

NEW HAVEN UNIFIED SCHOOL DISTRICT

RESOLUTION NO. 050-1516

**RESOLUTION OF THE GOVERNING BOARD OF
THE NEW HAVEN UNIFIED SCHOOL DISTRICT
ESTABLISHING SCHOOL FACILITY FEES IN ACCORDANCE
WITH THE PROVISIONS OF SENATE BILL 50 AND ASSEMBLY BILL 695**

WHEREAS, under Government Code Section 65995.5, which was enacted pursuant to Chapter 40, Statutes of 1998 ("Senate Bill 50" or "SB 50"), and amended by Chapter 858, Statutes of 1999 ("Assembly Bill 695" or "AB 695"), a school district's governing board may establish fees to offset the cost of school facilities made necessary by new construction following the making of certain findings by such governing board; and

WHEREAS, the New Haven Unified School District ("District") has undertaken a review of its eligibility to establish fees under the provisions of SB 50; and

WHEREAS, separate and apart from determining its eligibility to establish such fees, the District has prepared an analysis entitled "Needs Analysis", dated February 24, 2016 (the "Needs Analysis") in accordance with the provisions of SB 50; and

WHEREAS, the District seeks to establish fees in accordance with and under the authority of Senate Bill 50 for the purpose of funding the construction and reconstruction of school facilities made necessary by development within the District's boundaries; and

WHEREAS, The District placed a local general obligation bond measure on the ballot on November 4, 2014, within the past four years, which received 67.9 percent yes votes as required by Government Code Section 65995.5(b)(3)(B); and

WHEREAS, The District has outstanding debt that exceeds the statutory threshold as required by Government Code Section 65995.5(b)(3)(C); and

WHEREAS, at least 20% of the teaching stations of the District are relocatable classrooms pursuant to Government Code Section 65995.5(b)(3)(D); and

WHEREAS, in accordance with Government Code Section 65995.5, a purpose of this Resolution is to declare the District's eligibility for, and to establish fees under the provisions of SB 50 consistent with the information and data set forth in the Needs Analysis and upon such other information and documentation prepared by or on file with the District, as presented and described to the Board.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Governing Board of the New Haven Unified School District:

Section 1. Procedure: This Board hereby finds that prior to the adoption of this Resolution, the Board conducted a public hearing at its regular meeting at which oral and written presentations were made. Notice of the time and place of the public hearing, including a

general explanation of the matter to be considered, has been published in a newspaper of general circulation in accordance with Government Code Section 65995.6(d), and a notice, including a statement that the Needs Analysis required by Government Code Section 65995.6 was available, was mailed at least 30 days prior to the public hearing to any interested party who had filed a written request with the District for mailed notice of the meeting on new or increased fees or service charges within the period specified by law. At least 30 days prior to the public hearing, the District made available to the public in its Needs Analysis, data indicating the amount of the cost, or estimated cost, required to provide the facilities for which the fee is to be levied pursuant to this Resolution, and the revenue sources anticipated to provide this service. By way of such public meeting, the Board received oral and written presentations by District staff which are summarized and contained in the District's Needs Analysis and the District's applications and related documents filed with the State Allocation Board pursuant to the State Facility Program (hereinafter collectively referred to as the "Plan") along with other materials which formed the basis for the action taken pursuant to this Resolution.

Section 2. Findings: The Board has reviewed the provisions of the Needs Analysis and the Plan as they relate to proposed and potential development, the resulting school facilities needs, the cost thereof, and the available sources of revenue including the fees provided by this Resolution and based thereon and upon all other written and oral presentations to the Board, the Board hereby approves and adopts the Needs Analysis and makes the following findings:

- (a) Residential development projects within the District will increase the need for school facilities;
- (b) Without the addition of new school facilities, future residential development projects within the District will result in a significant decrease in the quality of education presently offered by the District;
- (c) New residential development is projected within the District's boundaries and the enrollment produced thereby will create the need for additional facilities at the schools of the District. Projected development within the District, without additional school facilities, will result in conditions which will impair the normal functioning of the District's educational programs;
- (d) The fees proposed in the Needs Analysis and levied pursuant to this Resolution are for the purpose of providing adequate school facilities and related support facilities to maintain the quality of education offered by the District;
- (e) The fees proposed in the Needs Analysis and levied pursuant to this Resolution will be used for construction and reconstruction of school facilities and support facilities as identified in the Needs Analysis;
- (f) The uses of the fees proposed in the Needs Analysis and levied pursuant to this Resolution are reasonably related to the types of development projects on which the fees are imposed;
- (g) The fees proposed in the Needs Analysis and levied pursuant to this Resolution bear a reasonable relationship to the need for school and support facilities created by the types of development projects on which the fees are imposed;

(h) The fees proposed in the Needs Analysis and levied pursuant to this Resolution do not exceed the estimated amount required to provide funding for the construction or reconstruction of school and support facilities for which the fees are levied; and in making this finding, the Board declares that it has considered the availability of all revenue sources anticipated to provide such facilities, including general fund revenue;

(i) The fees will be collected for school and support facilities for which an account has been established and funds appropriated and for which the District has adopted a construction schedule;

(j) The District passed Measure M, a \$125,000,000 bond measure, to meet some of the \$309,226,083 need identified in the Facilities Master Plan dated December 2, 2013, which are committed to partially meet a backlog of need, but the District has no other local sources of funds available to provide all the funding for the school facilities provided in the school facilities plan.

