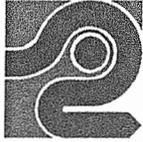


ATTACHMENT C



Fresno Metropolitan Flood Control District

Capturing Stormwater since 1956

February 26, 2026

VIA ELECTRONIC MAIL

Mr. James Anders
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Department of Public Works and Planning
Development Services and Capital Projects
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Mr. Bryan Rome
Fresno County Counsel
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Re: Nexus and Rough Proportionality of Fresno Metropolitan Flood Control District Drainage Fee

Dear Mr. Anders and Mr. Rome,

As requested by the County of Fresno (the “County”), the Fresno Metropolitan Flood Control District (the “District”) provides this letter to explain how its drainage fee computation satisfies the constitutional and statutory requirements of nexus and rough proportionality, and to clarify how the analytical framework used in the District’s fee study entitled “2026 Drainage Fee Schedule” (the “Fee Study”) aligns with those legal standards.

Under California and federal law, a district may impose a drainage or impact fee as a condition of development approval only if the fee satisfies the constitutional requirements. Permit conditions demanding the dedication of property or payment of money constitute land-use exactions and are subject to *Nollan v. California Coastal Commission* (“*Nollan*”)¹ and *Dolan v. City of Tigard* (“*Dolan*”)², and as extended to monetary exactions in *Koontz v. St. Johns River Water Management District* (“*Koontz*”).³ Under this framework, the government must show an “essential nexus” between the fee and a legitimate land-use interest, and “rough proportionality” between the amount of the fee and the development’s projected impacts.⁴ These requirements apply regardless of whether the fee is imposed administratively or by legislative enactment.⁵

The required nexus is established through the District’s identification of development-driven drainage impacts. The essential nexus component “asks whether there is an

¹ (1987) 483 U.S. 825.

² (1994) 512 U.S. 374.

³ (2013) 570 U.S. 595, 607.

⁴ *Id.* at 605–606; *Dolan, supra*, 512 U.S. at 391.

⁵ *Sheetz v. County of El Dorado* (2024) 601 U.S. 267, 275–277; see also *California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435, 455.

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‘essential nexus’ or logical connection between the government’s legitimate state interest and the permit condition.⁶ New development increases impervious surface area, which results in increased stormwater runoff volume and higher peak flow rates. These increased flows place additional demand on the District’s drainage facilities, including conveyance systems, detention basins, and downstream infrastructure. Without the construction and expansion of such facilities, the existing drainage system would be inadequate to safely manage post-development runoff conditions. The Fee Study quantifies these impacts by computing drainage fees using the percent imperviousness of a project, basing fee rates on land use classifications. These considerations tie development intensity and land use characteristics to measurable increases in runoff. The fees, in turn, are used towards the development of storm drainage facilities, which may have been or are yet to be constructed. This analysis demonstrates a clear and reasonable relationship between new development and the need for additional drainage facilities.⁷

The drainage fee also satisfies the rough proportionality requirement because it is calculated to reflect each development’s proportional share of the drainage system capacity required to serve it. The rough proportionality component “concerns the ‘degree of connection’ between the permit condition and the projected public impacts or social costs of the proposed development project.”⁸ The District’s methodology begins by identifying the capital facilities necessary to accommodate projected buildout conditions within the drainage area. Fee rates are derived from objective factors such as land use classifications set by the applicable city or county, anticipated imperviousness, and runoff generation characteristics, all of which directly correlate to drainage demand. As a result, each development contributes to system costs in proportion to the degree to which it increases stormwater runoff and drainage infrastructure needs, satisfying the rough proportionality requirement both in nature and extent.⁹ Furthermore, the District’s Resolution 2025-1076, which is attached, Amending the Storm Drainage and Flood Control Master Plan and Costs Establishing Such Costs and Fees For Local Drainage Areas describes how rough proportionality is satisfied, including compliance with Assembly Bill 602 and Government Code section 66016.5.

