

FILED

DEC 05 2023

BEFORE THE GOVERNING BOARD OF THE
FOWLER UNIFIED SCHOOL DISTRICT

By. _____
FRESNO COUNTY CLERK

RESOLUTION NO. 2023-24-9

RESOLUTION ORDERING AN ELECTION TO AUTHORIZE THE
ISSUANCE OF SCHOOL BONDS, ESTABLISHING SPECIFICATIONS
OF THE ELECTION ORDER, AND REQUESTING CONSOLIDATION
WITH ANY OTHER ELECTIONS OCCURRING ON MARCH 5, 2024

WHEREAS, in the judgment of the Board of Education (the "Board") of the Fowler Unified School District (the "District"), it is advisable to call an election to submit to the electors of the District the question of whether the bonds of the District shall be issued and sold for the purpose of raising money for the improvement, upgrade, and renovation of the District's existing schools and the acquisition and construction of additional classrooms and school facilities at existing schools; and

WHEREAS, since 1889, the District has been dedicated to serving the community and offering an excellent education for our students; and

WHEREAS, at the heart of our community lies Fowler schools, serving over 2,500 students; and

WHEREAS, in partnership with the community, the District ensures students receive the support they need to succeed; and

WHEREAS, while the District strives to meet the needs of our community and students, most of our schools were built more than 60 years ago and do not meet modern building and safety codes, classrooms and science labs are outdated, some of which contain hazardous materials including asbestos and lead pipes, while others require retrofitting for earthquake safety; and

WHEREAS, while the District's maintenance team works hard to take care of our aging classrooms and school facilities by keeping up with minor repairs and maintenance, the significant upgrades and improvements needed at District schools are beyond what can simply be accomplished or funded as "maintenance;" and

WHEREAS, antiquated facilities systems throughout the schools are both ineffective and costly to operate and need to be updated; and

WHEREAS, schools and facilities within the District are aging and in need of significant upgrades and improvements to ensure the health and safety of pupils, staff and community and provide for adequate housing for the District's students; and

WHEREAS, District schools need technology infrastructure and tools to meet curricular requirements and prepare students for success upon graduation; and

WHEREAS, excellent schools and classrooms benefit the District's ability to recruit and retain excellent teachers and keep our community vital by continuing to attract young families; and

WHEREAS, the State of California provides very limited funding for school improvements, and most state funding requires local matching funds; and

WHEREAS, without a local school bond, the District will lose the opportunity to receive state matching funds which will then be awarded to other school districts; and

WHEREAS, as a result of the approval of Proposition 39 on November 7, 2000, Article XIII A, Section 1, paragraph (b) of the California Constitution ("Article XIII A") provides an exception to the limit on *ad valorem* property taxes on real property for bonded indebtedness incurred by a school district that has been approved by fifty-five percent (55%) of the voters of the District voting on the proposition; and

WHEREAS, pursuant to California Education Code section 15264 *et seq.* (the "Act"), this Board is specifically authorized, upon approval by two-thirds (2/3) of the Board, to submit to the electorate of the District the question of whether bonds of the District shall be issued and sold for specified purposes, upon a fifty-five percent (55%) vote of the electorate in favor on the question, pursuant to paragraph (3) of said subdivision (b) of Section 1 of Article XIII A and subdivision (b) of Section 18 of Article XVI of the California Constitution; and

WHEREAS, pursuant to California Election Code section 10403, *et seq.*, it is appropriate for the Board to request consolidation of the election with any and all other elections to be held on Tuesday, March 5, 2024, and to request the election officials of Fresno County (the "County") to perform certain election services for the District.

NOW, THEREFORE, THE BOARD OF EDUCATION OF THE FOWLER UNIFIED SCHOOL DISTRICT HEREBY RESOLVES, DETERMINES, AND ORDERS AS FOLLOWS:

1. **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 principal amount not to exceed \$44,000,000 for the purpose of raising money for the improvement, upgrade, renovation, and replacement of the District's existing schools, facilities, and improvements, and the acquisition and construction of additional schools, facilities, and improvements, and paying costs incident thereto, as set forth more fully in a ballot proposition approved pursuant to Section 3 below. This Resolution constitutes the order of the District to call such election.

