

**Case No. S266344**

**SUPREME COURT OF THE STATE OF CALIFORNIA**

---

STEPHEN K. DAVIS,  
Plaintiff and Respondent,

v.

FRESNO UNIFIED SCHOOL DISTRICT, AND  
HARRIS CONSTRUCTION CO., INC.  
Defendants and Petitioners

---

After a Published Decision By the Court of Appeal,  
Fifth Appellate District  
Case No. F079811

From the Superior Court,  
County of Fresno  
Case No. 12CECG03718  
The Honorable Kimberly Gaab

---

**MOTION THAT REVIEWING COURT TAKE  
FRESNO UNIFIED SCHOOL DISTRICT'S  
SUPPLEMENTAL EVIDENCE**

---

Kevin R. Carlin, Esq. (SBN 185701)  
Carlin Law Group, APC  
4452 Park Blvd., Suite 310  
San Diego, CA 92116  
Telephone: (619) 615-5325  
Facsimile: (619) 615-5326  
Kcarlin@carlinlawgroup.com

Attorneys for Respondent,  
STEPHEN K. DAVIS

## MOTION

Pursuant to California Rules of Court Rule 8.252(c)(1) Respondent Stephen K. Davis moves this Court take by way of this electronic filing Petitioner Fresno Unified School District's supplemental evidence referenced in Footnotes 5, 6, 7, 18, 19, 20, 21, 22, 28, 57, 59, 61, 62 and 65 of its Opening Brief and consider said evidence in support of all parties briefs on the issue on appeal, namely, "Is a lease-leaseback arrangement in which construction is financed through bond proceeds, rather than by or through the builder, a 'contract' within the meaning of Government Code section 53511?"

### MEMORANDUM IN SUPPORT

California Rules of Court Rule 8.252(c) allows a reviewing court to admit documents into evidence without a hearing on motion of a party if the court issues an order that:

- (A) State the issues on which evidence will be taken;
- (B) Specify whether the court, a justice, or a special master or referee will take the evidence; and
- (C) Give notice of the time and place for taking the evidence.

By way of Footnotes ("FN") District's Opening Brief referenced, incorporated and relied on numerous documents and facts contained therein that were not part of the prior record on appeal, inter alia, DOB Footnotes 5, 6, 7, 18, 19, 20, 21, 22, 28, 57, 59, 61, 62 and 65. These documents and the facts contained therein all relate to the single issue on which this Court granted

review and are necessary for that issue's proper determination by this Court. Respondent Stephen K. Davis does not object to the Court's consideration of these documents and the facts contained therein and Respondent Stephen K. Davis relies on same in his Answering Brief on the Merits. However, Petitioner Fresno Unified School District did not formally request this Court accept these documents and the facts contained therein into evidence so Respondent Stephen K. Davis is doing so for himself and District by way of this motion and the electronic copy of the foregoing documents in the form of an indexed and book marked Supplemental Appendix ("SA") bates stamped SA0001-SA0078 attached hereto which are comprised of the following:

1. Fresno Unified School District Bond Measure K Full Text of Measure; [ District FN 5, 18, 22, 57: Bates stamped SA001-SA0010]
2. Fresno Unified School District September 26,2012 - Adopt Resolution 12-01, Authorizing the Execution of Lease-leaseback Agreements for Construction of Rutherford B. Gaston Sr. Middle School, Phase II; [District FN 6: Bates stamped SA0011-SA0015]
3. Fresno Unified School District Facilities Master Plan Fact Sheet, dated January 2012; [District FN 7: Bates stamped SA0016]
4. Fresno Unified School District Bond Measure Q Full Text of Measure; [District FN 19, 22, 57: Bates stamped SA0017-SA0021]

5. Fresno Unified School District Bond Purchase Agreement for Measure K, Series G and Measure Q, Series B, dated September 28, 2011; [ District FN 20, 21: Bates stamped SA0022-SA0041]
6. IRS Publication 5271, Complying with Arbitrage Requirements - A Guide for Issuers of Tax Exempt Bonds, dated September 2019; [ District FN 28, 65: Bates stamped SA0042-SA0068]
7. California Debt Limit Allocation Committee Bond Explanation; [District FN 59: Bates stamped SA0069]
8. Fresno Unified School District Arbitrage Certificate Measure K, Series G and Measure Q, Series B; see Sections 1 and 2( d); dated October 13, 2011; [ District FN 61, 61: Bates stamped SA0070-SA0078]

DATED: July 2, 2021

/s/ Kevin R. Carlin

Kevin R. Carlin  
Attorneys for  
Respondent  
Stephen K. Davis

Case No. S266344

**SUPREME COURT OF THE STATE OF CALIFORNIA**

---

STEPHEN K. DAVIS,  
Plaintiff and Respondent,

v.

FRESNO UNIFIED SCHOOL DISTRICT, AND  
HARRIS CONSTRUCTION CO., INC.  
Defendants and Petitioners

---

After a Published Decision By the Court of Appeal,  
Fifth Appellate District  
Case No. F079811

From the Superior Court,  
County of Fresno  
Case No. 12CECG03718  
The Honorable Kimberly Gaab

---

**ORDER ON  
MOTION THAT REVIEWING COURT TAKE  
FRESNO UNIFIED SCHOOL DISTRICT'S  
SUPPLEMENTAL EVIDENCE**

---

IT IS HEREBY ORDERED THAT the motion of Respondent Stephen K. Davis, pursuant to California Rules of Court Rule 8.252(c)(1), that this Court take evidence in the above referenced appeal on the issue of “Is a lease-leaseback arrangement in which construction is financed through bond proceeds, rather than by or through the builder, a ‘contract’ within the meaning of Government Code section 53511?” is hereby GRANTED with regard to the following evidence which is hereby received electronically into the record on appeal as of this date in the form of an indexed and book marked Supplemental Appendix (“SA”) bates stamped SA0001-SA0078 comprised of the following:

1. Fresno Unified School District Bond Measure K Full Text of Measure; [ District FN 5, 18, 22, 57: Bates stamped SA001-SA0010]
2. Fresno Unified School District September 26,2012 - Adopt Resolution 12-01, Authorizing the Execution of Lease-leaseback Agreements for Construction of Rutherford B. Gaston Sr. Middle School, Phase II; [District FN 6: Bates stamped SA0011-SA0015]
3. Fresno Unified School District Facilities Master Plan Fact Sheet, dated January 2012; [District FN 7: Bates stamped SA0016]
4. Fresno Unified School District Bond Measure Q Full Text of Measure; [District FN 19, 22, 57: Bates stamped SA0017-SA0021]

5. Fresno Unified School District Bond Purchase Agreement for Measure K, Series G and Measure Q, Series B, dated September 28, 2011; [ District FN 20, 21: Bates stamped SA0022-SA0041]
6. IRS Publication 5271, Complying with Arbitrage Requirements - A Guide for Issuers of Tax Exempt Bonds, dated September 2019; [ District FN 28, 65: Bates stamped SA0042-SA0068]
7. California Debt Limit Allocation Committee Bond Explanation; [District FN 59: Bates stamped SA0069]
8. Fresno Unified School District Arbitrage Certificate Measure K, Series G and Measure Q, Series B; see Sections 1 and 2( d); dated October 13, 2011; [ District FN 61, 61: Bates stamped SA0070-SA0078]

DATED: \_\_\_\_\_, 2021.

By: \_\_\_\_\_  
Presiding Justice

**PROOF OF SERVICE**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen (18) years and not a party to the within-entitled action. My business address is 4452 Park Boulevard, Suite 310, San Diego, CA 92116. On July 20, 2021, I served the within document( s):

**MOTION TO AUGMENT RECORD ON APPEAL WITH  
FRESNO UNIFIED SCHOOL DISTRICT'S  
SUPPLEMENTAL EVIDENCE**

(BY ELECTRONIC SERVICE) On July 2, 2021, I instituted service of the above-listed document(s) by submitting an electronic version of the document(s) via file transfer protocol (FTP) though the upload feature at [www.tf3.truefiling.com](http://www.tf3.truefiling.com), to the parties who have registered to receive notifications of service of documents in this case as required by the Court. Upon completion of the transmission of said document, a confirmation of receipt is issued to the filing/serving party confirming receipt from [info@truefiling.com](mailto:info@truefiling.com) for TrueFiling.

<u>Myron Moskovitz</u> <u><a href="mailto:myronmoskovitz@gmail.com">myronmoskovitz@gmail.com</a></u>	<u>Timothy Thompson</u> <u>Mandy Jeffcoach</u> <u><a href="mailto:tthompson@wtjlaw.com">tthompson@wtjlaw.com</a></u> <u><a href="mailto:mjeffcoach@wtjlaw.com">mjeffcoach@wtjlaw.com</a></u>
<u>Sean M. SeLegue</u> <u><a href="mailto:sean.selegue@aporter.com">sean.selegue@aporter.com</a></u>	

(BY MAIL) by placing the sealed envelope with the postage thereon fully prepaid for collection and mailing at our address shown above, on the parties immediately listed above. I am readily familiar with Carlin Law Group, APC's business practice for collecting and processing correspondence for mailing with the United



States Postal Service the same day.

<u>Via U.S. Mail</u> Honorable Kimberly Gaab Fresno County Superior Court 1130 "O" Street Fresno, CA 93721	<u>Via U.S. Mail</u> Fifth District Court of Appeal 2424 Ventura Street Fresno, CA 93721
--	---

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 2, 2021, at San Diego, California.



---

Duane Besse

**FRESNO UNIFIED SCHOOL DISTRICT  
BOND MEASURE K**

**FULL TEXT OF MEASURE**

Shall the Fresno Unified School District:

- reduce overcrowding by building new classrooms/schools,
- make the District eligible for State matching funds,
- acquire school technology and hardware,
- repair plumbing, heating and air conditioning systems,
- renovate and modernize deteriorating classrooms,
- build library/media centers,
- upgrade classroom electrical wiring for computers,
- repair, rehabilitate, construct and acquire educational facilities and related property;

and issue \$199 million of bonds for the above purposes, at interest rates within the legal limit?

As required by the California Constitution, the proceeds from the sale of the bonds will be used only for the construction, reconstruction, rehabilitation or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, and not for any other purpose, including not for teacher and administrator salaries and other school operating expenses.

The specific school facilities projects to be funded are as follows:

**Priority I Projects**

The following projects will be completed using the \$199 million bond proceeds:

- (1) See attached specific school site project lists
- (2) Construction of 10 new elementary schools with site acquisitions
- (3) Modernization project planning (42 schools)
- (4) Acquisition of school technology and hardware District-wide
- (5) Acquisition of charter school facilities

**Priority II Projects**

The attached list of Priority II Projects are planned but will be contingent upon the amount of State matching funds received, which in turn is a function of the State building program rules, passage of State bonds, and growth rate of the District.

The Board of Trustees of the District has certified that it has evaluated safety, class size reduction and information technology needs in developing the foregoing list of school facilities projects to be funded.

The Board will conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific school facilities projects listed above.

The Board will conduct an annual, independent financial audit of the proceeds from the sale of the Bonds until all of those proceeds have been expended for the specific school facilities projects listed above.

(Measure K Continued)

Pursuant to Section 15772 of the Education Code, the Board will appoint a citizens' oversight committee and conduct annual independent audits to assure that funds are spent only on school and classroom improvements and for no other purposes.

**Priority I Projects:**

**Addams Elementary**

- Add outside lighting for security
- Parking lot expand/improve
- Additional water fountains
- Install sinks/water in portables
- Concrete walkways to portables
- Correct drainage by N/W portables
- Resurface/paint all wood shelving, sink areas
- Add/replace classroom carpeting
- Remove water tank from custodial closet
- Reroof portables
- Electrical/Security/Intrusion upgrades

**Addicott**

- Repair/replace linoleum
- Replace molding under classrooms windows
- New playground equipment
- Upgrade intrusion/security system
- Upgrade electrical system

**Anthony Elementary**

- Install sinks/water all classrooms
- Renovate/reseed grounds
- Replace all carpet
- Resurface asphalt
- Add yard lights
- New playground equipment
- Upgrade electrical system

**Ayer Elementary**

- New carpet in main building
- Add exterior lighting eastside
- Resurface asphalt playground
- Paint school exterior
- Add small glass windows in exterior doors
- Add water fountains near main building
- Install water/sinks in all portables
- Reroof classrooms and portables
- New play ground equipment
- Upgrade classroom electrical

**Aynesworth Elementary**

- Add hand wash facility by cafeteria
- Add water fountains back corridor
- Install sinks/water in all classrooms
- New carpet in office
- Reroof portables
- Replace furnace in MPR/upgrade EMS
- Upgrade electrical system, classroom lighting
- Resurface play areas, roads, & parking
- PA and fire alarm systems upgrade

(Measure K Continued)

New play ground equipment  
Electrical upgrades

**Balderas Elementary**

- Repair rusting/leaking portables
- Install sinks/water rooms 19-22, 30-34
- Install blinds in library office
- Pave walkways between rooms 5-26/12/27
- Install security camera/sensors - portables
- Paint lines in front of classroom doors
- Construct permanent resource shelving
- Construct shelving in parent meeting room
- Add water fountains on playground
- Install bulletin boards in hallways
- Hose bibs for portable areas
- Repave play court
- New play ground equipment
- Upgrade electrical

**Birney Elementary**

- Add sprinklers/convert to automatic
- Construct softball diamond
- Playground equipment
- Electric upgrade

**Bullard TALENT**

- New cafeteria/theatre, convert old cafeteria
- Reroof portables
- Enhance lighting, upgrade panels, cables
- Replace flooring classrooms, library
- Pave play area
- Signal systems: clocks, fire alarm, PA, security, closed circuit TV

**Burroughs Elementary**

- Plumb for water in all classrooms
- Complete walls in pod
- Add more playground drinking fountains
- Install whole-school alarm system
- Replace carpets in classrooms
- Refurbish playground/sprinklers
- Wall mount classroom TV's
- Refurbish adult restrooms
- Improve outside lighting
- Paint interior of cafeteria
- Eliminate flooding near cafeteria
- Install hand dryers in student restrooms
- Reroof multipurpose room and portables
- Repair/replace heating/air conditioning and EMS controls
- Upgrade lighting, electrical panels, cables
- Resurface roads and parking
- Upgrade clock system
- Add new play structure
- Electrical upgrades

**Calwa Elementary**

- Construct parking lot off Kavaland
- Paint cafeteria interior
- Construct bulletin boards in classrooms
- Dry erase boards in classrooms

(Measure K Continued)

Reroof classrooms, portables, corridors as needed  
Energy management controls  
Replace boiler  
Enhance lighting, upgrade panels, cables  
New play ground equipment  
Electrical upgrades

**Centennial Elementary**

Add lights/fencing to parking lots  
Renovate grounds/add automatic sprinklers  
Upgrade/add play equipment  
Resurface asphalt  
Playground equipment  
Electric upgrade

**Columbia Elementary**

Renovate student/adult restrooms  
Add sidewalk adjacent to bungalows  
Add sinks/water in all portables  
Replace classroom & outdoor sinks  
Construct trash bin enclosure  
Repair parking lot  
New play equipment  
Electrical upgrades

**Dalley Elementary**

Paint cafeteria interior  
Add eating shelter  
Paint interior of 7 restrooms  
Add fence on east side  
Reconstruct sewer system  
Replace sidewalk room #1  
Add safety barriers in front of room #1  
Add parent 'loading zone'  
New play equipment  
Reroof classrooms  
Heating/air conditioning in office and pod  
Install backflow  
Upgrade intrusion system  
Electrical upgrades

**Dalley Elementary (Heckman)**

Alleviate flooding  
Install hand-washing trough near kitchen wall  
Lower/adjustable basketball standards  
Install permanent drop off/loading/no parking signs

**Del Mar Elementary**

Additional staff parking lot  
Resurface asphalt by rooms 5 & 23  
Replant/expand grass area  
Install sinks/water in portables  
Construct trash enclosure  
Concrete slab w/patio cover for outside eating  
Concrete sidewalk by rooms 8, 12, 16, 17  
Concrete slab north of preschool  
Build new backstop

(Measure K Continued)

Reroof portables  
Playground equipment  
Electric upgrade

**Easterby Elementary**

Replace second half of asphalt area  
Add kindergarten portable  
Create auto pull-in area and parking lot on Peach  
New playground equipment  
Replace kindergarten play equipment  
Add bike garage  
Renovate grounds on Peach side & by old portables  
Replace carpet in old wings and kindergarten classes  
Add heating/air conditioning to parent room  
Convert library to teacher workroom  
Tile counter in staff lounge  
Convert loft to usable space  
Reroof portables  
Install energy management controls, air condition portable  
Enhance lighting, upgrade panels, cables

**Eaton Elementary**

Construct library/media center  
Replace heating/air conditioning  
Replace carpet w/VCT multipurpose  
Resurface playground & parking lot asphalt  
Replace sprinkler system  
Add drinking fountains near playgrounds  
Add storage space  
Upgrade electrical schoolwide  
Add lab in library  
Reroof portables (rooms 19-22)  
Add electronic gate in office  
Remodel student store/add canopy  
Repair/replace sidewalks incl. handicap access  
Replace trash enclosure  
New play equipment  
Upgrade intrusion system

**Edison-Bethune**

Upgrade heating/air conditioning  
Enhance lighting, upgrade panels, cables  
Replace flooring as needed in classrooms  
New play equipment  
Intrusion system upgrade

**Ericson Elementary**

Construct new library/media, computer lab  
Repave play area  
Install sinks/water in all portables  
Reroof portables  
New play equipment  
Upgrade intrusion system  
Upgrade electrical

**Ewing Elementary**

Install sinks/water in portables

(Measure K Continued)

Add water fountains  
Replace playground equipment  
Upgrade sprinklers  
Security lighting  
Mural, school name  
Reroof classrooms and multipurpose room  
Enhance lighting, upgrade panels, cables  
Upgrade intrusion system  
Electrical upgrades

**Figarden Elementary**

Renovate restrooms adjacent room 10  
Add counter, sink, door in kindergarten  
Widen walkways adjacent to fire lane  
Renovate/plant grass west of rooms 18, 19, 30  
Reroof south portables  
Add exterior lighting west of rooms 18, 19, 30

**Forkner Elementary**

New carpet/main building & old bungalows  
Resurface playground asphalt  
Paint school exterior & bathroom interiors  
Refurbish drinking fountains, sinks  
Clean air ducts/filters  
Install safety padding for all playground posts  
Storage area main building  
Paint exterior  
Paint interior of pod and portables  
Concrete walks  
New play equipment  
Intrusion upgrade  
Electrical upgrades

**Fremont Elementary**

Resurface both play courts  
Enlarge staff/visitor parking lots  
Add water fountains at N/W play court & portables  
Add electrical outlets in wing classrooms  
Install bulletin boards in cafeteria  
New play equipment  
Add shelving Reading Lab/Library  
Install 12' fence near N/W play court  
Add sprinklers/grass near portables  
Add storage space in office & lab  
Reroof classrooms & portables  
Heating/air conditioning office & pod  
Upgrade intrusion system

**Gibson Elementary**

Plumb water to all classrooms  
Additional lighting in parking lot  
Concrete pad for outside eating  
Reroof classrooms & portables  
Enhance lighting, upgrade panels, cables  
New play equipment  
Upgrade intrusion system  
Upgrade electrical

(Measure K Continued)

**Heaton Elementary**

Relocate playgrounds & parking lot  
Increase outside security lighting  
Install sinks/water in portables  
New playground equipment  
Courtyard cover  
Air condition resource room and kitchen  
Relocate trash bins, add enclosure  
Install rolling parking lot entrance gates  
Construct amphitheater  
Add water fountains  
Repair portable roofs  
Automate sprinklers east of cafeteria  
Install 'Heaton' sign at San Pablo and McKinley  
Install backflow  
Upgrade intrusion system  
Upgrade electrical

**Hidalgo Elementary**

Install projection screens in primary classes  
Wall mount TVs  
Improve lighting in primary classes  
Add sinks in rooms 31, 32, 33  
Paint school exterior, fill cracks  
Seal all concrete  
Improve water drainage various areas  
Add water fountains near bungalows  
Add outside back entrance to cafeteria  
Add lighting outside rooms 31-33, 27-28, 5 & 11  
Add sensor-type lighting in student restrooms  
Upgrade sprinkler timers  
Replace sinks outside cafeteria  
Add tether ball poles/paint game boundaries play area  
Upgrade lighting student restrooms E & W wings  
Various classroom interiors  
Add spaces and fence to parking lots  
Add shelving under computers rooms 5-18  
Add cabinets/counter in student store  
Extend sandbox, add play apparatus  
Add shelving in library  
Repair cracks in walkways/cafeteria floor  
Add cabinets, bookcase, counter in computer lab  
Apply sealant/install tile lower walls restrooms  
Replace A/C-heating closet doors  
Install shelf w/coat hooks in hallways rooms 5-18  
Install concrete tables/benches around quad  
Replace carpet with tile/linoleum  
Seal coat roads & parking  
New play equipment  
Electrical upgrades

