

**FACILITIES FINANCING**

When it is determined that school facilities must be built or expanded to accommodate a growing number of students, the Governing Board shall consider appropriate methods of financing for the purchase of school sites and the construction of buildings. In addition, financing may be needed when safety considerations and educational program improvements require the replacement, reconstruction or modernization of existing facilities. Financing may also be needed to construct support facilities required due to the increase in student population. The Assistant Superintendent of Business Services or designee shall research funding alternatives and recommend to the Board the method that would best serve the District needs as identified in the District's Comprehensive School Facilities Capital Improvement and Finance Plan ("Plan").

For an overview of the various means the District may use to finance the construction, modernization, or conversion of school facilities, see attached E 7210.

**Developer Fees**

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from new development, the Governing Board may levy and collect developer fees on residential, commercial and industrial construction within the District, subject to restrictions specified by law.

Before levying or increasing the amount of developer fees, the Board shall make a finding showing a reasonable relationship between the construction or reconstruction for which the fee is imposed and the need for school facilities. A reasonable relationship also shall be found between the amount of the fee and the cost of the needed school construction.

All developer fees shall be deposited in a separate capital facilities account and shall be used only for the purpose for which they were collected. Interest income earned by the capital facilities account shall also be deposited to that account and used only for the purpose for which the fee was originally collected.

The Board shall regularly review developer fees to ensure that the amount of the fees continues to be reasonably related to District needs.

The Superintendent or designee shall establish an appeal process for the handling of protests by developers.

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Mello-Roos District

In order to form a Mello-Roos community facilities district which may issue bonds and/or levy a special tax to finance school construction, the Superintendent or designee shall recommend to the Board related goals and policies addressing the following:

1. The priority that various facilities shall have for financing through the Mello-Roos district
2. The credit quality to be required of bond issues and criteria to be used in evaluating the credit quality
3. Steps by which prospective property purchasers shall be fully informed about their related taxpaying obligations
4. Criteria for evaluating the equity of tax allocation formulas
5. Maximum tax burdens to be levied against any parcel
6. Definitions, standards and assumptions to be used in appraisals required by Government Code 53345.8

The proceeds of any bonds, notes or other securities issued pursuant to the Mello-Roos Community Facilities Act shall be deposited or invested in accordance with Government Code 53356.03.

A District policy giving priority attendance access to students residing in the community facilities district (CFD), whose residents have paid taxes that financed school construction, shall be established upon formation of a CFD in accordance with Government Code 53312.7.

School Facilities Improvement District

OPTION 1: (Option 1 allows districts which have formed a community facilities district pursuant to the Mello-Roos Community Facility Act to form a school facilities improvement district if the boundaries include all of the territory within district boundaries that is not included in the existing Mello-Roos District.)

The district may form a school facilities improvement district to finance any or all of the improvements set forth in Education Code 15302. The territory of the school facilities

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improvement district shall include all of the territory that is not included in the existing Mello-Roos District.

OPTION 2: (Option 2 authorizes any district, with the approval of the County Board of Supervisors, to form a school facilities improvement district with boundaries that do not include all or part of any previously established Mello-Roos district. The per parcel tax rate for property in the school facilities improvement district may not exceed that levied on parcels within a Mello-Roos district in the same school district. If the Board determines that it is necessary and in the best interest of the district to form a school facilities improvement district, but that the district will not meet the requirements set forth in Education Code 15301, the Board may establish an improvement district if it conforms with the requirements provided below.)

As part of the determination that it is necessary and in the best interest of the district to form a school facilities improvement district to finance any or all of the improvements set forth in Education Code 15302, the Board shall find that the overall cost of financing the bonds issued would be less than the overall cost of other school financing options available to the district including, but not limited to, issuing bonds pursuant to the Mello-Roos Community Facilities Act.

The Board shall also define the boundaries of the school facilities improvement district to include any portion of territory within the jurisdiction of the school district. However, these boundaries may not include all or a portion of the territory of the community facilities district formed pursuant to the Mello-Roos Community Act.

General Obligation Bonds

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from new development or older existing development, or expand the support services facilities, the Governing Board may call an election regarding the issuance of general obligation bonds to fund facilities projects, all or part of which may require matching funds from the State.

