

RESOLUTION NO. 19-08

RESOLUTION OF THE BOARD OF TRUSTEES OF
BERRYESSA UNION SCHOOL DISTRICT ORDERING AN
ELECTION, AND ESTABLISHING SPECIFICATIONS OF THE
ELECTION ORDER

WHEREAS, the Board of Trustees (the “Board”) of the Berryessa Union School District (the “District”) is devoted to improving the quality of education in our local public schools by upgrading technology and facilities to support instruction in core subjects like science, arts and math and by attracting and retaining quality teachers; and

WHEREAS, the Board has determined that classrooms within the District need to be upgraded, repaired, expanded, improved and better equipped, in a fiscally prudent manner, to keep schools clean and well-maintained and to enable the District to improve student safety and campus security by installing fencing, security cameras, emergency communications systems, smoke detectors, fire alarms and sprinklers; and

WHEREAS, while some classrooms have been updated, many others were built decades ago and are in need of urgent repair, including upgrading deteriorating roofs, bathrooms, heating and cooling, plumbing, and electrical systems; and

WHEREAS, the Board believes that the requirements for success are rapidly changing and our classrooms and labs need to be modernized to meet today’s educational standards so students are prepared for high school and beyond; and

WHEREAS, all residents benefit from living in a community with good schools and whether or not residents have school-age children, investing in every local school, will support children learning, but also enhance property values; and

WHEREAS, the State of California (the “State”) has been unable to provide the District with enough money for the District to adequately construct and repair schools to provide an optimal learning environment for all students and which keep pace with other top-performing districts; and

WHEREAS, the District has completed a facilities assessment with community engagement to identify the most pressing needs in each of the District’s schools to provide safe and modern classroom environments for all students; and

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

WHEREAS, a local measure will help provide funds that cannot be taken away by the State to upgrade aging schools, protect student safety and help the District qualify for State matching funds; and

WHEREAS, such measure will include mandatory taxpayer protections, including an independent citizens’ oversight committee and mandatory audits to ensure funds are spent as promised; and

WHEREAS, on November 7, 2000, the voters of California approved the Smaller Classes, Safer Schools and Financial Accountability Act (“Proposition 39”) which reduced the voter threshold for *ad valorem* property tax levies used to pay for debt service on bonded indebtedness to 55% of the votes cast on a school district general obligation bond; and

WHEREAS, concurrent with the passage of Proposition 39, Chapter 1.5, Part 10, Division 1, Title 1 (commencing with Section 15264) of the Education Code (the “Act”) became operative and established requirements associated with the implementation of Proposition 39; and

WHEREAS, the Board desires to make certain findings herein to be applicable to this election order and to establish certain performance audits, standards of financial accountability and citizen oversight that are contained in Proposition 39 and the Act; and

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

WHEREAS, the Board desires to authorize the submission of a proposition to the District’s voters at an election to authorize the issuance of bonds to pay for certain necessary improvements and enhancements to District educational facilities which will improve the health, safety and quality of education for students in the District; and

WHEREAS, the Board hereby determines that, in accordance with Opinion No. 04-110 of the Attorney General of the State of California, the restrictions in Proposition 39 which prohibit any bond money from being wasted or used for inappropriate administrative salaries or other operating expenses of the District shall be enforced strictly by the District’s Citizens’ Oversight Committee; and

WHEREAS, pursuant to Education Code Section 15270, based upon a projection of assessed property valuation, the Board has determined that, if approved by voters, the tax rate levied to meet the debt service requirements of the bonds proposed to be issued will not exceed the Proposition 39 limits per year per \$100,000 of assessed valuation of taxable property; and

WHEREAS, Elections Code Section 9400 *et seq.* requires that a tax rate statement be contained in all official materials relating to the election, including any ballot pamphlet prepared, sponsored, or distributed by the District; and

WHEREAS, the Board desires to authorize the filing of a tax rate statement and a ballot argument in favor of the proposition to be submitted to the voters at the election; and

WHEREAS, pursuant to the 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 to perform certain election services for the District.

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

Section 1. That the Board, pursuant to Education Code Sections 15100 *et seq.*, 15264 *et seq.*, and Government Code Section 53506, hereby requests the Santa Clara County Registrar of

Voters to conduct an election under the provisions of Proposition 39 and the Act and submit to the electors of the District the question of whether bonds of the District in the aggregate principal amount of \$98,000,000 (the "Bonds") shall be issued and sold for the purpose of raising money for the projects described in Exhibits "A" and "B" hereto. Both exhibits are directed to be printed in the voter pamphlet. The District's Superintendent, or designee, is hereby authorized and directed to make any changes to the text of the measure, or to the abbreviated form of the measure, as may be convenient or necessary to comply with the intent of this Resolution, the requirements of election officials, and requirements of law.

