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March 31, 2017

VIA ELECTRONIC MAIL

Mayor Lee Brand
President Clint Olivier and Members of the City Council
City of Fresno
2600 Fresno Street
Fresno, CA 93721

Re: Proposed Modification of Water Capacity Fees

Dear Mayor Brand, President Olivier, and Members of the City Council:

This letter supplements our letters of March 7, 2017 and March 21, 2017

CEQA Review is Required

The CEQA Guidelines are clear, section 15273, subdivision (b) states that “[r]ate increases to fund capital projects for the expansion of a system *remain subject to CEQA*.” (Emphasis added.) This unambiguous statement carves out an exception to the broader rule in section 15273 that CEQA does not apply to “funds for capital projects, necessary to *maintain service... .*” (CEQA Guidelines §15273(a)(4) (emphasis added).)

Comments that the City’s pending action does not require CEQA review, including comments made by staff and the City Attorney at last week’s City Council meeting that other cities do not conduct CEQA review, apply *only* when proposed increases are to maintain service. Fresno cannot reset the clock at this late date and pretend the proposed fee increase does not support system expansion. The proposed increase is linked repeatedly to expanding the North East Surface Water Treatment Facility (NESWTF) from 30 mgd to 60 mgd, as clearly indicated in the fee study, various staff reports, multiple staff e-mail exchanges, and even comments by Mr. Esqueda at the March 23 Council meeting, when he stated that the City had been working toward the NESWTF for the past 20 years.

In short, there is a known physical project directly linked to the proposed water capacity fee. That project is expansion of the NESWTF, and the CEQA Guidelines mandate that increases to support “expansion of a system” must be evaluated. The evaluation must occur before the fees are approved, not after, as CEQA expressly disallows delaying environmental analysis, or in this case awaiting a detailed NESWTF application.

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To ignore the immediate CEQA obligation is to disobey the law.

Very truly yours,



Timothy M. Taylor

Enclosure

cc: Yvonne Spence, City Clerk, City of Fresno
Bruce Rudd, Fresno City Manager
Douglas Sloan, City Attorney
Thomas Esqueda, Public Utilities
Josh Peterson, Wathen Castanos Homes
Mike Miller, Lennar Homes
Dave Williams, California Commercial Land Sales
Mike Prandini, Building Industry Association
Stacy Benton, Granville Homes
Darius Assemi, Granville Homes
Jeff Roberts, Granville Homes
Gary Giannetta, Civil Engineer
Amber Martinez, Granville Homes
Eric Gibbons, Granville Homes
Claudia Cazares, Granville Homes
Georgeanne White, City of Fresno
Jeffrey Reid, Esquire, McCormick Barstow
Todd Wynkoop, Esquire, McCormick Barstow