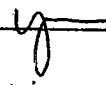


F I L E D

AUG 04 2004

RESOLUTION NO. 2004-23

RESOLUTION OF THE BOARD OF TRUSTEES OF THE
FRANKLIN-MCKINLEY SCHOOL DISTRICT ORDERING AN
ELECTION, AND ESTABLISHING SPECIFICATIONS OF THE
ELECTION ORDER

REGISTRAR OF VOTERS
COUNTY OF SANTA CLARA
By  Deputy

WHEREAS, the Board of Trustees (the "Board") has determined that certain properties, facilities and equipment within the Franklin-McKinley School District (the "District"), within Santa Clara County ("Santa Clara County") need to be repaired, acquired, constructed, improved, and equipped to enable the District to enhance the educational opportunities of the students in the District and to make all District schools comparable to each other and to other schools in Santa Clara County; and

WHEREAS, the Board has determined that in addressing the facility needs of the District, each school facility should provide basic accommodations that do not deter, but rather support student learning and that all of the District's schools should have comparable technology equipment and internet access, heating and cooling systems and safety repairs, to development, maintain and improve educational opportunity for all students; and

WHEREAS, notwithstanding ongoing efforts to obtain sufficient facility money from the State of California (the "State"), the State has been unable to provide the District with enough money for the District to adequately repair its schools to provide an optimal learning environment for all students; and

WHEREAS, in the judgment of the Board, it is advisable to provide additional facility funding for such needs by means of a general obligation bond; and

WHEREAS, Proposition 46, approved by the voters of the State on June 3, 1986 ("Proposition 46"), amended Section 1(b) of Article XIII A of the California Constitution by adding a provision which exempts from the 1% of full cash value limitation, those ad valorem taxes used to pay for debt service of any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by voters voting on the proposition; and

WHEREAS, on November 7, 2000 the voters of California approved the Smaller Classes, Safer Schools and Financial Accountability Act ("Proposition 39") which, as of its effective date, reduced the voter threshold for ad valorem tax levies used to pay for debt service or bonded indebtedness to 55% of the votes cast on a school district general obligation bond; and

WHEREAS, concurrent with the passage of Proposition 39, Chapter 1.5, Part 10, Division 1, Title 1 (commencing with Section 15264) of the Education Code (the "Act") became operative and established requirements associated with the implementation of Proposition 39; and

WHEREAS, the Board desires to make certain findings herein to be applicable to this election order and to establish certain performance audits, standards of financial accountability and citizen oversight which are contained in Proposition 39 and the Act; and

WHEREAS, the Board hereby determines that the restrictions in Proposition 39 which prohibit any bond money from being spent improperly or used for administrative salaries or other operating expenses of the District be strictly enforced by the Citizens Oversight Committee; and

WHEREAS, pursuant to Education Code Section 15270, based upon a projection of assessed property valuation, the Board has determined that, if approved by voters, the tax rate levied to meet the debt service requirements of the bonds proposed to be issued will not exceed the Proposition 39 limit per year per \$100,000 of assessed valuation of taxable property; and

WHEREAS, Section 9400 *et seq.* of the Elections Code of the State of California (the "Elections Code") requires that a tax rate statement be contained in all official materials, including any ballot pamphlet prepared, sponsored or distributed by the District, relating to the election; and

WHEREAS, the Board now desires to authorize the filing of a full ballot measure and a ballot argument in favor of the proposition to be submitted to the voters at the election; and

WHEREAS, pursuant to the California Elections Code, it is appropriate for the Board to request consolidation of the election with any and all other elections to be held on Tuesday, November 2, 2004, and to request the Santa Clara County Registrar of Voters to perform certain election services for the District;

NOW THEREFORE, THE BOARD OF TRUSTEES OF THE FRANKLIN-MCKINLEY SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the Board, pursuant to Education Code Sections 15100 *et seq.*, 15264 *et seq.*, and Government Code Section 53506, hereby requests the Santa Clara County Registrar of Voters to conduct an election under the provisions of Proposition 39 and the Act and submit to the electors of the District the question of whether bonds of the District in the aggregate principal amount not to exceed \$30,000,000 (the "Bonds") shall be issued and sold for the purpose of raising money for the purposes described in Exhibits A and B hereto.

Section 2. That the date of the election shall be November 2, 2004.

Section 3. That the purpose of the election shall be for the voters in the District to vote on a proposition, a copy of which is attached hereto and marked Exhibit "A" and incorporated by reference herein, containing the question of whether the District shall issue the Bonds to pay for improvements to the extent permitted by such proposition. In compliance with Proposition 39 and the Act, the ballot proposition in Exhibit "A" is subject to the following requirements and determinations:

(a) the proceeds of the sale of the Bonds shall only be used for the purposes set forth in the ballot measure and not for any other purpose, including teacher and administrator salaries and other school operating expense;

(b) that the Board, in establishing the projects set forth in Exhibit "B", evaluated the safety, class size reduction and information technology needs of the District;

(c) that the Board will cause to be conducted an annual, independent performance audit to ensure that the Bond moneys get expended for the projects identified in Exhibit "B" hereto;

(d) that the Board will cause an annual, independent financial audit of the proceeds from the sale of Bonds to be conducted until all of the Bond proceeds have been expended;

(e) that the Board will cause the appointment of a Citizens' Oversight Committee in compliance with Education Code Section 15278 no later than 60 days after the Board enters the election results in its minutes pursuant to Elections Code Section 15274; and

(f) that the tax levy authorized to secure the Bonds of this election shall not exceed \$30 per \$100,000 of taxable property in the District when assessed valuation is projected by the District to increase in accordance with Article XIII A of the California Constitution.

