Eligible Impact Fee Expenditures

Growth & Infrastructure Consortium Conference
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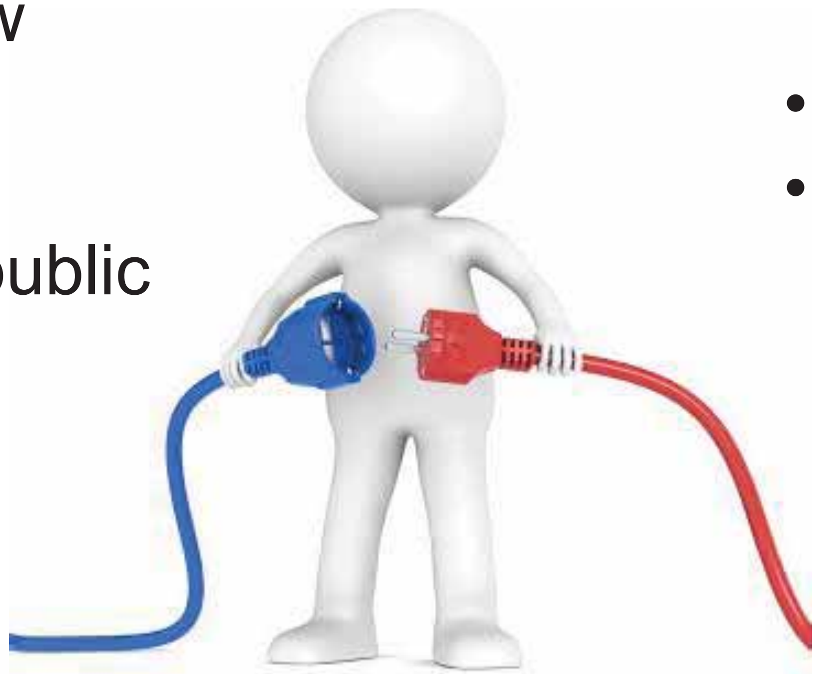
Preventing the "Big Disconnect"

Impact fee collection and expenditures requirements:

- Ordinances
- State Law

…and the

- court of public opinion



Best practice safeguards:

- Transparency in processes and reporting
- Adequate supporting documentation
- Regular staff training
- Internal and external audits of trust fund activity

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State Law May Require Regular Audits…

ARS§ 9-463.05. *Development fees; imposition by cities and towns; infrastructure improvements plan; annual report; advisory committee; limitation on actions; definitions*

In lieu of creating an advisory committee pursuant to paragraph 1 of this subsection, provide for **a biennial certified audit** of the municipality's land use assumptions, infrastructure improvements plan and development fees. An audit pursuant to this paragraph shall be conducted by one or more qualified professionals who are not employees or officials of the municipality and who did not prepare the infrastructure improvements plan.

…or Accounting and Reporting

FS§ 163.31801 "The Florida Impact Fee Act"

3(b). Provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity shall account for the revenues and expenditures of such impact fee in a separate accounting fund.

4. Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section.

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Avoid this Headline!

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FOR IMMEDIATE RELEASE

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L.A. Controller: City Failing to Charge, Spend Developer Fees for Infrastructure

Also, when auditors looked at the fees the City had collected, they identified $54 million sitting in eight special funds whose balances had grown or remained stable over three years--which suggested the City was failing to spend the money it collected. Auditors cautioned that some unspent fees could be subject to challenges and/or refunds. Most of the fees the City charges are for neighborhood-specific purposes. In fact, the only citywide fees the City charges are for public art and fire hydrants.

"Development impact fees are some of the most important tools the State has given us to make the infrastructure improvements our City so desperately needs," said Controller Galperin. "These fees should be applied fairly and consistently, and should be spent wisely in the public interest."

Example Finding #1

B. Water – Of all the expenditures shown in the general ledger, it was noted that the City utilized 99.7 percent, or $15.1 million of its Water Fee (as herein defined) to fund the water capacity component (e.g. water treatment plant) of the water system when only approximately 72.7[1] percent of the Water Fee or $11.0 million[1] should have been used for this purpose.

In our opinion, the water DIF funds that were to be collected and used by the City for the construction of the water distribution system were used instead to fund the water treatment plant. This is in conflict with the Water Study and the Act. By our estimation, the City should reimburse the water distribution account approximately $4.1 ($15.1-$11.0) million to replenish the DIF account for the funds that were expended on the water treatment plant but should have been used for the water distribution improvements. Alternatively, if the City is not going to utilize DIF funds for the construction of water distribution lines, it is suggested that the City reflect actual Water DIF expenditures on water distribution improvements. We have estimated that an approximate $811 reduction in the Water Fee would be justified.

