

RESOLUTION NO. 2016/17-41

RESOLUTION OF THE BOARD OF TRUSTEES OF THE HESPERIA UNIFIED SCHOOL DISTRICT APPROVING A SCHOOL FACILITIES NEEDS ANALYSIS, ADOPTING ALTERNATIVE SCHOOL FACILITY FEES IN COMPLIANCE WITH GOVERNMENT CODE SECTIONS 65995.5, 65995.6 AND 65995.7, ADOPTING RESPONSES TO PUBLIC COMMENTS RECEIVED AND MAKING RELATED FINDINGS AND DETERMINATIONS

WHEREAS, the Board of Trustees (“Board”) of the Hesperia Unified School District (“District”) provides for the educational needs for Grade K-12 students within the City of Hesperia and the City of Victorville (individually “City” and collectively “Cities”) and portions of the unincorporated County of San Bernardino (“County”); and

WHEREAS, the Board has previously adopted and the District has imposed statutory school facility fees (“Statutory School Facility Fees” or “Level 1 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 2 Fees”) and 65995.7 (“Level 3 Fees” and collectively, “Alternative School Facility Fees” or “ASFF”), but desires to update its ASFF based upon a current school facilities needs analysis (“2017 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 caused to be accomplished the completion and certification of the Enrollment Certification/Projections (“ECP”) by submission of Form SAB 50-01, the Existing School Building Capacity (“ESBC”) by submission of Form SAB 50-02, and the Eligibility Determinations (“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, Level 2 Fees and Level 3 Fees, upon adoption of the ASFF and during the effective period thereof, are applicable to new residential construction in accordance with applicable law; and

WHEREAS, pursuant to Government Code Section 65995.6(f), ASFF adopted by the Board are effective for a maximum of 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 has issued debt or incurred obligations for capital

outlay in an amount equivalent to a specified percentage of its local bonding capacity; and (ii) at least twenty percent (20%) of the teaching stations within the school district are relocatable classrooms; and

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

WHEREAS, the District does not have sufficient funds available for the construction of the School Facilities, including the 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 2017 SFNA dated April 6, 2017, pursuant to applicable law including, but not by way of limitation, Government Code Section 65995.6, prior to the adoption of ASFF; and

WHEREAS, the Board has received and considered the 2017 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 serve such students; and (f) the present estimated cost of such School Facilities; and

WHEREAS, the 2017 SFNA in its final form has been available to the public, for at least thirty (30) days before the Board held a Hearing on May 8, 2017 ("Hearing") and considered 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 preparation of the 2017 SFNA and adoption of ASFF, including the offer by the District 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 Government Code Section 65352.2; and

WHEREAS, copies of the 2017 SFNA have been provided thirty (30) days prior to the Hearing if such written request(s) for copies were filed with the District forty-five (45) days prior to a 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 2017 SFNA and ASFF; and

WHEREAS, the 2017 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 2017 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 2017 SFNA or adoption of this Resolution; and

WHEREAS, the District desires to approve the 2017 SFNA and adopt ASFF pursuant to Government Code Sections 65995.5 and 65995.7 for the purpose of establishing ASFF that may be imposed on residential construction calculated pursuant to Government Code Section 65995(b).

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE HESPERIA UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. The Board does hereby find and determine that the foregoing recitals and determinations are true and correct, including not by way of limitation, its adoption of and/or responses to both written and oral comments received by the District, if any.

Section 2. The Board does hereby find and determine that the 2017 SFNA meets all applicable legal requirements, and it hereby adopts each of the findings set forth in the 2017 SFNA.

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

Section 4. 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. For purposes of Government Code Section 65995.5(b)(3): (i) the District has issued debt or incurred obligations for capital outlay in an amount equivalent to a specified percentage of its local bonding capacity; and (ii) at least twenty percent (20%) of the teaching stations within the school district are relocatable classrooms.

Section 6. The District has caused to be prepared the 2017 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. The Board hereby approves and adopts the 2017 SFNA for the purpose of establishing ASFF as to future new residential construction within the District.

Section 8. The Board finds that the purpose of the ASFF imposed upon residential construction are 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 2017 SFNA and applicable law.

Section 9. 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 2017 SFNA, and such fees that these School Facilities are to serve the students generated by the new residential construction within the District as provided in the 2017 SFNA.

Section 10. The Board finds that there is a 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 2017 SFNA, and such fees are less than an estimated actual cost of the School Facilities estimated to result from the new residential construction as set forth in the 2017 SFNA.

Section 11. 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, which results in projected unhoused students.

Section 12. 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. The Board finds that a separate fund (“Fund”) of the District 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 1 Fees, Level 2 Fees and 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. The Board finds that the monies of the separate Fund or the separate Sub-Funds, described in Section 13, consisting of the proceeds of Level 1 Fees, Level 2 Fees and 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 and as further set forth in the 2017 SFNA, and thus, these monies may be expended for all those purposes permitted by applicable law.

Section 15. The 2017 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, and/or the County.