Section 3: Fee: Based upon the foregoing findings, the Board hereby establishes a new fee upon residential construction, to be known as the "Level 2 Fee", as follows:

(a) The Level 2 Fee for residential construction is hereby established and set at the rate of \$4.60 per square foot of single-family detached, single-family attached, and multi-family residential development;

(b) The Level 2 Fee shall be collected as a precondition to the issuance of any building permit for construction within the District's boundaries.

Section 4: Determination of Eligibility:

(a) The District submitted a timely application to the State Allocation Board for new construction funding, updated by the SAB on March 4, 2014, and New Construction Remaining Eligibility for 210 students exists, thereby meeting the provisions of Government Code Sections 65995.5(b)(1);

(b) The District placed a local general obligation bond measure on the ballot on November 4, 2014, within the past four years, which received 67.9 percent yes votes as required by Government Code Section 65995.5(b)(3)(B);

(c) The District has outstanding debt that exceeds the statutory threshold as required by Government Code Section 65995.5(b)(3)(C);

(d) At least 20% of the teaching stations of the District are relocatable classrooms pursuant to Government Code Section 65995.5(b)(3)(D);

(e) The Board has reviewed the Needs Analysis along with such oral and written information as has been presented by District staff and consultants and has determined that the Needs Analysis meets the requirements of Government Code Section 65995.6 and is a suitable basis for the establishment of Level 2 Fees in accordance with the provisions of Government Code Section 65995.5;

Section 5. Determination of "Level 3 Fee": In accordance with the provisions of Government Code Section 65995.7, the District's Board is authorized to establish a fee in an

amount higher than the Level 2 Fee in the event the State Allocation Board is no longer approving apportionments for new construction in accordance with Education Code Section 17072.20 due to lack of funds and the State Allocation Board has notified the Secretary of the Senate and Chief Clerk of the Assembly, in writing, of the determination that such funds are no longer being allocated. In the event that on or before the Anniversary Date of this Resolution as defined below, the State Allocation Board is no longer approving apportionments due to inadequate funding and such fact is relayed to the appropriate state representatives, the Level 2 Fee may be supplemented with an additional fee amount which, when combined with the Level 2 Fee, shall be known as the "Level 3 Fee". The Level 3 Fee shall be established in the following amounts:

- (a) \$9.21 per square foot of single-family detached, single-family attached, and multi-family residential development.

Section 6. Fee Adjustment and Limitations: The fees established herewith shall be subject to the following:

- (a) The District's Level 2 Fee (or the Level 3 Fee in the event it is implemented by the Board) shall be effective for a period of one year following the commencement date in this Resolution as set forth below (the "Anniversary Date") and shall be reviewed on or before the Anniversary Date, and annually thereafter to determine if such fee is to be re-established or revised.
- (b) To the extent any other fees established by the District might be applied to property subject to the Level 2 Fee established herein, such as fees levied through the terms of any contract entered into between the District and a person prior to November 4, 1998, or any other fees that are levied by the District, the District may elect to levy and collect such alternative fee rather than the Level 2 Fee established herein. In no event shall the District charge both the Level 2 Fee and such alternative fee that might be collected by the District.

Section 7. Additional Mitigation Methods: The policies set forth in this Resolution are not exclusive, and the Board reserves the authority to undertake other or additional methods to finance school facilities including but not limited to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 et seq.) and such other funding mechanisms as are authorized by Government Code Section 65996. This Board reserves the authority to substitute the dedication of land or other property or other form of requirement in lieu of the fees levied by way of this Resolution at its discretion, so long as the reasonable value of land to be dedicated does not exceed the maximum fee amounts contained herein or modified pursuant hereto.

Section 8. Implementation: For construction projects within the District, the Superintendent, or the Superintendent's designee, is authorized to issue Certificates of Compliance upon payment of any fee levied under the authority of this Resolution.

Section 9. California Environmental Quality Act: The Board hereby finds that the fees established pursuant to this Resolution are exempt from the provisions of the California Environmental Quality Act ("CEQA").

Section 10. Commencement Date: The Board orders that the fees established hereby shall take effect immediately upon adoption.

Section 11. Notification of Local Agencies: The Secretary of the Board is hereby directed to forward copies of this Resolution along with a map of the District's boundaries to the Planning Departments of Alameda County and the City of Union City, and to file a Notice of Exemption from the California Environmental Quality Act with the County Clerk.

Section 12. Severability: If any portion of this Resolution is found by a Court of competent jurisdiction to be invalid, such finding shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares its intent to adopt this Resolution irrespective of the fact that one or more of its provisions may be declared invalid subsequent hereto.

APPROVED, PASSED AND ADOPTED by the Governing Board of the New Haven Unified School District this 19th day of April 2016, by the following vote:

AYES:

NOES:

ABSENT:

NEW HAVEN UNIFIED SCHOOL DISTRICT

By: _____
President, Governing Board of the
New Haven Unified School District

ATTEST:

Secretary of the Board of Education
New Haven Unified School District