

RESOLUTION 18-012

RESOLUTION OF THE BOARD OF TRUSTEES OF THE SOUTH BAY UNION SCHOOL DISTRICT ORDERING AN ELECTION TO AUTHORIZE THE ISSUANCE OF SCHOOL BONDS, ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER, AND REQUESTING CONSOLIDATION WITH OTHER ELECTIONS OCCURRING ON NOVEMBER 6, 2018

WHEREAS, the South Bay Union School District (the "District") in San Diego County (the "County"), State of California, is committed to providing quality education to its students; and

WHEREAS, the District's facilities are in need of repairs, upgrades, modernization and safety improvements and a local funding source is needed to enable the District to provide adequate facilities for present and future students; and

WHEREAS, the Board of Trustees of the District (the "Board") has determined that it is necessary to address the foregoing concerns, among others, to ensure that its schools are upgraded, repaired, improved and equipped; and

WHEREAS, a local District bond measure will help provide funds that cannot be taken away by the State to repair, renovate, and construct facilities in support of local educational efforts and to help offset State budget cuts; and

WHEREAS, such a local bond measure will include mandatory taxpayer protections, including an independent citizens' oversight committee, mandatory annual audits to ensure funds are spent as promised, no money for administrators' salaries and employee pensions, with all funds dedicated to the District; and

WHEREAS, on November 7, 2000, the voters of the State of California approved Proposition 39 ("Proposition 39"), which amended Articles XIII A of the California Constitution ("Article XIII A") to allow for the levy of *ad valorem* property taxes for the payment of bonded indebtedness of a school district, community college district or county office of education approved by at least 55 percent of the voters voting on such proposition; and

WHEREAS, upon the passage of Proposition 39, the Strict Accountability in Local School Construction Bond Act of 2000, being California Education Code Section 15264 and following (the "Act"), became operative; and

WHEREAS, in order to address the facilities needs of the District as described herein, in the judgment of the Board, it is advisable to call an election pursuant to the Act to submit to the electors of the District the question whether bonds of the District shall be issued and sold pursuant to the authority of Article XVI Section 18 of the California Constitution and Article XIII A (together with the Act, the "Law") for the purposes authorized by the Law and as described in Appendix A hereto (the "Full Text of Bond Measure"); and

WHEREAS, under the Act, the election may be ordered at a primary or general election, a regularly scheduled local election at which all of the electors of the District are entitled to vote, or a statewide special election, upon a two-thirds vote of the Board; and

WHEREAS, the Board desires to call an election in the District pursuant to the Law on November 6, 2018, which is the date of the statewide primary election, and pursuant to Education Code Section 15121 and Elections Code Section 10400 and following, to request consolidation with any and all other elections held in the District on such date, and to request the San Diego County Registrar of Voters (the “County Registrar”) to perform election services for the District; and

WHEREAS, in connection with the calling of a bond election and in accordance with Education Code Section 15100 subparagraph (c), the Board has obtained reasonable and informed projections of assessed property valuations that take into consideration projections (if any) of assessed property valuations made by the County Assessor;

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE SOUTH BAY UNION SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

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

Section 2. Call for Election. The Board hereby orders an election and submits to the electors of the District the question of whether general obligation bonds of the District shall be issued and sold in the maximum principal amount of \$18 million for the purposes described in the ballot measure approved under Section 4 and attached hereto as Appendix A (Full Text of Bond Measure) and Appendix B (Abbreviated Text of Bond Measure), and paying all costs incident thereto. This Resolution constitutes the order of the District to call such election and shall constitute the “specifications of the election order” pursuant to Education Code Section 5322.

Section 3. Election Date. The date of the election shall be November 6, 2018, and such bond election shall be held solely within the boundaries of the District. The boundaries of the District have not changed since the District’s last election.

Section 4. Purpose of Election; Ballot Measure. The purpose of the election shall be for the voters in the District to vote on a bond measure, a full copy of which is attached hereto as Appendix A and marked “Appendix A – Full Text of Bond Measure” (the “Full Text of the Measure”), containing the question of whether the District shall issue general obligation bonds for the purposes stated therein, together with the accountability requirements of Article XIII A and the requirements of Section 15272 of the Act. The Full Text of the Measure, which commences with the heading “FULL TEXT OF BOND MEASURE” and includes all of the text thereafter on Appendix A, shall be printed in the voter information pamphlet provided to voters, with such measure designation as is assigned to the measure by the County elections official. As required by Education Code Section 5322 and Elections Code Section 13247, the abbreviated form of the measure to appear on the ballot is attached hereto as Appendix B and is marked as “Appendix B – Abbreviated Form of Bond Measure.” The President of the Board and the Superintendent of the District are hereby separately authorized and directed to make any changes to the text of the measure as described herein to conform to any requirements of the Law or the County Registrar.