**Holland Elementary**

Resurface asphalt  
Grade baseball field  
Additional water fountains

(Measure K Continued)

**Storm drainage improvement**

New parking lot and drives  
Relocate double gate  
Plant & turf rehabilitation  
Automatic irrigation system  
Reroof portables  
Enhance lighting, upgrade panels, cables  
New play equipment  
Intrusion upgrade  
Electrical upgrade

**Homan Elementary**

Add whiteboards portable classrooms  
Add water/sinks in portables  
Add security system/lighting in portables  
Additional water fountains  
New play structure  
Reroof classrooms, multipurpose room, kitchen  
Intrusion upgrade  
Electrical upgrade  
Energy Management System upgrades

**Jackson Elementary**

Install window blinds in rooms 15-20  
Remove carpet, install tile in multipurpose room  
New curtains in multipurpose room  
Install Jackson School Bell  
Install sound system in APR  
Install speaker in RSP room  
Move telephones in portables to south wall  
Repair stage curtain & replace back stage curtains  
Electric upgrades

**Jefferson Elementary**

New playground equipment  
Add security lighting for parking lots, outside classrooms  
Resurface blacktop at ends of classroom wings  
Add blacktop between cafeteria & rooms 1, 2, 3  
Paint exterior hallways with semi-gloss paint  
New softball diamond with 28 foot backstop  
Install backflow  
Intrusion upgrade  
Electrical upgrades

**King Engineering Center**

New playground equipment  
Repave play area  
Repaint some school surfaces  
Add water fountains near portables  
Landscape including added trees  
Install security cameras  
Reroof classrooms & Portables  
Heating/air conditioning pod, portables, EMS controls  
Enhance lighting, upgrade panels, cables  
New play equipment  
Electrical upgrades

(Measure K Continued)

**Kirk Elementary**

Rebuild walkway roof between cafeteria & room 12  
Remodel entryway  
Add classroom doors between library, classrooms 2 & 6  
Replace curtains with verticals various rooms  
Replace cafeteria front doors with metal doors  
Convert restrooms near room 12 into custodial storage  
Build dumpster enclosure  
Create parking lot S/W corner  
Landscape west of picnic area  
Remove sandbox, add grass with irrigation  
Resolve flooding between bungalows 22-28  
Install security gate S/E corner of campus  
Reroof Classrooms, MPR, Administration, and corridors  
Heating/air conditioning in MPR, pod, and portables  
Electrical upgrades

**Kratt Elementary**

Paint cafeteria interior  
Reroof all permanent buildings  
Complete concrete patio area  
Additional water fountains on playground  
Sinks/water in portables  
Playground equipment  
Intrusion upgrade  
Electric upgrade

**Lane Elementary**

Add hand dryers in all restrooms  
Add staff parking lot  
Update kindergarten play equipment  
Reroof classrooms  
HVAC schoolwide  
Playground equipment  
Electric upgrade

**Lawless K-8**

Additional water fountains  
Add counters & locking cabinets in classrooms  
Add sinks/water to portables  
Provide security for technology  
Add security lighting  
Upgrade lighting in portables  
Paint classroom interiors  
Pave walkways by portables  
Renovate front gate  
New walls in hallways  
Intrusion upgrade  
Electrical upgrades

**Leavenworth Elementary**

Add sinks/water rooms 19, 25, 26, 32-36  
Improve drainage by softball field  
Install gate at Rowell/Jackson entrance  
Landscape around portables  
Wire custodial office for technology  
Playground equipment  
Electrical upgrades

(Measure K Continued)

**Lincoln Elementary**

Build new 2-story school  
Improve heating/air conditioning in various rooms  
Repair/replace roofing classrooms  
Upgrade electrical outlets all classrooms  
Refurbish student/staff restrooms with handicap access  
Add sinks/water to portables  
New clock system throughout school  
Rekey entire campus  
New play structure  
Add shelf space in classrooms  
Add exterior security lighting  
New sound system in multipurpose room  
Additional parking spaces  
Repair/replace sprinkler system  
Playground equipment  
Electric upgrade

**Lowell Elementary**

Add sinks/water to 14 classrooms  
Build stage with sound system in cafeteria  
New primary playground equipment  
Permanent concrete benches on field  
Reroof classrooms, multipurpose room, kitchen, and corridors  
Heating/air conditioning portables and site EMS controls  
Lighting enhancements and new panels and cables  
Seal coat play area, roads, and parking  
Public address, security systems and conduit  
Playground equipment  
Electric upgrades

**Malloch Elementary**

Replace entire roof  
Additional outdoor lighting  
Resurface parking lot  
Replace heating/air conditioning in rooms 1-8  
Reroof classrooms and portables  
HVAC kitchen, MPR, office, pod, portables and EMS controls  
Playground equipment  
Intrusion upgrade  
Electric upgrade

**Manchester GATE**

Redesign playground, redo/expand asphalt  
Add sinks/water in portables  
Add special services space  
Add conference rooms  
Revise/add staff parking  
Water in staff room  
Add sprinkler system on field  
Window coverings in portables  
Pave walkways from rooms 25-28  
Playground equipment  
Electric upgrades

**Mayfair Elementary**

Replace/add playground equipment

(Measure K Continued)

Replace all drinking fountains  
Add shelving in classrooms  
Sinks/water in bungalows  
Install automatic sprinklers  
New stage curtains  
Reroof portables  
EMS controls  
Lighting enhancements and new panels and cables  
Playground equipment  
Electric upgrades

**McCardle Elementary**

Recarpet pods A & B, APR, Staff Lounge, Office  
Additional off-street parking area  
Heating/air conditioning office, pod, portable  
Enhance lighting, upgrade panels, cables  
Additional water fountains  
Additional storage space (pods & office)  
Intrusion system upgrade

**Muir Elementary**

Renovate island in main office  
Additional parking  
Resurface all asphalt  
Add walls to old library  
Playground equipment  
Intrusion upgrade  
Electrical upgrades

**Norseman Elementary**

Enlarge parking lot  
Add playground equipment  
Improve exterior lighting  
Replace classroom window coverings  
Add water fountains near playground  
Add walkway/cafeteria to library  
Improve water drainage by room 39  
Reroof corridors, multipurpose room, classrooms and portables  
Heating/air conditioning in portable  
Playground equipment  
Intrusion upgrade  
Electric upgrade

**Powers/Ginsburg**

New sewer  
Alleviate flooding near portables  
Build sand area  
Resurface asphalt  
Reroof portables, corridor, portables  
Enhance lighting, upgrade panels, cables  
Seal coat play areas  
Upgrade security & telephone systems  
Repair/replace plumbing fixtures in classrooms, restrooms  
New play equipment  
Intrusion upgrade

(Measure K Continued)

**Pyle Elementary**

Add peepholes in classroom doors  
Replace heating/air conditioning  
Add water/sinks in portables  
Expand parking, add lights  
Resurface playground, add backstop  
Improve walkway, various rooms  
Install window coverings in portables  
Reroof portables  
Lighting enhancements and new panels and cables  
Seal coat roads and parking  
Playground equipment  
Intrusion upgrade  
Electric upgrades

**Rata**

Level/resurface parking lots  
Replace torn/broken curtains with walls in E & W kitchens  
Reroof pod  
New playground equipment  
Intrusion system upgrade  
Electrical upgrades

**Robinson Elementary**

Heat/air condition upgrade - whole school  
Outside intercom  
Outside lighting  
Replace cafeteria carpet with VCT  
Replace play equipment  
Reroof entire school  
Automatic irrigation system, refurbish grass and landscape  
Replace window shutters/coverings  
Playground equipment  
Electric upgrades

**Roeding Elementary**

Improve storm drain  
Professional backstop and scoreboard  
Water to portables  
Add covered cement area at entrance of cafeteria  
Pave walkway from blacktop to parking lot  
Renovate small parking lot  
Reroof administration, classrooms, and portables  
Video surveillance  
Intrusion upgrade  
Electric upgrade

**Rowell Elementary**

Sinks/water in all classrooms  
Additional water fountains patio area  
Cabinets in all portables  
New playground equipment  
Outside security lighting  
Reroof portables  
Heating/air conditioning in pod, portables, and EMS controls  
Playground equipment  
Intrusion upgrade  
Electric upgrade

(Measure K Continued)

**Slater Elementary**

Resurface play court  
Sinks/water to 20 classrooms  
Increase parking lot size  
Fence parking lot  
Install security lights in parking lot  
Finish walls with doors between pod C & D classrooms  
Install outside lighting outside portables  
Add water fountains in center of school  
Replace carpet in Pods C & D  
Security lighting in front of school  
New play equipment  
Intrusion upgrade  
Electrical upgrades

**Starr Elementary**

Add security window in office  
Add security/safety bars computer lab doors  
Automatic irrigation system  
Pave walkway room 4 to library  
Add play equipment  
Outside security lighting (annex)  
Refurbish existing fencing  
Landscape annex  
Reroof portables  
New play equipment  
Intrusion upgrade  
Electrical upgrade

**Storey Elementary**

Outside security lighting rooms 34, 38, 39  
Off-track storage  
Handicapped accessible play structure  
Water fountains Kindergarten & Preschool playground  
Canopy for kindergarten, 1-6 playground  
Inside control of exterior lights rooms 25-32  
Playground equipment  
Electric upgrade

**Sunset Elementary**

Additional classroom electrical outlets  
Security lighting, various locations  
Resurface play areas  
Additional water fountains  
Replace playground equipment/add backstop  
Sinks/water in classrooms  
Pave walkways to bungalows  
Intrusion upgrade

**Thomas Elementary**

Additional parking  
Heating/air conditioning entire campus  
Upgrade lighting in parking lot, bungalows  
Sinks/water in bungalows  
Paint interior of cafeteria, new curtains  
New PA system in cafeteria  
TV wall mounts in classrooms

(Measure K Continued)

Additional water fountains  
Furnace in multipurpose room  
Intrusion upgrade  
Electrical upgrades

**Turner Elementary**

Enhanced security  
Storage space  
Sinks inside cafeteria  
Sinks/water in bungalows-fountains outside  
Carpet bungalows, window coverings  
Improve interior lighting, add exterior lighting near bungalows  
Replace playground equipment  
Expand staff lounge  
Reroof portables  
Evaporative cooler multipurpose room  
Enhance lighting, upgrade panels, cables  
Electrical upgrades

**Viking Elementary**

New playground equipment  
Improve water drainage south of portables  
Reroof portables  
Heating/air conditioning lounge, portable  
Intrusion system upgrade  
Electrical upgrades

**Vinland Elementary**

Add cement barrier for parking  
Water in classrooms  
Add trees  
Lighting for back of school  
Heating/air conditioning in portables  
Enhance lighting, upgrade panels, cables  
New play equipment  
Intrusion upgrade  
Electrical upgrades

**Webster Elementary**

Heating/air conditioning multipurpose room  
Flooring multipurpose  
New play equipment

**Wilson Elementary**

Sinks/water in portables  
Reroof portables  
Energy management controls  
Boiler multipurpose room  
Electrical panels & cables  
Resurface asphalt play area  
Seal coat roads & parking  
Upgrade clock and security systems  
Replace sewer main  
New play equipment  
Intrusion upgrade  
Electrical upgrades

(Measure K Continued)

**Winchell Elementary**

Additional water fountains  
Benches under trees  
Outside security lighting  
Reroof multipurpose room, portables  
Heating/air conditioning office, portables, kindergarten  
New play equipment  
Electrical upgrades

**Wishon Elementary**

Improve outside lighting  
Raise sidewalk - prevent flooding  
Install automatic, pop-up sprinklers  
Add grass  
Sinks/water in portables  
Playground equipment & soccer kickwall  
Replace asphalt sidewalk with concrete  
Reroof classrooms, kitchen, multipurpose room  
New play equipment  
Intrusion upgrade  
Electrical upgrade

**Wollers Elementary**

Refurbish cafeteria & administration office  
Resurface asphalt areas  
Add security lighting outside  
Replace kindergarten/preschool playground equipment  
Alleviate flooding by room 40  
Extend steps outside rooms 23, 40  
Add sidewalk from intermediate rooms to primary blacktop  
Reroof portables  
Evaporative cooler MPR, energy management system controls  
Enhance lighting, upgrade panels, cables  
Upgrade PA & security signal systems  
Replace sewer main  
Intrusion system upgrade  
Electrical upgrades  
Playground equipment

**Ahwahnee Middle School**

Resurface various areas  
Install fence around walk-in freezer  
Install cement flower boxes  
Eliminate flooding between D & E wings  
Rewire science lab outlets  
Create football/soccer field with oval track  
Second scoreboard, new floor hardware - gym  
Change outside lighting to fluorescent  
Cement bike rack area  
Reroof classrooms  
Air conditioning compressor  
Video surveillance  
Upgrade intrusion system  
Electrical upgrades  
Energy management system upgrades

(Measure K Continued)

**Baird 5-8 School**

Additional water fountains (play fields & grounds)  
Add security lighting schoolwide  
Reroof entire school  
Replace lighting in restrooms  
Paint restroom interiors  
Additional storage space  
New play equipment  
Electrical upgrades

**Carver 5-8 Academy**

Replace heating/air conditioning  
Add security lighting front of office  
Outside PA system  
Activate all technology drops  
Storage area adjacent to room 27  
Resurface all playgrounds  
Remove sink room 16  
Reroof classrooms & portables  
Enhance lighting, upgrade panels, cables  
Upgrade electrical

**Cooper Middle School**

Improve/add inside & outside lighting  
Improve drainage on west field & between rooms 7A/7B  
Metal lockers gym locker room  
Reroof portables & corridor  
Energy management system controls & heat pump  
Enhance lighting, upgrade panels, cables  
Seal coat play area, roads, parking  
Upgrade clocks, security, telephone, closed circuit TV  
Video surveillance  
Intrusion system upgrade

**Edison-Computech 7-8**

Energy management systems  
Boiler in gym  
Enhance lighting, upgrade panels, cables  
Upgrade clock, PA; install conduit & cables, closed circuit TV  
Replace sewer main  
Video surveillance  
Electrical upgrades

**Fort Miller Middle School**

Repave all asphalt areas including parking lots  
Add bleacher seating, modern protective cages  
Replace bicycle parking area with administration parking lot  
Remodel PE locker rooms/new lockers  
Remove old PG&E equipment by basketball courts  
Reroof classrooms, portables, gym, multipurpose room  
Video surveillance  
Intrusion system upgrade

**Kings Canyon Middle School**

Repave all asphalt  
Additional exterior security lighting  
HVAC heat pump, energy management system controls

(Measure K Continued)

Enhance lighting, upgrade panels, cables  
Install backflow  
Install video surveillance  
Intrusion system upgrade

**Scandinavian Middle School**

Repair roofs all portables  
Grade areas around portables  
Replace asphalt by cafeteria  
Cement over dirt by gym  
Replace all asphalt  
Redo sprinklers  
Storage cage for equipment  
Five tennis courts  
Refurbish all fields  
Shelves in equipment room  
Water fountains near athletic fields  
Reroof portables  
Energy management system controls  
Install backflow  
Video surveillance system  
Intrusion system upgrade  
Electrical upgrades

**Sequoia Middle School**

Repair roof  
Upgrade electrical  
Upgrade irrigation, reseed yard  
Outside security lighting (east/west halls)  
Upgrade restrooms  
Reopen restroom near room 25  
Build patio cover near snack bar  
Install drainage pipes by attendance office  
Metal lockers in gym locker room  
Heating/air conditioning classroom, EMS controls  
Boiler  
Video surveillance

**Southeast Middle School**

Reroof portables  
Video surveillance  
Electrical upgrades

**Tehquite Middle School**

Resurface and line both parking lots  
Repair roofs on old lockers  
Replace broken water fountains, add 2-3 additional  
Build regulation softball diamond with dugouts  
Remove old exercise bars from field  
Reroof classrooms, administration, portables  
Video surveillance  
Intrusion system upgrade  
Electrical upgrades

**Tenaya Middle School**

New air conditioning units  
Retrofit PE restrooms for wheelchair access

(Measure K Continued)

Replace old stalls in restrooms  
Install insulated wall between rooms 45 & 46  
Library shelving in room 25  
Add teacher multimedia station  
Add shelving in several classrooms  
Whiteboards for room 25  
Add shelving in center pod  
Add shelving in offices in pod  
Duct air conditioning to GLC office  
Install tack board in several rooms  
Install electrical strips  
Paint interior of PE locker rooms  
Install evaporative cooler for greenhouse  
Add cabinets in room 76  
New PA system  
Build canopy for outdoor eating area  
Add shelving to boys' locker room for football equipment  
New curtains/blinds in pod  
Resurface basketball courts  
Replace drinking fountains  
Install drywell where faulty drainage exists  
Add permanent cement benches & tables  
Renovate and plant grass, shrubbery  
Install drinking fountains, electricity at new softball diamond  
New backstop for old softball diamond  
Cement walkway/picnic area between rooms 5 & 7  
Cement walkway for room 57  
Pedestrian gate installed in fence at front of school  
Install floodlight at front of office complex  
Build fence around trash containers  
Repave access road on east side of campus  
Reroof portables & corridor  
Evaporative cooler for kitchen  
Enhance lighting, upgrade panels & cables

**Tioga Middle School**

Video surveillance  
Concrete slabs between classroom wings  
Repair leaking/sagging hallways  
Covered patio west of classrooms  
Add storage space  
Metal lockers in gym locker room  
Reroof classrooms, multipurpose room, corridors  
Boilers for classrooms & gym  
Intrusion system upgrade  
Electrical upgrades  
Energy management system upgrade

**Wawona Middle School**

Pave Gettysburg lot/driveway  
Patio area cover  
Add water fountains near sport fields  
Add marquee  
Metal lockers in gym locker room  
Reroof classrooms & corridor

(Measure K Continued)

Energy Management System controls  
Gymnasium boiler  
Enhanced lighting, upgrade panels, cables  
Install video surveillance  
Intrusion upgrades  
Electrical upgrades

**Yosemite Middle School**

Repave east parking lot  
Handicap ramps to 5 rooms  
Divide room A7 into two classrooms  
Paint interior of gym, add logo  
Upgrade electrical in library  
Storage facility  
Improve school identification in front  
Wall mount classroom TVs  
Reroute rain down spouts  
Install automatic sprinklers north field  
Repave tennis courts  
Build trash enclosure  
Add softball field  
Repave volleyball/basketball courts  
Upgrade water fountains  
Add locking cabinets in room D-3  
Replace gym floor  
Build concrete stage south field  
Add shelving room C-7  
Reroof portables  
Video surveillance  
Electrical upgrades

**Bullard High School**

Upgrade science classrooms  
Upgrade entire school electrical outlets  
Plumbing rooms N2, N43, N61  
Addition to counseling office  
Additional faculty parking, corner Barstow & Palm  
Electrical winches, north gym  
Reroof classrooms, gym, multipurpose room, and portables  
HVAC gym, library, portables, EMS controls and chiller for theater  
Boilers for gym, classrooms, and pool  
Video surveillance  
Intrusion upgrade  
Pool upgrade

**DeWolf Continuation High School**

Reroof classrooms and portables  
Install backflow  
Video surveillance  
Intrusion upgrade  
Electrical upgrades

**Duncan Polytechnical High School**

Repair/replace grounds/parking lot  
New heating/air conditioning units  
Reroof gym and portables  
Replace boiler in gym and multipurpose room

(Measure K Continued)

Lighting enhancement and new panels and cables  
Clock, fire alarm, PA, security, and television systems  
Video surveillance  
Intrusion upgrade  
Electrical upgrade

**Edison High School**

Add stadium seating around football/track field  
Add stadium lights  
Install seating pool area  
Repair pool cool-decking  
Replace metal lockers in gym  
HVAC classrooms, pod, portables, and wing  
Lighting enhancement and new panels and cables  
Video surveillance  
Electrical upgrades  
Pool upgrades

**Fresno High School**

Two offices in counseling area  
Additional portable for career center  
Administration meeting room - 20 people  
Four outdoor food serving areas with electricity  
Reroof admin, library, auditorium, classrooms, gym, portables  
HVAC for classrooms, portables and EMS controls  
Stage rigging  
Intrusion upgrade  
Electrical upgrades  
Pool upgrades

**Hamilton**

Reroof gym, classrooms, kitchen, and corridors  
Heat pumps for classrooms/pod, compressor, EMS controls  
Video surveillance  
Intrusion upgrade  
Electrical upgrades

