

***IRVINE UNIFIED SCHOOL DISTRICT***

**RESOLUTION NO. 19-20-19**

**APPROVING A SCHOOL FACILITIES NEEDS ANALYSIS AND ADOPTING  
ALTERNATIVE SCHOOL FACILITY FEES IN COMPLIANCE WITH  
GOVERNMENT CODE SECTIONS 65995.5, 65995.6, AND 65995.7 AND MAKING  
RELATED FINDINGS AND DETERMINATIONS (LEVEL 2 & 3 FEES)**

**WHEREAS**, the Governing Board (“Board”) of the Irvine Unified School District (“District”) provides for the educational needs of K-12 students within all or a portion of the City of Irvine and City of Tustin and a portion of the unincorporated County of Orange; and

**WHEREAS**, the Board has previously adopted and imposed statutory school facility fees (“Statutory School Facility Fees”) pursuant to Education Code Section 17620; and

**WHEREAS**, the Board heretofore has elected to participate in the school facilities funding program established pursuant to the Leroy F. Greene School Facilities Act of 1998 (the “Act”) and appointed a representative (“District Representative”) for such purposes and for the purpose of requesting an Eligibility Determination relative to considering the adoption of alternative school facility fees and amounts pursuant to Government Code Sections 65995.5 (“Level 2 Fees”) and 65995.7 (“Level 3 Fees”); and

**WHEREAS**, the District Representative has caused the completion and certification of Form SAB 50-01, the Enrollment Certification/Projection and Form SAB 50-03, the Eligibility Determination, and has submitted such forms to the State Allocation Board (“SAB”) for approval pursuant to the Act; and

**WHEREAS**, the District has received notification from the SAB that the District meets the eligibility requirements for new construction funding pursuant to the provisions of the Act; and

**WHEREAS**, the District satisfies at least two of the requirements set forth in Government Code Section 65995.5(b)(3); and

**WHEREAS**, new residential construction continues to generate additional students for the District’s schools and the District is required to provide grades K-12 school facilities (“School Facilities”) to accommodate those students; and

**WHEREAS**, overcrowded schools within the District have an impact on 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 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 construction; and

**WHEREAS**, the Board caused to be prepared a report entitled, “School Facilities Needs Analysis- Irvine Unified School District” pursuant to applicable law including, but not by way of limitation, Government Code Sections 65995.6 and 66000 et seq. (the “Needs Analysis”); and

**WHEREAS**, the Board has received and considered the Needs Analysis which includes all matters required by applicable law, including an analysis of (a) the purpose of the Level 2 Fees and the Level 3 Fees (collectively the “Alternative School Facility Fees”), (b) the use to which the Alternative School Facility Fees are to be put, (c) the nexus (roughly proportional and reasonable relationship) between the residential construction and (1) the facilities for which the Alternative School Facility Fees are to be used, (2) the need for School Facilities, (3) the cost of School Facilities and the amount of Alternative School Facility Fees from new residential construction, (d) an evaluation and projection of the number of students that will be generated by new residential construction by grade levels of the District as described by Government Code Section 65995.6, (e) a description of the new School Facilities that will be required to serve such students and (f) the present estimated cost of such School Facilities; and

**WHEREAS**, the Needs Analysis in its final form has been available to the public, for at least thirty (30) days prior to the public hearing on the adoption of the Needs Analysis and the Alternative School Facility Fees; and

**WHEREAS**, all notices of the Needs Analysis and adoption of Alternative School Facility Fees have been given in accordance with applicable law and copies of the Needs Analysis have been provided no less than thirty (30) days prior to the public hearing related to the adoption of the Needs Analysis to every person who made a written request forty-five (45) days prior to the public hearing; and

**WHEREAS**, the Needs Analysis has been provided to all local agencies responsible for land use planning for review and comment in compliance with Government Code Sections 65995.6(c) and 65352.2; and

**WHEREAS**, as to the approval of the Needs Analysis and Alternative School Facility Fees, Government Code Section 65995.6(g) provides that the California Environmental Quality Act, Division 13 (commencing with Section 2100) of the Public Resources Code may not apply to the preparation, adoption, or update of the Needs Analysis or adoption of this Resolution; and

**WHEREAS**, the District desires to adopt and approve the Needs Analysis and the Alternative School Facility Fees pursuant to Government Code Sections 65995.5, 65995.6, and 65995.7 for the purpose of establishing Alternative School Facility Fees that may be imposed on residential construction calculated pursuant to Government Code Section 65995(b);

**NOW THEREFORE, BE IT RESOLVED,**

1. That the Board does hereby find and determine that the foregoing recitals and determinations are true and correct and that the Needs Analysis meets all applicable legal requirements.

