



Los Angeles County Facilities Network

Developer Fees

September 13, 2018

Eric J. Hall, President



Los Angeles County
Office of Education



HELPING SCHOOL DISTRICTS MEASURE UP

Where's the Money?

It is the Muscle of Your Program!



Where's the Money?

Finding the Funds

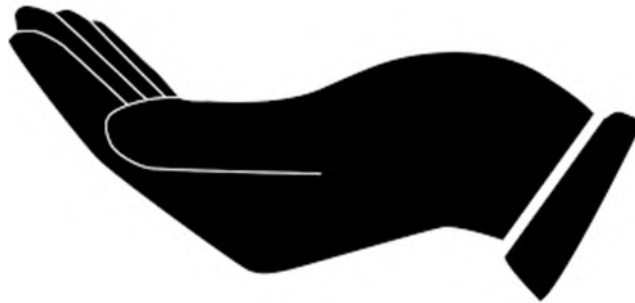
- ☐ Local
- ☐ State
- ☐ Federal
- ☐ Your Plan



Where is the Money? How do you find the funds?

A Robust Facility Program requires aggressive pursuit of funds.

Standing idly by and waiting for someone to provide your District with facility funding will result in an empty hand.



Where is the Money?

How do you find the funds?

What does aggressive mean to you?

Definition: very involved in activity

Synonyms: aggressive, agile, alert, alive, animated, assiduous, bold, brisk, bustling, busy, chipper, daring, dashing, determined, dexterous, diligent, dynamic, eager, energetic, engaged, enlivened, enterprising, enthusiastic, eventful, fireball, forceful, forcible, fresh, frisky, hard-working, high-spirited, hyper, industrious, intense, inventive, jumping, keen, lively, nimble, on the move, perky, persevering, purposeful, pushing, quick, rapid, ready, resolute, sharp, sprightly, spry, whiz*, zealous

Antonyms: disinterested, idle, indifferent, lazy, quiescent, quiet

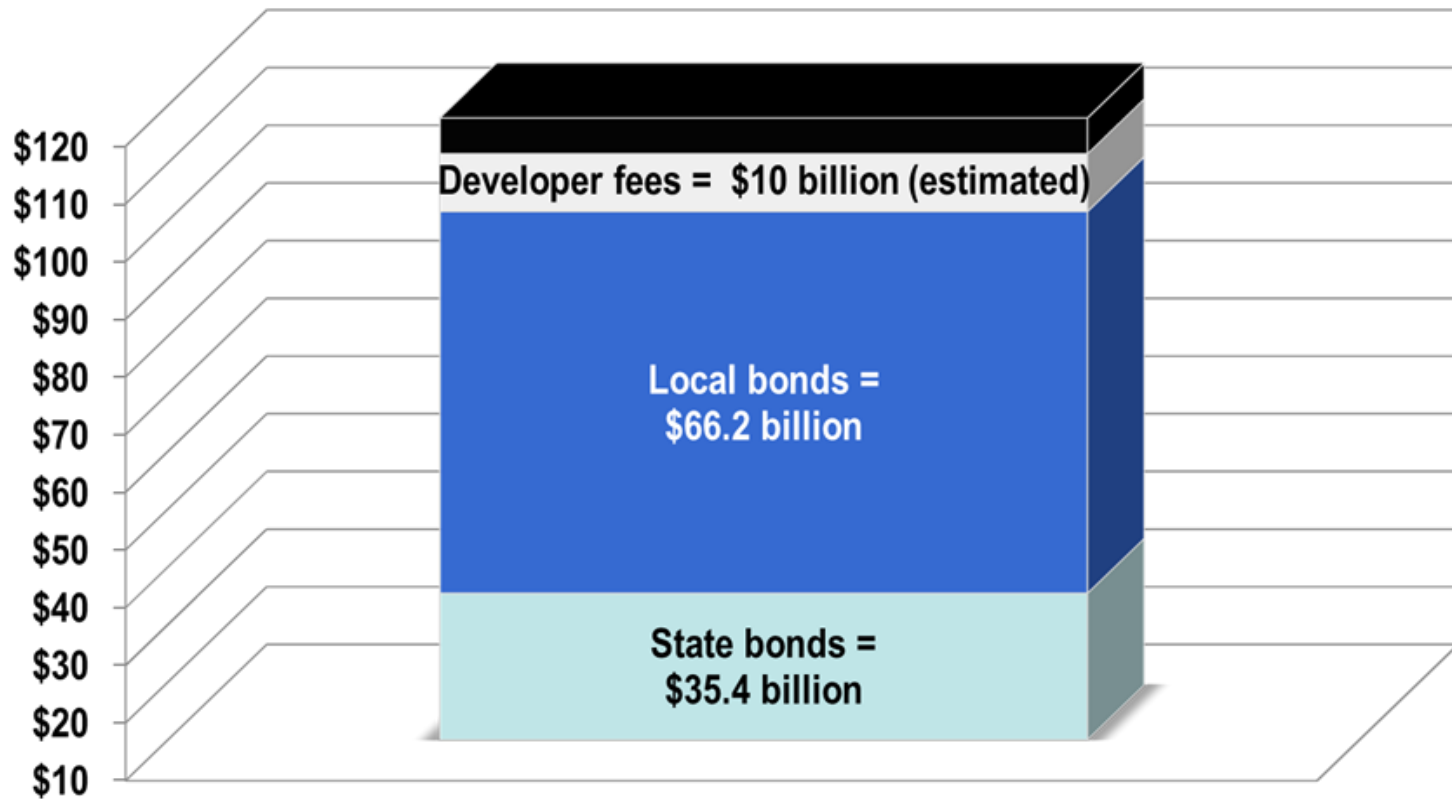
Where is the Money?

