Resolution 14-07

Before the Governing Board of Trustees of the San Leandro Unified School District, Alameda County California Regarding Adopting Development Fees on Residential and Commercial and Industrial Development to Fund the Construction or Reconstruction of School Facilities

WHEREAS, Education Code section 17620 et seq. and Government Code section 65995, authorize the governing board of any school district to levy a fee, charge, dedication, or other form of requirement (hereinafter "fee" or "fees"), in the maximum amounts specified therein, against residential, commercial and industrial development projects occurring within the boundaries of the district (hereinafter "development"), for the purpose of funding the construction or reconstruction of school facilities; and

WHEREAS, this Board has previously resolved to levy fees on development projects pursuant to this authority; and

WHEREAS, Government Code section 65995 provides that the maximum fees which may be levied on development projects shall be increased in 2000 and every two years thereafter according to the adjustment for inflation set forth in the statewide cost index for Class B construction as determined by the State Allocation Board "SAB" and to become effective at its January meeting; and

WHEREAS, the SAB at its January 22, 2014 meeting, set the maximum fee to $3.36 per square foot for residential development and to $0.54 per square foot for commercial/industrial development; and

WHEREAS, the new Fees are an increase of what is currently being collected by San Leandro Unified School District. A copy of the Study is attached hereto, marked Exhibit "A," and incorporated herein by this reference; and

WHEREAS, in the judgment of this Board it is necessary and appropriate, and in the best interests of the District and its students, to levy fees for the purpose of funding the construction or reconstruction of school facilities necessary to serve the students generated by new development occurring within the District;

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by this Board as follows:

1. The foregoing recitals are true and correct.

2. This Board approves and adopts the Study and recommendation of the District Superintendent, or designee, to levy fees in the maximum amounts authorized on new residential, commercial and industrial development that occurs within the District, and based upon the Study and recommendations, and upon all other written and oral information presented to this Board concerning this matter, makes the following findings:

    A. The purpose of the fees is to finance the construction and reconstruction of school facilities in order to provide adequate school facilities for the students of the District who will be generated by new residential and commercial/industrial development taking place in the District;

    B. The construction or reconstruction of school facilities is necessary to mitigate student overcrowding which exists, or is projected to exist in the District, for the following reasons:

        (1) New residential and commercial and industrial development is projected to occur within the District within the next five years which will generate additional school-aged children;
        (2) Additional students projected from new development may exceed the capacity of existing school facilities although the District is fully utilizing all existing school facilities to the extent deemed educationally feasible;
        (3) Existing school facilities in the District are in need of, or will be in need of, reconstruction or modernization. New development will generate students who will attend District schools and be housed in existing facilities. These students cannot be housed without maintaining existing school facilities, ultimately making reconstruction or modernization of such facilities necessary;
        (4) Both existing students and new students generated by future development occurring within the district will need to be housed and served in existing school facilities, as well as new and additional school facilities necessary to serve the increasing student population.
        (5) As commercial and industrial development occurs, new jobs are created. Many of the people hired for these jobs move into the community, thereby increasing the need for residential development which generates additional students adding to

the impact on the school facilities of the District. The maximum fee that can be levied against residential development is insufficient to cover the full cost of the new or reconstructed school facilities needed by the district to house students generated from new residential development, and therefore justifies a separate fee against commercial and industrial development in the maximum amount allowed by law.

C. Without the addition of new school facilities and/or the reconstruction and modernization of existing facilities, the District will be unable to adequately house and serve additional students generated by new development which will impair or adversely impact the normal functioning of educational programs and services of the District;

D. The District has no, or limited revenue sources available for funding the construction or reconstruction of school facilities attributable to new development;

E. The fees adopted herein bear a reasonable relationship to the need for, and the estimated cost of, the construction or reconstruction of school facilities attributable to the type of new development on which the fees will be imposed;

F. The cost of providing for the construction and/or reconstruction of school facilities attributable to the type of new development occurring in the District will exceed the revenues reasonably anticipated from fees;

G. Existing students will benefit from the use of developer fees for new school facilities. Conversely, students generated from new development will occupy existing school facilities and will benefit from the use of fees to reconstruct or modernize those facilities. Therefore, it is appropriate to use developer fees for existing facilities to the extent of the estimated use of such facilities by students generated by new development.

3. Based on the foregoing, this Board hereby determines:

A. To levy a fee on any new or on other residential development, as described in Education Code § 17620(a), occurring within the District, in the maximum amount currently authorized by law of $3.36 per square foot of assessable space as such space is defined in Government Code § 65995(b)(1).

B. To levy a fee on categories of new commercial or industrial development, as described in Education Code § 17620(a), occurring within the boundaries of the District, in the maximum amount currently authorized by law of $0.54 per square foot of chargeable covered and enclosed space as such space is defined in Government Code § 65995(b)(2), except for Rental Self-Storage projects in which a fee of **$0.10** per square foot is justified.

