

**Burbank Unified School District
Administrative Services**

REPORT TO THE BOARD

TO: Members of the Board of Education

FROM: David Jaynes, Assistant Superintendent, Administrative Services

PREPARED BY: Ruthie DiFonzo, Senior Administrative Assistant

SUBMITTED BY: Ruthie DiFonzo, Senior Administrative Assistant

DATE: March 15, 2018

SUBJECT: Adoption of Resolution 26 – Increasing School Facilities (Developer) Fees

Background:

The State Allocation Board sets the statewide rate for Level I Developer Fees and updates that amount every other year, publishing the new rate in January. In order to collect developer fees, school districts must conduct a study that meets all the requirements of code, make that study available for public review, hold a public hearing and then take action to adopt the fee structure justified in the study. The fees are to be used to finance the construction, reconstruction and modernization of school facilities, and to provide for interim housing.

Discussion/Issues:

The current fees allowable have been established by the State Allocation Board in January 2018 as \$3.79 per square foot for new residential development and \$0.61 per square foot for new commercial/industrial development. The District currently charges \$3.48 per square foot for residential property and up to \$0.56 per square foot for commercial/industrial property. The District proposes to move its developer fees to the new statutory state fees allowable as listed above, with the exception of new construction classified as rental self-storage, industrial parks/warehousing/manufacturing, and hotel/motel property, which is established at \$0.03, \$0.59 and \$0.49 per square foot of assessable space, respectively. In order to move to the new rate structure, the District produced the required study to justify the fees. The study was made available 10 days in advance of the public hearing, scheduled for the March 15, 2018 Board meeting. Following this public hearing, the Board may adopt the new fee structure at the end of a 60-day waiting period.

Fiscal Impact:

Adoption of the new fee structure increases the per square footage income for the District by \$0.31 for residential and up to \$0.05 for commercial/industrial structures.

Recommendation:

David Jaynes, Assistant Superintendent, Administrative Services, recommends that the Board of Education adopt Resolution 26, increasing school facilities (developer) fees, per Senate Bill 50, 1998 (Education Sections 17620) and Government Code Section 65995, and that authority to sign the resolution be exercised pursuant to BUSD—AR 3314, as presented.

RESOLUTION NO. 26

RESOLUTION OF THE BOARD OF EDUCATION OF THE BURBANK UNIFIED SCHOOL DISTRICT APPROVING AN INCREASE IN STATUTORY SCHOOL FEES IMPOSED ON NEW RESIDENTIAL AND COMMERCIAL/INDUSTRIAL CONSTRUCTION PURSUANT TO EDUCATION CODE SECTION 17620 AND GOVERNMENT CODE SECTION 65995

WHEREAS, the Board of Education (“Board”) of the Burbank Unified School District (“District”) provides for the educational needs for Grade K-12 students; and

WHEREAS, on January 24, 2018, the State Allocation Board (“SAB”) authorized an adjustment in the statutory school fee amounts for unified school districts pursuant to Government Code Section 65995(b)(3) to Three and 79/100 Dollars (\$3.79) per square foot for assessable space of new residential construction (“Residential Statutory School Fees”) and Sixty-One Cents (\$0.61) per square foot of chargeable covered and enclosed space for the categories of new commercial/industrial construction (“Commercial/Industrial Fees” and collectively “Statutory School Fees”), as long as such increases are properly justified by the District pursuant to law; and

WHEREAS, in 2016, the Board had previously adopted and the District has imposed statutory school fees pursuant to Education Code Section 17620 and Government Code Section 65995(b) (1) and (b) (2) in the amount of Three and 48/100 (\$3.48) per square foot for assessable space of new residential construction and up to Fifty-Six Cents (\$0.56) per square foot of chargeable covered and enclosed space for the categories of new commercial/industrial construction; and

WHEREAS, new residential and commercial/industrial construction continues to generate additional students for the District’s schools and the District is required to provide school facilities (“School Facilities”) to accommodate those students; and

WHEREAS, the District does not have sufficient funds available for the construction or reconstruction of the School Facilities, including acquisition of sites, construction of permanent School Facilities, and acquisition of interim School Facilities, to accommodate students from new residential and commercial/industrial construction; and

WHEREAS, the Board has received and considered a report entitled, School Fee Justification Study (“Study”), which includes information, documentation, and analysis of the School Facilities needs of the District, including: (a) the purpose of the Applicable Statutory School Fees; (b) the use to which the Applicable Statutory School Fees are to be put; (c) the nexus (roughly proportional and reasonable relationship) between the residential and commercial/industrial construction and (1) the use for Applicable Statutory School Fees, (2) the need for School Facilities, (3) the cost of School Facilities and the amount of Applicable Statutory School Fees from new residential and commercial/industrial construction; (d) a determination of the impact of the increased number of employees anticipated to result from the commercial/industrial construction (by category) upon the cost of providing School Facilities within the District; (e) an evaluation and projection of the number of students that will be generated by new

residential construction; (f) the new School Facilities that will be required to serve such students; and (g) the cost of such School Facilities; and

