

LEVEL 1 DEVELOPER FEE JUSTIFICATION STUDY



FEBRUARY 2020

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DEVELOPER FEE JUSTIFICATION STUDY

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DEVELOPER FEE JUSTIFICATION STUDY

SECTION 1: EXECUTIVE SUMMARY

This study is intended to update the developer fee imposed by the Sylvan Union School District (the "District"). This report summarizes an analysis of the need for construction and reconstruction of school facilities to accommodate students from new development within the District's boundaries and documents a reasonable relationship between new development, the fee, and the facilities to be funded.

Education Code section 17620 authorizes school districts to levy a fee against any development project for the construction or reconstruction of school facilities as long as the district can show justification for levying of fees.

In January 2020, the State Allocation Board adjusted the maximum statutory fee to \$4.08 per square foot of residential construction and \$0.66 per square foot of commercial/industrial construction. This study supports the adoption of a developer fee by the District up to the statutory fees established by the State Allocation Board. However, as the District shares its boundaries with the Modesto City Schools, it must also share its developer fees. Therefore, ***the District can levy developer fees up to 60% of the maximum statutory fee, or \$2.45 per square foot of residential development.*** Modesto City Schools collects 100% of commercial/industrial fees.

Upon the submittal of this study to the District, it is incumbent upon the District's Governing Board (the "Board"), assisted by staff, to review and evaluate the report for accuracy and agreement with the conclusions presented. Once the Board is satisfied that the fee adjustment recommendations are valid, the Board shall accept and consider public input. After accepting this input, the Board shall vote to approve findings and a resolution to set the appropriate fees.

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SECTION 2: PURPOSE OF THIS STUDY

The purpose of this Developer Fee Justification Study is to comply with the provisions of Education Code section 17620 in relation to the levy and collection of developer fees. This study will substantiate that there is a “reasonable relationship”, or nexus, between residential, commercial, and industrial development projects and the cost to provide adequate school facilities for the students generated from those developments. It will identify the expected revenue derived from fees from those developments; identify other potential sources of revenue for facilities (and their viability); and identify the additional students projected to enroll in district schools as a result of these development projects. As required by Government Code sections 66000 through 66003, this report will also:

- ◆ Identify the purpose of the fee;
- ◆ Identify how the fee is to be used;
- ◆ Determine how a reasonable relationship exists between the fee’s use and the type of development project on which the fee is imposed; and
- ◆ Determine a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.
- ◆ A fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.

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SECTION 3: HISTORY OF DEVELOPER FEE LAW

Education Code section 17620 (AB 2926, Chapter 887/Statutes 1986), stipulates that “the Governing Board of any school district is authorized to levy a fee, charge, dedication, or other forms of requirement against any development project for the construction or reconstruction of school facilities.” To levy and collect developer fees, a school district must show the correlation (or “nexus”) between new residential, commercial and industrial development and the need for new school facilities.

Developer fees were originally established in 1987 with a maximum fee of \$1.50 per square foot of new residential construction and \$0.25 per square foot of new commercial/industrial construction. This maximum amount is reviewed and adjusted every two years by the State Allocation Board (SAB) based on the statewide Class B Construction Cost Index. The SAB raised the maximum fee at its January 2020 meeting to \$4.08 per square foot of residential and \$0.66 per square foot of commercial/industrial development.

Developer fees may be used to finance new schools and equipment, and to reconstruct existing facilities in order to maintain adequate housing for all of the District’s students. Other legitimate uses of developer fees include, but are not limited to: interim housing, site acquisition, replacement of aged or inadequate portable classrooms, and housing for class-size reduction. Up to three percent of the fees collected may be used to defray the administrative costs incurred by the District in collecting these fees. Uses of the fees which are specifically prohibited by law are: regular or routine maintenance of facilities, asbestos abatement incidental to construction or reconstruction, and deferred maintenance programs.

Additionally, Government Code section 66008 (SB 1693, Chapter 569/Statutes 1996, effective January 1, 1997) mandates that school districts be specific on the intended use of the fees to be collected in their fee justification documents and include the general locations of new school facilities and estimated construction timelines in the report. These timelines, however, are influenced by many factors including actual (as opposed to projected) phasing of new development, eligibility for and availability of State School Facility Program (“SFP”) funds and availability of local funding.

In August 1998, the Governor signed into law Senate Bill 50 (“SB 50”), also known as the Leroy Greene School Facilities Act of 1998. This bill made major changes in the State Facilities Program as well as developer fee mitigation for school districts in California. The passage of SB 50 repealed all locally imposed fees authorized by local ordinances and instituted the collection of three levels of developer fees.

- ◆ Level 1 fees are the current statutory fees (also referred to as “Stirling Fees”) allowed under Education Code section 17620.
- ◆ Level 2 fees are outlined in Government Code section 65995.5, and allow school districts to impose higher fees on residential construction if certain conditions are met. This level of developer fees is subject to a School Facility Needs Analysis based on Government Code section 65995.6.
- ◆ Level 3 developer fees are outlined in Government Code section 65995.7, and may be implemented by a district if the State certifies that there is no money available for facilities.