**Legal References:**

Education Code

15100-17759.2	School bonds, especially:
15300-15425	School facilities improvement districts
17070-17306	Leroy F. Greene School Facilities Act of 1998
17700-17759.2	State school Building Lease-Purchase Law of 1976
17760-17768	Joint venture school facilities construction projects

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17785-17795	State Relocatable Classroom Law of 1979
39618	District deferred maintenance fund
100400-100560	CSR Kindergarten-University Public Education Facilities Bond Act of 1998

**GOVERNMENT CODE**

50075-50077	Voter-approved special taxes
50079	School districts; qualified special taxes
53080-53081	Levies against development projects by school districts
53175-53179.5	Integrated Financing District Act
53311-53368.3	Mello-Roos Community Facilities Act of 1982
54954.1	Mailed notice to property owners
54954.6	New or increased tax or assessment; public meetings and hearings; notice
65864-65867	Development agreements
65970-65980.1	School facilities
65995-65998	Payment of fees, charges, dedications or other requirements against a development project
66000-66007	Fees for development projects
66016-66017	Development project fees

**HEALTH AND SAFETY CODE**

33000-33071	Community redevelopment law
33100-33142	Redevelopment agencies
33445.5	Overcrowding of schools resulting from redevelopment
33446	School construction by redevelopment agency
33492.15	Redevelopment agency apportionment to school districts
33607.5	Redevelopment plans; payments to affected taxing entities
33607.7	Plans adopted before 1994; payments to affected taxing entities

**STREETS AND HIGHWAYS CODE**

22500-22679	Landscaping and Lighting Act of 1972
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**UNCODIFIED STATUTES**

17696-17696.98	Greene-Hughes School Building Lease-Purchase Bond Law of 1986
Dolan v. City of Tigard (1994)	114 S. Ct. 2309
Mira Development Corporation v. City of San Diego (1988)	205 Cal.App.4d 1201, 252 Cal.Rptr.825
Garrick Development Co. v. Hayward Unified School District (1992)	3 Cal.App.4 <sup>th</sup> 320, 4 Cal.Rptr..2d 897

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Canyon North Co. v. Conejo Valley Unified School District (1993) 19 Cal.App.4<sup>th</sup>  
243, 23 Cal.Rptr.2d 495

**ADOPTED: 6/8/99**

## FACILITIES FINANCING

### A. Purpose and Scope for Developer Fees

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from new development, the Governing Board may levy and collect developer fees on residential, commercial and industrial construction within the District, subject to restrictions specified by law.

### B. General

Before levying developer fees, the Governing Board shall schedule a public hearing. Information on the anticipated amount of fees, other available funds and funding sources, and the estimated cost of planning, land acquisition and school construction shall be available to the public at least 10 days before the hearing. Notice of the hearing shall be given as required by law

### C. Forms and References

**Certificate of Compliance** - Pursuant to Government Code Section 65995 (b), developer fees shall be charged upon issuance of building permit, and shall be paid prior to receiving a Certificate of Compliance from the District. The City/County must sign the Certificate of Compliance form verifying that Sections I and II have been completed accurately with the parcel address and chargeable square footage of the building. The District then calculates the developer fee amount by multiplying the current developer fee rate times the chargeable square footage of the building. This information is recorded in Section III and upon receiving a check for the total developer fee due to Tracy Unified School District, the District signs the Certificate of Compliance, gives two copies to the developer, of which the City/County will keep one copy upon issuance of a building permit, and the District keeps two copies for internal processing.

### D. Procedure

At the above referenced public hearing, the Board shall adopt a resolution for the levying of developer fees. This resolution shall set forth:

1. The Board's findings which justify the fees
2. The district's determination of one of the following conditions which allow collection of the fees at the time when building permits are issued:
  - a. That the fees are to reimburse the district for previous expenditures
  - b. That the fees shall be collected for public improvements or facilities for which an account has been established, funds have been appropriated and the District has adopted a proposed construction schedule or plan.

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The Superintendent or designee shall establish procedures for the timely and consistent levying of developer fees in accordance with the requirements of law. He shall cooperate with local governmental agencies issuing building permits. Before a

permit is issued, the Board or their designee shall certify that the fee has been paid or that the District has determined that the fee does not apply to the development project.

