



PASO ROBLES
JOINT UNIFIED SCHOOL DISTRICT
THE DISTRICT OF EXCELLENCE

SUPERINTENDENT: CURT DUBOST
800 NIBLICK ROAD
PASO ROBLES, CA 93446
Tel: (805) 769-1000 Fax: (805) 237-3339
WWW.PASOSCHOOLS.ORG

July 16, 2019

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

San Luis Obispo
Grand Jury

JUL 25 2019

RECEIVED

Dear Judge Garret:

Pursuant to Penal Code section 933.05(f), please consider this letter as the formal response from the Paso Robles Joint 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 five 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





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

Explanation (if applicable): The District agrees that it did not provide the required written notice to developers of their right to protest on its Certification of Compliance/Payment of Developer Fees form, and has already revised the form to include the required language. A copy of the revised Certification of Compliance/Payment of Developer Fees form is attached as **Exhibit A**. In addition, the District has posted Administrative Regulation 7211 (Developer Fees) on the District's website, which provides notice of a developer's right to protest and describes an appeals process for fee protests by developers. A copy of Administrative Regulation 7211 is attached as **Exhibit B**.

The District further 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 failure to provide the required notice may expose the District to other potential future liability.

Finding No. 5: "The Paso Robles, Cayucos, and Coast Unified school districts have responded with copies of receipts given to developers, which do not include the required notice."

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, and attached **Exhibit A**.

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:





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- ☐ *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 cannot speak for other districts; however, it notes that the Final Report does not specifically identify any expenditures which the Grand Jury believes to be “permissive.” Attached as **Exhibit C** is a copy of the District’s Annual and Five-Year Reports for developer fees, dated December 21, 2018, 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 each expenditure is directly tied to student growth and potential student growth in the District. A copy of the December 21, 2018 Annual and Five-Year Reports will be posted on the District’s website by no later than August 28, 2019. Copies of future Annual and Five-Year Reports for developer fees will also be posted on the website.

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 at public meetings of the District’s Board of Trustees. Budget reports are available upon request, and can be found on the District’s website at <https://www.pasoschools.org/Page/1254>. As required, pursuant to the California School Accounting Manual (“CSAM”), developer fees are maintained in Capital Facilities Fund 25. A description from the CSAM of the principal revenues maintained in Capital Facilities Fund 25, including Mitigation/Developer Fees, is attached as **Exhibit D**.





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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’s Annual and Five-Year Reports are available upon request. Additionally, as discussed above in the District’s response to Finding No. 7, 2019, a copy of the District’s Annual and Five-Year Reports dated December 21, 2018, will be posted on the District’s website by no later than August 28, 2019. Copies of future Annual and Five- Year Reports for developer fees will also be posted on the website.

RECOMMENDATIONS

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:

- ☒ **Has been implemented** – include summary of implemented action
- ☐ **Will be implemented in future** – include explanation and timeframe
- ☐ **Requires further analysis** – include explanation, scope, and parameters of analysis, timeframe (not exceeding six mos. from the date of publication of the Grand Jury Report.)
- ☐ **Will not be implemented because not warranted or reasonable** – include explanation



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Has been implemented: As of July 15, 2019, the District has updated its Certification of Compliance/Payment of Developer Fees form to include notice of the developer's right to protest. See **Exhibit A.**

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:

- ☒ ***Has been implemented*** – include summary of implemented action
- ☐ ***Will be implemented in future*** – include explanation and timeframe
- ☐ ***Requires further analysis*** – include explanation, scope, and parameters of analysis, timeframe (not exceeding six mos. from the date of publication of the Grand Jury Report.)
- ☐ ***Will not be implemented because not warranted or reasonable*** – include explanation

Has been implemented: As discussed above in the District's response to Finding No. 8, the District maintains its developer fees in Capital Facilities Fund 25, in accordance with the California School Accounting Manual ("CSAM").

