood to be the basis of Capacity Fee planned for adoption by MCWD's Board of Directors.

While recognizing that there remain many facility as well as policy issues yet to be evaluated, we offer the following five key observations to the continued review and resolution of issues of the Capacity Fee Study:

- 1. Collaboration and Transparency:** Currently, the water and sewer rate increase proposed by MCWD is approximately 228% for Ord and 124% for Marina. BIA and its affiliates are therefore justifiably emphatic on the need to actively participate with MCWD in a collaborative and transparent process for the review and further development of the Capacity Fee Report and its underlying master plan documents. We have offered our time and expertise to meet with MCWD and its consultants to understand impediments to implementation and to collaborate in problem solving. We believe that further issue identification and resolution requires that MCWD to commit to a schedule of active meetings and workshops.
- 2. Future Development:** The Master Plans include areas for future growth not included in MCWD's existing service area. The amount of work and need for additional funds to extend water, sewer and recycled water facilities to this areas is not identified in the Master Plan Reports. BIA and its affiliates believe that the work in MCWD's existing service area should be the priority focus of these reports. We request that you provide additional details on the potential costs and impacts to the proposed Capacity Fees for

future work in areas outside of the service area or remove them from the studies.

3. **Cost Estimating Contingencies:** Estimated Construction costs developed in the Master Plan Reports include a 48.5 percent contingency above baseline construction costs to account for unforeseen events and unknown field conditions, and for Contractor's overhead and profit, general conditions, and sales tax. Additionally, Capital Improvement Costs also include an additional 25 percent of the estimated construction costs to account for administration, construction management, and legal costs. Therefore, the overall impact of project-related unknown conditions amounts to approximately \$26M of capital costs for water, sewer and recycled water while providing no meaningful benefits to the community.

We therefore strongly support MCWD doing everything it can to eliminate or reduce the 48.5 percent contingency by working to complete the engineering design for the CIPs. This would de-risk the projects by identifying previously unforeseen events and unknown field conditions. The 25 percent contingency is expected to remain in place to meet the engineering, legal and administrative needs of the CIPs including Contractors overhead and profit and sales tax.

4. **Alternative Project Delivery:** The opportunity exists for MCWD to procure Design-Build entities and deliver water, sewer and recycled water projects at potentially lower costs than by traditional Design-Bid-Build methods. The DB would be required to develop and submit to MCWD, proposals for the project design and construction under a single contract. DB entities would be required to develop and submit a Guaranteed Maximum Price (GMP) increasing the surety that the work would be completed potentially at or below master planned level cost estimates. DB entities would prepare a project design of 10% to as much as 30% to facilitate their development of the GMP.
5. **Recycled Water Supplies:** Available recycled water to the Tier 3 (Immediate Term) and Tier 4 (Long Term) users are insufficient to meet projected demands. The report identifies that:
  - a. “..currently identified Tier 3 users exceed the allocation and thus additional allocation would be required or portions of these users will be excluded pending the expanded allocation.”
  - b. The “Tier 4 users are in excess of the current capacity allocation agreement with M1W and will require additional recycled water entitlements and improvements prior to service.”

We are unsure the remedy that MCWD has adopted to ensure the availability of recycled water to meet identified demand.

6. **Population Projections:** None of the recent reports include a significant discussion of the demographics of MCWD’s service area. No studies were apparently used to reach the population conclusions as to the volume and timing of future growth throughout MCWDs service area. We believe that this is a key set of assumptions that requires evaluation. The Master Plan Reports appear to have identified a 3% per year growth pace with no significant discussion or analysis. Through a quick review of the data from several credible sources we have determine the growth has not been and is not being projected at

3%. There is no contingency provided to meet scenarios of different (positive or negative) growth that may occur and the impact that would have on the cost and schedule for CIP implementation.

We appreciate this opportunity to submit our initial concerns and look forward to a process of collaboration and problem solving with MCWD and its consultants.

