

PLEASANTON UNIFIED SCHOOL DISTRICT

Resolution No. 2019-2020.40

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE PLEASANTON UNIFIED SCHOOL DISTRICT TO ADOPT SCHOOL FACILITY FEE JUSTIFICATION STUDY AND INCREASE STATUTORY RESIDENTIAL & COMMERCIAL/INDUSTRIAL DEVELOPER FEES FOR SCHOOL FACILITIES PURSUANT TO EDUCATION CODE SECTION 17620 AND GOVERNMENT CODE SECTION 65995

WHEREAS, the Board of Trustees ("Board") of the Pleasanton Unified School District ("District") provides for the educational needs for TK-12 students within the City of Pleasanton ("City") and certain unincorporated areas located within the County of Alameda ("County");

WHEREAS, new residential and commercial/industrial development continues to generate additional students for the District's schools and the District is required to provide school facilities to accommodate those students;

WHEREAS, overcrowded schools within the District have an impact on the District's ability to provide an adequate quality education and negatively impacts the educational opportunities for the District's students;

WHEREAS, under the provisions of Education Code Section 17620, *et. seq.*, and Government Code Section 65995, *et seq.*, a school district's governing board may levy fees against new residential, commercial and industrial development to offset the cost of construction and reconstruction of school facilities made necessary by such development;

WHEREAS, the District's Board previously adopted resolutions to impose, and currently imposes, statutory school fees for new residential, commercial and industrial development pursuant to Education Code section 17620;

WHEREAS, at its January 22, 2020, meeting, the State Allocation Board increased the maximum amount of the fees to \$4.08 per square foot of residential construction described in Government Code Section 65995(b)(1) and to \$0.66 per square foot against commercial and industrial construction described in Government Code Section 65995(b)(2), pursuant to Government Code Section 65995(b)(3);

WHEREAS, future residential, commercial and industrial development is anticipated to result in an increase in enrollment beyond the capacity of the District's existing facilities, which requires the construction or reconstruction of school facilities;

WHEREAS, the District does not have sufficient funds available for the construction or reconstruction of school facilities, including acquisition of potential school sites, construction of permanent school facilities, and acquisition of interim school facilities, to accommodate students from new development;

WHEREAS, the Board received, reviewed, and considered the report entitled, 2020 Developer Fee Analysis School Facility Fee Justification Report (Level 1), dated June 2020 ("Fee Report", attached hereto as **Exhibit "1"**), which Fee Report includes information, documentation, and analysis of the District's school facilities needs, including: (a) the purpose of the statutory school fees, (b) the use to which the statutory school fees are to be put, (c) the nexus (roughly proportional and reasonable relationship) between the residential and commercial/industrial development and (1) the use for statutory school fees, (2) the need for

school facilities, (3) the cost of school facilities and the amount of statutory school fees from new residential and commercial/industrial development, (d) a determination of the impact of the increased number of employees anticipated to result from the commercial/industrial development (by category) upon the cost of providing school facilities within the District, (e) an evaluation and projection of the number of students that will be generated by new residential development, and (f) the new school facilities that will be required to serve such students, and (g) the cost of such school facilities;

WHEREAS, the Fee Report justifies the District's imposition of school fees on residential construction as set forth in this Resolution by analyzing student generation data for residential development projects and by demonstrating that new school facilities are necessary to accommodate increased enrollment resulting from such development;

WHEREAS, the Fee Report further justifies the District's imposition of school fees on new commercial and industrial construction as set forth in this Resolution by analyzing specific categories of commercial and industrial development which were determined to impact the District's school facilities based upon the anticipated number of employees per average square feet of each category of development, and the number of new K-12 grade students generated from each housing unit for the employees;

WHEREAS, the findings in the Fee Report demonstrate that the estimated costs of providing school facilities for students generated by new development will exceed the maximum amount of revenue which will be collected from school fees levied pursuant to Education Code section 17620 *et seq.* and Government Code section 65995 *et seq.*;

WHEREAS, based on the findings in the Fee Report, this Board deems it to be necessary, justified, and in the best interest of the students, teachers, parents and electorate of the District to increase the statutory school fees amount authorized by Education Code section 17620 *et seq.* and Government Code section 65995 *et seq.* to **Four Dollars and Eight Cents** (\$4.08) per square foot of new residential development and to **Sixty-Six Cents** (\$0.66) per square foot of new commercial/industrial development, except for rental self-storage, which is adjusted to **Twenty-Three Cents** (\$0.23) per square foot of development;

WHEREAS, the Fee Report was made available to the public as required by law before the Board considered the Fee Report and the statutory school fee amounts at a regularly scheduled public meeting;

WHEREAS, all required notices of the proposed statutory school fees have been given;

WHEREAS, on June 11, 2020, a public hearing was held at a regularly scheduled meeting of the Board of the District relating to the proposed statutory school fees;

WHEREAS, the school fees levied against new residential, commercial and industrial development will be used to finance or fund school facilities necessary to accommodate students generated from new development, including but not limited to, construction of new school facilities, remodeling of existing school facilities, and acquiring and installing related facilities in accordance with Education Code section 17620;