Sincerely,

Curt Dubost

Superintendent

cc: **San Luis Obispo County Grand Jury**





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EXHIBIT A

Paso Robles Joint Unified School District

Certification of Compliance/Payment of Developer Fees Form



BOARD OF TRUSTEES: CHRIS AREND • CHRIS BAUSCH • LANCE GANNON

TIM GEARHART • JOEL PETERSON • JOAN SUMMERS • STEPHANIE ULIBARRI



CERTIFICATION OF COMPLIANCE/PAYMENT OF DEVELOPER FEES

I. APPLICANT (Complete Section I)

DEVELOPER/OWNER

DBA (Name of Business)

STREET ADDRESS

CITY

STATE

ZIP

CONTRACTOR'S LICENSE No.

CONSTRUCTION LOCATION

STREET ADDRESS

CITY

STATE

ZIP

OR IF NO STREET ADDRESS, SITE LEGAL DESCRIPTION

BUILDING PERMIT APPLICATION NUMBER(S)

CONSTRUCTION TYPE: (COMPLETE AS APPROPRIATE) (AS PER APPROVED PLAN CHECK)



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_____ Square Footage Residential Assessable Space

_____ Square Footage Commercial/Industrial Assessable Space

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 GOVERNMENT CODE SECTION 66020.

The undersigned certifies under penalty of perjury that:

1. The above information is correct and true to the best of my knowledge and that I will file an amended certification of payment and pay the additional fee if I request an increase in the square footage after the building permit has been issued or if the initial determination of square footage is found to be incorrect.
2. I am the developer/owner of the above described project(s) or am authorized to sign on the developer/owner's behalf.

Signature of Developer/Owner/Designee

Date

Telephone No.



II. BUILDING DEPARTMENT (Complete Section II)

I state that to the best of knowledge and understanding of applicable laws, in regards to the application for building permit submitted herewith that the square footage of the proposed project is:

_____ Square Footage Residential Assessable Space

_____ Square Footage Commercial/Industrial Assessable Space

BUILDING PERMIT APPLICATION NUMBER(S)

Agent for Building Department (Print and Signature)

Date

County/City of Paso Robles

Telephone No.



III. PASO ROBLES JOINT UNIFIED SCHOOL DISTRICT (Complete Section III)

This is to certify that the applicant listed in Section I has paid all developer fee amounts determined by the information presented above and due to the Paso Robles Joint Unified School District under provision of Government Code section 65995, per Resolution 19-19 (adopted, approved and signed on May 14, 2019). The payment of these fees is a prerequisite to the issuance of a building permit.

AGENT FOR PRJUSD (Print Name)

RECEIPT No.

DATE

SIGNATURE

TITLE

TO BE VALID, THIS CERTIFICATION MUST BE ACCOMPLISHED BY A VALIDATED PASO ROBLES JOINT UNIFIED SCHOOL DISTRICT RECEIPT, SHOWING THE NUMBER OF SQUARE FEET AND THE AMOUNT PAID.

SCHOOL DISTRICT USE ONLY (Effective July 15, 2019)

SQUARE FEET x \$3.79 (Residential)

SQUARE FEET x \$0.61 (Commercial)



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EXHIBIT B

***Paso Robles Joint Unified School District
Administrative Regulation 7211 (Developer Fees)***



Paso Robles Joint USD | AR 7211 Facilities

Developer Fees

Level 1 Funding: Residential, Commercial and Industrial Construction

Before taking action to establish, increase or impose developer fees, the Governing Board shall conduct a fee justification study which: (Government Code 66001)

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

Level 1 Funding: Notice and Hearing Requirements

Before levying developer fees or prior to increasing an existing fee, the Board shall schedule a public hearing. The Superintendent or designee shall mail notice of the time and place of the meeting, including a general explanation of the matter to be considered and a statement that the required data are available, at least 14 days prior to the meeting to any interested party who has requested such information. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed.

