

NATOMAS UNIFIED SCHOOL DISTRICT

Resolution No. 21-12

IN THE MATTER OF: Approving a School Facilities Needs Analysis, Adopting Alternative School Facilities Fees in Compliance with Government Code Section 65995.5, 65995.6 and 65995.7 and Section 17620 of the Education Code and Making Related Findings and Determinations

The following RESOLUTION was duly passed by the Board of Trustees of the Natomas Unified School District, at a regular meeting held on the 24th of March, 2021, by the following roll call vote:

Jag Bains	_____
Erika Harden	_____
Micah Grant	_____
Susan Heredia	_____
Lisa Kaplan	_____

Signed and approved by me after its passage: _____
Dr. Susan Heredia, President

Attest:

Erika Harden, Clerk

WHEREAS, the Board of Trustees ("Board") of the Natomas Unified School District ("District") provides for the educational needs for Grade TK-12 students within the City of Sacramento and portions of unincorporated areas of the County of Sacramento; and

WHEREAS, the Board of the District has previously adopted and the District has imposed statutory school facility fees ("Statutory School Facility Fees" or "Level I Fees") pursuant to Education Code Section 17620 and Government Code Section 65995(b)(1) and (b)(2), and alternative school fee amounts pursuant to Government Code Sections 65995.5 ("Level II Fees") and 65995.7 ("Level III Fees") or (collectively, "Alternative School Facilities Fees" or "ASFF"), but desires to update its ASFF based on a current School Facilities Needs Analysis ("2021 SFNA") prepared by Cooperative Strategies, LLC in accordance with applicable law; and

WHEREAS, the Board of the District has previously by Resolution elected to participate in the school facilities funding program established pursuant to the Leroy F. Greene School Facilities Act of 1998 ("SFP") for both modernization and new construction projects, and appointed a representative ("District Representative") for the purpose of requesting an Eligibility Determination ("ED") for funding under the SFP; and

WHEREAS, the District Representative has caused the completion and certification of original and updated Enrollment Certification/Projection ("ECP") by submission of Form SAB 50-01, the Existing School Building Capacity ("ESBC") by submission of Form SAB 50-02, and the ED by submission of Form SAB 50-03 to the State Allocation Board ("SAB") for approval pursuant to the SFP; and

WHEREAS, the District received notification from the SAB that the District meets the eligibility requirements for new construction funding pursuant to the provisions of the SFP; and

WHEREAS, the District Representative has caused the completion and certification of Form SAB 50-04, the Application for Funding ("AFF"), and prior to the adoption of this Resolution submitted the AFF to the SAB for approval pursuant to the SFP; and

WHEREAS, Level II Fees and Level III Fees, upon adoption of the ASFF and during the effective period thereof, are applicable to new residential construction in accordance with applicable law, subject to the suspension of Level III Fees pursuant to Government Code Section 65995.7(a)(2); and

WHEREAS, pursuant to Government Code Section 65995.6(f), ASFF adopted by the Board are effective for a maximum on one (1) year; and

WHEREAS, the District has met the requirements established by Government Code Section 65995.5(b)(3) in that (i) the District held a general obligation bond election on November 6, 2018, which date is within four (4) years hereof, and obtained voter approval of at least fifty percent (50%) plus one (1) of the votes cast and (ii) the District has issued debt or incurred obligations for capital outlay in an amount equivalent to specified threshold percentage of its local bonding capacity; and

WHEREAS, new residential construction continues to generate additional students for the District's schools and the District is required to provide grades TK-12 school facilities ("School Facilities") to accommodate those students; and

WHEREAS, the District does not have sufficient funds available for the construction 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 construction; and

WHEREAS, the Board has caused to be prepared the 2021 SFNA dated February 16, 2021 pursuant to applicable law, including, but not by way of limitation, Government Code Section 65996.6, prior to the adoption of ASFF; and

