

2018



Gilroy Unified School District

**Developer Fee Justification Study**

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## I. EXECUTIVE SUMMARY

Gilroy Unified School District serves TK-12 students in the City of Gilroy and outlying agricultural areas of Santa Clara County. The District 2017/18 TK-12 enrollment is 11,830 students (includes Gilroy Prep Charter School).

The following Developer Fee Justification Study has determined that the District is justified in collecting Statutory Level 1 residential and Statutory commercial / industrial developer fees on future residential development based on the following:

- The School District requires new and reconstructed/renovated facilities in grades TK-12 in order house incoming students from new residential development.
- Approximately 2,004 homes are projected to be constructed within the District over the next 5 years, which is estimated to generate 821 TK-12 students.
- The School District is eligible to collect Statutory commercial / industrial developer fees and Statutory Level 1 residential developer fees to fund additional school facilities required as a result of new residential development.

The following represents the justified Statutory Level 1 developer fees for Gilroy Unified School District.

<b>K-12 Commercial/Industrial Statutory (Level 1) Fees</b>	<b>K-12 Residential Statutory (Level 1) Fees</b>
<b>\$0.61</b>	<b>\$3.79</b>

## II. INTRODUCTION

This report is to demonstrate that the Gilroy Unified School District meets pertinent requirements of State laws regarding the collection of developer fees.

As set forth below, State law gives school districts the authority to charge fees on new residential and commercial / industrial developments if those developments generate additional students and cause a need for additional school facilities.

SB 50, which became law on November 4, 1998, upon the passage of Proposition 1A, provided school districts with the authority to impose three different levels of fees on residential development. Commercial and industrial development projects are subject to Level 1 fees.

### A. Level 1 Fees

Level 1 Fees as authorized by Government Code Section 65995 authorizes school districts to collect fees on future development of no more than \$3.79 (K-12) per square foot for residential construction and \$0.61 (K-12) for commercial/ industrial construction. Level 1 Fees are adjusted every two years according to the inflation rate for Class B construction as determined by the State Allocation Board. Government Code Section 66001 requires that a reasonable relationship exist between the amount and use of the fees and the development on which the fees are to be charged.

### B. Level 2 Fees

Level 2 Fees were established by SB 50 under Government Code Section 65995.5. In order for the a school district to impose Level 2 fees, a School Facilities Needs Analysis must be prepared in accordance with Government Code Section 65995.6. The school district must also meet two out of four statutory requirements set forth in Government Code Section 65995.5(b)(3) and have received State Allocation Board approval on an eligibility application that meets the eligibility requirements for new construction funding. **The District is not eligible for Level 2 fees at this time.**

### C. Level 3 Fees

Level 3 Fees were established by SB 50 under Government Code Section 65995.7 and can only be imposed if the State funds are determined to be exhausted. Level 3 Fees are established in the same manner as Level 2 Fees. However, they are determined based on 100% of projected costs rather than 50% of projected costs.

### III. EXISTING SCHOOL FACILITIES AND AVAILABLE CAPACITY

In determining the District existing and projected facilities needs a classroom inventory and capacity analysis was completed for each school site using District program usage.

The existing school capacity was determined using State loading standards of 25 students per classroom for grades TK-6, 27 students per classroom for grades 7-8 and 9-12, 13 students per classroom for non-severe SDC, and 9 students per classroom for severe SDC.

As shown in **Table 1**, the District has a K-5 capacity of 5,386 students, a 6-8 capacity at 3,119 students and 9-12 capacity at 3,870 students.

**Table 1**  
**Existing School Site Capacity**

Grade Level	Permanent <sup>1</sup> Classrooms	Portable <sup>1</sup> Classrooms	Total Classrooms Perm & Port	Classroom Loading (State Loading)	Total Program Capacity
<b>TK-5</b>	154	55	209	25	<b>5,225</b>
<b>TK-5 NS SDC</b>	4	7	11	13	<b>143</b>
<b>TK-5 S SDC</b>	2	0	2	9	<b>18</b>
<b>6</b>	26	11	37	25	<b>925</b>
<b>7-8</b>	68	11	79	27	<b>2,133</b>
<b>6-8 NS SDC</b>	1	3	4	13	<b>52</b>
<b>6-8 S SDC</b>	1	0	1	9	<b>9</b>
<b>9-12</b>	115	23	138	27	<b>3,726</b>
<b>9-12 NS SDC</b>	9	0	9	13	<b>117</b>
<b>9-12 S SDC</b>	3	0	3	9	<b>27</b>

<sup>1</sup>Classroom inventory does not include classrooms utilized for preschool, RSP, ES lab, speech/counseling and administrative purposes. Includes District owned portables utilized for Gilroy Prep Charter.

Note: District high school educational program utilizes a standard classroom and a lab as one teaching station, therefore, high school labs were not included for capacity purposes.

The 2017/18 District enrollments were overlaid with District capacity, and as set forth in **Table 2**, the District is under capacity by 122 students in grades TK-5, under capacity by 384 students in 6-8, and under capacity by 39 students in 9-12. Therefore, the District has available capacity in grades TK-12. However, additional capacity will be required to house projected TK-5 and 9-12 students from new residential development.

**Table 2**  
**2017/18 Available Capacity**

Grade Level	2017/18 Enrollments	2017/18 Capacity	Available Capacity
TK-5	5,264	5,386	122
6-8	2,735	3,119	384
9-12	3,831	3,870	39
<b>Total K-12</b>	<b>11,830</b>	<b>12,375</b>	<b>545</b>

Includes Gilroy Prep Charter School enrollments and capacities.

**V. PROJECTED NEW RESIDENTIAL DEVELOPMENT AND FUTURE STUDENTS**

An analysis of new residential development projected to be constructed within the District over the next five years determined a projected 2,004 housing units. Residential development information in **Table 3** was provided by Enrollment Projection Consultants.

**Table 3**  
**5-Year Projection of New Residential Development**

Type of Development	2018/19 to 2023/24 Projected Units <sup>1</sup>
Single Family Detached (SFD)	1,184
Single Family Attached (SFA)	580
Multi-Family Attached (MFA) –Mixed Use	80
Affordable Units (BMR)	160
<b>Total</b>	<b>2,004</b>

<sup>1</sup>Development Projections are from District Enrollment Projection Consultants report, 2018.