2. **Election Date.** The date of the election shall be March 5, 2024, and the election shall be held solely within the boundaries of the District.
3. **Purpose of Election; Ballot Proposition.** The purpose of the election shall be for the voters of the District to vote on a proposition, a full copy of which is attached hereto as *Exhibit A*, 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 Act. As required by California Elections Code section 13247, the abbreviated form of the measure to appear on the ballot is attached hereto as *Exhibit B*. The District's Superintendent (or designee) is hereby authorized and directed to make any changes to the text of the proposition, or its abbreviated form as required to comply with the intent of this Resolution, the requirements of elections officials, and requirements of law.
4. **Authority for Election.** The authority for ordering the election is contained in California Education Code section 15264, *et seq.* and Article XIII A, Section 1, paragraph (b), subsection (3) of the California Constitution. The authority for the specification of this election order is contained in California Education Code section 5322.
5. **School Facilities Projects.** A list of the specific school facilities projects and uses to be funded from the proceeds of the bonds is set forth in *Exhibit A*. As required by Article XIII A, the Board hereby certifies that it has evaluated safety, class-size reduction, and information technology needs of the District in developing the list of school facilities projects and uses set forth in *Exhibit A*.
6. **Covenants of the Board Upon Approval of the Bonds by the Electorate.** As required by Article XIII A and section 15272 of the Act, if fifty-five percent (55%) of the voters of the District voting on the measure approve of the bonds, the Board shall:
 - (a) Use the bond proceeds only for the purposes authorized under Article XIII A, including construction, reconstruction, rehabilitation, or replacement of school facilities, furnishing and equipping of school facilities, and the acquisition or lease of real property for school facilities, as specifically set forth in *Exhibit A*, and costs incident thereto, and not for any other purpose, including salaries and other routine school operating expenses;
 - (b) Conduct an annual, independent performance audit to ensure that the bond proceeds have been expended only on the projects and uses listed in *Exhibit A*;
 - (c) Conduct an annual, independent financial audit of the proceeds from the sale of the Bonds until all of those proceeds have been expended for school facilities projects and uses listed in *Exhibit A*; and

(d) Establish and appoint members to an independent citizens' oversight committee in accordance with sections 15278, 15280, and 15282 of the Act.

7. **Delivery of this Resolution.** The Clerk of this Board is hereby authorized and directed to send or hand deliver a copy of this Resolution to the County Superintendent of Schools and the County Registrar of Voters by no later than December 8, 2023.

8. **Declaration of Official Intent.** The District hereby declares its official intent, subject to the further approval of this Board, to use up to the maximum amount permitted by law of the proceeds of the proposed bonds to reimburse itself for payments it has made for any eligible costs of the projects and uses listed in *Exhibit A*. It is intended that this Resolution shall, among other things, constitute a declaration of "official intent" within the meaning of Section 1.150-2 of the Treasury Regulations promulgated under Section 150 of the Internal Revenue Code of 1986, as amended.

9. **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 Superintendent, President of the Board, or their designees, are hereby authorized to execute any Tax Rate Statement or other document and to perform all acts necessary to place the bond measure on the ballot.

10. **Consolidation of Election; Election Services.** The County Registrar of Voters and the County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on March 5, 2024 within the District. Pursuant to section 5303 of the Education Code and section 10002 of the Elections Code, the County Board of Supervisors is requested to permit the County Registrar of Voters, and other appropriate officials of the County, to render all services necessary in connection with the bond election including, but not limited to, publication of a Formal Notice of School Bond Election pursuant to Education Code 5363 and related law (the proposed form of which is attached hereto as *Exhibit C*), the mailing of the sample ballot and tax rate statement (described in section 9401 of the Elections Code), the opportunity to submit ballot arguments in connection with the bond election, the canvassing and certification of the returns of the election, and other ballot requirements pursuant to Elections Code section 15123, for which services the District agrees to reimburse the County as required by law.