WHEREAS, the Board has received and considered the 2021 SFNA which includes all matters required by applicable law, including an analysis of: (a) the purpose of the ASFF; (b) the use to which the ASFF are to be put; (c) the nexus (roughly proportional and reasonable relationship) between the residential construction and (1) the facilities for which the ASFF are to be used, (2) the need for School Facilities, (3) the cost of School Facilities and the amount of ASFF from new residential construction; (d) an evaluation and projection of the number of students that will be generated by new residential construction by grade levels of the District as described by Government Code Section 65995.6; (e) a description of the new School Facilities that will be required to service such students; and (f) the present estimated cost of such School Facilities; and

WHEREAS, the 2021 SFNA in its final form has been available to the public, for at least thirty (30) days before the Board considered at a public hearing the adoption of the ASFF, including a response by the Board to written and oral comments, if any, received by the District; and

WHEREAS, all notices of the 2021 SFNA and adoption of ASFF, including notice of the preparation of the 2021 SFNA with the offer to meet with any affected local planning agency relating to the potential expansion of existing school sites or the necessity to acquire additional school sites, have been given in accordance with applicable law; and

WHEREAS, copies of the 2021 SFNA have been provided thirty (30) days prior to the public hearing if such written request(s) for copies were filed with the District forty-five (45) days prior to a public hearing, which was held in a manner required by applicable law at a meeting of the Board of the District relating to the proposed adoption of the 2021 SFNA and ASFF; and

WHEREAS, the 2021 SFNA has been provided to all local agencies responsible for land use planning for review and comment in compliance with Government Code Section 65995.6(c); and

WHEREAS, the District has received, considered and discussed any written and/or oral comments received by the District, and has responded to all comments, which the Board desires to adopt all such written and oral responses as the Board's response(s), if any; and

WHEREAS, as to the approval of the 2021 SFNA and ASFF, Government Code Section 65995.6(g) provides that the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the preparation, adoption, or update of the 2021 SFNA or adoption of this Resolution; and

WHEREAS, the District desires to approve the 2021 SFNA and adopt ASFF pursuant to Government Code Sections 65995.5, 65995.6, and 65995.7 for the purpose of establishing ASFF that may be imposed on residential construction calculated pursuant to Government Code Section 65995(b), subject to the suspension of Level 3 Fees as set forth in Government Code Section 65995.7(a)(2).

NOW THEREFORE, BE IT RESOLVED:

Section 1. That the Board does hereby find and determine that the foregoing recitals and determinations are true and correct and that the 2021 SFNA meets all applicable legal requirements.

Section 2. That the Board does hereby find and determine that the 2021 SFNA meets all applicable legal requirements, and it hereby adopts each of the findings set forth in the 2021 SFNA.

Section 3. That a District Representative made a timely application to the SAB for new construction funding for which it is eligible.

Section 4. That the District received notification from the SAB that the District meets the eligibility requirements for new construction funding pursuant to the provisions of the SFP.

Section 5: That for purposes of Government Code Section 65995.5(b)(3): (i) the District held a general obligation bond election on November 6, 2018, which date is within four (4) years hereof and obtained voter approval of at least fifty percent (50%) plus one (1) of the votes cast and (ii) the District has issued debt or incurred obligations for capital outlay in an amount equivalent to specified threshold percentage of its local bonding capacity.

Section 6. That the District has cause to prepare the 2021 SFNA, which is on file at the District office address and incorporated herein by this reference, which complies with all applicable statutory requirements, including the provisions of Government Code Section 65995.6.

Section 7. That the Board hereby approves and adopts the 2021 SFNA for the purpose of establishing ASFF as to future residential construction within the District,

subject to the temporary suspension of Level 3 Fees as set forth in Government Code Section 65995.7(a)(2).

Section 8. That the Board finds that the purpose of the ASFF imposed upon residential construction is to fund the additional School Facilities to serve the students generated by the residential construction upon which the ASFF are imposed as provided in the 2021 SFNA and applicable law.

Section 9. That the Board finds that the ASFF are hereby established as applicable to the extent set forth herein and will be used to fund those School Facilities described in the 2021 SFNA and that these School Facilities are to serve the students generated by the residential construction within the District as provided in the 2021 SFNA.

