



SAN LUIS COASTAL

UNIFIED SCHOOL DISTRICT

Office of the Superintendent
1500 Lizzie Street
San Luis Obispo, CA 93401
805-549-1200

July 2, 2019

RECEIVED

The Honorable Ginger E. Garret
Judge of the Superior Court
County of San Luis Obispo
1035 Palm Street, Room 355
San Luis Obispo, CA 93408

JUL 23 2019

San Luis Obispo

Grand Jury

Dear Judge Garret:

Pursuant to Penal Code section 933.05(f), please consider this letter as the formal response from the San Luis Coastal Unified School District ("District") to the 2018-19 San Luis Obispo County Civil Grand Jury Final Report entitled "*School Developer Fees Revisited: Differing Interpretations?*" ("Final Report"), published on June 3, 2019.

The Final Report addresses developer fee issues related to all of the school districts in San Luis Obispo County. The Final Report includes six Findings and two Recommendations that require a response from the District. Each of the Findings and Recommendations directed to the District is addressed below in the order presented in the Grand Jury's Final Report.

FINDINGS

Finding No. 1: *"The failure of school districts to provide the required written notice to developers of their right to protest may extend the period in which a developer is allowed to file a suit challenging a fee and may expose the districts to potential future liability."*

Response:

- ☐ **Agree**
- ☒ **Partially Disagree** – specify portion disputed and include explanation for disagreement
- ☐ **Wholly Disagree** – specify portion disputed and include explanation for disagreement

Explanation (if applicable): We agree that the District did not provide the required written notice to developers on the receipt form itself. However, the receipt form referenced the statute containing the timeline to protest. Additionally, the District posted Administrative Regulation 7211 on the District's website, providing notice to developers of the right to protest.

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U.S. DEPT. OF JUSTICE

WASHINGTON, D.C.

The District agrees that the failure to provide the required notice may extend the period in which a developer is allowed to file a suit challenging a fee, but disagrees that it may expose the District to other potential future liability.

The District has already revised its receipt form to include the required language (see attached). The District has also included the list of statutory developer fee exemptions on the form in order to provide developers with sufficient information to determine whether or not to protest.

Finding No. 3: "San Luis Coastal Unified School District had been failing to provide the required written notice to developers but has indicated that they are now providing the necessary notice and sent us a copy."

Response:

- ☐ **Agree**
- ☒ **Partially Disagree** – specify portion disputed and include explanation for disagreement
- ☐ **Wholly Disagree** – specify portion disputed and include explanation for disagreement

Explanation (if applicable): See response to Finding No. 1 above.

Finding No. 7: "All of the sampled districts take a permissive view of the restrictions on the sort of expenditures which are allowed for developer fees."

Response:

- ☐ **Agree**
- ☐ **Partially Disagree** – specify portion disputed and include explanation for disagreement
- ☒ **Wholly Disagree** – specify portion disputed and include explanation for disagreement

Explanation (if applicable): The Final Report does not specifically identify any expenditures which the Grand Jury perceives as "permissive." Attached is the District's developer fee report for 2017-18 that identifies all of the District's recent developer fee expenditures. The District has carefully reviewed each of the expenditures and determined that they are permissible as they are directly tied to student growth and potential student growth in the District.

Finding No. 8: "It is difficult to determine whether developer fees are being maintained in a separate fund as required by law."

Response:

- ☐ **Agree**
- ☐ **Partially Disagree** – specify portion disputed and include explanation for disagreement
- ☒ **Wholly Disagree** – specify portion disputed and include explanation for disagreement

Explanation (if applicable): All budgets for the District are approved in public meetings and can easily be found on the Board's website. The District uses the BoardDocs website where all information regarding budgets and developer fee plans can be found, <https://go.boarddocs.com/ca/slcusd/Board.nsf/Public>. Developer fees are maintained in the capital facilities fund 25.

Finding No. 9: “Most of the districts in the County either do not publish the required annual and 5-year reports on their use of developer fees, or provide such information in a difficult to access and understand format on their websites.”