Renewal requests for mailed notices shall be filed on or before April 1 of each year. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 66016)

Information on the anticipated amount of fees, other available funds and funding sources, and the estimated cost of planning, land acquisition and school construction shall be made available to the public at least 10 days before the hearing. (Government Code 66016)

At the hearing, the Board shall adopt a resolution for the levying of the developer fees. (Government Code 66016) The resolution shall set forth:

1. The purpose of the fee and the public improvement(s) that the fee will be used to finance (Government Code 66006)
2. The Board's findings of reasonable relationship which justify the fees pursuant to Government Code 66001
3. The district's determination of either of the following conditions which allow collection of the fees at the time when building permits are issued: (Government Code 66007)
 - a. That the fees are to reimburse the district for previous expenditures

b. That the fees shall be collected for public improvements or facilities for which an account has been established, funds have been appropriated and the district has adopted a proposed construction schedule or plan

Level 2 Funding: Residential Construction

In order to impose residential construction fees within the limits of Government Code 65995.5, the Board shall: (Government Code 65995.5)

1. Make a timely application to the State Allocation Board for new construction funding for which it is eligible
2. Conduct and adopt a school facility needs analysis pursuant to Government Code 65995.6
3. Satisfy at least two of the requirements set forth in Government Code 65995.5(b)(3)(A-D) (Government Code 65995.5)

Level 2 Funding: Notice and Hearing Requirements

At least 45 days prior to completion of the school facility needs analysis, the Board shall notify and provide copies of the analysis to the planning commission or agency of the city or county with land use jurisdiction within the district. Upon request of either party, the Board and city or county shall meet within 15 days following notification. (Government Code 65352.2)

(cf. 7131 - Relations with Local Agencies)

The Board shall adopt the school facility needs analysis by resolution at a public hearing. (Government Code 65995.6)

This analysis may not be adopted until the analysis, in its final form, has been made available to the public for a period of not less than 30 days. Prior to its adoption, the public shall have the opportunity to review and comment on the analysis and the Board shall respond to written comments it receives regarding the analysis. (Government Code 65995.6)

During the period of public review, the analysis shall be provided to the local agency responsible for land use planning for its review and comment. (Government Code 65995.6)

No less than 30 days prior to the hearing, notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the district. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous places within the district's jurisdiction not less than 30 days prior to the hearing. (Government Code 65995.6)

In addition, the Superintendent or designee shall mail a copy of the needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 65995.6)

The school facility needs analysis may be revised at any time. The revision is subject to the same conditions and requirements applicable to the adoption of the analysis. The existing school building

capacity shall be recalculated as part of any revision to the needs analysis. (Government Code 65995.6)

The fees authorized by Government Code 65995.6 and Government Code 65995.7 shall be adopted by resolution as part of the adoption or revision of the school facilities needs analysis. The fees shall take effect immediately upon adoption of the resolution and may not be effective for more than one year. (Government Code 65995.6)

Level 3 Funding: Residential Construction

When Level 3 fees are authorized by law and the district qualifies for Level 2 funding pursuant to Government Code 65995.5, the Board may assess a fee on residential construction pursuant to the requirements of Government Code 65995.7.

Level 3 Funding: Notice and Hearing Requirements

Pursuant to Government Code 65995.7, the notice and hearing requirements, resolution requirement, and term of effectiveness for Level 3 funding shall be the same as the requirements for Level 2 funding as specified above.

All Developer Funding Fees: Additional Requirements

The district shall send a copy of any resolution adopting or increasing developer fees to the city and county, accompanied by all relevant supporting documentation and a map indicating the boundaries of the area subject to the fee. (Education Code 17621)

In cooperation with local governmental agencies issuing building permits, the Superintendent or designee shall establish a means by which all of the following shall be accomplished:

1. The project applicant shall receive a written statement of the amount of the fees and notification that the 90-day approval period during which the applicant may protest has begun. (Government Code 66020)
2. The Superintendent or designee shall receive and retain acknowledgment that the above notification was received.
3. Before a permit is issued and upon the payment of the applicable fee or requirement, the Board shall immediately certify that the fee has been paid or that the district has determined that the fee does not apply to the development project. (Education Code 17620)