To determine the future un-housed students projected from new residential development over the next five years, the District student yield rates were multiplied by the number of projected housing units determined in Table 3. As shown in **Table 4**, an estimated 423 K-5 students, 186 6-8 students and 212 9-12 students are projected from new residential development over the next five years.

Note: A historical student yield rate analysis completed by Enrollment Projection Consultants in report dated January 10, 2018 was utilized to project future students from new residential development.

**Table 4**  
**5-Year Projection of Students from New Residential Development**

Type of Unit	Projected Units	Student Yield Rates <sup>1</sup>				Projected Students			
		TK-5	6-8	9-12	TK-12	TK-5	6-8	9-12	K-12
Single Family Detached	1,184	0.279	0.107	0.114	0.50	330	127	135	592
Single Family Attached	580	0.065	0.053	0.071	0.189	38	31	41	110
MFA - Mixed Use	80	0.042	0.00	0.028	0.07	3	0	2	5
Affordable - BMR	160	0.324	0.176	0.213	0.713	52	28	34	114
<b>Total</b>	<b>2,004</b>					<b>423</b>	<b>186</b>	<b>212</b>	<b>821</b>

<sup>1</sup>Yield rates are from District Enrollment Projections report completed by Enrollment Projection Consultants, 2018.

**VI. PROJECTED SCHOOL FACILITIES NEEDS**

As identified above in Table 2, Gilroy Unified School District has available capacity to house 122 TK-5 students, 384 6-8 students, and 39 9-12 students from projected new residential development. However, the District will need to construct new facilities to house 474 TK-5/9-12 students and, as shown in Section VI.(B)(5) below, the District has a need to modernize / renovate / replace existing school facilities to house incoming students from new residential development.

Therefore, the District may impose Level 1 residential developer fees based on the following calculations.

**A. Projected New Residential Development Square Footage**

A historical analysis of residential development within District boundaries determined that the average single family unit constructed was approximately 2,556 square feet and average affordable unit constructed was 1,256 square feet. Mixed multi-family unit average square footage of 1,221 sq. ft. previously determined has not changed, therefore, the multi-family square footage in the 2016/17 Developer Fee Justification Study was utilized. Using these averages, the projected total square footage is set forth in **Table 5** below.

**Table 5  
Housing Type and Projected New Residential Square Footage**

Housing Type	Number of Units	Average Square Footage	Total Projected Square Footage
<b>City of Gilroy</b>			
Single Family (Detached/Attached)	1,764	2,556	4,508,784
MFA - Mixed Use	80	1,221	97,680
Affordable - BMR	160	1,256	200,960
<b>Total</b>	<b>2,004</b>		<b>4,807,424</b>

**B. Projected New Construction Costs**

Education Code Section 17072.10 establishes allowable cost factors for school construction that are used to determine the appropriate fee for new residential development. These cost factors were developed on a per-student basis and are based on statewide school construction costs. The cost factors are equivalent to the amount of State grant funding that school districts receive for new school construction, which when matched by the District equal 100% estimated construction cost per pupil.

### 1. State New Construction per Pupil Grants

The 2018 State New Construction per Pupil Grant amounts for K-12 pupils as of January 2018 are set forth in **Table 6** below.

Note: Fire Detection/Alarm and Sprinkler grants are additional per pupil grants that are provided by the State for new construction projects and have been included as appropriate.

**Table 6**  
**Estimated Construction Costs for New School Facilities (based on OPSC Grants, 2018)**

Type of State Funding	Elementary School (K-5)	Middle School (6-8)	High School (9-12)
Per pupil Grant	\$11,567	\$12,234	\$15,567
Fire Detection/Alarm	\$14	\$19	\$31
Sprinklers	\$194	\$230	\$240
<b>Est. State Funding per Pupil (50%)</b>	<b>\$11,775</b>	<b>\$12,483</b>	<b>\$15,838</b>
Est. District Match per Pupil (50%)	\$11,775	\$12,483	\$15,838
<b>Total Estimated Construction Cost per Pupil (100%)</b>	<b>\$23,550</b>	<b>\$24,966</b>	<b>\$31,676</b>
Projected Un-housed Pupils from New Homes	301	0	173
<b>Total Est. Construction Costs for Projected Un-housed Pupils (100%)</b>	<b>\$7,088,550</b>	<b>\$0</b>	<b>\$5,479,948</b>
<b>Total K-12</b>	<b>\$12,568,498</b>		

As calculated in Table 6 above, the projected State per Pupil Grant plus projected District match for the projected un-housed K-5 students is \$23,550, 6-8 students is \$24,966, and 9-12 students is \$31,676. When 100% projected per pupil costs are multiplied with projected un-housed students, the total projected construction cost is \$12,568,498.

### 2. Site Acquisition

The District currently has available property for a new elementary school, and no additional land is required for 7-12 students, at this time. Therefore, site acquisition costs are not included in determining developer fees.

### 3. Additional Site Development Costs

The State construction cost calculation also includes costs for Service site development, Off-site development and Utilities (additional site development costs). An analysis of new school sites constructed within the District and approved by the State determined an average additional site development per acre cost of \$221,137 as set forth in **Table 7**.



**Table 7**  
**Estimated Additional Site Development Costs**

<b>K-12 School Site</b>	<b>OPSC Approved Add'l Site Development Costs (100%)</b>	<b>2018 Add'l Site Development Costs (adjusted to 2018 Construction Cost Index) 100%</b>	<b>Site Acres</b>	<b>Estimated Add'l Site Development Costs per Acre</b>
New Elementary School	\$765,486	\$1,081,680	8.20	\$131,912
New Middle School	\$923,814	\$1,520,152	15.5	\$98,074
New High School	\$12,324,308	\$17,380,363	40.10	\$433,426
<b>Avg. Add'l Site Development Cost for New School per Acre</b>				<b>\$221,137</b>

Note: Site development costs vary depending on location, availability of utilities etc.