Fees may be revised in accordance with the increase legally allowed for inflation as determined every two years by the State Allocation Board.

Developer fees shall be deposited, invested, accounted for and expended pursuant to Government Code 66006. Developer fees shall be deposited in a separate capital facilities account, except for temporary investments allowed by law, and shall be used only for the purpose for which they were collected. Interest income earned by the capital facilities account shall also be deposited in that account and used only for the purpose for which the fee was originally collected.

For each separate account so established, the Superintendent or designee shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year:

1. A brief description of the type of fee in the account or fund
2. The amount of the fee
3. The beginning and ending balance of the account or fund
4. The amount of the fees collected and the interest earned
5. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees
6. An identification of an approximate date by which the construction of the public improvement will commence if the district determines that sufficient funds have been collected to complete financing on an incomplete public improvement
7. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan
8. The amount of refunds made pursuant to Government Code 66001(e) and any allocations made pursuant to Government Code 66001 (f)

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The Board shall review the above information at the first regularly scheduled public Board meeting which occurs 15 days after the information is made available to the public. Fifteen-day prior notice of this meeting shall be mailed to any parties filing a written request pursuant to Government Code 66006. Pursuant to Government Code 66006, the district may establish a reasonable annual charge, based on estimated cost, for sending the above notice.

In addition to discharging its public disclosure duties regarding the levying of developer fees, the Board shall, for the fifth fiscal year after the first deposit into the account or fund and every five years thereafter, make all of the following findings with respect to the portion of the account or fund that remains unexpended, whether committed or uncommitted:

1. Identify the purpose to which the fee is to be put
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged
3. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements originally identified
4. Designate the approximate dates on which the funding referred to in item #3 is expected to be deposited into the appropriate account or fund

When sufficient funds have been collected to complete the financing of public improvements but such improvements remain incomplete, the district shall, within 180 days of the date that a determination of sufficient funding was made, either identify an approximate date by which construction will begin or refund the unexpended revenues in accordance with Government Code 66001.

Government Code 66001 provides that the Board may determine whether unexpended funds are refunded by direct payment, temporary suspension of fees, or any other reasonable means. If the administrative costs of refunding unexpended revenues exceed the amount to be refunded, the Board may allocate these amounts for another purpose which serves the project on which the fee was imposed. Before doing this, the Board must hold a public hearing, noticed pursuant to Government Code 6061 (one time) and posted in three prominent places within the area of the development project.

**Appeals Process for Protests by Developers**

Developers of residential, commercial and industrial projects who claim that the developer fee has been inappropriately levied shall use the following procedures:

1. If the developer wishes to protest a fee imposed on any type of development, s/he should contact the Facilities Development Department of the Tracy Unified



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School District to arrange a meeting with the Director regarding the nature of the protest. The meeting should be scheduled at least 10 days prior to the date permits will be pulled to allow time for any research that may be necessary.

- a. In general, these meetings result in a fee being imposed by the District.
  - b. Check(s) used to pay these fees should have words "Fee paid under protest" written or typed on the check.
  
  - c. The District personnel who receive this check and complete the Certificate of Compliance form will also write that phrase on the Certificate of Compliance.
2. Either at the time of the payment of the fee that is being protested, or within 45 days thereafter, the developer shall provide evidence demonstrating that his/her development will have no impact upon the district. Evidence shall include, but not be limited to:
    - a. Evidence showing the estimated number of students that will be generated by the project. Such evidence shall include, but not be limited to, the number of students generated by other similar development, if appropriate, within the district on a first- and fifth-year basis, taking into consideration both primary and secondary generations. Primary generations are the growth of population and students due directly to the construction project. Secondary generations are the growth of population and students occurring because of the population increases in the primary category.
    - b. Evidence that the construction project will continue to be used for its current purpose for five or more years rather than being converted to a use that may generate a higher population increase
    - c. An analysis of the cost of needed district facilities as related to the generation of all revenues including developer fees available to reconstruct and construct facilities on a first- and fifth-year basis
  3. This letter shall be addressed to the Director of Facilities Development, Tracy Unified School District, 315 E. 11<sup>th</sup> Street, Tracy, California, 95376. Do not fail to include Developers' contact name and address
  4. If the Superintendent or designee determines it appropriate, he/she may request that the evidence submitted by the developer be reviewed by an independent expert to determine its validity. In addition, he/she may request that additional research and analysis be conducted by the independent expert. This work shall be completed within 45 days after the developer submits his/her evidence. The cost of the analysis shall be paid by the developer and deducted from his/her paid developer fees.

