Board Agenda Item 37

DATE: March 17, 2026

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Adopt Resolution amending the Schedule of Drainage Costs and Fees for local drainage areas and Storm Drainage and Flood Control Master Plan pursuant to Section 17.64.050 of the Fresno County Ordinance Code

RECOMMENDED ACTION(S):

1. **Make findings required under Sections 66001 and 66015.5 of the Government Code for the enactment of or increase to development fees in the Fresno/Clovis Metropolitan Area, as requested by the Fresno County Metropolitan Flood Control District;**

2. **Adopt Resolution memorializing those findings and amending the Schedule of Drainage Costs and Fees for local drainage areas and Storm Drainage and Flood Control Master Plan pursuant to Section 17.64.050 of the Fresno County Ordinance Code, effective sixty days after approval of the Resolution; and**

3. **Determine that Recommended Actions 1 and 2 are exempt from review under the California Environmental Quality Act and direct staff to file a notice of exemption with the County Clerk and State Clearinghouse.**

Section 17.64.050 of the Fresno County Ordinance Code (Drainage Fee Ordinance) requires your Board's annual review and approval of an amended Schedule of Drainage Costs and Fees (Fee Schedule), intended for the funding of improvements to drainage facilities of the Fresno Metropolitan Flood Control District (District), necessitated by the proposed development projects upon which the fees will be levied. This update of the Fee Schedule is also an Implementation Policy of the 2000 Fresno County General Plan (2024 Review and Revision). This item is countywide as it pertains to all Supervisorial Districts within the Fresno/Clovis Metropolitan Area.

ALTERNATIVE ACTION(S):

Your Board could vote not to adopt the recommended resolution and determine that the previously-enacted 2025 Fee Schedule rates are sufficient and direct the Department of Public Works and Planning staff to continue to collect fees based upon the existing rates. A failure to amend the Fee Schedule to reflect the District's recently adopted 2026 drainage fees may result in the District collecting insufficient revenue to implement the full build-out of the Storm Drainage and Flood Control Master Plan improvements.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. The drainage costs and per gross acre fees are calculated to raise the revenue necessary to pay the estimated costs of local drainage

facilities in each local drainage area, as necessitated by the projects upon which they are levied. Drainage fees paid, pursuant to the Drainage Fee Ordinance and the Fee Schedule are deposited by the District into a separate trust fund. The monies are not commingled with District General Funds, nor used to fund any administration, operation, or maintenance costs, and must be expended within the drainage area in which they are paid. The Fee Schedule, as required by the Fresno County Ordinance Code, is updated annually to reflect increases, decreases, or no change in drainage system costs. According to the District, the fees will be used as follows:

1. *To pay costs related to the design, administration, and construction of the public storm water facilities;*

2. *To reimburse the District for the development's fair share of those capital improvements constructed by the District; or*

3. *To reimburse other developers who have constructed public facilities in each service area where those facilities were beyond that needed to mitigate impacts of other developer's project or projects or where reimbursement is provided under the Drainage Fee Ordinance.*

DISCUSSION:

On December 17, 2025, the Fresno Metropolitan Flood Control District conducted a public hearing, in accordance with Government Code section 6062a, and subsequently approved and adopted the subject drainage costs by resolution (Attachment A). The District received and heard no objection from the public or any person or entity to the drainage fee update prior to or during the District's public hearing. The District has requested that the County adopt an amendment to the Master Schedule of Fees, pursuant to the Drainage Fee Ordinance, to collect the District's drainage fee update.

As previously indicated, your Board can decide not to amend the Fee Schedule to reflect the District's 2026 drainage fees. Under those circumstances, the District will likely not collect sufficient revenue to implement the full build-out of the Master Plan improvements and the County will continue to collect storm drainage fees based upon 2025 rates.

Background

In 1961, the Cities of Fresno and Clovis and the County of Fresno adopted, as an element of the Fresno-Clovis Metropolitan Area General Plan, a Storm Drainage and Flood Control Master Plan (Master Plan) prepared by the District for the metropolitan area. In 1969, these agencies adopted virtually identical drainage fee ordinances, including the County's Drainage Fee Ordinance, to provide for the funding of planned drainage facilities concurrently with development activity that occasioned the need for such facilities.