Using CDE guidelines for site acreage requirements for elementary and high school sites, it was determined that the projected unhoused 301 K-5 students from new residential development will require approximately 7.2 acres and the projected 173 unhoused 9-12 students from new residential development will require approximately 4.5 acres. Therefore, the total estimated additional site development cost for projected un-housed TK-12 students is \$2,587,303, and the estimated additional site development cost per K-5 student is \$5,290 and cost per 9-12 student is \$5,752 as shown in **Table 8**.

**Table 8**  
**Additional Site Development Costs**

<b>Grade Level</b>	<b>Required Acres</b>	<b>Estimated Additional Site Development Costs per Acre</b>	<b>Estimated Additional Site Development Costs</b>	<b>Projected Un-housed Students</b>	<b>Estimated Additional Site Development Costs Per Student</b>
TK-5	7.2	\$221,137	\$1,592,186	301	\$5,290
6-8	0	\$221,137	\$0	0	\$0
9-12	4.5	\$221,137	\$995,117	173	\$5,752
<b>Total</b>			<b>\$2,587,303</b>	<b>474</b>	

#### 4. Total Projected Construction Cost

When the projected State building construction costs, site acquisition and additional site development costs are combined, the estimated new construction costs to house projected K-12 students from new residential development within the District are \$15,155,801 as shown in **Table 9**.

**Table 9**  
**Total Projected Construction Costs**

<b>Grade Level</b>	<b>Est. Facilities Construction Cost</b>	<b>Estimated Site Acquisition</b>	<b>Estimated Additional Site Development Costs</b>	<b>100% Total Projected New Construction Costs</b>
<b>TK-5</b>	\$7,088,550	\$0	\$1,592,186	\$8,680,736
<b>6-8</b>	\$0	\$0	\$0	\$0
<b>9-12</b>	\$5,479,948	\$0	\$995,117	\$6,475,065
<b>Total</b>	<b>\$12,568,498</b>	<b>\$0</b>	<b>\$2,587,303</b>	<b>\$15,155,801</b>

**5. Allowable Modernization, Renovation, Replacement Costs**

In addition, for Level 1 Statutory fees, Government Code Section 66001 allows school districts to include modernization and costs that will provide adequate housing for incoming students by modernizing, renovating and replacing existing schools.

As set forth in **Table 10**, the District has a need to modernize, renovate and replace existing middle school and high school facilities in order to ensure safe, healthy schools and to provide housing and availability of existing educational programs to incoming students from new residential development.

**Table 10**  
**Estimated Modernization, Renovation, Replacement Costs for Existing MS and HS Facilities**

School	Estimated Cost for Modernization /Renovation/ Replacement <sup>1</sup>	Project Capacity (Pupil Capacity of Existing Facilities)	Estimated Modernization/ Renovation/ Replacement Cost per Pupil
Brownell Middle	\$71,861,544	1360	\$52,839
South Valley Middle	\$90,500,000	1348	\$67,136
Gilroy High	\$14,195,435	540	\$26,288

<sup>1</sup>Estimated project costs based on District Board approved budgets. Middle Schools require complete renovation/modernization/replacement.

Therefore, it is reasonable to include the estimated modernization / renovation / replacement costs to house incoming students from new residential development in Developer fee calculation as shown in **Table 11**.

**Table 11**  
**Estimated Costs to House Incoming MS and HS students in Existing School Facilities**

Grade Level	Projected Students from New Residential Development to be Housed in Existing Facilities	Estimated Per Pupil Modernization / Renovation / Replacement Cost	Total Estimated Modernization/ Renovation/ Replacement Cost For Incoming Students from New Residential Development
Middle School	186	\$59,956	\$11,151,816
High School	39	\$26,288	\$1,025,232
<b>Total</b>	<b>225</b>		<b>\$12,177,048</b>

Note: An average per pupil cost of Brownell MS and South Valley Middle was used to determine total estimated costs for middle school pupils.

**D. Level 1 Residential Developer Fee Justification**

Utilizing the data provided in Section VI. above, the projected school facility cost for new residential development is \$5.69 per square foot as shown in **Table 12** below. Therefore, the District is justified in levying the K-12 Level 1 residential developer fee of \$3.79 per square foot.

**Table 12  
Level 1 Residential Developer Fee Justification**

<b>Total Estimated Construction Costs for New School Facilities</b>	<b>Total Estimated Costs for Modernization / Renovation / Replacement of Existing School Facilities</b>	<b>Total Estimated Facilities Costs</b>	<b>Total Projected Square Footage from New Residential Development</b>	<b>School Facility Cost per Square Foot of New Residential Development</b>
\$15,155,801	\$12,177,048	\$27,332,849	4,807,424	<b>\$5.69</b>

**VII. RESIDENTIAL DEVELOPER FEE SUMMARY**

Based on the findings herein, the Gilroy Unified School District meets the requirements for levying Level 1 residential developer fees in the amount of \$3.79 per square foot on residential single family (detached and attached) and multi-family homes within the District.

These residential developer fees should be established and levied on new residential development, with the exception of any residential development that is paying mitigation through a Mello-Roos CFD special tax.

## **VIII. NEW COMMERCIAL / INDUSTRIAL DEVELOPER FEE JUSTIFICATION**

The Commercial / Industrial Developer Fee Justification analyzes the costs of providing school facilities for students generated from new commercial / industrial development.

Commercial/industrial (C/I) development will attract additional workers to the District, and a portion of those workers will have school-age children. Therefore, the additional workers will generate additional students in the District. As indicated in Section IV above, the District does not have additional capacity to house new K-5 / 9-12 students generated from commercial / industrial development and existing schools require modernization and renovation for incoming students, which will create a fiscal impact on the District due to the additional need for new school facilities and modernization and renovation costs.

The new commercial/industrial developer fee analysis calculates the following five factors together to calculate the school facility cost incurred by the District per square foot of new commercial/industrial development:

- C/I Development Square Footage per Employee,
- District-Resident Employee Per Housing Unit Ratio,
- C/I Development Square Foot per Housing Unit,
- C/I Fee Generated per Housing Unit
- Shortfall per Residential Unit

### **A. Commercial/Industrial Development Square Footage per Employee**

Assembly Bill 530 provided that school districts may choose to utilize employee density standards such as those identified by the San Diego Association of Governments (SANDAG) to establish the number of employees per square foot of new commercial/industrial development projects. See **Table 14** below.

