

RESOLUTION NO. 04-06-20

**RESOLUTION OF THE BOARD OF EDUCATION OF THE TUSTIN
UNIFIED SCHOOL DISTRICT APPROVING AN INCREASE
IN STATUTORY SCHOOL FEES IMPOSED ON NEW RESIDENTIAL
AND COMMERCIAL/INDUSTRIAL CONSTRUCTION PURSUANT TO
EDUCATION CODE SECTION 17620 AND GOVERNMENT CODE
SECTION 65995**

WHEREAS, the Board of Education (“Board”) of the Tustin Unified School District (“District”) provides for the educational needs for Grade K-12 students within the City of Tustin, the City of Santa Ana and the City of Irvine (collectively “Cities”) and portions of the unincorporated County of Orange (“County”); and

WHEREAS, on January 22, 2020, the State Allocation Board (“SAB”) authorized an adjustment in the statutory school fee amounts for unified school districts pursuant to Government Code Section 65995(b)(3) to \$4.08 per square foot for assessable space of new residential construction (“Residential Statutory School Fees”) and \$0.66 per square foot of chargeable covered and enclosed space for the categories of new commercial/industrial construction (“Commercial/Industrial Fees” and collectively “Statutory School Fees”), as long as such increases are properly justified by the District pursuant to law; and

WHEREAS, new residential and commercial/industrial construction continues to generate additional students for the District’s schools and the District is required to provide school facilities (“School Facilities”) to accommodate those students; and

WHEREAS, overcrowded schools within the District affect the District’s ability to provide an adequate quality education and negatively impact the educational opportunities for the District’s students; and

WHEREAS, the District does not have sufficient funds available for the construction or reconstruction of the School Facilities, including acquisition of sites, construction of permanent School Facilities, and acquisition of interim School Facilities, to accommodate students from new residential and commercial/industrial construction; and

WHEREAS, the Board has received and considered a report entitled, “Fee Justification Report for Residential and Commercial/Industrial Development” (“Report”), which includes information, documentation, and analysis of the School Facilities needs of the District, 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 construction 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 construction; (d) a determination of the impact of the increased number of employees anticipated to result from the commercial/industrial construction (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 construction; (f) the new School Facilities that will be required to serve such students; and (g) the cost of such School Facilities; and

WHEREAS, the Report pertaining to the Statutory School Fees and to the capital facilities needs of the District has been available to the public through the District's website for at least ten (10) days before the Board considered, at a regularly scheduled public meeting, the increase in the Statutory School Fees; and

WHEREAS, all notices of the proposed increase in the Statutory School Fees have been given in accordance with applicable law; and

WHEREAS, a public hearing was duly held at a regularly scheduled meeting of the Board relating to the proposed increase in the Statutory School Fees on April 13, 2020; and

WHEREAS, as to the Statutory School Fees, 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 the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE TUSTIN UNIFIED SCHOOL DISTRICT AS FOLLOWS:

Section 1. That the Board accepts and adopts the Report.

Section 2. That the Board finds that the purpose of the Statutory School Fees imposed upon new residential construction are to fund the additional School Facilities required to serve the students generated by the new residential construction upon which the Statutory School Fees are imposed.

Section 3. That the Board finds that the Statutory School Fees imposed on new residential construction will be used only to finance those School Facilities described in the Report and related documents, and that these School Facilities are required to serve the students generated by the new residential construction within the District; and that the use of the Statutory School Fees will include construction or acquisition of additional School Facilities, remodeling existing School Facilities to add additional classrooms, and technology, and acquiring and installing additional portable classrooms and related School Facilities, as well as any required central administrative and support facilities, within the District.

Section 4. That the Board finds that there is a roughly proportional, reasonable relationship between the use of the Statutory School Fees and the new residential construction within the District because the Statutory School Fees imposed on new residential construction by this Resolution will be used to fund School Facilities that will be used to serve the students generated by such new residential construction.

Section 5. That the Board finds that there is a roughly proportional, reasonable relationship between the new residential construction upon which the Statutory School Fees are imposed, and the need for additional School Facilities in the District because new students will be generated from new residential construction within the District and the District does not have student capacity in the existing School Facilities to accommodate these students.