Section 10. That the Board finds that there is roughly proportional, reasonable relationship between the use of the ASFF and the new residential construction within the District because the ASFF imposed on new residential construction by this Resolution will be used to fund School Facilities which will be used to serve the students generated by such new residential construction in accordance with applicable law as set forth in the 2021 SFNA and on less than an estimated actual cost of the School Facilities estimated to result from additional residential construction as set forth in the 2021 SFNA.

Section 11. That the Board finds that there is a roughly proportional, reasonable relationship between the new residential construction upon which the ASFF are imposed, and the need for additional School Facilities in the District because new students will be generated from new residential construction within the District, and the District does not have sufficient capacity in the existing School Facilities to accommodate these students.

Section 12. That the Board finds that the amount of the ASFF 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 13. 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 Level 1 Fees, ASF/Level 2 Fees and ASF/level 3 Fees (if applicable) imposed on residential construction within the District, as well as Commercial/Industrial Fees and mitigation payments ("Mitigation Payments") collected by 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 applicable law.

Section 14. 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 Level 1 Fees, ASF/Level 2 Fees and ASF/Level 3 Fees (if applicable), Commercial/Industrial Fees and Mitigation Payments have been imposed for the purposes of constructing those School Facilities necessitated by new residential construction as further set forth in the 2021 SFNA, and thus, these monies may be expended for all those purposes permitted by applicable law.

Section 15. That the 2021 SFNA determines the need for new School Facilities for unhoused pupils that are attributable to projected enrollment growth from the construction of new residential units over the next five (5) years, based on relevant planning agency information and the historical generation rates of new residential units constructed during the previous five (5) years that are of a similar type of unit to those anticipated to be constructed within the District, the City, and/or the County.

Section 16. That the Board has identified and considered, and/or subtracted, as set forth in the 2021 SFNA, the following information in determining amounts of the ASFF/Level2 Fees and ASFF/Level 3 Fees:

- A. any surplus property owned by the District that can be used as a school site or that is available for sale to finance school facilities pursuant to Government Code Section 65995.6(b)(1);
- B. the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities pursuant to Government Code section 65995.6(b)(2);
- C. local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units pursuant to Government Code Section 65995.6(b)(3); and
- D. the full amount of local funds the Board has dedicated to facilities necessitated by new construction, including fees, charges, dedications or other requirements imposed on commercial or industrial construction pursuant to Government Code Section 65995.5(c)(2).

Section 17. That the Board has calculated, as set forth in the 2021 SFNA, the maximum square footage fees, charges, or dedications to be established as ASFF that may be collected in accordance with the provisions of Government Code Sections 65995.5(c) and 65995.7(a).

Section 18. That notice and relevant and available information relating to the potential expansion of existing school sites or the necessity to acquire additional school sites, including notice of a proposed meeting regarding such information was provided to City and County planning commissions or agencies with land use jurisdiction within the District prior to the completion of the 2021 SFNA.

Section 19. That the 2021 SFNA in its final form has been made available to the public for a period of not less than thirty (30) days, and that the District has made itself available to the public to meet with any affected city or county to discuss the preparation of the 2021 SFNA, pursuant to the requirements of Government Code Section 65352.2.

Section 20. That the public has had the opportunity to review and comment on the 2021 SFNA, and the Board has responded to written comments it has received, if any, regarding the 2021 SFNA.

Section 21. That in responding to written comments pursuant to Government Code Section 65995.6(c), if any, the Board may adopt any and/or all such responses made by District staff and/or consultants, and does hereby adopt all responses, if any, as responses of the Board thereto.

Section 22. That notice of the time and place of the public hearing ("Hearing") to adopt the 2021 SFNA, including the location and procedure for viewing or requesting a copy of the proposed 2021 SFNA, and any proposed revision thereof, has been published in at least one newspaper of general circulation within the jurisdiction of the District at least thirty (30) days prior to the Hearing.

Section 23. That the District has caused to be mailed a copy of the 2021 SFNA not less than thirty (30) days prior to the Hearing to any person who made a written request forty-five (45) days prior to the Hearing.