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5. Upon receiving all prepared data, including the independent expert's analysis if requested, the District administration will respond to this letter in writing. Should this response be satisfactory to the Developer, the matter is closed. Should the Developer find this administrative response unacceptable, s/he may proceed to the next stage in the process.
6. If the administrative review is unacceptable to the Developer, the Developer should address his/her response to the Superintendent of Tracy Unified School District and sent to the above stated address. The reasons for the Developer's reactions should be stated clearly and a copy of the initial correspondence should be attached. A copy to the Director of Facilities Development may help expedite

this level of review. This action should be taken as soon as practical after receipt of the administrative-level review letter.

7. Developer should await response from the Superintendent's office. Should this response be unacceptable to the Developer, s/he may choose to proceed to the next stage in the appeal process.
8. Should the Superintendent's response be unacceptable to the Developer, and s/he wishes to proceed to the final level of the appeal process, the following procedure should be followed:
  - a. Address a letter to the President, Board of Trustees, Tracy Unified School District at the above stated address. This letter should contain a brief review of the actions taken by the Developer to date in an effort to resolve this concern. Include reasons why the administrative-level response and Superintendent-level response were unacceptable to the Developer. Attach one copy of all correspondence, including the response letters of both the administrative and Superintendent review, to your letter.
9. This letter will be submitted to the Board either formally or informally. And shall consider all submitted evidence and recommendations and take action to approve or deny the petition of exemption. The Developer should await a written response stating the results of the Board of Trustees' review of the matter.
10. Should the Developer find the Trustees' response unacceptable, s/he may turn to civil remedies.

**E. Reports Required**

**Adopting or Increasing Developer fees** - The District shall send a copy of any resolution adopting or increasing developer fees to the city and county(s), accompanied by all relevant supporting documentation and a map indicating the boundaries of the area subject to the fee.

**Annual/Five Year Report and Findings on the Collection and Expenditure of Developer Fees** – Effective January 1, 1997, SB 1693 amended the Government

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Code to require an annual and five year report to provide the Governing Board and subsequently the general public, specific information pertaining to the accounting and expenditure of developer fees. The report must be presented to the Board within 180 days of the close of the fiscal year.

F. Record Retention

The District will maintain all records pertaining to developer fee collection for a period of five years.

G. Responsible Administrative Unit

The Business Services Division will be responsible for collection of developer fees, depositing developer fees into the proper District account, reconciliation of the fees and providing the required reports.

H. Approved by Administrator of Division

Assistant Superintendent of Business Services

**FACILITIES FINANCING****A. Purpose and Scope for Mello-Roos Community Facilities District (CFD)**

The Mello-Roos Community Facilities Act (ACT) was enacted in 1982 and provides a method for school districts to fund site acquisition, construction or reconstruction of school facilities needed to accommodate students being generated from newly developing areas. The Act provides that school districts may form “community facilities districts” (CFD) over specific defined areas within their jurisdiction. A CFD area can also be formed to provide facilities for older existing developments. A CFD is a special financing entity through which a local government is empowered to levy special taxes and issue bonds authorized by a two-thirds vote of the qualified electors of such a district.

**B. General**

A CFD is a legally constituted governmental entity created for the purpose of financing the facilities described above. It is created by an existing public entity and its legislative body is the legislative body of the public entity which sponsors its creation. The legislative body may institute proceedings for creation of a CFD on its own initiative and is required to initiate proceeding when a written request is made by two members of the legislative body, or a petition is signed by not less than ten percent (10%) of the registered voters residing within the territory proposed to be within the CFD or by owners of ten percent (10%) of the area of land within the proposed CFD. To finance school construction, the CFD may issue bonds and may levy a special tax on land within the CFD to repay the bonds or build facilities on a “pay-as-you-go” basis.

**C. Forms and References**

The District shall annually make available a Disclosure Statement for prospective property purchasers within the CFD regarding the Notice of Special Tax.

