

RESOLUTION NO. 2019-38

**RESOLUTION OF THE BOARD OF EDUCATION OF THE
FRANKLIN-MCKINLEY SCHOOL DISTRICT
ORDERING A SCHOOL BOND ELECTION,
ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER, AND
REQUESTING CONSOLIDATION WITH OTHER ELECTIONS
OCCURRING ON MARCH 3, 2020**

WHEREAS, the Franklin-McKinley School District (the “District”) is an elementary school district serving kindergarten through 8th grade duly organized under the laws of the State of California;

WHEREAS, the Board of Education of the District (the “Board”) is authorized, upon a two-thirds vote of the Board, to pursue the authorization and issuance of bonds by a 55% vote of the electorate on the question of whether bonds of the District (the “Bonds”) shall be issued and sold for specified purposes, under Article XIII A Section 1 paragraph (b) of the California Constitution (“Article XIII A”) and under the Strict Accountability in Local School Construction Bonds Act of 2000 at Education Code Section 15264 et seq. (the “Strict Accountability Act”);

WHEREAS, under the Strict Accountability Act, the election may be ordered at a primary or general election, a regularly scheduled local election, or a statewide special election;

WHEREAS, under Section 10403 et seq. of 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, March 3, 2020, and to request the Santa Clara County Registrar of Voters (the “County Registrar”) to perform certain election services for the District; and

WHEREAS, the Board deems it necessary and advisable to call an election to submit to the electors of the District the question whether District bonds shall be issued and sold for the purpose of raising money for the acquisition and improvement of real property and the furnishing and equipping of school facilities of the District.

NOW, THEREFORE, be it resolved by the Board of Education of the Franklin-McKinley School District, Santa Clara County, California, as follows:

Section 1. Election Order. 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 principal amount of \$80,000,000 for the purposes described in the ballot measure approved under Section 3 and attached hereto as Exhibit A and Exhibit A-1, and paying costs incident thereto. This Resolution, including the exhibits attached hereto, 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 2. Authority for the Election; Election Date. Pursuant to Education Code Sections 5304 and 5322, the Strict Accountability Act, and Article XVI, Section 18(b) of the California Constitution, an election shall be held within the boundaries of the District on March 3, 2020.

Section 3. Purpose of Election; Ballot Measure. The purpose of the election shall be for the voters in the District to vote on a measure, a full copy of which is attached hereto as Exhibit A and marked “Exhibit A, Ballot Measure, Full Text of the Measure” (the “Full Text of the Measure”), containing the question of whether the District shall issue the Bonds for the purposes stated therein, together with the accountability requirements of Article XIII A and the requirements of Section 15272 of the Strict Accountability Act. The Full Text of the Measure, which commences with the heading “Ballot Measure, Full Text of the Measure” and includes all of the text thereafter on Exhibit A, shall be printed in the voter information pamphlet provided to voters, with such measure designation as is assigned to the measure. As required by Elections Code Section 13247 and Education Code Section 5322, the abbreviated form of the measure to appear on the ballot is attached hereto as Exhibit A-1 and is marked as “Exhibit A-1, Ballot Measure, Abbreviated Form” (the “Abbreviated Ballot Measure”). The Superintendent and the Assistant Superintendent, Business Services, or their designee, are hereby authorized and directed to make any changes to the text of the measure (i.e., Full Text of the Measure and/or Abbreviated Ballot Measure) as required to conform to any requirements of Article XIII A, the Strict Accountability Act, the Elections Code, the County Registrar, the Office of the Santa Clara County Counsel, or the District’s bond counsel.

Section 4. Use of Bond Proceeds.

- a. Proceeds from the sale of the Bonds may be used only for the purposes specified in Article XIII A, section 1(b)(3) of the California Constitution.
- b. The projects that may be funded from proceeds from the sale of Bonds (the “Projects”), are listed in the Full Text of the Measure.

Section 5. Accountability Requirements.

- a. Pursuant to Article XIII A, section 1(b)(3), the Board hereby certifies that it has evaluated safety, class size reduction, and information technology needs in developing the list of Projects.
- b. Pursuant to Article XIII A, section 1(b)(3), the Board shall conduct an annual, independent performance audit to ensure that the Bond funds have been expended only on the specific Projects listed in the Full Text of the Measure.
- c. Pursuant to Article XIII A, section 1(b)(3), the Board shall conduct an annual, independent financial audit of the proceeds from the sale of the Bonds until all of the proceeds have been expended for the Projects listed in the Full Text of the Measure.
- d. Pursuant to Government Code section 53411, the Assistant Superintendent, Business Services of the District shall issue an annual report to the Board containing the amount of funds collected and expended as well as the status of the Projects authorized in the Full Text of the Measure. The District’s adopted budget or audit report will suffice for this purpose.
- e. Pursuant to the Strict Accountability Act, if a citizens’ oversight committee has not already been established for the Bonds, within 60 days of the date the Board

enters the election results on its minutes, the Board will appoint a citizens' oversight committee to review and report on the proper expenditure of taxpayers' money for school construction.

