RESOLUTION NO. 20-04

RESOLUTION OF THE BOARD OF TRUSTEES OF SAN LEANDRO UNIFIED SCHOOL DISTRICT MAKING FINDINGS AND DETERMINATIONS REGARDING USE OF REDEVELOPMENT AGENCY PASS-THROUGH PAYMENTS RECEIVED PURSUANT TO AB 1290

WHEREAS, former redevelopment agencies ("RDAs") were dissolved on February 1, 2012 pursuant to the provisions of ABX1 26 ("RDA Dissolution Law") and replaced by corresponding successor agencies ("Successor Agencies") charged with the wind-down of former RDA activities; and

WHEREAS, notwithstanding the dissolution of RDAs, the RDA Dissolution Law requires that pass-through payments ("RDA Pass-Throughs") from redevelopment project areas or added areas ("Projects") of the former RDAs continue to be paid to affected taxing entities ("ATEs") by the County Auditor-Controller ("A-C") on behalf of the Successor Agencies; and

WHEREAS, San Leandro Unified School District ("District") is an ATE entitled to receive RDA Pass-Throughs for six Projects within the District from the Alameda County A-C on behalf of three Successor Agencies; and

WHEREAS, three former RDAs of the County of Alameda, City of Oakland, and City of San Leandro previously adopted or amended redevelopment plans for four of the six Projects within the District in a manner that requires annual statutory RDA Pass-Throughs to the District per AB 1290 ("AB 1290 Pass-Throughs") pursuant to Health and Safety Code ("HSC") Sections 33607.5 and/or 33607.7; and

WHEREAS, the four Projects for which the District is entitled to receive AB 1290 Pass-Throughs include one of two Projects of the former County RDA, one of nine Projects of the former Oakland RDA, and two of eight Projects of the former San Leandro RDA; and

WHEREAS, pursuant to HSC Section 33607.5(a)(4)(A), 43.3 percent ("Taxes Share") "shall be considered to be property taxes" and 56.7 percent ("Facilities Share") of AB 1290 Pass-Throughs to the District "shall be available to be used for educational facilities, including, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance"; and

WHEREAS, pursuant to Education Code ("EC") Section 42238(h)(6), the District is not required to report as property taxes for offset against State Aid any amount of RDA Pass-Throughs "received pursuant to Section 33401 or 33676. . . or paragraph (4) of subdivision (a) of Section 33607.5, or Section 33607.7 of the Health and Safety Code . . . that is used for land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance [or that is] allocated exclusively for educational facilities"; and

WHEREAS, the District is advised that (i) the cost of "educational facilities" includes the following capital project or facilities costs: site acquisition; hard costs of new construction, reconstruction, modernization, or deferred maintenance; soft costs (including facilities planning, design and engineering, consultant, legal, and related advocacy costs); costs of fixtures, furnishings, and equipment; related debt service, lease, or lease purchase payments; and/or costs funded from the ongoing and major maintenance account ("OMMA") and/or restricted routine maintenance account ("RRMA"); and

WHEREAS, pursuant to HSC Section 33607.5(a)(5) "local education agencies that use [the Facilities Share of AB 1290 Pass-Throughs] received pursuant to this section for school facilities shall spend these funds at schools that are: (A) within the Project area, (B) attended by students from the Project area, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, ***or (D) determined by the governing board of a local education agency to be of benefit to the Project area"*** (***emphasis added***); and

WHEREAS, for school facilities the geographic usage restrictions in HSC Section 33607.5(a)(5) constitute alternative requirements, including (D) in the previous recital, i.e., determination by the governing board of benefit to the Project, even in the absence of compliance with (A), (B), or (C) in the previous recital; and

WHEREAS, the District is advised that the geographic usage restrictions in HSC Section 33607.5(a)(5) do not apply to non-AB 1290 Pass-Throughs, including (i) statutory inflationary Pass-Throughs ("2 Percent Pass-Throughs") per former HSC 33676 which the District is entitled to receive for one Project of the former San Leandro RDA; and (ii) contractual Pass-Throughs ("Agreement Pass-Throughs") per former HSC 33401 which the District is entitled to receive a joint Project of the former County RDA and San Leandro RDA (none of which have geographic usage restrictions); and

WHEREAS, the District's existing facilities ("Existing District Sites") serve students and residents who live, work, or live and work, throughout the District, including in the six Projects of the above three Successor Agencies; and

WHEREAS, in the future the District may, lease, acquire, and/or construct additional educational facilities ("Future District Sites"), which will be attended by at least some students and residents who live, work, or live and work throughout the District, including in the six Projects of the above three Successor Agencies; and

WHEREAS, existing District Sites, plus any Future District Sites, are part of an integrated District master plan for school district facilities and attendance and/or improvements at Existing District Sites or Future District Sites will impact, directly or indirectly, all students, city residents, including some of those in the four Projects of the above three Successor Agencies, and the need for improvements at all Existing District Sites or Future District Sites; and

WHEREAS, the District is advised that geographic usage restrictions in HSC Section 33607.5(a)(5) may only apply to educational facilities that are school facilities attended by students, and may not apply to educational facilities that are not attended by students; and

WHEREAS, the District currently operates eight elementary schools, two middle schools, one comprehensive high school, and three independent study, alternative education, or adult education schools attended by students, as well as educational facilities not attended by students; and

WHEREAS, the District wishes to comply with the geographic usage restrictions in HSC Section 33607.5(a)(5) with respect to all AB 1290 Pass-Throughs to the District and all the educational facilities of the District;

NOW, THEREFORE, **BE IT RESOLVED** as follows**:**

Section 1. **Recitals.** The forgoing recitals are true and correct.

Section 2. **AB 1290 Pass-Throughs Are of Benefit to All Projects.** The Facilities Share of AB 1290 Pass-Throughs which the District has been entitled to receive in the past, is currently entitled to receive, or may be entitled to receive in the future, from the four Projects of the above three Successor Agencies, which are used to pay the cost of educational facilities as set forth above are hereby determined to be of benefit to all four AB 1290 Projects of both Successor Agencies, consistent with the requirements of HSC Section 33607.5(a)(5).

Section 3. **Use of Pass-Throughs**: The Facilities Share of AB 1290 Pass-Throughs which the District has been entitled to receive in the past, is currently entitled to receive, or may be entitled to receive in the future, from four Projects of the above two Successor Agencies may be used to pay for the cost of educational facilities at Existing District Sites or Future District Sites located anywhere within the District, whether or not attended by students, consistent with the requirements of EC Section 42238(h)(6), as well as EC Sections 42238.02(j)(6), and 42238.03(c)(6).

Section 4. **Ratification.** The above findings and determination are intended to ratify all prior decisions by the District regarding use of AB 1290 Pass-Throughs as being in compliance with this Resolution, as well as govern all current and future decisions regarding use of AB 1290 Pass-Throughs.

Section 5. **Effective Date.** This Resolution shall take effect on and after its adoption.

* * * * * * * *

The foregoing Resolution was adopted by the Board of Trustees of the San Leandro Unified School District of Alameda County, being the Board authorized by law to make the designations therein contained by the following vote, on January 14th, 2020.

Adopted by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
President of the Board

Attest:

_____
Clerk of the Board