11. **Severability.** If any section, subsection, phrase or clause of this Resolution, or its application to any person or circumstance, is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Resolution, or their application to any other person or circumstance. The Board declares that it would have adopted this Resolution and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, sentences, phrases or clauses, or their application to any person or circumstance, shall be declared invalid.

12. **Effective Date.** This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED on November 15, 2023, by the following vote:

AYES: 5

NOES: 0

ABSTENTIONS: -

ABSENT: -

By: _____
President, Board of Education of the
Fowler Unified School District

ATTEST:

Clerk, Board of Education of the
Fowler Unified School District

EXHIBIT A

FULL TEXT OF BOND MEASURE

for

FOWLER UNIFIED SCHOOL DISTRICT

INTRODUCTION

The Fowler Unified School District serves the Fowler, Fresno, and Malaga communities, located generally in south Fresno County, serving more than 2,500 students at three elementary schools, one middle school, and one high school, plus an early learning center, one alternative education school, one continuation school, and one community day school. The District was established in 1889 and since that time has been dedicated to serving the community and offering an excellent education for the community's students.

The District has several aging schools, and it faces other challenges to its capacity to adequately house all of its students. Most of the District's schools were built more than 60 years ago and do not meet modern building and safety codes. Classrooms and science labs are outdated, some of which contain hazardous materials including asbestos and lead pipes, while others require retrofitting for earthquake safety. The District has an ongoing need for facilities and infrastructure, to provide the classrooms, facilities and technology needed to support high-quality instruction in math, science, engineering, and technology; to remove hazardous materials like asbestos and lead pipes from older school sites, where encountered; to improve access for students with disabilities; to upgrade labs and career technical facilities to prepare students for college and in-demand careers in fields like health sciences, engineering, technology, and skilled trades; and to repair or replace deteriorating roofs, and old plumbing, sewer, heating, ventilation, and electrical systems. A much larger, and much longer-term solution to address issues of facilities upgrades and refurbishment of aging facilities, will be consideration of the District asking the voters to approve a General Obligation Bond.

Dedicated funding is required to meet these needs and provide safe, updated classrooms, labs, and facilities needed to support high-quality instruction in math, science, engineering, and technology to all students in our District.

The State of California requires a local match, funded primarily through local, general obligation bonds, for school districts wishing to pursue matching state funds for the upgrade or replacement of school buildings and facilities. The millions of dollars potentially available through the State match allows local taxpayers to benefit from the tax dollars they already pay to Sacramento.

It is imperative that our students are housed in safe schools. In addition, our students would benefit from complete, comprehensive, and efficient schools. We need to act locally to build,

upgrade, and refurbish safe and modern schools to ensure our students have the educational opportunities they deserve.

BONDS

To improve school safety and security systems; fix deteriorating roofs, plumbing, and electrical; remove asbestos and lead pipes; and modernize classrooms, labs, and instructional technology to support student achievement and college/career readiness in math, science, technology, engineering, arts and skilled trades; shall Fowler Unified School District's measure be adopted authorizing \$44,000,000 in bonds at legal rates, levying \$50 per \$100,000 assessed value (\$3,000,000 annually) while bonds are outstanding, with independent citizen oversight and all money locally-controlled?

REPAIRING AGING SCHOOLS AND ENSURING STUDENT SAFETY MEASURE

To repair aging schools and ensure student safety, by:

- improving school safety and security systems;
- fixing deteriorating roofs, plumbing, and electrical systems;
- removing asbestos and lead pipes; and
- modernizing classrooms, labs, and instructional technology to support student achievement and college/career readiness in math, science, technology, engineering, arts and skilled trades.