**Hoover High School**

Warm water in handicap restrooms  
Add dual-pac room 111, replace in rooms 76, 77  
Security lights on sensors  
Resurface asphalt, add drainage  
Add handicap access from Barstow lot  
Concrete walks  
Plant and turf rehabilitation  
Reroof classrooms, multipurpose room, administration, and gym  
Video surveillance  
Intrusion upgrade  
Electrical upgrades  
Pool upgrades

**Konkel**

Enhance lighting, upgrade panels, cables  
Pave play area, roads & parking

**McLane High School**

New bleachers for gym

(Measure K Continued)

Additional athletic fields  
Remodel boys' & girls' locker rooms  
Build outside auditorium - quad  
New sound system in gym  
Build wrestling room  
Update various inside/outside lighting  
Fence gym and PE area  
Paint gym ceiling & replace lights  
Resurface PE area  
Add racket ball courts  
Add landscaping  
Reroof cafeteria, classrooms, administration, library, portables  
Video surveillance  
Intrusion upgrade  
EMS Upgrades  
Electrical upgrade

**Roosevelt High School**

All weather track  
Upgrade network  
Cafeteria: acoustical tile, new flooring, air conditioning  
New sprinkler system for athletic fields  
Expand/renovate metal shop  
Level playing fields  
Build two new tennis courts  
Install lift pump in auditorium  
Reroof auditorium, cafeteria, canopy, classrooms, and gym  
HVAC office, portables, science, chiller - West Hall, EMS controls  
Boiler for auditorium  
Enhance lighting, new panels, cables; emergency generator  
Install backflow  
Stage rigging  
Intrusion upgrade  
Electrical upgrades  
Pool upgrades  
ICTV coax and conduit infrastructure

**Sunnyside High School**

Lights for swim pool  
Cover exterior eating areas  
Tint windows  
Cyclorama for theatre  
Storage for drama department  
Additional lockers for athletics  
Modify Special Education classroom restroom

**PRIORITY II PROJECTS**

NEW HIGH SCHOOL  
NEW MIDDLE SCHOOL  
DEWOLF CONTINUATION - REBUILD SITE  
BURROUGHS ELEMENTARY - PURCHASE LAND TO INCREASE SITE  
HIDALGO ELEMENTARY - NEIGHBORHOOD RESOURCE CENTER  
LEAVENWORTH ELEMENTARY - ENCLOSE TABLE STORAGE IN CAFETERIA  
EDISON-COMPUTECH - REMODEL P.E. LOCKER ROOMS,  
SHOWERS, RESTROOMS



(Measure K Continued)

BULLARD & HOOVER HIGH SCHOOLS – DEEP SWIMMING POOLS  
BULLARD HIGH SCHOOL – ENLARGE WEIGHT ROOM IN NORTH GYM  
EDISON HIGH SCHOOL – SNACK BARS NEAR ATHLETIC FIELDS  
ROOSEVELT HIGH SCHOOL – TWO NEW SOFTBALL FIELDS

**42—MODERNIZATION**

Addams remaining area  
Ahwahnee  
Anthony  
Aynesworth  
Bethune  
Bullard  
Burroughs  
Calwa  
Columbia  
Dailey  
DeWolf  
Easterby  
Eaton  
Edison  
Figarden  
Fremont  
Fresno  
Heaton  
Hoover  
Jefferson  
King  
Kirk  
Kratt  
Lane  
Lincoln  
Lowell remaining area  
Malloch  
McCardle  
Muir  
Pyle  
Robinson  
Roosevelt  
Rowell remaining area  
Sequoia  
Slater  
Starr  
Sunset  
Tehipite  
Tioga  
Webster  
Winchell  
Yosemite

**8—OFFICE EXPANSIONS/REMODELS**

Eaton  
Heaton  
Muir  
Turner  
Viking

(Measure K Continued)

Fresno  
Hoover  
McLane

**2—PRACTICE GYMS/EVENT CENTER**

Fresno  
McLane

**3—PARKING LOTS**

Bullard Talent  
Dailey  
Kratt

**2—WHITEBOARDS/RPLC CHALKBDS**

Ayer  
Del Mar

**6—AUXILIARY ROOMS**

Columbia  
Ewing  
Kratt  
Starr  
Wishon  
Edison-Computech

**2—ENCLOSE CAFETERIA PATIOS**

Balderas  
Hidalgo

**24—RESTROOM-STUDENT/STAFF**

Addams  
Aynesworth  
Burroughs  
Ericson  
Fremont  
Holland  
Homan  
Kirk  
Kratt  
Mayfair  
McCardle  
Slater  
Storey  
Sunset  
Thomas  
Viking  
Wilson  
Winchell  
Wishon  
Yosemite  
Bullard  
Edison  
Fresno  
Hoover

(Measure K Continued)

**9—ADD/REPLACE CLASSROOMS**

Addams  
Homan  
Norseman  
Robinson  
Viking  
Baird  
Edison-Computech  
Edison  
Fresno

**3—COVERED EATING AREA**

Calwa  
Centennial  
Lawless

**3—LIB/MEDIA—NEW OR ENLARGE**

Del Mar  
Hidalgo  
Bullard

**5—CAFETERIAS—NEW/EXPAND/REFURBISH**

Heckman  
Turner  
Winchell  
Carver  
Bullard

**3—REMODEL/ENLARGE STAFF LUNCHROOMS**

Calwa  
Hidalgo  
Jefferson

Approval of Measure K does not guarantee that the proposed project or projects in the Fresno Unified School District that are the subject of bonds under Measure K will be funded beyond the local revenues generated by Measure K. The School district's proposal for the project, or projects may assume the receipt of matching state funds which could be subject to appropriation by the Legislature approval of a statewide bond measure.

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL**

Voter approval of this measure will authorize the governing board of the Fresno Unified School District to issue and sell bonds in the maximum amount of \$199 million dollars (\$199,000,000), bearing interest at rates within the legal limit. The bond proceeds will be used to reduce overcrowding by building new classrooms and schools, make the District eligible for State matching funds, acquire school technology and hardware, repair plumbing, heating and air conditioning systems, renovate and modernize deteriorating classrooms, build library and media centers, upgrade classroom electrical wiring for computers, and repair, rehabilitate, construct and acquire educational facilities and related property.

s/ Phillip S. Cronin  
County Counsel

(Measure K Continued)

### TAX RATE STATEMENT

An election will be held in Fresno Unified School District on March 6, 2001 to authorize the sale of \$199 million in general obligation bonds. The following information is submitted in compliance with Sections 9400-9404 of the California Elections Code.

1. The best estimate of the tax rate that would be required to fund this bond issue during the first fiscal year after the sale of the first series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is \$.01369 per \$100 of assessed valuation in fiscal year 2002-03.
2. The best estimate of the highest tax rate that would be required to fund this bond issue, based on estimated assessed valuations available at the time of filing this statement, is \$.05968 per \$100 of assessed valuation in fiscal year 2011-12.
3. The best estimate of the tax rate that would be required to fund this bond issue during the first fiscal year after the sale of the last series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is \$.05968 per \$100 of assessed valuation in fiscal year 2011-12.

These estimates are based on projections derived from information obtained from official sources. The actual tax rates and the years in which they will apply may vary depending on the timing of bond sales, the amount of bonds sold at each sale and actual increases in assessed valuations. The timing of the bond sales and the amount of bonds sold at any given time will be determined by the needs of the District. Actual assessed valuations will depend upon the amount and value of taxable property within the District as determined in the assessment and the equalization process.

s/ Karen L. Willett  
Deputy Supv/CFO

### ARGUMENT IN FAVOR

#### VOTE YES ON MEASURE K

As an All America City, Fresno's citizens deserve praise for restoring civic pride and showcasing the many elements that make Fresno a great place to live. The foundation of the community is its schools.

If Fresno, and its children, are to keep pace with the incredible changes taking place in the world, we must invest in our schools.

With over 90 schools, Fresno Unified's facility needs continue to be overwhelming. Nearly 80,000 students attend classes on campuses designed to handle 60,000.

Our students deserve access to computers and modern technology. They need sound and secure schools. And they need more classrooms to relieve overcrowding.

Say "yes" to student access to computers and technology. Measure K will:

-Upgrade 40-year-old classroom electrical systems to accommodate computers

(Measure K Continued)

-Provide students with access to more computers and technology

Say "yes" to sound and secure schools. Measure K will:

-Replace aged classroom heating and air conditioning systems, leaky roofs, and 40-year-old sewer systems

-Make basic repairs such as painting, lighting and plumbing to decades-old schools

Say "yes" to reduce overcrowding. Measure K will:

-Build 300 new classrooms

-Provide more science labs, cafeterias, computer labs and libraries to relieve overcrowding

Say "yes" to maximizing our money.

Measure K will make Fresno Unified eligible for as much as \$174 million in state matching funds, including the modernization of 42 schools.

There is no greater symbol of civic pride and commitment than a community that supports outstanding schools for its children. To ensure a future of greatness for Fresno, it begins today with your support of Measure K for our schools. With the average cost to the average homeowner being less than \$30 per year, let's show our children that our All America City supports their future.

s/ H. Spees  
CEO, Fresno Leadership  
Foundation

s/ Amy Arambula  
Attorney

s/ Jim Hendricks  
Business Owner

s/ Alan Autry  
Mayor of Fresno

s/ Elaine Bernard  
CEO, Genesis, Inc.

### REBUTTAL TO ARGUMENT IN FAVOR

As an All American City, Fresno Unified School District has one of the highest drop out rates in the state (35%), and some of the lowest test scores. Measure K does not address these needs. The last bond, passed 60 months ago, gave FUSD \$430 million. FUSD promised to build a technical high school so that potential drop outs could learn a trade. Instead, they built Sunnyside High School, a dozen new elementary schools, and a new middle school. Elementary enrollment in FUSD is declining. New schools are not a critical issue at this time.

Vote No on Measure K

At the present time there are six separate bonds on the tax bill, which amounts to 30% of the total tax bill. The last bond was supposed to cost the average taxpayer \$24. Instead, it costs almost \$100.

Vote No on Measure K

Passage of Measure K at the 55% rule guarantees a lawsuit.

(Measure K Continued)

Proposition 39 states that a school bond can only be voted on during a primary or general election, a regularly scheduled local election or a statewide special election. The City of Fresno is not having a local election so this bond is illegal according to the California Constitution.

FUSD has 52 million dollars left from Measure A. With doubled utility bills causing financial chaos, a new bond is not feasible at this time.

Vote No on Measure K

SAN JOAQUIN VALLEY TAXPAYERS ASSOCIATION

Jack Fiorentino, Chairman

s/ Jack M. Fiorentino

s/ John Santoya

### ARGUMENT AGAINST

HERE WE GO AGAIN. THE FRESNO UNIFIED SCHOOL DISTRICT WANTS US TO OK A \$196 MILLION BOND THAT WILL PUT AN ADDITIONAL LIEN ON OUR PROPERTIES EVEN BEFORE THE PREVIOUS LIENS THAT WERE ADDED BY THE 1995 BOND MEASURE "A" ARE REMOVED.

YES, REMAINING ON OUR PROPERTY TAXES WILL BE THE EXTRA TAXES FROM MEASURE "A" (THE \$215 MILLION BOND ADDED IN 1995), AND WE'LL BE PAYING OFF THESE LIENS FOR YEARS TO COME.

F.U.S.D. IS ONE LARGE REASON WHY WE HAVE PAID OVER 20% MORE ON OUR PROPERTY TAX BILL THAN WAS SET BY PROPOSITION 13. NOW THEY WANT US TO PAY EVEN MORE.

VOTE NO ON MEASURE K

WHY ARE THEY BACK FOR MORE? IN 1995 THE SCHOOL BOARD SAID, "PASS OUR BOND AND WE WON'T ASK FOR ANOTHER BOND FOR TWENTY YEARS? WELL, WE NOW KNOW F.U.S.D. CANNOT BE TRUSTED.

BECAUSE OF SERIOUS COSTS OVERRUNS THAT HAVE TOTALED IN THE \$MILLIONS FROM THE PREVIOUS BOND'S PROJECT LIST THERE REMAINS ITEMS THAT THE DISTRICT HAS NOT COMPLETED. THE LAST BOND WAS MATCHED BY THE STATE WHICH PROVIDED \$430 MILLION FOR DISTRICT PROJECTS. WHERE DID ALL OF THESE MILLIONS GO? THERE REMAINS \$52 MILLION UNSPENT BOND MONEY.

HOW MUCH TAXES DO THEY EXPECT US TO PAY? THE FRESNO UNIFIED SCHOOL DISTRICT DISCRIMINATES AGAINST SENIOR CITIZENS BY CHARGING THEM THOUSANDS OF DOLLARS IN DEVELOPER FEES TO BUILD A NEW HOME EVEN THOUGH THEY HAVE PAID TAXES IN THE DISTRICT FOR OVER 30 YEARS. BESIDE THIS BOND, THE DISTRICT ASSESSES EVERY CONSTRUCTION PROJECT, NEW HOME BUILT, HOME EXPANSION OR COMMERCIAL BUILDING, WITH A SCHOOL IMPACT FEE THAT IS ONE OF THE HIGHEST IN THE STATE.

SA009

(Measure K Continued)

**VOTE NO ON MEASURE "K."**

**SAN JOAQUIN VALLEY TAXPAYERS ASSOCIATION**

s/ Jack M. Florentino  
Chairman

s/ John Santoya  
Member

**REBUTTAL TO ARGUMENT AGAINST**

The Argument Against Measure K is simply **NOT TRUE**. But rather than arguing the mistakes and distortions, voters can get the true facts by calling the District direct. More importantly:

If you believe that our children deserve a quality education, **Vote Yes on Measure K.**

If you believe that our schools should be invested in rather than left to deteriorate, **Vote Yes on Measure K.**

If you believe that we should not let the chance of getting \$174 million in additional state matching funds slip through our fingers, **Vote Yes on Measure K.**

If you believe that we should continue basic repairs in our schools' plumbing, heating, air conditioning and electrical systems, **Vote Yes on Measure K.**

If you believe that students should not have to go to overcrowded schools, **Vote Yes on Measure K.**

If you believe all our children should be provided access to modern technology, **Vote Yes on Measure K.**

If you believe that the future of education in our community is worth less than \$30 per year for the average homeowner, **Vote Yes on Measure K.**

And finally, if you believe that Fresno is a dynamic, caring All-American city that understands that its future depends on putting the education of its children on the highest priority, **Vote Yes on Measure K.**

**Please join us with thousands of other supporters of our children, teachers and schools in Voting Yes on Measure K.**

s/ H. Spees  
CEO, Fresno Leadership Foundation

s/ Amy Arambula  
Attorney

s/ Jim Hendricks  
Business Owner

s/ Alan Autry  
Mayor of Fresno

s/ Elaine Bernard  
CEO, Genesis, Inc.

**FRESNO UNIFIED SCHOOL DISTRICT  
BOARD AGENDA ITEM**

**AGENDA ITEM: B-11**

<b>AGENDA SECTION</b> <i>(Check Box Below)</i>			
<b>A</b> CONSENT	<b>B</b> DISCUSSION	<b>C</b> RECEIVE	<b>RECOGNIZE/ PRESENT</b>
	<b>X</b>		

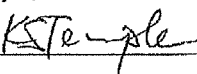
Board Meeting Date: September 26, 2012
---

<b>ACTION REQUESTED:</b> <i>(Adopt, Approve, Ratify, Discuss, Receive, etc.)</i>	<b>Adopt</b>
---	--------------

<b>TITLE AND SUBJECT:</b> Adopt Resolution 12-01, Authorizing the Execution of Lease-leaseback Agreements (Site Lease and Facilities Lease with Construction Provisions) for Construction of Rutherford B. Gaston Sr. Middle School, Phase II (Construction of Buildings)
---

<p><b>DESCRIPTION/DISCUSSION:</b> Attached is Resolution 12-01, the adoption of which is recommended to authorize the execution of lease-leaseback agreements (site lease and facilities lease with construction provisions) with Harris Construction Co., Inc. for Phase II construction of Rutherford B. Gaston Sr. Middle School. Phase II of the project consists of construction of buildings, on-site/site work, and athletic fields at the guaranteed maximum price of \$36,702,876.</p> <p>The lease-leaseback project delivery method is allowed under Education Code Section 17406. Harris Construction Co., Inc. is on the list of lease-leaseback contractors approved by the Board of Education on May 25, 2011.</p> <p>The site lease and facilities lease with construction provisions are available for review in the Board Office. The plans and specifications are available for review in the Purchasing Department.</p> <p><b>District Goals:</b> Approval of this agenda item addresses each of the four Fresno Unified School District Goals for 2008-2013 in that it supports student success through operational excellence.</p>
--

<b>FINANCIAL SUMMARY:</b> Sufficient funds of \$36,702,876 are available in the 2012/13 Measure K and Measure Q budgets.
--

<b>PREPARED BY:</b> Paul Rosencrans, Executive Director, Purchasing <i>(Signature Required)</i>	<b>DIVISION:</b> Operational Services <b>PHONE:</b> 457-3134
<b>DIVISION APPROVAL:</b> Karin Temple, Assistant Superintendent, Operational Services <i>(Signature Required by Associate Superintendent)</i> 	<b>SUPERINTENDENT APPROVAL:</b>

Resolution No. 12-01

**RESOLUTION OF THE BOARD OF EDUCATION OF  
THE FRESNO UNIFIED SCHOOL DISTRICT  
AUTHORIZING THE EXECUTION OF A SITE LEASE  
AND FACILITIES LEASE WITH CONSTRUCTION  
PROVISIONS, AND OTHER ACTS RELATING TO THE  
CONSTRUCTION OF RUTHERFORD B. GASTON SR.  
MIDDLE SCHOOL, PHASE II (CONSTRUCTION OF  
BUILDINGS)**

WHEREAS, the Fresno Unified School District ("District") desires to make improvements for the construction of the Rutherford B. Gaston Sr. Middle School, Phase II ("Project"), as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, Rutherford B. Gaston Sr. Middle School, Phase II ("Site"), as a lease-leaseback project whereby the District will lease the Site which the District owns to Harris Construction Co., Inc. ("Builder") who will construct the Project thereon and lease the Project and underlying Site back to the District; and

WHEREAS, Education Code Section 17406 authorizes the governing board of a school district, without advertising for bids, to let to any person, firm or corporation any real property belonging to the district if the instrument by which such property is let requires the lessee to construct on the demised premises, a building or buildings for use of the school district during the term thereof, and provides that title to the building shall vest in the school at the expiration of that term; and

WHEREAS, it is in the best interest of the District to cause the construction of the Project through lease and sublease of the Site pursuant to Education Code Section 17406; and

WHEREAS, in order to complete the Project, it is necessary that the District enter into the Site Lease, in which the Site will be leased to Builder, and a Facilities Lease which provides for the sublease of the Site and the lease of the Project by Builder to the District, and that certain other action be taken and authorized; and

WHEREAS, the Facilities Lease includes Construction Provisions with which Builder shall comply with respect to construction of the Project; and

WHEREAS, pursuant to Section 17402 of the Education Code, the plans and specifications for the Project ("Plans and Specifications") must be prepared and adopted prior to entering into Site Lease and Facilities Lease for the Project; and

WHEREAS, the Plans and Specifications have been approved by the Division of State Architect ("DSA"); and

WHEREAS, in order to ensure that moneys sufficient to pay all costs will be available for the Project, the District desires to appropriate funds for the Project from its current fiscal year as provided by the Facilities Lease; and

WHEREAS, the Board of Education ("Board") has been presented with the Plans and Specifications for the Project and has examined and approves of such documents, subject to minor revisions, if any, by DSA, and subject to the delegation of authority provided by the Board as set forth below; and

WHEREAS, the Board has been presented with the form of each document referred to herein relating to the transaction contemplated hereby, and the Board has examined and approved each document and desires to authorize and direct the execution of such documents and the consummation of such transaction, subject to the delegation of authority provided by the Board as set forth below; and

WHEREAS, all acts, conditions, and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transaction authorized hereby, do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the District is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the purpose, in the manner, and upon the terms herein provided.

NOW, THEREFORE, THE BOARD OF EDUCATION OF THE FRESNO UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Recitals. All of the recitals herein contained are true and correct.

Section 2. Site Lease and Facilities Lease. The form of agreements entitled "Site Lease" and "Facilities Lease," each presented to this meeting and each to be entered into by and between the District and Builder which together provide generally for (i) the lease by the District of the Site to Builder, (ii) the sublease of the Site and the lease of the Project by Builder to the District, and (iii) the payment of certain lease payments by the District under the Facilities Lease in an amount equal to the aggregate construction costs for the Project as set forth in the Construction Provisions ("Lease Payments") are hereby approved subject to any revisions which are acceptable to both District's Superintendent ("Superintendent") and District's legal counsel. The Superintendent or his designee is hereby authorized and directed, for and in the name and on behalf of the District, to execute and deliver to Builder such agreements, once finalized, pursuant to the delegation of authority provided for hereby.