**D. Procedure**

Upon determining that a CFD is necessary, the Board shall adopt local goals and policies which include the following:

1. A statement of the priority that various kinds of public facilities shall have for financing through the use of this chapter,
2. A statement concerning the credit quality to be required of bond issues, including criteria to be used in evaluating the credit quality.
3. A statement concerning steps to be taken to ensure that prospective property purchasers are fully informed about their taxpaying obligations imposed under this chapter.

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4. A statement concerning criteria for evaluating the equity of tax allocation formulas, and concerning desirable and maximum amounts of special tax to be levied against any parcel in the CFD
  
5. A statement of definitions, standards, and assumptions to be used in appraisals required by Government Code Section 53345.8
6. A priority access policy which gives priority attendance access to students residing in a community facilities district whose residents have paid special taxes which have, in whole or in part, financed the construction of school district facilities. The degree of priority shall reflect the proportion of each school's financing provided through the community facilities district. In developing a priority access policy for residents of a community facilities district, a school district may incorporate a school district attendance policy including criteria for student assignment such as goals to achieve ethnic, racial, or socioeconomic diversity; federal, state, or court mandates; transportation needs, safe pedestrian routes; grade levels for which facilities were designed; and ensuring students continuity of schooling within any single school year.

The Board shall then adopt a resolution of intention that states all of the following:

1. The Board's intention to form the proposed CFD
2. The name of the proposed CFD
3. The types of facilities or services to be financed
4. The estimated cost of the school facilities improvement project
5. That any taxes levied for financing CFD bonds issued to finance the project shall be levied exclusively upon the lands in the proposed CFD
6. That a map showing the exterior boundaries of the proposed district is on file with the Board and available for public inspection
7. The time and place for a Board hearing on the formation of the proposed district
8. That any interested persons, including all persons owning lands in the district or in the proposed school facilities improvement district, may appear and be heard at the above hearing

Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation. A copy of the resolution of intention shall be mailed to all land owners within the CFD boundaries and transmitted to the legislative body of the city, where the land to be assessed lies within the corporate limits of any city, or of the county, where the land to be assessed lies within an unincorporated territory.

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The Board shall hold the above hearing as specified in its resolution and may, at the hearing, adopt a resolution proposing modifications of its above-stated purposes consistent with law. A resolution proposing modification shall describe the proposed modifications, state any change in the estimated cost of carrying out the purpose, make a determination as to the validity of all prior proceedings related to the CFD and fix a time and place for a related Board hearing.

At least 14 days before the above hearing, the Board shall publish the resolution proposing modifications one time in the same newspaper in which the resolution of intention was published.

Once the legislative body forms the CFD it submits the question of whether the special taxes should be levied, to the qualified voters of the CFD. In developed areas the “qualified electors” are the registered voters of the area within the CFD. Each registered voter is entitled to one vote. However, in CFDs with fewer than twelve registered voters, the qualified electors are the owners of land within the CFD. Most CFD elections are conducted by mail.

The special tax, in order to be levied, must be approved by two-thirds of the votes cast. After a successful election a Notice of Special Tax is recorded with the county recorder.

**E. Reports Required**

Annually staff will provide the Governing Board and subsequently the general public, specific information pertaining to the revenue and expenditure of funds within the CFD. The report will be presented to the Board within 180 days of the close of the fiscal year.

**F. Record Retention**

The District will maintain all records pertaining to the CFD for a minimum period of five years, except for those documents that are required by law to be kept for a longer period of time.

**G. Responsible Administrative Unit**

The Business Services Division

**H. Approved by Administrator of Division**

The Business Services Division

## FACILITIES FINANCING

A. Purpose and Scope for School Facilities Improvement District (SFID)

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from older existing development, the Governing Board may choose to form a school facilities improvement district to levy taxes for financing a general obligation bond to fund the necessary school facilities improvements.

B. General

Upon determining that a school facilities improvement district is necessary, the Board shall adopt a resolution of intention and follow all the legal requirements for such.

C. Forms and References

The District shall annually make available a Disclosure Statement for prospective property purchasers within the SFID regarding the Notice of Special Tax.