### **B. Percentage of District Resident Employees**

The American Community Survey 2010-2014 data indicated there were 18,342 housing units within the District, and identified 26,873 workers 16 years old or older within the District. Therefore, it is estimated that approximately 1.46 workers reside in each housing unit and that 1.47 workers will be generated from each new unit of residential construction. In addition, approximately 8,273 workers (16 years or older) drive less than 15 minutes to work, which would indicate that approximately 30.79% of all workers both work and live in the District.

When the housing-worker unit ratio of 1.47 and the District-resident employee ratio of 0.3079 are multiplied, it shows that each new unit of residential construction within the District will generate 0.45 District-resident employees.

**C. Commercial / Industrial Development Square Footage per Housing Unit**

The projected commercial/industrial square footage per new housing unit is determined by multiplying the commercial/industrial square footage per employee by category (based on SANDAG Employee Densities) by the District-resident ratio per housing unit as shown in Table 14.

**D. Commercial / Industrial Fee Generated per Housing Unit**

The commercial/industrial fee generated per unit of residential construction can then be determined by multiplying the commercial/industrial square footage generated per housing unit by the current K-12 statutory commercial/industrial fee of \$0.61 per square foot. Using this formula, the commercial/industrial fee combined with the residential developer fee should provide 100% funding for new school facilities required for projected students from new residential development. Therefore, the projected revenue and shortfall from residential developer fees for each housing unit must be determined in order to determine the maximum justified commercial/industrial fee for each category.

**E. Shortfall per Residential Unit**

The capital outlay and shortfall for new school facilities per residential unit is determined based on projected school facilities needs for students from new residential development and residential developer fees to be collected for each new housing unit. The total projected school construction costs in Table 12, above is divided by the total estimated number of units to determine the average estimated school facility cost per housing unit as shown in **Table 13** below.

The shortfall amount is determined by subtracting the projected K-12 residential fee revenue for each unit \$9,072 ( $\$3.79 \times 2,399$  avg. sq. ft.) from the estimated school facility cost per housing unit. As shown in **Table 13**, the projected shortfall per residential unit is \$4,547.

**Table 13**  
**Projected Shortfall per Residential Unit**

Projected Cost to House New Students	Projected Number of Housing Units	Estimated School Facility Cost Per Housing Unit	Projected Residential Developer Fees per Housing Unit	Projected Shortfall
\$27,332,849	2,004	\$13,639	\$9,092	\$4,547

Note: Projected School Facility Cost per Housing Unit was determined dividing total projected facilities costs by the total projected new residential development units.

**F. Maximum Justified Fee**

The maximum justified commercial/industrial fee is then determined by dividing the funding shortfall by the commercial/industrial fee square footage generated by each housing unit by category.

As **Table 14** identifies, all categories of commercial/industrial development result in a maximum justified fee exceeding the fee rate of \$0.61 per square foot as authorized by Statutory fee regulations. Based on this finding, the District is justified in levying a commercial/industrial fee of \$0.61 per square foot on all commercial/industrial development.

**Table 14**  
**Calculation of Commercial/Industrial Fees with Residential Offset**

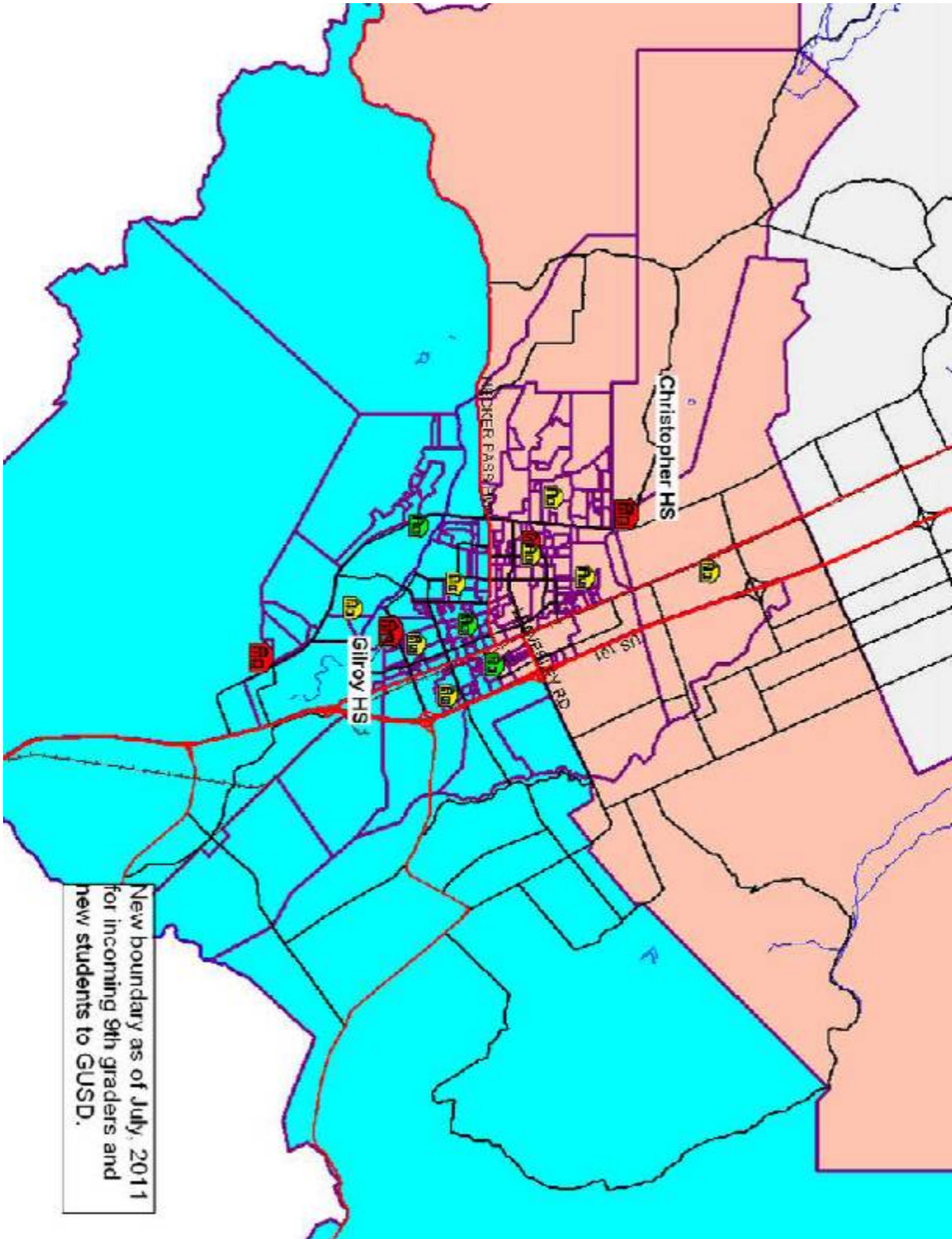
Development Category	Employee Density		District-Resident Per Unit Ratio	C/I Sq. Ft. Per Housing Unit	C/I Fee Generated Per Housing Unit @ \$0.61 Per Sq. Ft.	Shortfall per Residential Unit	Maximum Justified C/I Fee Per Sq. Ft.
	Employees per 1,000 Sq. Ft. <sup>1</sup>	Sq. Ft. Per Employee <sup>1</sup>					
Office	2.0	500	0.45	225	\$ 137.25	\$ 4,547	\$ 20.21
Retail/Service	2.0	500	0.45	225	\$ 137.25	\$ 4,547	\$ 20.21
Light Industrial	1.05	950	0.45	427.5	\$ 260.78	\$ 4,547	\$ 10.64
Heavy Industrial	4	250	0.45	112.5	\$ 68.63	\$ 4,547	\$ 40.42
Warehouse	0.65	1550	0.45	697.5	\$ 425.48	\$ 4,547	\$ 6.52
Lodging	0.59	1700	0.45	765	\$ 466.65	\$ 4,547	\$ 5.94
Communication/Utilities	1.43	700	0.45	315	\$ 192.15	\$ 4,547	\$ 14.43
Transportation	2.22	450	0.45	202.5	\$ 123.53	\$ 4,547	\$ 22.45
Hospitals	2.22	450	0.45	202.5	\$ 123.53	\$ 4,547	\$ 22.45
Self Storage	0.07	15,000	0.45	6,750	\$4,117.50	\$ 4,547	\$ 0.67