Finding the Funds

- Local Sources:
 - 66% GO Bond, Prop 46 Authority
 - 55% GO Bond, Prop 39 Authority
 - School Facilities Improvement District
 - Developer Fees – Level 1, 2, 3
 - Community Facility Districts
 - Parcel Tax
 - Redevelopment Agency Pass-Through
 - Certificates of Participation
 - Asset Management, Surplus Sites



Estimated Funding Sources K-12 Facilities 1998-2013



Where's the Money?

Finding the Funding

- Developer Fees – “School Fees”
 - Initiated in 1987
 - AB 2926, ‘Statutory fee’ per Square Foot
 - Assessed on Residential and Commercial Construction
 - Established in 1987: at \$1.50 residential & \$0.25 sq. ft. commercial
 - As of 2018: *allowable* rates \$3.79 residential and \$0.61 commercial
 - Recalculated in even years by SAB, next in Jan, 2020
 - Fee is Shared in Non-Unified Districts
 - Fees not Applicable to COE’s

Developer Fee Levels SB 50. 1998

- Tier I

Districts can charge developers up to \$3.36 per square foot for residential construction, fees are shared in non unified Districts

- Tier II

Districts can assess fees above \$3.36 if they conduct facilities-needs analysis and meet other criteria, including projected enrollment growth

- Tier III

Districts may double Tier II developer fees if the state runs out of money to pay its share of school facilities

Where's the Money?

Finding the Funding

- Developer Fees
 - Based Upon Need & a Study
 - Requires Board Resolution, Advertising & Action
 - The Level may be Negotiated for Larger Projects
 - Intended to Mitigate Impact of new Development
 - A "Nexus" Must Exist
 - Annual "Monteith" Report – Source & Uses w/5 Years
 - Projects? District Master Plan Rules!

Where's the Money?

Finding the Funding

- Eligibility to Collect Level II Fees:
 - SAB Eligibility for new Construction **AND two** of the Following:
 1. Substantial Enrollment on MTYR, or
 2. Bond Measure, in Last 4 years on Ballot, or
 3. Issued Debt = to its Bonding Capacity, or
 4. Min of 20% Teaching Stations in Portables

Where's the Money?

Finding the Funding

- Level II fees - Calculation Factors:
 - Determining Projected Enrollment
 - Identify Available Excess Capacity
 - Compare Enrollment to Capacity
 - Determine Student Capacity, Site Size Necessary
 - Identify Site Acquisition and Development Costs
 - Estimate Facility Costs, Buildings and Sites
 - Allocation of Surplus Sites to Estimated Need
 - Estimate Residential sq. ft. Projected in 5 years
 - Calculate the Fee /Total Costs by the Projected Assessable Square Footage in the Next 5 Years

Use of Developer Fees

- Construction or reconstruction of facilities
- Accommodate increased enrollment tied to new projects
- New Construction clearly an acceptable use
- Modernization and upgrades need to be tied to “completing the project”
- In some circumstances use of the fee to address “adequacy”
- F and E tied to the building, i.e. casework or growth
- Administration of fee collection, up to 3% annually

Acceptable Use of Developer Fees

- Government Code 66001:
 - Costs attributable to the increased demand for public facilities
 - Costs related to development projects to refurbish existing facilities to maintain the existing level of service
 - Costs to achieve an adopted level of service that is consistent with the plan
 - Costs to justify the fee, studies and reports
- Ed Code 17620:
 - Finance construction and reconstruction of school facilities
 - Reimburse admin costs related to the collection of the fees up to 3% of fees collected in a given year

Improper Use of Fees

- Regular maintenance
- Routine repair
- Inspection, sampling and analysis of asbestos
- Deferred maintenance
- Not for deficiencies in buildings
- Staff salaries
- Considerations on the use of the fees for something other than construction or reconstruction of facilities?
Please discuss the idea with your legal counsel, consultants or LACOE for guidance

Collaborate with the Developer and tell your side of the story

- Districts can alter the fee arrangement in discussions with the developer (s)
 - Tell your story and ask for more than the statutory fee
 - Land in lieu of fees
 - Consider the timing on collection
 - Collect at occupancy instead of at building permit?
 - Or collect in lump sum not at permit, get money in advance?
- Consider discussing your needs with the City/County Planning agency or City Council
- Leverage the local planning process and approvals for more money for your District