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SECTION 4: CURRENT LEGAL AUTHORITY FOR DEVELOPER FEES

There are several legal code sections that deal with the levy and management of developer fees. A summary of some of the important code sections is included below.

- ◆ Education Code section 17620 explains several facets of developer fee law, including, but not limited to the following:
 - Exempts from fees residential additions of less than 500 square feet.
 - Allows a portion of the fees to be used to pay for the completion of developer fee justification studies.
 - Exempts from fees development projects that are used exclusively for government-owned facilities, private schools, and buildings that are tax-free based upon their use for religious purposes.
 - Limits the collection of fees for senior housing to the amount of commercial/industrial fees and requires any conversion from that use to be approved by the applicable local government agency after the school district has been notified.

- ◆ Education Code section 17625 authorizes the collection of fees on manufactured or mobile homes, but limits the imposition of the fees to the initial installation of the unit in the school district.

- ◆ Government Code sections 66000 through 66003 specify a variety of requirements regarding the collection and use of developer fees, some of which are stated in previous sections of this report, and include:
 - The identification of the purpose of the fee.
 - The identification of the use of the fee.
 - The determination of a reasonable relationship between the fee's use and the type of development project being assessed.
 - The determination of a reasonable relationship between the need for the public facility and the type of development project being assessed.
 - The accounting for any funds remaining unexpended in the fifth year after the first deposit into the fund, and every five years thereafter.
 - The identification of funding anticipated needed to finish any identified by incomplete projects, and the establishment of an approximate date for the anticipated completion of such projects.
 - The refunding, at specific times, of funds available that are not committed to specific projects.
 - A fee may not include the costs to existing deficiencies in public facilities, but may include costs attributable to the increased demand for public facilities reasonably related to a development project.

- ◆ Government Code section 66006 specifies the requirements for depositing and managing any fees that are collected and the restrictions for their use, including, but not limited to:
 - The establishment of a separate fund for the deposit of developer fees and any interest generated by them.
 - The use of such funds only for the purpose for which they were collected.

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- Reporting the use of such funds on an annual basis within 180 days of the end of each fiscal year.
- ◆ Government Code section 66016 requires that district hold a public hearing regarding the imposition of developer fees as part of a regularly scheduled governing board meeting prior to adopting or increasing such fees. A notice of the meeting must be published, with the first publication at least ten days prior to the meeting.

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SECTION 5: DISTRICT DEMOGRAPHIC INFORMATION

The District is located in Stanislaus County serving kindergarten through 8th grade students living in sections of the City of Modesto and the City of Riverbank, as well as a portion of unincorporated Stanislaus County. The District's location allows easy access to both winter and summer recreational areas and within reasonable driving distance are Yosemite National Park, Sacramento, San Francisco, Los Angeles and Lake Tahoe.

Post-Secondary educational institutions are present throughout the region. Several colleges and universities are located in or nearby including California State University Stanislaus, Modesto Junior College, Heald College Modesto among others.

Community Demographics

Demography describes various population characteristics of the area's people. Primarily collected by local, state, and/or federal agencies such as the Census Bureau and local public health departments, demographic information covers a range of topics including population size, sex, age composition, ethnic backgrounds, household characteristics, geographic distribution, part-time versus full-time residents and other vital statistics. With regard to the master planning process, demographic data will assist the district in prioritizing projects, resource allocation, and facilities needs.

The most recent demographic survey performed by the Census Bureau was the American Community Survey, a discussion of which is provided below for the District.