On remand from the Supreme Court, the Third District Court of Appeal found the traffic impact mitigation fee in *Sheetz* to be a monetary exaction that satisfied the essential nexus and rough proportionality requirements of *Nollan* and *Dolan*.¹⁰ The Court reasoned “the inquiry regarding [the essential nexus component] is a relatively low threshold, requiring only some logical connection between a legitimate governmental interest and the permit condition demanded by the government.”¹¹ The Court reasoned it had “little difficulty” finding an essential nexus

⁶ *Sheetz v. County of El Dorado* (2025) 113 Cal.App.5th 113, 132.

⁷ See *Associated Home Builders etc., Inc. v. City of Walnut Creek* (1971) 4 Cal.3d 633, 640; *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854, 865; *California Building Industry Assn., supra*, 61 Cal.4th at 455 [“As a general matter, so long as a land use restriction or regulation bears a reasonable relationship to the public welfare, the restriction or regulation is constitutionally permissible.”]

⁸ *Sheetz, supra*, 113 Cal.App.5th at 133.

⁹ *Sheetz, supra*, 113 Cal.App.5th at 144.

¹⁰ *Sheetz, supra*, 113 Cal.App.5th at 138.

¹¹ *Ibid*, citing the *Dolan* findings concerning flood prevention and reduction in traffic congestion as legitimate government interests.

between the County’s legitimate interest in reducing traffic congestion from new development and permit conditions.¹² Likewise, the Court found the County met its burden in demonstrating that it used a valid method for establishing a reasonable relation between the fee charged and the projected burdens.¹³ Once sufficient evidence is presented by the government, the burden shifts to the plaintiff to “establish a requisite degree of belief in the mind of the trier of fact or the court that the fee is invalid.”¹⁴

The Fee Study allocates costs based on measurable development and land use-driven demands on drainage facilities and assigns fees accordingly. The same analytical steps used to calculate the fee—quantifying runoff impacts, determining required system capacity, and allocating capital costs—are the steps that establish that the fee is proportionate in both nature and extent to the impacts of development.

For these reasons, the District’s drainage fee computation satisfies the *Nollan/Dolan* nexus and *Sheetz* rough proportionality requirements. The fee represents a fair and reasonable allocation of drainage infrastructure costs attributable to development and is consistent with applicable constitutional principles and California law.

Please let us know if you require any additional clarification or supporting documentation that may assist the County in completing its review.

Sincerely,



Peter Sanchez
General Manager
Fresno Metropolitan Flood Control District



Lauren D. Layne
Legal Counsel
Baker Manock & Jensen, PC

Attachment: District Resolution 2025-1076

¹² *Id.* at 139.

¹³ *Id.* at 156.

¹⁴ *Id.* at 154.

RESOLUTION NO. 2025-1076

**BEFORE THE BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT**

**RESOLUTION AMENDING THE STORM DRAINAGE AND FLOOD CONTROL
MASTER PLAN AND AMENDING THE SCHEDULE
OF DRAINAGE FEES, SURCHARGES AND COSTS ESTABLISHING SUCH
COSTS AND FEES FOR LOCAL DRAINAGE AREAS
(2026-2027)**

WHEREAS, the Board of Directors enacted Resolution No. 1412 on February 9, 1988, establishing a schedule of drainage system costs and fees pursuant to the adopted Storm Drainage and Flood Control Master Plan, said schedule being an element of the drainage fee ordinances of the Fresno Metropolitan Flood Control District, Cities of Clovis and Fresno, and the County of Fresno, which ordinances are incorporated herein by this reference; and

WHEREAS, the Board of Directors enacted resolutions from time to time, amending said schedule, the last District-wide amendment being Resolution No. 2024-1047 adopted on December 11, 2024; and

WHEREAS, an amended Storm Drainage and Flood Control Master Plan Map, attached as Exhibit "A" hereto, specifying public facilities and improvements, existing and proposed, which are necessary to provide drainage service and flood control within the respective local drainage areas specified therein, has been presented to the Board of Directors; and

