

RESOLUTION NO. 013-1314

RESOLUTION OF THE BOARD OF EDUCATION OF FREMONT
UNIFIED SCHOOL DISTRICT ORDERING AN ELECTION, AND
ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER

WHEREAS, the Board of Education (the “Board”) is committed to maintaining all of Fremont’s excellent, award-winning schools and protecting the quality of academic instruction by updating technology and aging classrooms, math, science and computer labs for 21st Century learning; and

WHEREAS, the Board determines that to support Fremont Unified School District’s (the “District”) outstanding teachers, we must provide our educators with the technology and up-to-date classrooms they need to help our students succeed; and

WHEREAS, many Fremont schools were built in the 1950’s and are aging, out of date and need significant repairs in order to make our schools quality learning environments for students and teachers; and

WHEREAS, basic improvements of our local neighborhood schools, such as repairing leaky roofs, electrical wiring and heating/cooling systems, will help maintain strong property values, and prepare our students for college and jobs in the 21st Century; and

WHEREAS, the Board is committed to providing all Fremont students with access to modern, high-quality educational facilities and ensuring that all Fremont schools benefit and receive their fair share of funding; and

WHEREAS, the State of California (the “State”) has reduced the District’s funding by \$95 million since 2007-08 and is unable to provide the District with enough money for the District to adequately maintain its educational facilities notwithstanding ongoing efforts to obtain State monies; and

WHEREAS, the District’s only remedy to improve its school facilities is securing local funding that the State cannot take away; and

WHEREAS, the Board believes it is in the best interest of the District to continue to address facility improvements now before they become more pressing and more costly; and

WHEREAS, the Board and District has solicited extensive stakeholder and community input on school priorities from parents, teachers, staff, the community and civic leaders; and

WHEREAS, the Board has received information regarding the possibility of a local bond measure and its bond capacity; and

WHEREAS, such a local measure will **provide funds that cannot be taken away by the State** and are controlled locally to protect the quality of education in core subjects, and provide our educators with the technology and classrooms they need to help our students succeed; and

WHEREAS, such local measure must include mandatory taxpayer protections, including an independent citizens' oversight committee, mandatory audits to ensure funds are spent as promised and no money used for salaries, benefits or pensions for administrators or teachers; 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 that exempts from the 1% of full cash value limitation, those *ad valorem* taxes used to pay for debt service on 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 reduced the voter threshold for *ad valorem* tax levies used to pay for debt service on 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 that are contained in Proposition 39 and the Act; and

WHEREAS, the Board desires to authorize the submission of a proposition to the District's voters at an election to authorize the issuance of bonds to pay for certain necessary improvements and enhancements to District educational facilities; and

WHEREAS, the Board hereby determines that, in accordance with Opinion No. 04-110 of the Attorney General of the State of California, the restrictions in Proposition 39 which prohibit any bond money from being wasted or used for inappropriate administrative salaries or other operating expenses of the District shall be enforced strictly by the District's 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 limits 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 relating to the election, including any ballot pamphlet prepared, sponsored, or distributed by the District; and

WHEREAS, the Board desires to authorize the filing of 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, June 3,

2014, and to request the Alameda County Registrar of Voters to perform certain election services for the District;

NOW THEREFORE, THE BOARD OF EDUCATION OF THE FREMONT UNIFIED 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 Alameda 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 of \$650 million (the “Bonds”) shall be issued and sold for the purpose of raising money for the projects described in Exhibits “A” and “B” hereto. Both exhibits are directed to be printed in the voter pamphlet.

Section 2. That the date of the election shall be June 3, 2014.

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,” incorporated by reference herein, and 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 propositions in Exhibits “A” and “B” are subject to the following requirements and determinations:

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

(b) that the Board, in establishing the projects set forth in Exhibit “B,” evaluated the safety, class size reduction, classroom, educational, and information technology needs of the District as well as the importance of the projects to student achievement and high quality instruction;

(c) that the Board shall cause an annual, independent performance audit to be conducted to ensure that the Bond monies get spent only for the projects identified in Exhibit “B” hereto;

(d) that the Board shall 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 shall appoint 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 Education Code Section 15274; and

(f) that the tax levy authorized to secure the Bonds of this election shall not exceed the Proposition 39 limits 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 Alameda County Registrar of Voters and the Alameda County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on June 3, 2014 within the District.

Section 7. That the Secretary of the Board is hereby directed to deliver a certified copy of this Resolution to the Alameda County Registrar of Voters no later than March 7, 2014.

Section 8. That 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 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 of the returns of the election be made by any body or official authorized by law to canvass such returns, 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 Alameda 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 of Alameda 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 12th of February, 2014.