Collaborate with Local Planning City/County Communications

- Who in the District is getting the notices from City/County planning for new projects?
- City cannot legally deny development based upon the adequacy of school facilities, but.....
- Letters to the City Planning Commission can be powerful
- Respectful communication between the Superintendent and City Manager is important

Articulating Impacts

- Learn how to talk the environmental language relative to your district
- “Adequate space is not available to accommodate new development”
- “This project will create overcrowding in the school(s) servicing the project”
- Enrollment Boundary Leverage: “No guarantee that the nearest school can be the school of choice for the project”
- Articulating impacts
 - Student Generation Rates (SGR’s)
 - Use the State OPSC regulations as a default rate
 - Elementary K-6 = .50
 - Secondary 7-12 = .20

Alternative to Developer Fees

Negotiated Agreements

- Successful discussions about waiving the fee or obtaining more than the statutory fee can result in a mitigation agreement
- What do you get?
 - More money
 - Better terms
 - Better cash flow
- What do you give up?
 - Exchange the one time fee for ongoing tax revenue
 - Will your board agree to impose a “tax” on new development?
 - District will support the project
 - School of attendance guaranteed

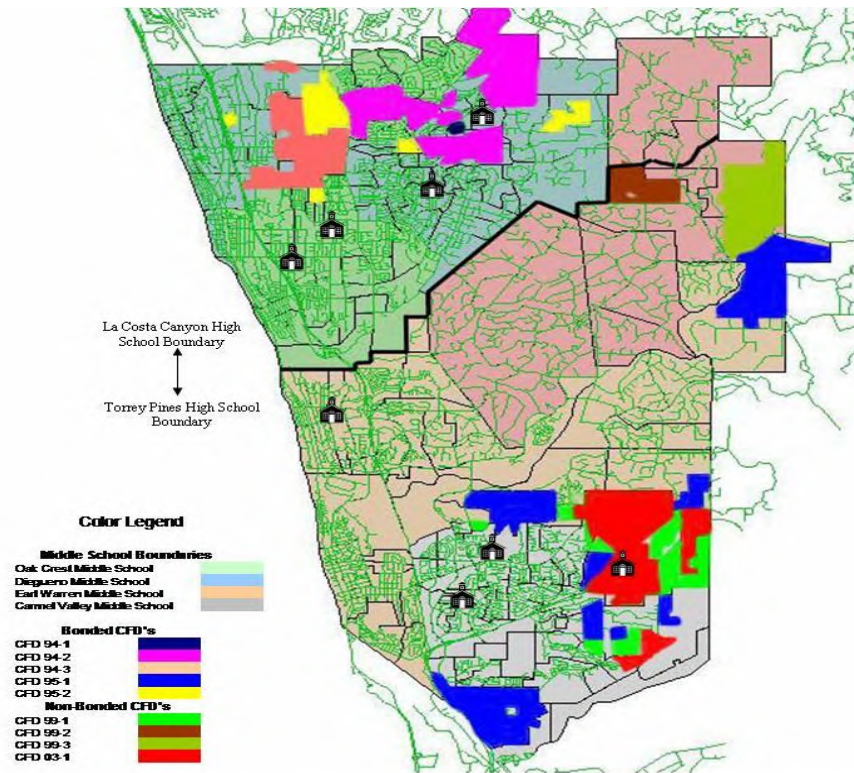
Where's the Money?

Finding the Funding

- CFD's - Community Facilities Districts
 - Senator Henry Mello & Assemblyman Mike Roos Co-authored MRCFD Act of 1982
 - Creation of Special Tax, per Dwelling Unit or Acre
 - 2/3 Majority Required
 - Property Owners Vote or
 - Residents Vote if More Than 12 in District
 - Most Often Developer Initiated
 - One Time Special or Annual tax or Some Combo
 - Incentive = District can Waive Fees
 - Cost per Unit can Escalate Annually or Remain Flat

Where's the Money?

Mello Roos Map: Swiss Cheese!



Where's the Money?

Finding the Funding

- CFD's - Accountability
 - Mitigation Agreement, new Development
 - ROF (Resolution of Formation)
 - RMA (Rate & Method of Apportionment)
 - Annual Board Reports
 - Special Tax Payers will Keep you Honest
 - Timing of Projects, Priorities in Multi CFD's
 - Annual tax Verification per APN's
 - Application to COE's Not Clear

Where's the Money? Your District's Plan?

- Don't Sit Back and Wait!
- School Facility Master Plan
- Board/Supt. Philosophy/Policy
- How will you Mix & Match the Funds?
- Use Project Accounting – Multi Year, Source
- Hint: Prioritize & Phase Projects
- Who's on Your Team?
- Ask the 'C's' – CASBO, CASH, COE, Counsel

Questions?