WHEREAS, Education Code section 17621 provides that the adoption, increase or imposition of any fee, charge, dedication, or other requirement, pursuant to Education Code section 17620 shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code;

WHEREAS, no city or county may issue a building permit for any new residential, commercial or industrial development within the District absent a certification by the District of compliance by the owner/developer with the requirements regarding school facilities fees as set forth in Education Code section 17620 *et seq.* and Government Code section 65995 *et seq.*; and

WHEREAS, the appropriate land use jurisdictions will be notified of the adoption of the school fees levied by the District and will be requested to work with the District to assure that the school facilities fee program benefits the residents and students of the community.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Pleasanton Unified School District, as follows:

1. Recitals. The Board hereby finds and determines the foregoing recitals to be true and correct.

2. Procedure. The Board hereby further finds and determines that prior to the adoption of this Resolution, the Board conducted a virtual public hearing at which oral and written presentations were made, as part of the Board's regularly scheduled June 11, 2020 meeting. Notice of the time and place of the meeting (including virtual public access), including a general explanation of the matter to be considered, has been published twice in a newspaper of general circulation in accordance with Government Code Sections 66004, 66018, and 6062(a) and in a notice, including a statement that the data required by Government Code sections 66004 and 66018 was available, that was mailed at least 14 days prior to the meeting to any interested party who had filed a written request with the District for mailed notice of the meeting on new fees or service charges within the period specified by law. Additionally, at least 10 days prior to the meeting, the District made available to the public data indicating the amount of the cost, or estimated cost, required to provide the service for which the fee or service charge is to be adjusted pursuant to the Resolution and the revenue sources anticipated to provide this service.

3. Findings. The Board has reviewed the Fee Report, as it relates to: (i) proposed and potential development, (ii) the resulting school facilities needs, (iii) the cost thereof, and (iv) the available source of revenue including the fees provided by this Resolution and, based thereon and upon all other material facts and statements of opinion made available to the Board, including written and oral presentations made to the Board, the Board hereby makes the following findings:

a. That the present enrollment of students in all the District's existing facilities, when combined with enrollment from projected development in the District, will exceed the current capacity of the District's facilities;

b. That additional development projects within the District, whether new residential construction; other residential construction; additions, remodels and residential reconstruction involving increases in assessable space greater than 500 square feet; or new commercial or industrial construction, will increase the need for school facilities and/or the need for reconstruction of school facilities;

c. That new residential, commercial or industrial development will result in an increase in student enrollment, which will require the District to provide additional school facilities to accommodate new growth, and therefore a reasonable relationship exists between the District's need for new and reconstructed school facilities, and the types of development on which the school fees will be imposed;

d. That the fees levied on new residential, commercial or industrial development will be used to finance school facilities necessary to serve students generated from such development; and

e. That the increase in student enrollment resulting from residential, commercial or industrial development necessitates the construction or reconstruction of new or existing facilities to accommodate such growth and therefore a reasonable relationship exists between the use of the school fees (construction and reconstruction of school facilities to accommodate such new growth) and the residential, commercial or industrial development on which the school fees will be imposed.

4. Fee Study. The Board hereby adopts and incorporates herein the Fee Study, attached hereto as **Exhibit "1"**.

5. Fees.

a. The Board hereby adopts the imposition fees in the amount of \$4.08 per square foot for assessable space for new residential construction (including, without limitation, single-family and multi-family residential construction), manufactured homes and mobile homes as authorized under Education Code Section 17625, and for other residential construction or reconstruction, including additions and remodels, resulting in an increase of assessable space in excess of 500 square feet pursuant to Education Code section 17620 *et seq.* and Government Code section 65995(b)(1). However, these amounts shall not be imposed on any development project that is dedicated solely for senior citizen housing development, as defined in Civil Code Section 51.3, or a residential care facility for the elderly as defined in Health and Safety Code section 1569.2, or migrant worker housing that is owned by the State of California and is financed by Health & Safety Code section 50710, *et seq.*

b. The Board hereby adopts the imposition of fees in the amount of \$0.66 per square foot for new commercial or industrial construction except for self-storage which shall be assessed in the amount of \$0.23 per square foot pursuant to Education Code section 17620 *et seq.* and Government Code section 65995(b)(2). Residential development that is dedicated solely for senior citizen housing development, as defined in Civil Code section 51.3 or a residential care facility for the elderly as defined in Health & Safety Code section 1569.2 may only be charged the commercial/industrial fee.

6. Additional Mitigation Methods. The policies set forth in this Resolution are not exclusive and the Board hereby reserves the authority to undertake other or additional methods to finance school facilities including but not limited to Level 2 or Level 3 fees (Government Code Sections 65995, 65995.5 and 65995.7 *et. seq.*), the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 *et. seq.*), voluntary mitigation agreements, and other available funding mechanisms as authorized by statute.