Developer fees shall be deposited, invested, accounted for and expended pursuant to Government Code 66006. Developer fees shall be deposited in a separate capital facilities account, except for temporary investments allowed by law, and shall be used only for the purpose for which they were collected. Interest income earned by the capital facilities account shall also be deposited in that account and used only for the purpose for which the fee was originally collected. (Government Code 66006)

For each separate account so established, the Superintendent or designee shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year: (Government Code 66006)

1. A brief description of the type of fee in the account or fund
2. The amount of the fee
3. The beginning and ending balance of the account or fund
4. The amount of the fees collected and the interest earned
5. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees
6. An identification of an approximate date by which the construction of the public improvement will commence if the district determines that sufficient funds have been collected to complete financing on an incomplete public improvement
7. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan
8. The amount of refunds made pursuant to Government Code 66001(e) and any allocations made pursuant to Government Code 66001(f)

The Board shall review the above information at the first regularly scheduled public Board meeting which occurs 15 days after the information is made available to the public. Fifteen-day prior notice of this meeting shall be mailed to any parties filing a written request pursuant to Government Code 66006. (Government Code 66006)

In addition to discharging its public disclosure duties regarding the levying of developer fees, the Board shall, for the fifth fiscal year after the first deposit into the account or fund and every five years thereafter, make all of the following findings with respect to the portion of the account or fund that remains unexpended, whether committed or uncommitted: (Government Code 66001)

1. Identify the purpose to which the fee is to be put
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged
3. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements originally identified
4. Designate the approximate dates on which the funding referred to in item #3 is expected to be deposited into the appropriate account or fund

When sufficient funds have been collected to complete the financing of public improvements but such improvements remain incomplete, the district shall, within 180 days of the date that a determination of sufficient funding was made, either identify an approximate date by which construction will begin or refund the unexpended revenues in accordance with Government Code 66001. (Government Code 66001)

Appeals Process for Protests by Developers

Developers of residential, commercial and industrial projects who claim that the developer fee has been inappropriately levied shall use the following procedures: (Government Code 66020)

1. The developer shall tender any required payment in full or provide satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.
2. The developer shall serve written notice to the Board. This notice shall include:
 - a. A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest
 - b. A statement informing the Board of the factual elements of the dispute and the legal theory forming the basis for the protest
3. The protest shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees.

At the time of the imposition of the fee, the Superintendent or designee shall provide each project applicant written notice that the 90-day period in which the applicant may initiate a protest has begun. The developer may file an action to attack, review, set aside, void or annul the imposition of the fees imposed on the development project within 180 days of delivery of the notice. (Government Code 66020)

Regulation PASO ROBLES PUBLIC SCHOOLS

Board approved/ Paso Robles, California

reviewed: October 14, 2003



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EXHIBIT C

Paso Robles Joint Unified School District

Annual and Five-Year Reports, December 21, 2018





COOPERATIVE
STRATEGIES

COMPLETE FINANCIAL & DEMOGRAPHIC PLANNING FOR EDUCATION

PASO ROBLES JOINT UNIFIED SCHOOL DISTRICT

ANNUAL AND FIVE-YEAR REPORTS

DECEMBER 21, 2018

PREPARED FOR:

**Paso Robles Joint Unified
School District**
800 Niblick Road
Paso Robles, CA 93446
T 805.769.1000

PREPARED BY:

Cooperative Strategies
8955 Research Drive
Irvine, CA 92618
T 844.654.2421

T.O.C.

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EXHIBITS

SCHEDULE A:
Reportable Fee Expenditures for Fiscal Year 2017/2018

I. INTRODUCTION

Sections 66001 and 66006 of the Government Code require that Paso Robles Joint Unified School District ("School District") provide to the public information on impact fees received from new residential and commercial/industrial development to mitigate the impact of that new development on the school facilities of the School District. The School District currently collects statutory school fees ("Statutory School Fees") pursuant to Sections 17620 *et seq.* of the Education Code and Sections 65995 *et seq.* of the Government Code, ("Reportable Fees").