## *Administrative Issues*

### *MCWD Community Collaboration*

7. We strongly believe that the Builders Group and its members should be active participants in the review and approval process of these reports working and their underlying assumptions. BIA and its members should be allowed to work in partnership with MCWD to achieve common goals and objectives. Additionally, we believe that it is important to include FORA in this process based on overlapping responsibilities with MCWD. This is especially true regarding the administration and disposition of the Community Facilities District (CFD) the 3-Party Agreement that significantly limits the cost participation in the recycled water program, and on CFD and dissolution.
8. At the October 10, 2019 meeting BIA requested the formation of a technical advisory group to consist of engineering and planning experts from both MCWD and the Builders who could meet in a manner of collaboration similar to a systematic review process, similar to a value engineering review. We are pleased to have MCWD set a date of November 8 for a workshop.
9. BIA and representatives of the building community have stressed to MCWD the necessity of collaboration in the Capacity Fee and facility master plan review process. In its 2018 Year In Review, MCWD states that the review is “.. *share(d) with you as part of our ongoing commitment to communication, transparency and collaboration with our community.*”
10. It was generally agreed that fire flows dictate the size of the system. However, there was no receptivity to the idea of collaborating with the Fire Marshals from the service area to see if lower (cheaper) cost facilities could be used (flow rates & durations, storage volumes, pipeline diameters).

### *Fee Increase Schedule*

11. MCWD had hoped to have process of master plan updates and fee establishment completed by December 2019. We understand the decision may be delayed a month. Unfortunately, the time provided by MCWD for our review and participation in the Capacity Fee Increase is inadequate for a true identification, communication and review of Fees and Master Plan Documents. The master plan and Capacity Fee study reports are the work products of more than 3-years of effort. Yet there have only been three opportunities to date to meet with MCWD on this topic. In some cases, MCWD has made significant and important changes to some of the CIPs without making any redistribution to public or more specifically to the Builders.
12. Builder Community would like more outreach. These issues with FORA should be worked out before fees are tripled to development committee. Getting this completed even by January seems too fast. Requested to extend the timeline out to this spring that provide several months before the sunset of FORA. Development community needs to have time to complete their own analysis.
13. If this 3-fold increase is rushed it will not be amicable. Policy choices included in these increases need to be debated.
14. Transparent Review Period and Collaboration Between MCWD & the Builders community Draft Capacity Fee Study was released June 25, 2019 and then revised and released in October 2019 without any announcement to group being invited by MCWD to outreach meetings.

## *Administrative Recommendations*

15. We make the following recommendations regarding administrative issues associated with the review of the Capacity Fee Study and its associated reports:
  - a. BIA recommends that a Technical Advisory Group be convened to be made up of technical area experts from the Builders Community and MCWD. We appreciate MCWD efforts of setting working group meeting on November 8, 2019. These efforts need to continue beyond this meeting to reduce some of the unknowns included in the cost estimates.
  - b. Identify & schedule additional follow-up requirements.

## *Planning and Engineering*

### *Planning*

16. There are **6,160** residential units in the cap plus commercial and industrial uses to generate jobs. How many of the units are part of the future remaining units as of 2018? (Table 2.1 of the Water Master Plan).
17. The previous master plan assumed full build-out. The current plan uses FORA Planned and Entitled developments.
18. Near term projection is year 2035 and full buildout is year 2050.
19. Acres used should not have been included because outside irrigation would not use potable water. However, we understand the landscaping costs have been lowered in the latest revisions.
20. How many new homes are being estimated? The Base Reuse Plan was used not for full buildout but for 15 years of growth. The Plan for future growth is based on the number of jobs that can be created on the base to move forward with additional development. Development stops until 18,000 job generation goal is met.
21. Planned use and entitled use are included in the Reuse Plan.
22. Would it have been more equitable to separate the three uses rather than combined especially since everyone benefits from recycled water? CIP portions have been separated but total assets portions have not been separated.