BOARD OF EDUCATION OF THE FREMONT
UNIFIED SCHOOL DISTRICT

By _____
President

Attest:

Secretary

STATE OF CALIFORNIA)
)ss
ALAMEDA COUNTY)

I, James Morris, do hereby certify that the foregoing is a true and correct copy of Resolution No. 013-1314, which was duly adopted by the Board of Education of the Fremont Unified School District at the meeting thereof held on the 12th of February, 2014, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

By _____
Secretary

EXHIBIT A

“To upgrade/repair neighborhood schools with local funding the State cannot take away, shall Fremont Unified School District

- update technology/aging classrooms, math, science/computer labs for 21st Century learning,
- upgrade electrical wiring to current safety codes,
- fix/replace leaky roofs, aging plumbing/restrooms,
- remove asbestos,
- repair, construct, acquire equipment, classrooms, sites, facilities,

by issuing \$650 million of bonds at legal rates, with citizen oversight, no money for administrators, salaries, benefits/pensions, and all funds for Fremont schools?”

Bonds – Yes

Bonds – No

EXHIBIT B

FULL TEXT BALLOT PROPOSITION OF THE FREMONT UNIFIED SCHOOL DISTRICT BOND MEASURE ELECTION JUNE 3, 2014

The following is the full proposition presented to the voters by the Fremont Unified School District.

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- fix/replace leaky roofs, aging plumbing/restrooms,
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by issuing \$650 million of bonds at legal rates, with citizen oversight, no money for administrators, salaries, benefits/pensions, and all funds for Fremont schools?”

PROJECT LIST

The Board of Education of the Fremont Unified School District is committed to protecting the quality of academic instruction in core subjects such as math, science, reading and writing and supporting Fremont’s outstanding teachers. To that end, the Board must provide our educators with the technology and up-to-date classrooms they need to help our students succeed. Therefore, the Board evaluated the District’s urgent and critical facility needs, including computer and information technology, safety issues, class size, enrollment trends and prepared a Long Range Facilities Plan (dated) (the “Facilities Plan”) which is incorporated herein in its entirety, in developing the scope of projects to be funded. The District conducted a facilities evaluation and received extensive public input in developing the Facilities Plan through school site meetings, community presentations, opinion leader input, and interactive materials. Teachers, staff, community members and the Board have prioritized the key health and safety needs so that the most critical facility needs are addressed. The Board concluded that if these needs are not addressed now, the problems will only become more pressing and expensive to address. **Therefore, in approving this Project List, the Board of Education determines that the District:**

- (i) **Must update technology and aging classrooms, math, science, and computer labs for 21st Century learning;**
- (ii) **Must upgrade outdated electrical wiring to meet current safety codes and support modern classroom computers and instructional technology; and**
- (iii) **Must make basic repairs and upgrades to schools, including fixing leaky roofs, upgrading heating and air conditioning systems to eliminate germs and mold, and removing asbestos;**
- (iv) **Must adhere to specific fiscal accountability safeguards such as:**
 - (a) **FUNDS CANNOT BE TAKEN BY THE STATE,**
 - (b) **All expenditures must be subject to annual independent financial audits,**

- (c) **NO FUNDS can be used FOR ADMINISTRATORS' salaries and pensions,**
- (d) **All FUNDS must be SUBJECT to LOCAL CONTROL,**
- (e) **An independent CITIZENS' OVERSIGHT committee must be appointed to ensure that all funds are spent only as authorized.**

The Project List includes the following types of upgrades and improvements at **ALL** of the District's schools so that **ALL STUDENTS HAVE EQUAL ACCESS TO MODERN, HIGH-QUALITY EDUCATION FACILITIES:**

Basic Renovation, Repair and Upgrade of 1950's Schools

Goal and Purpose: Since the quality of local schools contribute to the value of our homes, good, safe and up-to-date schools make our neighborhoods more desirable and protect local property values as well as the quality of academic instruction in core subjects, such as math, science, reading and writing, and supports Fremont's outstanding teachers, schools and school sites will benefit from a variety of basic repair projects, such as:

- Provide our educators with technology and up-to-date classrooms to help our students' succeed.
- Repair aging classrooms, science labs and student restrooms.
- Provide new classrooms, science labs and computer labs to accommodate growing student enrollment and prevent overcrowding.
- **Fix and replace leaky roofs.**
- **Remove asbestos.**
- Repair heating, plumbing and air-conditioning systems.
- Upgrade outdated electrical wiring to meet current safety codes and support modern classroom computers and instructional technology.

Student Safety Projects

Goal and Purpose: Many local schools need basic health and safety improvements. The repair of deteriorating restrooms, leaky roofs, plumbing systems and electrical wiring, asbestos removal, earthquake retrofits and fire safety are among the student safety projects needed to **ENSURE THAT SCHOOLS ARE ADEQUATELY MAINTAINED ON AN ONGOING BASIS AND KEPT CLEAN, SAFE EFFECTIVE LEARNING ENVIRONMENTS FOR STUDENTS:**

- Upgrade emergency communication systems, alarms, safety locks, exterior lighting, security cameras, and fencing to ensure student safety.
- Update fire safety systems, including fire safety doors, smoke alarms and detectors.
- Improve access for students and staff with disabilities.
- **Upgrade heating and air conditioning systems to eliminate mold and germs.**

- Replace aging, outdated portables with modern classrooms that meet 21st Century health, safety and academic standards.
- Reduce overcrowding.