Section 5. Authority for Election. The authority for ordering the election is contained in Section 15264 *et. seq.* of the Education Code, Article XVI Section 18(b) of the California Constitution and paragraph (b) subsection (3) of Article XIII A. The authority for the specification of this election order is contained in Section 5322 of the Education Code.

Section 6. Proceeds for School Facilities Projects. The Board certifies that the proceeds from the sale of the bonds will be used only for the purposes specified in Article XIII A, Section 1(b)(3) as further specified in Appendix A, and not for any other purpose, including teacher and administrator salaries and other school operating expenses. Further, as required by Article XIII A, the Board hereby certifies that it has evaluated safety, class size and information technology needs in developing the list of school facilities projects set forth in Appendix A.

Section 7. Covenants of the Board upon Approval of the Bonds by the Electorate; Accountability Measures. As required by Article XIII A, Section 15278 of the Act, and Government Code Section 53410, in the event 55 percent of the voters voting in the District approve of the Bonds, the Board shall:

- (a) conduct an annual, independent performance audit to ensure that the funds have been expended only on the projects listed in Appendix A;
- (b) conduct an annual, independent financial audit of the proceeds from the sale of the Bonds until all of those proceeds have been expended for the school facilities projects listed in Appendix A;
- (c) establish and appoint members to an independent citizens' oversight committee in accordance with Sections 15278, 15280, and 15282 of the Act;
- (d) apply the Bond proceeds only to the specific purposes stated in the ballot proposition;
- (e) cause the creation of accounts into which bond proceeds shall be deposited; and
- (f) cause the preparation of an annual report pursuant to Government Code Sections 53410 and 53411.

Section 8. State Matching Funds. The Board hereby finds that some of the projects identified on the Full Text of Measure will require state matching funds for completion. As such, the statement required by Education Code Section 15122.5 has been included in the Full Text of Measure.

Section 9. Delivery of this Resolution. The Secretary of the Board is hereby directed to send a copy of this Resolution to (1) the County Registrar, and (2) the San Diego County Clerk of the Board of Supervisors (the "County Clerk of the Board") for purposes of consolidation pursuant to Elections Code Section 10403. The Resolution

shall be received by the County Registrar and the County Clerk of the Board no later than 88 days prior to the election date, unless otherwise permitted by law.

The County Registrar is hereby requested to print the full text of the ballot measure in the ballot materials as it appears on Appendix A hereto and to provide all required notices of the election and other notices related thereto.

Section 10. Consolidation of Election; Request to Provide Services. The County Registrar and the San Diego County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on November 6, 2018 within the District.

Pursuant to Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors of San Diego County is requested to permit the County Registrar to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the District agrees to reimburse San Diego County in full upon presentation of a bill from the 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).

Section 11. Approval of Tax Rate Statement. Pursuant to Elections Code Section 9401, a tax rate statement has been prepared in the form attached hereto as Appendix C, which form of Tax Rate Statement is hereby approved for inclusion in the sample ballot. The President of the Board, the Superintendent of the District, or any written designee of the foregoing, are hereby separately authorized and directed to execute the tax rate statement, and to file said Statement with the County Registrar, in accordance with Section 9 hereof.

Section 12. Ballot Arguments. As provided in Elections Code Section 9501, any and all members of this Board are hereby authorized to act as an author of any ballot argument prepared in connection with the election, including a rebuttal argument.

Section 13. Maturity Limit of Bonds. The Bonds may be issued in one or more series by the District from time to time, and each series of Bonds shall mature not more than the legal limit at the time of such issuance thereof. The Bonds shall be issued under the Act, under the provisions of Section 53506 *et seq.* of the California Government Code, or under any other provision of law authorizing the issuance of general obligation bonds by school districts.

Section 14. Official Actions. The President of the Board and the Superintendent are hereby separately authorized and directed to execute and deliver to County officials any directions, requisitions or other writings, and to make any changes to the texts of the measure as described herein and in the tax rate statement, to conform to any legal requirements or the County Registrar, in order to cause the election to be held and conducted in the District.

Section 15. Effective Date. This resolution shall take effect on and after its adoption.

* * * * *

The foregoing Resolution was adopted by the Board of Trustees of the South Bay Union School District of San Diego County, being the Board authorized by law to make the designations therein contained by the following vote, on April 19, 2018.