Section 6. Vote Required. Pursuant to Section 18(b) of Article XVI and Section 1 of Article XIII A of the California Constitution, the Bond measure shall become effective only upon affirmative vote of fifty-five percent (55%) of those voters voting on the measure.

Section 7. Delivery of this Resolution; County Registrar of Voters to Call and Conduct Election. The Superintendent, or his designee, is hereby directed to send a copy of this Resolution, along with the tax rate statement (described in Elections Code Section 9401) (the "Tax Rate Statement") and attached hereto as Exhibit B, to (1) the County Registrar, (2) the Superintendent of Schools of Santa Clara County, and (3) the Clerk of the Board of Supervisors of Santa Clara County, by no later than December 6, 2019, or such other date as is acceptable to each party.

Pursuant to Section 5303 of the Education Code, the County Registrar is hereby requested to take all steps to prepare for and hold the election within the boundaries of the District in accordance with law and these specifications.

Section 8. Consolidation with Other Elections. Pursuant to Sections 5342, 15121, and 15266 of the Education Code and Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, the County Registrar and the Board of Supervisors of Santa Clara County (the "Board of Supervisors") are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on March 3, 2020 within the District. Pursuant to Section 10403 of the Elections Code, the Board hereby acknowledges that the consolidated election will be held and conducted in the manner prescribed by Section 10418 of the Elections Code.

Section 9. Services of County Registrar of Voters. Pursuant to Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors is requested to permit the County Registrar to render all services incident to the preparation for and holding of the election, for which services the District agrees to reimburse Santa Clara County (the "County") in full from District funds 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 Full Text of the Measure, the Abbreviated Measure, and the Tax Rate Statement. The Board hereby requests the County Registrar to publish in the ballot materials, the Full Text of the Measure, the Abbreviated Ballot Measure, and the Tax Rate Statement attached hereto as Exhibits A, A-1 and B, respectively.

Section 10. Canvass of Returns. The Board of Supervisors is authorized to canvass the returns of the election pursuant to Section 10411 of the Elections Code.

Section 11. Ballot Arguments; Tax Rate Statement. 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. The Board hereby approves the form of the Tax Rate Statement. The President of the Board, the Superintendent, the Assistant Superintendent, Business Services, or any designee of the foregoing, are hereby authorized to execute and deliver

the attached Tax Rate Statement or other document and to perform all acts necessary to place the Bond measure on the ballot.

Section 12. State Matching Funds. Some of the Projects may require state matching funds for completion. Approval of the District's Bond measure does not guarantee that the proposed Projects will be funded beyond the local revenues generated by such Bond measure. The District's completion of some of the Projects may depend on receipt of State funds.

Section 13. Encumbrance of Bond Funds. For the purpose of making Bond funds unavailable as rent within the meaning of Education Code section 17032, the Board hereby encumbers all funds to be generated by the sale of the Bonds in order to pay for the acquisition and construction of the Projects authorized by the ballot measure.

Section 14. Official Intent to Reimburse Expenditures. The District intends to undertake the acquisition, construction, renovation, furnishing, and equipping of the Projects as described in the Full Text of the Measure. The District intends to use the proceeds of its Bonds described in this Resolution to finance the Projects. The District may pay certain capital expenditures (the "Reimbursement Expenditures") in connection with the Projects prior to the issuance of the Bonds. The Bonds, in the amount of \$80,000,000, will be issued for the purpose of financing the Projects on a long-term basis and certain of the proceeds of such debt obligations may be used to reimburse the District for the Reimbursement Expenditures.

The Board hereby declares the District's official intent to use a portion of the proceeds of the Bonds to reimburse the District for the Reimbursement Expenditures. The foregoing statement is a declaration of official intent that is made under and only for the purpose of establishing compliance with the requirements of Treasury Regulations section 1.150-2.