7. Implementation.

a. The Board hereby directs District staff to ensure that the school fees collected by the District are deposited in a separate account and that said account shall be separately maintained, except for temporary investments, from other funds of the District.

b. The Board hereby finds that the funds of the account, described above, consisting of the proceeds of school fees, have been imposed for the purposes of construction and reconstruction of those school facilities necessitated by new residential and commercial/industrial development, and that these funds may be expended for those

purposes. The fees may also be expended by the District for the costs of performing any study or otherwise making the findings and determinations required under Government Code section 66001, subdivisions (a), (b), and (d). In addition, the District may also retain, as appropriate, an amount not to exceed in any fiscal year, three percent (3%) of the school fees collected in that fiscal year pursuant to Education Code section 17620(a)(5) for reimbursement of the administrative costs incurred by the District in collecting the fees.

c. District staff is hereby instructed to work with the appropriate land use jurisdictions to ensure compliance with Education Code section 17620(c), which provides that no city or county may issue a building permit for any development project within the District without certification by the District of compliance by that development project with the school facilities fee requirements of this Resolution. The Board determines that the school fees are not subject to Government Code section 66007 and that a certificate of compliance is required prior to the issuance of any building permit under the authority of this Resolution.

d. No statement or provision set forth in this Resolution, or referred to herein, shall be construed to repeal any pre-existing fee previously imposed by the District on any residential or commercial/industrial development.

8. Appeal Process for Commercial/Industrial School Fees. The Board hereby establishes a process that provides the party against whom the commercial/industrial school fees are imposed an opportunity for a hearing to appeal the imposition of fees on a commercial/industrial development project as required by Education Code section 17621(e)(2). The appeal process is as follows:

a. Within ten (10) calendar days of being notified, in writing, by personal delivery or deposit in the U.S. Mail, of the commercial/industrial school fees to be imposed on a particular commercial/industrial project, or within ten (10) calendar days of paying the commercial/industrial fees pursuant to Education Code section 17620(a)(1)(A), a party shall file a written request with the District's Superintendent for a hearing regarding the imposition of commercial/industrial school fees. The party shall state in the written appeal the grounds for the appeal, which shall be served by personal delivery or certified or registered mail.

b. The possible grounds for an appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial/industrial school fees are to be imposed, or that the employee generation or student generation factors utilized under the applicable category are inaccurate as applied to the project.

c. The Superintendent, or designee, shall render a written decision within thirty (30) calendar days following receipt of the written appeal and deliver it to the appealing party by certified or registered mail to the last known address of the party.

d. The party against whom the commercial/industrial school fees are imposed may appeal the Superintendent's decision to the Board. Any appeal to the Board must be filed within ten (10) calendar days of receipt of the Superintendent's written decision.

e. The party appealing the Superintendent's decision to the Board shall state in the written appeal to the Board the grounds for opposing the decision. The written appeal shall be served by personal delivery or certified or registered mail addressed to the President of the Board at the District office: located 4665 Bernal Avenue, Pleasanton, CA 94566.

f. The possible grounds for an appeal of the Superintendent's decision to the Board include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial/industrial school fees are to be imposed, or that the employee generation or student generation factors utilized under the applicable category are inaccurate as applied to the project.

g. Within ten (10) calendar days of receipt of the written appeal of the Superintendent's decision to the Board regarding the imposition of commercial/industrial fees, the Board Secretary or designee shall give notice in writing of the date, place and time of the hearing before the Board, to the appealing party. The Board shall notice and conduct said hearing at the next available regular or special meeting of the Board, provided that the appealing party is given notice at least five (5) calendar days prior to the meeting of the Board. The Board shall render a written decision on the appeal within ten (10) calendar days following the Board's hearing on the party's appeal, and serve the Board's decision by certified or registered mail to the last known address of the appealing party.

h. The party appealing the imposition of the commercial/industrial school fees shall bear the burden of establishing that the commercial/industrial school fees are improper.

9. California Environmental Quality Act. That the Board hereby finds the implementation of fees provided by this Resolution is exempt from the California Environmental Quality Act ("CEQA"), pursuant to Education Code section 17621(a).

10. Commencement Date. That pursuant to Education Code section 17621(a), the school fees designed pursuant to this Resolution shall take effect at least 60 days following its adoption by the Board, unless a separate resolution increasing the fees immediately, on an urgency basis, is adopted by the Board.

11. Notification of Local Agencies. In accordance with Education Code section 17621(c), the Secretary to the Board is hereby directed to forward copies of this Resolution, accompanied by all relevant supporting documentation including the Fee Report and a map of the boundary area of the District subject to school fees, to all appropriate land use jurisdictions issuing building permits within the District, informing each of them of the District's current school facilities fee for development projects, which jurisdictions shall include the City and the County, with instructions not to issue any building permit absent a completed Certificate of Compliance from the District.

12. Severability. If any portion of this Resolution is found by a Court of competent jurisdiction to be invalid, such finding shall not affect the validity of the remaining portions of this Resolution.

THE FOREGOING RESOLUTION WAS APPROVED, PASSED AND ADOPTED at a regular Meeting of the Board of Trustees of Pleasanton Unified School District on the 11th day of June 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Steve Maher
President, Board of Trustees

ATTEST:

David Haglund, Ed.D.
Secretary to the Board of Trustees