WHEREAS, the Study pertaining to the Statutory School Fees and to the capital facilities needs of the District has been available to the public for at least ten (10) days before the Board considered at a regularly scheduled public meeting the increase in the Statutory School Fees; and

WHEREAS, all notices of the proposed increase in the Statutory School Fees have been given in accordance with applicable law; and

WHEREAS, a public hearing was duly held at a regularly scheduled meeting of the Board relating to the proposed increase in the Statutory School Fees on March 15, 2018; and

WHEREAS, as to the Statutory School Fees, Education Code Section 17621 provides that the adoption, increase or imposition of any fee, charge, dedication, or other requirement, pursuant to Education Code Section 17620 shall not be subject to the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE BURBANK UNIFIEDSCHOOL DISTRICT AS FOLLOWS:

Section 1. That the Board accepts and adopts the Study.

Section 2. That the Board finds that the purpose of the Statutory School Fees imposed upon new residential construction are to fund the additional School Facilities required to serve the students generated by the new residential construction upon which the Statutory School Fees are imposed.

Section 3. That the Board finds that the Statutory School Fees imposed on new residential construction will be used only to finance those School Facilities described in the Study and related documents, and that these School Facilities are required to serve the students generated by the new residential construction within the District; and that the use of the Statutory School Fees will include construction or acquisition of additional School Facilities, remodeling existing School Facilities to add or replace classrooms, and technology, and acquiring and installing additional portable classrooms and related School Facilities, with the, remodeling of existing School Facilities, and additional portables to be determined based on the residence of the students being generated by such new residential construction, as well as any required central administrative and support facilities, within the District.

Section 4. That the Board finds that there is a roughly proportional, reasonable relationship between the use of the Statutory School Fees and the new residential construction within the District because the Statutory School Fees imposed on new residential construction by this Resolution will be used to fund School Facilities that will be used to serve the students generated by such new residential construction.

Section 5. That the Board finds that there is a roughly proportional, reasonable relationship between the new residential construction upon which the Statutory School Fees are imposed, and the need for School Facilities in the District because new students will be generated from new residential construction within the District and the District does not have the existing School Facilities to accommodate these students.

Section 6. That the Board finds that the amount of the Statutory School Fees imposed on new 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 such new residential construction within the District.

Section 7. That the Board finds that the purpose of the Statutory School Fees imposed on new commercial/industrial construction is to fund the additional School Facilities required to serve the students generated by the new commercial/industrial construction upon which the Commercial/Industrial Fees are imposed.

Section 8. That the Board finds that the Statutory School Fees imposed on new commercial/industrial construction (by category) will be used only to finance those School Facilities described in the Study and related documents and that these School Facilities are required to serve the students generated by such new commercial/industrial construction; and that the use of the Statutory School Fees will include construction or acquisition of additional School Facilities, remodeling existing School Facilities to add additional classrooms and technology, and acquiring and installing additional portable classrooms and related facilities, with the remodeling of existing School Facilities, and additional portables to be determined based on the residence of the students being generated by such new commercial/ industrial construction, as well as any required central administrative and support facilities within the District.

Section 9. That the Board finds that there is a roughly proportional, reasonable relationship between the use of the Statutory School Fees and new commercial/industrial construction by category within the District because the Statutory School Fees imposed on commercial/industrial construction by this Resolution will be used to fund School Facilities which will be used to serve the students generated by such new commercial/industrial construction.

Section 10. That the Board finds that there is a roughly proportional, reasonable relationship between the new commercial/industrial construction by category, upon which the Statutory School Fees are imposed, and the need for additional School Facilities in the District because new students will be generated from new commercial/industrial construction within the District and the District does not have existing School Facilities to accommodate these students.

Section 11. That the Board finds that the amount of the Statutory School Fees imposed on new commercial/industrial construction by category 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 such new commercial/industrial construction within the District.

Section 12. That the Board finds that a separate fund (“Fund”) of the District and two or more sub-funds (“Sub-Funds”) have been created or are authorized to be established for all monies received by the District for the deposit of Statutory School Fees and mitigation payments (“Mitigation Payments”) imposed on construction within the District and that said Fund and Sub-Funds at all times have been separately maintained, except for temporary investments, with other funds of the District as authorized by law.

Section 13. That the Board finds that the monies of the separate Fund or the separate Sub-Funds described in Section 12, consisting of the proceeds of Statutory School Fees and Mitigation Payments have been imposed for the purposes of constructing and reconstructing those School Facilities necessitated by new residential and/or commercial/industrial construction, and thus, these monies may be expended for all those purposes permitted by applicable law. The Statutory School Fees may also be expended by the District for the costs of performing any study or otherwise making the findings and determinations required under subdivisions (a), (b) and (d) of Section 66001 of the Government Code. In addition, the District may also retain, as appropriate, an amount not to exceed in any fiscal year, three percent (3%) of the fees collected in that fiscal year pursuant to Education Code Section 17620 for reimbursement of the administrative costs incurred by the District in collecting the Statutory School Fees.