### *Cost Estimates*

23. The cost of FORA's obligation to the Water Augmentation Project was estimated to be \$40M in year 2008-2009. Using the ENR Constriction Cost Index to update this estimate to year 2019 results in an cost estimate over \$50M. Therefore, the increase by \$9.7M represents a large cost for that project alone. Given the impact to the importance on ratepayers it seems reasonable to have MCWD perform an updated cost estimate rather than relying solely on indexing. MCWD's last water system CIPs includes over 20-miles of pipeline, 4-million gallons of storage and 5,000 gpm of boosting capacity and should therefore be revaluated.
24. The cost of facilities constructed by the Builders should be reimbursed by MCWD where the Builders have designed and constructed the capital improvements.
25. The costs mainly focused on backbone infrastructure.
26. We understand from our October 23, 2019 meeting that costs for landscaping have been lowered in the latest version of the Water Master Plan.

### *EDU's*

27. What background data, demographic studies of projected populations, residential and commercial numbers of EDU's have been developed for referenced for the Capacity Fee study? It appears as if the only source for population projections is the Base Reuse Plan. The accuracy of the near-term (year 2035) and full build-out (year 2050) are among the most important in the Capacity Fee report. Through a quick review of the data from several credible sources we have determine the growth has not been and is not be projected at 3%. Marina has grown 1.52% in the last five years.

ABAG updated its Region Growth forecast in 2018 for its Sustainable Community Strategy. Their current forecasts expect 20% less population growth and a 2% increase in housing.

28. The Master Plan Reports present a 3% Growth Rate. When last discussed, the engineering team (11-08-19) responded that the actual populations were unimportant to the engineering analysis. However, the connection fees and the FORA development limits are based on population and population rate projections.
29. Appendix C provides the updated water demand for calculation of equivalent dwelling. There are 20 fixture units included in one EDU.
30. There will be 175 gpd returning to the wastewater treatment plant per EDU. An EDU has dropped from 0.33 to 0.28. AF/EDU. One EDU designated for a hotel or condo would have less consumption than the single-family unit EDU. It appears to be unknown how much it will cost at the counter for 1 building permit (.01 EDU or 28% of an EDU)?

### *Sea Water Intrusion*

31. Monterey 1 Water completed their Pure Water Project. The RUWAP will serve both the MCWD Water Augmentation Program and Pure Water Monterey with 1,427 AFY water from sources other than groundwater within MCWD and up to 3,700 AFY to the Peninsula
32. Augmentation with recycled is intended to stop seawater intrusion. Wells can continue to be used rather than abandoned. Currently, the plan is to use Monterey One recycled water. We understand the injections wells were removed from the CIPs based on feedback from the Development Community.

### *Planning & Engineering Recommendations*

33. MCWD should consider preparing new cost estimates to improve connection fee accuracy for projects with cost estimates more than 10-years old.
34. Conduct or research recent demographic information that is available to use a more accurate estimate than 3%.
35. Upon review of a detailed study of water use in the Monterey Peninsula and other nearby water agencies to develop estimates, it is apparent more granularity can be done to develop more precise equivalent dwelling unit consumptions.

### *Financial*

#### *Planning Assumptions*

36. It appears that the costs for CIPs should be lower because some of the units identified as future use have already been built. It is therefore essential to identify the basis for estimating existing and future users and how future users have been determined. Ongoing development is moving forward, however Builders are generally unsure of their proportionate Capacity Fees will be determined for works in progress.
37. The current total cost of the Water, Sewer and Recycled Water CIP at build-out has been estimated at \$178 million. The near-term CIP projects (including some interest from existing loans) is \$136 million.
38. Did the alternative water sources discussed in the Water Master Plan get included in the costs for water service infrastructure requirements to service potential future development?
39. Current calculation is an average based on total buildout.
40. Water system existing users share \$29.3 million of the costs and \$44.0 million to be shared by future users.
41. Methodology overview looks like future users are carrying the burden. Who is paying debt?
42. Why is Marina recycled water use less than Ord? -It is mostly going to be development in the Ord Community.