<sup>1</sup>Employee Density Source: SANDAG Employee Density Analysis 2012.

## **APPENDIX A**

### District Map

### District Map





## **APPENDIX B**

### Developer Fee Regulations

CALIFORNIA CODES

**GOVERNMENT CODE**

SECTION **65995**-65998

**65995.** (a) Except for a fee, charge, dedication, or other requirement authorized under Section 17620 of the Education **Code**, or pursuant to Chapter 4.7 (commencing with Section 65970), a fee, charge, dedication, or other requirement for the construction or reconstruction of school facilities may not be levied or imposed in connection with, or made a condition of, any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization, as defined in Section 56021 or 56073.

(b) Except as provided in Sections **65995.5** and **65995.7**, the amount of any fees, charges, dedications, or other requirements authorized under Section 17620 of the Education **Code**, or pursuant to Chapter 4.7 (commencing with Section 65970), or both, may not exceed the following:

(1) In the case of residential construction, including the location, installation, or occupancy of manufactured homes and mobilehomes, one dollar and ninety-three cents (\$1.93) per square foot of assessable space. "Assessable space," for this purpose, means all of the square footage within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio, detached accessory structure, or similar area.

The amount of the square footage within the perimeter of a residential structure shall be calculated by the building department of the city or county issuing the building permit, in accordance with the standard practice of that city or county in calculating structural perimeters. "Manufactured home" and "mobilehome" have the meanings set forth in subdivision (f) of Section 17625 of the Education **Code**. The application of any fee, charge, dedication, or other form of requirement to the location, installation, or occupancy of manufactured homes and mobilehomes is subject to Section 17625 of the Education **Code**.

(2) In the case of any commercial or industrial construction, thirty-one cents (\$0.31) per square foot of chargeable covered and enclosed space. "Chargeable covered and enclosed space," for this purpose, means the covered and enclosed space determined to be within the perimeter of a commercial or industrial structure, not including any storage areas incidental to the principal use of the construction, garage, parking structure, unenclosed walkway, or utility or disposal area. The determination of the chargeable covered and enclosed space within the perimeter of a commercial or industrial structure shall be made by the building department of the city or county issuing the building permit, in accordance with the building standards of that city or county.

(3) The amount of the limits set forth in paragraphs (1) and (2) shall be increased in 2000, and every two years thereafter, according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting, which increase shall be effective as of the date of that meeting.

(c) (1) Notwithstanding any other provision of law, during the term of a contract entered into between a subdivider or builder and a school district, city, county, or city and county, whether general law or chartered, 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 construction, neither Section 17620 of the Education **Code** nor this chapter applies to that residential construction.

(2) Notwithstanding any other provision of state or local law, construction that is subject to a contract entered into between a person and a school district, city, county, or city and county, whether general law or chartered, after January 1, 1987, and before the operative date of the act that adds paragraph (3) that requires the payment of a fee, charge, or dedication for the construction of school facilities as a condition to the approval of construction, may not be affected by the act that adds paragraph (3).

(3) Notwithstanding any other provision of state or local law, until January 1, 2000, any construction not subject to a contract as described in paragraph (2) 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 the residential development of that property after January 1, 1987, and before the operative date of the act adding this paragraph, shall be required to comply with that condition.

Notwithstanding any other provision of state or local law, on and after January 1, 2000, any construction not subject to a contract as described in paragraph (2) 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 the residential development of that property after January 1, 1987, and before the operative date of the act adding this paragraph, may not be subject to a fee, charge, dedication, or other requirement exceeding the amount specified in paragraphs (1) and (2) of subdivision (b), or, if a district has increased the limit specified in paragraph (1) of subdivision (b) pursuant to either Section **65995.5** or **65995.7**, that increased amount.

(4) Any construction that is not subject to a contract as described in paragraph (2), or to paragraph (3), and that satisfies both of the requirements of this paragraph, may not be subject to any increased fee, charge, dedication, or other requirement authorized by the act that adds this paragraph beyond the amount specified in paragraphs (1) and (2) of subdivision (b).

