

IRVINE UNIFIED SCHOOL DISTRICT

RESOLUTION NO. 15-16-30

INCREASING STATUTORY SCHOOL FEES IMPOSED ON RESIDENTIAL AND COMMERCIAL/INDUSTRIAL DEVELOPMENT PROJECTS PURSUANT TO EDUCATION CODE SECTION 17620 (LEVEL 1 FEES)

WHEREAS, the Governing Board (“Board”) of the Irvine Unified School District (“District”) provides for the educational needs for K-12 students within its boundaries; and

WHEREAS, the Board of the District has previously adopted and imposed statutory school fees (“Statutory School Fees”) pursuant to *Education Code* Sections 17620, et seq. and *Government Code* Sections 65995, et seq. (“School Fee Legislation”) in the amounts of \$3.36 per square foot of assessable space of residential development in the District, and \$0.54 per square foot of chargeable covered and enclosed space for all categories of new commercial/industrial development in the District for the purpose of funding construction and reconstruction of school facilities; and

WHEREAS, The State Allocation Board has taken action pursuant to *Government Code* Section 65995(b)(3), which authorizes school districts to increase statutory school fees to \$3.48 per square foot for assessable space of residential development and \$0.56 per square foot of chargeable covered and enclosed space for all categories of commercial/industrial development, as long as such increases are properly justified by the District pursuant to law; and

WHEREAS, residential and commercial/industrial development continue 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 have an impact on the District’s ability to provide an adequate quality education and negatively impacts 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 to accommodate students generated from residential or commercial/industrial development; and

WHEREAS, the Board of the District has received and considered a report entitled Residential Development School Fee Justification Study and Commercial/Industrial Development School Justification Study, for Irvine Unified School District, dated March 2, 2016, prepared in accordance with *Government Code* Section 66000 et seq. (“Report”), which Report 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 residential and commercial/industrial development and the following: (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 residential and commercial/industrial development; (d) a determination of the impact of the increased number of employees anticipated to result from the commercial/industrial development (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 residential development; (f) the new School Facilities that will be required to serve such students; and (g) the cost of such School Facilities; and

WHEREAS, said Report pertaining to the Statutory School Fees and to the capital facilities needs of the District was made available to the public, as required by law, before the Board considered same at a regularly scheduled public meeting regarding the proposed Statutory School Fees; and

WHEREAS, all required notices of the proposed adoption of Statutory School Fees have been given; and

WHEREAS, a public hearing was held at a regularly scheduled meeting of the Board of the District relating to the proposed Statutory School Fees; and

WHEREAS, *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 Division 13 (commencing with Section 21000) of the Public Resources Code.

NOW, THEREFORE, be it resolved by the Board of the Irvine Unified School District as follows:

1. That the above recitals are true and correct.
2. That the Board accepts and adopts the Report.
3. That the Board finds that the purpose of the Statutory School Fees imposed upon residential development is to fund the construction and/or reconstruction of School Facilities as authorized pursuant to the School Fee Legislation which is required to serve the students generated by the residential development upon which the Statutory School Fees are imposed.
4. That the Board finds that the Statutory School Fees imposed on residential development 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 residential development within the District; and that subject to any limitations set forth in the School Fee Legislation, the use of the Statutory School Fees will include construction or acquisition of School Facilities, remodeling existing School Facilities, the addition of technology, and acquiring and installing additional portable classrooms and related School Facilities, with the specific location of new schools, remodeling of existing School Facilities, and additional portables to be determined based on the residence of the students being generated by such residential development, as well as any required central administrative and support facilities, within the District plus any studies authorized pursuant to Education Code Section 17620(a)(5).

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

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

7. That the Board finds that the amount of the Statutory School Fees levied on residential development 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 residential development within the District.

8. That the Board finds that the purpose of the Statutory School Fees imposed on new commercial/industrial development is to fund School Facilities required to serve the students generated by the new commercial/industrial development upon which the Statutory School Fees are imposed.

9. That the Board finds that the Statutory School Fees imposed on new commercial/industrial development (by category) will be used only to finance those School Facilities described in the Report and related documents and that subject to any limitations set forth in the School Fee Legislation, these School Facilities are required to serve the students generated by such new commercial/industrial development; and that the use of the Statutory School Fees will include construction or acquisition of additional School Facilities, remodeling existing School Facilities, the addition of technology, and acquiring and installing additional portable classrooms and related facilities, with the specific location of new schools, remodeling of existing School Facilities, and additional portables to be determined based on the residence of the students being generated by such new commercial/industrial development, as well as any required central administrative and support facilities within the District plus any studies authorized pursuant to Education Code Section 17620(a)(5).

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

11. That the Board finds that there is a roughly proportional, reasonable relationship between the commercial/industrial development 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 commercial/industrial development within the District and the District does not have student capacity in the existing School Facilities to accommodate these students.

12. That the Board finds that the amount of the Statutory School Fees levied on commercial/industrial development 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 commercial/industrial development within the District.

13. That the Board finds that a separate account has been established for the deposit of Statutory School Fees imposed on residential and commercial/industrial development and that said account has at all times since been separately maintained, except for temporary investments, from other funds of the District.