Section 4. That the authority for ordering the election is contained in Education Code Sections 15100 *et seq.*, 15264 *et seq.*, and Government Code Section 53506.

Section 5. That the authority for the specifications of this election order is contained in Sections 5322 of the Education Code.

Section 6. That the Santa Clara County Registrar of Voters and the Santa Clara County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on November 2, 2004 within the District.

Section 7. That the Secretary of the Board is hereby directed to send a certified copy of this Resolution to the Santa Clara County Registrar of Voters no later than August 5, 2004.

Section 8. That the maturity of any Bonds issued pursuant to Section 15264 *et seq.* of the Education Code hereto shall have a maturity not exceeding twenty-five (25) years, and Bonds issued pursuant to Section 53506 of the Government Code shall have a maturity of not exceeding forty (40) years. The maximum rate of interest on any Bond shall not exceed the maximum rate allowed by Education Code Sections 15140 to 15143, as modified by Government Code Section 53531.

Section 9. That the Board requests the governing body of any such other political subdivision, or any officer otherwise authorized by law, to partially or completely consolidate such election and to further provide that the canvass be made by any body or official authorized by law to canvass the returns of the election, and that the Board consents to such consolidation.

Section 10. Pursuant to Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors of Santa Clara County is requested to permit the Registrar of Voters to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the District agrees to reimburse Santa Clara County, such services to include the publication of a Formal Notice of School Bond Election and the mailing of the sample ballot and tax rate statement (described in Section 9401 of the Elections Code) pursuant to the terms of Section 5363 of the Education Code and Section 12112 of the Elections Code.

ADOPTED, SIGNED AND APPROVED this 3rd day of August, 2004.

BOARD OF TRUSTEES OF THE FRANKLIN-
MCKINLEY SCHOOL DISTRICT

By George Sanchez
President

Attest:

Larry DeWitt
Secretary

STATE OF CALIFORNIA)
)ss
SANTA CLARA COUNTY)

I, Larry Aceves, do hereby certify that the foregoing is a true and correct copy of Resolution No. 2004-23, which was duly adopted by the Board of Trustees of the Franklin-McKinley School District at meeting thereof held on the 3rd day of August, 2004, and that it was so adopted by the following vote:

AYES: 5

NOES: 0

ABSENT: 0

ABSTENTIONS: 0

By Larry Aceves
Secretary

EXHIBIT A

Franklin-McKinley School Repairs. “Shall Franklin-McKinley School District relieve overcrowding, repair, upgrade and equip all local schools, improve student safety conditions, upgrade electrical wiring for technology, install energy efficient heating/cooling systems, replace outdated plumbing/sewer systems, repair leaky rundown roofs/bathrooms, drainage systems, construct a new school, repair, acquire, improve, schools, sites and classrooms, by issuing \$30,000,000 of bonds at legal rates, requiring annual audits, citizen oversight, and no money for administrators’ salaries?”

Bonds - Yes

Bonds – No

31

41
72

EXHIBIT B

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FULL TEXT BALLOT PROPOSITION
OF THE FRANKLIN-MCKINLEY SCHOOL DISTRICT
BOND MEASURE ELECTION NOVEMBER 2, 2004

The following is the full proposition presented to the voters by the Franklin-McKinley School District.

Franklin-McKinley School Repairs. "Shall Franklin-McKinley School District relieve overcrowding, repair, upgrade and equip all local schools, improve student safety conditions, upgrade electrical wiring for technology, install energy efficient heating/cooling systems, replace outdated plumbing/sewer systems, repair leaky rundown roofs/bathrooms, drainage systems, construct a new school, repair, acquire, improve, schools, sites and classrooms, by issuing \$30,000,000 of bonds at legal rates, requiring annual audits, citizen oversight, and no money for administrators' salaries?"

In developing the Project List, the Board has prioritized key health and safety needs so the most critical needs are addressed. The Project List was developed with the input of teachers, school staff, architects, community and business leaders who determined that if these modernization needs were not addressed now, the problems would only get worse. The Board of Trustees was advised that it would be less expensive to construct a new school and upgrade and repair aging schools and classrooms now, than in the future.

