

**RESOLUTION NO. 22-021 OF THE BOARD OF EDUCATION OF THE
BERKELEY UNIFIED SCHOOL DISTRICT
REGARDING ACCOUNTING OF DEVELOPMENT FEES
(ANNUAL DEVELOPER FEE REPORTS)
FOR 2020-2021 FISCAL YEAR,
IN THE FOLLOWING FUND OR ACCOUNT:**

Fund 25, Capital Facilities Fund
(Government Code sections 66001(d) & 66006(b))

1. Authority and Reasons for Adopting this Resolution.

- A. Berkeley Unified School District (“District”) has levied statutory and/or other fees imposed on new development (“Developer Fees”) pursuant to various resolutions, including, without limitation, Resolution No. 22-021, dated __December 8, 2021_____, which is collectively referred to herein as the “School Facilities Fee Resolution” and are hereby incorporated by reference into this Resolution. This resolution were adopted under the authority of Education Code section 17620, *et seq.* and Government Code section 65995, *et seq.*
- B. The District has received and expended Developer Fees in fiscal year 2020-2021 in connection with school facilities (“School Facilities”) of the District.
- C. In accordance with California Government Code section 66006(a), the District has established a separate capital facilities account or fund, more specifically identified as **Fund 25, Capital Facilities Fund** (“Fund”), deposited these Developer Fees in the Fund (including interest income earned thereon), maintained the Fund in a manner to avoid any commingling of the Developer Fees with other revenues and funds of District, except for temporary investments, as applicable, and expended the Developer Fees solely for the purposes for which they were collected.
- D. Government Code section 66006(b)(1) requires the District to make an annual accounting of the Fund (“Annual Developer Fee Report”), which shall contain the following information for each fiscal year:
 - (i) A brief description of the type of Developer Fees in the Fund;
 - (ii) The amount(s) of the Developer Fee(s);
 - (iii) The beginning and ending balance of the Fund;
 - (iv) The amount of the Developer Fees collected and the interest earned;
 - (v) An identification of each District public improvement (“Project”) that Developer Fees were expended on, and the amount of the expenditures on

each Project, including the total percentage of the cost of the Project that was funded with Developer Fees;

- (vi) An identification of an approximate date by which the construction of a Project will commence if the District determines that sufficient funds have been collected to complete financing on an incomplete Project, as identified in Government Code section 66001(a)(2), and the Project remains incomplete;
- (vii) A description of each interfund transfer or loan made from the Fund, including the Project on which the transferred or loaned Developer Fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the Fund will receive on the loan; and
- (viii) The amount of refunds made pursuant to Government Code section 66001(e) and any allocations made pursuant to Government Code section 66001(f).

- E. Government Code section 66006(b)(2) further requires that the Annual Developer Fee Report be made available to the public no later than 180 days from the end of the last fiscal year, and that the Annual Developer Fee Report information be reviewed by this Board at its next regularly scheduled board meeting held no earlier than 15 days after such information becomes available to the public, and that notice of the time and place of this meeting (as well as the address where the Annual Developer Fee Report and proposed Findings may be reviewed) be mailed at least 15 days prior to this meeting to anyone who has requested it.
- F. The Annual Developer Fee Report for the 2020-2021 fiscal year is attached hereto as Exhibit “A” and incorporated herein. The Superintendent has informed this Board that the Annual Developer Fee Reports, along with a draft copy of this Resolution, were made available to the public on November 19, 2021. The Superintendent has further informed this Board that notice of the time and place of this meeting (as well as the address at which this information has been available for review) was mailed at least 15 days prior to this meeting to anyone who had requested it.
- G. The District has substantially complied with all of the foregoing provisions.
- H. The Superintendent has also informed this Board that there is no new information which would adversely affect the validity of any of the findings made by this Board in its applicable School Facilities Fee Resolutions.

2. **What This Resolution Does.**

This Resolution makes various findings and takes various actions regarding the Fund, including the approval and adoption of the 2020-2021 Annual Developer Fee Report, as required by and in accordance with Government Code section 66006(b).

NOW, THEREFORE, BASED ON ALL FINDINGS AND EVIDENCE CONTAINED IN, REFERRED TO, OR INCORPORATED INTO THIS RESOLUTION, AS WELL AS THE EVIDENCE PRESENTED TO THIS BOARD AT THIS MEETING, THE BERKELEY UNIFIED SCHOOL DISTRICT'S BOARD OF EDUCATION HEREBY, FINDS, RESOLVES, DETERMINES, AND ORDERS AS FOLLOWS:

Section 1: That the foregoing recitals are true.

Section 2: That, pursuant to Government Code sections 66006(b)(1) and (2), the District has made available to the public the requisite information and proposed findings concerning collection and expenditure of Developer Fees related to School Facilities for students resulting from new development within the District. Furthermore, pursuant to Government Code sections 66006(b)(2), the Board has reviewed the Developer Fees Reports at a public meeting not less than 15 days after the Developer Fees Reports were made available to the public and notice was mailed as required.

Section 3: That, in accordance with Government Code section 66006(b)(2), this Board has reviewed the 2020-2021 Annual Developer Fees Reports as contained in Exhibit "A" (attached hereto and incorporated herein), Exhibit "B" (attached hereto and incorporated herein) and Exhibit "C" (attached hereto and incorporated herein) and determined that the Reports meet the requirements set forth in Government Code section 66006(b)(1).

Section 4: That the Board hereby determines that all Developer Fees, collections, and expenditures have been received, deposited, invested, expended, and reported in compliance with the relevant sections of the Government Code and all other applicable laws.

Section 5: That the Board hereby determines that the District is in compliance with Government Code section 66000, *et seq.*, relative to receipt, deposit, investment, expenditure, reporting, or refund of Developer Fees received and expended relative to School Facilities for students generated from new development.

Section 6: That the Board hereby approves and adopts the attached 2020-2021 Annual Developer Fees Report.

Section 10: The Board further directs and authorizes the Superintendent to take on its behalf such further action as may be necessary and appropriate to effectuate this Resolution.

Certificate of Resolution.

I, _____, _____ of the Board of Education of the Berkeley Unified School District of Alameda County, State of California, certify that this

Resolution proposed by _____, seconded by _____, was duly passed, approved, and adopted by the Board, at an official and public meeting this 8th day of December, 2021, by the following vote:

AYES:

NOES:

ABSENT: