TAMALPAIS UNION HIGH SCHOOL DISTRICT

Larkspur, California

RESOLUTION NO. 24-15

RESOLUTION OF THE BOARD OF TRUSTEES OF TAMALPAIS UNION HIGH SCHOOL DISTRICT: (1) APPROVING FIVE-YEAR SCHOOL FACILITIES MASTER PLAN; (2) AUTHORIZING SUBMITTAL OF FIVE-YEAR SCHOOL FACILITIES MASTER PLAN TO THE DEPARTMENT OF GENERAL SERVICES; (3) AUTHORIZING FILING OF APPLICATION(S) FOR STATE ALLOCATION BOARD ADMINISTERED PROGRAMS FOR THE DISTRICT; (4) DECLARING EXCEPTION UNDER SB 937; AND (5) AUTHORIZING ISSUANCE OF NOTICE TO CITIES/COUNTY WITH RESPECT TO SAME

WHEREAS, the Education Code has established multiple programs to be administered by the Department of General Services ("DGS") as staff to the State Allocation Board ("SAB"); and

WHEREAS, the Leroy F. Greene School Facilities Act of 1998 ("SB 50") provides for the adoption of rules, regulations, and procedures, under the administration of DGS, for the allocation of state funds under the School Facility Program ("SFP") by the SAB for the construction and modernization of public school facilities; and

WHEREAS, the Tamalpais Union High School District ("District") collects school impact fees to mitigate the impacts of development on school facilities under SB 50, and calculates and collects such fees prior to the issuance of building permit pursuant to Education Code Section 17620(b) and Government Code Section 66007(b); and

WHEREAS, in accordance with Government Code Section 66006(a), the District has established a separate capital facilities account or fund for the District, specifically identified as Fund 25, Capital Facilities Fund ("Fund 25"), and funds are appropriated for the construction and rehabilitation of school facilities, including projects specified in the FMP (as defined herein); and

WHEREAS, Senate Bill 937 (2023-2024) ("SB 937") changes the time that a local agency may collect impact fees from "designated residential development projects" (as defined in Government Code Section 66007(c)(4), effective January 1, 2025) until the date the first certificate of occupancy or first temporary certificate of occupancy is issued, whichever occurs first, or date of final inspection if no certificate of occupancy is issued. However, SB 937 allows a school district to continue to collect school impact fees from designated residential development projects prior to the issuance of building permits for such projects if: (1) the fees are to reimburse the school district for expenditures previously made to the extent those expenditures have not been paid or reimbursed by another party, or if (2) the school district determines both of the following: (i) the fees will be collected for the construction and rehabilitation of school facilities, if a school district has a five-year plan pursuant to Education Code Section 17017.5(c), and (ii) an account has been established and funds appropriated for such public improvements (Gov. Code, §66007(c)(2)(A)(i); (c)(2)(A)(ii)(I)(ie) & (II)); and

WHEREAS, Education Code Section 17017.5(c), as referenced in SB 937, refers to the five-year facility plan required under the Leroy F. Greene State School Building Lease-Purchase Law of 1976, which is a program that is no longer operational or funded, and its regulations have been repealed. Accordingly, without dispute, compliance with Education Code Section 17017.5(c) is impossible even in the exercise of reasonable diligence; and

WHEREAS, Civil Code Section 3531 sets forth the maxim that "[t]he law never requires impossibilities"; and

WHEREAS, the District's Board of Trustees adopted Resolution No. 24-03 in support of Proposition 2, Public Education Facilities Bond Measure. Proposition 2, also known as the Kindergarten Through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 ("Prop 2"), passed by 57.04% of the general electorate vote on November 5, 2024, and rendered the implementing statutes under Assembly Bill 247 (2023-2024) ("AB 247") effective as of November 6, 2024; and

WHEREAS, AB 247 requires a school district to submit a five-year school facilities master plan to DGS as a condition of participating in the SFP, that includes, among other requirements, an updated report of the school district's existing school building capacity (Ed. Code, §§ 17070.54 & 17071.10); and

WHEREAS, the District's Board of Trustees approved the District's 2022 TUHSD Comprehensive Facilities Master Plan ("2022 FMP"), which is attached hereto as Exhibit "A" and incorporated herein by reference. The 2022 FMP is available at the following link: https://www.tamdistrict.org/administration/maintenance-operations/facilities-master-plan; and

WHEREAS, the District commissioned an update to the 2022 FMP, titled the 2025 FMP Update, which is attached hereto as Exhibit "B" and incorporated herein by reference The 2022 FMP, together with the 2025 FMP Update. collectively serve as its five-year school facilities master plan ("FMP"); and

WHEREAS, the District's FMP is in compliance with the requirements of Education Code Section 17070.54, including subpart (d) as it presently exists, as well as Education Code Sections 17071.10, 16011, 16322, and other applicable law, and all requisite findings and recommendations have been reported to the District's Board of Trustees; and

WHEREAS, the District intends to file applications for eligibility determination, file applications for funding, and/or certify information under one or more SAB-Administered Programs, including under the SFP as provided in Education Code, Section 17070.10, et seq., the SFP Facility Hardship Program, and/or the SFP Facility Hardship Seismic Mitigation Program; and

WHEREAS, the District is aware of the minimum requirements for the FMP as outlined in Education Code Section 17070.54, and is further aware that all application submittals on or after October 31, 2024, are subject to Section 17070.54 per AB 247; and

WHEREAS, under Education Code Section 17070.54, the District shall update its FMP, as necessary, to reflect any changes in enrollment, capacity, or other areas, as appropriate for purposes of participating in the SFP; and

