

RESOLUTION NO. 15-16-40

RESOLUTION OF THE BOARD OF EDUCATION OF THE IRVINE UNIFIED SCHOOL DISTRICT AUTHORIZING THE EXECUTION AND DELIVERY OF A SECOND AMENDMENT TO MITIGATION AGREEMENT (THE IRVINE COMPANY)

WHEREAS, The Irvine Company LLC and Irvine Community Development Company LLC (collectively, the “Developers”) are the owners of certain property within City of Irvine Planning Areas 1, 5B, 6, 8A, 9A, 9B, 9C-1, 9C-2, 18, 39 and 40 (the “Communities”);

WHEREAS, the Developers plan on developing the Communities with new construction of residential dwelling units and non-residential facilities (the “Project”);

WHEREAS, the Irvine Unified School District (the “School District”), Community Facilities District No. 86-1 of the Irvine Unified School District (“CFD No. 86-1”), Irvine Unified School District Community Facilities District No. 04-1 (Northwood) (“CFD No. 04-1”), Irvine Unified School District Community Facilities District No. 04-2 (Woodbury) (“CFD No. 04-2”), Irvine Unified School District Community Facilities District No. 06-1 (Portola Springs) (“CFD No. 06-1”), Irvine Unified School District Community Facilities District No. 07-1 (Stonegate) (“CFD No. 07-1”), Irvine Unified School District Community Facilities District No. 08-1 (Stonegate Apartments) (“CFD No. 08-1”), Irvine Unified School District Community Facilities District No. 09-1 (“CFD No. 09-1”) and the Developers entered into a Mitigation Agreement dated August 31, 2009, which Mitigation Agreement was amended by a First Amendment to Mitigation Agreement dated July 21, 2011 (“Irvine Company Mitigation Agreement”);

WHEREAS, pursuant to the Irvine Company Mitigation Agreement, IUSD has established CFD No. 09-1 in order to fully mitigate the IUSD school facilities impacts of the development of the Project;

WHEREAS, the following school facilities described in the Irvine Company Mitigation Agreement have been fully funded and/or completed:

(i) the PA 40 ES (Cypress Village ES) has been constructed and opened but new portable or modular classrooms necessary to house up to 100 additional students remain to be acquired;

(ii) the Portola Springs ES No. 1 has been constructed and opened but new portable or modular classrooms necessary to house up to 250 additional students remain to be acquired;

(iii) the acquisition of the PA 5B ES (Eastwood ES) school site has been completed; and

(iv) the New High School (Portola High School) is funded and under construction.

WHEREAS, the School District, CFD No. 86-1, CFD No. 04-1, CFD No. 04-2, CFD No. 06-1), CFD No. 07-1, CFD No. 08-1, CFD No. 09-1 and the Developers have now negotiated the terms of, have caused to be prepared and desire to enter into a Second Amendment to the Irvine Company Mitigation Agreement which will amend the Irvine Company Mitigation Agreement to, among other things:

(i) redefine the Developers' development project to include 1,069 more residential dwelling units, all of which shall be built in CFD No. 09-1;

(ii) add certain school facilities to the list of facilities to be funded and constructed in order to accommodate the additional project students that may be generated by such additional residential dwelling units, and which will help address existing peak student housing issues being experienced by IUSD;

(iii) require Developers to reserve an elementary school site in PA 39 (Los Olivos development area) through 2020 for possible future acquisition, in addition to the reserved site located in PA 6 for IUSD's Portola Springs Elementary School No. 2 project which IUSD agrees to acquire by June 2017, or as soon thereafter as feasible;

(iv) allow IUSD to prioritize the costs associated with the acquisition of the PA 39 School Site (Los Olivos development area) and the construction of an elementary school thereon, ahead of modernization of other District facilities; and

(v) to specify the process for addressing the impacts, if any, of the subsequent entitlement of future additional residential dwelling units after the date of this proposed Second Amendment.