Sylvan Union School District Demographic Facts

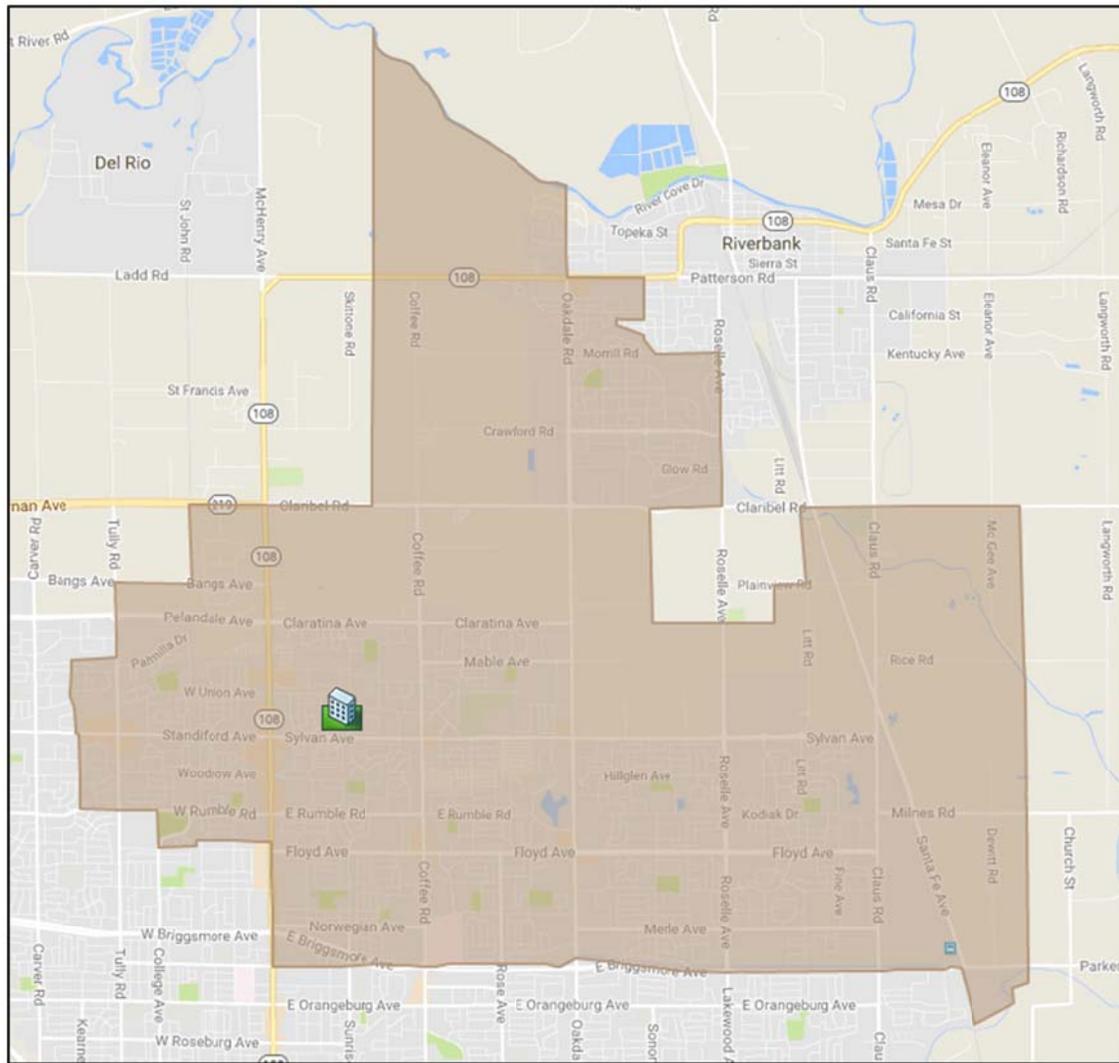
- ◆ 75,611 residents
- ◆ 27,073 total housing units and 26,108 households
- ◆ 35.0% of households had children under the age of 18
- ◆ 53.0% of households were married couples living together
- ◆ \$65,185 median income
- ◆ 8.0% of families and 11.1% of the population below the poverty line

District Description

The District provides education to K – 8 students in the northeast area of Modesto and the southwest portion of Riverbank. The District educates approximately 8,200 students at seven school sites. High school students attend schools operated by Modesto City Schools.

For reference, a map of the District boundaries is provided on the following page:

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District School Sites

The District operates ten K-5 schools, and three 6-8 middle schools. District office facilities are located at 605 Sylvan Avenue, Modesto CA. The following page includes a listing of all the District's school sites and their locations.

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Sylvan Union School District School Sites				
Site	Location	Grade Levels	Year Constructed	
C.F. Brown Elementary	2024 Vera Cruz Drive, Modesto	K-5	1971	
Crossroads Elementary	5800 Saxon Way, Riverbank	K-5	2007	
Daniel J. Savage Middle	1900 Maid Marianne Lane, Modesto	6-8	2007	
Elizabeth Ustach Middle	2701 Kodiak Drive, Modesto	6-8	1993	
Freedom Elementary	2101 Fine Avenue, Modesto	K-5	2003	
Mary Ann Sanders Elementary	3101 Fine Avenue, Modesto	K-5	2006	
Orchard Elementary	1800 Wisdom Way, Modesto	K-5	1994	
Sherwood Elementary	819 East Rumble Road, Modesto	K-5	1963	
Somerset Middle	1037 Floyd Avenue, Modesto	6-8	1966	
Standiford Elementary	605 Tokay Avenue, Modesto	K-5	1960	
Stockard Coffee Elementary	3900 Northview Drive, Modesto	K-5	1975	
Sylvan Elementary	2908 Coffee Road, Modesto	K-5	1949	
Woodrow Elementary	800 Woodrow Avenue, Modesto	K-5	1965	

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SECTION 6: DISTRICT'S HISTORY OF DEVELOPER FEE COLLECTIONS

The District shares Level I developer fee revenue with the Modesto City Schools (the "High School District"). The District retains 60 percent of the residential Level I fee revenue, and the High School District retains 40 percent. The High School District retains all commercial and industrial fee revenues. This arrangement is expected to continue and all future developer fee revenues will be split accordingly. In 2018, the District adopted a Level 1 developer fee of \$2.27 per square foot of residential construction.

As this study will demonstrate, the fees currently being collected are far short of the amounts needed to modernize school facilities and add space to accommodate any new students generated through new construction. The table below shows the District's total developer fee collections since 2015.