D. Procedure

Upon determining that a school facilities improvement district is necessary, the Board shall adopt a resolution of intention that states all of the following:

1. The Board's intention to form the proposed school facilities improvement district
2. The purpose for which the proposed district is to be formed, consistent with the requirements of Education Code 15302
3. The estimated cost of the school facilities improvement project
4. That any taxes levied for financing general obligation bonds issued to finance the project shall be levied exclusively upon the lands in the proposed school facilities improvement district
5. That a map showing the exterior boundaries of the proposed district is on file with the Board and available for public inspection, and that these boundaries meet the requirements of Education Code 15301
6. The time and place for a Board hearing on the formation of the proposed district
7. That any interested persons, including all persons owning lands in the district or in the proposed school facilities improvement district, may appear and be heard at the above hearing

Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation pursuant to Government Code 6066, starting at least 14 days before the hearing. The resolution shall also be posted in three public places within the proposed school facilities improvement district for at least 14 days before the hearing.

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The Board shall hold the above hearing as specified in its resolution and may, at the hearing, adopt a resolution proposing modifications of its above-stated purposes consistent with Education Code 15302. A resolution proposing modification shall describe the proposed modifications, state any change in the estimated cost of carrying out the purpose, and fix a time and place for a related Board hearing.

At least 14 days before the above hearing, the Board shall publish the resolution proposing modifications one time in the same newspaper in which the resolution of intention was published.

When hearings are concluded, the Board may, by resolution, order the formation of a school facilities improvement district. The resolution shall state the estimated cost of carrying out described purposes and shall number and designate the improvement district as specified in Education Code 15326.

The Superintendent or designee shall establish procedures consistent with Education Code 15330-15425 governing the financing of bonds, bond elections and the issuance and sale of bonds.

**E. Reports Required**

Annually, staff will provide the Governing Board and, subsequently, the general public, specific information pertaining to the revenue and expenditure of funds within the SFID. The report will be presented to the Board within 180 days of the close of the fiscal year.

**F. Record Retention**

The District will maintain all records pertaining to the SFID for a minimum period of five years, except for those documents that are required by law to be kept for a longer period of time.

**G. Responsible Administrative Unit**

The Business Services Division

**H. Approved by Administrator of Division**

The Business Services Division



## FACILITIES FINANCING

### A. Purpose and Scope for General Obligation Bonds

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from older existing development or to finance support facilities, the Governing Board may choose to levy taxes for financing a general obligation bond to fund the necessary school facilities improvements.

### B. General

General obligation bonds (G.O. Bonds) are voter-approved long-term debt instruments which are secured by the legal obligation to levy and collect ad valorem property taxes sufficient to pay annual debt service on the bonds. Because G.O. Bonds are secured by the taxing power of the school district, they are considered to pose minimal risk to the investor and therefore provide the lowest borrowing cost to the school district of any of the financing vehicles available.

G.O. Bonds may be issued by a school district to finance the acquisition of land; the construction, expansion, restoration, remodeling or improvement of school facilities and the permanent improvement of school grounds.

G.O. Bonds may be used only for those purposes approved by the voters. Taken together, the statute authorizing the election and issuance of G.O. Bonds, the resolution calling the election, and the specific language contained in the ballot measure itself, create a manner of contract which is binding upon the school district once the voters have given their assent.

### C. Forms and References

N/A

### D. Procedure

Upon determining that a G.O. Bond is necessary, the Board adopts the ballot measure language and orders the county superintendent of schools to call an election and submit to the electors of the district the question whether the bonds of the district shall be issued and sold for the purpose of raising money for the designated purposes.

A notice of election is required to be posted in every schoolhouse and in three public places in the school district. The formal notice of election shall contain:

1. The purpose for which the bonds are to be issued
2. The amount of the bonds
3. The maximum rate of interest.

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4. The maximum number of years, not to exceed 25 years, which the bonds or series are to run.

The county registrar of voters is required to distribute a sample ballot to each registered voter along with a voters pamphlet containing:

1. The text of the bond measure
2. A projection of the tax rates required to repay the G.O. Bonds
3. A legal analysis by the county counsel
4. Arguments for and against issuance of the G.O. Bonds, if they are submitted

Whenever the district calls an election regarding the issuance of G.O. Bonds to fund a facilities project, all or part of which will require matching funds from the state, the sample ballot shall contain the statement specified in Education Code 15122.5; this statement shall inform voters that the project proposal assumes that the district will receive matching funds from the state and that passage of the bond measure is therefore not a guarantee that the project will be completed.