4. The fee provisions of this Resolution are not exclusive, and this Board specifically reserves authority to undertake other or additional methods to finance school facilities in partial or complete substitution for, or in conjunction with, the fee provisions set forth therein, as authorized by law. This Board reserves the authority, in its discretion, to substitute the dedication of land or other form of requirement in lieu of fees to be levied pursuant to this Resolution.

5. The District intends to utilize fees for new construction of school facilities, reconstruction or modernization of existing facilities, purchase, lease or lease-purchase of portable or relocatable classrooms and related facilities as interim school facilities to house students pending the construction of permanent facilities, or the purchase, lease or lease-purchase of land for school facilities. This includes all associated costs to plan and execute school facilities projects including, but not limited to, architectural and engineering costs, testing and inspection costs, permits and plan checking, and other administrative costs related to the provision of school facilities. Construction, reconstruction or modernization of school facilities includes, but is not limited to, classrooms and equipment and furnishings for classrooms, and all other reasonable and customary auxiliary, accessory, adjunct, or other supportive facilities for classrooms such as restrooms, gymnasiums, administrative offices, cafeterias, libraries, multi-purpose rooms, maintenance and storage rooms, walkways, overhangs, parking lots, landscaping, and all other similar facilities. Finally, fees may be used for studies and reports necessary to make the findings and determinations required by law for the collection of fees which may include the school facilities needs analysis described in Government Code section 65995.6, for reimbursement of administrative costs to collect fees, and for such other purposes consistent with the purpose and intent of this Resolution, or authorized by law, or deemed necessary or appropriate by this governing board.

6. The Superintendent, or designee, is authorized to certify compliance of a particular development project with the fee or other requirement levied by this Board, or to certify where appropriate that a project is fully or partially exempt from fees in appropriate circumstances. Any certification of compliance for a particular residential construction project is expressly

conditioned upon the continued satisfaction by that project of the requirements for that certification and failure to meet those requirements in the future may result in the revocation of such certification and enforcement of the appropriate fee requirement for the project.

7. Pursuant to Education Code § 17621(c), this board determines that the fee levied on residential development is not subject to the restrictions set forth in subdivision (a) of Government Code § 66007 and, pursuant to Education Code § 17620(b), shall be collected at the time of issuance of the building or similar permit required for a particular development project.

8. Pursuant to Government Code section 66001(d), the Superintendent or his designee shall review the Fund established pursuant to this Resolution for the fifth fiscal year following the first deposit of fees in the Fund, and every five years thereafter, and with respect to any portion of a fee remaining unspent five or more years after deposit, the Superintendent or his designee shall report to this Board which shall either make the findings required by section 66001(d) for said unspent fees, or direct the refund of such fees in the manner provided in 66001(e) and (f).

9. Pursuant to Government Code section 66001(e), the Superintendent or designee, shall advise this board whenever it appears sufficient fees have been collected to complete financing on incomplete public improvements that have been identified in the Study. This board shall then make a determination whether or not sufficient fees have been collected for a particular project, and when a determination is made by this board that sufficient fees have been collected, this Board shall identify, within 180 days of the determination, an approximate date by which the construction of the public improvement will be commenced, or shall refund the fees as provided in said section, unless the provisions of section 66001(f) are deemed to apply.

10. The fees adopted herein are effective sixty (60) days after the approval of this Resolution.

11. The Superintendent or his designee is hereby authorized and directed to do the following:

    A. As required by Government Code § 66006(a), to establish a separate capital facilities fund (herein "Fund") into which the fees received by the District shall be deposited and shall not be commingled with other revenues and funds of the District. The fees, and any interest earned thereon, shall be expended only for the purpose of funding the construction or reconstruction of school facilities or such other purposes as are permitted by law and authorized by this Board.

B. If applicable, negotiate agreements with other school district(s) with common territorial boundaries ensuring that the total fees collected by each school district does not exceed the maximum fees allowed by law for residential and commercial and industrial development and providing for an equitable division of the fees with such other school district(s). As required by Education Code section § 17623(a), copies of such agreement(s) shall be transmitted to the State Allocation Board, and shall also be sent to any county or city planning agency which is calculating or collecting fees on behalf of the District.

C. Take such further action as is necessary or appropriate to carry out the purpose and intent of this Resolution.

I, Mike McLaughlin, Ed.D., Secretary to the Board of Trustees of the San Leandro Unified School District, do hereby certify that the foregoing Resolution was proposed by Board member _____, seconded by Board member _____, and was duly passed and adopted, by vote of said Board, at an official and public meeting thereof held on February 25, 2014, as follows:

AYES:

NOES:

ABSENT:

ABSTAIN:

Date:_____ By:_____
President, Governing Board of the
San Leandro Unified School District

ATTEST:

_____
Secretary of the Board of Education
San Leandro Unified School District