



RESCUE UNION SCHOOL DISTRICT

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TO: Board of Trustees
Rescue Union School District

FROM: Michael “Sid” Albaugh, Chief Business & Operations Official

DATE: November 18, 2014

Re: Collection and Accounting for Developer Fees

Background

Legislation passed in 1986 (AB2926) permitted school districts, for the first time, to assess development fees but at a specified limited amount. These fees were commonly referred to as “Stirling fees” or “AB2926 fees.” Since the passage of SB50 in 1998, these fees are commonly referred to as “Level I fees” because SB50 also authorized Districts to collect two other types of fees, commonly referred to as “Level II and Mira fees.”

In 1986 the Level I fee was limited to a maximum amount of \$1.50 per square foot for residential development and \$0.25 per square foot of commercial development. Every two years the State Allocation Board adjusts the maximum amount of the fees according to the construction cost index. In 2014, the adopted maximum amount of the Level I fee is \$3.36 per square foot for residential development and \$0.54 per square foot of commercial development. The fee is shared on a K-12 basis. On the western slope, El Dorado Union High School District (EDUHSD) and elementary feeder districts have reached an agreement to allocate the fees 61% towards K-8 needs and 39% towards 9-12. However, the District has not increased its rates and is charging the 2010 State Allocation Board Rate. As a result of its fee sharing agreement with the EDUHSD, the District collects Level I fees at a rate of \$1.81 per square foot on all residential construction and \$0.29 per square foot on all commercial and industrial construction.

The primary fee levied by the District was the Level II fee through April 2012. The Level II fees expired in April 2012 and subsequent fees were collected at the Level I rate of \$1.81 per square foot for residential construction. The District also collects “Mira fees” on development projects that were conditioned with such fees prior to the passage of SB50. Developers subject to the Mira fees pay either the Level II fee or the Mira fee, whichever is greater. The District also collects a Mello-Roos tax in the Serrano Specific Plan Area. The Mello-Roos tax is not a part of this accounting.

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David Swart, Superintendent

Board of Trustees

Ellen Driscoll - Suzanna George - Serena Posner - Kim White - Nancy Brownell

Accounting for Developer Fees Collected in Prior Years:

Pursuant to Government Code Section 66006 all fees and charges, along with any interest income earned thereon, are deposited in a separate capital facilities fund in a manner to avoid any commingling of the fees and charges with other revenues and funds of the District. Every year the District must account for the fees. Pursuant to Government Code Section 66001 every five years the District must make certain findings regarding the funds as described below. The expenditure of the fees is described in the "Developer Fee Accounting and Expenditure Report."

Any interest income earned by the money in the capital facilities account or fund was also deposited into that account or fund and expended only for the purpose for which the fee was originally collected.

Pursuant to Government Code Section 66006, the District shall, within 180 days after the last day of each fiscal year, make available to the public an accounting for the fees in the capital facilities account or fund.

Not less than 15 days after it is made available to the public, the District shall review the accounting at the next regularly scheduled public meeting.

The District shall provide notice of the time and place of the meeting, including the address where this information may be reviewed, and the notice shall be mailed at least 15 days prior to the meeting, to any interested party who files a written request with the District for mailed notice of the meeting.

During the past five years and during the 2013-2014 fiscal year the District has collected Level I fees. The District has prepared an accounting for developer fees collected in fiscal year 2013-2014 and for the prior four years.

If findings are not made every five years, as required by Government Code Section 66001(d), the District shall refund the moneys in the account or fund, as provided below.

Under Government Code Section 66006 the annual accounting must contain the following information:

- a. *A brief description of the type of fee in the account.* As explained above, the District collects Level I fees, Level II fees, Mira fees and Mello-Roos taxes. The District maintains a separate accounting for the Level I fees, the Level II fees, and the Mira fees and the Mello-Roos taxes.
- b. *The amount of the fee.* The amount of the Level I fee in this District is \$1.81 per square foot on all residential construction and \$.29 per square foot on all commercial and industrial construction with the exception of self storage at \$.09 per square foot. The amount of the Level II fee was \$1.95 per square foot for residential construction through April of 2012. These amounts are shared with the EDUHSD according to the 61%-39% split discussed above.
- c. *The beginning and ending balance of the account.* The beginning balance of the account as of July 1, 2013 was \$2,088,713. The ending balance as of June 30, 2014 was \$2,238,675.