2. That the District has received notification from the SAB that the District meets the eligibility requirements for construction funding pursuant to the provisions of the Act.

3. That pursuant to the Act, the District Representative made a timely application to the SAB for construction funding for which it is eligible.

4. That the District has caused to be prepared the Needs Analysis, which is on file at the District's administrative office and is incorporated herein by this reference, complies with all applicable statutory requirements, including the provisions of Government Code Section 65995.6.

5. That the Board hereby approves and adopts the Needs Analysis for the purpose of establishing Alternative School Facility Fees as to future residential construction within the District.

6. That the Board finds that the purpose of the Alternative School Facility Fees imposed upon new residential construction are to fund the School Facilities to serve the students generated by the residential construction upon which the Alternative School Facility Fees are imposed as provided in the Needs Analysis and applicable law.

7. That the Board finds the Alternative School Facility Fees are hereby established as applicable and will be used to fund those School Facilities described in the Needs Analysis and that these School Facilities are to serve the students generated by the residential construction within the District as provided in the Needs Analysis.

8. That the Board finds that there is a roughly proportional, reasonable relationship between the use of the Alternative School Facility Fees and the new residential construction within the District because the Alternative School Facility Fees imposed on new residential construction by this Resolution will be used to fund School Facilities which will be used to serve the students generated by such new residential construction in accordance with applicable law and as set forth in the Needs Analysis.

9. That the Board finds that there is a roughly proportional, reasonable relationship between the new residential construction upon which the Alternative School Facility 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 capacity in the existing School Facilities to accommodate these students.

10. That the Board finds that the amount of the Alternative School Facility 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.

11. That the Board finds that separate funds have been created or authorized to be established for all Level 2 and 3 Fees received by the District (the "Funds") for the deposit of such Level 2 and 3 Fees and that said funds will be separately maintained, except for temporary investments, with other funds of the District as authorized by law.

12. That the Board finds that the monies of the separate Funds consisting of the proceeds of Level 2 and 3 Fees, have been imposed for the purposes of constructing those School Facilities necessitated by new residential construction as further set forth in the Needs Analysis and thus these monies may be expended for all those purposes permitted by applicable law.

13. That the Needs Analysis determines the need for new School Facilities for unhoused pupils that are attributable to projected enrollment growth from the construction of new residential units over the next five years, based on relevant planning agency information and the historical generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed within the District and the County.

14. That the Board has identified and considered, and/or subtracted, as set forth in the Needs Analysis, the following information in determining amounts of the Level 2 and 3 Fees.

- a. any surplus property owned by the District that can be used as a school site or that is available for sale to finance school facilities pursuant to Government Code Section 65995.6(b)(1);
- b. the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities pursuant to Government Code Section 65995.6(b)(2);
- c. local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units pursuant to Government Code Section 65995.6(b)(3);
- d. the full amount of local funds the Board has dedicated to facilities necessitated by new construction, including fees, charges, dedications or other requirements imposed on commercial or industrial construction pursuant to Government Code Section 65995.5(c)(2).

15. That the Board has calculated, as set forth in the Needs Analysis, the maximum square foot fees, charges, or dedications to be established as Alternative School Facility Fees that may be collected in accordance with the provisions of Government Code Sections 65995.5(c) and 65995.7(a).

16. That the Needs Analysis in its final form has been made available to the public for a period of not less than thirty (30) days.

17. That the public has had the opportunity to review and comment on the Needs Analysis and the Board has responded to written comments it has received regarding the Needs Analysis.

18. That notice of the time and place of the public hearing ("Hearing") to adopt the Needs Analysis and Alternative School Facility Fee, including the location and procedure for viewing or requesting a copy of the proposed Needs Analysis and any proposed revision therefore has been published in at least one newspaper of general circulation within the jurisdiction of the District at least thirty (30) days prior to the Hearing.

19. That the Board has mailed a copy of the Needs Analysis no less than thirty (30) days prior to the Hearing to any person who made a written request forty-five (45) days prior to the Hearing.

20. That the Needs Analysis has been provided to all local agencies responsible for land use planning for review and comment in compliance with Government Code Sections 65995.6(c) and 65352.2.