(A) A tentative map, development permit, or conditional use permit was approved before the operative date of the act that amends this subdivision.

(B) A building permit is issued before January 1, 2000.

(d) For purposes of this chapter, "construction" means new construction and reconstruction of existing building for residential, commercial, or industrial. "Residential, commercial, or industrial construction" does not include any facility used exclusively for religious purposes that is thereby exempt from property taxation under the laws of this state, any facility used exclusively as a private full-time day school as described in Section 48222 of the Education **Code**, or any facility that is owned and occupied by one or more agencies of federal, state, or local **government**. In addition, "commercial or industrial construction" includes, but is not limited to, any hotel, inn, motel, tourist home, or other lodging for which the maximum term of occupancy for guests does not exceed 30 days, but does not include any residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety **Code**.

(e) The Legislature finds and declares that the financing of school facilities and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities are matters of statewide concern. For this reason, the Legislature hereby occupies the subject matter of requirements related to school facilities levied or imposed in connection with, or made a condition of, any land use approval, whether legislative or adjudicative act, or both, and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities, to the exclusion of all other measures, financial or nonfinancial, on the subjects. For purposes of this subdivision, "school facilities" means any school-related consideration relating to a school district's ability to accommodate enrollment.

(f) Nothing in this section shall be interpreted to limit or prohibit the use of Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 to finance the construction or reconstruction of school facilities. However, the use of Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 may not be required as a condition of approval of any legislative or adjudicative act, or both, if the purpose of the community facilities district is to finance school facilities.

(g) (1) The refusal of a person to agree to undertake or cause to be undertaken an act relating to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5, including formation of, or annexation to, a community facilities district, voting to levy a special tax, or authorizing another to vote to levy a special tax, may not be a factor when considering the approval of a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization, as defined in Section 56021 or 56073, if the purpose of the community facilities district is to finance school facilities.

(2) If a person voluntarily elects to establish, or annex into, a community facilities district and levy a special tax approved by landowner vote to finance school facilities, the present value of the special tax specified in the resolution of formation shall be calculated as an amount per square foot of assessable space and that amount shall be a credit against any applicable fee, charge, dedication, or other requirement for the construction or reconstruction of school facilities. For purposes of this paragraph, the calculation of present value shall use the interest rate paid on the United States Treasury's 30-year bond on the date of the formation of, or annexation to, the community facilities district, as the capitalization rate.

(3) For purposes of subdivisions (f), (h), and (i), and this subdivision, "school facilities" means any school-related consideration relating to a school district's ability to accommodate enrollment.

(h) The payment or satisfaction of a fee, charge, or other requirement levied or imposed pursuant to Section 17620 of the Education Code in the amount specified in Section 65995 and, if applicable, any amounts specified in Section 65995.5 or 65995.7 are hereby deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073, on the provision of adequate school

facilities.

(i) A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section **65995.5** or **65995.7**, as applicable.

**65995.1.** (a) Notwithstanding any other provision of law, as to any development project for the construction of senior citizen housing, as described in Section 51.3 of the Civil **Code**, a residential care facility for the elderly as described in subdivision (k) of Section 1569.2 of the Health and Safety **Code**, or a multilevel facility for the elderly as described in paragraph (9) of subdivision (d) of Section 15432, any fee, charge, dedication, or other form of requirement that is levied under Section 53080 may be applied only to new construction, and is subject to the limits and conditions applicable under subdivision (b) of Section **65995** in the case of commercial or industrial development.

(b) Notwithstanding any other provision of law, as to any development project for the construction of agricultural migrant worker housing financed in whole or part pursuant to Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety **Code**, no fees, charges, dedications, or other forms of requirements that are levied under Section 53080 shall be applied to new construction, reconstruction, or rehabilitation of this housing. The exemption provided by this subdivision shall be applicable only to that agricultural migrant worker housing which is owned by the state and which is subject to a contract ensuring compliance with the requirements of Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety **Code**.

(c) Any development project against which school facilities fees or other requirements have been levied or waived in accordance with the limit or exemption set forth in subdivision (a) or (b) may be converted to any use other than those uses described in the statutes cited in that subdivision only with the approval of the city or county that issued the building permit for the project. That approval shall not be granted absent certification by the appropriate school district that payment has been made on the part of the development project at the rate of the school facilities fee, charge, dedication, or other form of requirement applied by the district under Section 53080 to residential development as of the date of conversion, less the amount of any school facilities fees or other requirements paid on the part of the project in accordance with the limits set forth in subdivision (a) or (b).

**65995.2.** (a) Notwithstanding any other provision of law, the imposition of any fee, charge, dedication, or other requirement authorized under Section 53080, or Chapter 4.7 (commencing with Section 65970), or both, against any manufactured home or mobilehome that is located within a mobilehome park, or subdivision, cooperative, or condominium for mobilehomes, in which residence is limited to older persons, as defined pursuant to the federal Fair Housing Amendments Act of 1988, is subject to the limits and conditions that are applicable under subdivision (b) of Section **65995**

in the case of commercial and industrial development.

(b) Any mobilehome park, or subdivision, cooperative, or condominium for mobilehomes, in which school facilities fees, charges, dedications, or other requirements have been imposed against one or more manufactured homes or mobilehomes in accordance with the limit set forth in subdivision (a) may subsequently choose to permit the residence of persons other than older persons, in which event it shall so notify the appropriate school district and city or county. As a condition of the first sale, subsequent to that notification, of each manufactured home or mobilehome in the mobilehome park, or subdivision, cooperative, or condominium for mobilehomes, payment shall be made to the school district in the amount of the school facilities fee or other requirement applied by the district under Section 53080, or Chapter 4.7 (commencing with Section 65970), or both, to residential development as of the date of that sale, less the amount of any school facilities fees, charges, dedications, or other requirements imposed against that manufactured home or mobilehome in accordance with the limits described in subdivision (a). Any prospective purchaser of a manufactured home or mobilehome that is subject to the requirement set forth in this subdivision shall be given written notice of the existence of that requirement by the seller prior to entering into any contract for that purchase.