Section 6. That the Board finds that the amount of the Statutory School Fees imposed on new residential construction as set forth in this Resolution is roughly proportional and reasonably related to, and does not exceed the cost of, providing the School Facilities required to serve the students generated by such new residential construction within the District.

Section 7. That the Board finds that the purpose of the Statutory School Fees imposed on new commercial/industrial construction is to fund the additional School Facilities required to serve the students generated by the new commercial/industrial construction upon which the Commercial/Industrial Fees are imposed.

Section 8. That the Board finds that the Statutory School Fees imposed on new commercial/industrial construction (by category) will be used only to finance those School Facilities described in the Report and related documents and that these School Facilities are required to serve the students generated by such new commercial/industrial construction; and that the use of the Statutory School Fees will include construction or acquisition of additional School Facilities, remodeling existing School Facilities to add additional classrooms and technology, and acquiring and installing additional portable classrooms and related facilities, as well as any required central administrative and support facilities within the District.

Section 9. That the Board finds that there is a roughly proportional, reasonable relationship between the use of the Statutory School Fees and new commercial/industrial construction by category within the District because the Statutory School Fees imposed on commercial/industrial construction by this Resolution will be used to fund School Facilities which will be used to serve the students generated by such new commercial/industrial construction.

Section 10. That the Board finds that there is a roughly proportional, reasonable relationship between the new commercial/industrial construction by category, upon which the Statutory School Fees are imposed, and the need for additional School Facilities in the District because new students will be generated from new commercial/industrial construction within the District and the District does not have student capacity in the existing School Facilities to accommodate these students.

Section 11. That the Board finds that the amount of the Statutory School Fees imposed on new commercial/industrial construction by category as set forth in this Resolution is roughly proportional and reasonably related to and does not exceed the cost of providing the School Facilities required to serve the students generated by such new commercial/industrial construction within the District.

Section 12. That the Board finds that a separate fund ("Fund") and/or sub-funds ("Sub-Funds") have been created or are authorized to be established for all monies received by the District for the deposit of Statutory School Fees imposed on construction within the District and that said Fund and Sub-Funds at all times have been separately maintained, except for temporary investments, with other funds of the District as authorized by law.

Section 13. That the Board finds that the monies of the separate Fund or the separate Sub-Funds described in Section 12, consisting of the proceeds of Statutory School Fees have been imposed for the purposes of constructing and reconstructing those School Facilities necessitated by new residential and/or commercial/industrial construction, and thus, these monies may be expended for all those purposes permitted by applicable law. The Statutory School Fees may also be expended by the District for the costs of performing any study or otherwise making the findings and determinations required under subdivisions (a), (b) and (d) of Section 66001 of the Government

Code. In addition, the District may also retain, as appropriate, an amount not to exceed in any fiscal year, three percent (3%) of the fees collected in that fiscal year pursuant to Education Code Section 17620 for reimbursement of the administrative costs incurred by the District in collecting the Statutory School Fees.

Section 14. That the Board hereby increases the Statutory School Fees as a condition of approval of new residential development projects and imposes the Statutory School Fees on such development projects in the following amounts:

a. \$4.08 per square foot of assessable space for new residential construction or reconstruction, including new residential projects, manufactured homes and mobile homes as authorized under Education Code Section 17625, and including residential construction or reconstruction resulting from an increase of assessable space, as defined in Government Code Section 65995, in excess of five hundred (500) square feet.

b. \$0.66 per square foot of assessable space, for new residential construction used exclusively for the housing of senior citizens, as described in Section 51.3 of the Civil Code or as described in subdivision (o) or (p) of Section 1569.2 of the Health and Safety Code, or a multi level facility as described in paragraph 9 of subdivision (d) of Government Code Section 15432, or any mobile home or manufactured home that is located within a mobile home park, subdivision, cooperative or condominium for mobile homes limited to older persons as defined by the Federal Fair Housing Amendments of 1988 as described in Government Code Section 65995.2.

Section 15. That this Board hereby increases the Statutory School Fees as a condition of approval of new commercial/industrial construction projects and levies the Statutory School Fees on such development projects in the following amounts per square foot of chargeable covered and enclosed space for all categories of commercial/industrial construction to \$0.66, with the exception of the self-storage category that is justified in the amount of \$0.38 per square foot.