Section 16. The Board has identified and considered, and/or subtracted, as set forth in the 2017 SFNA, the following information in determining amounts of the Level 2 Fees and 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 school facilities pursuant to Government Code Section 65995.6(b)(2);

(c) potential 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. The Board has calculated, as set forth in the 2017 SFNA, the maximum square foot 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. 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 officials or agencies with land use jurisdiction within the District prior to the completion of the 2017 SFNA.

Section 19. The 2017 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 meet with any affected city or county to discuss the preparation of the 2017 SFNA, pursuant to the requirements of Government Code Section 65352.2.

Section 20. The public has had the opportunity to review and comment on the 2017 SFNA, and the Board has responded to both written and oral comments it has received, if any, regarding the 2017 SFNA.

Section 21. In responding to written comments pursuant to Government Code Section 65995.6(c), the Board does hereby adopt any and/or all such response(s) made by District staff and/or its consultants as its own response(s), and/or adopts such response(s) as modified by the Board at the Hearing.

Section 22. Notice of the time and place of the Hearing to adopt the 2017 SFNA, including the location and procedure for viewing or requesting a copy of the proposed 2017 SFNA 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. The District has caused to be mailed a copy of the 2017 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. The 2017 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. The Board conducted the required Hearing prior to adoption of the 2017 SFNA and the ASFF, at which time all persons desiring to be heard on all matters pertaining to the 2017 SFNA were heard, all responses to such comments received were made by the Board, if any, and all information presented was duly considered.

Section 26. 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, Level 2 Fees in the amount of Four and 14/100 (\$4.14) per square foot of Assessable Space for new residential construction, including new residential projects, manufactured homes and mobilehomes as authorized under Education Code Section 17625.

(b) Pursuant to Government Code Section 65995.7, Level 3 Fees in the amount of Eight and 28/100 (\$8.28) per square foot of Assessable Space for new residential construction, including new residential projects, manufactured homes and mobilehomes as authorized under Education Code Section 17625.

(c) Pursuant to Government Code Section 65995.1, the ASFF 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 (o) or (p) of Section 1569.2 of the Health and Safety Code, or paragraph 9 of subdivision (d) of Section 15432 of the Government Code, or on any mobile home or manufactured home that is located within a mobilehome park, subdivision, cooperative or condominium for mobilehomes limited to older persons as defined by the Federal Fair Housing Amendments of 1988 as described in Government Code Section 65995.2. Additionally, Level 3 Fees shall not be levied by the District until authorized as set forth in Government Code Section 65995.7(a).

Section 27. ASFF, upon adoption and during the effective period thereof, are applicable to residential construction in lieu of Level 1 Fees in accordance with applicable law.

Section 28. The proceeds of the ASFF increased and established pursuant to this Resolution shall continue to be deposited into those Funds and Sub-Funds identified in Section 13 of this Resolution, the proceeds of which shall be used exclusively for the purpose for which the ASFF are to be collected.

Section 29. The Superintendent, or designee, is directed to cause a copy of this Resolution to be delivered to the building officials of the affected Cities and County within the District's boundaries, as well as to the Office of Statewide Health Planning & 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 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, mobilehome 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 nonresidential construction absent a certification from this District of compliance with the requirements of the applicable ASFF.

Section 30. The Superintendent, or designee, is authorized to cause a Certificate of Compliance to be issued for each construction project, mobilehome 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, mobilehome 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, and the OSHPD, shall be so notified.

Section 31. 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 2017 SFNA is a proposed construction plan for purposes of requiring payment of ASFF prior to the issuance of any building permit for new 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. No statement or provision set forth in this Resolution, or referred to herein shall be construed to repeal any preexisting fee or mitigation amount previously imposed by the District on any residential or nonresidential construction.

Section 33. If any portion or provision this Resolution is held to be invalid, the remaining provisions of this Resolution are intended to be and shall remain valid.

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Section 34. If the Level 2 Fees and/or the Level 3 Fees are held to be invalid, 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. The ASFF adopted by this Resolution shall take effect immediately upon such adoption and shall be effective for a maximum of one (1) year.

APPROVED, ADOPTED, AND SIGNED on May 8, 2017.

**BOARD OF TRUSTEES OF THE HESPERIA
UNIFIED SCHOOL DISTRICT**

By: _____
President, Board of Trustees of the Hesperia
Unified School District

By: _____
Clerk, Board of Trustees of the Hesperia
Unified School District

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, Eric Swanson, Clerk, Board of Trustees of the Hesperia Unified School District, do hereby certify that the foregoing was duly adopted by the Board of Trustees of such District at a regular meeting of said Board held on the 8th day of May, 2017, 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:

Clerk, Board of Trustees of the Hesperia Unified
School District

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, Eric Swanson, Clerk of the Board of Trustees of the Hesperia Unified School District do hereby certify that the foregoing is a full, true and correct copy of Resolution No. 2016/17-41 of said Board, and that the same has not been rescinded, amended or repealed.

Dated this 8th day of May, 2017.

Clerk, Board of Trustees of the Hesperia Unified
School District