



MT. DIABLO UNIFIED SCHOOL DISTRICT GOVERNING BOARD  
RESOLUTION 22/23-3

**TO INCREASE STATUTORY SCHOOL FEES IMPOSED ON NEW RESIDENTIAL AND COMMERCIAL/INDUSTRIAL DEVELOPMENT PROJECTS PURSUANT TO EDUCATION CODE SECTION 17620 AND GOVERNMENT CODE SECTION 65995**

**WHEREAS**, the Board of Education ("Board") of the Mt. Diablo Unified School District ("School District") provides for the educational needs for K-12 students within portions of the cities of Clayton, Concord, Martinez, Pittsburg, Pleasant Hill, Walnut Creek, (collectively, "Cities") and a portion of the unincorporated county of Contra Costa ("County") consisting of the communities of Bay Point, Lafayette, Pacheco, and Clyde; and

**WHEREAS**, The State Allocation Board has taken action pursuant to Government Code Section 65995(b)(3), which authorizes school districts to collect fees on future development of no more than \$4.79 per square foot for residential construction and \$0.78 for commercial/industrial construction (Level I fees). Level I fees are adjusted every two years according to the inflation rate for Class B construction as determined by the State Allocation Board. Government Code Section 66001 requires that a reasonable relationship exist between the amount and use of the fees and the development on which the fees are to be charged.

**WHEREAS**, new residential and commercial/industrial development continues to generate additional students for the School District's schools and the School District is required to provide school facilities ("School Facilities") to accommodate those students; and

**WHEREAS**, overcrowded schools within the School District have an impact on the School District's ability to provide an adequate quality education and negatively impacts the educational opportunities for the School District's students; and

**WHEREAS**, the School 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 development; and

**WHEREAS**, the Board of the School District has received and considered the study titled "SCHOOL FACILITY FEE JUSTIFICATION REPORT FOR RESIDENTIAL, COMMERCIAL & INDUSTRIAL DEVELOPMENT PROJECTS FOR THE MT. DIABLO UNIFIED SCHOOL DISTRICT" ("Study"), which Study includes information, documentation, and analysis of the School Facilities needs of the School District, including (a) the purpose of the Statutory School Fees, (b) the use to which the Statutory School Fees are to be put (c) the nexus (roughly proportional and reasonable relationship) between the residential and commercial/industrial development and (1) the use for Statutory School Fees, (2) the need for School Facilities, (3) the cost of School Facilities, with the specific location

of new schools, remodeling of existing School Facilities, and additional portables to be determined based on the residence of the students being generated by such new residential development, as well as any required central administrative and support facilities, within the School District; and

**WHEREAS**, said Study pertaining to the Statutory School Fees and to the capital facilities needs of the School District were made available to the public as required by law before the Board considered at a regularly scheduled public meeting the Statutory School Fees; and

**WHEREAS**, all required notices of the proposed Statutory School Fees have been given, including the 30 day statutory notice required by newly-amended Government Code section 65995 and Education Code section 17620; and

**WHEREAS**, a public hearing was held at a regularly scheduled meeting of the Board of the School District relating to the proposed Statutory School Fees; and

**WHEREAS**, 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 Division 13 (commencing with Section 21000) of the Public Resources Code.

**NOW, THEREFORE, THE BOARD OF EDUCATION OF THE MT. DIABLO UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER 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 development is to fund the additional School Facilities required to serve the students generated by the new residential development upon which the Statutory School Fees are imposed.

**Section 3.** That the Board finds that the Statutory School Fees imposed on new residential development 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 development within the School 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 additional classrooms, and technology, and acquiring and installing additional portable classrooms and related School Facilities, with the specific location of new schools, remodeling of existing School Facilities, and additional portables to be determined based on the residence of the students being generated by such new residential development, as well as any required central administrative and support facilities, within the School 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 development within the School District because the Statutory School Fees imposed on new residential development by this Resolution, will be used to fund School Facilities which will be used to serve the students generated by such new residential development.

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

**Section 6.** That the Board finds that the amount of the Statutory School Fees levied on new residential development 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 development within the School District.