(c) Compliance on the part of any manufactured home or mobilehome with any additional fee or other requirement applied by the school district pursuant to subdivision (b), and certification by the appropriate school district of that compliance, shall be required as a condition of the following, as applicable:

(1) The close of escrow of the first sale of the manufactured home or mobilehome following the notice required by subdivision (b), where the manufactured home or mobilehome is to be located, installed, or occupied in a mobilehome park that has chosen to permit the residence of persons other than older persons pursuant to subdivision (b) and the sale or transfer of the manufactured home or mobilehome is subject to escrow as provided in Section 18035 or 18035.2 of the Health and Safety **Code**.

(2) The approval of the manufactured home or mobilehomes for initial occupancy pursuant to Section 18551 or 18613 of the Health and Safety **Code** following the notice required by subdivision (b), where the manufactured home or mobilehome is to be located, installed, or occupied in a mobilehome park that has chosen to permit the residence of persons other than older persons pursuant to subdivision (b), in the event that paragraph (1) does not apply.

**65995.5.** (a) The governing board of a school district may impose the amount calculated pursuant to this section as an alternative to the amount that may be imposed on residential construction calculated pursuant to subdivision (b) of Section **65995**.

(b) To be eligible to impose the fee, charge, dedication, or other requirement up to the amount calculated pursuant to this section, a governing board shall do all of the following:

(1) Make a timely application to the State Allocation Board for new construction funding for which it is eligible and be determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) and Article 3 (commencing with Section 17071.75) of Chapter 12.5 of Part 10 of the Education **Code**. A governing board that submits an application to determine the district's eligibility for new construction funding shall be deemed eligible if the State

Allocation Board fails to notify the district of the district's eligibility within 120 days of receipt of the application.

(2) Conduct and adopt a school facility needs analysis pursuant to Section **65995.6**.

(3) Until January 1, 2000, satisfy at least one of the requirements set forth in subparagraphs (A) to (D), inclusive, and, on and after January 1, 2000, satisfy at least two of the requirements set forth in subparagraphs (A) to (D), inclusive:

(A) The district is a unified or elementary school district that has a substantial enrollment of its elementary school pupils on a multitrack year-round schedule. "Substantial enrollment" for purposes of this paragraph means at least 30 percent of district pupils in kindergarten and grades 1 to 6, inclusive, in the high school attendance area in which all or some of the new residential units identified in the needs analysis are planned for construction. A high school district shall be deemed to have met the requirements of this paragraph if either of the following apply:

(i) At least 30 percent of the high school district's pupils are on a multitrack year-round schedule.

(ii) At least 40 percent of the pupils enrolled in public schools in kindergarten and grades 1 to 12, inclusive, within the boundaries of the high school attendance area for which the school district is applying for new facilities are enrolled in multitrack year-round schools.

(B) The district has placed on the ballot in the previous four years a local general obligation bond to finance school facilities and the measure received at least 50 percent plus one of the votes cast.

(C) The district meets one of the following:

(i) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 15 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that are approved by a vote of registered voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that are approved by a vote of landowners prior to November 4, 1998, and revenues received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code). Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

(ii) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 30 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that are approved by a vote of registered voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that are approved by a vote of landowners after November 4, 1998, and revenues received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division

24 of the Health and Safety **Code**). Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

(D) At least 20 percent of the teaching stations within the district are relocatable classrooms.

(c) The maximum square foot fee, charge, dedication, or other requirement authorized by this section that may be collected in accordance with Chapter 6 (commencing with Section 17620) of Part 10.5 of the Education **Code** shall be calculated by a governing board of a school district, as follows:

(1) The number of unhouseed pupils identified in the school facilities needs analysis shall be multiplied by the appropriate amounts provided in subdivision (a) of Section 17072.10. This sum shall be added to the site acquisition and development cost determined pursuant to subdivision (h).

(2) The full amount of local funds the governing board has dedicated to facilities necessitated by new construction shall be subtracted from the amount determined pursuant to paragraph (1). Local funds include fees, charges, dedications, or other requirements imposed on commercial or industrial construction.

(3) The resulting amount determined pursuant to paragraph (2) shall be divided by the projected total square footage of assessable space of residential units anticipated to be constructed during the next five-year period in the school district or the city and county in which the school district is located. The estimate of the projected total square footage shall be based on information available from the city or county within which the residential units are anticipated to be constructed or a market report prepared by an independent third party.

(d) A school district that has a common territorial jurisdiction with a district that imposes the fee, charge, dedication, or other requirement up to the amount calculated pursuant to this section or Section **65995.7**, may not impose a fee, charge, dedication, or other requirement on residential construction that exceeds the limit set forth in subdivision (b) of Section **65995** less the portion of that amount it would be required to share pursuant to Section 17623 of the Education **Code**, unless that district is eligible to impose the fee, charge, dedication, or other requirement up to the amount calculated pursuant to this section or Section **65995.7**.

(e) Nothing in this section is intended to limit or discourage the joint use of school facilities or to limit the ability of a school district to construct school facilities that exceed the amount of funds authorized by Section 17620 of the Education **Code** and provided by the state grant program, if the additional costs are funded solely by local revenue sources other than fees, charges, dedications, or other requirements imposed on new construction.

(f) Except as provided in paragraph (5) of subdivision (a) of Section 17620 of the Education **Code**, a fee, charge, dedication, or other requirement authorized under this section and Section **65995.7** shall be expended solely on the school facilities identified in the needs analysis as being attributable to projected enrollment growth from the construction of new residential units. This subdivision does not preclude the expenditure of a fee, charge, dedication, or other requirement, authorized pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 17620, on school facilities identified in the needs analysis as necessary due to



projected enrollment growth attributable to the new residential units.

(g) "Residential units" and "residences" as used in this section and in Sections **65995.6** and **65995.7** means the development of single-family detached housing units, single-family attached housing units, manufactured homes and mobilehomes, as defined in subdivision (f) of Section 17625 of the Education **Code**, condominiums, and multifamily housing units, including apartments, residential hotels, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety **Code**, and stock cooperatives, as defined in Section 1351 of the Civil **Code**.