As required by the California Constitution, the proceeds from the sale of the bonds will be used only for the purposes authorized under Article XIII A of the California Constitution, including construction, reconstruction, rehabilitation, or replacement of school facilities, furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, as specifically set forth in this Exhibit A, and costs incident thereto, and not for any other purpose, including salaries and other routine school operating expenses.

The following list describes the specific projects the District proposes to finance with proceeds of the bonds. The scope of specific projects, the order of construction, and their completion is contingent on final project costs and the availability of needed funds. Further, projects on the project list are of the type that issuing the authorized general obligation bonds as stated will not cause the State to reduce any financial hardship contribution that would otherwise be available to the District had these bonds not been authorized, issued, and or expended for their stated purpose.

SCHOOL FACILITIES PROJECTS TO BE FUNDED FROM BOND PROCEEDS

The following list includes both projects that can be completed using the bond proceeds, along with State matching funds and other building funds the District is projected to receive and projects that are planned and needed but whose construction is contingent on the amount of

bond funds available, plus the amount of State matching and other building funds the District may receive in the future, which is a function of the State building program rules, passage of State bonds, and the growth rate of the District. The completion of specific projects is also contingent on final project costs.

All District Sites, including but not limited to:

Marshall Elementary School (grades TK – 2, Built 1949, 1952), located at 142 N. Armstrong, Fowler, California

Fremont Elementary School (grades 3 – 5, Built 1938, 1954), located at 306 E. Tuolumne, Fowler, California

Malaga Elementary School (grades K – 5, Built 1941, 1951), located at 3910 S. Ward, Fresno, California

Sutter Middle School (grades 6 – 8, Built 1998), located at 701 E. Walter Ave., Fowler, California

Fowler High School (grades 9 – 12, Built 1961, 1969), located at 701 E. Main St., Fowler, California

Fowler Academy Schools (grades K – 12, Built 2012), located at 975 E. Adams Ave., Fowler, California

District Support Facilities – Relocate/construct/refurbish District transportation, maintenance, grounds and other facilities.

- Provide the classrooms, facilities and technology needed to support high-quality instruction in math, science, engineering, and technology
- Remove hazardous materials like asbestos and lead pipes from older school sites, where encountered
- Improve access for students with disabilities and upgrade older schools so they meet current health codes, building safety codes, provide proper access for students with disabilities
- Upgrade labs and career technical facilities to prepare students for college and in-demand careers in fields like health sciences, engineering, technology, and skilled trades
- Repair or replace deteriorating roofs, and old plumbing, sewer, heating, ventilation, and electrical systems
- Create modern, multi-use classrooms to support hands-on science instruction, learning-by-doing
- Upgrade classrooms and computer systems to keep pace with technology
- Replace aging portable classrooms that are expensive to repair and maintain with modern, permanent classrooms

- Construction of a Band and Performing Arts Event Center/, Multi-purpose Room (MPR), including related fixtures, furnishings and parking facilities
- Add classrooms and facilities where needed to reduce overcrowding
- Provide classrooms, facilities needed to support high-quality instruction in music, visual, performing arts
- Improve student safety, campus security incl security fencing, intruder protection, emergency communications, smoke detectors, fire alarms, and sprinklers
- Upgrade physical education, athletic facilities to support student health, fitness, safety

These projects may include participation in the State Facility Program’s Joint-Use Program to gain matching funds for teacher education, multi-purpose rooms, gymnasiums, libraries, childcare, and other qualifying Joint-Use facilities. With respect to such joint-use projects, the bond funds authorized by this Measure may be used to pay all of the local share needed to qualify the projects for special State matching funds under the State Facility Program’s Joint-Use Program requirements.

The Board of Education hereby certifies that it has evaluated the safety, class-size reduction, and information technology needs of the District in developing this list of school facilities projects.