Section 3. Approval of Process. The Board hereby approves of the lease-leaseback process and approves of the Guaranteed Maximum Price amount of \$36,702,876, for construction of the Project pursuant to the terms of the Facilities Lease.

Section 4. Approval of Plans and Specifications. The Board hereby approves of the DSA-approved Plans and Specifications for the Project.

Section 5. Other Acts; Delegation. The District's Board hereby approves a delegation of authority and appoints the District Superintendent, or the designee of the District Superintendent, who is/are hereby authorized and directed, to execute and deliver the Site Lease and Facilities Lease with Construction Provisions as provided by Section 2 above, and to do any and all things necessary, in consultation with the staff, that they may deem necessary or advisable in order to effectuate the purpose and intent of this Resolution, all subject to

ratification of the Board of Education, if necessary. Said delegation shall be valid during the construction of the Project, or until otherwise rescinded by the Board.

Section 6. Effective Date. This Resolution shall take effect upon adoption.

**PASSED AND ADOPTED** this 26<sup>th</sup> day of September, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

I, Valerie F. Davis, President of the Fresno Unified School District Board of Education, do hereby certify that the foregoing is a full, true, and correct copy of the resolution passed and adopted by said Board at a regularly scheduled and conducted meeting held on said date, which resolution is on file in office of said Board.

\_\_\_\_\_  
President of the Board of Education  
Fresno Unified School District

I, Lindsay Cal Johnson, Clerk of the Board of Education of the Fresno Unified School District, do hereby certify that the foregoing Resolution was introduced and adopted by said Board at a regular session meeting thereof held on the 26<sup>th</sup> day of September, 2012.

\_\_\_\_\_  
Clerk of the Board of Education  
Fresno Unified School District

EXHIBIT "A"

DESCRIPTION OF SITE

Rutherford B. Gaston Sr. Middle School- Phase II, 1100 East Church Avenue, Fresno CA 93706





# Facilities Master Plan

## FACT SHEET

### Meeting the learning needs of students

The Fresno Unified School District Board of Education formed the Facility Ad Hoc Advisory Committee (FAAC) in May 2007 to develop a Facilities Master Plan. The Facilities Master Plan, approved by the Board of Education in April 2009, will chart the district's facilities efforts for the next 15 years to meet the needs of students throughout the district.

### Gathering community input

The FAAC spent two years analyzing data on the district's facilities use, enrollment trends, and educational needs of students and the district. In addition, the committee held more than 20 public meetings to gather input and guidance on the Facilities Master Plan.

### Addressing major issues

Meetings with community members revealed the following major issues that the Facilities Master Plan addresses:

- Clear school feeder patterns do not exist throughout the district
- Capacity and facility utilization varies district-wide
- Overcrowding in schools in southeast area of the district
- Transporting middle school students in the southwest area of the district to different schools outside of their neighborhood
- Schools do not meet facility condition and educational suitability standards
- Excessive portables – one-third of classrooms in the district are in portables
- Configuration of grade-level assessment
- Availability of choice programs and special education in every high school feeder area

### Outcomes

Over the next 15 years, FUSD will:

- Modify feeder patterns to give student a clear, consistent vision of the elementary, middle, and high schools they will attend
- Adjust school boundaries to balance enrollment throughout the district, build new classrooms where needed, and optimize utilization of schools
- Build a new elementary and new high school in southeast Fresno
- Build a new middle school in southwest Fresno to create a neighborhood school
- Improve building and site conditions, educational suitability, and technology at all FUSD schools
- Reduce portable classrooms by 50-80 percent
- Implement 5<sup>th</sup>-8<sup>th</sup> grade choice middle schools in several high school feeder areas to provide more choice options
- Develop functional, flexible space to accommodate specialty programs, magnet schools, career technical education, and special education progression in high school feeder areas

#### FOR MORE INFORMATION:

Fresno Unified School District  
Communications Office  
2309 Tulare Street, Fresno, CA 93721  
(559) 457-3733  
[www.fresnounified.org](http://www.fresnounified.org)

SA0016

**FRESNO UNIFIED SCHOOL DISTRICT  
GENERAL OBLIGATION BOND MEASURE Q**

**FULL TEXT OF MEASURE  
QUALITY NEIGHBORHOOD SCHOOLS, CLASSROOM REPAIR  
AND TEACHER RETENTION MEASURE**

To offset state budget cuts, attract quality teachers, and repair classrooms by:

- Upgrading vocational education classrooms / science labs / technology / libraries;
- Improving security / fire safety / restrooms / plumbing / ventilation systems;
- Increasing handicapped access;
- Securing state matching funds;
- Replacing deteriorating portables;
- Preventing dropouts by improving alternative schools;
- Acquiring, constructing, repairing campuses / facilities / equipment;

Shall Fresno Unified School District issue \$280 million in bonds requiring audits, citizens' oversight, **no** money for administrators' salaries, **no** money for Sacramento, and **no** tax rate increase?

**BOND AUTHORIZATION**

By approval of this measure by at least 55 percent of the registered voters voting on the measure, the District will be authorized to issue and sell bonds of up to \$280 million in aggregated principal at interest rates not in excess of the legal limit and to provide financing for the specific school facilities projects listed in the Bond Project List described below, subject to all the accountability requirements specified below:

The Bonds may be issued under the provisions of the California Education Code (starting at Section 15100); under the provisions of the California Government Code (starting at Section 53506), or under any other provision of law authorizing the issuance of general obligation bonds by school districts. The Bonds may be issued in series by the District from time to time, and each series of Bonds shall mature within the legal limitations set forth in the applicable law under which the Bonds are issued.

**ACCOUNTABILITY REQUIREMENTS**

The provisions in this section are specifically included in this measure in order that the voters and taxpayers in the District may be assured that their money will be spent wisely. Expenditures to address specific facilities needs of the District will be in compliance with the requirements of Article XIII A, Section 1(b)(3), of the State Constitution and the Strict Accountability in Local School Construction Bonds Act of 2000 (codified at Education Code Sections 15264 and following). The proceeds from the sale of the bonds will be deposited into a Building Fund to be held by the Fresno County Treasurer, as required by the California Education Code, and will be used only for the purposes specified in Measure Q, and not for any other purpose.

**Evaluation of Needs.** The School Board has identified detailed facilities needs of the District and has determined which projects to finance from a local bond at this time. The School Board hereby certifies that it has evaluated safety, class size reduction, enrollment growth, and information technology needs in developing the Bond Project List shown below.

**Independent Citizens' Oversight Committee.** The School Board shall establish an Independent Citizens' Oversight Committee under Education Code Section 15278 and following to ensure bond proceeds are expended only on the school facilities projects listed below. The committee will be established within 60 days of the date when the results of the election appear in the minutes of the School Board.

**Performance Audits.** The School Board shall conduct an annual, independent performance audit to ensure that the bond proceeds have been expended only on the school facilities projects listed below.

**Financial Audits.** The School Board shall conduct an annual, independent financial audit of the bond proceeds until all of those proceeds have been spent for the school facilities projects listed below.

**Annual Report.** The Superintendent of the District is required to cause an annual report to be filed with the Board of Education of the District, the first report to be filed not later than one year after the issuance of the first series of the Bonds, which report shall contain pertinent information regarding the amount of funds collected and expended, as well as the status of the projects listed in Measure Q, as required by Sections 53410 and 53411 of the Government Code.

**FURTHER SPECIFICATIONS**

**No Administrator Salaries.** Proceeds from the sale of bonds authorized by this measure shall be used only for the construction, reconstruction and/or rehabilitation of school facilities including the furnishing and equipping of school facilities or acquisition or lease of real property for school facilities and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

**BOND PROJECT LIST**

**Projects Subject to Available Funding.** The following list of projects is subject to the availability of adequate funding to the District. Approval of the bond measure does not guarantee that the proposed projects in the District that are the subject of bonds under the measure will be funded beyond the local revenues generated by the bond measure. The District's proposal for the projects may assume the receipt of matching state funds, which could be subject to appropriation by the Legislature or approval of a statewide bond measure. The proceeds from the sale of the District's bonds will be used only for the purposes specified in the Measure, and not for any other purpose.

**Scope of Projects.** Bond proceeds will be expended to modernize, replace, renovate, construct, acquire, equip, furnish, rebuild and otherwise improve educational and support facilities within the District. Projects which are described below include all related and incidental costs, including their share of the costs of the election and bond issuance and costs of design, engineering, architect and other professional services, inspections, site preparation, utilities, landscaping, construction management and other planning, legal, accounting and similar costs, independent annual financial and performance audits, a customary construction contingency, and other costs incidental to and necessary for completion of the listed projects.

Bond proceeds may also be expended to acquire real property (or any interest in real property) for future educational and support facilities and to acquire and install furniture, fixtures and equipment at any classrooms and other educational facilities within the District. The District may alter the scope and nature of any of the specific projects which are described below as required by conditions that arise during the course of design and construction.

Whenever specific items are included in the following list, they are presented to provide examples and are not intended to limit the generality of the broader description of authorized projects. The order in which particular projects are listed is not intended to indicate priority for funding or completion. Projects at each site will be accomplished to address the individual site deficiencies and priorities as enumerated in the Facilities Master Plan adopted by the District and, where needed at secondary schools, in conformance with a comprehensive school site plan developed in consultation between each school community, the campus architect / school planning professionals, and District Facilities staff.

## RENOVATION, MODERNIZATION, REPAIR AND CONSTRUCTION PROJECTS

### Career-Vocational Education

Bond funds for career-vocational education facilities may be used to:

- renovate existing facilities and build new specialty facilities supporting career-vocational education programs at new sites and/or at middle and high school sites across the District to train students in high demand occupations and growth industries;
- provide flexible classroom space to allow hands-on / activity-based learning;
- upgrade and expand classrooms, labs, and specialized facilities for career and vocational technology programs;
- provide high schools with career centers for career exploration and counseling; and
- provide funds to qualify the District for career-technical education matching grants.

### Technology / Computers / Internet

Bond funds for technology, computers, internet facilities and equipment may be used to:

- provide up-to-date classroom and instructional technology required for 21st century student learning and teaching;
- bring classroom and school sites up to District standards by installing / upgrading campus technology infrastructure including the electrical systems, district network and internet connectivity that will support modern technology;
- add / replace / upgrade computers, servers and support equipment; and
- install / upgrade school communications and multimedia equipment and systems.

### Alternative and Continuing Education

To assist the District in preparing career-ready graduates, decreasing the number of dropouts, developing students as life-long learners, and providing parents and community members with opportunities to gain workplace skills and knowledge, Bond funds may be used to:

- ensure that high-quality alternative school options are offered for students at risk of dropping out of high school;
- provide for new and upgraded schools that address the needs of at-risk youth, including but not limited to Cambridge High School, Dakota Campus, DeWolf High School, J.E. Young Academic Center, and Phoenix Academy;
- provide for facilities to support life-long learning opportunities for parents and community members, including but not limited to the Cesar Chavez Adult School; and

- provide for alternative education facilities that house programs specifically designed to keep students in school and on target to graduate, such as credit recovery, General Education Diploma programs, and independent study.

**High Schools, Middle Schools and Elementary Schools**

Bond funds may be applied to finance any of the projects described herein, including off-site improvements, which benefit any of the following:

	<b>High Schools</b>	
Bullard	Edison	Fresno
Hoover	Sunnyside	Roosevelt
McLane	Duncan	CART
Design Science	Dakota Campus	J.E. Young
Cambridge	DeWolf	Rata
	<b>Middle Schools</b>	
Ahwahnee	Fort Miller	Tenaya
Anthony	Kings Canyon	Terronez
Baird	Scandinavian	Tioga
Carver	Sequoia	Wawona
Computech	Tehipite	Yosemite
Cooper		
	<b>Elementary Schools</b>	
Addams	Gibson	Olmos
Addicott	Greenberg	Phoenix Academy
Anthony	Hamilton	Powers-Ginsburg
Ayer	Heaton	Pyle
Aynesworth	Hidalgo	Robinson
Bakman	Holland	Roeding
Balderas	Homan	Rowell
Bethune	Jackson	Slater
Birney	Jefferson	Southeast
Bullard Talent	King	Starr
Burroughs	Kirk	Storey
Calwa	Kratt	Sunset
Carver	Lane	Thomas
Centennial	Lawless	Turner
Columbia	Leavenworth	Viking
Dailey	Lincoln	Vinland
Del Mar	Lowell	Webster
Easterby	Malloch	Williams
Eaton	Manchester Gate	Wilson
Ericson	Mayfair	Winchell
Ewing	McCardle	Wishon
Figarden	Muir	Wolters
Forkner	Norseman	Yokomi
Fremont		

**Other Educational Facilities**

Other existing and/or future school facilities that serve primary and secondary school students within the District, together with any educational support facilities of the District.

The following is a list of specific projects which may be financed from Bond funds:

- remodel / build / upgrade classrooms and school facilities and equipment for career / vocational training and career counseling centers, primarily at middle and high schools;
- install / improve / equip school computer, technology and supporting infrastructure including electrical system and district network and internet infrastructure to accommodate technology upgrades;
- install / upgrade school communications and multimedia equipment and systems;
- provide local matching funds for school facilities grant opportunities;
- construct new classrooms, replace deteriorating temporary portable classrooms and remove unneeded portables from school sites;
- renovate and modernize outdated classrooms;
- improve school safety and security by installing / improving lighting, locks, monitoring systems, storage, fencing and landscaping and by making repairs to ensure safe buildings and grounds;
- remodel / build restrooms to provide healthy and clean facilities in adequate numbers to accommodate student and adult populations;
- upgrade / remodel / build core school facilities including libraries, cafeterias, offices, restrooms, counseling offices, assembly-performance spaces, specialty classrooms, supporting school ancillary facilities and athletic fields, gyms, locker rooms and associated facilities;
- build / upgrade facilities to accommodate parent participation and specialty needs, including space for project-based learning, parent / community rooms, counseling, special education rooms, science labs, computer labs, art, music or dance rooms;
- upgrade / construct permanent classrooms and classroom buildings to accommodate enrollment growth and expanded programs;
- provide safe and welcoming entrances to school campuses through use of new signage, lighting and landscaping, including improvements to student drop-off / pickup areas;
- provide planning and matching funds for the modernization needs of eligible schools;
- build / renovate / equip school facilities, classrooms and playground equipment to serve the unique academic, social and physical needs of special education students;

- upgrade / build preschool facilities;
- build / upgrade storage for classrooms and school campuses;
- build / upgrade shaded outdoor eating and assembly areas;
- install / replace / upgrade heating, ventilation and air conditioning units;
- install / replace / upgrade smart energy devices; climate control systems; and passive energy conservation technologies such as energy efficient windows, window coverings, and shade control;
- create a comprehensive energy conservation program that meets Department of Education and Environmental Protection Agency guidelines for Energy Star certification;
- ensure all buildings / school sites comply with current code requirements, including Field Act (seismic structural upgrades), Americans with Disability Act (ADA) and Title IX provisions; and
- modernize school facilities and sites as needed; making interior and exterior improvements including upgrade of infrastructure and major building, electrical and plumbing systems; fire and security system upgrades; repairing / replacing roofs, doors, windows; repairing / replacing water, sewer, plumbing and irrigation systems; repainting facilities; resurfacing parking areas and playcourts; upgrading sidewalks, paths and walkways; renovating and improving play and athletic fields and structures, including the installation / upgrade of outdoor athletic equipment, irrigation and lights.

#### **Joint / Community Use**

To provide for expanded community use of school facilities, buildings and fields, the District may make facility/school site improvements to accommodate such use. The District may enter into agreements with the City of Fresno, the County of Fresno, or other agencies or nonprofit organizations for joint use of any projects which are listed herein, in accordance with Education Code Section 17011.42 (or any successor provision). The District may seek State grant or matching funds for eligible joint-use projects as permitted by law, and Bond funds may to be used to fund all or a portion of the share for such eligible joint-use projects as the School Board shall determine.

#### **Special Education**

Bond funds may be used to provide a source of funds to support students with special learning needs. Special education students shall have access to the entire range of school-based academic, social and extracurricular activities in the least restrictive environment possible. Most educational services are provided by neighborhood schools; however, some accommodations and modifications for students to access core curriculum are best provided at designated sites with specialized facilities such as Addicott and Rata. Bond funds may be used to build / renovate / equip school facilities, classrooms and playground equipment to meet students' unique academic, social or physical needs.

#### **Facility Repair and Energy / Water Conservation**

Bond funds may be used to address major repair work needed at any educational or support facilities of the District on a periodic or emergency basis, including but not limited to the following:

- install / replace / upgrade heating, ventilation and air conditioning units;
- install / replace / upgrade smart energy devices; climate control systems; and passive energy conservation technologies such as energy efficient windows, window coverings, and shade control;
- create a comprehensive energy conservation program that meets Department of Education and Environmental Protection Agency guidelines for Energy Star certification;
- bring all buildings / school sites into compliance with current code requirements, including Field Act (seismic), Americans with Disability Act (ADA) and Title IX provisions;
- make interior and exterior improvements including upgrade of infrastructure and major building, electrical and plumbing systems; upgrade / install fire and security systems; repair / replace roofs, doors, windows; repair / replace water, sewer, plumbing and irrigation systems; repaint facilities; resurface parking areas and playcourts; upgrade sidewalks, paths and walkways, renovate and improve play and athletic fields and structures, including the installation / upgrade of outdoor athletic equipment, irrigation and lights;
- incorporate sustainable site design, water conservation and energy efficiency into the building projects and repairs as part of a District green initiative; and
- repair and improve irrigation systems and water consuming facilities such as swimming pools and incorporate water-saving control systems.

"Approval of Measure Q does not guarantee that the proposed project or projects in the Fresno Unified School District that are the subject of bonds under Measure Q will be funded beyond the local revenues generated by Measure Q. The District's proposal for the project or projects may assume the receipt of matching state funds, which could be subject to appropriation by the Legislature or approval of a statewide bond measure."

### IMPARTIAL ANALYSIS BY COUNTY COUNSEL

Voter approval of this measure will authorize the governing board of the Fresno Unified School District to issue and sell bonds in the maximum amount of Two Hundred Eighty Million Dollars (\$280,000,000.00), bearing interest at legal rates and with maturity dates within the legal limits. The bond proceeds will be expended to modernize, renovate, replace, construct, acquire, equip, furnish, rebuild and otherwise improve educational and support facilities within the Fresno Unified School District. Bond proceeds may also be expended to acquire real property (or any interest in real property) for future educational and support facilities and to acquire and install furniture, fixtures and equipment at any classrooms and other educational facilities within the Fresno Unified School District. The bond proceeds shall not be used for any other purpose, including teacher and administrator salaries and other school operating expenses. This measure would require annual, independent, performance and financial audits of the proceeds and appointment of a citizens' oversight committee.

s/Kevin B. Briggs  
County Counsel

### TAX RATE STATEMENT

An election will be held in the Fresno Unified School District (the "District") on November 2, 2010, to authorize the sale of up to \$280,000,000 in bonds ("2010 Bond Authorization") of the District to finance school facilities as described in the measure. If such bonds are authorized and sold, principal and interest on the bonds will be payable only from the proceeds of tax levies made upon the taxable property in the District. The following information is provided in compliance with Sections 9400-9404 of the Elections Code of the State of California. Such information is based upon the best estimates and projections presently available from official sources, upon experience within the District, and other demonstrable factors.

Based upon the foregoing and projections of the District's assessed valuation, the following information is provided:

1. The best estimate of the tax rate which would be required to be levied to fund this bond issue during the first fiscal year after the sale of the first series of bonds, based on a projection of assessed valuations, is \$40.92 per \$100,000 of assessed value for fiscal year 2011-12.
2. The best estimate of the tax rate which would be required to be levied to fund this bond issue during the first fiscal year after the sale of the last series of bonds, based on a projection of assessed valuations, is \$60.00 per \$100,000 of assessed value for fiscal year 2018-19.
3. The best estimate of the highest tax rate which would be required to be levied to fund this bond issue, based on a projection of assessed valuations, is \$60.00 per \$100,000 of assessed value for fiscal year 2018-19.
4. The tax rates associated with the 2010 Bond Authorization, combined with the District's outstanding obligations, are estimated to not increase aggregate future tax rates above the projected 2010-11 tax rate.

Voters should note the estimated tax rate is based on the ASSESSED VALUE of taxable property on the County's official tax rolls, not on the property's market value. In addition, taxpayers eligible for a property tax exemption, such as the homeowner's exemption, will be taxed at a lower effective tax rate than described above. Property owners should consult their own property tax bills and tax advisors to determine their property's assessed value and any applicable tax exemptions.

