RESOLUTION NO. 4, 2021-2022

A RESOLUTION OF THE GOVERNING BOARD OF THE ELK GROVE UNIFIED SCHOOL DISTRICT ADOPTING A SCHOOL FACILITIES NEEDS ANALYSIS AND ESTABLISHING AND ADOPTING ALTERNATIVE SCHOOL FACILITY FEES IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 65995.5, 65995.6, AND 65995.7

WHEREAS, the Governing Board of the Elk Grove Unified School District ("Board") has elected to participate in the school facilities funding program established pursuant to the Leroy F. Greene School Facilities Act of 1998 ("Act") for both modernization and new construction projects; and

WHEREAS, under the Act, the Board may establish fees to offset the cost of school facilities made necessary by new construction following the making of certain findings; and

WHEREAS, the Elk Grove Unified School District ("District") has undertaken a review of its eligibility to establish fees under the Act; and

WHEREAS, the District has completed and certified State Allocation Board ("SAB") Form 50-04 (Application for Funding) and SAB Form 50-05 (Fund Release Authorization) for new construction funding prior to the adoption of this Resolution; and

WHEREAS, at least twenty percent (20%) of the District's teaching stations are relocatable classrooms; and

WHEREAS, the District meets the bonding capacity requirements of the Act; and

WHEREAS, the District has prepared an analysis entitled "Schools Facility Needs Analysis," dated June 2021, (the "Needs Analysis") for purposes of adopting alternative school facility fees pursuant to Government Code Sections 65995.5 ("Level 2 Fee") and 65996.7 ("Level 3 Fee") (collectively referred to as "Alternative School Facility Fees") in accordance with applicable law; and

WHEREAS, the Board has reviewed and considered the Needs Analysis which includes all of the findings required by applicable law, including an analysis of the purpose of the Alternative School Facility Fees and the reasonable relationship between the

Alternative School Facility Fees and the need for new school facilities to accommodate students generated from new residential construction; and

WHEREAS, the District does not have sufficient funds available for the construction or reconstruction of school facilities, including acquisition of school sites, construction of permanent school facilities, and interim school facilities to accommodate students generated from new development; and

WHEREAS, the Board has satisfied all of the requirements of Government Code Section 65995.5 to be eligible to establish and levy fees pursuant to the Act; and

WHEREAS, in accordance with Government Code Sections 65995.5, 65995.6 and 65995.7, the purpose of this Resolution is to adopt a Needs Analysis and to establish and levy fees under the provisions of the Act 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 ELK GROVE UNIFIED SCHOOL DISTRICT AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct.

Section 2. Procedure. The District has complied with all applicable notice, public review, and hearing requirements necessary to adopt the Needs Analysis and establish and levy fees under the Act. Specifically:

(a) Prior to the adoption of this Resolution, the Board conducted a public hearing to adopt the Needs Analysis at its August 10, 2021, regular meeting at which time all persons desiring to comment on the Needs Analysis were heard and all information was duly considered.

(b) Notice of the time and place of the public hearing, including the location and procedure for viewing or requesting a copy of the proposed Needs Analysis and any proposed revision of the Needs Analysis, 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 previously 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.

(c) 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 costs, or estimated costs, 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.

(d) By way of a 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 in accordance with relevant law, along with materials which formed the basis for the action taken pursuant to this Resolution.

Section 3. Findings. The Board has reviewed the provisions of the Needs Analysis as it relates 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) Enrollment at the various District schools is presently at or exceeding capacity;

(b) Additional development projects within the District, whether new residential construction or residential reconstruction involving increases in habitable area will increase the need for school facilities;

(c) Without the addition of new school facilities, further residential development projects within the District will result in a significant decrease in the quality of education presently offered by the District;

(d) New residential development is projected within the District's boundaries and the enrollment produced thereby will exceed the capacity of the schools of the District. Projected development within the District, without additional school facilities, will result in conditions of overcrowding which will impair the normal functioning of the District's educational programs;

(e) 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;

(f) 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;

(g) 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;

(h) 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;

(i) 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 of 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 revenue sources anticipated to provide such facilities, including general fund revenue; and

(j) 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 or in some instances, will be used to reimburse the District for expenditures previously made.

Section 4. Determination of Eligibility.

