

## RESOLUTION NO. 2019.5

### RESOLUTION OF THE BOARD OF EDUCATION OF MILPITAS UNIFIED SCHOOL DISTRICT ORDERING AN ELECTION, AND ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER

WHEREAS, the Board of Education (the “Board”) of the Milpitas Unified School District (the “District”) is committed to maintaining the quality of education and student safety in local public schools by updating classroom technology, expanding, and upgrading classrooms and science labs to meet the demands for science, technology, engineering, arts, athletics and math (“STEAM”) instruction; and

WHEREAS, the Board is committed to reducing overcrowding at local neighborhood schools within the District through the construction and addition of classrooms and educational facilities; and

WHEREAS, the Board believes that, in order to provide safe and healthy learning environments for students, basic upgrades to our schools continue to be needed, including the upgrading of security, lighting and energy systems, and ensuring that classrooms are accessible for students and teachers with disabilities; and

WHEREAS, the Board believes that reducing overcrowding will help ensure there will be enough classroom space so students can attend their own neighborhood schools; and

WHEREAS, because the requirements for success in Silicon Valley are rapidly changing, the District needs to upgrade classrooms, labs and learning technology to meet today’s educational standards for science, technology, engineering, arts and math instruction; and

WHEREAS, the State of California (the “State”) is not providing the District with funding to adequately maintain its educational facilities and academic programs; and

WHEREAS, the Board has concluded that the District’s only remedy to improving its educational programs is to secure local funding that the State cannot take away; and

WHEREAS, the Board determines that every penny from this measure shall benefit Milpitas schools, be controlled locally, and be subject to mandatory taxpayer protections, including an independent citizens’ oversight committee and audits to ensure funds are spent properly; 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* tax levies used to pay for debt service or 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 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; 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 monitored 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, Section 9400 *et seq.* of the Elections Code of the State of California (the "Elections Code") 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 ballot argument in favor of the proposition to be submitted to the voters at the election; and

WHEREAS, pursuant to 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, November 6, 2018, and to request the Santa Clara County Registrar of Voters to perform certain election services for the District;

NOW THEREFORE, THE BOARD OF THE MILPITAS UNIFIED 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 \$284,000,000 (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 November 6, 2018.

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 and the Act, the ballot propositions in Exhibit "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 student achievement and high quality instruction;

(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 the sale of Bonds to be conducted until all of the Bond proceeds have been expended;

(e) that the Board will cause the appointment of 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. The Citizens’ Oversight Committee shall consist of at least seven (7) members and at no time consist of less than seven (7) members, with the possible exception of brief periods to fill any unexpected vacancies. The Citizens’ Oversight Committee may not include any employee or official of the District or any vendor, contractor or consultant of the District. The Citizens’ Oversight Committee shall include all of the following: One (1) member who is active in a business organization representing the business community located within the District; One (1) member who is active in a senior citizens’ organization; One (1) member who is active in a bona fide taxpayer association; One (1) member who is a parent of a child in the District schools; One (1) member is both a parent of a child in the District schools and active in a school site council or PTA. In furtherance of its specifically enumerated purposes, the Citizens’ Oversight Committee may engage in any of the following activities relating solely and exclusively to the expenditure of the Proposition 39 bond proceeds:

(i) Inform the public and the Board of the findings, concerns and determinations of the Committee regarding the expenditure of all bond funds;

(ii) Inspect District facilities and grounds to ensure that Proposition 39 bond proceeds are expended in compliance with applicable law;

(iii) Receive and review copies of all deferred maintenance proposals or plans developed by the District;

(iv) Review efforts of the District to maximize Proposition 39 bond revenues by implementing cost-saving programs;

(v) Receive and review copies of the annual, independent financial and performance audits performed by independent consultant(s);

(vi) Receive from the Board, within three months of the District receiving the above-described audits, responses to any and all findings, recommendations, and concerns addressed in said audits, and review said responses; 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 Sections 5322 of the Education Code.

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 November 6, 2018, within the District. Pursuant to Elections Code Section 10403, the Board acknowledges that the consolidation election will be held and conducted in the manner described in Elections Code 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 August 10, 2018.