5 Year Historical Developer Fee Collections	
Year	Fees Collected
2019	\$142,762.84
2018	\$267,515.74
2017	\$113,784.08
2016	\$31,617.23
2015	\$44,684.63
Total	\$600,364.52

Source: Modesto City Schools

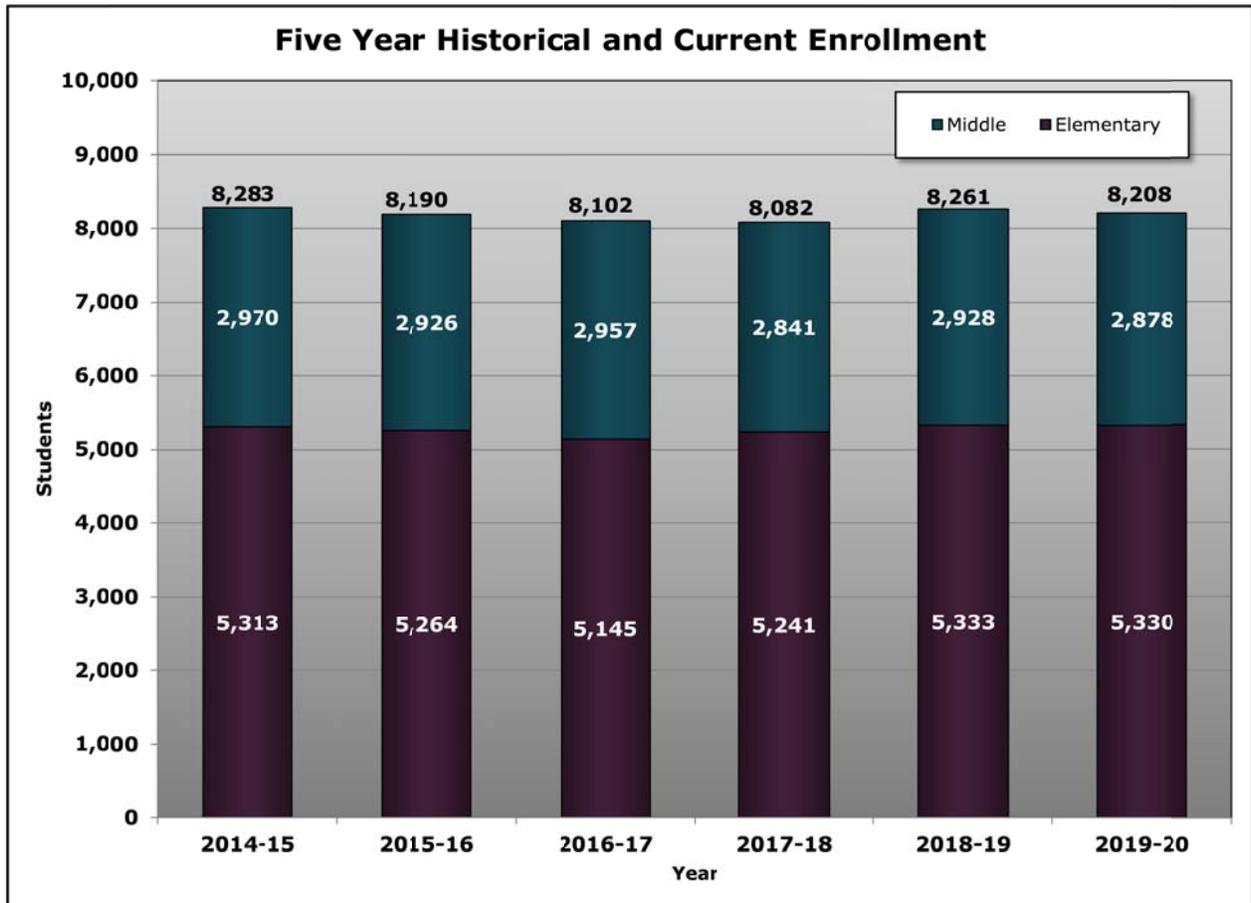
Capitol Public Finance Group, LLC was contracted by the District to provide an updated Level I Developer Fee Justification Study. This study is intended to establish the legal and policy basis for the calculation and imposition of impact fee on new development activity within the District.

