

RESOLUTION NO. 05:20-21

**RESOLUTION OF THE GOVERNING BOARD OF THE
PERRIS UNION HIGH SCHOOL DISTRICT
APPROVING AN INCREASE IN LEVEL I STATUTORY SCHOOL
FACILITY FEES IMPOSED ON RESIDENTIAL AND COMMERCIAL/
INDUSTRIAL CONSTRUCTION PURSUANT TO EDUCATION CODE
SECTION 17620 AND GOVERNMENT CODE SECTION 65995**

WHEREAS, the Governing Board (“Board”) of the Perris Union High School District (“District”) provides for the educational needs for students in grades 7 through 12 within the City of Perris, City of Menifee, City of Homeland, City of Good Hope, City of Romoland, City of Nuevo, and City of Lakeview (“Cities”) and a portion of the unincorporated area of the County of Riverside (“County”); and

WHEREAS, on January 22, 2020, the State Allocation Board (“SAB”) authorized an adjustment in the maximum statutory school fee amounts for unified school districts pursuant to Government Code section 65995(b)(3) to Four and 08/100 Dollars (\$4.08) per square foot for assessable space of residential construction (“Residential Statutory School Fees”) and Sixty-Six Cents (\$0.66) per square foot of chargeable covered and enclosed space for the categories of new commercial/industrial construction (“Commercial/Industrial Fees,” and collectively with the Residential Statutory School Fees, the “Level I Statutory School Fees”); and

WHEREAS, the District is a nonunified school district sharing common jurisdiction with other nonunified school districts, and, pursuant to Education Code section 17623(a), the District, has entered a fee sharing agreement (“Fee Sharing Agreement”) with the other nonunified school districts with which the District shares jurisdiction, specifically with Perris Elementary School District (“PESD”), Menifee Union School District (“MUSD”), Nuvview Union School District (“NUSD”) and the Romoland School District (“RSD”); and

WHEREAS, the Fee Sharing Agreement specifies the percentage of the maximum Level I Statutory School Fees that may be levied and collected by each school district; and

WHEREAS, according to the Fee Sharing Agreement, twenty eight percent (28%) of the maximum Level I Statutory School Fees may be charged and collected by the District in areas within the District boundaries shared by MUSD, NUSD and RSD, equaling \$1.14 per square foot for residential development and \$0.1848 per square foot for and commercial/industrial development. The Agreement also specifies that the District can levy and collect forty percent (40%) of the maximum Level I Statutory School Fees in areas within the District boundaries shared by PESD, equaling \$1.63 per square foot for residential development and \$0.2640 per square foot for commercial/industrial development, respectively; and

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

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

WHEREAS, Koppel & Gruber Public Finance ("K&G") prepared and the Board received and considered a report entitled, "Perris Union High School District School Fee Justification Study" ("Study"), dated October 02, 2020, which includes information, documentation, and analysis of the School Facilities needs of the District, including: (a) the purpose of the Level I Statutory School Fees; (b) the use to which the Level I Statutory School Fees are to be put; (c) 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; (d) an evaluation and projection of the number of students that will be generated by residential construction; (e) the anticipated new School Facilities that will be required to serve such students; and (f) the cost of such School Facilities; and

WHEREAS, the Study contains information demonstrating a nexus (roughly proportional and reasonable relationship) between the residential and commercial/industrial construction and: (1) the use for Level I Statutory School Fees, (2) the need for School Facilities, (3) the cost of School Facilities, and (4) the amount of Level I Statutory School Fees from residential and commercial/industrial construction; and

WHEREAS, the Study pertaining to the Level I 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 Level I Statutory School Fees; and

WHEREAS, all notices of the proposed increase in the Level I 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 Level I Statutory School Fees; and

WHEREAS, as to the Level I 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, THE GOVERNING BOARD OF THE PERRIS UNION HIGH SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. That the Board accepts and adopts the Study, which is incorporated herein by reference.

Section 2. That the Board finds that the purpose of the Level I Statutory School Fees imposed upon residential construction is to fund the construction and reconstruction of School Facilities required to serve the students generated by the residential construction upon which the Level I Statutory School Fees are imposed.