The Board of Trustees of the Franklin-McKinley School District has evaluated safety, class size reduction, and information technology needs at all schools in developing the scope of school facility projects to be funded, as outlined in the District's Facilities Assessment and Study Plan, as shall be amended from time to time, and as on file at the office of the Assistant Superintendent, Business Services, which study includes the following projects:

PROJECT LIST

Every school campus within the Franklin-McKinley School District is expected to receive bond funds. The 14 existing campuses listed below will receive the following repair, upgrade, health, safety and construction projects as necessary:

Franklin Elementary
Dahl Elementary
McKinley Elementary
Santee Elementary
Shirakawa Elementary
Windmill Springs Elementary
Fair Middle School

Hellyer Elementary
Kennedy Elementary
Los Arboles Elementary
Meadows Elementary
Seven Trees Elementary
Stonegate Elementary
Sylvandale Middle School

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Repair Projects

All schools will benefit from repair, upgrade and construction projects at existing schools, such as:

- Install technology infrastructure to provide teachers and students with improved access to educational information on the internet.
- Replace outdated plumbing and sewer systems to meet current codes.
- Replace older heating, ventilation, air conditioning and lighting systems with building code compliant, energy efficient systems.
- Install electrical wiring and power in classrooms and libraries to accommodate current and future phone access, computer and technology needs.
- Upgrade older schools so that all students will have comparable school facilities.
- Repair drainage systems, and decaying ceilings, walls, and floors.
- Repair old, leaky school roofs.
- Repair or replace rundown bathrooms.
- Classroom interiors will receive new paint, carpet/vinyl tile/asbestos abatement, white markerboards, tackable surfaces, increased storage capacity.
- Replace existing window systems with energy efficient systems.
- Federal and State-mandated Americans With Disabilities Act (ADA) accessibility upgrades including site access, parking, staff and student restrooms, relocation of some existing electrical devices, drinking fountains, playground equipment, etc.

Health and Safety Projects

All men schools will benefit from health and safety projects, such as:

- Maintain/upgrade automatic fire alarm systems.
- Install/replace/upgrade security fencing and outdoor lighting.
- Replace/upgrade existing security systems.
- Install new security systems, as needed.
- Improve access for disabled persons as required by the Americans With Disabilities Act.
- Replace failing, cracked and buckled asphalt in playground areas, classroom ramps and sidewalks.

New Construction Projects

Students will benefit from some new construction, such as:

- Construction of a new elementary school at Communication Hill to relieve overcrowding at other schools. The District will apply for State matching funds to minimize, as much as possible, the amount of bond monies applied to this project.

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Listed repairs, rehabilitation projects and upgrades will be completed as needed at a particular site. Each project is assumed to include its share of equipment, furniture, and architectural, engineering, and similar planning costs, construction management, and a customary contingency for unforeseen design and construction costs. The allocation of bond proceeds will be affected by the District's receipt of State money and the final costs of each project. The budget for each project is an estimate and may be affected by factors beyond the District's control. The final cost of each project will be determined as plans are finalized, construction bids are awarded, and projects are completed. Therefore the Board cannot guarantee that the bonds will provide sufficient funds to allow completion of all listed projects.

No Administrator Salaries. Proceeds from the sale of bonds authorized by this proposition shall be used only for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease or real property for school facilities, and not for any other purpose, including teacher and administrator salaries.

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TAX RATE STATEMENT CONCERNING MEASURE ___

**TAX RATE STATEMENT
REGARDING PROPOSED
\$30,000,000
FRANKLIN -MCKINLEY SCHOOL DISTRICT
GENERAL OBLIGATION BONDS
MEASURE ___**

An election will be held in the Franklin-McKinley School District (the "District") on November 2, 2004, for the purpose of submitting to the electors of the District the question of incurring a bonded indebtedness of the District in a principal amount of \$30,000,000. If such bonds are authorized and sold, the principal thereof and interest thereon will be payable from the proceeds of tax levies made upon the taxable property in the District. The following information regarding tax rates is given to comply with Section 9401 of the California Elections Code. Such information is based upon the best estimates and projections presently available from official sources, upon experience within the District, and other demonstrable factors.

Based upon the foregoing and projections of the District's assessed valuation, and assuming the entire debt service will be paid through property taxation:

1. The best estimate of the tax which would be required to be levied to fund the bond issue during the first fiscal year after the sale of the first series of bonds based on estimated assessed valuations available at the time of filing of this statement is \$23.90 per \$100,000 of assessed valuation for the year 2005-06.
2. The best estimate from official sources of the tax rate which would be required to be levied to fund the bond issue during the first fiscal year after the last sale of the bonds and an estimate of the year in which that rate will apply based on estimated assessed valuations available at the time of filing of this statement is \$24.30 per \$100,000 of assessed valuation for the year 2008-09.
3. The best estimate of the highest tax rate which would be required to be levied to fund the bond issue and an estimate of the year in which that rate will apply based on estimated assessed valuation available at the time of filing this statement is \$24.40 per \$100,000 of assessed valuation for the year 2016-17.

Attention to all voters is directed to the fact that the foregoing information is based upon projections and estimates only. The actual times of sales of said bonds and the amount sold at any given time will be governed by the needs of the District and other factors. The actual interest rates at which the bonds will be sold, which in any event will not exceed the maximum permitted by law, will depend upon the bond market at the time of sales. The actual assessed valuations in the future years will depend upon the value of property within the District as determined in the assessment and the equalization process. Hence, the actual tax rates and the years in which such rates are applicable may vary from those presently estimated as above stated.

Larry Aceves
Superintendent
Franklin-McKinley School District

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