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SECTION 7: DISTRICT ENROLLMENT AND CAPACITY

Historical Enrollment of the District

The annual enrollment for the District has remained relatively steady over the past five years, as is shown in the chart below:



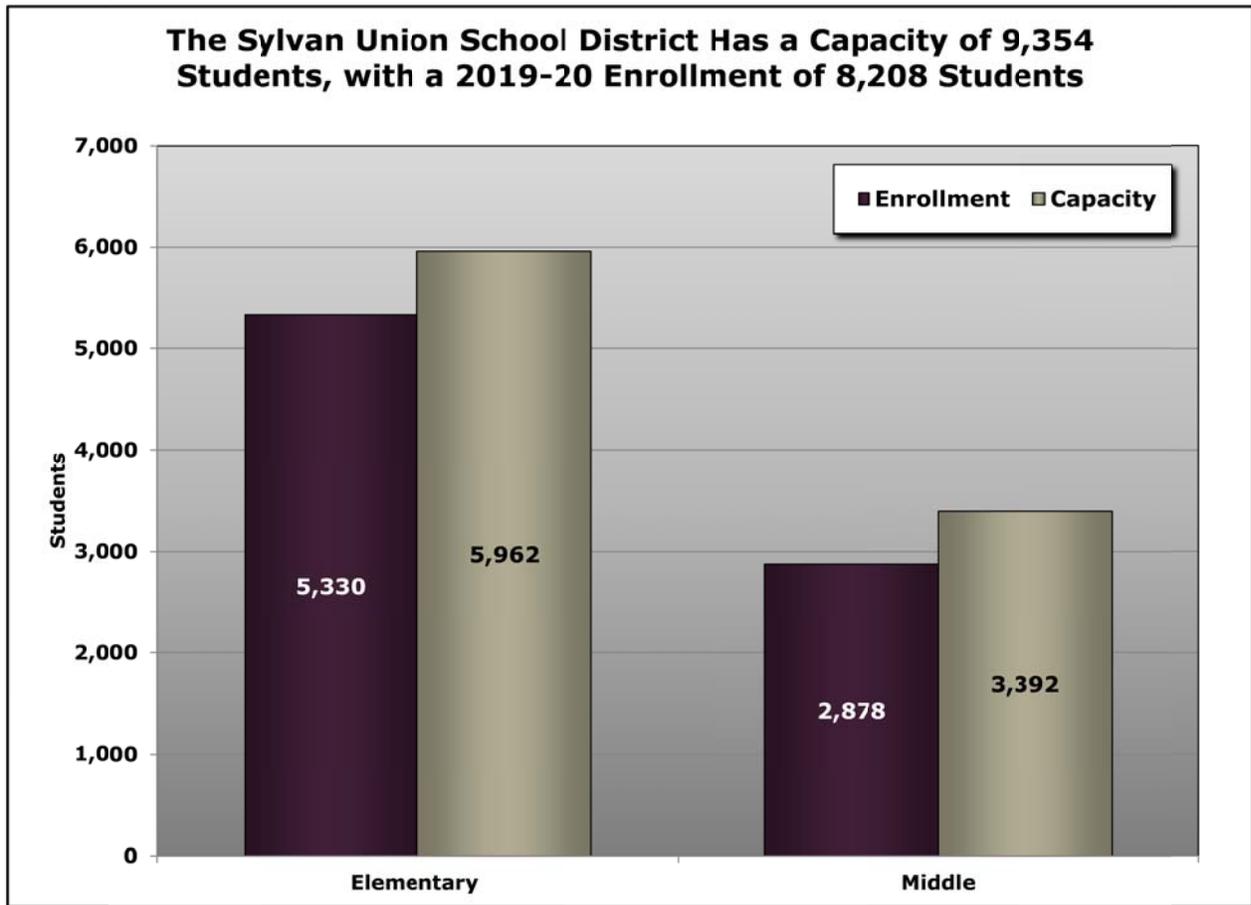
Source: CALPADS and Sylvan Union School District

A breakdown of the District's historical CBEDS enrollment, by grade level, is included as Appendix A.

District Capacity

The District's capacity was determined using loading standards of 24 students per classroom for grades K-5 and 32 students per classroom for grades 6-8. Based on these loading standards, the District has a capacity for 9,354 students. The District is currently operating under capacity and has capacity to house some additional students being generated by new construction within the District. As shown in the following table, based on 2018-19 enrollment, the District is currently under capacity by 632 elementary students and 514 middle school students.

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New Development

New residential development typically results in new students for the District to accommodate. Therefore, it is important for the District to monitor the development plans of the local land use agencies. There are three land use agencies within the District's boundaries – the City of Modesto, the City of Riverbank and the County of Stanislaus.

There are several development projects currently mapped for new construction within the District's boundaries. The District must plan for facilities assuming maximum potential student capacity. Given the number of projects that are planned for construction within the District's boundaries, the District must plan accordingly. Provided below is a summary of the known mapped development projects within the District's boundaries:

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Projected Residential Development	
Project	# of Units Remaining
Crossroads West	1,975
Tivoli	3,193
Trails at Dry Creek	30
Wisdom Place	16
Total	5,214

Source: Sylvan Union School District

Student Generation Rate

A total of 5,214 units are projected to be constructed within the District’s boundaries over the next ten years. In terms of facilities planning, it is important that the District project the potential facilities impact to the District. A key component of the planning process is the student generation factor. A student generation factor is the ratio of students produced per home within a new construction project. This serves as a tool for District’s to use in the planning process and will allow the District to predict the impact new development will have on the student population. This ultimately will facilitate decision making about the provision of facilities and resources throughout the District.