The local Master Plan shows the drainage area boundaries and both proposed and existing facilities in each watershed area (See Attachment B). The District has not adopted any changes to the existing drainage fee zone boundaries, nor has it adopted any new drainage basin locations outside the spheres of influence of the cities of Fresno and Clovis, other than those previously authorized by the Board. The schedule of per gross acre fees associated with each Master Plan drainage area is based on the total costs of the urban drainage system including land, improvements, and engineering required to serve the subject area. The costs of the proposed facilities are estimated and will be replaced with actual costs as constructed. The total cost is distributed to total acreage of the drainage area using proportioning ratios among contributing land uses, with ratios based on storm runoff relationships.

The Drainage Fee Ordinance, enacted under Section 66483 of the Government Code, requires identification of the estimated or actual cost of the planned facilities through the adoption of a resolution by the legislative body of the County. Because fees are based on the cost of facilities, the recommended resolution also

serves as the Fee Schedule.

The Drainage Fee Ordinance allows annual adjustments in the Fee Schedule based upon inflation of construction costs as reflected in the National Engineering News Record (ENR) Construction Cost Index or based upon a complete re-study to determine locally experienced changes in system costs. The District used an automated Geographic Information System (GIS) drainage fee program for the 2026 fee study (On file with Clerk - Advance Agenda Material) for this year's cost study, as it calculates drainage fees immediately upon input of accounting data and GIS information. The program provides a thorough analysis of the cost of estimates, unit prices for drainage facilities (currently at 2025 rates), all recent construction activity, revised major development fees and other system modifications due to studies performed throughout the year. With this information, the automated program performed a complete re-computation to evaluate the 2026 Fee Schedule. The drainage areas where amendments are proposed and the reason for the adjustment is shown on Attachment B.

The Fresno Metropolitan Flood Control District has three distinct Zones for preparation of the Drainage Fee Schedule. Zone 1 is the drainage system around the perimeter of the original core area of the cities. Zone 2 is the original core area of the City of Fresno, and Zone 3 is the original core area of the City of Clovis. All adjustments are incorporated in the update of the Storm Drainage and Flood Control Master Plan by your Board's approval of the recommended action.

Legal Standard and Required Findings

Under section 66483 of the Government Code, the County can, in connection with the District, require fees for the construction of drainage and sewer facilities. Imposing such fees on permits for the development of properties is a legislative "exaction," subject to state and Federal law. The County's Drainage Fee Ordinance allows the updated fees for such facilities to become effective following passage of the proposed resolution by the Board of Supervisors.

Under the Mitigation Fee Act (Government Code section 66000, et seq.), for your Board to impose fees on development projects, it must make the following findings:

1. *Identify the purpose of the fee. (Gov. Code section 66001, subd. (a)(1).)*

2. *Identify the use to which the fee will be put. (Gov. Code section 66001, subd. (a)(2).)*

3. *Determine that there is a reasonable relationship between the fee's use and the type of development on which the fee is to be imposed. (Gov. Code section 66001, subd. (a)(3).)*

4. *Determine that there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is to be imposed. (Gov. Code section 66001, subd. (a)(4).)*

Your Board must also determine that there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed. (Gov. Code section 66001, subd. (b).). This statutory requirement is similar to Federal constitutional requirements, which recent case law from the United States Supreme Court has held to apply to legislative exactions. Adherence to the statutory requirements helps to ensure compliance with the decision in Sheetz v. County of El Dorado (2024) 601 U.S. 267, (1) that the fees bear an "essential nexus" with the harms caused by the permitted activity which the fees are intended to address and (2) that they bear "rough proportionality" with the costs attributable to the permitted activity.