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WHEREAS, the District's Storm Drainage and Flood Control Master Plan includes a study of the impacts of contemplated future development on the District's existing storm drainage services and facilities in the local drainage areas of the Fresno Metropolitan Flood Control District listed in Exhibit "B" attached hereto, along with an analysis of new, improved or expanded public facilities and improvements required or appropriate to serve development in said local drainage areas; and

WHEREAS, as to each of said local drainage areas, said Map, said Plan and said study set forth the relationship between development and said services or facilities; the estimated cost thereof; and the schedule of per gross acre fees calculated to raise the sum of money necessary to pay the estimated total cost of local drainage facilities therein; and

WHEREAS, AB 602 - Section 66016.5(a)(5) of the California Government Code requirement to compute fees for residential housing by square footage of the building structure is inconsistent with the District's method of calculating fees and does not affect the drainage fee rates as long as the necessary findings required by Section 66016.5(a)(5)(B) for using an alternative basis for calculating fees are made and adopted as follows: (1) the District's method of computing drainage fees using percent imperviousness of a project is a more equitable method of computing drainage fees and calculating a fee based upon square footage does not capture impervious surfaces outside of the footprint of the structure; (2) the fees rates used are based on land use as determined by the Cities of Fresno and Clovis and the County of Fresno's General Plan; and

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(3) District does not collect fees for smaller residential improvements under 1,000 square feet on developed or partially developed property, 'tiny homes' under 750 square feet, and development with additional improvements that are not equal or more than 25% of property developed prior to March 15, 1969; and

WHEREAS, said Map and said study were available at the District's office for public inspection and review ten (10) days prior to this public hearing, and notice was given in compliance with the requirements therefor; and

WHEREAS, a public hearing was held pursuant to the public notice cited herein at a regularly scheduled meeting of the Board of Directors of the Fresno Metropolitan Flood Control District; and

WHEREAS, the Board of Directors finds as follows:

A. That the purpose of said fees is to finance facilities within the District required for the removal of surface and storm waters attributable to development; to obviate the menace to the public health, safety and welfare arising from inadequate provision for removal of surface and storm waters occurring as the result of development of property; to prevent deterioration of property values and impairment of conditions making for desirable residential, commercial or industrial development, as the case may be, which would result from the failure to construct planned local drainage facilities relative to development of property; and to prevent deterioration of public streets and other public facilities which would result from failure to construct planned local drainage facilities concurrently with development.

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B. The fees adopted and collected pursuant to the drainage fee ordinances and this Resolution are to be used to finance only the public facilities shown on Exhibit “A”, within each of the respective local drainage areas identified in Exhibit “B” hereto.

C. After considering said Map and said study and the analysis prepared by the District; the respective General Plans and community and specific plans prepared by the Development Departments of said County and Cities; and the information and testimony received at this public hearing, the Board of Directors approves said Map and said study, and incorporates such herein. The Board further finds that all new development in the subject area will generate the need for storm drainage facilities therein, and generates an unmet need for storm drainage facilities and services in said area.

D. There is a need in local drainage areas for storm drainage facilities which have not been constructed or have been constructed; said facilities have been called for in, or are consistent with, the General Plans. Development will contribute its fair share toward the facility costs in those local drainage areas listed in Exhibit “B” through payment of the respective drainage fees set forth therein.

E. The facts and evidence presented establish that there is a reasonable relationship between the need for the described public facilities and the impacts of the types of development as described in Exhibits “A” and “B” for which the corresponding fee set forth in Exhibit “B” is charged. There is a reasonable relationship between the use of said fee and development of the lands in the service area for which the fee is charged, as these reasonable relationships or nexuses are described in more detail in the study and Map referred to above.

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F. The Storm Drainage and Flood Control Master Plan Map attached hereto as Exhibit “A” and the storm drainage fee rate schedule set forth in Exhibit “B”, as adopted by Paragraphs 2 and 3 herein, revise the District’s Storm Drainage and Flood Control Master Plan, to conform to its General Plan and comply with Section 66483 of the California Government Code.