Section 2. That the date of the election shall be March 3, 2020.

Section 3. That the purpose of the election shall be for the voters in the District to vote on a proposition, a copy of which is attached hereto and marked Exhibit "A," incorporated by reference herein, and containing the question of whether the District shall issue the Bonds to pay for improvements to the extent permitted by such proposition. In compliance with Proposition 39 policies of the Board and the Act, the ballot propositions in Exhibits "A" and "B" are subject to the following requirements and determinations:

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

(b) that the Board, in establishing the projects set forth in Exhibit "B," evaluated the safety, class size reduction, classroom, educational and information technology needs of the District as well as the importance of the projects to improve student learning in core subjects like math, science, and the arts;

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

(d) that the Board shall cause an annual, independent financial audit of the proceeds from sale of Bonds to be conducted until all of the Bond proceeds have been expended;

(e) that the Board shall appoint a Citizens' Oversight Committee in compliance with Education Code Section 15278 no later than 60 days after the Board enters the election results in its minutes pursuant to Education Code Section 15274; and

(f) that the tax levy authorized to secure the Bonds of this election shall not exceed the Proposition 39 limits per \$100,000 of taxable property in the District when assessed valuation is projected by the District to increase in accordance with Article XIII A of the California Constitution.

Section 4. That the authority for ordering the election is contained in Education Code Sections 15100 *et seq.*, 15264 *et seq.*, and Government Code Section 53506.

Section 5. That the authority for the specifications of this election order is contained in Education Code Section 5322. In connection with the ordering of the election pursuant to the provisions cited above, the District has obtained reasonable and informed projections of assessed property valuations that take into consideration projections of assessed property valuations made by the County assessor that are available to the District.

Section 6. That the Santa Clara County Registrar of Voters and the Santa Clara County 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. As provided in Elections Code Section 10403, the District acknowledges that the consolidation election will be conducted in the manner described in Elections Code Section 10418.

Section 7. That the Secretary of the Board is hereby directed to deliver a certified copy of this Resolution to the Santa Clara County Registrar of Voters no later than December 6, 2019.

Section 8. That Bonds may be issued pursuant to Education Code Section 15264 *et seq.* or Government Code Section 53506. The maximum rate of interest on any Bond shall not exceed the maximum rate allowed by Education Code Sections 15140 to 15143, as modified by Government Code Section 53531.

Section 9. That the Board requests the governing body of any such other political subdivision, or any officer otherwise authorized by law, to partially or completely consolidate such election and to further provide that the canvass of the returns of the election be made by any body or official authorized by law to canvass such returns, and that the Board consents to such consolidation. The Board further authorizes the submission of a tax rate statement and primary and rebuttal arguments, as appropriate, to be filed with the Santa Clara County Registrar of Voters by the established deadlines.

Section 10. Pursuant to Education Code Section 5303 and Elections Code Section 10002, the Board of Supervisors of Santa Clara County is requested to permit the Registrar of Voters to render all services specified by Elections Code Section 10418 relating to the election, for which services the District agrees to reimburse Santa Clara County, such services to include the publication of a Formal Notice of School Bond Election and the mailing of the sample ballot and tax rate statement (described in Elections Code Section 9401) pursuant to the terms of Education Code Section 5363 and Elections Code Section 12112.

ADOPTED, SIGNED AND APPROVED this 12th day of November, 2019.

BOARD OF TRUSTEES OF THE BERRYESSA
UNION SCHOOL DISTRICT

By _____
President

Attest:

Secretary

STATE OF CALIFORNIA)
)ss
SANTA CLARA COUNTY)

I, Dr. Roxane Fuentes, do hereby certify that the foregoing is a true and correct copy of Resolution No. 19-08, which was duly adopted by the Board of Trustees of the Berryessa Union School District at the meeting thereof held on the 12th day of November, 2019, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

By _____
Secretary

EXHIBIT A

“BERRYESSA UNION SCHOOL DISTRICT CLASSROOM UPGRADE/SAFETY MEASURE. To repair and update local elementary/middle schools, including science, arts and math classrooms/labs for 21st-century learning; make essential safety and security improvements; replace aging fire alarms; repair, construct, acquire classrooms, equipment, sites/facilities; shall Berryessa Union School District’s measure authorizing \$98,000,000 in bonds at legal rates, levying \$28.50/\$100,000 assessed value (\$6,300,000 annually) while bonds are outstanding, be approved, with citizen oversight, audits, no funds for administrators, all funds spent locally?”

