

**CALEXICO UNIFIED SCHOOL DISTRICT**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING AND ADOPTING THE SCHOOL FACILITIES NEEDS  
ANALYSIS AND JUSTIFICATION STUDY AND  
AUTHORIZING THE ALTERNATIVE SCHOOL FACILITY FEES**

WHEREAS, the Board of Trustees ("Board") of the Calexico Unified School District ("District") provides for the educational needs of students in grades kindergarten through 12 within the District.

WHEREAS, new residential construction continues to generate additional students for the District's existing schools, and the District is legally required to provide school facilities to accommodate those students.

WHEREAS, the developer fee statutes of Education Code section 17620, *et seq.*, and Government Code section 65995, *et seq.*, authorize the District to levy a fee against residential, commercial, and industrial construction within its boundaries for the purpose of funding the construction of the District's school facilities.

WHEREAS, Government Code section 65995.5 provides that in lieu of a residential fee imposed under Government Code section 65995, subdivision (b)(1), a school district may impose alternative fees (Level 2 or Level 3 fees) on residential construction, including, without limitation, new residential construction, additions/remodels to existing homes, residential reconstruction, and manufactured homes and mobile homes as authorized by applicable law ("Residential Construction") in amounts calculated pursuant to Section 65995.5, subdivision (c) and 65995.7.

WHEREAS, pursuant to Government Code section 65995.5, subdivision (b), in order to be eligible to impose alternative fees, a school district is required to do all of the following:

- 1) Make a timely application to the State Allocation Board ("SAB") for new construction funding and be deemed by SAB to meet the eligibility requirements for new construction funding;
- 2) Conduct and adopt a School Facilities Needs Analysis ("SFNA") pursuant to Government Code section 65995.6; and
- 3) Satisfy at least two of the requirements set forth in subparagraphs (A) to (D) of Government Code section 65995.5, subdivision (b)(3).

WHEREAS, the District has made a timely application to the SAB and been deemed by the SAB to meet the requirements for new construction funding.

WHEREAS, the District has conducted a SFNA as specified by Government Code section 65995.5.

WHEREAS, the District satisfies the following two requirements of subparagraphs (C) and (D) of Government Code section 65995.5, subdivision (b)(3):

- a. The District has satisfied the requirements of Government Code section 65995.5, subdivision (b)(3)(C)(ii), in that the District has issued debt or incurred obligations

for capital outlay in an amount greater than thirty percent (30%) of its local bonding capacity.

- b. The District meets the requirement of Government Code section 65995.5, subdivision (b)(3)(D), in that at least twenty percent (20%) of the teaching stations within the District are relocatable classrooms.

WHEREAS, the District is authorized to charge and collect alternative Level 3 fees amounts pursuant to Government Code section 65995.7 when the conditions set forth in Government Code section 65995.7(a) have been satisfied, specifically if state funds for new school facility construction are not available as determined by the SAB. For purposes of Government Code section 65995.7(a), state funds are not available if the SAB is no longer approving apportionments for new construction pursuant to Article 5 (commencing with Section 17072.20) of Chapter 12.5 of Part 10 of the Education Code due to a lack of funds available for new construction.

WHEREAS, at its regular meeting on May 25, 2019, the SAB made the finding that, pursuant to Government Code section 65995.7, state funds for new construction are no longer available and that the SAB is no longer approving apportionments for new construction pursuant to Article 5, Chapter 12.5 of Part 10 of the Education Code, due to lack of funds for this purpose, thereby authorizing qualifying school districts to begin to impose Level 3 alternative fees, if they so choose, and also moved that the Secretary of the Senate and the Chief Clerk of the Assembly be notified that this determination was made on May 25, 2019.

WHEREAS, on November 1, 2019, the SAB notified the Secretary of the Senate and the Chief Clerk of the Assembly of the SAB's determination made on May 25, 2019.

WHEREAS, the District's consultant has prepared a SFNA, dated August 2019, which justifies the District's levying of alternative developer fees, including Level 2 and Level 3 fees ("Alternative Fees").

WHEREAS, due to the continued growth in the District's student enrollment and lack of school facilities and funding, the Board finds it critical to adopt the findings of the SFNA and authorize the assessment of the increased Alternative Fees as justified by the SFNA.