The attention of all voters is directed to the fact that the foregoing information is based upon projections and estimates only, which are not binding upon the District. The actual tax rates and the years in which they will apply may vary from those presently estimated, due to variations from these estimates in the timing of bond sales, the amount of bonds sold and market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The date of sale and the amount of bonds sold at any given time will be determined by the District based on the need for construction funds and other factors. The actual interest rates at which the bonds will be sold will depend on the bond market at the time of sale. Actual future assessed valuations will depend upon the amount and value of taxable property within the District as determined by the County Assessor in the annual assessment and the equalization process.

s/Michael E. Hanson  
Superintendent  
Fresno Unified School District

s/Larry L. Powell  
Superintendent  
Fresno County Office of Education

**\$50,434,849.50**  
**FRESNO UNIFIED SCHOOL DISTRICT**  
 (Fresno County, California)  
**General Obligation Bonds**  
**Election of 2010, Series B**

**\$55,570,914.90**  
**FRESNO UNIFIED SCHOOL DISTRICT**  
 (Fresno County, California)  
**General Obligation Bonds**  
**Election of 2001, Series G**

## **BOND PURCHASE AGREEMENT**

September 28, 2011

Board of Education  
 Fresno Unified School District  
 2309 Tulare Street  
 Fresno, California 93721

Ladies and Gentlemen:

The undersigned, Stone & Youngberg LLC (the “**Managing Underwriter**”), as representative of itself and Piper Jaffray & Co., as co-managing underwriters (together referred to herein as the “**Underwriter**”), acting on its own behalf and not as fiduciary or agent for the hereinafter defined District, offers to enter into this Bond Purchase Agreement (this “**Purchase Agreement**”) with the Fresno Unified School District (the “**District**”), for the purchase by the Underwriter and sale by the District of the District’s General Obligation Bonds, Election of 2010, Series B (the “**Series B Bonds**”) and General Obligation Bonds, Election of 2001, Series G (the “**Series G Bonds**,” and together with the Series B Bonds, the “**Bonds**”). This offer is made subject to acceptance by the District prior to 5:00 P.M., California time, on the date hereof, and upon such acceptance this Bond Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon both the District and the Underwriter.

**1. Purchase and Sale.** Upon the terms and conditions and in reliance upon the representations, warranties and agreements herein set forth, the Underwriter hereby agrees to purchase from the District for reoffering to the public, and the District hereby agrees to sell to the Underwriter for such purpose, all (but not less than all) of \$50,434,849.50 in aggregate principal amount of the Series B Bonds and \$55,570,914.90 in aggregate principal amount of the Series G Bonds.

The purchase price of the Series B Bonds shall be \$52,148,790.01 (representing the principal amount of the Series B Bonds of \$50,434,849.50, plus original issue premium of \$2,085,549.45, less Underwriter’s discount of \$186,608.94, and less \$185,000.00 to be applied by the Underwriter to satisfy its contractual obligation hereunder regarding payment of costs of issuance for the Series B Bonds, as set forth in Section 11).

The purchase price of the Series G Bonds shall be \$55,570,914.90 (representing the principal amount of the Series G Bonds of \$55,570,914.90, plus original issue premium of \$341,004.50, less Underwriter’s discount of \$205,612.38, and less



\$135,392.12 to be applied by the Underwriter to satisfy its contractual obligation hereunder regarding payment of costs of issuance for the Series G Bonds, as set forth in Section 11).

The District acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to this Purchase Agreement is an arm's-length commercial transaction between the District and the Underwriter, (ii) in connection with such transaction, the Underwriter is acting solely as a principal and not as an agent or a fiduciary of the District, (iii) the Underwriter has not assumed (individually or collectively) a fiduciary responsibility in favor of the District with respect to (x) the offering of the Bonds or the process leading thereto (whether or not the Underwriter has advised or is currently advising the District on other matters) or (y) any other obligation to the District except the obligations expressly set forth in this Purchase Agreement and (iv) the District has consulted with its own legal and other professional advisors to the extent it deemed appropriate in connection with the offering of the Bonds.

**2. Authorizing Instruments and Law.** The Series B Bonds are issued as Current Interest Bonds and Capital Appreciation Bonds and the Series G Bonds are issued as Capital Appreciation Bonds (as such terms are defined in the hereinafter defined Official Statement).

The Series B Bonds will be issued pursuant to certain provisions of the Government Code of the State, commencing with Section 53506 thereof (the "**Bond Law**"), a resolution adopted by the Board of Education of the District adopted on June 15, 2011 (the "**Series B Bond Resolution**"), and pursuant to a Paying Agent Agreement, dated as of October 1, 2011 (the "**Series B Paying Agent Agreement**"), between the District and U.S. Bank National Association, as paying agent (the "**Paying Agent**"). The Series G Bonds will be issued pursuant to the Bond Law, pursuant to a resolution adopted by the Board of Education of the District adopted on August 24, 2011 (the "**Series G Bond Resolution**," and together with the Series B Bond Resolution, the "**Bond Resolutions**"), and pursuant to a Paying Agent Agreement, dated as of October 1, 2011 (the "**Series G Paying Agent Agreement**," and together with the Series B Paying Agent Agreement, the "**Paying Agent Agreements**"), between the District and the Paying Agent. The Bonds shall accrue or accrete interest at the rates, and shall mature in the years, and shall be subject to redemption, as shown on Appendix A hereto, which is incorporated herein by this reference.

The District will use the proceeds of the Bonds to finance the acquisition, construction and rehabilitation of educational facilities, as authorized in the specific list of projects approved in the respective ballot measures authorizing the Series B Bonds and the Series G Bonds, respectively.

**3. Public Offering.** The Underwriter agrees to make a bona fide public offering of the Bonds initially at the public offering prices (or yields) set forth in Exhibit A. Subsequent to the initial public offering the Underwriter reserves the right to change the public offering prices (or yields) as it deems necessary in connection with the marketing of the Bonds, provided that the Underwriter shall not change the interest rates set forth in Exhibit A. The Bonds may be offered and sold to certain dealers at prices lower than such initial public offering prices.



**4. Delivery of Official Statement; Continuing Disclosure.** Pursuant to the authorization of the District, the Underwriter has distributed copies of a Preliminary Official Statement, dated September 14, 2011, to prospective purchasers of the Bonds (the "**Preliminary Official Statement**"). By its acceptance of this proposal, the District hereby ratifies such use by the Underwriter of the Preliminary Official Statement; and the District agrees to approve the final Official Statement relating to the Bonds dated the date hereof (the "**Final Official Statement**", and together with the Preliminary Official Statement, the "**Official Statement**"), which will consist of the Preliminary Official Statement with such changes as may be made thereto, with the approval of the District and the Underwriter, and to provide copies thereof to the Underwriter as set forth herein. The Underwriter hereby agrees to deposit the Final Official Statement with a nationally recognized municipal securities information depository. The District hereby authorizes the Underwriter to use and distribute, in connection with the offer and sale of the Bonds, the Official Statement, the Bond Resolution, the Paying Agent Agreement, this Bond Purchase Agreement and all information contained herein, and all other documents, certificates and statements furnished by the District to the Underwriter in connection with the transactions contemplated by this Bond Purchase Agreement.

To assist the Underwriter in complying with Rule 15c2-12(b)(5) of the Securities and Exchange Commission ("**Rule 15c2-12**"), the District will undertake, pursuant to a Continuing Disclosure Certificate (the "**Continuing Disclosure Certificate**"), to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of these undertakings is set forth in the Preliminary Official Statement and will also be set forth in the Final Official Statement.

**5. The Closing.** At 8:00 a.m., California time, on October 13, 2011 (the "**Closing Date**"), or at such other time or on such earlier or later business day as shall have been mutually agreed upon by the District and the Underwriter, the District will cause to be delivered (i) the Bonds, through the facilities of The Depository Trust Company, to the Underwriter, and (ii) the closing documents hereinafter mentioned at the offices of Jones Hall, A Professional Law Corporation ("**Bond Counsel**"), San Francisco, California, or another place to be mutually agreed upon by the District and the Underwriter. The Underwriter will accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 hereof in immediately available funds. This payment and delivery, together with the delivery of the aforementioned documents, is herein called the "**Closing**." The Bonds will be delivered in such denominations and deposited in the account or accounts specified by the Underwriter pursuant to written notice to the District not later than five business days prior to Closing.

**6. Representations, Warranties and Covenants.** The District represents to and agrees with the Underwriter that:

- (a) the District is and will be at the date of Closing duly authorized and existing under the Constitution and laws of the State of California with the powers and District, among others, (i) to issue the Bonds pursuant to the Constitution and laws of the State of California the Bond Law, (ii) to execute and deliver the Paying Agent Agreements, the Continuing Disclosure Certificate and this Bond Purchase Agreement and (iii) to carry out and consummate the transactions contemplated by the Bond Resolutions, the Paying Agent

Agreements, the Continuing Disclosure Certificate and this Bond Purchase Agreement;

- (b) when delivered to and paid for by the Underwriter at the Closing in accordance with the provisions of this Bond Purchase Agreement, the Bonds will have been duly authorized, executed, issued and delivered and will constitute valid and binding obligations of the District in conformity with, and entitled to the benefit and security of the respective Bond Resolutions and the Paying Agent Agreements;
- (c) by official action of the District prior to or concurrently with the acceptance hereof, the District duly approved the Bond Resolutions, the Paying Agent Agreements, the Continuing Disclosure Certificate and this Bond Purchase Agreement and authorized and approved the execution and delivery of, and the performance by the District of the obligations on its part contained in the Bonds, the Bond Resolutions, the Paying Agent Agreements, the Continuing Disclosure Certificate and this Bond Purchase Agreement;
- (d) the execution and delivery of the Bonds, the Bond Resolutions, the Paying Agent Agreements, the Continuing Disclosure Certificate and this Bond Purchase Agreement, and compliance with the provisions on the District's part contained in each of such items will not conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the District is party or is otherwise subject, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the District imposed under the terms of any such law, administrative regulation, judgment decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided by the Bond Resolutions or the Paying Agent Agreements;
- (e) there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body, pending or, to the best of the District's knowledge after due inquiry, threatened against the District affecting the existence of the District or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the sale, issuance or delivery of the Bonds or in any way contesting or affecting the validity or enforceability of the Bonds, the Bond Resolutions, the Paying Agent Agreements, the Continuing Disclosure Certificate or this Bond Purchase Agreement, or contesting the powers of the District to issue, enter into, adopt or perform its obligations under any of the foregoing;
- (f) all approvals, consents, authorizations, certifications and other orders of any governmental agency, board, or commission having jurisdiction, and all filings with any such entities, which would

constitute conditions precedent to or the failure to obtain which would materially adversely affect the performance by the District of its obligations hereunder, under the Bond Resolutions or under the Paying Agent Agreements have been duly obtained and no further consent, approval, authorization or other action by any governmental or regulatory agency having jurisdiction over the District that has not been obtained is or will be required for the issue and sale of the Bonds or the consummation by the District of the other transactions contemplated by this Bond Purchase Agreement, except as such may be required under the state securities or Blue Sky laws in connection with the distribution of the Bonds by the Underwriter;

- (g) the District will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Bonds for offer and the sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualification in effect so long as required for distribution of the Bonds; provided, however, that in no event shall the District be required to take any action which would subject it to general or unlimited service of process in any jurisdiction in which it is not now so subject;
- (h) the Preliminary Official Statement, at the date thereof, did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. At the date hereof and on the Closing Date, the final Official Statement did not and will not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The District makes no representation or warranty as to the information contained in or omitted from the Preliminary Official Statement or the final Official Statement in reliance upon and in conformity with information furnished in writing to the District by or on behalf of the Underwriter through a representative of the Underwriter specifically for inclusion therein;
- (i) the District shall notify the Underwriter of any event of occurrence that may affect the accuracy or completeness of any information set forth in the Official Statement relating to the Bonds until the date which is 25 days after the "end of the underwriting period" (as defined below), and the District will advise the Underwriter promptly of any proposal to amend or supplement the Official Statement and will not effect or consent to any such amendment or supplement without the consent of the Underwriter, which consent will not be

unreasonably withheld, and the District will advise the Underwriter promptly of the institution of any proceedings known to it by any governmental agency prohibiting or otherwise affecting the use of the Official Statement in connection with the offering, sale or distribution of the Bonds;

- (j) if, after the date of this Bond Purchase Agreement and until 25 days after the end of the “**underwriting period**” (as defined below), any event occurs as a result of which the Official Statement as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading, and, in the reasonable opinion of the Underwriter, an amended or supplemented Official Statement should be delivered in connection with the offers or sales of the Bonds to reflect such event, the District promptly will prepare at its expense an amendment or supplement which will correct such statement or omission, and the District shall promptly furnish to the Underwriter a reasonable number of copies of such amendment or supplement. Unless the Underwriter otherwise advises the District in writing that the end of the underwriting period shall be another specified date (namely, such time as the Underwriter does not retain, directly or as a member of an underwriting syndicate, an unsold balance of the Bonds for sale to the public), the end of the underwriting period shall be the day of Closing;
- (k) the Preliminary Official Statement heretofore delivered to the Underwriter is deemed final by the District as of its date and as of the date hereof, except for the omission of such information as is permitted to be omitted in accordance with paragraph (b)(1) of Rule 15c2-12, and the District has executed a certificate deeming the Preliminary Official Statement final for purposes of Rule 15c2-12 in the form of Appendix B. The District hereby covenants and agrees that within seven business days from the date hereof (or such earlier date such that the Underwriter can deliver the same to investors prior to the Closing), the District shall cause a final printed form of the Final Official Statement to be delivered to the Underwriter in sufficient quantity to comply with paragraph (b)(4) of Rule 15c2-12 and Rules of the Municipal Securities Rulemaking Board;
- (l) any certificates signed by a duly authorized officer of the District and delivered to the Underwriter shall be deemed a representation and warranty by the District to the Underwriter, but not by the person signing the certificates, as to the statements made therein;
- (m) the District will apply the proceeds from the sale of the Series B Bonds and the Series G Bonds for the purposes specified in the respective Bond Resolution, the respective Paying Agent Agreement and the Bond Law;

- (n) the District has not, in the previous five years, failed to comply in all material respects with its undertakings under Rule 15c2-12;
- (o) the District has had no financial advisory relationship with the Underwriter with respect to the Bonds, nor with any investment firm controlling, controlled by or under common control with the Underwriter;
- (p) the financial statements of, and other financial information regarding the District contained in the Official Statement fairly present the financial position of the District as of the dates and for the periods therein set forth, (i) the audited financial statements have been prepared in accordance with generally accepted accounting principles consistently applied, (ii) the unaudited financial statements (if any) have been prepared on a basis substantially consistent with the audited financial statements included in the Official Statement and reflect all adjustments necessary to that effect, and (iii) the other financial information has been determined on a basis substantially consistent with that of the District's audited financial statements included in the Official Statement;
- (q) inasmuch as this purchase and sale represents a negotiated transaction, the District understands, and hereby confirms, that the Underwriter is not acting as a fiduciary of the District, but rather is acting solely in its capacity as Underwriter, for its own account and
- (r) the District has been informed that the Managing Underwriter is expected to be acquired by Stifel Financial Corp. on or about October 1, 2011. Upon completion of that transaction, the Managing Underwriter's rights and responsibilities under this Purchase Agreement will be assumed by Stifel, Nicolaus & Company, Incorporated dba Stone & Youngberg, a division Stifel Nicolaus, and the District hereby consents to such assumption.

The execution and delivery of this Bond Purchase Agreement by the District shall constitute a representation by the District to the Underwriter that the representations and warranties contained in this Bond Purchase Agreement are true as of the date hereof; provided that no member of the governing body of the District shall be individually liable for the breach of any representation or warranty made by the District in this Bond Purchase Agreement.

**7. Representations and Agreements of the Underwriter.** The Underwriter represents to and agrees with the District that, as of the date hereof and as of the date of the Closing:

- (a) The Underwriter is duly authorized to execute the Purchase Contract and to take any action under the Purchase Contract required to be taken by it.

- (b) The execution and delivery hereof and the consummation of the transactions contemplated hereby does not and will not violate any of the prohibitions set forth in Rule G-37 promulgated by the Municipal Securities Rulemaking Board (the “MSRB”), and all reports required to be submitted to the MSRB pursuant to Rule G-37 have been and will be submitted to the MSRB.
- (c) The Underwriter has, and has had, no financial advisory relationship with the District with respect to the Bonds, and no investment firm controlling, controlled by or under common control with the Underwriter has or has had any such financial advisory relationship.
- (d) The Underwriter has not paid or agreed to pay, nor will it pay or agree to pay, any entity, company, firm, or person (including, but not limited to the District’s financial advisor, or any officer, agent or employee thereof), other than a bona fide officer, agent or employee working for the Underwriter, any compensation, fee, gift or other consideration contingent upon or resulting from the award of or entering into this Purchase Agreement.

**8. Closing Conditions.** The Underwriter hereby enters into this Bond Purchase Agreement in reliance upon the representations and warranties of the District contained herein and in reliance upon the representations and warranties to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the District of its obligations hereunder, both on and as of the date hereof and as of the date of the Closing. Accordingly, the Underwriter’s obligations under this Bond Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds shall be conditioned upon the performance by the District of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions:

- (a) *Bring Down Representation.* The representations and warranties of the District contained herein shall be true, complete and correct on the date hereof and as of the Closing, as if made on and at the Closing;
- (b) *Executed Documents.* At the Closing, the Bond Resolutions, the Paying Agent Agreements, the Continuing Disclosure Certificate and this Bond Purchase Agreement shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Underwriter, and there shall be in full force and effect such resolutions as, in the opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated hereby;
- (c) *Termination Events.* The Underwriter shall have the right to cancel its obligation to purchase the Bonds if between the date hereof and the Closing, (i) legislation shall have been enacted by the Congress of the United States or the legislature of the State of California or shall have been reported out of committee of either body or be pending in committee of either body, or a decision shall have been

rendered by a court of the United States or of the State of California or the Tax Court of the United States, or a ruling shall have been made or a regulation or temporary regulation shall have been proposed or made or any other release or announcement shall have been made by the Treasury Department of the United States or the Internal Revenue Service, with respect to Federal or California taxation upon revenues or other income of the general character to be derived by the District or upon interest received on obligations of the general character of the Bonds, which in the reasonable judgment of the Underwriter, materially adversely affects the market for the Bonds, or (ii) there shall have occurred any (a) new material outbreak of hostilities (including, without limitation, an act of terrorism) or (b) new material other national or international calamity or crisis, or any material adverse change in the financial, political or economic conditions affecting the United States, including, but not limited to, an escalation of hostilities that existed prior to the date hereof being such as, in the reasonable judgment of the Underwriter, would make it impracticable for the Underwriter to market or enforce contracts for the sale of the Bonds, or (iii) there shall be in force a general suspension of trading on the New York Stock Exchange or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on the New York Stock Exchange or any other national securities exchange, whether by virtue of a determination by that exchange or by order of the Securities and Exchange Commission or any other governmental District having jurisdiction, or (iv) a general banking moratorium shall have been declared by either Federal or California authorities having jurisdiction and be in force, or (v) there shall be established any new restriction on transactions in securities materially affecting the free market for securities (including the imposition of any limitation on interest rates) or the extension of credit by, or the charge to the net capital requirements of, Underwriter established by the New York Stock Exchange, any other national securities exchange, the Securities and Exchange Commission, any other Federal or State agency or the Congress of the United States, or by Executive Order, or (vi) a decision of any Federal or state court or a ruling or regulation (final, temporary or proposed) of the Securities and Exchange Commission or other governmental agency shall have been made or issued to the effect that (A) the Bonds or any securities of the District or of any similar body of the type contemplated herein are subject to the registration requirements of the Securities Act of 1933 or (B) the qualification of an indenture or resolution in respect of the Bonds or any such securities is required under the Trust Indenture Act of 1939, as amended; (vii) Any underlying rating of the securities of the District shall have been downgraded, suspended or withdrawn by a national rating service, which, in the Underwriter's reasonable opinion, materially adversely affects the marketability or market price of the Bonds; or (viii) The commencement of any action, suit or proceeding described in

paragraph 6(e) hereof which, in the judgment of the Underwriter, materially adversely affects the market price of the Bonds.