Section 15. General Authorization with Respect to the Bond Measure and with Respect to this Resolution. The Superintendent and the Assistant Superintendent, Business Services are hereby authorized and directed, individually and collectively, to undertake any and all actions and to modify, execute, and deliver any and all documents, and to perform or take any and all actions, deemed necessary to meet all requirements of applicable law, including any legislative changes, and to effectuate the purposes of this Resolution and its accompanying documents. Such actions on the part of the Superintendent and the Assistant Superintendent, Business Services, or any designee of the foregoing, may include, but are not limited to, making any changes to this Resolution, the Full Text of the Measure, the Abbreviated Ballot Measure, or the Tax Rate Statement (hereinafter the "Ballot Documents"), and drafting and submitting an argument in favor of the Bond measure. In the event of any such modifications to the Ballot Documents, the Superintendent and the Assistant Superintendent, Business Services, or any designee of the foregoing, are hereby further authorized to supplement or replace the original versions of such documents with the versions modified pursuant hereto. Such modified versions shall thereafter be deemed to constitute the final, complete and approved version of the Ballot Documents, for all intents and purposes, including for delivery of the Ballot Documents to the County Registrar and other parties set forth in Section 7 above and for publication of the ballot materials set forth in Section 9 above. All actions heretofore taken by the Superintendent and the Assistant Superintendent, Business Services, or any other authorized officers or agents of the

District that are in conformity with the purposes and intent of this Resolution are hereby ratified, confirmed, and approved in all respects.

Section 16. Effective Date. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the following vote of the members of the Board of Education of the Franklin-McKinley School District, Santa Clara County, State of California, this 12th day of November 2019:

AYES	_____
NOES	_____
ABSENT	_____
ABSTAIN	_____

FRANKLIN-MCKINLEY SCHOOL DISTRICT

Rudy Rodriguez
President of the Board of Education

ATTEST:

Juan Cruz
Secretary of the Board of Education

EXHIBIT A

BALLOT MEASURE FULL TEXT OF THE MEASURE

Upon the passage of Measure _____, the Franklin-McKinley School District (the “District”) shall be authorized to issue bonds in the aggregate amount of \$80,000,000 (the “Bonds”), bearing interest at rates not exceeding the statutory limit, for the purpose of funding the school facilities projects listed below (the “Projects”) at the District’s school sites and properties, subject to the accountability safeguards set forth below.

Bond Accountability Measures

At its November 12, 2019 meeting, the Board of Education (the “Board”) certified that it evaluated safety, class size reduction, and information technology needs in developing the list of Projects set forth below.

The Board will conduct financial and performance audits annually to account for the Bond funds and for their expenditure on the specific authorized Projects.

The Board will appoint members to a citizens’ oversight committee having a minimum of seven members and including at least one member active in a business organization representing the business community located within the District, one member active in a senior citizens’ organization, one member active in a bona fide taxpayers’ organization, one member who is the parent or guardian of a child enrolled in the District, and one member who is both a parent or guardian of a child enrolled in the District and active in a parent-teacher organization.

Proceeds from the sale of Bonds authorized by this measure shall be used only for the construction, reconstruction, rehabilitation, or replacement, along with related costs, of school facilities as set forth herein, including the furnishing and equipping of said school facilities, or the acquisition or lease of real property for said school facilities, and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

Bond Project List

In order to meet all identified facilities needs, the District intends to complete Projects using a combination of funding sources. These sources may include joint-use funds, development impact fees, state funds, and other available funds. The District will pursue state matching funds if and when they become available, and if received, they will be used for and mainly applied to Projects on this list of authorized Projects or other high priority capital outlay expenditures as permitted in Education Code section 17070.63(c).

Specific Projects which may be funded by the Bonds include, without limitation, the following:

Renovation, Repair and Upgrade Projects

Goal and Purpose: Many local elementary and middle schools need significant repairs. This measure will fix aging classrooms, bathrooms, and leaky roofs, replace outdated security systems, fire alarms and sprinklers so children can learn in safe, healthy classrooms.

- Repair or replace leaky roofs
- Replace outdated heating, ventilation and air-conditioning systems
- Modernize or construct classrooms, science labs, and school facilities to accommodate growth in student enrollment
- Make energy-efficiency improvements throughout the District, including installing solar panels to reduce utility costs
- Construct new classrooms to replace outdated portable classrooms
- Upgrade playgrounds and playfields for school and community use
- Make health and safety improvements to facilities, such as replacing aging building materials, including removal of hazardous materials identified either prior to or during construction including asbestos, and seismic reinforcements
- Upgrade, expand, construct, repair and/or equip school facilities, including library/media centers, labs, multipurpose rooms, and other school facilities
- Renovate, repair, expand and/or upgrade the interior and/or exterior of existing outdated classrooms, restrooms and school facilities
- Modernize outdated classroom interiors including new paint, carpet/vinyl, white marker boards, tackable surface and increased secure storage capacity for instructional materials and equipment

Improve Student Safety and Security Projects

Goal and Purpose: The District needs to upgrade elementary and middle school security to keep children and teachers safe. This measure funds upgrades to fire alarms and sprinklers, and up-to-date security systems to prevent intruders from entering campuses, and improves security and communication systems for emergency school lockdowns.

