

RESOLUTION NO. 2021-2022/45

TEMECULA UNIFIED SCHOOL DISTRICT

RESOLUTION APPROVING FEE JUSTIFICATION REPORT FOR NEW RESIDENTIAL AND COMMERCIAL/INDUSTRIAL DEVELOPMENT AND AUTHORIZING INCREASE IN STATUTORY LEVEL 1 DEVELOPER FEES

WHEREAS, Education Code section 17620, *et seq.*, and Government Code section 65995, *et seq.*, authorize the governing board of any school district within the state of California to levy a fee against residential, commercial and industrial development projects within the school district for the purpose of funding the construction and reconstruction of school facilities.

WHEREAS, the Board of Trustees ("Board") of the Temecula Unified School District ("District") has previously adopted and imposed statutory school impact fees ("School Fees") for new residential, commercial and industrial development pursuant to Education Code section 17620.

WHEREAS, pursuant to Government Code section 65995(b)(3), the State Allocation Board, at its meeting in February 2022, increased the maximum amount of School Fees that may be imposed to \$4.79 per square foot of assessable space for residential developments and \$0.78 per square foot for commercial and industrial developments.

WHEREAS, the District is currently able to provide school housing ("School Facilities") to existing students as excess capacity exists at each of the three levels (i.e., elementary school level (2,722 seats), middle school level (1,835 seats), high school level (508 seats)), but the findings from the District's fee consultant show District's current School Facilities will not be able to accommodate students from additional growth.

WHEREAS, approximately 14,238 new dwelling units are anticipated to be constructed within the District's jurisdictional boundaries by the year 2045, and of those new units, approximately 14.76% have mitigated the impact of their development through participation in a community facilities district, a negotiated fee payment or other mitigation measure; and historical data indicates just over one student is generated from every two homes constructed.

WHEREAS, the District does not have sufficient funds available for the construction or reconstruction of the School Facilities, including potential acquisition of sites, construction of permanent School Facilities, acquisition of interim School Facilities, lease or acquisition of portable classrooms to meet temporary needs, and supplemental central administrative support, to accommodate those unhoused students.

WHEREAS, the estimated cost of anticipated new School Facilities to house those students from new development not under mitigation measures, excluding interim housing requirements and central administrative support, is over \$182 million.

WHEREAS, taking into account the cost of ancillary facilities, the total cost of School Facilities for an unmitigated new dwelling unit is approximately \$15,342 per elementary school student, \$800 per middle school student and approximately \$77,687 per high school student; this means estimated School Facilities cost for future development is approximately \$18,440 per dwelling unit.

WHEREAS, the Board received a Fee Justification Report for New Residential and Commercial/Industrial Development, dated March 15, 2022 ("Fee Justification Report"), which analyzes the impacts of residential development and all categories of commercial/industrial development upon the District's enrollment, and the resulting needs for new and/or modernized School Facilities.

WHEREAS, the Board reviewed and considered the findings in the Fee Justification Report, which analyzes the District's current school facilities, the estimated number of students which will be generated by new residential and commercial and industrial development projected within the District, the estimated number of students who may be unhoused based on District's current facilities and estimated number of students generated, and the estimated costs which will be required to construct permanent and/or refurbished School Facilities to accommodate the students generated by such development.

WHEREAS, the Fee Justification Report justifies the District's imposition of School Fees on residential construction as set forth in this Resolution by analyzing student generation rates for residential development projects and by demonstrating that new School Facilities are necessary to accommodate increased enrollment resulting from such new development.

WHEREAS, the Fee Justification Report further justifies the District's imposition of School Fees on new commercial and industrial construction (except for rental self-storage) 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 average employee per square foot of commercial/industrial development, and the School Facility cost calculated from those employees residing in the District.

WHEREAS, the findings in the Fee Justification 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, the increased 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, potential acquisition of new school sites, construction or reconstruction of School Facilities, acquiring and installing interim School Facilities, leasing or acquiring portable classrooms, supplemental central administrative support, and other miscellaneous purposes resulting from student enrollment growth caused by projected new development.

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

WHEREAS, the District: (a) has made available to the public ten (10) days prior to its public hearing the proposed Fee Justification Report and data indicating the estimated cost required to provide the School Facilities for which the increased School Fees are levied and the revenue sources anticipated to provide the School Facilities as demonstrated in the Fee Justification Report; (b) at least thirty (30) days prior to this meeting, posted the notice of the meeting and mailed the notice to those who requested notice on the District's intent to

initiate a nexus study; (c) at least fourteen (14) days prior to this meeting, mailed to all interested parties who have requested in writing notice of the meeting on new or increased fees; and (d) held a duly noticed, regularly scheduled public hearing on this day, at which oral and written presentation was received regarding the Fee Justification Report and the proposed increase in School Fees.

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

WHEREAS, as to the 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 Temecula Unified School District Board of Trustees as follows:

Section 1. That the foregoing recitals are true.

Section 2. That the Board has reviewed and confirmed that the Fee Justification Report accurately reflects current information and justifies the increase to School Fees pursuant to this Resolution.

Section 3. That the Board hereby increases the School Fees as a condition of approval of new development projects within the boundaries of the District and imposes the School Fees on such development projects in the amounts identified below. Based on the foregoing, this Board hereby determines and approves:

a. To levy a fee on any new or other residential development, as described in Education Code section 17620(a), occurring within the District, in the amount of **\$4.79** per square foot of assessable space as such space is defined in Government Code section 65995(b)(1).

b. To levy a fee on categories of new commercial or industrial development, as described in Education Code section 17620(a), occurring within the boundaries of the District, in the amount of **\$0.78** per square foot of chargeable covered and enclosed space as such space is defined in Government Code section 65995(b)(2), except for rental self-storage which will be charged **\$0.15** per square foot.