- (d) *Closing Documents.* At or prior to the Closing, the Underwriter shall receive the following documents, in each case satisfactory in form and substance to the Underwriter:
- (1) *Final Opinions.* The approving opinions of Bond Counsel dated the date of the Closing in substantially the forms attached as Appendix C to the Official Statement, together with reliance letters from such counsel, dated the date of the Closing and addressed to the Underwriter, to the effect that the foregoing opinions addressed to the District may be relied upon by the Underwriter to the same extent as if such opinion were addressed to it.
  - (2) *District Certificates.* A certificate or certificates, dated the date of Closing, signed by an authorized official of the District, in form and substance satisfactory to the Underwriter, to the effect that (i) to the best of his or her knowledge, no litigation is pending or threatened (a) to restrain or enjoin the issuance or delivery of the Bonds, (b) in any way contesting or affecting the issuance of the Bonds or the validity of the Bonds, the Bond Resolutions, the Paying Agent Agreements, the Continuing Disclosure Certificate or this Bond Purchase Agreement, or (c) in any way contesting the existence or powers of the District, (ii) the representations, agreements and warranties of the District in this Bond Purchase Agreement are true and correct in all material respects as of the date of Closing, (iii) the District has complied with all the terms of the Bond Resolutions, the Paying Agent Agreements, the Continuing Disclosure Certificate and this Bond Purchase Agreement to be complied with by the District prior to or concurrently with the Closing and such documents are in full force and effect, (iv) the Bonds being delivered on the date of the Closing to the Underwriter under this Bond Purchase Agreement substantially conform to the descriptions thereof contained in the Bond Resolutions and the Paying Agent Agreements, and (v) such official has reviewed the Preliminary Official Statement and the final Official Statement and on such basis certifies that the Preliminary Official Statement did not as of its date, and the final Official Statement does not as of its date and as of the Closing Date, contain any untrue statement of a material fact, nor omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.
  - (3) *Supplemental Opinion.* A supplemental opinion of Bond Counsel addressed to the Underwriter, in form and substance



acceptable to the Underwriter, and dated the date of the Closing substantially to the following effect

- (i) The statements contained in the Official Statement on the cover page and under the captions, "INTRODUCTION," "THE BONDS" (other than under the subheading "Book-Entry Only System" as to which no opinion need be expressed) and "TAX MATTERS," insofar as such statements purport to summarize certain provisions of the laws under which the Bonds are issued, the Bonds, the Bond Resolutions, the Paying Agent Agreements and exclusion of interest on the Bonds from federal and state income tax, and present fair and accurate statements of the information referred to therein.
  - (ii) The Bonds constitute exempted securities under Section 3(a)(2) of the Securities Act of 1933, and the offer, sale and delivery of the Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Paying Agent Agreements are exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.
  - (iii) This Bond Purchase Agreement has been duly executed and delivered by the District and is a valid and binding agreement of the District, subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against school districts and counties in the State of California.
- (4) *Continuing Disclosure Certificate.* Executed copies of the Continuing Disclosure Certificate.
  - (5) *Form 8038-G.* Evidence that the federal tax information form 8038-G has been prepared and signed for filing.
  - (6) *Non-Arbitrage Certificate.* A tax and non-arbitrage certificate in form satisfactory to Bond Counsel.
  - (7) *CDIAC Statements.* A copy of the Notices of Sale required to be delivered to the California Debt and Investment Advisory Commission pursuant to Section 53583 of the California Government Code.
  - (8) *Documents.* An original executed copy of the Bond Resolutions and the Paying Agent Agreements.

- (9) *Rule 15c2-12 Certificate.* A certificate of the appropriate official of the District in the form of Appendix B to this Bond Purchase Agreement.
- (10) *Paying Agent Certificate.* A certificate of the Paying Agent, dated the date of Closing, in form and substance satisfactory to the Underwriter.
- (11) *Rating Letters.* Rating letters from Moody's Investors Service to the effect that it has given the Bonds the applicable rating shown on the cover of the Official Statement, and that such rating has not been revoked or downgraded.
- (12) *Custodial Agreement.* A Costs of Issuance Custodial Agreement or other similar document relating to the payment of costs of issuance of the Bonds by the Underwriter, between the Underwriter and the Paying Agent, in its capacity as costs of issuance custodian.
- (13) *Disclosure Counsel Letter.* A letter of Jones Hall, A Professional Law Corporation, Disclosure Counsel, dated the Closing Date and addressed to the District and the Underwriter, to the effect that, without having undertaken to determine independently the accuracy or completeness of the statements contained in the Preliminary Official Statement and the final Official Statement, but on the basis of their participation in conferences with representatives of the District, the Underwriter and others, and their examination of certain documents, nothing has come to their attention which has led them to believe that the Preliminary Official Statement as of its date, and the final Official Statement as of its date and as of the Closing Date, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading (except that no opinion or belief need be expressed as to any financial or statistical data contained in the Preliminary Official Statement or the final Official Statement or information with respect to the book-entry only system or bond insurance, if applicable).
- (14) An opinion of Kutak Rock LLP, Underwriter's counsel, dated the Closing Date and addressed to the Underwriter, in form and substance satisfactory to the Underwriter.

9. **Additional Documents.** Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter may reasonably request to evidence compliance (i) by the District with legal requirements, (ii) the truth and accuracy, as of the time of Closing, of the representations of the District herein contained, (iii) the truth and accuracy, as of the time of Closing, of the Official Statement

and (iv) the due performance or satisfaction by the District at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the District.

**10. Termination.** If the District shall be unable to satisfy the conditions to the Underwriter's obligations contained in this Bond Purchase Agreement or if the Underwriter's obligations shall be terminated for any reason permitted herein, this Bond Purchase Agreement shall terminate and neither the Underwriter nor the District shall have any further obligation hereunder. Notwithstanding any provision herein to the contrary, the performance of any and all obligations of the District hereunder and the performance of any and all conditions contained herein for the benefit of the Underwriter may be waived by the Underwriter in writing at its sole discretion.

**11. Expenses.** The Underwriter shall pay, either directly or through a costs of issuance custodian, any expenses incident to the issuance of the Bonds (except as otherwise agreed to by the District), including but not limited to the following: (i) the fees and disbursements of the District's financial advisor; (ii) the fees and disbursements of Bond Counsel and Disclosure Counsel; (iii) the cost of the preparation, printing and delivery of the Bonds; (iv) the fees, if any, for Bond ratings, including all necessary travel expenses; (v) the cost of the printing and distribution of the Official Statement; (vi) the initial fees of the Paying Agent; and (viii) all other fees and expenses incident to the issuance and sale of the Bonds.

The aggregate amount of the foregoing expenses to be paid by the Underwriter shall not exceed \$185,000.00 with respect to the Series B Bonds and \$135,392.12 with respect to the Series G Bonds. Any amount of such expenses in excess of such amounts shall be the sole responsibility of the District payable from the proceeds of the applicable series of Bonds for which those expenses have accrued or any other lawfully available funds, and to the extent the foregoing expenses are less than \$185,000.00 and \$135,392.12, respectively (as determined on the date which is three months after the Closing Date), the excess funds shall be wired by the Underwriter (or costs of issuance custodian, if applicable) to the County as a contribution to the debt service fund established for the applicable series of Bonds.

All out-of-pocket expenses of the Underwriter, including the California Debt and Investment Advisory Commission fee, travel (except in connection with securing a rating on the Bonds), and other expenses, shall be paid by the Underwriter.

**12. Notices.** Any notice or other communication to be given under this Purchase Agreement (other than the acceptance hereof as specified in the first paragraph hereof) may be given by delivering the same in writing if to the District, to the Superintendent (or Superintendent's designee), at the address set forth on page 1 hereof, or if to the Underwriter as follows:

Stone & Youngberg LLC  
One Ferry Building, Suite 275  
San Francisco, California 94111  
Attn: Bruce Kerns

**13. Entire Agreement.** This Bond Purchase Agreement, when accepted by the District, shall constitute the entire agreement between the District and the Underwriter and is made solely for the benefit of the District and the Underwriter (including the

successors or assigns of any Underwriter). No other person shall acquire or have any right hereunder by virtue hereof, except as provided herein. All of the District's representations, warranties and agreements in this Bond Purchase Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Underwriter, until the earlier of (a) issuance of the Bonds hereunder, and (b) any termination of this Bond Purchase Agreement.

**14. Counterparts.** This Bond Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

**15. Severability.** In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect such invalidity, illegality or unenforceability shall not affect any other provision hereof.

**16. State Law Governs.** The validity, interpretation and performance of this Bond Purchase Agreement shall be governed by the laws of the State of California.

*[Remainder of page intentionally left blank]*

17. **No Assignment.** The rights and obligations created by this Bond Purchase Agreement shall not be subject to assignment by the Underwriter or the District without the prior written consent of the other party hereto.

**STONE & YOUNGBERG LLC**, on behalf of  
itself and Piper Jaffray & Co.

By:  \_\_\_\_\_  
Managing Director

Accepted as of the date first stated  
above:

**FRESNO UNIFIED SCHOOL DISTRICT**

By: \_\_\_\_\_  
Name: Ruth F. Quinto  
Title: Deputy Superintendent/Chief Financial  
Officer, Administrative Services

Time of Execution: \_\_\_\_\_

*[Signature page of Bond Purchase Agreement]*


17. **No Assignment.** The rights and obligations created by this Bond Purchase Agreement shall not be subject to assignment by the Underwriter or the District without the prior written consent of the other party hereto.

**STONE & YOUNGBERG LLC**, on behalf of  
itself and Piper Jaffray & Co.

By: \_\_\_\_\_  
Managing Director

Accepted as of the date first stated  
above:

**FRESNO UNIFIED SCHOOL DISTRICT**

By:  \_\_\_\_\_  
Name: Ruth F. Quinto  
Title: Deputy Superintendent/Chief Financial  
Officer, Administrative Services

Time of Execution: 1:59 pm 09/28/11

*[Signature page of Bond Purchase Agreement]*

**EXHIBIT A**

**Maturity Schedule**

**FRESNO UNIFIED SCHOOL DISTRICT  
(Fresno County, California)  
General Obligation Bonds  
Election of 2010, Series B**

**\$24,820,000 Current Interest Series B Bonds**

<b>Maturity Date (August 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Yield</b>	<b>Price</b>
2012	\$4,855,000	2.000%	0.480%	101.211%
2013	2,290,000	2.000	0.720	102.284
2017	210,000	4.000	2.000	110.898
2018	685,000	4.000	2.350	110.310
2019	1,190,000	4.000	2.670	109.306
2020	2,310,000	4.000	2.940	108.163
2021	3,585,000	4.000	3.090	107.640
2022	3,015,000	5.000	3.290	114.221 c
2023	3,155,000	5.250	3.520	114.228 c
2024	3,525,000	5.250	3.750	112.201 c

**\$15,907,119.35 Initial Denominational Amount (\$55,060,000 Maturity Value)  
Capital Appreciation Series B Bonds**

<b>Maturity Date (August 1)</b>	<b>Initial Denominational Amount</b>	<b>Accretion Rate</b>	<b>Yield to Maturity</b>	<b>Maturity Value</b>
2025	\$ 1,618,973.85	6.090%	6.090%	\$ 3,705,000
2026	1,525,142.25	6.310	6.310	3,825,000
2027	1,406,246.40	6.460	6.460	3,840,000
2028	1,349,019.00	6.560	6.560	3,990,000
2029	1,310,778.00	6.650	6.650	4,200,000
2030	1,896,031.30	6.750	6.750	6,605,000
2031	1,814,744.40	6.830	6.830	6,860,000
2032	1,732,725.10	6.890	6.890	7,090,000
2033	1,658,766.60	6.940	6.940	7,340,000
2034	1,594,692.45	6.970	6.970	7,605,000
2041	9,707,730.15	7.000	7.000	75,435,000

C = Priced to par call on August 1, 2021.

## Maturity Schedule

(continued from prior page)

**FRESNO UNIFIED SCHOOL DISTRICT  
(Fresno County, California)  
General Obligation Bonds  
Election of 2001, Series G**

**\$55,570,914.90 Initial Denominational Amount (\$293,335,000 Maturity Value)  
Capital Appreciation Series G Bonds**

<b>Maturity Date (August 1)</b>	<b>Initial Denominational Amount</b>	<b>Accretion Rate</b>	<b>Yield to Maturity</b>	<b>Maturity Value</b>
2021	\$ 48,703.50	11.814%	4.590%	\$ 150,000
2022	275,006.00	11.814	4.810	950,000
2023	507,176.50	5.390	5.390	950,000
2024	633,362.40	5.820	5.820	1,320,000
2025	764,697.50	6.090	6.090	1,750,000
2026	2,276,748.30	6.310	6.310	5,710,000
2027	2,902,214.25	6.460	6.460	7,925,000
2028	3,316,761.00	6.560	6.560	9,810,000
2029	3,222,329.25	6.650	6.650	10,325,000
2030	3,120,342.20	6.750	6.750	10,870,000
2031	4,141,373.70	6.830	6.830	15,655,000
2032	4,054,430.10	6.890	6.890	16,590,000
2033	3,881,378.25	6.940	6.940	17,175,000
2034	3,729,336.65	6.970	6.970	17,785,000
2041	22,697,055.30	7.000	7.000	176,370,000

## Redemption Terms

### **Optional Redemption.**

**Current Interest Series B Bonds.** The Current Interest Series B Bonds maturing on or prior to August 1, 2021 are not subject to optional redemption prior to maturity. The Current Interest Series B Bonds maturing on or after August 1, 2022 are subject to redemption prior to maturity, at the option of the District, in whole or in part among maturities on such basis as shall be designated by the District and by lot within a maturity, from any available source of funds, on August 1, 2021, or on any date thereafter, at a price equal to 100% of the principal amount thereof, without premium.

**Capital Appreciation Series B Bonds.** The Capital Appreciation Series B Bonds maturing on or after August 1, 2025 are subject to redemption prior to maturity, at the option of the District, in whole or in part among maturities on such basis as shall be designated by the District and by lot within a maturity, from any available source of funds, on August 1, 2021, or on any date thereafter, at a price equal to 100% of the Accreted Value thereof, without premium.

**Capital Appreciation Series G Bonds.** The Capital Appreciation Series G Bonds maturing on or prior to August 1, 2022 are not subject to optional redemption prior to maturity.



The Capital Appreciation Series G Bonds maturing on or after August 1, 2023 are subject to redemption prior to maturity, at the option of the District, in whole or in part among maturities on such basis as shall be designated by the District and by lot within a maturity, from any available source of funds, on August 1, 2021, or on any date thereafter, at a price equal to 100% of the Accreted Value thereof, without premium.

For the purpose of selection for optional redemption as described above, Bonds will be deemed to consist of \$5,000 principal amount (or Maturity Value in the case of Capital Appreciation Bonds), and any such portion may be separately redeemed.

**Mandatory Sinking Fund Redemption.**

**Capital Appreciation Series B Bonds.** The Capital Appreciation Interest Series B Bonds maturing on August 1, 2041 (the “Capital Appreciation Series B Term Bonds”) are subject to mandatory sinking fund redemption in part by lot, on August 1 of each year, in accordance with the schedule set forth below. The Capital Appreciation Series B Term Bonds so called for mandatory sinking fund redemption shall be redeemed at the principal amount of such Capital Appreciation Series B Bonds to be redeemed, plus accreted but unpaid interest, without premium.

***Term Capital Appreciation Series B Bonds Maturing August 1, 2041***

Redemption Date (August 1)	Accreted Value To be Redeemed
2035	\$ 7,871,873.10
2036	8,156,009.55
2037	8,444,639.20
2038	8,745,125.00
2039	9,058,618.80
2040	9,381,775.50
2041 (Maturity)	9,720,000.00

**Capital Appreciation Series G Bonds.** The Capital Appreciation Interest Series G Bonds maturing on August 1, 2041 (the “Capital Appreciation Series G Term Bonds”) are subject to mandatory sinking fund redemption in part by lot, on August 1 of each year, in accordance with the schedule set forth below. The Capital Appreciation Series G Term Bonds so called for mandatory sinking fund redemption shall be redeemed at the principal amount of such Capital Appreciation Series G Bonds to be redeemed, plus accreted but unpaid interest, without premium.

***Term Capital Appreciation Series G Bonds Maturing August 1, 2041***

Redemption Date (August 1)	Accreted Value To be Redeemed
2035	\$ 18,420,646.30
2036	19,073,223.55
2037	19,748,457.05
2038	20,451,390.00
2039	21,175,992.00
2040	21,923,482.35
2041 (Maturity)	22,700,000.00

**EXHIBIT B**

**\$50,434,849.50**  
**FRESNO UNIFIED SCHOOL DISTRICT**  
**(Fresno County, California)**  
**General Obligation Bonds**  
**Election of 2010, Series B**

**\$55,570,914.90**  
**FRESNO UNIFIED SCHOOL DISTRICT**  
**(Fresno County, California)**  
**General Obligation Bonds**  
**Election of 2001, Series G**

**15c2-12 CERTIFICATE**

The undersigned hereby certifies and represents that he is the duly appointed and acting Superintendent of the Fresno Unified School District (the "District"), and is duly authorized to execute and deliver this Certificate and further hereby certifies and reconfirms on behalf of the District as follows:

(1) This Certificate is delivered in connection with the offering and sale of the above-referenced bonds (the "Bonds") in order to enable the underwriter of the Bonds to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule").

(2) In connection with the offering and sale of the Bonds, there has been prepared a Preliminary Official Statement, setting forth information concerning the Bonds and the District (the "Preliminary Official Statement").

(3) As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters, all with respect to the Bonds.

(4) The Preliminary Official Statement is, except for the Permitted Omissions, deemed final within the meaning of Rule 15c2-12.

IN WITNESS WHEREOF, I have hereunto set my hand as of September 14, 2011.

**FRESNO UNIFIED SCHOOL DISTRICT**

By: \_\_\_\_\_



---

## Contents

Introduction .....	1
Yield Restriction and Rebate Requirements .....	2
Part I	
Basic Concepts and Definitions that Apply for the Arbitrage Requirements .....	4
Part II	
Yield Restriction Requirements and Exceptions.....	7
Part III	
Rebate Requirements and Exceptions .....	11
Part IV	
Rebate Amounts and Payments.....	16
Part V	
Accounting for Expenditures and Allocations.....	18
Part VI	
Example of Calculation of Rebate Amount and Yield Restriction Analysis .....	19
Part VII	
Information and Services.....	25

---

## Introduction

This publication is a basic guide to the yield restriction and rebate requirements (arbitrage requirements) of Internal Revenue Code (IRC) Section 148 and related Treasury Regulations (Treas. Reg.).<sup>1</sup> Understanding the arbitrage requirements can help issuers and conduit borrowers comply with their obligations and prevent violations of the arbitrage requirements. The IRS provides information on specific provisions of tax-exempt bond law in [IRS publications](#) and on [IRS.gov/bonds](https://www.irs.gov/bonds). Additional resources are listed at the end of this publication.

This publication has seven parts.

- Part I provides basic concepts and definitions that apply to the arbitrage requirements.
- Parts II and III describe the yield restriction and arbitrage rebate requirements, and detail the exceptions to those requirements.
- Part IV provides information on how and when an issuer computes rebate amounts and pays rebate to the U.S. Treasury.
- Part V provides information on accounting for expenditures and allocations.
- Part VI presents a basic example of rebate amount and yield reduction payment calculations.
- Part VII provides additional information on available resources, services and programs to facilitate compliance with the arbitrage requirements.

The publication is not formal guidance and is not intended as an authoritative source. It outlines the general arbitrage rules. It does not address all questions or issues that may arise in complying with the arbitrage requirements, including, for example, special rules that may apply to bond pools, direct pay bonds, tax credit bonds and certain private activity bonds other than qualified 501(c)(3) bonds. This document does not provide details on how to apply the arbitrage requirements to computations. Issuers should review IRC Sections 103 and 148, the related Treas. Reg. and other official guidance on complying with the arbitrage requirements, and consult their legal counsel in appropriate circumstances.

This publication does not address other federal tax requirements that must be met for bonds to be tax-exempt, including those that apply before the bonds are issued and after issuance. [Publication 4078](#), Tax-Exempt Private Activity Bonds, [Publication 4079](#), Tax-Exempt Governmental Bonds, and [Publication 4077](#), Tax-Exempt Bonds for 501(c)(3) Charitable Organizations, provide overviews of federal tax rules that apply post-issuance to tax-exempt private activity bonds, governmental bonds and qualified 501(c)(3) bonds, respectively. Not meeting the federal tax law requirements during the life of tax-exempt bonds may jeopardize their tax-exempt status.

---

<sup>1</sup> Although conduit issuers may require conduit borrowers to contractually assume responsibility for complying with requirements of the IRC, failure of a bond issue to comply with the requirements may result in the loss of the tax-exempt status of the bonds regardless of any agreement between the parties about compliance responsibilities. [Publication 5005](#), Your Responsibilities as a Conduit Issuer of Tax-Exempt Bonds, includes information for issuers of conduit bonds.

---

## Yield Restriction and Rebate Requirements

State and local governments receive benefits under the IRC that typically lower borrowing costs on their valid tax-exempt debt obligations. For example, because interest paid to bondholders on tax-exempt obligations is not includable in their gross income for federal income tax purposes, bondholders are willing to accept a lower interest rate than they would if the interest were taxable. These benefits apply to many types of municipal debt financing arrangements including bonds, notes, loans, lease purchase contracts, lines of credit and commercial paper (collectively referred to as “bonds” in this publication). To receive these benefits, issuers must ensure that they meet IRC and Treas. Reg. requirements, generally for as long as the bonds remain outstanding. This means that it’s important that issuers and any users of the bond proceeds regularly monitor how the bond proceeds are being used to ensure continued compliance.