- Make improvements to school safety and security, including fire alarms, sprinkler systems, school communication systems, security cameras, surveillance systems, lighting and fencing
- Make health, safety and handicapped accessibility improvements
- Upgrade security systems and fire alarms

- Improve student safety at drop-off and pick-up areas
- Federal and State-mandated Occupational Safety & Health Administration (OSHA) safety upgrades, including playground equipment replacement
- Ensure and upgrade handicapped accessibility to District facilities, including to meet all federal and state-mandated Americans with Disabilities Act (ADA) accessibility to schools, and as mandated by the Division of the State Architect (DSA), including upgrades to site access, parking, staff and student restrooms, relocation of certain existing electrical devices, drinking fountains, playground equipment, and other necessary improvements
- Upgrade, repair and/or expand school site parking, roadways, grounds and other infrastructure such as utility systems, including installing exterior lighting, repairing pathways, walkways, ADA access ramps and related landscaping

**District-Wide Instructional Technology and Wiring Projects
To Provide a 21st Century Education**

Goal and Purpose: This measure will ensure that all students get access to computers and the instructional technology in the classroom they need. It will fix outdated electrical wiring, improve science and computer labs, and improve access to computers.

- Improve student access to computers and modern technology, including providing all necessary infrastructure, hardware, software, computers, devices and other modern instructional equipment
- Replace inadequate wiring and electrical systems to meet current electrical and accessibility codes, increase capacity, and relieve currently overloaded electrical systems.

In addition to the Projects listed above, authorized Projects also include the acquisition of land, instructional, maintenance and operational furniture and equipment; preparation of all facilities planning and project implementation studies, feasibility and assessment reviews, master planning, and environmental studies; acquisition of temporary housing for displaced programs or activities caused or necessitated by construction projects, and construction, repairs, and improvements in the event of unforeseen emergencies or other circumstances in order to permit the continuance of existing educational services or to avoid danger to life or property.

Bond Program Management Costs

Project expenditures may also include:

Program Costs: Staffing and other general and administrative costs to manage and execute the Bond Program.

Escalation Reserve: Reserve for unforeseen price inflation costs.

Program Reserve: Reserve for unanticipated scope costs or for unanticipated opportunities to enhance Project scope or schedules.

Further, each Project is assumed to include its share of costs of the election and Bond issuance, architectural, engineering, and similar planning costs, construction management, Bond

Project staff, staff training expenses associated with new Bond-funded equipment and systems, and a customary contingency for unforeseen design and construction costs.

For any of the Bond Projects described above with respect to construction at an existing District site, the District is authorized to identify an alternate site and/or acquire land for such purpose and construct the approved Project at such site if the District has determined that the existing site does not satisfy the requirements of the Division of State Architect or other State laws, codes, and regulations, including, but not limited to hazardous substances, applicable to school district properties.

The final cost of each Project will be determined as plans are finalized 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. The allocation of Bond proceeds may also be affected by the final costs of each Project.

Necessary site preparation/grading/restoration may occur in connection with new construction, reconstruction, modernization, renovation, rehabilitation or replacement, furnishing and equipping, including ingress and egress, removing, replacing or installing irrigation, utility lines, trees and landscaping, relocating fire access roads, and acquiring any necessary easements, leases, licenses, or rights of way to the property.

Additional Specifications

Listed Projects, including repairs, improvements, rehabilitation projects, and upgrades, will be completed only as feasible, and the list of Projects does not imply a particular prioritization among such improvements. Such prioritization remains within the province of the Board of Education by subsequent action. The Projects may be completed at any and all school sites where such Project is determined necessary. Where economically feasible, buildings, fixtures, and equipment may be replaced rather than modernized, renovated, or repaired.

Single Purpose. All of the purposes enumerated in this Bond measure shall be united and voted upon as one single measure, pursuant to Section 15100 of the Education Code, and all the enumerated purposes shall constitute the specific single purpose of the Bonds and proceeds of the Bonds shall be spent only for such purpose.

