

SAN FRANCISCO UNIFIED SCHOOL DISTRICT
San Francisco, California

Regular Board Meeting of March 9, 2010

SUBJECT: PROTEST HEARING AND RESOLUTION OF THE BOARD OF EDUCATION OF THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT ORDERING CHANGES, PRELIMINARILY ESTABLISHING AN APPROPRIATIONS LIMIT, CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE CHANGES AND THE ESTABLISHMENT OF THE APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF COMMUNITY FACILITIES DISTRICT NO. 90-1, ADOPTING GOALS AND POLICIES, AND ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER (No. _____)

REQUESTED ACTION:

WHEREAS, on January 9, 1990, the Board of Education (the "Board") of the San Francisco Unified School District (the "District") adopted its Resolution of Intention to establish its Community Facilities District No. 90-1 ("CFD No. 90-1") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), to finance certain facilities and to levy a special tax therein to pay for the facilities and the expenses incidental thereto; and

WHEREAS, following a duly noticed public hearing held pursuant to the Act, the Board, on February 13, 1990, adopted its Resolution of Formation pursuant to which CFD No. 90-1 was formed and an election was called for the purpose of submitting the levy of the special tax and the establishment of an appropriations limit to the qualified electors of CFD No. 90-1; and

WHEREAS, on June 5, 1990, the election was held within the District at which the electors approved the levy of the special tax and the appropriations limit by more than the two-thirds vote required by the Act; and

WHEREAS, the Board, on July 5, 1990, caused to be recorded a Notice of Special Tax, and on July 11, 1990, a supplement thereto, in the Office of the County Recorder of the City and County of San Francisco, in conformance with the requirements of the Act, and thereafter adopted an ordinance levying the special tax; and

WHEREAS, the special tax has been annually levied to pay for the facilities; not all of the facilities have been completed, however, the term of the special tax has expired; and

WHEREAS, on February 4, 2010, the Board adopted its Resolution of Consideration No. 102-4SO1 (the "Resolution of Consideration"), pursuant to Section 53334 of the Act, wherein the Board (1) determined the need to complete the facilities previously approved for CFD No. 90-1, as therein proposed to be updated and, in order to pay for them, to extend and levy the previously approved special tax, as therein proposed to be modified, (2) proposed to provide for the reauthorization of the previously authorized facilities, as therein updated, and the

extension and levy of the previously approved special tax, as therein modified, and (3) fixed a time and place for a hearing on the proposed changes; and

WHEREAS, the Resolution of Consideration (1) stating the name of the community facilities district, (2) generally describing the boundaries of CFD No. 90-1, (3) specifying the facilities to be financed, as proposed to be updated, (4) specifying the special tax to pay the costs thereof, as proposed to be modified, and (5) fixing the time and place for the hearing on the consideration of the proposed changes, is incorporated herein by this reference; and

WHEREAS, notice of the hearing on the consideration of the proposed changes was duly published as required by law, as evidenced by the certificate of publication on file with the Clerk of the Board (the "Clerk"); and

WHEREAS, at the time and date set for the hearing, March 9, 2010, this Board held the public hearing as required by law relative to the proposed changes described in the Resolution of Consideration; and

WHEREAS, prior to the hearing a report (the "Report") containing (1) a description of the facilities required to adequately meet the needs of CFD No. 90-1, as updated, and (2) an estimate of (a) the cost of providing the facilities; (b) the fair and reasonable costs of any of the facilities to be purchased; and (c) the fair and reasonable cost of incidental expenses related thereto, was filed with this Board as a part of the record of the hearing and duly considered by this Board; the Report also incorporates clarifying changes recommended by staff that do not change the types of facilities proposed to be financed; and

WHEREAS, at the hearing all interested persons for or against the proposed changes were heard and considered, and a full and fair hearing was held thereon; and

WHEREAS, at the hearing evidence was presented to this Board on the matters before it, and this Board, at the conclusion of the hearing, was fully advised as to all matters relating to the proposed changes; and

WHEREAS, written protests against the proposed changes have not been filed with the Clerk by fifty percent (50%) or more of the registered voters residing within CFD No. 90-1, or the owners of one half (1/2) or more of the area of the land proposed to be included in CFD No. 90-1 and not exempt from the special tax; and

WHEREAS, there has been submitted to this Board proposed goals and policies concerning the use of the Act; and

WHEREAS, in the judgment of the Board, it is advisable to order an election for the purpose of submitting the changes and the establishment of the appropriations limit to the qualified electors of CFD No. 90-1 and to request that the Superintendent of Schools of the District (the "Superintendent") call the election and that the City and County of San Francisco Director of Elections (the "Director of Elections") take all steps required to conduct the election.