Response:

- ☐ **Agree**
- ☐ **Partially Disagree** – specify portion disputed and include explanation for disagreement
- ☒ **Wholly Disagree** – specify portion disputed and include explanation for disagreement

Explanation (if applicable): The District has its developer fee reports approved annually and posted online and available; they can easily be found by searching our BoardDocs website. Attached you will find a copy of the 2017-18 annual and five year report that was on the Board agenda on November 6, 2018.

Finding No. 10: “There is no general oversight exercised over the use of developer fees beyond that which may be provided by the district school boards.”

Response:

- ☐ **Agree**
- ☐ **Partially Disagree** – specify portion disputed and include explanation for disagreement
- ☒ **Wholly Disagree** – specify portion disputed and include explanation for disagreement

Explanation (if applicable): All District budgets (including use of developer fees) have to be approved by the Board and are subject to oversight by the County Office of Education. Additionally, the District’s developer fees are subject to additional oversight by the general public. The District prepares a developer fee study to show the purpose of the fee and to identify the relationship between the anticipated development and the need for facilities. The developer fee study is made available to the public in advance of a public hearing where the fee study is adopted. Each year, the District also prepares an annual report identifying all expenditures of developer fees that is reviewed by the Board in open session and made available on the District’s website. The public has the right at all stages to address and have input on the District’s assessment and/or use of developer fees.

Recommendation No. 1: “All school districts must immediately begin providing the required written notice to developers of their right to protest the imposition of developer fees.”

Response:

- ☒ **Agree**
- ☐ **Partially Disagree** – specify portion disputed and include explanation for disagreement
- ☐ **Wholly Disagree** – specify portion disputed and include explanation for disagreement

Explanation (if applicable): As soon as the District realized that the one sentence line regarding protesting the fee was in the Board Policy but not on the receipt form, the District updated the receipt form. The District also included a list of statutory developer fee exemptions on its form in order to provide developers with sufficient information to determine whether or not to protest.

Recommendation No. 4: “Each school district must maintain its developer fees in a separate account as required by law, and not comingle these with other funds.”

Response:

- ☒ **Agree**
☐ **Partially Disagree** – specify portion disputed and include explanation for disagreement
☐ **Wholly Disagree** – specify portion disputed and include explanation for disagreement

Explanation (if applicable): The District has always kept its developer fees in its separate capital facilities fund 25. See response to Finding No. 8.

Sincerely,



Eric Prater
Superintendent

cc: San Luis Obispo County Grand Jury

DEVELOPER FEE EXEMPTIONS
Assembly Bill 2926

- Reissued or renewed permit. (Ed. Code, § 17620(b))
- Attached residential additions of 500 s.f. or less. (Ed. Code, § 17260)
- Greenhouses / Enclosed Agricultural Space. (Ed. Code, § 17622)
- Relocation of mobile home previously in district. (Ed. Code, § 17625(1))
- Replacement of, or addition to, mobile home previously in district, even if larger than original. (Ed. Code, § 17625)
- Mobile home on site for which construction commenced prior to 9/1/86. (Ed. Code, § 17625(3))
- Manufactured or mobile home accessory structure. (Ed. Code, § 17625(c)(5))
- Reconstruction of mobile home destroyed or damaged by fire or natural disaster, even if larger than original home. (Ed. Code, § 17626)
- Reconstruction of structure damaged or destroyed by fire, or natural disaster, where the replacement structure is equivalent to the original. Net increases in square footage are subject to fees. (Ed. Code § 17626)
- Modification or expansion of existing residences to increase access for severely and permanently disabled person. (Ed. Code, § 17620(a)(1)(C)(ii))
- Facilities used exclusively for religious purposes. (Gov. Code, § 65995(d))
- Facilities used exclusively as a private full-time day school (including only grades between K-12). (Govt. Code, § 65995(d))
- Facilities owned and occupied by any federal, state, or local governmental agency. (Gov. Code, § 65995(d))



SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT
1500 Lizzie St., San Luis Obispo CA 93401
Fiscal Services Department (805) 549-1207
SCHOOL FEES AB 2926