The School District is required to provide the following information on Reportable Fees for the prior fiscal year:

1. Amounts collected
2. Amount of interest earned
3. Amounts spent on projects to accommodate additional enrollment from new residential and commercial/industrial development

The Reportable Fees do not include special tax proceeds, proceeds of bonds, or letters of credit to secure payment of Reportable Fees at a future date. Further, the School District identifies Reportable Fees have not been levied, collected, or imposed for general revenue purposes.

Additionally, the School District is required to identify the following:

1. The purpose to which unexpended Reportable Fees will be spent
2. The reasonable relationship between the unexpended Reportable Fees and the purpose to which they are to be spent
3. The funding sources and expected funding availability date for school facilities projects for which unexpended Reportable Fees are required

The following Annual and Five-Year Reports ("Reports") for the fiscal year ending June 30, 2018 include the information and proposed findings the School District intends to review and adopt in accordance with Sections 66001 and 66006 of the Government Code.

II. ANNUAL REPORT

In accordance with Government Code Section 66006(b)(1) and (2), the School District hereby presents the following information for fiscal year 2017/2018 (i.e. July 1, 2017 through June 30, 2018) with regard to the annual Reportable Fees:

A. Description of the Type of Reportable Fees in the Account or Sub-account(s) of the School District

The Reportable Fees of the School District for fiscal year 2017/2018 consist of Statutory School Fees. Statutory School Fees are collected by the School District from new residential and commercial/industrial development.

B. Amount of the Reportable Fees

The amount of Reportable Fees is based on the effective Statutory School Fee.

Statutory School Fees

The Statutory School Fees for the period between July 1, 2017 and June 30, 2018 were established by the Board of Education ("Board") of the School District in 2006. The Board adopted the Statutory School Fees for new residential and commercial/industrial development based on the reports titled "Residential Development School Fee Justification Study" and "Commercial/Industrial Development School Fee Justification Study" (collectively, "Studies"), both dated May 9, 2006.

Table 1 lists the fee amounts and effective dates for the applicable Statutory School Fees for fiscal year 2017/2018.

Table 1
Effective Dates for Developer Fee Justification Reports

Item	Portion of School District	Effective Dates (for FY 2017/2018)	Fee Amount (Per Square Foot)
Statutory School Fees	Paso Robles USD (Grades K-12)	July 1, 2017 – June 30, 2018	Residential - \$2.63 Commercial/Industrial - \$0.42
	PVJUSD & SMJUSD (Grades 9-12 only) ^[1]	July 1, 2017 – June 30, 2018	Residential - \$0.71 Commercial/Industrial - \$0.113

[1] The School District provides education in grades 9-12 for students residing in Pleasant Valley Joint Union School District ("PVJUSD") and San Miguel Joint Union School District ("SMJUSD") and is eligible to collect 27 percent of the maximum Statutory School Fees within these districts based on current Fee Sharing Agreements.

C. **Beginning and Ending Balance of Account and Sub-Account(s):**

Table 2 lists the fiscal year 2017/2018 beginning and ending balances for Fund 25, the Capital Facility Fund, which holds all Reportable Fees:

Table 2
Beginning and Ending Balances for Fund 25

Item	Fund Balance
Beginning Balance (7/1/2017)	\$1,661,915.71
Ending Balance (6/30/2018)	\$0.00

D. **Amount of the Reportable Fees Collected and Interest Earned**

Table 3 below shows the amount of Reportable Fees collected and interest earned during fiscal year 2017/2018 to accommodate students from additional development.

Table 3
Amount of Reportable Fees Collected

Item	Total Revenues
Reportable Fees Collected	\$710,156.89
Interest Earned	\$923.47
Total	\$711,080.36

E. **Identification of Each Improvement on Which Reportable Fees Were Expended and the Amount of the Expenditures on Each Improvement, Including the Total Percentage of the Cost of Each Project of the School District that Was Funded with Reportable Fees**

Schedule A to this report identifies the amount of Reportable Fees expended on School Facilities in fiscal year 2017/2018, as well as the percentage of each improvement funded by Reportable Fees.