The District has not performed a student generation rate study for this Level 1 report; rather it will use the student generation rate utilized by the Office of Public School Construction - 0.5. A breakdown of the student generation rate for grade level is provided in the table below:

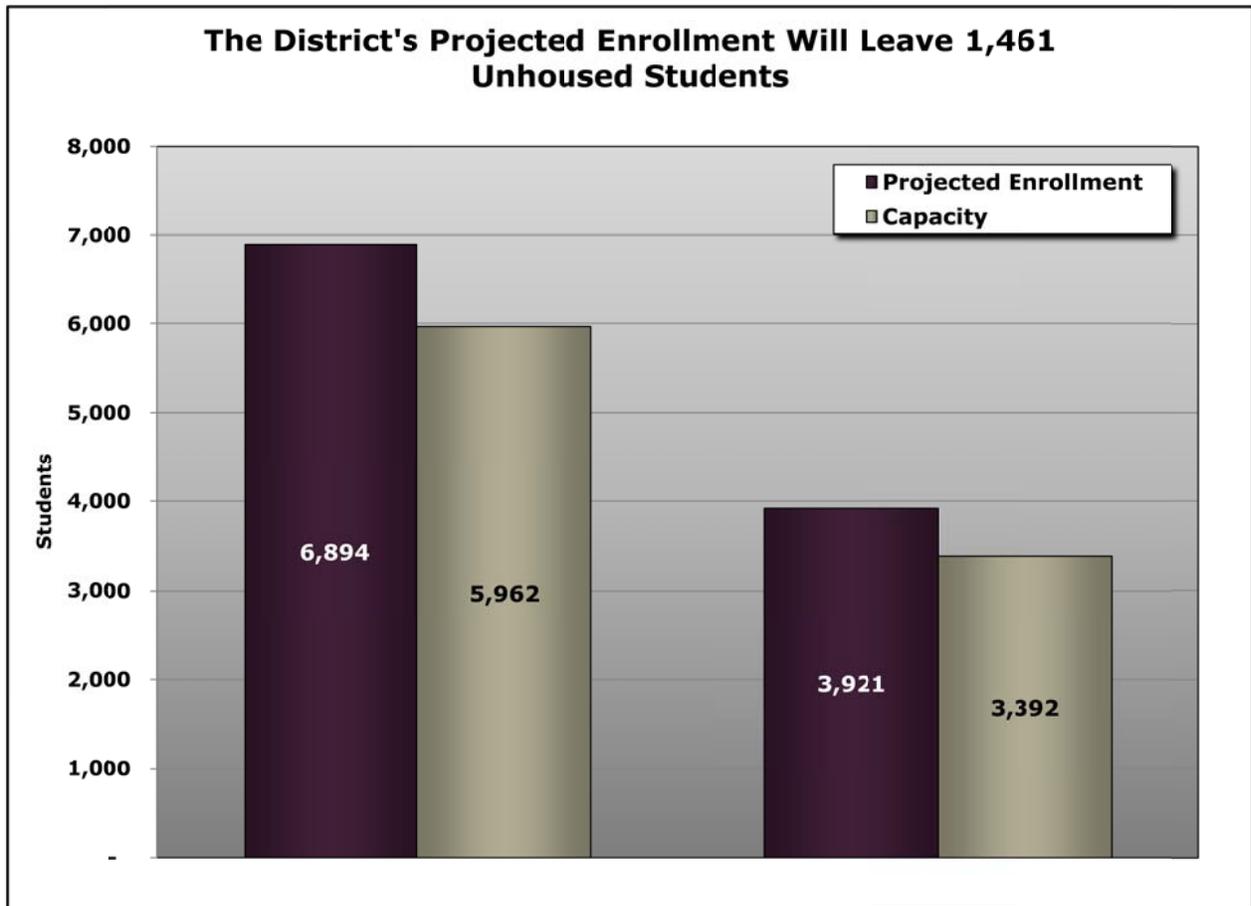
Student Generation Rates by Grade		
K-5	6-8	Total
0.3	0.2	0.5

Given the 5,214 projected units and the student generation rate to be used per home, the District can estimate that approximately 2,607 new students will be generated as a result of the development projects.

Summary 10 Year Enrollment Projects			
# of Units	Projected K-5 Students	Projected 6-8 Students	Total Projected Students
5,214	1,564	1,043	2,607

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Current enrollment trends coupled with development data demonstrate a need for new school facilities. It has been shown that the District is operating under capacity, however, the District does not have sufficient capacity to house all new students projected from new residential development and will suffer significant strain from the development occurring within District boundaries. The District has a projected enrollment of 6,894 elementary students and 3,921 middle school students, the District will need to construct additional schools/classrooms to provide facilities for the 932 unhoued elementary and 529 middle school students generated from new construction of residential units.



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SECTION 8: FACILITIES NEEDS

The District has experienced some growth within its boundaries over recent years and will need to plan for the construction of an additional school facility in order to accommodate students generated from additional projected growth. The District has available funds that it will contribute toward the construction of these facilities, but lacks sufficient funding to pay for all necessary construction.