Section 3. That the Board finds that the Level I Statutory School Fees imposed on residential construction will be used to finance construction and reconstruction of School Facilities identified in the Study and related documents discussed therein. Such uses shall include but not necessarily be limited to construction or acquisition of additional School Facilities, remodeling existing School Facilities, acquiring and installing additional portable classrooms and related School Facilities, 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 and reasonable relationship between the use of the Level I Statutory School Fees and the type of residential and commercial/industrial construction on which the fee is to be imposed, because the Study demonstrates that the increase in student enrollment resulting from such development will necessitate the construction or reconstruction of School Facilities to accommodate such growth.

Section 5. That the Board finds that there is a roughly proportional and reasonable relationship between the residential and commercial/industrial construction upon which the Level I Statutory School Fees are imposed and the need for School Facilities discussed in the Study, because the Study demonstrates that such development will require the District to construct and/or reconstruct School Facilities to accommodate growth from such development.

Section 6. That the Board finds that the amount of the Level I Statutory School Fees imposed on residential and commercial/industrial 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 development.

Section 7. That the Board finds that a separate fund (“Fund”) and/or sub-funds (“Sub-Funds”) have been created or are authorized to be established for all monies received by the District for the deposit of Level I 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 8. That the Board finds that the monies of the separate Fund or the separate Sub-Funds described in Section 7, consisting of the proceeds of Level I Statutory School Fees and Mitigation Payments have been imposed for the purposes of constructing and reconstructing those School Facilities necessitated by residential and/or commercial/industrial construction, and thus, these monies may be expended for all those purposes permitted by applicable law,

including but not necessarily limited to 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, and retention of up to three percent (3%) of the fees collected in any fiscal year for reimbursement of the administrative costs incurred by the District in collecting the Level I Statutory School Fees pursuant to Education Code section 17620.

Section 9. That the Board hereby increases the Level I Statutory School Fees for residential development projects in the areas of the District sharing common jurisdiction with MUSD, NUSD, and RSD and imposes the Level I Statutory School Fees on such development projects in the amount of \$1.14.

Section 10. That this Board hereby increases the Level I Statutory School Fees as a condition of approval of new commercial/industrial construction projects in the areas of the District shared with MUSD, NUSD, and RSD and levies the Level I Statutory School Fees on such development projects in the preceding amounts per square foot of chargeable covered and enclosed space for all categories of commercial/industrial construction to \$0.1848 per square foot, except for rental self-storage, which shall be levied in the amount of \$0.05 per square foot.

Section 11. That the Board hereby increases the Level I Statutory School Fees for residential development projects in the areas of the District where it shares common jurisdiction with PESD and imposes the Level I Statutory School Fees on such development projects in the amount of \$1.63 per square foot.

Section 12. That this Board hereby increases the Level I Statutory School Fees as a condition of approval of new commercial/industrial construction projects in the areas of the District shared with PESD and levies the Level I Statutory School Fees on such development projects in the preceding amounts per square foot of chargeable covered and enclosed space for all categories of commercial/industrial construction to \$0.264, except for rental self-storage, which shall be levied in the amount of \$0.07.

Section 13. That the proceeds of the Level I Statutory School Fees increased and established pursuant to this Resolution shall continue to be deposited into those Funds and any applicable Sub-Funds identified in this Resolution, the proceeds of which shall be used exclusively for the purpose for which the Level I Statutory School Fees are to be collected, including, as to Level I 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 Level I Statutory School Fees or in financing the described Study or in defending the imposition of Level I Statutory School Fees.

Section 14. 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 Cities and the County, as well as to 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 Cities, County and OSHPD that residential and

commercial/industrial construction is subject to the Level I Statutory School Fees increased pursuant to this Resolution and requesting that no building permit or approval for occupancy be issued by any of these entities for any residential development project, mobile home or manufactured home subject to the Level I Statutory School Fees absent a certification of compliance (“Certificate of Compliance”) from the District demonstrating compliance of such project with the requirements of the Level I 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 Level I Statutory School Fees. The Board determines that the Level 1 Statutory School Fees are not subject to Government Code section 66007 and that a certificate of compliance is required prior to the issuance of any building permit.