A G.O. Bond election may be held on any Tuesday during the year, with the exception of any Tuesday following a Monday that is a legal holiday. A two-thirds approval of the votes cast is required for passage.

The Board must certify the election results by an entry of that fact made upon its minutes. The Board shall certify such to the board of supervisors of the county whose superintendent of schools has jurisdiction over the district.

Bonds of a school district shall be offered for sale by the board of supervisors upon receipt of a resolution duly adopted by the governing board of the school district. The resolution shall prescribe:

1. The total amount of bonds to be sold.
2. The maximum acceptable interest rate.
3. The times when the whole or part of the principal of the bonds shall be payable.

An annual tax shall be levied upon the property in the district for the interest and redemption of all outstanding bonds of the district. A unified school district may issue bonds not to exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county the district is located.

**E. Reports Required**

Annually staff will provide the Governing Board and, subsequently, the general public, specific information pertaining to the revenue and expenditure of funds within

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the SFID. The report will be presented to the Board within 180 days of the close of the fiscal year.

F. Record Retention

The District will maintain all records pertaining to the SFID for a minimum period of five years, except for those documents that are required by law to be kept for a longer period of time.

G. Responsible Administrative Unit

The Business Services Division

H. Approved by Administrator of Division

The Business Services Division

**FACILITIES FINANCING**

The following exhibit describes some of the facilities financing options available to districts.

**Leroy F. Greene School Facilities Act of 1998**

With the passage of Proposition 1A, the \$9.2 billion State School Bond bill, all the significant reforms contained in SB 50 became law. Under Education Code 17000-17306, the State Allocation Board is authorized to provide 50% project funding for the construction, reconstruction or modernization of school buildings. Eligible districts may use funding under this law to acquire and convert existing building space for school facility purposes.

**Developer Fees**

Education Code 17620 authorizes Governing Boards to levy developer fees to fund new construction or reconstruction of school facilities. These fees apply to residential, commercial and industrial construction within the district. Under the authority of Government Code 65995.5, a governing board of a school district may impose an alternative Level II fee on residential construction, after complying with all the requirements in the new law. If it is determined by the State Allocation Board that the State is out of school bond funds, then a governing board of a school district may impose an alternative Level III fee on residential construction, after complying with all the requirements of the law.

**General Obligation Bonds**

Uncodified Statutes 17696-17696.98 authorize local governments to issue voter-approved general obligation bonds for capital outlay. Two-thirds voter approval is required for passage of local general obligation bond measures. Such bond measures place financial responsibility on all property owners in the school district, rather than only on those developing new homes or businesses. School districts may hold school district general bond elections on any Tuesday during the year.

**Mello-Roos Taxes and Bonds**

Under the Mello-Roos Community Facilities Act of 1982 (Government Code 53311-53368.3), a school district may establish a community facilities district for the area which such facilities would serve. To finance school construction, the community facilities district may issue bonds and may levy a special tax on land within the community facilities district to repay the bonds. The cost of the school facilities may be financed in

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whole or in part with the proceeds of the bonds. School facilities also may be financed solely from the proceeds of annual special taxes on a "pay-as-you-go" basis.

The special tax and bonds must be approved by two-thirds of the community facilities district voters. When fewer than 12 registered voters live within the community facilities district, the landowners must approve the special tax, each having one vote per acre.

**School Facilities Improvement District**

Education Code 15300-15425 authorizes any school district, with the approval of the County Board of Supervisors, to form a school facilities improvement district. School facilities improvement districts can propose a bond issue which requires approval by two-thirds of its resident voters. The Board must determine that the overall cost of financing these bonds would be less than the overall cost of other financing options; this determination is not necessary if the district includes a Mello-Roos district and if the new school facilities improvement district will include all of the territory within district boundaries that is not included in the existing Mello-Roos district.