Bonds – Yes

Bonds – No

EXHIBIT B

FULL TEXT BALLOT PROPOSITION OF THE BERRYESSA UNION SCHOOL DISTRICT BOND MEASURE ELECTION MARCH 3, 2020

The following is the full proposition presented to the voters by the Berryessa Union School District.

“BERRYESSA UNION SCHOOL DISTRICT CLASSROOM UPGRADE/SAFETY MEASURE. To repair and update local elementary/middle schools, including science, arts and math classrooms/labs for 21st-century learning; make essential safety and security improvements; replace aging fire alarms; repair, construct, acquire classrooms, equipment, sites/facilities; shall Berryessa Union School District’s measure authorizing \$98,000,000 in bonds at legal rates, levying \$28.50/\$100,000 assessed value (\$6,300,000 annually) while bonds are outstanding, be approved, with citizen oversight, audits, no funds for administrators, all funds spent locally?”

PROJECT LIST

The Board of Trustees of the Berryessa Union School District is committed to improving the quality of education in local schools by attracting and retaining quality teachers, providing safe, secure, upgraded classrooms, and clean and well-maintained schools needed to support high quality instruction **in science, and the arts**, and preparing students for 21st Century learning. To that end, the Board evaluated the District’s urgent and critical facility needs, including **safety and security** issues, class size reduction, **basic repairs**, computer and information technology in developing the types of projects to be funded by this measure as described below. The District conducted a facilities evaluation and received public input in developing this Project List. Teachers, staff, community members and the Board have prioritized the key health and safety needs so that the most critical facility needs are addressed.

In approving this Project List, the Board of Trustees determines that the District **must:**

- (i) **Make essential school safety and security improvements; and**
- (ii) **Update science and arts classrooms and labs for 21st-Century learning; and**
- (iii) **Upgrade and modernize aging school facilities; and**
- (iv) **Replace aging fire alarms and communications systems; and**
- (v) **Ensure that playgrounds, walkways and fields meet current safety standards; and**
- (vi) **Adhere to specific fiscal accountability safeguards:**
 - (a) **All expenditures subject to annual independent financial audits.**
 - (b) **No money taken by the State. All funds stay local.**
 - (c) **All expenditures reviewed by an independent citizen oversight committee to ensure that funds are spent only as authorized.**

The Project List includes the following types of upgrades and improvements at District schools, facilities and sites:

IMPROVE STUDENT PREPARATION FOR 21st-CENTURY LEARNING

Basic School Repair and Upgrade Projects Funded By Money That Cannot Be Taken By the State Or Used for Other Purposes

Goals and Purposes: Some classrooms and District facilities have been updated, while many are decades old and in urgent need of repairs. This measure will allow for essential repairs and upgrades to restrooms, offices, heating and cooling systems, and school kitchens before the repairs become more costly down the road.

The requirements for success are rapidly changing and our classrooms and labs need to be modernized to meet today's educational standards. This measure will update classrooms, labs and learning technology so that our students are prepared to excel in high school and beyond.

- Update science and arts classrooms and labs for 21st-Century learning.
- Improve school access for students, teachers and staff with disabilities.
- Improve heating, cooling and water systems to increase energy efficiency and save money.
- Replace or repair roofs, as needed.
- **Provide up-to-date classrooms to prepare students for the 21st Century.**

STUDENT SAFETY AND ACHIEVEMENT: LOCAL SCHOOL FUNDING TO SUPPORT HIGH QUALITY INSTRUCTION IN MATH, SCIENCE AND THE ARTS

Projects That Improve Student Safety and Success

Goal and Purpose: There is nothing more important than protecting our children while they are at school. This measure will upgrade school safety and security with access control, security cameras, and fire alarm systems.

- **Make essential safety and security improvements**, including security fencing, security cameras, access control, building identification, site lines and intruder alert technology.
- **Replace aging fire alarms and communications systems.**
- Ensure that children's playgrounds, walkways and fields meet current health and safety standards.
- Update classroom learning technology.
- Update school libraries.