(h) Site acquisition costs shall not exceed half of the amount determined by multiplying the land acreage determined to be necessary under the guidelines of the State Department of Education, as published in the "School Site Analysis and Development Handbook," as that handbook read as of January 1, 1998, by the estimated cost determined pursuant to Section 17072.12 of the Education **Code**. Site development costs shall not exceed the estimated amount that would be funded by the State Allocation Board pursuant to its regulations governing grants for site development costs.

**65995.6.** (a) The school facilities needs analysis required by paragraph (2) of subdivision (b) of Section **65995.5** shall be conducted by the governing board of a school district to determine the need for new school facilities for unhoused pupils that are attributable to projected enrollment growth from the development of new residential units over the next five years. The school facilities needs analysis shall project the number of unhoused elementary, middle, and high school pupils generated by new residential units, in each category of pupils enrolled in the district. This projection of unhoused pupils shall be based on the historical student generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed either in the school district or the city or county in which the school district is located, and relevant planning agency information, such as multiphased development projects, that may modify the historical figures. For purposes of this paragraph, "type" means a single family detached, single family attached, or multifamily unit. The existing school building capacity shall be calculated pursuant to Article 2 (commencing with Section 17071.10) of Chapter 12.5 of Part 10 of the Education **Code**. The existing school building capacity shall be recalculated by the school district as part of any revision of the needs analysis pursuant to subdivision (e) of this section. If a district meets the requirements of paragraph (3) of subdivision (b) of Section **65995.5** by having a substantial enrollment on a multitrack year-round schedule, the determination of whether the district has school building capacity area shall reflect the additional capacity created by the multitrack year-round schedule.

(b) When determining the funds necessary to meet its facility needs, the governing board shall do each of the following:

(1) Identify and consider any surplus property owned by the district that can be used as a schoolsite or that is available for sale to finance school facilities.

(2) Identify and consider the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities.

(3) Identify and consider local sources other than fees, charges,

dedications, or other requirements imposed on residential construction available to finance the construction or reconstruction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units.

(c) The governing board shall adopt the school facility needs analysis by resolution at a public hearing. The school facilities needs analysis may not be adopted until the school facilities needs analysis in its final form has been made available to the public for a period of not less than 30 days during which time the school facilities needs analysis shall be provided to the local agency responsible for land use planning for its review and comment. Prior to the adoption of the school facilities needs analysis, the public shall have the opportunity to review and comment on the school facilities needs analysis and the governing board shall respond to written comments it receives regarding the school facilities needs analysis.

(d) Notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed school facilities needs analysis and any proposed revision of the school facilities needs analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the school district that is conducting the hearing no less than 30 days prior to the hearing. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous public places within the jurisdiction of the school district not less than 30 days prior to the hearing. In addition to these notice requirements, the governing board shall mail a copy of the school facilities needs analysis and any proposed revision to the school facilities needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The governing board may charge a fee reasonably related to the cost of providing these materials to those persons who request the school facilities needs analysis or revision.

(e) The school facilities needs analysis may be revised at any time in the same manner, and the revision is subject to the same conditions and requirements, applicable to the adoption of the school facilities needs analysis.

(f) A fee, charge, dedication, or other requirement in an amount authorized by this section or Section **65995.7**, shall be adopted by a resolution of the governing board as part of the adoption or revision of the school facilities needs analysis and may not be effective for more than one year. Notwithstanding subdivision (a) of Section 17621 of the Education **Code**, or any other provision of law, the fee, charge, dedication, or other requirement authorized by the resolution shall take effect immediately after the adoption of the resolution.

(g) Division 13 (commencing with Section 21000) of the Public Resources **Code** may not apply to the preparation, adoption, or update of the school facilities needs analysis, or adoption of the resolution specified in this section.

(h) Notice and hearing requirements other than those provided in this section may not be applicable to the adoption or revision of a school facilities needs analysis or the resolutions adopted pursuant to this section.

**65995.7.** (a) (1) If state funds for new school facility construction are not available, the governing board of a school district that complies with Section **65995.5** may increase the

alternative fee, charge, dedication, or other requirement calculated pursuant to subdivision (c) of Section 65995.5 by an amount that may not exceed the amount calculated pursuant to subdivision (c) of Section 65995.5, except that for the purposes of calculating this additional amount, the amount identified in paragraph (2) of subdivision (c) of Section 65995.5 may not be subtracted from the amount determined pursuant to paragraph (1) of subdivision (c) of Section 65995.5. For purposes of this section, state funds are not available if the State Allocation Board is no longer approving apportionments for new construction pursuant to Article 5 (commencing with Section 17072.20) of Chapter 12.5 of Part 10 of the Education Code due to a lack of funds available for new construction. Upon making a determination that state funds are no longer available, the State Allocation Board shall notify the Secretary of the Senate and the Chief Clerk of the Assembly, in writing, of that determination and the date when state funds are no longer available for publication in the respective journal of each house. For the purposes of making this determination, the board shall not consider whether funds are available for, or whether it is making preliminary apportionments or final apportionments pursuant to, Article 11 (commencing with Section 17078.10).

(2) Paragraph (1) shall become inoperative commencing on the effective date of the measure that amended this section to add this paragraph, and shall remain inoperative through the earlier of either of the following:

(A) November 5, 2002, if the voters reject the Kindergarten University Public Education Facilities Bond Act of 2002, after which date paragraph (1) shall again become operative.

(B) The date of the 2004 direct primary election after which date paragraph (1) shall again become operative.

(b) A governing board may offer a reimbursement election to the person subject to the fee, charge, dedication, or other requirement that provides the person with the right to monetary reimbursement of the supplemental amount authorized by this section, to the extent that the district receives funds from state sources for construction of the facilities for which that amount was required, less any amount expended by the district for interim housing. At the option of the person subject to the fee, charge, dedication, or other requirement the reimbursement election may be made on a tract or lot basis. Reimbursement of available funds shall be made within 30 days as they are received by the district.

(c) A governing board may offer the person subject to the fee, charge, dedication, or other requirement an opportunity to negotiate an alternative reimbursement agreement if the terms of the agreement are mutually agreed upon.

(d) A governing board may provide that the rights granted by the reimbursement election or the alternative reimbursement agreement are assignable.