WHEREAS, a form of the proposed Second Amendment to the Irvine Company Mitigation Agreement has been prepared and submitted to this meeting;

WHEREAS, the Board of Education desires to authorize the execution of the Second Amendment to the Irvine Company Mitigation Agreement by the School District, CFD No. 86-1, CFD No. 04-1, CFD No. 04-2, CFD No. 06-1, CFD No. 07-1, CFD No. 08-1 and CFD No. 09-1;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Education of the Irvine Unified School District, as follows:

Section 1. The above recitals are true and correct, and the Board of Education so finds and determines.

Section 2.

(a) The Second Amendment to the Irvine Company Mitigation Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. Each of the President of the Board of Education,

and such other members of the Board of Education as the President may designate, the Superintendent of the School District and the Assistant Superintendent, Business Services of the School District, and such other officer or employee of the School District as the Superintendent may designate (the "Authorized Officers"), is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the School District to execute and deliver the Second Amendment to the Irvine Company Mitigation Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Second Amendment to the Irvine Company Mitigation Agreement by such Authorized Officer.

(b) Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of CFD No. 86-1 to execute and deliver the Second Amendment to the Irvine Company Mitigation Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Second Amendment to the Irvine Company Mitigation Agreement by such Authorized Officer.

(c) Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of CFD No. 04-1 to execute and deliver the Second Amendment to the Irvine Company Mitigation Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Second Amendment to the Irvine Company Mitigation Agreement by such Authorized Officer.

(d) Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of CFD No. 04-2 to execute and deliver the Second Amendment to the Irvine Company Mitigation Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Second Amendment to the Irvine Company Mitigation Agreement by such Authorized Officer.

(e) Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of CFD No. 06-1 to execute and deliver the Second Amendment to the Irvine Company Mitigation Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Second Amendment to the Irvine Company Mitigation Agreement by such Authorized Officer.

(f) Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of CFD No. 07-1 to execute and deliver the Second Amendment to the Irvine Company Mitigation Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer

executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Second Amendment to the Irvine Company Mitigation Agreement by such Authorized Officer.

(g) Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of CFD No. 08-1 to execute and deliver the Second Amendment to the Irvine Company Mitigation Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Second Amendment to the Irvine Company Mitigation Agreement by such Authorized Officer.

(h) Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of CFD No. 09-1 to execute and deliver the Second Amendment to the Irvine Company Mitigation Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Second Amendment to the Irvine Company Mitigation Agreement by such Authorized Officer.

Section 3. The Authorized Officers and the officers and employees of the School District are, and each of them is, hereby authorized and directed, for and in the name of the School District, CFD No. 86-1, CFD No. 04-1, CFD No. 04-2, CFD No. 06-1, CFD No. 07-1, CFD No. 08-1 and CFD No. 09-1, respectively, to do any and all things and to execute and deliver any and all documents which they or any of them deem necessary or advisable in order to consummate the actions contemplated by this Resolution and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution.

Section 4. All actions heretofore taken by the officers and employees of the School District in connection with or related to any of the actions contemplated by this Resolution are hereby approved, confirmed and ratified.

Section 5. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED by the Board of Education of the Irvine Unified School District on May 3, 2016.

President of the Board of Education
of the Irvine Unified School District

ATTEST:

Clerk of the Board of Education
of the Irvine Unified School District

CERTIFICATE OF CLERK

I, _____, Clerk of the Board of Education of the Irvine Unified School District, hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted at a special session meeting of the Board of Education of the Irvine Unified School District duly and regularly held on May 3, 2016, of which meeting all of the members of said Board had due notice and at which a majority thereof were present; and that at said meeting said resolution was adopted by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

An agenda of said meeting was posted at least 24 hours before said meeting at 5050 Barranca Parkway, Irvine, California, a location freely accessible to members of the public, and a brief general description of said resolution appeared on said agenda.

I further certify that I have carefully compared the same with the original minutes of said meeting on file and of record in my office; that the foregoing resolution is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes; and that said resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

Dated: _____, 2016

Clerk of the Board of Education
of the Irvine Unified School District