ACCOUNTABILITY MEASURES

If the bonds are approved, the Board of Education will implement the following accountability measures in accordance with State law:

- (a) Use the bond proceeds only for the purposes authorized under Article XIII A of the California Constitution, including construction, reconstruction, rehabilitation, or replacement of school facilities, furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities and related uses, as specifically set forth in this Exhibit A, and costs incident thereto, and not for any other purpose, including salaries and other routine school operating expenses;
- (b) Conduct an annual, independent performance audit to ensure that the bond proceeds have been expended only on the projects and uses listed in this Exhibit A;
- (c) Conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for school facilities projects and uses listed in this Exhibit A; and

- (d) Establish and appoint members to an independent citizens' oversight committee to ensure the bonds are used only for the projects and uses listed in this Exhibit A.

STATE MATCHING FUNDS

California Education Code section 15122.5 requires the following statement to be included in this sample ballot:

“Approval of this bond measure does not guarantee that the proposed projects in the Fowler Unified School District that are the subject of bonds under this measure will be funded beyond the local revenues generated by this bond measure. The school district's proposal for certain of the projects assumes the receipt of matching state funds, which are subject to appropriation by the Legislature or approval of a statewide bond measure.”

ANNUAL TAX AMOUNT, RATE, AND DURATION

The bonds shall bear interest at an annual rate not exceeding the statutory maximum. The maturity of the bonds shall not exceed the maximum term allowed by law at the time of issuance (currently 25 years if issued under Education Code section 15140, or 40 years if issued under Government Code section 53508, so long as the bonds are not capital appreciation bonds (“CABs,” which CABs are limited to 25 years)). Accordingly, as further set forth in the tax rate statement, the *ad valorem* tax will be levied at such rates and for so long as may be required to meet the debt service needs of the bonds proposed to be issued, including such bonds that may be issued to refund any approved bonds.

* * *

Each of the bond projects described in this Bond Project List include the costs of furnishing and equipping such facilities, and all costs which are incidental but directly related to the types of projects described above.

To the extent permitted by law examples of incidental costs include, but are not limited to: costs of design, engineering, architect and other professional services, facilities assessments, inspections, site preparation, utilities, landscaping, construction management and other planning and permitting, legal, accounting and similar costs; independent annual financial and performance audits; a customary construction contingency; demolition and disposal of existing structures; the costs of interim housing and storage during construction including relocation and construction costs incurred relating to interim facilities; rental or construction of storage facilities and other space on an interim basis for materials and other equipment and furnishings displaced during construction; costs of relocating facilities and equipment as needed in

connection with the projects; interim classrooms and facilities for students, administrators, and school functions, including modular facilities; federal and state-mandated safety upgrades; addressing unforeseen conditions revealed by construction/modernization and other necessary improvements required to comply with existing building codes, including the Field Act; access requirements of the Americans with Disabilities Act; costs of the election; project construction oversight, management and administration during the duration of such projects, including by District personnel, and bond issuance costs.

Unforeseen conditions may arise during the course of planning, design and construction resulting in the scope and nature of any of the specific projects described above being altered by the District. In the event that the District determines that, with respect to a modernization or renovation project, it is more economical for the District or otherwise in the District's best interests to be undertaken as new construction, this bond measure authorizes said new construction, including land acquisition, relocation, expansion and construction and/or reconstruction, and all costs relating thereto. Conversely, if the District determines that it is more economical or otherwise in the best interests of the District to modernize or renovate District facilities instead of undertaking a new construction project, this bond measure authorizes such a project. In addition, this measure authorizes the acquisition of real property, including necessary rights of ways or other real property interests, required to expand District facilities, to provide access to school or other District facilities, or to provide additional school or related facilities. Further, authorized projects include reimbursements for project costs previously paid and paying and/or prepaying interim financing for the types of projects included on the project list, such as bond anticipation notes. Finally, projects on this list may be undertaken and used as joint use projects with other public agencies.