14. That the Board finds that the funds of the account, described in Section 13, 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 commercial/industrial development, and thus, these funds may be expended for those purposes. 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.

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

- (a) \$3.48 per square foot of assessable space for residential construction as set forth in Education Code Section 17620(a)(1)(B)(C) and (D), including new residential construction; other residential construction; and manufactured homes and mobile homes as authorized under Education Code Section 17625, except for any construction described in Government Code Sections 65995.1 or 65996.2 (“Seniors and Migrant Worker Housing”).
- (b) \$0.56 per square feet of assessable space (as defined in the School Fee Legislation) for Senior and Migrant Worker Housing.

16. That this Board hereby increases the Statutory School Fees as a condition of approval of commercial/industrial development projects and levies the Statutory School Fees on such development projects in the following amounts per square foot of chargeable covered and enclosed space (as defined in the School Fee Legislation):

- (a) \$0.56 per square foot for all categories of commercial/industrial development

17. That the proceeds of the Statutory School Fees established pursuant to this Resolution shall continue to be deposited into that account identified in Section 13 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 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.

18. That the Superintendent, or his or her designee, is directed to cause a copy of this Resolution to be delivered to the building official of the cities within the District's boundaries and the county 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 and county that new residential and commercial/industrial development is subject to the Statutory School Fees readopted and imposed pursuant to this Resolution and requesting that no building permit or approval for occupancy be issued by any of these entities for any residential development project, mobile home or manufactured home subject to the Statutory School Fees absent a certification from this District of compliance of such project with the requirements of the Statutory School Fees, nor that any building permit be issued for any non-residential development absent a certification from this District of compliance with the requirements of the applicable Statutory School Fees.

19. That the Board hereby establishes a process that permits the party against whom the commercial/industrial Statutory School Fees are imposed, the opportunity for a hearing to appeal that imposition of Statutory School Fees for commercial/industrial development as required by Education Code Section 17621(e)(2). The appeal process is 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 Statutory School Fees to be imposed or paying the commercial/industrial Statutory School Fees, pursuant to Education Code Section 17620, a party shall file a written request for a hearing regarding the imposition of commercial/industrial-Statutory School Fees. The party shall state in the written request the grounds for opposing the imposition of commercial/industrial Statutory School Fees and said written request shall be served by personal delivery or certified or registered mail to the Superintendent of the District.
- (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 Statutory School 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 Statutory School Fees, the Superintendent of the District, or his or her designee, shall give notice in writing of the date, place and time of the hearing to the party appealing the imposition of commercial/industrial Statutory School Fees. The Superintendent, or his or her designee, shall schedule and conduct said hearing within thirty (30) calendar days of receipt of

the written request. The Superintendent, or his or her 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 Statutory School Fees are imposed may appeal the Superintendent's, or his or her designee's, decision to the Board of the District.
- (e) The party appealing the Superintendent's, or his or her designee's decision, shall state in the written appeal the grounds for opposing the imposition of the commercial/industrial Statutory School Fees and said written appeal shall be served by personal delivery or certified or registered mail to the Superintendent of the District.
- (f) The possible grounds for that appeal to the Board of the District include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial/industrial Statutory School 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 Statutory School Fees, the Superintendent of the District, or his or her designee, shall give notice in writing of the date, place and time of the hearing to the party appealing the imposition of commercial/industrial Statutory School Fees. The Board of the District 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 Statutory School Fees shall bear the burden of establishing that the commercial/industrial-Statutory School Fees are improper.

20. That the Superintendent is authorized to cause a certificate of compliance to be issued for each development project, mobile home and manufactured home for which there is compliance with the requirement for payment of the Statutory School Fees in the amount specified by this Resolution. 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, then such certificate shall automatically terminate and the appropriate city shall be so notified.

21. That no statement or provision set forth in this Resolution, or referred to therein shall be construed to repeal any preexisting fee previously imposed by the District on any residential or nonresidential development. Notwithstanding the preceding, if the District adopts alternative school facilities fees for new residential construction pursuant to Government Code Sections 65995.5, 65995.6 and/or 65995.7 (“Alternative School Facilities Fees”), the District is hereby authorized to collect the Alternative School Facilities Fees in lieu of the Statutory School Fee with respect to new residential construction. If the Alternative School Facilities Fees should lapse or be terminated, then the Statutory School Fees shall be collected for new residential construction at the amount set forth in this Resolution.

22. That the adoption of 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.

ADOPTED, SIGNED AND APPROVED this 15th day of March, 2016.

President of the Board of Education
Irvine Unified School District

Clerk of the Board of Education
Irvine Unified School District

STATE OF CALIFORNIA)
) ss.
COUNTY OF Orange)

I, Ira Glasky, Clerk of the Governing Board of the Irvine Unified School District, do hereby certify that the foregoing Resolution was adopted by the Governing Board of said District at a meeting of said Board held on the 15th day of March 2016, that the same has not been rescinded, amended or repealed, and that it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Clerk of the Board of Education
Irvine Unified School District