(a) The District has submitted a timely application to the State Allocation Board for new construction funding, and has met the eligibility requirements for new construction funding pursuant to the provisions of the Leroy F. Green School Facilities Act of 1998.

(b) In accordance with the provisions of Government Code Section 65995.5(b)(3)(C) and 65995.5(b)(3)(D), the District meets the local bonding capacity requirements and the District uses relocatable classrooms for at least 20% of its teacher stations.

Section 5. Adoption of Needs Analysis.

(a) The Board has reviewed the provisions of 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 and Level 3 fees in accordance with the provisions of Government Code Section 65995.5 and 65995.7, and hereby adopts the Needs Analysis.

Section 6. Determination and Establishment of Fees. Based upon the foregoing findings, the Board hereby establishes and levies a new fee upon residential construction within the District, to be known as the "Level 2 Fee" and the "Level 3 Fee" as follows:

(a) **Level 2 Fees.** The Level 2 Fee for new residential construction is hereby established and set at the rate of $6.72 per square foot of residential development. The Level 2 Fee shall be collected as a precondition to the issuance of any building permit for construction within the District's boundaries.

(b) **Level 3 Fees.** 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 et seq. 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, a fee calculated pursuant to Government Code Section 65995.7, the Level 3 fee, may be levied. The Level 3 Fee for residential construction is hereby established and set at the rate $13.44 per square foot of residential development.

(c) The Level 3 Fee shall be placed in effect immediately by action of the Superintendent, without any additional action by the Board other than a determination by the Superintendent that the requirements of Government Code Section 65995.7 as outlined above have been met.

Section 7. Fee Adjustments and Limitations. The fees established herewith shall be subject to the following:

(a) The District's Level 2 Fee (or the Level 3 Fee when applicable) shall be effective for a period of one year following the effective date of this Resolution as set forth below and shall be reviewed annually to determine if such fee is to be re-established or revised.

(b) The Level 2 Fee established hereby (or the Level 3 Fee when applicable) shall not apply during the term of any contract entered into between a subdivider or builder and the District, or any applicable city or county on or before January 1, 1987, that requires the payment of a fee, charge or dedication for the construction of school facilities as a condition to the approval of residential development.

(c) The Level 2 Fee established hereby (or the Level 3 Fee when applicable) shall not apply during the term of any contract entered into between a person and the District or any applicable city or the County, after January 1, 1987 but before November 4, 1998, that requires payment of a fee, charge, or dedication for school facilities mitigation.

(d) The Level 2 Fee established hereby (or the Level 3 Fee when applicable) shall not apply to any construction that is not subject to a contract such as described above, but that is carried out on real property for which residential development was made subject to a condition relating to school facilities imposed by a state or local agency in connection with a legislative act approving or authorizing such residential development after January 1, 2000, such construction shall be subject to the Level 2 Fee or the Level 3 Fee as applicable.

Section 8. 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 §§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 mitigation 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 9. Implementation. For construction projects within the District, the Superintendent, or the Superintendent's designee, is authorized to issue Certificates of Compliance upon the payment of any fee levied under the authority of this Resolution.

Section 10. California Environmental Quality Act. The Board hereby finds that, in accordance with Government Code Section 65995.6(g), the fees established pursuant to this Resolution are exempt from the provisions of the California Environmental Quality Act (CEQA), and hereby directs District staff to file a Notice of Exemption with the Office of the Sacramento County Clerk.

Section 11. Effective Date. The Board orders that the fees established hereby shall take effect immediately after adoption of this Resolution and shall be in effect for one (1) year.

Section 12. Notification of Local Agencies. The Secretary of the Board or District staff designee is hereby directed to forward certified copies of this Resolution,

accompanied by all relevant supporting documentation including the Needs Analysis, and a map of the boundary area of the District subject to the Level 2 Fees and Level 3 Fees, to all appropriate land use jurisdictions issuing building permits within the District, informing each of them of the District's current school facilities fee for development projects.

Section 13. 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 Elk Grove Unified School District this 10th day of August, 2021, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Beth Albiani
President, Governing Board
Elk Grove Unified School District

ATTEST:

_____
Christopher R. Hoffman
Secretary, Governing Board
Elk Grove Unified School District