Other Terms of the Bonds. When sold, the Bonds shall bear interest at an annual rate not exceeding the statutory maximum. The Bonds may be issued and sold in several series, and in accordance with a plan of finance determined by the Board pursuant to requirements of law.

Project Requiring State Matching Funds. Approval of Measure __ does not guarantee that the proposed Projects that are the subject of Bonds under Measure __ will be funded beyond the local revenues generated by Measure __. Some of the District's Projects may assume the receipt of state matching funds, which could be subject to appropriation by the Legislature or approval of a statewide bond measure.

EXHIBIT A-1

**BALLOT MEASURE
ABBREVIATED FORM***

To improve the quality of education at local schools, shall Franklin-McKinley School District acquire / construct / modernize / repair classrooms, infrastructure, facilities, and fields improving all student access, including those with disabilities, to modern facilities, technology, teaching, and safety improvements, by issuing \$80,000,000 of bonds at legal interest rates, raising approximately \$5.2 million annually through 2050 at rates of approximately 3 cents per \$100 assessed value, with annual audits, citizens' oversight, and No money taken by the State?

Bonds—Yes

Bonds—No

**As required pursuant to Education Code Section 5322 and Elections Code Section 13247.*

EXHIBIT B

TAX RATE STATEMENT FRANKLIN-MCKINLEY SCHOOL DISTRICT

An election will be held in the Franklin-McKinley School District (the “District”) on March 3, 2020, to authorize the sale of up to \$80,000,000 in bonds (the “Bonds”) of the District to continue improving the quality of education in local elementary and middle schools of the District. Specifically, Bond proceeds shall be utilized for the purposes of acquisition, construction, renovation, furnishing, and equipping of school facilities, support facilities, and equipment.

If the Bonds are authorized and sold, debt service thereon will be payable from the proceeds of 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. It is anticipated that the District will sell the Bonds in three separate series.

1. The best estimate of the average annual tax rate that would be required to be levied to fund this Bond issue over the entire duration of the bond debt service, based on assessed valuations available at the time of filing of this statement, is 2.9¢ per \$100 (\$29.00 per \$100,000) of assessed valuation. The final fiscal year in which the tax is anticipated to be collected is 2049-2050.

2. The best estimate of the highest tax rate that would be required to be levied to fund this Bond issue, based on assessed valuations available at the time of filing of this statement, is 2.9¢ per \$100 (\$29.00 per \$100,000) of assessed valuation which would first occur in fiscal year 2020–2021.

3. The best estimate of total debt service, including principal and interest, that would be required to be repaid if all the Bonds are issued and sold is \$162,200,000. This estimate is based on assumptions that interest rates will increase over time, and the Bonds will have a maximum term of 25 years per series.

Voters should note that the estimated tax rates are based on the ASSESSED VALUE of taxable property on the County’s official tax rolls, not on the property’s market value. Property owners should consult their own property tax bills to determine their property’s assessed value and any applicable tax exemptions.

Attention of all voters is directed to the fact that the foregoing information is based upon the District’s projections and estimates only, which are not binding upon the District. The actual tax rates, the years in which they will apply, and the final term of each series of Bonds may vary from those presently estimated, due to variations from these estimates in the timing of Bond sales, the amount of Bonds sold and market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the Bonds.

The dates of sale and the amount of Bonds sold at any given time will be determined by the District based on the need for construction funds and other factors, including the legal limitations on bonds approved by a 55% vote. The actual interest rates at which the Bonds will be sold will depend on the bond market at the time of each sale. Actual future assessed valuation 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.

Dated: _____, 2019

Juan Cruz,
Superintendent
Franklin-McKinley School District

CERTIFICATION

I, Juan Cruz, Secretary of the Board of Education of the Franklin-McKinley School District, Santa Clara County, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly approved and adopted by the Board of Education of the District at a meeting held on November 12, 2019, of which meeting all the members of the Board of Education had due notice and at which a majority thereof were present, and that at the meeting the resolution was adopted by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

An agenda for the meeting was provided in advance of the meeting, as required by law, to all members of the Board of Education and to all media outlets that have requested notification. Further the agenda was posted in advance of the meeting, as required by law, at the District at 645 Wool Creek Drive, San Jose, California 95112, a location freely accessible to members of the public, and a brief description of the resolution appeared on the agenda.

I have carefully compared the foregoing resolution with the original minutes of the meeting on file and of record in my office, and the foregoing is a full, true, and correct copy of the original resolution adopted at the meeting and entered in the minutes.

Dated: _____, 2019

Juan Cruz,
Secretary of the Board of Education
Franklin-McKinley School District