Adopted by the following votes: *[2/3 of Board required for approval]*

AYES:

NOES:

ABSENT:

ABSTAIN:

By: _____
Melanie Ellsworth, President of the Board

Attest:

By: _____
Elvia Aguilar, Clerk of the Board

APPENDIX A

FULL TEXT OF BOND MEASURE

INTRODUCTION

“To improve access to preschool education by rebuilding and increasing capacity at VIP Village Preschool, including constructing new classrooms and school facilities, and renovating existing restrooms, shall South Bay Union School District issue \$18 million in general obligation bonds at legal rates, under a plan that will not increase existing tax rates with an estimated levy of 2 cents per \$100 of assessed valuation (averaging \$1.5 million annually through 2042), independent taxpayer oversight and annual audits?”

BOND AUTHORIZATION

By approval of this measure by at least 55 percent of the registered voters voting on the measure, the South Bay Union School District will be authorized to issue and sell bonds of up to \$18 million in aggregate principal amount at interest rates not to exceed legal limits and to provide financing for the specific types of school facilities projects listed in the Bond Project List described below, subject to all the accountability requirements specified below.

ACCOUNTABILITY REQUIREMENTS

The provisions in this section are specifically included in this measure in order that the voters and taxpayers in the District may be assured that their money will be spent wisely. Expenditures to address specific facilities needs of the District will be in compliance with the requirements of Article XIII A, Section 1(b)(3), of the State Constitution and the Strict Accountability in Local School Construction Bonds Act of 2000 (codified at Education Code Sections 15264 and following.)

Evaluation of Needs. The School Board has identified detailed facilities needs of the District and has determined which projects to finance from a local bond. The School Board hereby certifies that it has evaluated safety, class size reduction, enrollment growth, and information technology needs in developing the Bond Project List shown below.

Independent Citizens' Oversight Committee. Following approval of this measure, the Board of Trustees will establish an Independent Citizens' Oversight Committee, under Education Code Sections 15278 and following, to ensure bond proceeds are expended only on the types of school facilities projects listed below. The committee will be established within 60 days of the date when the results of the election appear in the minutes of the School Board.

Performance Audits. The School Board will conduct annual, independent performance audits to ensure that the bond proceeds have been expended only on the school facilities projects listed below.

Financial Audits. The School Board will conduct annual, independent financial audits of the bond proceeds until all of those proceeds have been spent for the school facilities projects listed below.

Government Code Accountability Requirements. As required by Section 53410 of the Government Code, (1) the specific purpose of the bonds is set forth in this Full Text of the Measure, (2) the proceeds from the sale of the bonds will be used only for the purposes specified in this measure, and not for any other purpose, (3) the proceeds of the bonds, when and if issued, will be deposited into a building fund to be held by the San Diego County Treasurer, as required by the California Education Code, and (4) the Superintendent of the District shall cause an annual report to be filed with the Board of Trustees of the District not later than January 1 of each year, which report shall contain pertinent information regarding the amount of funds collected and expended, as well as the status of the projects listed in this measure, as required by Sections 53410 and 53411 of the Government Code.

NO TEACHER OR ADMINISTRATOR SALARIES

Proceeds from the sale of bonds authorized by this measure shall be used only for the purposes specified in Article XIII A, Section 1(b)(3), those being for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, and the acquisition or lease of school facilities, and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

STATE MATCHING FUNDS

The following statement is included in this measure pursuant to Education Code Section 15122.5: Approval of this measure does not guarantee that the proposed project or projects that are the subject of bonds under this measure will be funded beyond the local revenues generated by this measure. The District's proposal for the project or projects described below may assume the receipt of matching state funds, which, if available, could be subject to appropriation by the Legislature or approval of a statewide bond measure.

ESTIMATES AND PROJECTIONS INCLUDED IN BALLOT

This measure authorizes the issuance of general obligation bonds to finance the types of projects set forth on the Bond Project List set forth below. When issued, general obligation bonds are repaid by *ad valorem* property taxes levied and collected on taxable property in the District. The measure presented to District voters on the Ballot, as set forth above under the heading "INTRODUCTION", includes information regarding the amount of revenues expected to be raised annually to repay issued bonds, the estimated rate of the approved tax per \$100 of assessed valuation, and the year through which it is approximated the proposed tax will be levied and collected. Each of these estimates and approximations are provided as informational only. Such amounts are estimates only, and are not maximum amounts or limitations on the terms of the bonds or the tax rate or duration supporting repayment of bonds. The approximations and estimates provided depend on a number of variables which are subject to variation and change over the term of the District's overall facilities and bond financing plan, including but not limited to the amount of bonds issued and outstanding at any one time, the interest rates applicable to issued bonds, market conditions at the time of sale of the bonds, when bonds mature, timing of project needs and changes in assessed valuations in the District. As such, while such estimates and approximations have been provided based on information currently available to the District and its current expectations, such estimates and approximations are not binding upon the District.