Section 14.

That the Board hereby is justified in levying the Statutory School Fees as a condition of approval of new residential development projects and imposes the Applicable Statutory School Fees on such development projects in the following amounts:

- a. Three and 79/100 Dollars (\$3.79) per square foot of assessable space for new residential construction, including new residential projects, manufactured homes and mobile homes as authorized under Education Code Section 17625, and including residential construction or reconstruction other than new construction where such construction or reconstruction results in an increase of assessable space, as defined in Government Code Section 65995, in excess of five hundred (500) square feet.
- b. Sixty-One Cents (\$0.61) per square foot of assessable space for new residential construction used exclusively for the housing of senior citizens, as described in Section 51.3 of the Civil Code or as described in subdivision (k) of Section 1596.2 of the Health and Safety Code or a multi-level facility as described in paragraph 9 of subdivision (d) of Government Code Section 15432 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 15. That this Board hereby is justified in levying Statutory School Fees as a condition of approval of new commercial/industrial construction projects and levies the Applicable Statutory School Fees on such development projects to Sixty-One Cents (\$0.61) per square foot of chargeable covered and enclosed space for all categories of

commercial/industrial construction except for properties that are classified as rental self-storage properties, industrial parks/warehousing/manufacturing and hospitality (lodging) properties. The maximum applicable Statutory School Fees that may be levied on a per square foot of chargeable covered and enclosed space are Three Cents (\$0.03) for rental self-storage properties and Forty-Nine Cents (\$0.49) for hospitality (lodging) properties and Fifty-Nine Cents (\$0.59) for industrial parks/warehousing/manufacturing properties.

Section 16. That the proceeds of the Statutory School Fees established pursuant to this Resolution shall continue to be deposited into those Sub-Funds of the Funds identified in Section 12 of this Resolution, the proceeds of which shall be used exclusively for the purpose for which the Statutory School Fees are to be collected, including, as to Statutory School Fees, accomplishing any study, findings or determinations required by subdivisions (a), (b) and (d) of Section 66001 of the Government Code, or retaining an amount not to exceed in any fiscal year, three percent (3%) of the fees collected in that fiscal year pursuant to Education Code Section 17620 for reimbursement of the administrative costs incurred by the District in collecting the Statutory School Fees or in financing the described Study or in defending the imposition of Statutory School Fees.

Section 17. That the District's Superintendent, or designee, is directed to cause a copy of this Resolution to be delivered to the building officials of the City of Burbank (the "City") and the Office of Statewide Health Planning and Development ("OSHPD") along with a copy of all the supporting documentation referenced herein and a map of the District clearly indicating the boundaries thereof, advising the City and the OSHPD that new residential and commercial/ industrial construction is subject to the Statutory School Fees changed pursuant to this Resolution and requesting that no building permit or approval for occupancy be issued by any of these entities for any new residential development project, mobile home or manufactured home subject to the Statutory School Fees absent a certification of compliance ("Certificate of Compliance") from the District demonstrating compliance of such project with the requirements of the Statutory School Fees, nor that any building permit be issued for any nonresidential construction absent a certification from this District of compliance with the requirements of the applicable Statutory School Fees.

Section 18. That the Board hereby establishes a process that permits the party against whom the Commercial/Industrial Fees are imposed the opportunity for a hearing to appeal that imposition of Commercial/Industrial Fees for commercial/industrial construction as stated in Education Code Section 17621(e)(2).

Section 19. That the Superintendent is authorized to cause a Certificate of Compliance to be issued for each development project, mobile home and manufactured home for which there is compliance with the requirement for payment of the Statutory School Fees in the amounts specified by this Resolution. In the event a Certificate of Compliance is issued for the payment of Statutory School Fees for a development project, mobile home or manufactured home and it is later determined that the statement or other representation made by an authorized party concerning the development project as to square footage is untrue or in the event the zoning is declared invalid, then such Certificate of Compliance shall automatically terminate, and the appropriate City or OSHPD shall be so notified.

Section 20. That no statement or provision set forth in this Resolution, or referred to therein shall be construed to repeal any preexisting fee or mitigation amount previously imposed by the District on any residential or nonresidential construction.

Section 21. That if any portion or provision hereof is held invalid, the remainder hereof is intended to be and shall remain valid.

Section 22. That the change in the District's Statutory School Fees will become effective sixty (60) days from the date of this Resolution unless a separate resolution increasing the fees immediately on an urgency basis is adopted by the Board.

PASSED AND ADOPTED by the Board of Education of the Burbank Unified School District on the 15th day of March, 2018.

Signed: _____
Steve Ferguson, President to the Board of Education
Burbank Unified School District
County of Los Angeles, State of California

Signed: _____
Armond Aghakhanian, Clerk to the Board of Education
Burbank Unified School District
County of Los Angeles, State of California