Anticipated Facilities Need

Based on the projected student generation, it is anticipated that the District will need to construct additional schools/classrooms. The District will need to fund the design and construction of these facilities.

New Construction Costs

Using school facility costs provided by the District, a new elementary school is estimated at a total cost of \$25,000,000 and a new middle school is estimated at a total cost of \$45,700,000. The students projected to be generated from the new housing developments within the District make up the capacity for under one and a quarter new elementary school and just under half of a new middle school. The site acquisition and development costs are allocated based on the portion of the facility that the students from new development would occupy. The following table shows the portion of a school required to accommodate students from new development.

Number of Schools Required for Projected Unhoused Students from New Development			
Grade Level	Projected Unhoused Students from New Development	School Capacity	Number of Schools Required
Elementary	932	800	1.17
Middle	529	1,200	0.44

The number of schools required to house the projected unhoused students from new development is multiplied by the site and construction costs, shown above, to determine the total school capacity costs to be funded by future development, less any available funding. The unfunded school construction cost is equal to the estimated total school costs less estimated State Funding. With 800 elementary school students, based on 2020 state grant amounts of \$12,451 per student, an anticipated \$9.9 million of state funding could be applied to each elementary school constructed. Using 2020 state grant amounts of \$13,169 per middle school student, and a school size of 1,200 students, an anticipated \$15.8 million of state funding could be applied to middle school construction. The calculation is as follows:

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Estimated School Construction Costs			
Grade Level	Total School Construction Costs	Estimated State Grant Funding	Total School Construction Costs
Elementary	\$25,000,000	\$9,960,800	\$15,039,200
Middle	\$45,700,000	\$15,802,800	\$29,897,200

It is estimated the District will have a total unfunded facilities cost of approximately \$30.7 million, shown in the table below.

Calculation of Unfunded School Construction			
Grade Level	Unfunded School Construction Cost	Schools Required	Total Unfunded Construction Costs
Elementary	\$15,039,200	1.17	\$17,595,864
Middle	\$29,897,200	0.44	\$13,154,768
Total			\$30,750,632

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SECTION 9: DEVELOPER FEE JUSTIFICATION

Developer fee law requires that before fees can be levied a district must find that justification exists for the fee. Justification for the fee can be shown if anticipated residential, commercial and industrial development within a district will impact it with additional students and the district either does not have the facility capacity to house these students and/or the students would have to be housed in existing facilities that are not educationally adequate (i.e., antiquated facilities). In addition, it must also be shown that the amount of developer fees to be collected will not exceed the District's cost for housing students generated by new development. This section of the study will show that justification does exist for levying developer fees in the District.

Residential Development and Fee Analysis

To show a reasonable relationship exists between the construction of new housing units and the need for school facilities, it will be shown that residential construction will create a school facility cost impact on the District greater than the amount of developer fees to be collected.

To determine the cost impact of residential construction on the District, the cost to house students in new school facilities must be identified, as described in Section 8. The table below shows the cost impact for new school facilities for each student generated by new residential development. Since the District expects 1,461 unhoused students to be generated from new development, the per student facilities cost for each student is estimated to be \$21,048.

Unfunded Facilities Cost Per Student

$$\text{\$30,750,632} / 1,461 = \text{\$21,048 per student}$$

As previously explained, each home generates approximately 0.5 students. Therefore, if the per student facilities cost is \$21,048, we can multiply that by the student generation rate of 0.5 and estimate the impact per unit of \$10,524. The average square footage of new single family residential homes constructed within the District over the last five years is 2,150 square feet, this analysis will assume that the average size of new single family residential units to be constructed will remain the same. Therefore, to determine the impact per square foot of residential construction we divide the impact per home by the average square footage of homes within the District. As calculated, the facilities cost per square foot is \$4.89:

Facilities Cost Per Square Foot

$$\text{\$10,524} / 2,150 \text{ sq. ft.} = \text{\$4.89 per sq. ft.}$$

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Therefore, the District's facilities cost per square foot of new development (\$4.89 per square foot) far exceeds the maximum developer fee (\$4.08 per square foot) that can be imposed.

Residential Developer Fee Justification

It is clear that a reasonable relationship exists between residential development within the District and the need for new school facilities. This relationship is based on the finding that the District exceeds its facility capacity. New students to be generated by new residential development will have to be housed in new school facilities. The cost to provide additional school facilities exceeds the amount of fees to be generated from new residential construction. The District is justified in the levying of residential developer fees of up to 60% of the statutory maximum equal to \$2.45 per square foot of new residential development. Specifically, this is the District's 60% share, per agreement with Modesto City Schools, of the statutory maximum of \$4.08 per square foot.

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SECTION 10: FINDINGS

Government Code section 66001 lists the requirements that districts must observe regarding the collection and use of developer fees. The major requirements are listed below:

Establishment of a Cost Nexus

The Board will collect fees on new residential and commercial/industrial development to fund the construction and/or reconstruction of school facilities to serve students generated by such projects. The District has undertaken significant reconstruction and modernization projects to serve existing development and potentially, all capacity that must be provided. Additionally, the cost for providing these facilities exceeds the amount of developer fees to be collected. It is clear that when educational facilities are provided for students generated by new residential, commercial and industrial development that the cost of new facilities exceeds developer fee generation, thereby establishing a cost nexus.

