

**RESOLUTION OF THE GOVERNING BOARD
OF THE _____ SCHOOL DISTRICT
REGARDING SCHOOL FACILITIES FEES**

1. Authority and Reasons for Adopting Resolution.

a. This Board has adopted a resolution levying school facilities fees under Education Code section 17620 and has subsequently adopted resolutions increasing the amount of those fees as authorized in that section. Those resolutions are incorporated by reference into this Resolution. It is appropriate at this time to review the findings made in those resolutions to determine if it is still necessary to levy fees under Education Code section 17620 and, if so, at what levels;

b. The State Allocation Board determined the adjustment for inflation in the statewide cost index for Class B construction at its January 2004 meeting, by which fees imposed under Education Code section 17620 may be changed; and

c. This Board has conducted a public hearing on the issues referred to above at a duly noticed public meeting, during which this Board received and considered evidence on these issues, including a report from its Superintendent analyzing the capital facilities needs of the District and the revenue sources available. That report indicates that the District is overcrowded and that it is both necessary and appropriate to continue levying fees under the authority of section 17620 in the amounts set forth below. That report is attached as Exhibit "A" and is incorporated by reference.

2. What This Resolution Does.

This Resolution updates, amends, and confirms prior resolutions on school facilities fees and increases fees to be assessed on residential, commercial, and industrial construction projects pursuant to Education Code section 17620.

3. Levying of Fees Exempt From CEQA.

Based on its earlier Resolutions and pursuant to Education Code section 17621(a), this Board finds again that the levying of fees pursuant to Education Code section 17620 is exempt from the provisions of the California Environmental Quality Act (CEQA).

4. Exemptions From Fees.

a. This Board recognizes that various categories of residential, commercial, or industrial construction as well as individual construction projects are or will be exempted from fees imposed under Education Code section 17620 by such statutory provisions as Education Code sections 17621, et seq., Government Code sections 50076, 65995, et seq., 66000, et seq., and judicial decisions.

b. In compliance with statutory and decisional law, and pursuant to Government Code sections 66008-66009 and Education Code sections 17621(e) and 35014, this Board has

adopted the procedures, criteria, and definitions contained in this Board's "Resolution Regarding School Facilities Fees Exemption Procedures," as amended.

c. By adopting these criteria and procedures, this Board has ensured that no fees will be levied upon any individual construction project without the project's proponent being afforded an opportunity for individualized review by this Board of the propriety of imposing fees on that project and, as to commercial or industrial construction projects, for the findings required by Government Code section 66001(a) and (b) to be made on an individual project basis as provided in Education Code section 17621(e)(1).

5. School Facilities Fees Are Necessary and Reasonable.

Based on all of the above, the findings and evidence contained in the Board's earlier Resolutions on this subject, and the evidence presented to this Board at the hearing and in Exhibit "A," this Board confirms its earlier Resolutions, adopts the findings and conclusions set forth in Exhibit "A" as its own, and finds each of the following:

a. The purpose of the fees adopted and confirmed in this Resolution is to fund the construction or reconstruction of school facilities;

b. These fees will be used to fund the construction or reconstruction of school facilities needed to reduce overcrowding which exists in the District and impairs the normal functioning of educational programs;

c. The overcrowding to be reduced by use of these fees exists because the enrollment projected to result from continuing residential, commercial, or industrial construction exceeds the capacity of the District to provide adequate housing;

d. The amount of fees to be paid pursuant to this Resolution bears a reasonable relationship and is limited to the needs of the community for elementary or high school facilities and is reasonably related and limited to the need for schools caused by residential, commercial, or industrial construction; and

e. The amount of fees to be paid pursuant to this Resolution does not exceed the estimated reasonable costs of providing for the construction or reconstruction of school facilities necessitated by the construction projects from which the fees are to be collected.

6. Adoption and Confirmation of Fees.

a. Based on all of the above, the findings and evidence contained in the Board's earlier Resolutions on this subject, and the evidence presented to the Board at the hearing and in Exhibit "A," this Board adopts and levies the following increased fees for the purpose of funding the construction or reconstruction of school facilities upon residential construction projects within the boundaries of the District.

(1) \$2.24 per square foot of assessable space of all new residential construction and of all other residential construction to the extent of any resulting increase in assessable space in excess of 500 square feet; or

(2) Any lesser amount as may be determined pursuant to the procedures, criteria, and definitions contained in the Resolution referred to in 4b above.

b. Based on all of the above, the findings and evidence contained in the Board's earlier Resolutions on this subject, and the evidence presented to the Board at the hearing and in Exhibit "A," this Board adopts and levies the following increased fees for the purpose of funding the construction or reconstruction of school facilities upon commercial or industrial construction projects within the boundaries of the District:

(1) \$.36 per square foot of all chargeable covered and enclosed space of any new commercial or industrial construction not within a category expressly exempted by this Board in the Resolution referred to in 4 above; or