Some of the requirements relate to how bond proceeds are invested. Generally, bonds lose their tax-exempt status if they are arbitrage bonds under IRC Section 148. To be an arbitrage bond, certain monies associated with the bonds are used to acquire investments with a yield above the bond yield. When the investment yield is higher than the bond yield, the excess is called “arbitrage earnings.” But having arbitrage earnings does not automatically mean that the bonds are arbitrage bonds. Bonds must be tested under two independent sets of arbitrage rules to determine if they are arbitrage bonds. If the bonds are arbitrage bonds under either set of rules, they are arbitrage bonds even if they are not arbitrage bonds under the other set.

The two sets of rules that apply to determine whether bonds are arbitrage bonds are:

- The yield restriction rules under IRC Section 148(a), and
- The rebate rules under IRC Section 148(f).

**Yield Restriction Rules** - The yield restriction rules limit the investment yield that may be earned on bond proceeds. Bonds are arbitrage bonds if the issuer expects to invest or actually does invest all or part of the bond proceeds at a yield materially higher than the bond yield. Issuers are permitted to invest in higher yielding investments under certain exceptions. But if no exception applies, the issuer must limit the yield on its investment of bond proceeds to a yield that is not materially higher than the yield on the bonds (yield restrict the investments) or, if permitted, make a yield reduction payment to the U.S. Treasury to prevent its bonds from violating the yield restriction rules. Part II of this publication will describe and list:

- 1) Which monies are bond proceeds that must be yield restricted,
- 2) Which investments must be yield restricted,
- 3) What is a materially higher yield on an investment,
- 4) When the issuer may reduce the yield on the investment by making “yield reduction payments” to the U.S. Treasury, and
- 5) Exceptions to the yield restriction rules.

**Rebate Rules** - The arbitrage rebate rules provide that certain arbitrage earnings must be paid, or “rebated,” to the U.S. Treasury. This means that even if an issuer is permitted to invest in higher yielding investments under the yield restriction rules, it may have to rebate those arbitrage earnings to the U.S. Treasury. The yield restriction rules may allow the issuer to earn the arbitrage, but the rebate rules may not allow the issuer to keep the arbitrage. If an issuer is required to pay rebate under these rules, but does not, the bonds are “arbitrage bonds.” The rebate rules include exceptions. Part III of this publication will describe and list:

- 1) Which monies are proceeds subject to rebate,
- 2) Which investments are subject to rebate,
- 3) Certain rules for computing and paying rebate, and
- 4) Exceptions to the rebate rules.

## Part I

### Basic Concepts and Definitions that Apply for the Arbitrage Requirements

---

Before exploring the yield restriction and rebate rules, we'll explain some basic concepts that apply for the arbitrage requirements.

#### Definitions

**Gross Proceeds** - Gross proceeds of a bond issue include proceeds and replacement proceeds.

**Proceeds**<sup>2</sup> include sale proceeds, investment proceeds and transferred proceeds.

**Sale proceeds** are amounts the issuer receives from the sale of the bond issue, including amounts used to pay underwriters' discount and certain accrued interest on the bonds.

**Investment proceeds** are amounts received from investing proceeds of an issue. For example, if the issuer invests sale proceeds and earns interest, that interest is considered investment proceeds.

**Transferred proceeds** may result when an issuer issues tax-exempt bonds (the refunding bonds) to refund an outstanding issue of tax-exempt bonds (the refunded bonds). Unspent proceeds of the refunded bonds may transfer to and become proceeds of the refunding bonds, and are no longer considered proceeds of the refunded bonds.

**Replacement proceeds**<sup>3</sup> are monies that would have been used to finance the project if the bonds had not been issued. Replacement proceeds may also include amounts expected to pay debt service on the bonds, including sinking funds (such as a debt service fund, redemption fund, reserve fund or a replacement fund) and pledged funds (generally meaning any amount pledged to pay principal of or interest on the bonds).

**Investment Property**<sup>4</sup> includes any security (for example, a share of stock in a corporation), any obligation (for example, debt obligations such as U.S. Treasury obligations and agency bonds), any annuity contract and any other kind of investment-type property (for example, guaranteed investment contracts). Cash is not investment property. For issues of governmental and qualified 501(c)(3) bonds, investments in other tax-exempt governmental bonds and tax-exempt qualified 501(c)(3) bonds (bonds not subject to the Alternative Minimum Tax) are not investment property under IRC Section 148(b)(3). For issues of other types of bonds, no tax-exempt bond is investment property. Consequently, investments in these tax-exempt bonds are not subject to the arbitrage requirements, and earnings received from these bonds are not subject to the yield restriction or rebate requirements.<sup>5</sup> Investment property can be a purpose or nonpurpose investment.<sup>6</sup>

A **purpose investment** is one acquired for the governmental purpose of an issue. For example, if an issuer issued bonds to make a loan to a 501(c)(3) organization or to fund student loans, the loans the issuer makes to the 501(c)(3) or students are investments but because the bonds were issued for this purpose, these loans are "purpose investments."

---

<sup>2</sup> Treas. Reg. Section 1.148-1(b).

<sup>3</sup> Treas. Reg. Section 1.148-1(c).

<sup>4</sup> IRC Section 148(b)(2).

<sup>5</sup> Treas. Reg. Section 1.148-2(d)(2)(v). Generally, investments in bonds subject to the Alternative Minimum Tax (AMT bonds) made with non-AMT bond proceeds are subject to yield restriction, but investment in AMT bonds made with AMT bond proceeds are not. Similarly, investments in non-AMT bonds made with non-AMT bond proceeds are not subject to yield restriction. See IRC Section 148(b)(3).

<sup>6</sup> Treas. Reg. Section 1.148-1(b).



A **nonpurpose investment** is an investment that is not a purpose investment. For example, if the issuer sells bonds to build a school but invests some of those proceeds while construction is ongoing, the investments are not acquired for the governmental purpose of the issue (construction of the school) so they are nonpurpose investments. Examples of a nonpurpose investment include buying U.S. Treasury notes during the construction period as a temporary investment until the funds are spent on the project, or buying federal agency bonds to hold in a debt service reserve fund.

**Funds and Accounts Descriptions** - Issuers and conduit borrowers create funds and accounts in connection with a bond issue in which bond proceeds are deposited. Below is a description of certain funds and accounts commonly used in tax-exempt bond financings and the typical use of proceeds deposited in each type of fund or account. Frequently, there will be more than one type of fund for a bond issue, and for each type, there may be more than one account. For example, there could be several construction accounts for separate projects within a construction fund.

**Construction fund or project fund** - An issuer or conduit borrower might establish a construction or project fund into which it will deposit bond proceeds to be used to pay costs of the project. This fund might also include proceeds to pay capitalized interest and costs of issuing the bonds (or proceeds for these costs may be held in separate funds or accounts).

**Debt service fund and bona fide debt service fund** - An issuer or conduit borrower might establish a debt service fund to hold revenues or other monies to pay upcoming debt service payments on the bonds. A bona fide debt service fund is used for proper matching of annual revenues and debt service. Revenues are deposited into the fund until needed to pay debt service. The fund generally must be depleted at least once each bond year to qualify as a bona fide debt service fund.<sup>7</sup>

**Reserve fund and reasonably required reserve or replacement fund** - Reserve funds secure payment of debt service on the bonds in the event the issuer is unable to pay debt service. A reasonably required reserve or replacement fund is a fund in which gross proceeds do not exceed the lesser of:

- 10% of the principal amount of the issue,
- Maximum annual debt service on the bonds, or
- 125% of the average annual debt service on the bonds.<sup>8</sup>

**Refunding escrow fund** - An issuer might establish a refunding escrow fund to hold monies to be used to pay principal, interest and premium, if any, on one or more prior bond issues (the refunded bonds). These funds might contain proceeds of a refunding issue and possibly other amounts, such as tax receipts or other revenues pledged to pay off the refunded bonds. A refunding escrow may be associated with a current refunding or an advance refunding bond issue.

A **current refunding bond** refunds bonds that are redeemed within 90 days of the refunding bonds being issued.<sup>9</sup>

---

<sup>7</sup> Treas. Reg. Section 1.148-1(b). Generally, "bond year" means each one-year period that ends on the day selected by the issuer. The requirements for depletion appear in the definition of "bona fide debt service fund."

<sup>8</sup> Treas. Reg. Section 1.148-2(f)(2)(ii). For a refunding issue, a reserve is reasonably required for purposes of this exception only if the aggregate amount invested in higher yielding investments for both the refunding issue and the refunded issue does not exceed these limits by reference only to the refunding issue (whether or not the proceeds of the refunded issue have become transferred proceeds). Treas. Reg. Section 1.148-9(e).

<sup>9</sup> Treas. Reg. Section 1.150-1(d)(3).

An **advance refunding bond** refunds bonds that are redeemed more than 90 days after the refunding bonds are issued.<sup>10</sup>

**Cost of issuance fund** - An issuer or conduit borrower might establish a cost of issuance fund to deposit bond proceeds to be used to pay various costs of issuing bonds. These costs include, but are not limited to, payment for the services of bond counsel, underwriter's counsel, financial advisor, verification agent, rating agencies and fees for printing offering documents.

---

<sup>10</sup> The Tax Cuts and Jobs Act (Public Law No. 115-97, 131 Stat. 2054 (2017)) repealed the exclusion from gross income for interest on bonds issued to advance refund another bond. The repeal applies to advance refunding bonds issued after December 31, 2017. Such bond is classified as an advance refunding if it is issued more than 90 days before the redemption of the refunded bonds.

## Part II

### Yield Restriction Requirements and Exceptions

The yield restriction rules provide that bonds are arbitrage bonds if the issuer expects to invest or actually invests all or part of the gross proceeds in investment property having a yield materially higher than the bond yield. The yield restriction rules apply both to purpose and nonpurpose investments. The yield restriction rules provide special treatment when proceeds are used for:

- Certain general uses of the bonds, for example, construction or refunding purposes (some of which may have special exceptions);
- Certain types of investments depending on how the invested funds are intended to be used, for example, a construction or escrow fund may be subject to different definitions of materially higher yield; and
- Certain classes of investments (yield is computed separately for purpose and nonpurpose investments).

To follow the yield restriction requirements, the issuer or conduit borrower must correctly treat all investments based on the general uses of the bonds and the type and class of the investment.

#### Materially Higher Yield

The yield restriction rules limit investment yield on gross proceeds. Gross proceeds invested at a yield materially higher than the bond yield will result in the bonds being arbitrage bonds.<sup>11</sup> Generally, an investment yield is materially higher if it exceeds the bond yield by more than 1/8 of 1%;<sup>12</sup> however, the definition of materially higher can differ depending on the type and class of investment and the general uses of the bonds.<sup>13</sup>

Cases in which a different definition of “materially higher” applies	Investment yield is materially higher if it exceeds the bond yield by more than
Proceeds held in an advance refunding escrow	1/1000 of 1% <sup>14</sup>
Replacement proceeds	1/1000 of 1% <sup>15</sup>

For example, if a fixed-yield bond issue has a yield of 5%, the investment yield on an advance refunding escrow or on replacement proceeds is not materially higher if the yield of the investments is not greater than 5.001%.

#### Yield Reduction Payments

In certain cases, an issuer can make a payment to the U.S. Treasury to reduce the yield on an investment (a yield reduction payment). In this case, an issuer may invest proceeds at a materially higher yield, but by paying the yield reduction payment, the issuer causes the investment yield to be treated within the permitted yield. Yield reduction payments may only be made for certain types of investments and certain types of proceeds.<sup>16</sup> Generally, a yield reduction payment is made at the same time and in the same manner as a rebate payment by

<sup>11</sup> IRC Section 148(a) and Treas. Reg. Section 1.148-2(a).

<sup>12</sup> Treas. Reg. Section 1.148-2(d)(2)(i).

<sup>13</sup> Treas. Reg. Section 1.148-2(d)(1). If yield-restricted investments in the same class are subject to different definitions of materially higher, the definition of materially higher that produces the lowest permitted yield applies to all the investments in the class.

<sup>14</sup> Treas. Reg. Section 1.148-2(d)(2)(ii).

<sup>15</sup> Treas. Reg. Section 1.148-2(d)(2)(ii).

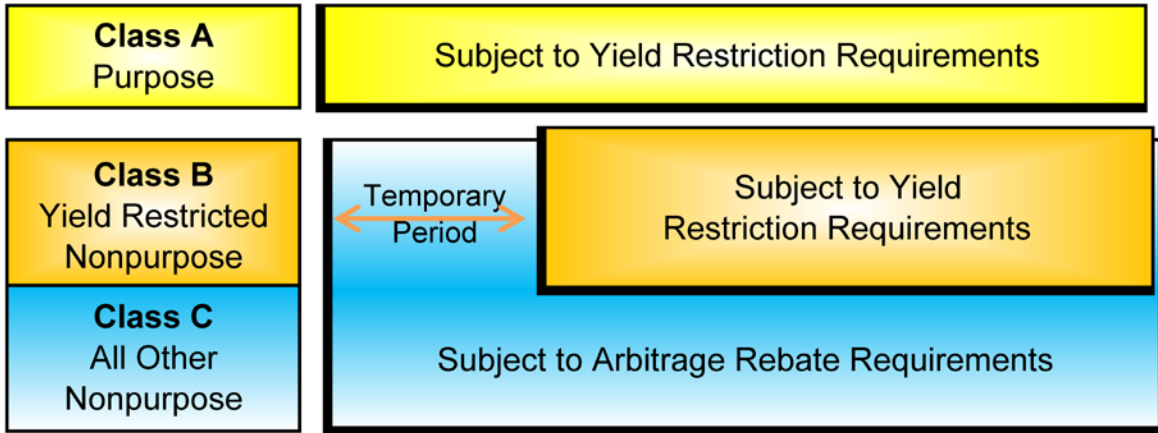
<sup>16</sup> Treas. Reg. Section 1.148-5(c)(3).

filing [Form 8038-T](#), Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate, with the IRS.<sup>17</sup>

### Yield Computation Done for Entire Class of Investments

In figuring whether investments acquired with gross proceeds have a materially higher yield, combine similar investments into three classes<sup>18</sup> and compute the yield for each class. Class A includes all purpose investments that are subject to certain yield restriction limits. Class B includes the nonpurpose investments subject to yield restriction after the temporary period. Class C consists of all other nonpurpose investments.

#### Illustration of classes of investments and their arbitrage requirements



Note that nonpurpose investments not subject to yield restriction are subject to the rebate requirements. This means that during the temporary period Class B investments are subject to rebate requirements, even though they aren't subject to yield restriction requirements until a later date. In this illustration, the Class B investments could be a construction fund while the Class C investments could be a reasonably required reserve fund.

### Exceptions to Yield Restriction Rules

The exceptions to the yield restriction requirement are for gross proceeds:

- Held during “temporary periods,”<sup>19</sup>
- Held in a “reasonably required reserve or replacement fund,”<sup>20</sup> or
- Representing a “minor portion.”<sup>21</sup>

Remember, if an exception applies, the issuer may invest the bond proceeds covered by the exception at an unrestricted yield, but those proceeds might be subject to the rebate requirements. For example, bond proceeds deposited in a reasonably required reserve or replacement fund are subject to rebate requirements even though an issuer can invest those proceeds at an unrestricted yield under a specific exception to the yield restriction requirements. This is an example of how an issuer may earn arbitrage, but may not keep it.

<sup>17</sup> Treas. Reg. Section 1.148-5(c)(2).

<sup>18</sup> Treas. Reg. Section 1.148-5(b)(2)(ii).

<sup>19</sup> IRC Section 148(c).

<sup>20</sup> IRC Section 148(d).

<sup>21</sup> IRC Section 148(e).

## Temporary Period Exceptions - Exceptions Subject to a Time Limit

During a “temporary period,” the issuer may invest bond proceeds at an unrestricted yield without causing the bonds to be arbitrage bonds under the yield restriction rules. The length of the “temporary period” depends on the purpose (use) for which the bonds are issued and the type of investment (or fund) that holds the proceeds.

### 3-Year Temporary Period for Capital Projects

A 3-year temporary period is available for bond proceeds deposited in a construction or project fund when those proceeds are expected to be allocated to acquisition or construction costs of a capital project.<sup>22</sup> The temporary period begins on the date the bonds are issued and ends 3 years later. The 3-year temporary period may be extended another 2 years for a total of 5 years if the issuer and a licensed architect or engineer certify that more than 3 years are necessary to complete the capital project. This fund is made up of the net sale proceeds<sup>23</sup> and investment proceeds.

The 3-year temporary period applies as long as the issuer reasonably expects as of the issue date to:

- Allocate at least 85% of the bond’s net sale proceeds for expenditures on the capital project within three years of the bond’s issue date,
- Have a binding obligation to a third party within six months of the bond’s issue date to allocate at least 5% of the net sale proceeds to expenditures for the capital project, and
- Proceed toward completing the project and allocating the net sale proceeds to expenditures with due diligence.<sup>24</sup>

### Other Temporary Periods

Other temporary period exceptions to the yield restriction requirements include:

- 1) 13-month temporary period exceptions for bona fide debt service funds and working capital expenditures.<sup>25</sup> The 13-month temporary period may be extended to the maturity date for issues that are tax and revenue anticipation notes (TRANS)<sup>26</sup> if certain requirements are met.
- 2) 1-year temporary period for investment proceeds.<sup>27</sup>
- 3) 90-day temporary period for certain current refundings. The temporary period for current refunding proceeds, other than transferred proceeds, is generally 90 days.<sup>28</sup>
- 4) 30-day temporary periods for replacement proceeds, advance refunding proceeds and other proceeds. Replacement proceeds qualify for a 30-day temporary period. The temporary period for proceeds (other than transferred proceeds) of an advance refunding issue is generally 30 days.<sup>29</sup> Gross proceeds not qualifying for any other special temporary period exception qualify for a 30-day temporary period exception from date of receipt.<sup>30</sup>

---

<sup>22</sup> See Part V for a discussion of what it means to allocate to expenditures.

<sup>23</sup> “Net sale proceeds” of a bond issue are the sale proceeds reduced by those sale proceeds deposited in a “reasonably required reserve or replacement fund” and proceeds invested as part of a “minor portion.” Treas. Reg. Section 1.148-1(b).

<sup>24</sup> Treas. Reg. Section 1.148-2(e)(2).

<sup>25</sup> Treas. Reg. Section 1.148-2(e)(5)(ii) and Treas. Reg. Section 1.148-2(e)(3)(i).

<sup>26</sup> Treas. Reg. Section 1.148-2(e)(3)(ii).

<sup>27</sup> Treas. Reg. Section 1.148-2(e)(6).

<sup>28</sup> Treas. Reg. Section 1.148-9(d)(2)(ii)(A) and (B).

<sup>29</sup> Treas. Reg. Section 1.148-9(d)(2)(i). This 30-day temporary period ends 30 days after the date the advance refunding bonds are issued.

<sup>30</sup> Treas. Reg. Section 1.148-2(e)(7).

## Start of Temporary Period

Most temporary periods begin on the bond's issue date. Other temporary periods begin after the issue date, such as when proceeds are received or earned (for example, investment earnings), allocated to the bonds (for example, replacement proceeds deposited in a sinking fund) or first treated as replacement proceeds.<sup>31</sup> Certain temporary periods for repayments of loans made with proceeds begin on the date of the repayment.

## Temporary Periods and Refunding Bonds

For proceeds that are transferred proceeds of a refunding issue, the temporary period generally begins on the date of transfer of the proceeds and ends when it would have otherwise ended if the proceeds had remained proceeds of the refunded bonds.<sup>32</sup> However, in an advance refunding, for example, the 3 or 5-year temporary period for capital projects or the 13-month temporary period for working capital for the proceeds of the prior issue ends on the issue date of the advance refunding issue.<sup>33</sup>

## Yield Restriction Exceptions Having No Time Limit

The following exceptions to the yield restriction rules apply throughout the life of the bond issue. If one of these exceptions applies, the yield restriction limitations do not apply to the proceeds or funds described in the exception.

- 1) Reasonably required reserve or replacement fund.<sup>34</sup>
- 2) Minor portion exception - This exception applies to proceeds in an amount which is the lesser of \$100,000 or 5% of the sale proceeds of the issue.<sup>35</sup>

---

<sup>31</sup> Treas. Reg. Section 1.148-2(e)(5).

<sup>32</sup> Treas. Reg. Section 1.148-9(d)(2)(iii)(A).

<sup>33</sup> Treas. Reg. Section 1.148-9(d)(2)(iii)(B).

<sup>34</sup> Treas. Reg. Section 1.148-2(f)(2)(i).

<sup>35</sup> Treas. Reg. Section 1.148-2(g).