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Example Finding #2

C. Wastewater – It was noted that the City utilized 90.7 percent, or $4.7 million of its Sewer Fee (as herein defined) to fund the sewer capacity component (e.g. water reclamation facility) when approximately 48.5[1] percent of the Sewer Fees should have been used for this purpose.

It appears as though approximately $2.2 million of Sewer Fees should have been used for the construction of sewer collection lines but were instead utilized by the City to fund the water reclamation facility ("WRF"). This is in conflict with both the Sewer Study and the Act. In order to rebalance the Sewer DIF accounts, we estimate that the City should reimburse the Sewer DIF account $2.2 million to replenish the funds use for the WRF that should have been used for sewer collection lines. Alternatively, if the City is not going to utilize DIF funds for the construction of sewer collection lines, it is suggested that the city reduce its Sewer Fee to reflect actual expenditures on sewer collection improvements. We have estimated that an $846 reduction in the Sewer Fee is warranted.

Example Finding #3

D. Fire – It was noted that the City utilized approximately $935,000 to fund debt service related to the construction of Fire Station 3. As the construction of Fire Station 3 was necessary to correct an existing deficiency within the City; the use of Fire Fees (as herein defined) to correct an existing deficiency is an inappropriate use of Fire Fees. Fire Fees are only to be used on Fire Stations 5, 6 and 7. As the City should have utilized its own funds to pay for Fire Station 3, it is recommended that the City reimburse the Fire DIF account $935,000.

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Example Finding #4

- District personnel indicated that lease-purchase arrangements and other multi-year financing methods require the District to pledge anticipated impact fee proceeds and to make related debt service payments. District personnel also believed the impact fee use was allowable under the interlocal agreement and required by the County as a condition for adopting the County Ordinance.

- Notwithstanding this response, District records did not evidence that use of impact fee proceeds to service debt incurred in previous fiscal years addresses the capital educational needs of future residents of the new residential developments for whom the 2015-16 fiscal year impact fee proceeds were collected. Consequently, these impact fee transfers totaling $17.7 million represent questioned costs.

- Recommendation: The District should ensure that impact fee proceeds are expended only for authorized purposes. Additionally, the District should either document to the Department of Education the allowability of the impact fee proceed transfers totaling $17.7 million to the debt service funds, or restore the $17.7 million to the 2015-16 fiscal year Capital Projects Fund - Impact Fee Fund.

Example Finding #5

Issues	Recommendation
C5 *Administrative Costs of Impact Fee Program*	
The rate applied for administrative costs in support of the impact fee program, which includes the Educational Impact fee, is based on amounts allocated by the County during the budgeting process, including wage and labor costs. While annual labor summary reports were prepared in the past, in support of the wage and labor costs allocated to the impact fee programs, these labor distribution reports (time and effort reports) are not currently being prepared by County employees whose time is included in actual costs of overseeing the impact fee programs. Current labor distribution reports would also provide the basis for the proportional allocation of other departmental costs associated with the administration of the impact fee program. We could not, therefore, test the allocation of shared costs to the administration of the impact fee programs.	We recommend the County reestablish the practice of accumulation and retention of labor distribution information (time and effort reports) in support of wage and labor costs and other shared costs allocated to the administration of the impact fee programs.

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Example Finding #6

Account Type	Operational Expense (x)	Repairing and Replacing (r)	Administration (a)	Total
Transportation				
Transportation Cap Expan No 2	$ 1,353,932.86	$ -	$ -	$ 1,353,932.86
Parks				
Waters way park	$ 114,688.22	$ 202.38	$ -	$ 114,890.60
Parkland & Admin Cost	$ 386,539.06	$ -	$ 1,562,298.66	$ 1,948,837.72
Parkland Equipment Replacement	$ -	$ 17,423.13	$ -	$ 17,423.13
Total	**$ 1,964,839.35**	**$ 176,483.68**	**$ 1,567,839.92**	**$ 3,709,162.95**

According to Colorado Revised Statute Section 29-20-104.5, impact fees must be legislatively adopted at a level no greater than necessary to defray impacts generally applicable to a broad class of property. The purpose of impact fees is to defray capital costs directly related to proposed development. The statutes of other states allow impact fee schedules to include administrative costs related to impact fees and the preparation of capital improvement plans, but this is not specifically authorized in Colorado's statute. Impact fees do have limitations, and should not be regarded as the total solution for

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Discussion and Questions

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