BOND PROJECT LIST

Bond proceeds will be expended to construct, modernize, replace, renovate, equip, furnish, rebuild and otherwise improve District facilities as described below. The specific school facilities projects which are described below include all related and incidental costs, including costs of design, engineering, architect and other professional services, demolition, temporary housing, site preparation, utilities, landscaping and other incidental costs, and construction management. Bond proceeds may also be expended to acquire and install furniture, fixtures and equipment in classrooms and at the site. The District is authorized to demolish and rebuild any portion of the project if it is deemed more economical to do so rather than renovating existing facilities. The District may alter the scope and nature of any of the specific projects that are described below as required by conditions that arise over time.

Whenever specific items are included in the following list, they are presented to provide examples and are not intended to limit the generality of the broader description of authorized projects. The order in which particular projects are listed is not intended to indicate priority for funding or completion. The itemization of projects in the list below does not guarantee that all such projects will be undertaken. The ability of the District to undertake and complete the listed projects is subject to the adequacy and availability of sufficient funding sources.

RECONSTRUCTION OF VIP VILLAGE PRESCHOOL

Whenever specific items are included in the following list, they are presented to provide an example and are not intended to limit the generality of the broader description of authorized projects.

Bond proceeds will be expended to construct, renovate, rebuild, acquire, equip and refurnish VIP Village Preschool including:

- Construct new classrooms
- Install fencing, security, and fire and life safety systems and equipment
- Renovate and repair existing restroom facilities
- Replace, repair, and install utilities including water, sewer, electrical and telecommunication on the site
- Construct, furnish and equip classroom, multi-purpose, and support buildings
- Site improvements including play areas, landscape, hardscape, and parking

APPENDIX B

ABBREVIATED FORM OF BOND MEASURE

To improve access to preschool education by rebuilding and increasing capacity at VIP Village Preschool, including constructing new classrooms and school facilities, and renovating existing restrooms, shall South Bay Union School District issue \$18 million in general obligation bonds at legal rates, under a plan that will not increase existing tax rates with an estimated levy of 2 cents per \$100 of assessed valuation (averaging \$1.5 million annually through 2042), independent taxpayer oversight and annual audits?

Bonds—Yes

Bonds—No

APPENDIX C

TAX RATE STATEMENT REGARDING PROPOSED

\$18,000,000 SOUTH BAY UNION SCHOOL DISTRICT GENERAL OBLIGATION BONDS

An election will be held in the South Bay Union School District (the "District") on November 6, 2018, to authorize the sale of up to \$18 million in bonds of the District to finance improvements to educational facilities as described in the measure. If such bonds are authorized and sold, principal and interest on the bonds will be payable only from the proceeds of *ad valorem* tax levies made upon the taxable property in the District. The following information is provided in compliance with Sections 9400-9404 of the Elections Code of the State of California. 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, the following information is provided:

1. The best estimate of the average annual tax rate which would be required to be levied to fund this bond issue over the entire duration of the bond debt service, based on a projection of assessed valuations available at the time of filing of this statement, is 1.968 cents per \$100 of assessed valuation (or \$19.68 per \$100,000 of assessed value). The final fiscal year in which it is anticipated that the tax will be collected is 2042-43.
2. The best estimate of the highest tax rate which would be required to be levied to fund this bond issue, based on a projection of assessed valuations available at the time of filing of this statement, is 2 cents per \$100 of assessed valuation (or \$20 per \$100,000 of assessed value). It is estimated that such rate would be levied starting in fiscal year 2019-20 and following.
3. The best estimate of the total debt service, including the principal and interest, that would be required to be repaid if all the bonds are issued and sold is approximately \$31 million.

Voters should note the estimated tax rate is based on the assessed value (not market value) of taxable property on the County's official tax rolls. In addition, taxpayers eligible for a property tax exemption, such as the homeowner's exemption, will be taxed at a lower effective tax rate than described above. Property owners should consult their own property tax bills and tax advisors to determine their property's assessed value and any applicable tax exemptions.

The attention of all voters is directed to the fact that the foregoing information is based upon projections and estimates only, which amounts are not maximum amounts and are not binding upon the District. The actual debt service, tax rates and the years in which they will apply may vary from those used to provide the estimates set forth above, due to

factors such as variations in the timing of bond sales, the par amount of bonds sold and market interest rates available at the time of each sale, actual assessed valuations over the term of the bonds, and other factors. The date and amount of bonds sold at any given time will be determined by the District based on the need for project funds and other considerations. The actual interest rates at which the bonds will be sold will depend on conditions in the bond market at the time of sale. Actual future assessed valuations will depend upon the amount and value of taxable property within the District as determined by the County Assessor in the annual assessment and the equalization process.

By: _____

Assistant Superintendent of Business Services
South Bay Union School District