G. The cost estimates set forth in Exhibit “B” are reasonable cost estimates for constructing these facilities, and the fee schedule set forth therein is based on said estimates and is to generate fees from development which will not exceed the total of these costs.

NOW THEREFORE, it is hereby resolved by the Board of Directors of the Fresno Metropolitan Flood Control District that:

1. The above recitals are true and correct, and this Board so finds and determines.
2. This Resolution is exempt from further California Environmental Quality Act (CEQA) assessment per the provisions of Public Resources Code Section 21080(b)(8)(D).
3. This Resolution is in compliance with California State Assembly Bill (AB) 602 – Section 66016.5(a)(5)(B) of the Government Code.

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4. The Storm Drainage and Flood Control Master Plan is hereby amended to include that Storm Drain and Flood Control Master Plan Map attached hereto as Exhibit “A” and as supported by Exhibit “B”.

5. The schedule of drainage fees for those respective local drainage areas listed in Exhibit “B” hereto is hereby adopted as set forth in said Exhibit “B”. The District shall prepare a 2026-2027 schedule of drainage fees for each of its local drainage areas, which shall include the amendments adopted herein. Pursuant to California Government Code Section 66017, said schedule of drainage fees shall become effective no sooner than sixty (60) days from the date of adoption of this Resolution. In compliance with California Government Code Section 66017, the District's 2026-2027 schedule of drainage fees shall be effective as of March 1, 2026, in accordance with the drainage fee ordinances. Fees shall be paid in accordance with the drainage fee ordinances and as specified in said 2026-2027 drainage fee schedule.

6. The fee shall be used solely to pay: (a) costs related to the design, administration and construction of the described public storm water facilities; (b) for reimbursing the District for the development's fair share of those costs incurred by the District in the design and construction of the described public storm water facilities; or (c) to reimburse other developers who have constructed public facilities in each service area where those facilities were beyond that needed to mitigate the impacts of the other developers' project or projects and where reimbursement is provided for in the applicable Drainage Fee Ordinance.

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7. The District, pursuant to the Drainage Fee Ordinance, shall analyze and review the estimated cost of the described capital improvements for which this fee is charged, the continued or expanded need therefor, and the reasonable relationship between such facility needs and the varying types of development. The General Manager-Secretary shall report the findings to the Board of Directors and recommend any adjustment to this fee or other action as may be needed.

8. Pursuant to California Government Code Section 66022, any judicial action or proceeding to attack, review, set aside, void or annul this Resolution shall be brought within one hundred twenty (120) days of the adoption of this Resolution. Pursuant to California Government Code Section 66022, any judicial action or proceeding to attack, review, set aside, void, or annul the fee increase shall commence within one hundred twenty (120) days of the effective date of the increase, which is identified in Paragraph No. 5 hereinabove. Administrative appeal is a mandatory prerequisite to any such judicial action or proceeding. Such appeal shall be made in writing to the Director of Development of Public Works of the political subdivision in which the property subjected hereto is located (i.e., the City of Fresno, the City of Clovis or the County of Fresno). Such appeal must be made within sixty (60) days after the effective date hereof. The Director shall set the matter for hearing, conduct the hearing and render a decision within forty (40) days after such appeal is filed.

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9. The Ordinances of the City of Fresno, City of Clovis, and the County of Fresno have an administrative mechanism whereby a property owner who seeks to develop property within the boundaries of the Fresno Metropolitan Flood Control District can challenge the fees imposed thereunder only by first paying said fees under protest. Developers of property within the Fresno Metropolitan Flood Control District shall adhere to the applicable ordinance of the City of Fresno, City of Clovis or the County of Fresno under which it is required that drainage fees must be paid before development is allowed, and that such fee may be paid under protest.

PASSED AND ADOPTED this 17th day of December, 2025, by the following vote to wit:

AYES: Directors Green, Fowler, Auston, Mendes, Allen Rojas, and Martinez

NOES: None

ABSENT: Director Busani

ABSTAIN: None