NOW THEREFORE, the Board of Education of the San Francisco Unified School District DOES HEREBY RESOLVE, DETERMINE and ORDER, as follows:

1. The foregoing recitals are true and correct.
2. The proposed changes described in the Resolution of Consideration have not been precluded by majority protest pursuant to Section 53337 of the Act. The proposed changes are to provide for the reauthorization of the facilities, as therein updated, and the extension and levy of the previously approved special tax, as therein modified. Any protests related to the proposed changes are hereby overruled.
3. (a) The facilities to be financed by CFD No. 90-1, being the previously authorized facilities for CFD No. 90-1 as updated, and as clarified in the Report (the "Facilities") are set forth in EXHIBIT A. They are public facilities authorized to be acquired or constructed under the Act that have a useful life of five years or longer. The Facilities are governmental facilities which this Board is authorized by law to contribute revenue to, or construct, own or operate.

(b) The Report related to the Facilities shall be a part of the record in these proceedings. For purposes hereof, the Report shall refer and apply to the Report as modified, amended, revised or corrected pursuant to and in accordance with this Resolution as well as any other resolution or order heretofore adopted or made by this Board.
4. (a) As stated in the Resolution of Consideration, except where funds are otherwise available, it is the intention of this Board to annually levy a special tax sufficient to pay for the Facilities, including incidental expenses related thereto, secured by recordation of a continuing lien against all nonexempt real property in CFD No. 90-1.

(b) The rate, method of apportionment, and manner of collection of the special tax, in sufficient detail to allow each landowner or resident within CFD No. 90-1 to estimate the maximum amount such person will have to pay for the Facilities, being the previously approved special tax for CFD No. 90-1 as extended and updated, and as clarified in the Report, is described in EXHIBIT B. EXHIBIT B incorporates clarifying changes recommended by staff that do not increase the proposed maximum special tax or the probable special tax.

(c) The special tax, as apportioned to each parcel pursuant to EXHIBIT B, is based on the cost of making the Facilities available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

(d) No ad valorem property tax is, or will be, levied on property within CFD No. 90-1 for the exclusive purpose of making lease payments on an existing lease or paying principal or interest on outstanding bonds or other existing indebtedness, including State school building loans, incurred to finance the construction of capital facilities which are the same as are to be provided by the Facilities.
5. The Office of the Chief Financial Officer is hereby designated as the office, department or bureau that will be responsible for annually preparing the current roll of special tax levy obligations by assessor's parcel number on nonexempt property within CFD No. 90-1, and that will be responsible for estimating future special tax levies pursuant to Section 53340.2

of the Act. The current name, address, and telephone number of the Office of the Chief Financial Officer, and the person responsible for administering the District, is as follows:

Joseph Grazioli, Chief Financial Officer
San Francisco Unified School District
135 Van Ness Ave. – Room 300
San Francisco, California 94102
Telephone: (415)241-6542

Such officer is hereby directed to establish procedures to promptly respond to inquiries concerning current and future estimated tax liability pursuant to Section 53340.2 of the Act.

6. All prior proceedings taken with respect to the establishment of CFD No. 90-1 were valid and in conformity with the requirements of the Act. All prior proceedings taken with respect to the proposed changes described in the Resolution of Consideration were valid and in conformity with the requirements of the Act.

7. In accordance with Section 53325.7 of the Act, the annual appropriations limit of CFD No. 90-1, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, is hereby preliminarily established at \$16,000,000, and this annual appropriations limit shall be submitted to the voters of CFD No. 90-1 as hereafter provided. The proposition establishing this appropriations limit shall become effective if approved by the qualified electors voting thereon, and shall be adjusted in accordance with the applicable provisions of Section 53325.7 of the Act.

8. (a) This Board hereby orders an election to submit the questions of making the changes proposed in the Resolution of Consideration, as herein clarified, and establishing the annual appropriations limit for CFD No. 90-1 in connection therewith, to the qualified electors within the CFD No. 90-1. Pursuant to Section 53353.5 of the Act, the questions of making such changes and establishing an appropriations limit shall be combined in a single ballot measure, substantially in the form set forth in EXHIBIT C (the “Ballot Measure”). The election shall be held on Tuesday, June 8, 2010.

(b) More than twelve (12) persons have been registered to vote within CFD No. 90-1 for each of the ninety (90) days preceding the close of the hearing referenced herein. Accordingly, the qualified electors shall be the registered voters within CFD No. 90-1, with each registered voter having one vote. The voting procedure herein described is also described in the Resolution of Consideration.