**Integrated Financing District**

By creating an integrated financing district, Boards can levy an assessment on land which is contingent upon the development of the land. This assessment can be made payable at the time when the project is approved. It can be used in combination with the noncontingent special tax under Mello-Roos, provided the total of both assessments is proportionate to the amount of benefit anticipated for each parcel. To establish this assessment, school boards must hold a public hearing and act upon all protests. If more than half of the property owners protest, the assessment proposal must be withdrawn for a year. (Government Code 53175-53187)

**Landscaping and Lighting Assessment Districts**

Proposition 218, passed by the voters in November, 1996, affects a school district's ability to use Landscaping and Lighting Assessment Districts to fund facility improvements. As codified by SB 919 (Ch. 38, Statutes of 1997), Prop. 218 requires districts to review existing assessments to first determine if they meet the following conditions: (Government Code 53753.5)

1. The assessment was imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems, or vector control.

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2. At the time, the assessment was imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment or by a majority of the voters.
3. The proceeds of the assessment are used exclusively to repay bond indebtedness.

If an assessment does not meet one of the above conditions, then the school district must either eliminate the assessment or bring it into compliance with the election and assessment requirements specified in Prop. 218. These requirements include notice, election and hearings by the district, as well as a determination as to whether property owners receive a "special benefit" as defined by Prop. 218. (Government Code 53753, California Constitution, Article 13D, Section 4)

Under the Landscaping and Lighting Act of 1972 (Streets and Highways Code 22500-22679), an assessment may be used only to fund the purchase, installation, construction and/or maintenance and servicing of landscaping, public lighting facilities, park or recreational improvements, and land for park, recreational or open-space purposes.

Parcel Taxes

Government Code 50079 authorizes a school district, with two-thirds voter approval, to impose a qualified special tax that applies equally and uniformly to the taxpayers of all real property within the district, regardless of the value of the property. The district must comply with notice and public hearing procedures specified in Government Code 50077, and taxpayers 65 years of age or older may be exempted from the tax.

Surplus Property

School surplus property may be another funding source for school construction, particularly in the use of lease revenues for capital outlay purposes. Districts should be aware that (1) they are subject to nonuse payments if a facility is not used for educational purposes for five years, (2) they are required to investigate cooperative agreements with other contiguous districts with respect to housing students before applying for state funds, and (3) they may not receive state funding for school construction if they have surplus school sites.

Mitigation Payments

SB 50 suspends, until the year 2006, local government's *Mira/Hart/Murietta* powers as they relate to school facilities needs. Local governments may no longer deny the approval of a new development project on the basis of the adequacy of school facilities.

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If a statewide general obligation school bond measure submitted to the voters fails to be approved in the year 2006 or thereafter, then local governments can again consider the adequacy of school facilities prior to approval of a new development, but the new development can only be required to pay fees up to the level contained in the law established by SB 50.

School districts can continue to collect mitigation from developments that entered into an Agreement with the District prior to November 3, 1998, or to the extent any developer voluntarily signs an Agreement with the District to mitigate the impacts of a new development above the amount required in SB 50.

**Redevelopment Projects**

Health and Safety Code 33000-33071 authorizes cities and the unincorporated parts of counties to establish a redevelopment agency (RDA). Redevelopment is funded by property tax revenues within the redevelopment area that exceed the revenues being received at the time the redevelopment plan was adopted.

Because new housing created by redevelopment projects may generate an increase in school enrollment, K-12 schools affected by redevelopment projects receive, for facilities or capital outlay, a percentage of the tax increment generated over the life of a redevelopment project. For the same purpose, county offices of education also receive a percentage of the tax increment.

Before 1993 redevelopment reform law established the above entitlement, many school districts negotiated mitigation agreements with RDAs. These agreements were prompted by statutes that gave school districts the right to accept title to school buildings financed by RDAs or to seek RDA funds to mitigate their increased costs. The 1993 reform law does not affect these existing mitigation agreements.

**Transactions and Use Taxes**

Revenue and Taxation Code 7288.1-7288.6 authorizes a local public finance authority established by a county, the county office of education, and a majority of the school and community college districts in the county to propose a transactions and use tax of 1/4 or 1/2 cent on all taxable sales in the county. The tax must be approved by two-thirds of the voters. Tax proceeds may be used for drug abuse prevention, crime prevention, health care services, and public education. Allocation among those uses is determined by the

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authority's board, half of whom are county supervisors and half of whom are school Board members.