

Preparing School Facilities Developer (Level I) Fee Justification Studies

With the recent improvement in the economy, and reduced funding in the State School Facilities Program, school districts are increasingly reliant on local resources to address school facility needs. For many districts, school facilities developer fees are the only funding mechanism in place to finance the cost of these facilities. Perhaps because of a greater reliance on this funding mechanism, school districts are experiencing increased scrutiny of their justification, collection and use of school facilities developer fees. For example, in June 2014, a grand jury investigated the collection, accounting, justification and expenditure of developer fees by two school districts in San Luis Obispo County.

Although this fiscal alert addresses only the legal requirements for preparing a school facilities developer fee justification study, school districts should regularly check their procedures for collecting, accounting for and spending school facilities developer fees to ensure that they comply with current legal requirements.

For a school district to levy statutory developer (level 1) fees, it is required to prepare a developer fee justification study that demonstrates a reasonable relationship between residential, commercial and industrial development in the district and the need for additional school facilities. Government Code section 66001 requires a school board to make findings that there is a “reasonable relationship,” sometimes referred to as a nexus, between the collection of the fees and their intended use. In addition, before taking action to impose developer fees, the school board shall do the following:

1. Identify the purpose of the fee and the use to which the fee will be put.
2. Determine a reasonable relationship between the fee’s use and the type of development project for which the fee is imposed.
3. Determine a reasonable relationship between the need for the public facility and the type of development project for which the fee is imposed.

To increase the Level I fee, a district must prepare a new or updated developer fee justification study. A school district should also consider updating its study when circumstances change, such as when student enrollment decreases or classroom capacity increases.

FCMAT

Joel D. Montero
Chief Executive Officer

1300 17th Street - CITY CENTRE
Bakersfield, CA 93301-4533
Telephone 661-636-4611
Fax 661-636-4647

755 Baywood Drive,
Suite 203
Petaluma, CA 94954
Telephone 707-775-2850
Fax 707-775-2854
www.fcmat.org

Administrative Agent
Christine Lizardi Frazier
Office of Kern County
Superintendent of Schools

4. Determine a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributed to the development for which the fee is imposed.

The State Allocation Board (SAB) adjusts statutory developer fees every even-numbered year. To increase the Level I fee, a district **must** prepare a **new** or **updated** developer fee justification study. A school district should also consider updating its study when circumstances change, such as when student enrollment decreases or classroom capacity increases.

Once a school district has prepared a new or updated developer fee justification study, it **must** publish a notice of public hearing in a newspaper of general circulation. The first publication **must** be 10 days prior to the public hearing and the second publication at least five days after the first publication. The new or updated developer fee justification study **must** be made available for public inspection at least 10 days prior to the public hearing. The school district must also post the notice of public hearing at conspicuous locations within the district. In addition, 14 days prior to the public hearing, it **must** send the notice of the public hearing to persons who have requested notice.

After a school board has voted to increase the fee, the new fee rate cannot become effective until at least 60 days after the school board's action, when fees are adopted a non-urgency basis. The school district must also notify local planning agencies (i.e. city and county), and the Office of Statewide Health Planning and Development, that the new fee rate will be effective 60 days after the school board's action.

Additional Assistance

For additional assistance, local educational agencies (LEAs) should contact their respective oversight agencies. LEAs may also visit FCMAT's website at www.fcmat.org and submit an online request for assistance, or contact FCMAT Deputy Executive Officer Anthony L. Bridges at (661) 706-0561 or Fiscal Intervention Specialist Eric D. Smith at (805) 975-9313.