9. The authority for ordering the election is contained in Section 53326 of the Government Code and Section 5304 of the Education Code.

10. The authority for the specifications of this election order is contained in Section 5322 of the Education Code.

11. This Resolution shall stand as the order to the Superintendent to call an election within the boundaries of the District on June 8, 2010 pursuant to the specifications contained

herein and as the request to the Director of Elections to take all steps required to conduct the election ordered pursuant to this Resolution.

12. The Clerk is hereby directed to send a certified copy of this Resolution to the Director of Elections to be received no later than 5 p.m. on March 12, 2010.

13. The Board hereby requests that the Director of Elections shall transmit a copy of the Ballot Measure to the Ballot Simplification Committee, which shall prepare an impartial analysis of the measure, showing the effect of the Ballot Measure on existing law and the operation of the Ballot Measure.

14. Pursuant to Section 9502 of the Elections Code, the Director of Elections is requested to fix and determine a reasonable date prior to the election after which no arguments for or against the Ballot Measure may be submitted to the Director of Elections so as to provide a reasonable time in which to prepare and print the arguments, and to permit a 10-calendar-day public examination and to publish notice (the "Notice") of such date once in a newspaper of general circulation published in the District. The Board requests that a copy of that published Notice be delivered to the Clerk, pursuant to Section 12113 of the Elections Code.

15. The Clerk shall post the Notice received from the Director of Elections in the District office pursuant to Section 12113 of the Elections Code.

16. Pursuant to Sections 5302, 5303, 5320, 5322 and 5325 of the Education Code, the Superintendent and the Director of Elections of the City and County are hereby requested to take all steps to call and conduct the election in accordance with law and these specifications.

17. The Board of Supervisors of the City and County of San Francisco is authorized to canvass the returns of the election pursuant to Section 10411 of the Elections Code.

18. Pursuant to Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors of the City and County of San Francisco is requested to permit the Director of Elections to render all services necessary, including those services specified in Section 12105 of the Elections Code relating to the election, such services to include the mailing of the sample ballot.

19. The Board requests the Board of Supervisors of the City and County of San Francisco, or any officer otherwise authorized by law, to partially or completely consolidate the election with the regularly scheduled local election of the City and County of San Francisco or the general election held on June 8, 2010; and to further provide that the canvass be made by any body or official authorized by law to canvass the returns of the election and that the Board consents to such consolidation.

20. Within three business days after the adoption of this Resolution, the Clerk shall accept and file a certified copy of this Resolution along with a copy of the Boundary Map and a sufficient description of the boundaries of CFD No. 90-1. The Clerk shall also accept and file the assessor's parcel numbers for the land within CFD No. 90-1, if necessary.

21. If two thirds (2/3) of the votes cast upon the question of making the proposed changes are cast in favor thereof, as determined by this Board after the canvass of the returns of the consolidated election, this Board may thereafter proceed with the financing of the Facilities and the levy the special tax within CFD No. 90-1 in the amount and for the purposes specified in this Resolution. The special tax may be levied only at the rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that the special tax may be levied at a lower rate.

22. Upon a determination by this Board, after the canvass of the returns of the election contemplated in Sections 19 and 21 hereof, that two thirds (2/3) of the votes cast upon the question of making the proposed changes are in favor thereof, it will adopt a resolution determining the proposed changes are authorized, and the Clerk will record a notice of the changes as provided for in Section 3117.5 of the California Streets and Highways Code. Upon such recordation, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in CFD No. 90-1, and this lien shall continue in force and effect until the collection of the special tax ceases to be levied.

23. The goals and policies related to the use of the Act, set forth in EXHIBIT D, are hereby adopted.

24. The Clerk, the District's General Counsel, and the other officers of the District are hereby authorized and directed, individually and collectively, to do any and all things, and to execute, deliver, and perform any and all agreements and documents, that they deem necessary or advisable in order to effectuate the purposes of this Resolution, including, without limitation, to prepare and submit for inclusion in the voter information materials an argument in favor of passage of the ballot measure. All actions heretofore taken by the officers of the District that are in conformity with the purposes and intent of this Resolution are hereby ratified, conformed and approved.

25. This Resolution shall take effect from and after its adoption.

ADOPTED, SIGNED AND APPROVED this 9th day of March, 2010

President of the Board of Education of
the San Francisco Unified School District

ATTEST:

Clerk of the Board of Education of the
San Francisco Unified School District

Recommended by:

Superintendent of Schools

EXHIBIT A

FACILITIES TO BE FINANCED

The following school sites and structures, consistent with the building area and cost standards established by the State Allocation Board.