WHEREAS, it is clear from the Legislative Counsel's Digest and Legislative History for SB 937 that the focus of the element of the exception set forth under Government Code section 66007(c)(2)(A)(ii)(I)(ie) is on a school district having a five-year facilities master plan for the construction and rehabilitation of school facilities as required under the SFP. Moreover, the requirements of a five-year facilities master plan under Education Code section 17070.54 go beyond the requirements under the now defunct Leroy F. Greene State School Building Lease-Purchase Law of 1976, and sufficiently replace the requirements under Education Code section 17017.5(c), thus compliance with Education Code 17070.54 is consistent with the Legislature's intent to require a five-year facilities master plan and constitutes substantial compliance with SB 937's exception provisions concerning a school district's ability to continue to collect school impact fees from designated residential development projects prior to the issuance of building permits for such projects; and

WHEREAS, the District has complied with all notice requirements with respect to the FMP, including, without limitation, Government Code section 65352.2; and

WHEREAS, the District's Board wishes to approve the FMP and authorize its submittal to DGS.

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE TAMALPAIS UNION HIGH SCHOOL DISTRICT HEREBY FINDS, RESOLVES, DETERMINES, AND ORDERS AS FOLLOWS:

1. That the foregoing recitals are true, and together with the Exhibit hereto and above-referenced documents incorporated by reference, are collectively incorporated herein.

2. That the FMP attached hereto as Exhibit "A" AND Exhibit "B" and incorporated herein, include the requisite factors, findings, and criteria, to the extent applicable, as set forth under Education Code Sections 17070.54, 17071.10, 16011, 16322, and other applicable law. The Board has reviewed the FMP, and hereby approves the FMP.

3. The Superintendent, or her designee, is hereby authorized to file applications for eligibility determination, file applications for funding, and/or certify information under one or more SAB-administered programs under the SFP.

4. As a condition of participating in the SFP, as administered by the SAB, the District shall submit to the DGS the FMP, or any subsequently updated FMP approved by the District's Board of Trustees, for all application submittals on or after October 31, 2024. If not submitted at the time of application, the District shall submit such approved FMP or subsequent update within 90 days of the Office of Public School Construction notification of processing the application. To the extent facility hardship and/or facility hardship seismic mitigation program applications are submitted, as a condition of SFP participation, the District shall submit the Board-approved FMP or subsequent update by the time the Substantial Progress deadline for each application is reached or the 100 percent complete Expenditure Report (Form SAB 50-06) is submitted, whichever is earlier. The District acknowledges that failure to submit an acceptable five-year school facilities master plan may result in rescission of project funding.

5. Under Education Code Section 17070.54, prior to the filing of any application under one or more SAB-administered program, the District shall, to the extent necessary, update its FMP to reflect any changes in enrollment, capacity, or other areas, as appropriate for purposes of participating in the SFP.

6. The Board hereby finds that the requirements of a five-year facilities master plan under Education Code section 17070.54 go beyond the requirements under the now defunct Leroy F. Greene State School Building Lease-Purchase Law of 1976, and sufficiently replace the requirements under Education Code section 17017.5(c), thus compliance with Education Code 17070.54 is consistent with the Legislature's intent to require a five-year facilities master plan.

7. The District collects school impact fees to mitigate the impacts of development on school facilities under SB 50. The Board finds that collection of school impact fees is essential to provide necessary public school facilities to serve residential and commercial/industrial development projects, and is necessary to avoid, substantially lessen, or otherwise mitigate impacts of such projects on school facilities under the California Environmental Quality Act (Public Resources Code, §§21000, et seq.).

8. The Board reasserts that the District is not subject to the restriction set forth in Government Code Section 66007(a). Furthermore, the Board hereby determines that the school impact fees are to reimburse the school district for expenditures previously made to the extent those expenditures have not been paid or reimbursed by another party, and/or (i) the fees will be collected for the construction and rehabilitation of school facilities, (ii) the FMP meets the requirements for Prop 2 funding under the SFP, which is consistent with the intent of the Legislature in adopting SB 937, and (iii) Fund 25 has been established for the District and funds appropriated as required.

9. For the foregoing reasons, the Board finds that the District satisfies the requirements under Government Code Section 66007(c)(2)(A)(i), (ii)(I)(ie), and (ii)(II), and Government Code Section 65589.5(f)(3), (o)(2)(C), and (o)(6), and directs the Superintendent, or her designee, to continue calculating and collecting school impact fees prior to the issuance of building permit for development projects within the boundaries of the District.

10. The Superintendent, or her designee, shall submit the FMP to the DGS, along with a copy of this Resolution, and to the cities and county within which the District's boundaries are located.

11. The Superintendent, or her designee, shall also provide notice to such cities and county, that the District shall continue calculating and collecting school impact fees prior to the issuance of building permit for development projects within the boundaries of the District, and take any other action necessary to effectuate the intent of this Resolution.

PASSED AND ADOPTED, THIS ____ DAY OF _____ 2025, BY THE FOLLOWING VOTE OF THE BOARD OF TRUSTEES OF THE TAMALPAIS UNION HIGH SCHOOL DISTRICT:

AYES:

NOES:

ABSTAIN:

ABSENT:

Board Member	Aye	No	Absent
Cynthia Roenisch	X		
Kevin Saavedra	X		
Emily Uhlhorn	X		
Ida Green	X		
Jennifer Holden	X		

Tara Taupier, Secretary of the Board of Trustees

Attest:

Cynthia Roenisch, President of the Board of Trustees

EXHIBIT "A"

2022 TUHSD COMPREHENSIVE FMP

EXHIBIT "B"

2025 TUHSD FMP UPDATE