Section 16. That the proceeds of the Statutory School Fees increased and established pursuant to this Resolution shall continue to be deposited into those Funds and Sub-Funds identified in Section 12 of this Resolution, the proceeds of which shall be used exclusively for the purpose for which the Statutory School Fees are to be collected, including, as to Statutory School Fees, accomplishing any study, findings or determinations required by subdivisions (a), (b) and (d) of Section 66001 of the Government Code, or retaining an amount not to exceed in any fiscal year, three percent (3%) of the fees collected in that fiscal year pursuant to Education Code Section 17620 for reimbursement of the administrative costs incurred by the District in collecting the Statutory School Fees or in financing the described Report or in defending the imposition of Statutory School Fees.

Section 17. That the District's Superintendent, or designee, is directed to cause a copy of this Resolution to be delivered to the building officials of the Cities and the County, as well as to the Office of Statewide Health Planning and Development ("OSHDP"), along with a copy of all the supporting documentation referenced herein and a map of the District clearly indicating the boundaries thereof, advising the Cities, the County and the OSHDP that new residential and commercial/ industrial construction is subject to the Statutory School Fees increased pursuant to this Resolution and requesting that no building permit or approval for occupancy be issued by any of these entities for any new residential development project, mobile home or manufactured home

subject to the Statutory School Fees absent a certification of compliance ("Certificate of Compliance") from the District demonstrating compliance of such project with the requirements of the Statutory School Fees, nor that any building permit be issued for any nonresidential construction absent a certification from this District of compliance with the requirements of the applicable Statutory School Fees.

Section 18. That the Board hereby adopts and establishes the procedures that permit the party against whom the Commercial/Industrial Fees are imposed the opportunity for a hearing to appeal that imposition of Commercial/Industrial Fees for commercial/industrial construction as stated in Education Code Section 17621 and Government Code Section 66020 and 66021.

Section 19. That the Superintendent, or designee, is authorized to cause a Certificate of Compliance to be issued for each residential or commercial/industrial project, mobile home and manufactured home for which there is compliance with the requirement for payment of the Statutory School Fees in the amounts specified by this Resolution or as may be modified by Assembly Bill 48, if enacted. In the event a Certificate of Compliance is issued for the payment of Statutory School Fees for a development project, mobile home or manufactured home and it is later determined that the statement or other representation made by an authorized party concerning the development project as to square footage is untrue or in the event the zoning is declared invalid, then such Certificate of Compliance shall automatically terminate, and the appropriate County or OSHPD shall be so notified.

Section 20. No statement or provision set forth in this Resolution, or referred to therein shall be construed to repeal any preexisting fee, or any mitigation amounts previously agreed to or imposed by the District on any residential or nonresidential construction.

Section 21. That if any portion or provision hereof is held invalid, the remainder hereof is intended to be and shall remain valid.

Section 22. That the increase in the District's Statutory School Fees will become effective sixty (60) days from the date of this Resolution unless a separate resolution increasing the fees immediately on an urgency basis is adopted by the Board.

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ADOPTED, SIGNED AND APPROVED this 13th day of April, 2020.

TUSTIN UNIFIED SCHOOL DISTRICT

By: 
Francine Scinto, President, Board of Education
of the Tustin Unified School District

ATTEST:


Jonathan Abelow, Clerk, Board of Education of the
Tustin Unified School District

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Jonathan Abelow, Clerk, Board of Education of the Tustin Unified School District, do hereby certify that the foregoing was duly adopted by the Board of Education of such District at a regular meeting of said Board held on the 13th day of April, 2020 at which a quorum of such Board was present and acting throughout and for which notice and an agenda was prepared and posted as required by law and at which meeting all of the members of such Board had due notice and that at such meeting the attached resolution was adopted by the following vote:

AYES: J Abelow, T Bullard, L Davis, J Laird, F Scinto
NOES: None
ABSTAIN: None
ABSENT: None



Clerk, Board of Education of the Tustin Unified School
District

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Jonathan Abelow, Clerk, Board of Education of the Tustin Unified School District, do hereby certify that the foregoing is a full, true and correct copy of Resolution No. 04-06-20 of said Board, and that the same has not been rescinded, amended or repealed.

Dated this 13th day of April, 2020.



Clerk, Board of Education of the Tustin Unified School
District