1. Seismic upgrading, structural strengthening and related improvements of the San Francisco Unified School District facilities and Child Care Centers to repair, replace, improve, or rehabilitate identified structural deficiencies and improve the seismic performance due to revisions to the California building codes.
2. Repair, replace, improve or rehabilitate fire and life-safety building systems, and related improvements, including paths of exiting, ADA access paths of travel, building code upgrades, fire alarm systems, fire sprinkler and fire suppression systems, and correction of identified fire safety violations of San Francisco Unified School District facilities and Child Care Centers.
3. Deferred capital maintenance of San Francisco Unified School District facilities and Child Care Centers, including the salaries and benefits of those District employees directly working on the reparation, replacement, improvement or rehabilitation of fire, life-safety and exiting systems, and other incidental expenses related to the foregoing or to building code upgrades and/or replacement of San Francisco Unified School District facilities and Child Care Centers as needed.
4. Incidental expenses, including the cost of planning, design, engineering, testing and environmental evaluations for each individual project; all costs associated with the determination of the amount of and collection of taxes, the payment of taxes, and costs otherwise incurred in order to carry out the authorized purposes of CFD No. 90-1; and any other expenses incidental to the reparation, replacement, improvement, or rehabilitation of the facilities permitted under the Act.

EXHIBIT B

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

The annual and special tax shall be levied on each separate parcel within Community Facilities District No. 90-1, San Francisco Unified School District, San Francisco County, California (“CFD No. 90-1”) as shown on the San Francisco County Assessor’s records, subject to the maximum rates specified below, as established by the Board of Education (“Board”) of the San Francisco Unified School District (“District”)

DETERMINATION OF PARCELS SUBJECT TO SPECIAL TAX

The records of the County Assessor of San Francisco County shall be used to determine the parcels subject to the special tax. The basis for determining the parcels will be the Secured Property Tax Roll. The land use code contained with records maintained by the Assessor of the number of dwelling units on each residential parcel in CFD 90-1, will be the basis for assigning the appropriate tax rate to each parcel. If the District determines that the records maintained by the Assessor are incorrect with respect to one or more parcels, the District will assign the appropriate land use code and dwelling unit count based on its review of the property. All special taxes shall be based on parcels established in the County Assessor’s records as of March 1 of each year and all land use categories shall be based on building permits and other relevant development approvals granted by the City and County of San Francisco or any successor jurisdiction as of June 1 of each year.

Using the records of the County Assessor, the District shall prepare a list of the parcels subject to the tax. The District shall establish the parcels subject to the tax using the procedure described below:

1. Exclude all parcels which, as of March 1 of the prior fiscal year, meet one of the following conditions: (1) are vacant, (2) are owned by the federal, state, or local government or a public agency or utility and are used for public purpose(s), or (3) are a publicly owned or non-profit hospital, or cemetery, or building(s) used exclusively for religious worship, provided that leasehold / possessory interests shall be taxed.
2. From the parcels remaining, identify the following groups of parcels based upon assessor’s data, and the District’s review of building permits issued, and other changes in development status:
 - a. Single Family Residential Parcels: Parcels containing one dwelling unit and no other uses;
 - b. Mixed Use Parcels: Parcels with one or more residential units in addition to one or more commercial uses;
 - c. Multi-Family Residential Parcels: Parcels with two or more residential units and no other uses;

- d. Non-Residential Parcels: Parcels with no residential units, including transient residential units such as hotels.

Parcels which have been granted a building permit for one or more residential units in addition to or in place of the uses presently existing on that parcel will be classified based on the uses that will exist after the permit has been exercised.

The District shall make every effort to correctly determine the parcels subject to the tax. It shall be the burden of the taxpayer to correct any errors in the determination of the parcels subject to the tax and their classifications.

MAXIMUM ANNUAL SPECIAL TAX

The maximum annual special tax on parcels in CFD No. 90-1 shall be the rates below, for the first year, and then adjusted for inflation each year thereafter by the San Francisco All Items Consumer Price Index for all Urban Consumers (CPI-U) as reported by the US Department of Labor's Bureau of Labor Statistics, provided however that, for a parcel used for private residential purposes, the adjustment for inflation shall not exceed 2% per year:

1. Single Family Residential Parcels and Non-Residential Parcels shall pay \$32.20 per parcel.
2. For Mixed Use Parcels and Multi-Family Residential Parcels, the District shall calculate the annual special tax for each such parcel by multiplying the mixed use and multi-family residential tax rate of \$16.10 times the number of dwelling units thereon to determine the special tax for such parcel. The District shall notify the appropriate county official of the annual special tax for each parcel.