Section 8. That any Bonds issued pursuant to the Education Code Section 15264 *et seq.* hereto or pursuant 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 anybody 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 Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors of Santa Clara County is requested to permit the Registrar of Voters to render all services specified by Section 10418 of the Elections Code 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 Section 9401 of the Elections Code) pursuant to the terms of Section 5363 of the Education Code and Section 12112 of the Elections Code.

ADOPTED, SIGNED AND APPROVED this 1st day of August, 2018.

BOARD OF EDUCATION OF THE MILPITAS  
UNIFIED SCHOOL DISTRICT

By \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary



EXHIBIT A

**“MILPITAS SCHOOL SAFETY AND CLASSROOM UPGRADE MEASURE.** To improve safety, provide additional classrooms and science labs to relieve elementary, middle and high school overcrowding; repair leaky roofs; update technology; and repair, construct, acquire classrooms, sites, facilities/equipment, shall Milpitas Unified School District’s measure authorizing \$284,000,000 of bonds at legal rates, levying \$60/\$100,000 assessed value, averaging \$21,000,000 annually while bonds are outstanding, be approved, with oversight, annual audits, no funds for administrators’ salaries, and all funds staying local?”

Bonds – Yes

Bonds – No

## EXHIBIT B

### FULL TEXT BALLOT PROPOSITION OF THE MILPITAS UNIFIED SCHOOL DISTRICT BOND MEASURE ELECTION NOVEMBER 6, 2018

The following is the full proposition presented to the voters by the Milpitas Unified School District.

**“MILPITAS SCHOOL SAFETY AND CLASSROOM UPGRADE MEASURE.** To improve safety, provide additional classrooms and science labs to relieve elementary, middle and high school overcrowding; repair leaky roofs; update technology; and repair, construct, acquire classrooms, sites, facilities/equipment, shall Milpitas Unified School District’s measure authorizing \$284,000,000 of bonds at legal rates, levying \$60/\$100,000 assessed value, averaging \$21,000,000 annually while bonds are outstanding, be approved, with oversight, annual audits, no funds for administrators’ salaries, and all funds staying local?”

### PROJECT LIST

The Board of Education of the Milpitas Unified School District is committed to maintaining the quality of education in local schools by providing **safe**, secure, upgraded **classrooms** and science **labs** which keep pace with 21<sup>st</sup> Century technologies and learning standards. To that end, the Board evaluated urgent and critical facility needs with a goal to **relieve classroom overcrowding**, as well as safety issues, class size, computer and information technology in developing the scope of projects to be funded. The District conducted a facilities evaluation and received public input in developing this Project List. Teachers, staff, community members and the Board have prioritized classroom overcrowding and key health and safety projects so that the most critical facility needs are addressed.

The Board concluded that the **District must improve school safety** and **relieve overcrowding** at schools and **expand and upgrade classrooms** and **science labs**.

Therefore, in approving this Project List, the **Board of Education determines that the District must:**

- (i) **Improve student safety and school security;**
- (ii) **Relieve overcrowding in Milpitas elementary, middle and high schools by expanding and upgrading classrooms and science labs;**
- (iii) **Repairs to leaky roofs;**
- (iv) **Update classrooms for career technical education and workforce training programs;**
- (v) **ADHERE TO SPECIFIC FISCAL ACCOUNTABILITY SAFEGUARDS SUCH AS:**
  - (a) **All funds benefit local schools; no funds can be taken away by the State.**
  - (b) **All expenditures must be subject to annual independent financial audits.**
  - (c) **No funds can be used for administrators’ salaries and pensions.**

**(d) An independent citizens' oversight committee must be appointed to ensure that all funds are spent only as authorized.**

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

Burnett Elementary School	Rancho Middle School
Calaveras Hills High School	Randall Elementary School
Curtner Elementary School	Rose Elementary School and
Mabel Mattos Elementary School	Rose Child Development Center
Milpitas Adult Education Facility	Russell Middle School
Milpitas Airpoint Facility	Sinnott Elementary School
Milpitas High School	Spangler Elementary School
Milpitas U.S.D. District Office	Sunnyhills Child Development Center
Milpitas U.S.D. Maintenance, Operations, Transportation, and Warehouse Facility	Weller Elementary School
Murphy Elementary School Site	Zanker Elementary School
Pomeroy Elementary School	

**RELIEVE SCHOOL OVERCROWDING:**

**Projects Which Relieve Classroom Overcrowding**

**Goals and Purposes: Current enrollment at Milpitas High School is 3,200 students, far more than it was originally built for. This measure will fund additional classrooms, science labs and facilities at Milpitas High School to help prevent overcrowding.**

**This measure will expand the number of elementary and middle school classrooms to relieve classroom overcrowding and help ensure that there is space for students to attend their own neighborhood schools.**

- **Expand and upgrade classrooms and science labs.**
- Complete a new elementary school.
- Replace old portable classrooms.
- Convert existing District administrative offices into new high school facilities.
- Upgrade science labs and classrooms for career technical education and workforce training programs.