NOW, THEREFORE, BE IT RESOLVED that the Board makes the following findings:

Section 1. That the foregoing recitals and determinations are true and correct.

Section 2. That the District has caused to be prepared the SFNA, which is on file at the District office and incorporated herein by this reference, which complies with all applicable statutory requirements, including the provisions of Government Code section 65995.6.

Section 3. That the SFNA meets all applicable legal requirements, and the Board hereby adopts each of the findings set forth in the SFNA for the purpose of establishing the Alternative Fees as to future Residential Construction within the District, in accordance with applicable law.

Section 4. That the Alternative Fees are hereby established and levied as applicable to the extent set forth herein, and will be used to fund school facilities, and that these school facilities are to serve the students generated by the Residential Construction within the District as provided in the SFNA.

Section 5. That there is a roughly proportional, reasonable relationship between the use of the Alternative Fees and the Residential Construction within the District because the Alternative Fees imposed on Residential Construction by this Resolution will be used to fund school facilities which will be used to serve the unhoused students generated by Residential Construction in accordance with applicable law as set forth in the SFNA.

Section 6. That there is a roughly proportional, reasonable relationship between the Residential Construction upon which the Alternative Fees are imposed, and the need for additional school facilities in the District because student growth will be generated from Residential Construction within the District, and the District does not have sufficient capacity in existing school facilities to accommodate students at all grade levels.

Section 7. That the amount of the Alternative Fees imposed on Residential Construction 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 Residential Construction within the District.

Section 8. That the SFNA determines the need for new school facilities for unhoused pupils that are attributable to projected enrollment growth from the construction of new residential units over the next five (5) years, based on historical student generation rates of new residential units constructed during the previous five (5) years that are of a similar type of unit to those anticipated to be constructed within the District.

Section 9. That the Board has identified and considered, and/or subtracted, as set forth in the SFNA, the following information in determining amounts of the Alternative Fees:

a. any surplus property owned by the District that can be used as a school site or that is available for sale to finance school facilities pursuant to Government Code section 65995.6(b)(1);

b. the extent to which projected enrollment growth may be accommodated by excess capacity in existing school facilities, in accordance with Government Code section 65995.6(b)(2);

c. local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units, in accordance with Government Code section 65995.6(b)(3); and

d. the full amount of local funds the Board has dedicated to school facilities necessitated by new construction, including fees, charges, dedications or other requirements imposed on commercial or industrial construction, in accordance with Government Code section 65995.5(c)(2).

Section 10. That the Board has calculated, as set forth in the SFNA, the maximum square foot fees, charges, or dedications to be established as Alternative Fees that may be collected in accordance with the provisions of Government Code sections 65995.5(c) and 65995.7(a).

Section 11. That notice and relevant and available information relating to the potential expansion of existing school sites or the necessity to acquire additional school sites, including notice of a proposed meeting regarding such information, was provided to city and

county planning officials or agencies with land use jurisdiction within the District prior to the completion of the SFNA, in accordance with Government Code section 65352.2(c).

Section 12. That the SFNA in its final form has been made available to the public for a period of not less than thirty (30) days, and that the District has made itself available to meet with any affected city or county to discuss the preparation of the SFNA, pursuant to the requirements of Government Code section 65995.6(c).

Section 13. That the public has had the opportunity to review and comment on the SFNA, and the Board has responded to written comments it has received prior to the public hearing, if any, regarding the SFNA.

Section 14. That in responding to written comments pursuant to Government Code section 65995.6(c), the Board does hereby adopt any and/or all such response(s) made by District staff and/or its consultants as its own response(s), and/or adopts such response(s) as modified by the Board at the public hearing.

Section 15. That notice of the time and place of the public hearing to adopt the SFNA, including the location and procedure for viewing or requesting a copy of the proposed SFNA has been published in a newspaper of general circulation within the jurisdiction of the District at least thirty (30) days prior to the public hearing.

Section 16. That the District has caused to be mailed or delivered a copy of the SFNA not less than thirty (30) days prior to the public hearing to any person who made a written request therefore at least forty-five days (45) prior to the public hearing.