In addition to the projects listed above, the repair and renovation of each of the existing school facilities may include, but not be limited to, some or all of the following: add or renovate student and staff restrooms; repair and replace electrical, plumbing, heating, ventilation and air conditioning systems; upgrade of facilities for energy efficiencies; repair and replace worn-out and deteriorated roofs, windows, walls, floors, doors and drinking fountains; construct or renovate facilities for more efficient administration and multi-purpose learning spaces; install wiring and electrical systems to safely accommodate computers, technology and other electrical devices; upgrade or construct support facilities including administrative, physical education, music, art, classrooms or facilities, science, computer labs/classrooms, libraries, gyms, buildings, maintenance and transportation yards and related warehouse facilities; acquire, construct or contribute to affordable housing units for teachers and staff; repair and replace fire alarms, emergency communications and security systems; improve facilities to satisfy ADA requirements; resurface or replace asphalt, broken concrete and improve hard courts, turf and irrigation/drainage systems and campus landscaping; install signage, marquees, solar panels or other energy efficiency systems, and fencing; expand parking and drop-off areas; improve all site utilities; acquire land; construct new classrooms and school buildings and schools; upgrade or replace interior and exterior painting, floor covering (including carpets), and school facades; projects authorized by the District's Measure L, approved by the voters in 2014; demolition; upgrade kitchens, food service, and school cafeterias; construct various forms of storage and support spaces and classrooms; improve outdoor learning environments; repair, upgrade and install interior and exterior lighting systems; improve playgrounds, play structures, athletic fields and facilities to support student health, fitness and safety; acquire vehicles, trucks, vans and buses; replace outdated security fences and security systems (including access control systems), provide lunch shelters, indoor space for assemblies or for rainy day lunch; upgrade music labs, multi-purpose rooms, learning centers and media centers; add or upgrade parking lots. In addition to the listed projects stated above, the Project List also includes the acquisition of a variety of instructional, maintenance and operational equipment, including the reduction or retirement of outstanding lease obligations and interim funding incurred to advance fund projects from the Project List; payment of the costs of preparation of all facility planning, facility studies, assessment reviews, facility master plan preparation and updates, environmental studies (including environmental investigation, remediation and monitoring), design and construction documentation, and temporary housing of dislocated District activities caused by construction projects. The upgrading of technology infrastructure includes, but is not limited to, network rewiring, cabling, computers, portable interface devices, servers, switches, routers, modules, sound projection systems, laser printers, digital white boards, document projectors, upgrade voice-over-IP, clock/telephone/ intercom systems, call manager and network security/firewall, wireless technology systems, refresh classroom technology, including enterprise software applications, miscellaneous IT and instructional equipment, data storage, phones, identity cards and the construction and installation of a data center in the cloud for the District's enterprise systems, such as resource planning, websites, domain name systems, cloud applications and information security. The budget for each project is an estimate and may be affected by factors beyond the District's control. The final cost of each project will be determined as plans and construction documents are finalized, construction bids are received, construction contracts are awarded and projects are completed. Based on the final costs of each project, certain of the projects described above may be delayed or may not be completed. Demolition of portable classrooms and existing facilities and reconstruction of facilities scheduled for repair and upgrade may occur, if the Board determines that such an approach would be more cost-effective in creating more enhanced and operationally efficient campuses. Necessary site preparation/restoration may occur in connection with new construction, renovation or remodeling, or installation or removal of relocatable classrooms, including ingress and egress, removing, replacing,

or installing irrigation or drainage systems, utility lines, trees and landscaping, relocating fire access roads, and acquiring any necessary easements, licenses, or rights of way to the property. The listed projects will be completed as needed. Each project is assumed to include its share of furniture, equipment, architectural, engineering, and similar planning costs, program/project management, staff training expenses and a customary contingency for unforeseen design and construction costs. Proceeds of the bonds may be used to pay or reimburse the District for the cost of District staff when performing work on or necessary and incidental to bond projects. Bond proceeds shall only be expended for the types of projects and 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 § 53410.

FISCAL ACCOUNTABILITY: THIS MEASURE REQUIRES A CLEAR SYSTEM OF ACCOUNTABILITY, INCLUDING A PROJECT LIST DETAILING HOW THE MONEY WILL BE USED, A CITIZEN’S OVERSIGHT COMMITTEE, AND INDEPENDENT AUDITS TO ENSURE MONEY IS SPENT PROPERLY.

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

NO ADMINISTRATOR SALARIES: PROCEEDS FROM THE SALE OF THE BONDS AUTHORIZED BY THIS PROPOSITION SHALL BE USED ONLY FOR THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, REHABILITATION, OR REPLACEMENT OF SCHOOL FACILITIES, INCLUDING THE FURNISHING AND EQUIPPING OF SCHOOL FACILITIES, AND NOT FOR ANY OTHER PURPOSE, INCLUDING TEACHER AND SCHOOL ADMINISTRATOR SALARIES AND OTHER OPERATING EXPENSES.