Section 15. That the Board hereby adopts and establishes the procedures that permit 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 and Government Code section 66020 and 66021. These procedures are as follows:

a. Within ten (10) calendar days of being notified, in writing, (by personal delivery or deposit in the U.S. Mail) of the Commercial/Industrial Fees to be imposed or paying the Commercial/Industrial Fees, pursuant to Education Code section 17620, a party shall file a written request for a hearing regarding the imposition of Commercial/Industrial Fees. The party shall state in the written request the grounds for opposing the imposition of Commercial/Industrial Fees and said written request shall be served by personal delivery or certified or registered mail to the Superintendent.

b. The possible grounds for that appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the Commercial/Industrial Fees are to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project.

c. Within ten (10) calendar days of receipt of the written request for a hearing regarding the imposition of Commercial/Industrial Fees, the Superintendent, or designee, shall give notice in writing of the date, place and time of the hearing to the party appealing the imposition of Commercial/Industrial Fees. The Superintendent, or designee, shall schedule and conduct said hearing within thirty (30) calendar days of receipt of the written request. The Superintendent, or designee, shall render a written decision within ten (10) days following the hearing on the party’s appeal and serve it by certified or registered mail to the last known address of the party within ten (10) calendar days after rendering such decision.

d. The party against whom the Commercial/Industrial Fees are imposed may appeal the Superintendent or designee’s decision to the Board by filing a notice of appeal within ten (10) calendar days of receipt of the notice of the decision, stating in the written appeal the grounds for opposing the imposition of the Commercial/Industrial Fees, and

the written appeal shall be served by personal delivery or certified or registered mail to the Superintendent.

e. Within ten (10) calendar days of receipt of the notice of appeal, the Superintendent, or designee, shall give notice in writing of the date, place and time of the hearing to the party appealing the imposition of Commercial/Industrial Fees. The Board shall schedule and conduct said hearing at the next available regular meeting of the Board, provided that the party is given notice at least five (5) working days prior to the regular meeting of the Board. The Board shall render a written decision within ten (10) days following the hearing on the party's appeal and serve the decision by certified or registered mail to the last known address of the party within ten (10) days after rendering such decision.

f. The party appealing the imposition of the Commercial/Industrial Fees shall bear the burden of establishing that the Commercial/Industrial Fees are improper.

Section 16. That the Superintendent, or designee, 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 Level I Statutory School Fees in the amounts specified by this Resolution. In the event a Certificate of Compliance is issued for the payment of Level I 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 Cities, County or OSHPD shall be so notified.

Section 17. 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 set forth in a mitigation agreement.

Section 18. That, if any portion or provision hereof is held invalid, the remainder hereof is intended to be and shall remain valid.

Section 19. That the increase in the District's Level I 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.

APPROVED, ADOPTED, AND SIGNED on October 21, 2020.

**GOVERNING BOARD OF THE PERRIS UNION
HIGH SCHOOL DISTRICT**

By: _____
President, Governing Board of the Perris Union
High School District

By: _____
Clerk, Governing Board of the Perris Union
High School District

STATE OF CALIFORNIA)

) ss.
COUNTY OF RIVERSIDE)

I, Edward D. Garcia, Jr., Clerk, Governing Board of the Perris Union High School District, do hereby certify that the foregoing was duly adopted by the Governing Board of such District at a regular meeting of said Board held on the 21st day of October, 2020, at which a quorum of such Board was present and acting throughout and for which notice and an agenda was prepared and posted as required by law and at which meeting all of the members of such Board had due notice and that at such meeting the attached resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Anthony T. Stafford, Sr.	_____
Dr. Jose Luis Araux	_____
Edward D. Garcia, Jr.	_____
Dr. Randall Freeman	_____
David G. Nelissen	_____

Clerk, Governing Board of the Perris Union High School District