Approval of the District's bond measure does not guarantee that all of the identified projects within this Bond Project List will be funded. The District plans to pursue funds from the State of California, if available, to complete certain of the identified facilities projects. The District is unable to anticipate all unforeseen circumstances which may prevent some of the projects listed above from being undertaken or completed.

The order in which projects are listed in the foregoing Bond Project List does not suggest an order of priority. Project prioritization is vested in and will be determined by the District Board of Trustees. Bond proceeds shall only be expended for the specific purposes identified herein. The District shall create an account into which proceeds of the bonds shall be deposited and comply with the reporting requirements of Government Code section 53410.

These projects may include participation in the State Facility Program's Joint-Use Program to gain matching funds for teacher education, multi-purpose rooms, gymnasiums, libraries, childcare, and other qualifying Joint-Use facilities. With respect to such joint-use projects, the bond funds authorized by this Measure may be used to pay all of the local share needed to qualify the projects for special State matching funds under the State Facility Program's Joint-Use Program requirements.

The Board of Trustees hereby certifies that it has evaluated the safety, class-size reduction, and information technology needs of the District in developing this list of school facilities projects.

EXHIBIT B

**BOND MEASURE
for
FOWLER UNIFIED SCHOOL DISTRICT**

(Abbreviated Form)*

<p>“To improve school safety and security systems; fix deteriorating roofs, plumbing, and electrical; remove asbestos and lead pipes; and modernize classrooms, labs, and instructional technology to support student achievement and college/career readiness in math, science, technology, engineering, arts and skilled trades; shall Fowler Unified School District's measure be adopted authorizing \$44,000,000 in bonds at legal rates, levying \$50 per \$100,000 assessed value (\$3,000,000 annually) while bonds are outstanding, with independent citizen oversight and all money locally-controlled?”</p>	<p>BONDS – YES</p>
	<p>BONDS – NO</p>

* Limited to 75 words pursuant to California Elections Code section 13247.

EXHIBIT C

FORMAL NOTICE OF SCHOOL BOND ELECTION

NOTICE IS HEREBY GIVEN to the qualified electors of the Fowler Unified School District of Fresno County, California, that in accordance with the provisions of the Education Code of the State of California, an election will be held on March 5, 2024 within the District, at which election the following measure shall be submitted to the qualified electors of the District and voted upon:

“To improve school safety and security systems; fix deteriorating roofs, plumbing, and electrical; remove asbestos and lead pipes; and modernize classrooms, labs, and instructional technology to support student achievement and college/career readiness in math, science, technology, engineering, arts and skilled trades; shall Fowler Unified School District's measure be adopted authorizing \$44,000,000 in bonds at legal rates, levying \$50 per \$100,000 assessed value (\$3,000,000 annually) while bonds are outstanding, with independent citizen oversight and all money locally-controlled?”

Bonds - Yes

Bonds- No”

The bonds shall bear interest at an annual rate not exceeding the statutory maximum. The maturity of the bonds shall not exceed the maximum term allowed by law at the time of issuance (currently 25 years if issued under Education Code section 15140, or 40 years if issued under Government Code section 53508, so long as the bonds are not capital appreciation bonds (“CABs,” which CABs are limited to 25 years)). Accordingly, as further set forth in the tax rate statement, the *ad valorem* tax will be levied at such rates and for so long as may be required to meet the debt service needs of the bonds proposed to be issued, including such bonds that may be issued to refund any approved bonds.

All of the purposes enumerated in the foregoing measure shall be united and voted upon as one single measure, with precincts, places of holding the elections and officers appointed to conduct the elections to be the same as those provided for the statewide presidential general election to be held on March 5, 2024 under the Notice of Election published _____.

This election has been called pursuant to a Resolution of the Board of Education of the Fowler Unified School District, adopted on March 5, 2024. The Elections Official of the County of Fresno hereby gives formal notice of the election in accordance with the provisions of Education Code Section 15120.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2023.

Registrar of Voters
Fresno County, California