43. Over \$10,000 has been allocated for water augmentation.

#### *Where is the Money?*

44. BIA requests details to identify how much FORA should be collecting and providing to MCWD for the RUWAP. It appears that money has not been provided to MCWD and may have been spent on other things. It appears that the FORA and MCWD are doubling fees for water augmentation.
45. Aren't the current EDUs paying for a portion of the future infrastructure?
46. MCWD has a three-party agreement with FORA, Marina and M1Water to receive only \$4.3M as committed to date for the groundwater barrier project. What funds have been set aside by FORA for the Water Augmentation Project?
47. Because of FORA's dissolution, no future funding from FORA has been assumed in new CIP calculations. FORA's obligation of \$3,491 is an estimate of what is being charged for water augmentation at full build-out.

#### *FORA and the Fee Increase*

48. On January 18, 2002, FORA adopted Resolution No. 02-1 establishing the Fort Ord Reuse authority Base-wide Community Facilities District (CFD) to collect fees for, among other impacts caused by development, 2,400 AFY of water augmentation to support the BRP; and,
49. Important relationships between FORA and MCWD (such as the three-party agreement placing a limit on FORA's cost participation in the recycled water project and the collection and disbursement of fees for the CIP) have yet to be defined within the context of the dissolution of FORA.
50. If FORA still states that they are collecting fees for water they should provide the associated funds to MCWD.
51. Additionally, it is unclear to us who will be responsible for the management of the housing cap after FORA is gone.

#### *Fees*

52. What is the basis for using such high contingency fees (+50 to -30%)
53. Current Sewer Capacity Fees are \$6,859 Marina and \$11,332 for Ord.
54. Where is the draft report that formed the basis for CFD Apportionment in July and how does it relate to the proposed Capacity Fees?
55. What was the response to seeing the capital increase to four times the current development fees? Were lower cost alternatives or alternative approaches sought?

#### *Financial Recommendations*

56. Recommend that MCWD get money from FORA before they are dissolved.
57. The money collected by FORA should be put in different restricted funds rather than comingled in one account.
58. Identify other non-MCWD Projects that the service area will need to absorb after FORA sunsets?
59. Identify costs for future buildout in future service areas.
60. Identify EDU fees upfront for facilities other than one single family home to present a more transparent fee structure to the building community.

#### *Legal*

61. Water and sewer charges cannot exceed the reasonable cost of providing service unless approved as a special tax by two-thirds of the electorate.
62. It is essential that the proposed Capacity Fee be prepared in strict compliance with the requirements of the Mitigation Fee Act. To that end, a nexus study is required to be made in written form and must be updated whenever new fees are imposed, or existing fees are increased. The report must establish the relationship between the amount of any capital facilities fee and the use for which it is collected.
  - a. Has MCWD made the use of Best Information Available; that is defensible; and, equitable to existing & future users?
63. Apparently, holding an approved Tentative Map and development agreement does not render a developer immune from Capacity Fee increases. The legality of this assertion should be verified for its impact on fully entitled projects.

#### *Recommendations on Legal Issues*

64. Identify if MCWD made a determination as to the effects of the proposed Capacity Fee with respect to Marina's housing needs as established in the housing element of the General Plan and the FORA Base Reuse Plan.
65. Recommend that MCWD develops a nexus study for any Capacity Fee increases moving forward.

#### *Fee Methodology*

The following are the key components to the increase in system Capacity Fees:

66. The increased costs for the Master Planned Facilities (potable water, sewer and recycled water). The methodology that is now being used includes "depreciation indexing" using ENR values.
67. Contingency factors for unknowns have increased capital costs by 185%.
68. MCWD has changed methods of analysis from the use of Average Cost to Hybrid Method.

#### *Recommendations on Fee Methodology*

69. BIA has requested analysis of the above and resulting impacts on fees from MCWD but these requests have not received response. Much of the methodology has been used in previous Capacity Fee studies. Apparently, MCWD continued the use of these items rather than making prudent adjustments to them.
70. It has not been made clear why the Hybrid cost methodology is better than the Average Cost method of analysis.