Information sufficient to make the findings described above and to satisfy the requirements of section 66483 of the Government Code is included in the fee study documentation on file with Clerk. The District used the automated GIS program, which provides a thorough analysis of the cost estimates, unit prices for drainage facilities, and recent construction activity. The 2026 study used new unit prices for drainage facilities based

on recent construction activity and other system modifications due to studies performed throughout the year. The results of the study determined that drainage fee amendments were necessary in the drainage areas indicated on Attachment B. Staff has reviewed this documentation and agrees with the finding by the District that the District has met this legal standard for amending the Fee Schedule. The proposed Resolution identifies the findings which your Board must make with greater specificity.

The Court in Sheetz, which was discussed above, did not address or prohibit the longstanding government practice of using reasonable formulas, such as those in the fee study documentation, to attribute costs to classes of development. Although the Supreme Court has not explicitly sanctioned the practice used by the District, Staff believes that the scope and thoroughness of the District's analysis are sufficient both to meet the requirements of section 66001, subd. (b) and to determine that the proposed fees bear an essential nexus with the harms caused by the permitted activity which the fees are intended to address and that they bear rough proportionality with the costs attributable to the permitted activity, as further established in the proposed Resolution. On February 26, 2026, the District provided a letter (Attachment C) further explaining how their nexus study meets the legal requirements.

Staff recommends that your Board adopt the proposed Resolution.

Findings Required for Per-Unit Fees

Government Code section 66016.5 was adopted in 2021 as part of Assembly Bill 602, requiring that an agency may only adopt residential development fees not based on the square footage of housing so long as it adopts a finding that includes all of the following:

1) *An explanation of why square footage is not an appropriate metric to calculate fees imposed on housing development projects;*

2) *An explanation is provided showing the alternate basis of calculating the fee bears a reasonable relationship between the fee charged and the burden posed by development; and*

3) *That other policies in the fee structure support smaller developments or otherwise ensure that smaller developments are not charged disproportionate fees.*

The District determined that the fees set forth in the December 17, 2025 resolution, which are not based on residential square footage, were supportable upon making the following findings: (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 (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 equal or more than 25% of property developed prior to March 15, 1969.

Staff also agrees that the District has made sufficient findings to support a fee not based on residential square footage.

Mitigation Fee Act Procedural Compliance

California Government Code section 66017 allows the legislative body to impose a development fee 60 days after holding an open and public meeting. If your Board approves the recommended actions and adopts the proposed Fee Schedule, the amended fees will become effective 60 days following that action.

California Government Code section 66017 requires 30 days' notice of intent to adopt a fee study.

The County received no written request for mailed notice. The County published notice of the present hearing in the Fresno Business Journal on February 20, 2026.

Environmental Review

Recommended Actions Nos. 1 and 2 do not amount to “projects” as that term is defined by the California Environmental Quality Act (Pub. Res. Code, § 21000, et seq.) (CEQA) and are exempt from review for the following reasons. First, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; it is therefore not subject to CEQA. (Tit. 14 Cal. Code Regs., § 15061, subd. (b)(3)). Second, the proposed activity amounts to a government funding mechanism or other government fiscal activity, which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (Tit. 14 Cal. Code Regs., § 15061; see, also, Pub. Res. Code, § 21065). Finally, the proposed activity is statutorily exempt under Public Resources Code, section 21080, subd (b)(8)(D). At your Board’s direction, staff will prepare and file a notice of exemption.

Your Board was provided the Drainage Fee Study for 2026 as Advance Agenda Material on February 23, 2026.

OTHER REVIEWING AGENCIES:

The District, concurrently with its delivery of the adjusted Fee Schedule to the County, transmitted the adjusted Fee Schedule to the Cities of Fresno and Clovis for adoption. The Building Industry Association, was also forwarded the schedules by the District and they had no comment.

REFERENCE MATERIAL:

BAI #43, March 11, 2025
BAI #45, March 5, 2024
BAI #49, May 9, 2023

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment A - District Resolution December 2025
Attachment B - District Request
Attachment C - District Nexus and Proportionality Response
On file with Clerk - Resolution
On file with Clerk - Advance Agenda Material - Drainage Fee Study for 2026

CAO ANALYST:

Maria Valencia