Section 17. That the Board conducted the required public hearing on September 12, 2019, prior to adoption of the SFNA and the Alternative Fees, at which time all persons desiring to be heard on all matters pertaining to the SFNA were heard, all responses to written and oral comments received by the Board, if any, were made and the Board considered all information presented.

Section 18. That the statutory requirements under Government Code sections 65995.5 through 65995.7 have been met, and the District is authorized to levy Alternative Fees on Residential Construction.

Section 19. That the Board hereby adopts the Alternative Fees calculated in the SFNA, including the Level 3 Alternative Fees, and establishes the Level 3 Alternative Fee pursuant to Government Code section 65995.7 in the amount of Fourteen Dollars and Eighty-Two Cents (\$14.82) and the Level 2 Alternative Fee in the amount of Seven Dollars and Forty-One Cents (\$7.41) per square foot of assessable space for Residential Construction.

Section 20. That Level 2 Fees, upon adoption and during the effective period thereof, are applicable to Residential Construction in lieu of Level 1 Fees in accordance with applicable law, and Level 3 Fees shall be applicable to Residential Construction in lieu of Level 1 Fees and Level 2 Fees upon determination by the Superintendent, or designee, and as authorized under Government Code Section 65995.7(a). Level 1 Fees remain effective at any time the Alternative Fees are not effective.

Section 21. That the Alternative Fees shall not be imposed on any residential construction project used exclusively for housing senior citizens, as described in Civil Code section 51.3, Health and Safety Code section 1569.2(k), or Government Code section 15432(d)(9), or any mobile home or manufactured home that is located within a mobile home

park, subdivision, cooperative or condominium for mobile homes limited to older persons as defined by the federal Fair Housing Amendments of 1988.

Section 22. That the Alternative Fees, upon this adoption and during the effective period thereof, are applicable to Residential Construction in lieu of the District's adopted Level 1 Fees in accordance with applicable law.

Section 23. That the proceeds of the Alternative Fees increased and established pursuant to this Resolution shall continue to be deposited into the District's capital facilities fund, the proceeds of which shall be used exclusively for the purpose for which the Alternative Fees are to be collected.

Section 24. That the Superintendent, or designee, is directed to cause a copy of this Resolution to be delivered to the building officials of the affected cities and county within the District's boundaries, along with a copy of all the supporting documentation referenced herein, and a map of the District clearly indicating the boundaries thereof, advising such entities that Residential Construction is subject to the Alternative Fees authorized pursuant to this Resolution, and requesting that no building permit or approval for occupancy be issued by any of these entities for any Residential Construction project, mobile home, or manufactured home subject to the Alternative Fees absent an effective and unexpired certificate of compliance ("Certificate of Compliance") from the District demonstrating compliance of such project with the requirements of the Alternative Fees.

Section 25. That the Superintendent, or designee, is authorized to cause a Certificate of Compliance to be issued for each Residential Construction project, mobile home, and manufactured home for which there is compliance with the requirement for payment of the Alternative Fees in the amounts specified by this Resolution. In the event a Certificate of Compliance is issued for the payment of Alternative Fees for a Residential Construction project, mobile home, or manufactured home, and the Certificate of Compliance expires before a building permit is obtained, then such Certificate of Compliance shall automatically terminate and the appropriate party must return to the District office for recalculation of fees, permitting a credit against the fee adjustment for fees previously paid for the project for which the expired Certificate of Compliance was issued.

Section 26. That no statement or provision set forth in this Resolution, or referred to herein, shall be construed to repeal any preexisting fee or mitigation amount previously imposed by the District on any residential or nonresidential construction.

Section 27. That, if any portion or provision of this Resolution is held to be invalid, the remaining provisions of this Resolution are intended to be, and shall remain, valid.

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Section 28. That the Alternative Fees rates adopted and authorized by this Resolution shall be effective immediately for a maximum of one (1) year from September 12, 2019, the date of the Board's adoption of the SFNA.

**PASSED AND ADOPTED** this 24th day of October, 2019, by the Board of Trustees of the Calexico Unified School District.

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Michael Castillo, President

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Richard Romero, Vice President/Clerk

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E. Alvarado, Member

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Ciro Calderon, Member

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Lorenzo Calderon, Jr., Member