(2) Any lesser amount as may be determined pursuant to the procedures, criteria, and definitions contained in the Resolution referred to in 4b above.

c. This Board determines that the fees to be levied will be collected for public improvements or facilities for which an account has been established and funds appropriated, and for which this Board has adopted a proposed construction schedule or plan. Based on this determination, and pursuant to Government Code section 66007, this Board orders that payment of the fees specified above will be required prior to issuance of a building permit. This Board will review the facilities fee account every fiscal year, and if the District has unexpended or uncommitted fees within five (5) years of collection, this Board will either make the findings required by Government Code section 66001 or direct the refund of the fees.

d. Pursuant to Government Code section 65995(b)(3), these rates shall be increased each even numbered calendar year according to the adjustment for inflation set forth in the statewide cost index for Class B construction, as determined by the State Allocation Board at its January meeting.

e. This Board directs its Superintendent to give notice of this Board's action to the agencies responsible for issuance of permits by transmitting a copy of this Resolution to them accompanied by all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fees described above. This Board requests that no building or similar permits for residential, commercial, or industrial construction be issued from July 1, 2004, without certification from the District that either (1) the fees specified here have been paid, or (2) the construction for which the permit is sought is exempt from those fees by operation of law, or pursuant to the Board's finding pursuant to its Resolution regarding school facilities fees exemption procedures, that there is no relationship, or that there is a reduced relationship, between that construction and the needs of the community for elementary and high school facilities. Until that date, the Board requests compliance with its prior Resolution(s) on this subject.

7. Allocation of Fee Revenue.

This District has been informed by other district(s) sharing territory with it that it (they) too is (are) overcrowded and intend(s) to levy, or continue to levy, fees pursuant to Education Code section 17620. Because these fees are limited by law to a maximum of \$2.24 per square foot of residential construction and \$.36 per square foot of commercial/industrial construction for K-12 school facilities, Education Code section 17623 provides in these cases that the districts involved shall enter into an agreement specifying the allocation of fee revenue and the duration of the agreement. Exhibit "C," which is attached and incorporated by reference, is a proposed agreement to allocate the revenues of those district(s). This Board finds that the allocation of the fee revenues contained in the agreement attached as Exhibit "C," as well as the method of effectuating that allocation, is both fair and reasonable and authorizes the Superintendent to execute that memorandum on its behalf. The Superintendent (or designee) is directed to transmit a copy of that agreement to the State Allocation Board.

8. Superintendent Authorized to Take Necessary and Appropriate Action.

The Board further directs and authorizes the Superintendent to take further action on its behalf as necessary and appropriate to effectuate this Resolution.

9. Certification of Resolution.

I, _____, _____ of the Governing Board of the _____ School District of the County of _____, State of California, certify that this Resolution proposed by _____, seconded by _____, was duly passed and adopted by said Board at an official and public meeting on _____, 2004, by the following vote:

AYES:

NOES:

ABSENT:

_____ of the Governing Board
of the _____ School
District of _____ County,
California

VERSION 1

7. Allocation of Fee Revenue.

This District has been informed by other district(s) sharing territory with it that it (they) too is (are) overcrowded and intend(s) to levy, or continue to levy, fees pursuant to Education Code section 17620. Because these fees are limited by law to a maximum of \$2.24 per square foot of residential construction and \$.36 per square foot of commercial/industrial construction for K-12 school facilities, Education Code section 17623 provides in these cases that the districts involved shall enter into an agreement specifying the allocation of fee revenue and the duration of the agreement. This District has entered into such an arrangement which is to remain in effect at least until June 30, 2005.

8. Superintendent Authorized to Take Necessary and Appropriate Action.

The Board further directs and authorizes the Superintendent to take further action on its behalf as necessary and appropriate to effectuate this Resolution.

9. Certification of Resolution.

I, _____, _____ of the Governing Board of the _____ School District of the County of _____, State of California, certify that this Resolution proposed by _____, seconded by _____, was duly passed and adopted by said Board at an official and public meeting on _____, 2004, by the following vote:

AYES:

NOES:

ABSENT:

_____ of the Governing Board
of the _____ School
District of _____ County,
California

VERSION 2

7. Superintendent Authorized to Take Necessary and Appropriate Action.

The Board further directs and authorizes the Superintendent to take further action on its behalf as necessary and appropriate to effectuate this Resolution.

8. Certification of Resolution.

I, _____, _____ of the Governing Board of the _____ School District of the County of _____, State of California, certify that this Resolution proposed by _____, seconded by _____, was duly passed and adopted by said Board at an official and public meeting on _____, 2004, by the following vote:

AYES:

NOES:

ABSENT:

_____ of the Governing Board
of the _____ School
District of _____ County,
California

VERSION 3

EXHIBIT "A"

[Report of the Superintendent analyzing the capital facilities needs of the District and the revenue sources available]