

**BEFORE THE GOVERNING BOARD OF TRUSTEES
OF THE LEMOORE UNION ELEMENTARY SCHOOL DISTRICT**

IN THE MATTER OF
ESTABLISHING DEVELOPER FEES AND
ADOPTING AN INFLATIONARY
INCREASE THERETO

RESOLUTION NO. 041018B

WHEREAS, Education Code Section 17620 authorizes school districts to levy a fee, charge, dedication, or other form of requirement against any development project, as defined in Section 65995 of the Government Code and Section 17620 of the Education Code, and within the boundaries of the district, for the construction or reconstruction of school facilities, subject to certain restrictions; and

WHEREAS, after proper notice of the date, time, location and subject matter as required by law, a public hearing at a regular meeting of this Board was held on April 10, 2018, at which time oral and documentary evidence was accepted and considered by this Board on the subject of developer fees.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Based on the evidence presented at the public hearing as described above, the Board makes the following findings:
 - a. Residential, commercial and industrial development within the District will result in increased pupil populations which will require construction of new school facilities to adequately accommodate them. (See attached study hereto as "Exhibit I".)
 - b. Many of the school facilities in the District are old and require reconstruction. Residential, commercial and industrial development within the District will result in increased pupil populations, thereby making reconstruction of school facilities critical.
 - c. The District has applied for, or is considering applying for, state construction funds and reconstruction funds. Under current law, a local matching fund requirement equal to developer fees that could have been levied will be imposed upon the District by the State. The District does not have sufficient capital outlay funds to equal the matching requirement. The District must rely, therefore, on developer fees to acquire the mandatory matching funds.
 - d. With respect to commercial and industrial development:
 - 1) Under current law, pupils need no longer live in the District in order to attend school here. Commercial and industrial development will tend to increase pupil populations because employees living outside the District but working within may choose to enroll their children at the District's schools.
 - 2) New employees at commercial and industrial developments who choose to reside in existing housing in the District will tend to increase pupil populations and require reconstruction of older facilities without commensurate mitigation of the impact.
 - 3) As shown by the study conducted by the District (which study was presented as evidence at the public hearing described above and is attached hereto as "Exhibit I"), designated categories of commercial and industrial development shall result in increased numbers of employees and consequent increased numbers of school-aged children. Projected increases in numbers of school-aged children are set forth in Exhibit I attached hereto for each category of commercial and industrial development.

- e. The cost of providing for the construction and reconstruction of needed school facilities exceeds the revenue reasonably anticipated from all sources, including developer fees from both residential and commercial or industrial development projects.
 - f. The amount of developer fees as established in paragraph 2 below bears a reasonable relationship to and is limited to the needs of the community for elementary [and high] school facilities and is reasonably related to and limited to the need for schools caused by the type of development occurring in the District, as shown in Exhibit I attached hereto.
 - g. The needs of the community for the school facilities described in Exhibit I attached hereto are reasonably related to and caused by the types of development projects on which the fees are hereby imposed, as both residential and commercial/industrial developments projects will result in increased student populations.
 - h. The District has no other legal means of mitigating the growth effects caused by residential, commercial and industrial development within the boundaries of the District.
 - i. Pursuant to the authority contained in Section 17621 of the Education Code, Section 21080(b)(8)(4) of the Public Resources Code and Title 14 California Code of Regulations Section 15273, the levying of fees in accordance with the provisions of Education Code Section 17620 et seq. is exempt from the requirements of the California Environmental Quality Act
 - j. It is essential for sound fiscal management of the District for the Board of Trustees to adopt a construction schedule for proposed and/or planned facilities development during the next five year period.
2. Pursuant to Government Code section 65995, the following developer fees are hereby established and adopted:
 - a. For residential development, three dollars and seventy-nine (\$3.79) per square foot of assessable space.
 - b. For commercial and industrial development, sixty-one cents (\$0.61) per square foot of covered and enclosed space.
 - c. The amount of the fees previously established as described in 2a. and 2b. above shall be bi-annually increased according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting.
 3. Pursuant to Education Code Section 17620 and Government Code Section 66007(b), neither the County of Kings nor the City of Lemoore, shall issue any building permit for any development absent certification by this school district of compliance by that development project with the fees levied herein.
 - a. In the case of the sale of a manufactured home or mobile home, the payment of the fees to this District shall occur at the time of occupancy pursuant to the sale or lease of the manufactured home or mobile home pursuant to Health and Safety Code section 18080.5. Fees for all other development projects are to be collected at the time of the issuance of the building permit in accordance with the provisions of Section 66007 (b) of the Government Code.
 4. The levying of fees in the amounts established in this resolution shall commence sixty (60) days from the date of this resolution. Until that time, the amount of the fees presently in effect shall continue to be applicable and in full force and effect.
 5. The purpose of the fees established in this resolution is to establish a fund for the construction and/or reconstruction of school facilities as defined in Government Code Section 65995 and Education Code Section 17620, thereby providing adequate school facilities for the increased student populations to be created by the residential and commercial/industrial development projects upon which the fees are imposed.
 6. The funds shall be deposited in a separate account established for the deposit of said fees and shall be used solely for the construction and/or reconstruction of the facilities described in "Exhibit II" attached hereto, or as described in a subsequent duly adopted construction schedule. The funds in said separate

account shall be paid out of said account according to the order in which they were received, with the first received being first paid out.

7. The Proposed Construction Schedule attached hereto as "Exhibit II" is hereby adopted, and the fees collected hereunder are hereby appropriated for the construction or reconstruction of the facilities described therein.
8. The Superintendent of this School District is hereby authorized and directed to do the following:
 - a. Review and negotiate cooperative agreements with the County Planning Department for the collection of the required fee by the County on behalf of the District, the certification of payment when made, and for the deposit of the fees with the Kings County Treasurer in an appropriate separate account. If amendments to the negotiated agreement are required, they shall be presented to this Board for final approval.
 - b. When considered appropriate by the district's legal counsel, negotiate cooperative agreements with other school districts with overlapping territory ensuring that the fees collected by each of the school districts do not exceed the maximums allowed by law, and for the division of the fees with those other school districts, pursuant to section 17623 of the Education Code. If amendments to the negotiated agreement are required, they shall be presented to this Board for final approval.
 - c. Deliver copies of this resolution to the County of Kings and to all cities and school districts having any overlapping territory, drawing attention to this Board's action to levy developer fees pursuant to Government Code Section 65995 and Education Code Section 17620.
 - d. Do all other things which are necessary and appropriate to carry out the purpose and intent of this resolution, and to report to this Board on any actions taken.
9. Any party may protest the payment of any fee imposed hereunder by paying the fee under protest and submitting a statement of the factual and legal bases for the dispute. The provisions of Government Code sections 66020 and 66021 shall apply to protest procedures, and such sections are hereby adopted by reference as if set forth herein.
10. The Board of Trustees hereby incorporates by reference the study prepared by O'dell Planning & Research, Inc. which is attached hereto as Exhibit I and which documents the need for the imposition and collection of developer fees.

The foregoing resolution was adopted upon motion by Trustee Wahl, seconded by Trustee Neal, at a regular meeting held on April 10, 2018 by the following vote:

AYES:	5
NOES:	0
ABSENT:	0



Tim Wahl, President of the Board of Trustees
LemooreUnion Elementary School District

WITNESS my hand and seal of said Board of Trustees this 10th day of April, 2018.



Cheryl Hunt, Superintendent
Secretary of said Board of Trustees