District-Wide Instructional Technology and Core Academic Programs Projects To Prepare Students for 21st Century Learning

Goal and Purpose: To ensure all students have access to up-to-date classrooms, science labs, and technology, and to upgrade classroom computer technology to allow our teachers and students to use modern instructional technology and prepare students to compete for jobs and careers, college, and high-paying 21st Century jobs in a global economy.

- Upgrade instructional technology and aging classrooms, math, science, and computer labs for 21st Century learning.
- Provide and maintain up-to-date technology, data and communication equipment.
- Upgrade and expand wireless systems, telecommunications, Internet and network connections.
- **Upgrade electrical wiring to support current technologies.**

* * *

The listed projects set forth above and in the Facilities Plan will be completed as needed. Each project includes its share of furniture, equipment, architectural, engineering, and similar planning costs, program management, staff training expenses and a customary contingency, and escalation for unforeseen design and construction costs. In addition to the listed projects stated above as well as in the Facilities Plan, the Project List also includes the payment of the costs of preparation of all facility planning, facility assessment reviews, environmental studies, construction documentation, inspection and permit fees, and temporary housing of dislocated District activities caused by bond projects. The upgrading of technology infrastructure includes, but is not limited to, portable interface devices, servers, switches, routers, modules, sound projection systems, document projectors, upgrade voice-over-IP, phone systems, call manager and network security/firewall, and other miscellaneous equipment. The repair of school facilities includes the building, upgrading or replacing of: school site parking and student drop-off areas, campus accessibility, utilities, and grounds, playground equipment, hard court surfaces, shade structures for student assembly and protecting students from inclement weather during lunch, libraries, District support facilities; enhanced signage; fire sensors; replace damaged and unsafe gym bleachers; music, assembly, and performing arts spaces; acquisition of land; electrical wiring; athletic and play fields turf may be upgraded for safety and operational efficiency; solar power, energy efficiency systems, and water recycling systems; constructing new facilities and classrooms; renovate and paint interior and exterior building surfaces to extend their useful life; physical education facilities improvements; security, safety and communication systems and equipment; interior and exterior lights; window and floor coverings (including tiles and carpeting); kitchen equipment; and upgrade irrigation systems; improvements and furnishings and/or other electronic equipment and systems; gyms, stadiums and physical education facilities. The Project List also includes the refinancing of any outstanding lease obligations, or the bridge loans taken to initiate voter approved projects. Some projects throughout

the District, such as gyms, fields and performing arts facilities, may be undertaken as joint use projects in cooperation with other local public or non-profit agencies. The allocation of bond proceeds may be affected by the District's receipt of State matching funds and the final costs of each project. In the absence of State matching funds, which the District will aggressively pursue to reduce the District's share of the costs of the projects, the District may not be able to complete some of the projects listed above. 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. Based on the final costs of each project, certain of the projects described above may be delayed or may not be completed. Demolition of existing facilities and reconstruction of facilities scheduled for repair and upgrade may occur, if the Board determines that such an approach would be more cost-effective in creating enhanced and operationally efficient campuses. Necessary site preparation/restoration and landscaping, may occur in connection with new construction, renovation or remodeling, or installation or removal of relocatable classrooms, including ingress and egress, removing, replacing, or installing irrigation, utility lines, trees and landscaping, redirecting fire access, and acquiring any necessary easements, licenses, or rights of way to the property.

Bond proceeds shall be expended only for the specific purposes identified herein. Proceeds of the bonds may be used to pay or reimburse the District for the cost of District staff when performing work on or necessary and incidental to the bond projects. The District shall create an account into which proceeds of the bonds shall be deposited and comply with the reporting requirements of Government Code § 53410.

FISCAL ACCOUNTABILITY: IN ACCORDANCE WITH EDUCATION CODE SECTION 15272, THE BOARD OF EDUCATION WILL APPOINT A CITIZENS' OVERSIGHT COMMITTEE AND CONDUCT ANNUAL INDEPENDENT AUDITS TO ASSURE THAT FUNDS ARE SPENT ONLY ON DISTRICT PROJECTS AND FOR NO OTHER PURPOSE. THE EXPENDITURE OF BOND MONEY ON THESE PROJECTS IS SUBJECT TO STRINGENT FINANCIAL ACCOUNTABILITY REQUIREMENTS. BY LAW, PERFORMANCE AND FINANCIAL AUDITS WILL BE PERFORMED ANNUALLY, AND ALL BOND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO ENSURE THAT FUNDS ARE SPENT AS PROMISED AND SPECIFIED. THE CITIZENS' OVERSIGHT COMMITTEE MUST INCLUDE, AMONG OTHERS, REPRESENTATION OF A BONA FIDE TAXPAYERS ASSOCIATION, A BUSINESS ORGANIZATION AND A SENIOR CITIZENS ORGANIZATION. NO DISTRICT EMPLOYEES OR VENDORS ARE ALLOWED TO SERVE ON THE CITIZENS' OVERSIGHT COMMITTEE.

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