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

**Section 8.** That the Board finds that the Statutory School Fees imposed on new commercial/ industrial development 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 development; 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 specific location of new schools, 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 as well as any required central administrative and support facilities within the School 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 development by category within the School District because the Statutory School Fees imposed on commercial/industrial development by this Resolution, will be used to fund School Facilities which will be used to serve the students generated by such new commercial/industrial development.

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

**Section 11.** That the Board finds that the amount of the Statutory School Fees levied on new commercial/industrial development 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 development within the School District.

**Section 12.** That the Board finds that a separate account has been established for the deposit of Statutory School Fees imposed on residential and commercial/industrial development and that said account has at all times since been separately maintained, except for temporary investments, from other funds of the School District.

**Section 13.** That the Board finds that the funds of the account, described in Section 12, consisting of the proceeds of Statutory School Fees have been imposed for the purposes of constructing and reconstructing those School Facilities necessitated by new residential and commercial/industrial development, and thus, these funds may be expended for those purposes. The Statutory School Fees may also be expended by the School 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 School 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 School District in collecting the Statutory School Fees.

**Section 14.** That the Board hereby increases the Statutory School Fees as a condition of approval of new residential development projects and imposes the Statutory School Fees on such development projects as follows:

The Mt. Diablo Unified School District is justified and hereby authorized to collect the legal maximum fee of \$4.79 per square foot of residential development as authorized by Government Code Section 65995 (Level I fees), as future residential development creates a school facility cost of \$15.70 per square foot. The District is also justified and hereby authorized to collect the legal maximum fee of \$0.78 per square foot of development on all categories of commercial/industrial development, as those categories of development create school facility costs ranging from \$2.96 to \$12.64 per square foot of future development, even when fees from linked residential units are accounted for. Rental self-storage creates a school facility cost of \$0.16 per square foot.

The District's justification for collecting fees on future residential and commercial/industrial development is based on the following facts and projections:

1. The District's current school facilities require substantial capital investments in order to provide adequate learning environments for pupils. The District, therefore, does not have sufficient capacity to house students generated by future development.
2. Future residential development is projected to create additional students in the District. These students will require the District to provide ongoing capital facility improvement to provide adequate facilities.

The fees outlined above all meet the requirements of Government Code Section 66001 (the nexus requirements), that is, a reasonable relationship exists between the amount and use of the fees and the developments on which they are charged.

**Section 15.** That this Board hereby increases the Statutory School Fees as a condition of approval of new commercial/industrial development projects and levies the Statutory School Fees on such development projects in the following amounts per square foot of chargeable covered and enclosed space for the following categories of commercial/industrial development:

**Section 16.** That the proceeds of the Statutory School Fees established pursuant to this Resolution shall continue to be deposited into that account 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 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 School 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 Superintendent, or his designee, is directed to cause a copy of this Resolution to be delivered to the building official of the Cities and County within the School District's boundaries 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 School District clearly indicating the boundaries thereof, advising the Cities, County and OSHPD that new residential and commercial/industrial development is subject to the Statutory School Fees readopted 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 from this School District of compliance of such project with the requirements of the Statutory School Fees, nor that any building permit be issued for any non-residential development absent a certification from this School District of compliance with the requirements of the applicable Statutory School Fees.

**Section 18.** That the Board has established a process that permits the party against whom the commercial/industrial Statutory School Fees are imposed, the opportunity for a hearing to appeal that imposition of Statutory School Fees for commercial/industrial development as required by Education Code Section 17621(e)(2), as detailed in Mt. Diablo Board of Education Resolution 19/20-54.

**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 amount 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, then such certificate shall automatically terminate, and the appropriate City 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 previously imposed by the School District on any residential or nonresidential development.

**Section 21.** That the School 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.

AYES: NOES: ABSENCES: ABSTENTIONS:

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Debra Mason, Board President

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Keisha Nzewi, Board Vice President

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Cherise Khaund, Board Member

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Linda Mayo, Board Member

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Erin McFerrin, Board Member

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Dr. Adam Clark, Superintendent

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*Resolution 22/23-3*

*Adopted at the meeting of the MDUSD Governing Board of Education on 09/28/2022*

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