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1350 Treat Blvd., Suite 140  
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TRANSMITTED VIA EMAIL

WATER/WASTEWATER OVERSIGHT COMMITTEE (WWOC)  
Brian McMinn, Co-Chair  
FORT ORD REUSE AUTHORITY  
920 2nd Avenue, Suite A, Marina CA 93933 | FORA CIC

November 20, 2019

**RE: December 2, 2019 WWOC Agenda: Consideration of Extension to Recommendation of the Draft Capacity Fees Report.**

Dear Chair McMinn and Members of the WWOC,

BIA Bay Area (BIA) respectfully requests that the WWOC defer action at its December 2, 2019 meeting on the Draft Capacity Fees Report. Continuation of this item is requested to permit sufficient time for BIA member builders in the Fort Ord Reuse Area and MCWD Staff to work together on solutions to resolve concerns, discrepancies and differences in the Draft Capacity Fee Study. Also, due to the Thanksgiving Holiday, the hastily scheduled special WWOC meeting is highly inconvenient for many of the BIA member builders in the Ord Community, and, judging from committee remarks at the October meeting, the December 2<sup>nd</sup> special meeting is inconvenient for WWOC members as well.

BIA continues to be highly concerned that the Draft Capacity Fee Study endorses massive increases in connection fees for new homes and businesses in the Ord Community. BIA urges the WWOC to

- 1) recognize the severe impact of these massive fee increases and acknowledge the need for a much more detailed review of the Draft Capacity Fee Study to validate fee methodology, existing facility costs, growth projections, water demand, etc., and
- 2) to ask MCWD to return with reductions in the maximum justifiable fee calculations.

BIA is submitting a Memorandum of Comments and Concerns regarding the Draft Capacity Fee Study for Water, Wastewater, and Recycled Water. This memorandum details many of the concerns that BIA member builders continue to express regarding the Draft Capacity Fee Study.

**Early Outreach to Ord Builders Should Have Been Planned from the Beginning**

After the long process of drafting water, recycled water and wastewater master plans, MCWD finally conducted two stakeholder workshops (September 5, 2019 and again on October 10, 2019). A third workshop, requested by BIA and the WWOC, was held on November 8, 2019 and focused on the Draft Water, Wastewater, and Recycled Water Master Plans. During these workshops, BIA member builders raised numerous questions and concerns regarding the Draft Master Plans and the Draft Capacity Fee Study.

While BIA has appreciated that MCWD offered these opportunities to provide questions, concerns, and recommendations to the Master Plans and Fee Study, there's been frustration that the Agency failed to adequately outreach to home builders and commercial developers during the process of compiling the Master Plans and the Draft Capacity Fee Study.

MCWD should have conducted long range outreach and collaboration with the developers that were building homes, paying fees and installing improvements during the drafting of the Master Plans and Fee Study. If this outreach had occurred, it is likely BIA and MCWD would be able to present a unified recommendation to the WWOC at this time. However, several builders have commented that although they were in nearly daily contact with MCWD as they have constructed homes during the last three years, no one at MCWD mentioned the Draft Master Plans and Draft Capacity Fee process.

**Among the items that BIA has stated and continues to question:**

- Contingencies: All projects in all three Master Plans are burdened with a construction contingency allowance of 48.5% plus 25% project related contingency allowances, an accumulated contingency of 85%. When asked to justify these extremely high contingency allowances, MCWD replied:  
*"Based on previous project experience, MCWD maintains these contingencies are consistent with previous planning efforts."*
- Collaboration: Stronger communication, coordination and collaboration with the building community is needed as the FORA transition proceeds. As of yet BIA has not seen commitment from FORA on this issue.
- Assumptions: Future development and pace of growth are out of step with neighboring agencies such as AMBAG which projects a much lower growth rate for the region over a similar time frame.
- Alternative project deliveries such as design/build that would offer cost savings are not considered.
- Fee methodology: The recommendation by Bartle Wells to abandon the Average Cost methodology in favor of the Hybrid Buy In methodology is a significant contributor to the huge escalation in capacity fees.

Fee increases of the magnitude of the proposed MCWD capacity fee increase have major reverberations throughout the development process. This proposal to add thousands of dollars to the cost of residential units should not be enacted without strong outreach and should be balanced vis-a'-vis project feasibility.

Thank you for your attention to this issue. We look forward to working with you over the next several months to reach consensus on fair study and application of fee levels.

Yours truly,

Dennis Martin  
BIA Bay Area