Establishment of a Benefit Nexus

Students generated by new residential, commercial and industrial development will be attending the District's schools. Housing District students in new and/or modernized facilities will directly benefit those students from the new development projects upon which the fee is imposed; therefore, a benefit nexus exists.

Establishment of a Burden Nexus

The generation of new students by development will create a need for additional and/or reconstructed school facilities. The District must carry the burden of constructing new facilities required by the students generated by future developments and the need for facilities will be, in part, satisfied by the levying of developer fees, therefore, a burden nexus exists.

Conclusion

The District has met the nexus requirements described in Government Code section 66001. As demonstrated in this study, the District is justified in charging up to the statutory maximum developer fee of \$4.08 per square foot of residential development. As an elementary district sharing boundaries with another district serving grades 9-12, the District must split this statutory maximum fee with the High School District based on each district's agreed upon share of the fee. Therefore, the District can levy developer fees up to 60% of the maximum statutory fee, or \$2.45 per square foot of residential development.

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SECTION 11: IMPLEMENTATION OF THE FEES

If the Board accepts the recommendation to accept the developer fee as justified in this study, the following process should be followed for fee implementation.

District Board Approval

The Board should adopt the proposed fee as provided for in this study. To do so, the District must:

- ◆ Send a notice of a public hearing at least 14 days prior to the hearing to any party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. Have this report and all supporting documentation available for review by the public at least 10 days prior to the hearing;
- ◆ Submit a notice of public hearing in the local newspaper at least 10 days prior to the public hearing. This notice should run at least twice in a newspaper of general circulation within the District;
- ◆ Hold the public hearing to consider adoption of the developer fee;
- ◆ Adopt a resolution to set the fee;
- ◆ Begin collecting the fee no sooner than 60 days following adoption of the resolution.

Notifications

The District should provide the planning and building departments of the City of Modesto, the County of Stanislaus and Modesto City Schools, with notice of the current fee rates and other information so that they may coordinate issuance of building permits with the District's fee program.

Fee Accounting

All fee revenues should be deposited into a restricted public facility fee account. Interest earned on fund balances should be credited to the fund.

Additionally, within sixty days of the close of each fiscal year, the District must make available to the public the beginning and ending balance of its capital facilities fund for the fiscal year, the income to the fund, the amount of expenditures and the amount of refunds, if any, and the Board must review this information at the next available meeting.

On an annual basis, the District must provide a detailed accounting of the developer fee funds. This accounting must include such items as an indication of the specific public improvement or improvements on which fees were expended, the amount of expenditure on each improvement, the estimated date by which construction will begin if sufficient funds are in place and a particular improvement is not yet complete, a description of each transfer or loan made to or from the account, and the amount of refunds made or fees that had remained unexpended and uncommitted for five or more years. The new statute gives school districts 180 days from the close of the fiscal year to prepare this detailed annual accounting.

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APPENDIX A: HISTORICAL ENROLLMENT

5 Year Historical and Current Enrollment						
Grade	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
K	972	943	945	903	963	912
1	791	826	826	859	821	858
2	828	826	826	847	891	857
3	898	823	824	860	875	928
4	935	896	848	876	890	894
5	889	950	876	896	893	881
Total Elementary	5,313	5,264	5,145	5,241	5,333	5,330
6	989	894	975	899	929	916
7	994	1,039	954	1,006	966	972
8	987	993	1,028	936	1,033	990
Total Middle	2,970	2,926	2,957	2,841	2,928	2,878
Total	8,283	8,190	8,102	8,082	8,261	8,208

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APPENDIX B: SAMPLE NOTICE OF PUBLIC HEARING

PUBLIC HEARING ON FEBRUARY 25, 2020 AT 7:00 PM
SYLVAN UNION SCHOOL DISTRICT BOARD ROOM

Regarding

NOTICE OF PUBLIC HEARING AND OF PROPOSAL FOR CHANGING SCHOOL FACILITIES FEES AS AUTHORIZED BY GOVERNMENT CODE SECTION 65995

PLEASE TAKE NOTICE that immediately following a public hearing on the matter, a resolution will be considered by the Governing Board of the Sylvan Union School District at its regular meeting on February 25, 2020 at 7:00 PM located at the Sylvan Union School District Board Room, 605 Sylvan Avenue, Modesto CA, which if adopted by the Board will change development fees established by the District against residential construction and reconstruction to the maximum of \$2.45 per square foot (60% of the established maximum fee). The proposed fees are authorized by Government Code Section 65995. Data pertaining to the cost of school facilities is available for inspection during regular business hours at the District Office. The increased fee, if approved by the Governing Board, will become effective on April 25, 2020, which is 60 days after the proposed adoption of the resolution levying such fee by the Governing Board.