- d. *The amount of the fees collected and the interest earned.* The amounts of fees collected from July 1, 2013 through June 30, 2014 were \$220,232. The interest earned on the entire fund was \$4,920
- e. *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.* The fees have been spent on interim housing (portables), furniture and equipment for such housing, a new elementary school (Lakeview) in the Promontory development, design of a new elementary school in the Bass Lake/Serrano area and debt service on COP's issued to finance the construction of the Pleasant Grove Middle School and the Lakeview Elementary School.

REVENUES:

Developer Fees	\$220,232
Interest Earnings	<u>\$ 4,920</u>
Total Revenues	\$225,152

EXPENDITURES

Salaries and Benefits	\$ 37,226
Services, Rentals & Other Expenses	\$ 14,107
Capital Outlay/Improvements	\$ 20,528
Debt Service	<u>\$ 3,330</u>
Total Expenditures	\$ 75,191

Beginning Balance – July 1, 2013	\$2,088,713
Ending Balance – June 30, 2014	\$2,238,674

Approximately \$369,585 has been expended to date for site appraisal, legal, design and testing costs for the Bass Lake/Serrano area school site. The estimated cost of this school has not been determined at this time.

- f. *An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in the facility plan of the District, and that the public improvement remains incomplete.* Site acquisition has not been completed for the Bass Lake/Serrano area site, but is in escrow at this time. Escrow on the property closes in early 2015. The site acquisition costs will be funded by COP's issued in May 2010 which refinanced the 2008 COP with additional proceeds reserved for site acquisition costs of the new Bass Lake/Serrano area school site. The debt service on the COP's will be made from Mello-Roos fees and Developer fees.
- g. *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.* COPs were issued for the Pleasant Grove Middle School in 2001 in the amount of \$16,800,000 at a variable rate of interest. The average interest rate did not exceed 3% since the date of issue. These COPs were also used to fund the district's share of the Lakeview

Elementary School project. \$6,852,059, which represented the remaining General Obligation Bond authorization, was used to partially retire the COPs. The remaining balance was refinanced in 2008 into a short term five-year COP which was legally defeased with the issuance of a fixed rate long term COP in May 2010. Inter-fund transfers have been made in prior years for the Bass Lake/Serrano area school.

- h. *The amount of any developer fee refunds.* No refunds of developer fees are required at this time.

Under Government Coded Section 66001, the Board must make the following findings for the five-year accounting with respect to the portion of the account or fund remaining unexpended, whether committed or uncommitted:

- a. *Identify the purpose to which the fee is to be put.* Developer fees will be one of the sources used to complete the construction of the Bass Lake/Serrano area elementary school and for debt issuance costs. Additionally, interim housing lease costs are funded through developer fees.
- b. *Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.* The amount of the fees is included in the report. The fees were charged for the purpose of constructing the identified school facilities, which were necessary to adequately serve the new students generated by the new developments.
- c. *Identify all sources and amounts of funding anticipated to complete the financing of incomplete improvements.* General Obligation bonds, state facilities funds and interim financing provided in the form of COPs will be used to complete the financing of incomplete projects.
- d. *Designate the approximate dates on which funding anticipated to complete financing of the incomplete improvements is expected to be deposited into the appropriate account or fund.* In 2013-14, the District collected \$220,232 in developer fees. Mello-Roos fees will be used to construct the district's share of the Bass Lake/Serrano area school project along with state allocations and developer fees. These fees are collected over time and may serve as the basis for interim funding when the construction of the school is commenced. The site acquisition for the school is scheduled to be completed in 2014-2015 and construction of the school is anticipated to occur within approximately 5-10 years.

When sufficient funds have been collected to complete financing on incomplete public improvements identified in the District's facilities plan, and the improvements remain incomplete, the District shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction of the public improvement will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon.

If the administrative costs of refunding unexpended revenues exceed the amount to be refunded, the District, after a public hearing, notice of which has been published once in a newspaper of general circulation, and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other

purpose for which development fees are collected pursuant to Government Code Section 66000 et seq., and which serves the project on which the fee was originally imposed.

Based on the five-year review of income and expenditures (2009-2010 to 2013-2014), the District has spent by the close of 2013-2014 all of the 2009-2010, 2010-2011, 2011-2012, 2012-2013 and 2013-2014 funds.

Recommendation:

Staff recommends that the Board of Trustees approve this report, approve the information provided for the annual accounting and make the findings set forth above for the five-year accounting.