Section 24. That the 2021 SFNA has been provided to all local agencies responsible for land use planning for review and comment in compliance with Government Code Section 65995.6(c).

Section 25. That the Board conducted the required Public Hearing on March 25, 2020, prior to adoption of the 2021 SFNA and the ASFF, at which time all persons desiring to be heard on all matters pertaining to the 2021 SFNA were heard and all information presented was duly considered.

Section 26. That the Board hereby adopts ASFF and establishes the ASFF on new residential construction projects within the District in the following amounts:

- A. Pursuant to Government Code Section 65995.6, ASF/Level 2 Fees within the Natomas Unified School District boundaries are \$4.56 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. However, this amount shall not be imposed on any construction project used exclusively for housing senior citizens, as described in Civil Code Section 51.3, or as described in subsection (k) of Section 1569.2 of the Health and Safety Code or paragraph 9 of subdivision (d) of Section 15432 of the Government Code 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.
- B. Pursuant to Government Code Section 65995.7, ASF/Level 3 Fees within the Natomas Unified School District boundaries are \$9.13 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. However, this amount shall not be imposed on any construction project used exclusively for housing senior citizens, as described in Civil Code Section 51.3, or as described in subsection (k) of Section 1569.2 of the Health and Safety Code or paragraph 9 of subdivision (d) of Section 15432 of the Government Code 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. Additionally, Level 3 Fees shall not be levied by the District until authorized by Government Code Section 65995.7(a)(2).

Section 27. That ASFF, upon adoption and during the effective period thereof, are applicable to residential construction in the alternative to Level 1 Fees in accordance with applicable law, except that Level 3 Fees are suspended temporarily as set forth in Government Code Section 65995.7(a)(2).

Section 28. That the proceeds of the ASFF increased and 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 ASFF are to be collected.

Section 29. That the Superintendent, or his/her designee, is directed to cause a copy of this Resolution to be delivered to the building officials of the affected City and the County within the District's boundaries, along with a copy of all the supporting documentation referenced herein, and a map of the District clearly indicating the boundaries thereof, advising such entities that new residential construction is subject to the ASFF increased 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 construction project, mobile home or manufactured home subject to the ASFF absent a certificate of compliance ("Certificate of Compliance") from this District demonstrating compliance of such project with the requirements of the ASFF, nor that any building permit be issued for any non-residential construction absent a certification from this District of compliance with the requirements of the applicable ASFF.

Section 30. That the Superintendent, or his/her designee, is authorized to cause a Certificate of Compliance to be issued for each construction project, mobile home and manufactured home for which there is compliance with the requirement for payment of the

ASFF in the amounts specified by this Resolution. In the event a Certificate of Compliance is issued for the payment of ASFF for a construction project, mobile home or manufactured home, and it is later determined that the statement or other representation made by an authorized party concerning the construction 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 County shall be so notified.

Section 31. That regarding the timely provision of a Certificate of Compliance by the District for residential construction, although not required by applicable law, the Board hereby determines that the 2021 SFNA is a proposed construction plan for purposes of requiring payment of ASFF prior to the issuance of any building permit for residential construction in accordance with Government Code Section 66007, and that all ASFF are appropriated for the purpose of accomplishing such construction plan.

Section 32. That no statement or provision set forth in this Resolution, or referred to therein, shall be constructed to repeal any preexisting fee or mitigation amount previously imposed by the District on any residential or non-residential construction.

Section 33. That if any portion set forth in this Resolution, is held to be invalid, the remaining provisions of this Resolution is intended to be and shall remain valid.

Section 34. That if the ASF/Level 2 Fees and/or the ASF/Level 3 Fees are held to be invalid (other than the suspension under Government Code Section 65995.7(a)(2)), Statutory School Facility Fees, in amounts determined by applicable law at such time, are intended to be, and shall remain, in full force and effect.

Section 35. That the ASFF adopted by this Resolution shall take effect immediately upon such adoption and shall be effective for a maximum of one year, subject to the temporary suspension of Level 3 Fees as set forth in Government Code Section 65995.7(a)(2).