**BASIC SCHOOL REPAIRS AND SAFETY UPGRADES**

**Goal and Purpose: This measure will make necessary repairs and upgrades to our schools, including fixing leaky roofs and windows, maximizing energy and water efficiency, improving student safety and school security, replacing old sewers for flood protection, and upgrading lighting and earthquake safety to provide a safe, healthful learning environment for students.**

- **Continue repairs to leaky roofs and windows.**
- Upgrade safety and security systems, including fire alarms, security lighting, fences, door locks and video cameras.
- **Add new classrooms and facilities to avoid overcrowding.**
- Update technology.
- Maximize energy and water efficiency.
- Upgrade school facilities to improve accessibility for disabled students and teachers.
- Repair sewers and drainage systems to prevent flooding.

#### **FISCAL RESPONSIBILITY:**

##### **Community Accountability Requirements**

**Goal and Purpose: To ensure that every penny from this measure benefits local schools and that no funds are taken away by the State or other school districts, this measure will benefit from the following safeguards:**

- Require the establishment of an independent citizen oversight committee to review all expenditures to ensure that funds are used as promised.
- **Require independent financial audits of all expenditures to ensure that fiscally responsible financial controls are followed.**
- Prohibit any funds from being used for administrator salaries or pensions.

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: repair and replace heating, plumbing, sewer and ventilation systems; relocate school sites administrative facilities and convert District-owned sites and commercially leased properties to educational or administrative uses; renovate student and staff restrooms; acquire land and facilities for educational and administrative purposes; upgrade of facilities for energy efficiencies; acquire and install solar panels; acquire vehicles; repair and replace worn-out or leaky roofs, windows, walls, doors, doorframes and drinking fountains; install or upgrade wiring and electrical systems to safely accommodate computers, technology and other electrical devices and needs; construct, expand or upgrade Milpitas adult education and pre-school facilities, as well as District owned sites currently being leased or otherwise not currently used for education purposes; upgrade or construct support facilities, including administrative, physical education, warehousing, multi-purpose rooms, kitchens and food preparation areas, visual and performing arts buildings, media centers and maintenance yards; repair and replace fire alarms, emergency communications and security systems; construct new schools; resurface or replace hard courts, turf and irrigation systems and campus landscaping; expand parking; acquire land; interior and exterior painting and floor covering; demolition; upgrade pools; construct various

forms of storage and support spaces; replace artificial turf; upgrade classrooms; repair, upgrade or install interior and exterior lighting systems; improve or construct playgrounds, athletic fields/courts and play apparatus; replace outdated security fences and security systems, provide indoor space for assemblies, physical education or for rainy day lunch. 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. In addition to the listed projects stated above, the Project List also includes the acquisition of a variety of instructional, maintenance and operational equipment, the reduction or retirement of outstanding lease obligations and interim or bridge funding incurred to advance fund projects from the Project List; installation of signage and fencing; 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, computers, LCD projectors, portable interface devices, servers, switches, routers, modules, sound projection systems, laser printers, digital white boards, document projectors, upgrade voice-over-IP, call manager and network security/firewall, wireless technology systems and other miscellaneous equipment and software. The allocation of bond proceeds will be affected by the final costs of each project. The District may not be able to complete some of the projects listed above. The budget for each project is an estimate and may be affected by factors beyond the District's control. Some projects throughout the District, such as gyms, fields and performing arts facilities, may be undertaken as joint use projects in cooperation with other local public or non-profit agencies. 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 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, utility lines, trees and landscaping, relocating fire access roads, and acquiring any necessary easements, licenses, or rights of way to the property.

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 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 § 53410.

**FISCAL ACCOUNTABILITY: IN ACCORDANCE WITH EDUCATION CODE SECTION 15272, THE BOARD OF EDUCATION 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.