The special tax shall be collected in CFD No. 90-1 for twenty years.

The District shall make every effort to correctly assign the tax rate and calculate the annual special tax liability for each parcel. It shall be the burden of the taxpayer to correct any errors in the determination of the parcels subject to the tax and their special tax assignments.

SENIOR CITIZEN EXEMPTION

A property owner may apply for a Senior Citizen Exemption which would provide an exemption from the special tax on dwelling units occupied by senior citizens, if the following conditions are met:

1. The applicant must show evidence that the dwelling unit is owned or rented by a citizen who is at least 65 years of age.
2. The applicant must show evidence of ownership of the property subject to the Exemption.
3. If the applicant is a landlord, then he or she must certify that the entire tax exemption will be reflected only in the rent for the exempted dwelling unit(s).

EXHIBIT C

FORM OF BALLOT MEASURE

“To improve earthquake and fire safety and implement critical capital maintenance of its schools and facilities, shall the San Francisco Unified School District be authorized to renew the levy of an annual special tax not to exceed \$32.20 per parcel for single family residential and nonresidential parcels and \$16.10 per dwelling unit for mixed use and multifamily residential parcels, adjusted for inflation, in its Community Facilities District No. 90-1, and establish its annual appropriations limit at \$16,000,000?”

EXHIBIT D

GOALS AND POLICIES CONCERNING THE USE OF THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

Pursuant to California Government Code Section 53312.7, the San Francisco Unified School District (the “District”) states the following as its goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”).

I. PRIORITIES AMONG KINDS OF PUBLIC FACILITIES

When special tax revenues are limited within a community facility district (“CFD”), first priority for the use of available revenues shall be given to the upgrading, repair, replacement or rehabilitation of school and child care facilities, second priority shall be given to school site support facilities (for example, multipurpose rooms and playground equipment), and third priority shall be given to administrative facilities.

The District does not currently contemplate the use of the Act to finance services.

II. CREDIT QUALITY REQUIREMENTS FOR BOND ISSUES

The District does not currently intend to issue bonds for a CFD. In the event it should at some future date determine to do so, these goals and policies will need to be amended in order to address credit quality requirements related thereto.

III. DISCLOSURE TO PROSPECTIVE PROPERTY PURCHASERS

The District will comply with Section 53340.2 of the Act with respect to the designation of an office, department, or bureau of the District to be responsible for annually preparing the special tax roll, responding to inquiries, and furnishing notice upon request of a seller of property within the CFD.

IV. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

A. Equity. Any special tax formula approved by the District shall be reasonable and equitable in allocating public facilities costs to parcels within the CFD. Exemptions from the special tax may be given to parcels such as, but not limited to, publicly owned parcels (that would otherwise be subject to the tax), parcels owned by public utilities, parcels used for religious worship, and parcels used for a public purpose such as open space or wetlands or are affected by easements making impractical their utilization for other than the purposes set forth in the easements.

B. Maximum Tax Rate. It is the intent of the District that the total projected property tax levels for any private residential parcel within a CFD should not exceed two percent of the projected initial sales price of a fully developed parcel (*i.e.*, with a completed structure). Calculation of the total projected property tax level shall take into account *ad valorem* property

taxes, *non ad valorem* special taxes, special assessments, and other charges levied by a public agency that are a lien against the property.

The Act provides that the maximum special tax for any parcel used for private residential purpose shall not increase over time at a rate greater than two percent annually. The special tax formula should be structured such that special taxes levied on developed private residential parcels are consistent year to year, subject to the annual increase of not more than two percent. The Act further provides that under no circumstances shall the special tax levied on any private residential parcel be increased by more than ten percent as a consequence of delinquency or default by the owner of any other parcel.

V. APPRAISAL REQUIREMENTS

The District does not currently intend to issue bonds for a CFD. In the event it should at some future date determine to do so, these goals and policies may need to be amended in order to establish appraisal standards related thereto.

VI. PRIORITY ATTENDANCE ACCESS

A. Priority to Residents of CFD. Pursuant to the requirement of California Government Code Section 53312.7, the District shall give priority attendance access to students residing in a CFD whose residents have paid special taxes that have, in whole or in part, financed the construction of school district facilities. The degree of priority shall reflect the proportion of each school's financing provided through the CFD.

B. Exceptions. The attendance priority described above is subject to the District's other attendance policies that include criteria for student assignment such as goals to achieve ethnic, racial, or socioeconomic diversity; federal, state, or court mandates; transportation needs, safe pedestrian routes; grade levels for which facilities were designed; and ensuring that students have continuity of schooling within any single school year.