21. That the Board conducted the required Hearing prior to the adoption of the Needs Analysis and the Alternative School Facility Fees, at which time all persons desiring to be heard on all matters pertaining to the Needs Analysis were heard and all information present was duly considered.

22. That the Board hereby adopts Alternative School Facility Fees and establishes the Alternative School Facility Fees on new residential construction projects within the District in the following amounts.

a. Pursuant to Government Code Section 65995.6, Level 2 Fees in the amount of \$4.76 per square foot of assessable space as defined in Government Code Section 17620 for new residential construction, including new residential construction, manufactured homes and mobile homes as authorized under Education Code Section 17625, excluding any construction described in Government Code Sections 65995.1 or 65995.2.

b. Pursuant to Government Code Section 65995.6(f), Level 3 Fees in the amount of \$9.52 per square foot of assessable space as defined in Government Code Section 17620 for new residential construction, including new residential construction, manufactured homes and mobile homes as authorized under Education Code Section 17625, excluding any construction described in Government Code Sections 65995.1 or 65995.2, when it is determined by the Board that the State's school building funds for new school facilities is exhausted as set forth in Government Code Section 65995.7.

23. That the proceeds of the Alternative School Facility Fees established pursuant to this Resolution shall continue to be deposited into the Funds identified in Section 11 of this Resolution, the proceeds of which shall be used exclusively for the purpose for which the Alternative School Facility Fees are to be collected.

24. That the District's Superintendent, or Superintendent's designee, is directed to cause a copy of this Resolution to be delivered to the cities and/or counties within the District's boundaries along with a copy of all supporting documentation referenced herein and a map of the District clearly indicating the boundaries thereof, advising the cities and counties that new residential construction is subject to the Alternative School Facility 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 construction, mobile home or manufactured home subject to the Alternative School Facility Fees absent a certificate of compliance ("Certificate of Compliance") from the District demonstrating compliance of such project with the requirements of the Alternative School Facility Fees.

25. That the Superintendent is authorized to cause a Certificate of Compliance to be issued for each new residential construction project, mobile home and manufactured home for which there is compliance with the requirement for payment of the Alternative School Facility Fees in the amount specified by this Resolution. In the event a Certificate of Compliance is issued for the payment of Alternative School Facility Fees for a new residential construction

project, mobile home or manufactured home and it is later determined that the statement or other representation made by an authorized party concerning the construction 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 cities and/or counties shall be so notified.

26. That regarding the timely provision of a Certificate Compliance by the District for residential construction, although not required by applicable law, the Board hereby determines that the Needs Analysis is a proposed construction plan for purposes of requiring payment of Alternative School Facility Fees prior to the issuance of any building permit for residential construction in accordance with Government Code Section 66007 and that all Alternative School Facility Fees are appropriated for the purpose of accomplishing such construction plan.

27. 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 non-residential construction. Notwithstanding the preceding, the Alternative School Facility Fees authorized herein, shall be in lieu of the collection of the Statutory School Facility Fees for new residential construction, however, if the District ceases collecting the Alternative School Facility Fees herein, the District is still authorized to collect the Statutory School Fees for new residential construction.

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

29. That the Level 2 Fees shall take effect immediately after adoption of this Resolution and shall be in effect for one year and that the effective date of the Level 3 Fees will remain contingent upon the determination by the Board that exhaustion of the State's school building funds for new school facilities has occurred, as set forth in Government Code Section 65995.7.

**APPROVED, PASSED AND ADOPTED** by the Board of Education of the Irvine Unified School District, this 1st day of October, 2019.

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President of the Board of Education  
Irvine Unified School District

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Clerk of the Board of Education  
Irvine Unified School District

STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF Orange )

CLERK'S CERTIFICATE

I, \_\_\_\_\_, Clerk of the Board of Education of the Irvine Unified School District, of the County of Orange, California, hereby certify as follows:

The attached is a full, true and correct copy of a resolution duly adopted at a regular meeting of the Board of Education of the District duly and regularly held at the regular meeting place thereof on October 1, 2019, and entered in the minutes thereof, of which meeting all of the members of the Board of Education had due notice and at which a quorum thereof was present. The resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

An agenda of the meeting was posted at least 72 hours beforehand at 5050 Barranca Parkway, Irvine, California, a location freely accessible to members of the public, and a brief description of the adopted resolution appeared on the agenda. A copy of the agenda is attached hereto. The resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

WITNESS my hand this 1st day of October 2019.

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Clerk of the Board of Education  
Irvine Unified School District