Received From: _____

Address: _____ Daytime Phone: _____

Sum of: _____

Property Address: _____

Property Type: ☐ Residential ☐ Commercial ☐ Storage

Total Fee: \$/sq.ft. _____ X _____ sq.ft. = \$ _____

☐ County ☐ City Name: _____

Method of Payment: _____ Check/M.O.#: _____

Permit #: _____

TO DEVELOPER/OWNER/DISEGNEE:
YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF PAYMENT OF THE FEES IDENTIFIED HEREIN TO
FILE A PROTEST AGAINST THE IMPOSITION OF THESE FEES PURSUANT TO GOVT. CODE SECTION 66020
INITIAL HERE: _____

District Signature: _____ Date: _____



**SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT
DEVELOPER FEE ANNUAL REPORT AND FIVE YEAR PLAN
OCTOBER 17, 2018**

ANNUAL PLAN

Revenues:

The district continues to see an increase in developer fee revenue. The Board of Education voted to increase the developer fee rate based on the latest statutory limits on May 1, 2018, the fee became effective 60 days thereafter. The new fee is \$3.71 per square foot for residential development projects and \$0.61 per square foot for commercial and industrial development.

Beginning Balance July 1, 2017:	\$10,511,119.38
Total Revenues for 2017-18:	\$2,012,505.86

Expenditures:

The district updated its demographic and enrollment projection using the Decision Insite Software Program and with the assistance of Julie Avnit. This information along with our facility master plan are guiding our developer fee plan.

The following is a list of developer fee projects that were started or completed in 2017-18, all due to increased enrollment and anticipated growth. The costs associated with the project are those for the 2017-18 school year, funding for these projects may run for more than one fiscal year.

1. Bishop's Peak Elementary School – Architect and planning costs associated with the future construction of a Multi-Purpose Room. 100% of this project is being funded with developer fees. Construction started in the Fall of 2018.
Total Cost: \$430,463.17
2. Bishop's Peak Elementary School – Architect and planning costs associated with the future construction of the office expansion project. 100% of this project is being funded with developer fees. Construction will start in the Summer of 2019 after the MPR is completed.
Total Cost: \$137,457.35
3. CL Smith Elementary School – Architect and planning costs along with construction costs associated with the construction of the office expansion project. 100% of this project is being funded with developer fees. Construction ended in the summer of 2018.
Total Cost: \$3,060,111.99
4. CL Smith Elementary School – An additional kindergarten portable was purchased and constructed along with a new kindergarten playground structure. This was the last cost associated with this project. 100% of the project was funded with developer fees.
Total Cost: \$1,300

5. Teach Elementary School – Restroom modernization. This was the last construction project and 100% of the project was funded with developer fees.
Total Cost: \$34,334.56
11. San Luis Obispo High School – Architect fees and construction costs associated with the new 12 classroom building. 50% of this project is being funded with Developer Fees. This project will be completed in the Winter of 2019.
Total Cost: \$1,475,856.00
12. Administration Costs associated with direct costs, consulting services, advertising and fees.
Total Cost: \$132,668.75

Total Expenditures for 2017-18:	\$5,272,191.82
Ending Balance:	\$7,251,433.42

There were no loans made from Fund 25 (Developer Fees) for any other purpose.
Refunds in the amount of \$14,024.08 were made in 2017-18.

FIVE YEAR PLAN

Several projects are currently underway that require developer fee funds to complete as well as some the Board will need to consider due to growth. Completion of these projects will provide the classroom and facility space needed for increased student population.

Bishop's Peak Elementary:

Multipurpose/classroom/kitchen – estimated cost:	\$5.9 million
MPR to Office Renovation – estimated cost:	\$2.6 million

San Luis Obispo High School:

New Annex Classroom Building – estimated cost:	\$8 million
Additional Classrooms and Restrooms	TBD

Measure D funds will be needed to supplement our developer fees in completing these projects. With the increase in potential building and growth in southern San Luis Obispo, the district will also need to look into the purchase of property for an additional school site in that area. We are seeing additional growth at our middle and high schools. The district continuously monitors our student and school populations on an annual basis.