Section 4. That in accordance with Government Code section 66001(a)(1), the Board finds that the purpose of the School Fees imposed upon residential and commercial/industrial construction is to fund the construction and reconstruction of School Facilities related to accommodate students generated by such new development upon which the School Fees are imposed.

Section 5. That in accordance with Government Code section 66001(a)(2), the Board finds that the School Fees imposed on residential construction and commercial/industrial construction (by category) will be used to finance the construction or reconstruction of School Facilities related to accommodate the students generated by such new development within the District and any other lawful use of School Fees.

Section 6. That in accordance with Government Code section 66001(a)(3), the Board finds that there is a roughly proportional, reasonable relationship between the use of the School Fees and the residential and new commercial/industrial construction within the District because the School Fees imposed on such construction by this Resolution will be used to fund School Facilities which will be used to serve the students generated by such new construction.

Section 7. That in accordance with Government Code section 66001(a)(4), the Board finds that there is a roughly proportional, reasonable relationship between the residential and commercial/industrial construction upon which the School Fees are imposed and the need for School Facilities in the District because new students will be generated from such new construction within the District and the District does not have student capacity in the existing School Facilities to accommodate these students.

Section 8. That in accordance with Government Code section 66001(b), the Board finds that the amount of the School Fees imposed on residential construction and 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 construction within the District.

Section 9. That in accordance with Government Code sections 66001(c) and 66006, the Board finds that a separate fund ("Fund") of the District has been created or is authorized to be established for all monies received by the District for the deposit of School Fees imposed on construction within the District and that said Fund at all times have been separately maintained, except for temporary investments, with other funds of the District as authorized by law.

Section 10. That the Board finds that the monies of the separate Fund, consisting of the proceeds of School Fees, has been imposed for the purposes of constructing and reconstructing those School Facilities necessitated by residential and/or commercial/industrial construction, and thus, these monies may be expended for all those purposes permitted by applicable law.

Section 11. That in accordance with Education Code section 17620(a)(5), the 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 and, 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 for reimbursement of the administrative costs incurred by the District in collecting the School Fees.

Section 12. That the Board hereby establishes a process that permits 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 required by Education Code section 17621(e)(2). The appeal process shall be 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 fees to be imposed or paying the commercial/industrial fees, pursuant to Education Code section 17620, a party shall file a written request for a hearing regarding the imposition of commercial/industrial fees. The party shall state in the written request the legal and factual grounds for opposing the imposition of commercial/industrial fees and said written request

shall be served by personal delivery or certified or registered mail to the Superintendent with a copy to the Assistant Superintendent of Business Services.

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

c. Within ten (10) calendar days of receipt of the written request for a hearing regarding the imposition of commercial/industrial fees, the Superintendent, or designee, shall give notice in writing of the date, place and time of the hearing to the party appealing the imposition of commercial/industrial fees. The Superintendent, or designee, shall schedule and conduct said hearing within thirty (30) calendar days of receipt of the written request. The Superintendent, or designee, shall render a written decision within ten (10) days following the hearing on the party's appeal and serve it by certified or registered mail to the last known address of the party.

d. The party against whom the commercial/industrial fees are imposed may appeal the Superintendent or designee's decision to the Board.

e. The party appealing the Superintendent's or designee's decision shall state in the written appeal the factual and legal grounds for opposing the imposition of the commercial/industrial fees and said written appeal shall be served by personal delivery or certified or registered mail to the Superintendent.

f. The possible grounds for that appeal to the Board include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial/industrial fees are to be imposed, or that the employee generation or pupil 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 request for a hearing regarding the imposition of commercial/industrial fees, the Superintendent, or designee, shall give notice in writing of the date, place and time of the hearing to the party appealing the imposition of commercial/industrial fees. The Board shall schedule and conduct said hearing at the next regular meeting of the Board, provided that the party is given notice at least five (5) working days prior to the regular meeting of the Board. The Board shall render a written decision within ten (10) days following the hearing on the party's appeal and serve the decision by certified or registered mail to the last known address of the party.

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

Section 13. That, in accordance with Education Code sections 17620(d) and 17621(c), District staff is hereby instructed to transmit certified copies of this Resolution, accompanied by all relevant supporting documentation including the Fee Justification Report and a map of the boundary area of the District subject to the School Fees, to all appropriate land use jurisdictions issuing building permits within the District, including applicable cities and counties, and the Office of Statewide Health Planning and Development, informing each of them of the District's adopted School Fees for development projects.

Section 14. That a certificate of compliance shall be issued for each development project for which there is compliance with the requirement for payment of the School Fees in the amounts specified by this Resolution. In the event a certificate of compliance is issued for the payment of School Fees for a development project, 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 official of the land use jurisdiction shall be so notified.

Section 15. That pursuant to Education Code section 17621(a), the increase in the District's School Fees pursuant to this Resolution will become effective sixty (60) days from the date of this Resolution (i.e., **Saturday, June 11, 2022**), unless the Board adopts a separate resolution increasing the fees immediately on an urgency basis.

Section 16. That no statement or provision set forth in this Resolution, or referred to herein shall be construed to repeal any preexisting fee or mitigation amount previously imposed by the District on any residential or nonresidential construction.

Section 17. That, if any portion or provision of this Resolution is held invalid, the remainder thereof is intended to be and shall remain valid.

APPROVED, ADOPTED, AND SIGNED, this 12th day of April 2022, with the following votes:


AYES: 5

NOES: 0

ABSTAIN: 0

ABSENT: 0


Adam Skumawitz, President

ATTEST:

Barbara Brosch, Clerk