## Part III

### Rebate Requirements and Exceptions

Under IRC Section 148(f), bonds are arbitrage bonds if an issuer does not make rebate payments to the U.S. Treasury in the amounts and at the times required. The issuer must rebate the amount by which the yield on investment property acquired with proceeds of the issue exceeds the yield on the bonds. The rebate requirements apply only to nonpurpose investments. Purpose investments are not subject to the rebate rules.

The rebate rules generally provide that issuers must periodically calculate arbitrage earnings and, unless an exception applies, pay those earnings to the U.S. Treasury within 60 days after the computation date for the period. While issuers have flexibility in determining the computation periods, an issuer must compute and pay any required rebate at least once every five years. Payments must be made by filing **Form 8038-T**, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. Parts IV and VI include more information about the rebate calculation and examples of this calculation.

#### Exceptions to the Rebate Requirements

Exceptions to the rebate requirements may apply based on how quickly the issuer spends the bond proceeds, the size of the issuer and the category of proceeds being invested. Some of these exceptions apply only to certain types of bonds (for example, governmental bonds) and some of these exceptions apply only to proceeds in certain funds. For exceptions applying to specific types of funds, the issuer's allocation of proceeds to these funds is important to determine whether a particular exception's requirements are met. The purposes and uses of the proceeds in a fund and the purpose of the bond issue control whether an exception applies, regardless of the label of the fund.

The two general exception categories to the rebate requirements are the spending exceptions and the special exceptions.

The following chart illustrates certain funds and exceptions that may be available for proceeds held in those funds.

Generic Types of Accounts (Funds) and Available Exceptions to Rebate					
Exceptions	Type of Fund Containing Bond Proceeds				
	Refunding Escrow Fund	Construction or Project Fund <sup>a</sup>	Costs of Issuance Fund <sup>b</sup>	Reserve Fund <sup>c</sup>	Debt Service Fund (DSF)
6-Month	[Green bar]				
18-Month		[Orange bar]			
2-Year		[Blue bar] <i>Limited</i> <input type="checkbox"/>			
Bona Fide DSF					[Green bar]
Working Capital		[Blue bar]			
Small Issuer	[Purple bar]				

<sup>a</sup> Or Working Capital Fund

<sup>b</sup> Proceeds used for issuance costs are eligible for the 2-year spending exception if they meet the requirements under Treas. Reg. Section 1.148-7(i)(4).

<sup>c</sup> A reasonably required reserve or replacement fund can only be excluded from the rebate requirement under the two-year spending exception through the earlier of the close of the two year period or the date the construction is substantially completed under IRC Section 148(f)(4)(C)(vi)(II).

## Spending Exceptions

The three spending exceptions are the:

- 6-month spending exception,
- 18-month spending exception, and
- 2-year spending exception.

If an issuer satisfies a spending exception, proceeds in the eligible funds will be exempt from the rebate requirements.

The spending exceptions depend on an issuer allocating certain proceeds to expenditures within specified time periods. To determine whether these exceptions apply, it is necessary to identify:

- Which proceeds the issuer allocated to expenditures, and
- When the issuer allocated those proceeds.

Part V provides information on accounting for expenditures and allocations.

### 6-Month Spending Exception

If the requirements of the 6-month spending exception are met, the issue is treated as satisfying the rebate requirements for the proceeds meeting that exception. This means that earnings on investments of certain gross proceeds of the issue that exceed the yield on the issue don't need to be paid as rebate to the U.S. Treasury. Generally, the issuer must meet both the following requirements:

- 1) The issuer must allocate the gross proceeds to expenditures for the governmental purposes of the issue within the 6-month period beginning on the issue date. For this purpose, gross proceeds do not include gross proceeds:
  - a) Held in a bona fide debt service fund or a reasonably required reserve or replacement fund,
  - b) Not previously anticipated to become gross proceeds but that become gross proceeds after the end of the 6-month spending period,
  - c) That are proceeds derived from any purpose investment of the issue, and
  - d) That are repayments of certain grants financed by the issue.

If the issue is a governmental bond issue other than TRANs or if the issue is qualified 501(c)(3) bonds, the 6-month time period is extended to one year for a limited amount of gross proceeds.

- 2) The issuer meets the rebate requirements for the issue's proceeds (excluding earnings on amounts in any bona fide debt service fund) not covered by the 6-month exception.

When an issuer satisfies the requirements for the 6-month spending exception, it may retain earnings on only the gross proceeds specifically described by the exception. The 6-month spending exception does not create an exception for amounts in a reasonably required reserve or replacement fund or for unanticipated gross proceeds that appear after the 6-month period.

TRANs are treated as meeting the 6-month spending exception for the issue's net proceeds<sup>36</sup> and any investment earnings on those net proceeds if the issuer meets certain IRC requirements.<sup>37</sup>

---

<sup>36</sup> IRC Section 150(a)(3).

<sup>37</sup> IRC Section 148(f)(4)(B)(iii).



## 18-Month Spending Exception

An issuer satisfying the requirements of the 18-month spending exception may retain certain investment earnings during that 18-month period starting on the issue date. The three requirements are:

- 1) The issuer must allocate gross proceeds to expenditures for a governmental purpose of the bonds under the following schedule, with the periods starting on the issue date of the bonds:
  - a) At least 15% of the proceeds are allocated within 6 months,
  - b) At least 60% within 12 months, and
  - c) 100% within 18 months.

The spending requirement for the third period allows for a limited amount of unspent proceeds in connection with reasonable retainage<sup>38</sup> (retention to ensure compliance with a construction contract), if the reasonable retainage is allocated to expenditures within 30 months of the issue date. An issuer's failure to meet the spending requirements will be disregarded if the issuer exercised due diligence to complete the financed project and the amount of the proceeds that didn't meet the schedule doesn't exceed the lesser of 3% of the bond's issue price or \$250,000.<sup>39</sup> As with the 6-month spending exception, gross proceeds has a special definition for applying the spending schedule.<sup>40</sup>

- 2) The issuer must meet the rebate requirement for all proceeds not required to be spent within the 18-month spending period (excluding earnings on a bona fide debt service fund).
- 3) All the bond's gross proceeds, as defined for the 18-month spending exception, must also qualify for the 3-year temporary period available under the yield restriction requirements.

As is the case for the 6-month spending exception, the 18-month spending exception does not create an exception for amounts in a reasonably required reserve or replacement fund. The 18-month spending exception also doesn't apply to a bond issue any portion of which is treated as meeting the rebate requirement under the 2-year construction spending exception.<sup>41</sup>

## 2-Year Spending Exception

The 2-year spending exception applies only to non-refunding construction issues that finance property owned by a governmental unit or a 501(c)(3) organization. To qualify as a construction issue, the issuer must reasonably expect, as of the issue date, that at least 75% of the "available construction proceeds"<sup>42</sup> of the issue will be allocated to construction expenditures.<sup>43</sup> If the issue meets the requirements of the 2-year construction spending exception, then the issue is treated as meeting the rebate requirements for available construction proceeds—with the result that arbitrage earnings on investments of those proceeds are not required to be paid to the U.S. Treasury.

---

<sup>38</sup> Treas. Reg. Section 1.148-7(d)(2) and Treas. Reg. Section 1.148-7(h).

<sup>39</sup> Treas. Reg. Section 1.148-7(b)(4).

<sup>40</sup> Treas. Reg. Section 1.148-7(d)(3)(i).

<sup>41</sup> Treas. Reg. Section 1.148-7(d)(4).

<sup>42</sup> The term "available construction proceeds" is defined in IRC Section 148(f)(4)(C)(vi) and Treas. Reg. Section 1.148-7(i).

<sup>43</sup> Treas. Reg. Section 1.148-7(g).

Generally, an issuer meets the requirements of the 2-year spending exception if it allocates available construction proceeds to expenditures for governmental purposes of the issue according to the following schedule (with periods starting on the issue date):

- 1) At least 10% of the proceeds are allocated within 6 months,
- 2) At least 45% within 1 year,
- 3) At least 75% within 18 months, and
- 4) 100% within 2 years.

The spending requirement for this fourth and final period allows limited unspent proceeds for reasonable retainage<sup>44</sup> (retention to ensure compliance with a construction contract), if the reasonable retainage is allocated to expenditures within 3 years of the issue date. If the issuer doesn't meet the requirements of the final spending period, there is an exception if:

- 1) The unspent proceeds do not exceed the lesser of 3% of the issue price or \$250,000, and
- 2) The issuer exercises due diligence to complete the project.<sup>45</sup>

An issuer of a construction issue may elect by the issue date to pay a "penalty in lieu of rebate" under the 2-year construction spending exception.<sup>46</sup>

## Special Exceptions

Two additional exceptions to the rebate requirement are the small issuer exception for governmental bonds and the bona fide debt service fund exception.

### Small Issuer Exception

A governmental unit that does not expect to issue more than \$5 million of tax-exempt governmental bonds in a calendar year might be eligible for an exception from the rebate requirements for proceeds of a governmental bond issue issued during that calendar year.<sup>47</sup> The limit is increased to \$15 million for bonds issued to finance construction of public school facilities.<sup>48</sup> To determine the amount of bonds that will be issued, the issuer must include certain additional tax-exempt governmental bonds issued by any:

- Entity (other than political subdivisions) that issues bonds on behalf of the issuer; and
- Subordinate entity (for example, an entity that is directly or indirectly controlled by the issuer, per Treas. Reg. Section 1.150-1(e)).

The issuer must also include any bonds issued by an entity formed or otherwise used to avoid the amount limitation.<sup>49</sup> An issuer may exclude certain refunding bonds when computing the limit.<sup>50</sup>

In addition to the limit on the amount of governmental bonds that an issuer expects to issue, an issue must meet these requirements to qualify for the small issuer exception:

- 1) The issue is issued by a governmental unit with general taxing powers,<sup>51</sup> and
- 2) 95% or more of the proceeds of the issue (other than those in a reasonably required reserve or replacement fund) are to be used for the issuer's local governmental activities.

---

<sup>44</sup> IRC Section 148(f)(4)(C)(iii), Treas. Reg. Section 1.148-7(e)(2) and Treas. Reg. Section 1.148-7(h).

<sup>45</sup> Treas. Reg. Section 1.148-7(b)(4).

<sup>46</sup> IRC Section 148(f)(4)(C)(vii) and Treas. Reg. Section 1.148-7(k).

<sup>47</sup> IRC Section 148(f)(4)(D). All proceeds are excepted, including proceeds in a reasonably required reserve or replacement fund, if any.

<sup>48</sup> IRC Section 148(f)(4)(D)(vii).

<sup>49</sup> Treas. Reg. Section 1.148-8(c)(2)(iii).

<sup>50</sup> IRC Section 148(f)(4)(D)(v).

<sup>51</sup> An issuer does not have general taxing power if the issuer's ability to tax is contingent on approval by another governmental unit. Treas. Reg. Section 1.148-8(b). See also, IRC Section 148(f)(4)(D)(iv).

## Bona Fide Debt Service Fund Exception

Certain earnings on bona fide debt service funds are exempt from the rebate requirement<sup>52</sup> if the issue meets either of the following criteria:

- 1) The gross earnings on the fund for a bond year are less than \$100,000. The issue meets this requirement if the issue has an average annual debt service not greater than \$2,500,000.<sup>53</sup>
- 2) The issue consists of governmental bonds, the issue has an average maturity of at least five years, and the bonds bear interest at a fixed rate.<sup>54</sup>

---

<sup>52</sup> IRC Section 148(f)(4)(A)(ii).

<sup>53</sup> Treas. Reg. Section 1.148-3(k).

<sup>54</sup> IRC Section 148(f)(4)(A).

## Part IV

### Rebate Amounts and Payments

The rebate rules require that certain arbitrage earnings (rebate) be paid to the U.S. Treasury. Generally, an issuer must compute and pay rebate owed at least once every five years over the life of the bond issue.<sup>55</sup> Within that five-year period, issuers have some flexibility choosing the date they use to compute rebate. The final computation date, however, is the date the bond issue is fully discharged.

On a computation date, if the issuer determines that it owes rebate, it files a **Form 8038-T**, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate, with the IRS and pays the required rebate amount generally within 60 days of the computation date. For computation dates other than the final computation date, the issuer must pay at least 90% of the rebate owed, taking into account previous rebate payments. The final payment for the final computation date must be 100% of the rebate amount less previous payments.

#### Computation of Rebate Amounts

The rebate payment is based on the “rebate amount” on the computation date. The rebate amount reflects the investment yield earned on nonpurpose investments in excess of the amount these would have earned if invested at the bond yield. Because payments for, and receipts on, an investment can happen at different times, an issuer must future value the receipts and payments to a single date in making a rebate computation. The rebate amount as of each computation date reflects a snapshot of actual and allowable investment earnings as of those computation dates over the life of the bonds. The past receipts on, and payments for, the investments are future valued at the bond yield to give their value as of the computation date, using the same compounding interval and financial conventions used to compute the yield on the issue.<sup>56</sup> The rebate amount is the amount by which the value of all the receipts exceeds the value of all the payments on the computation date.<sup>57</sup> The rebate payment is determined by reducing the rebate amount by any previous rebate the issuer paid, which is also future valued to that computation date. Amounts the issuer pays as yield reduction payments on nonpurpose investments are treated as payments for the investment that are considered in computing rebate. Other payments that are considered in computing the rebate amount include:

- Amounts paid to acquire a nonpurpose investment;
- The value of a previously acquired investment that becomes allocated to an issue; and
- A computation credit on the last day of each bond year during which there are nonpurpose investments subject to the rebate requirements and on the final maturity date.<sup>58</sup>

Receipts include:

- Amounts received from a nonpurpose investment, such as earnings and return of principal;
- The value of a nonpurpose investment that is no longer allocated to an issue, or is no longer subject to the rebate requirement, before its disposition or redemption date; and
- The value of a nonpurpose investment held at the end of a computation period.

<sup>55</sup> IRC Section 148(f)(3) and Treas. Reg. Section 1.148-3(f)(1).

<sup>56</sup> Treas. Reg. Section 1.148-3(c).

<sup>57</sup> Treas. Reg. Section 1.148-3(b).

<sup>58</sup> Treas. Reg. Section 1.148-3(d)(1)(iv) and Treas. Reg. Section 1.148-3(d)(4). These regulations provide a computation credit of \$1,400 for bond years ending in 2007, with annual adjustments for inflation thereafter, for bonds sold on or after October 17, 2016. An issuer may also apply these regulations to bonds sold before October 17, 2016, with the increased computation credit applying to bond years ending on or after July 18, 2016. A similar credit is available for bond years ending on or after September 26, 2007, under proposed regulations issued in 2007. REG-106143-07, 72 FR 54606, 54611, 2007-43 IRB 881, 887.

## Recovering an Overpayment of Rebate

Because rebate is computed by looking at receipts and payments from issuance to the computation date, it's possible that an issuer pays rebate for a computation date (because the value of the receipts exceeded the value of the payments as of that date), but finds that on a subsequent computation date, the value of the payments exceeds the value of the receipts so that the rebate amount is reduced or eliminated. In this case, the issuer's earlier rebate payment exceeds the rebate amount as of the subsequent computation date because of investment results after the earlier computation date. An issuer can get a refund of the overpayment in certain circumstances. The issuer determines the amount of overpayment by using the future value method to calculate rebate amount (excluding any rebate payments). The overpayment is the excess of the amount of rebate the issuer paid over the sum of the rebate amount for the issue as of the most recent computation date and all amounts that the issuer is otherwise required to pay under IRC Section 148, as of the date the recovery is requested.<sup>59</sup> An issuer requests a refund by completing and filing [Form 8038-R](#), Request for Recovery of Overpayments Under Arbitrage Rebate Provisions. An issuer must file the form no later than two years after the final computation date for the issue.<sup>60</sup>

---

<sup>59</sup> Treas. Reg. Section 1.148-3(i).

<sup>60</sup> Treas. Reg. Section 1.148-3(i)(3)(i).

## Part V

### Accounting for Expenditures and Allocations

Proceeds are no longer subject to the arbitrage requirements when they are properly allocated to an appropriate expenditure. To make these allocations, issuers must follow special rules and maintain adequate records. If an issuer improperly treats bond proceeds as allocated to an expenditure, it may miscalculate the rebate amount, fail to adequately restrict investment yield, or fail to satisfy the requirements for a spending exception or temporary period. By properly recording, monitoring and tracking allocations of bond proceeds, issuers can stay in compliance with the arbitrage requirements.

Generally, proceeds are no longer proceeds of an issue when they are allocated to an expenditure for a governmental purpose or are deallocated from the bond issue because of the transferred proceeds or universal cap rules.<sup>61</sup> Proceeds may be allocated to an expenditure using any reasonable, consistently applied accounting method for an issue's gross proceeds, investments and expenditures.

There are special rules and time limits for making allocations, but in general, to allocate gross proceeds to an expenditure, an issuer must reasonably expect an outlay of cash not later than five banking days after it allocates gross proceeds to that expenditure.<sup>62</sup> Payment of gross proceeds of an issue to a related party of the payor is not an expenditure of those gross proceeds. An issuer must make its allocations no later than 18 months after the later of the date when the expenditure is paid or the project is placed in service, and in any event no later than the date the first rebate payment would be due (that is, the earlier of (i) 60 days after the fifth anniversary of the date the bonds were issued or (ii) 60 days after the date the issue is retired).<sup>63</sup>

If the project is funded with tax-exempt bond proceeds and another source of funds, there may be questions about which sources of funds were used for which expenditures. Here again, the issuer may use any reasonable, consistently applied accounting method for gross proceeds and other funds. Examples of reasonable accounting methods<sup>64</sup> an issuer may use include:

- 1) **Specific tracing** - bond proceeds are allocated to the specific expenditures actually paid with the proceeds.
- 2) **Gross proceeds spent first** - bond proceeds are allocated to the earliest expenditures.
- 3) **First-in, first-out** - the source allocated to the expenditure is based on the order in which each source becomes available.
- 4) **Ratable allocation** - funds from each source are allocated to each of the expenditures ratably.

If an issuer doesn't have sufficient books and records to establish an accounting method for a bond issue and allocation of proceeds of that issue, specific tracing applies for the yield restriction and rebate rules.<sup>65</sup>

Specific rules apply for accounting for purpose investments, certain working capital ("proceeds spent last" method), grants, reimbursements and commingled funds.

<sup>61</sup> Treas. Reg. Section 1.148-6(b)(1). For more information on the universal cap rules, see Treas. Reg. Section 1.148-6(b)(2).

<sup>62</sup> Treas. Reg. Section 1.148-6(d)(1)(ii).

<sup>63</sup> Treas. Reg. Section 1.148-6(d)(1)(iii).

<sup>64</sup> Treas. Reg. Section 1.148-6(d)(1)(i).

<sup>65</sup> Treas. Reg. Section 1.148-6(a)(3).

## Part VI

### Example of Calculation of Rebate Amount and Yield Restriction Analysis

The following is an example to demonstrate the application of basic concepts of the yield restriction and rebate requirements.

Facts: \$49,000,000 variable yield bond issue with an issue date of January 1, 1994. The bond issue's first interim computation date is January 1, 1999.<sup>66</sup> The bond yield calculated for the first computation period is 7.00%.

In this example, the issuer received \$49,000,000 in gross proceeds from the sale of bonds, and on the issue date applied \$41,000,000 to purchase a U.S. Treasury note investment with an annual coupon yield of 7.53% and \$8,000,000 to purchase a U.S. Treasury money fund investment bearing an annual interest rate of 4.97%.<sup>67</sup> In this example, receipts from investments, unless reinvested, are disbursed immediately for the governmental purpose of the bonds.

The investment transactions used in this example are categorized as either payments or receipts. The general types of investment transactions, and their treatment, appear in the following chart. Within a typical computation of the rebate amount (or yield reduction payment), payments are represented by a negative number (monies going out) and receipts by a positive number (monies coming in).

Payments	Receipts
(Purchase)	Maturity
(Accrued interest)	Sale
(Premium)*	Accrued interest
Discount*	Gain*
(Value at initial allocation)	(Loss)*
(Prior period value)	Interest
(Prior period rebate amount, if negative)	Dividends
(Computation credit)**	Value at end of allocation
(Yield reduction payment)	End of period value
	Prior period rebate amount, if positive

\*These are only used as adjustments if the par value of an investment is used to represent the purchase, maturity or sale of an investment.

\*\*Excluded from payments for purposes of computing yield reduction payments.

<sup>66</sup> See the discussion of computation dates in Part IV.

<sup>67</sup> For ease of illustration, all transactions (purchases and sales) of the note and the fund are at par and interest payments on the fund only occur on dates when there are purchases or sales. Transaction totals are rounded to whole dollar amounts.

The accounting entries for payments and receipts on the note investment are shown in Table 1. The note purchase is shown as a \$41,000,000 payment on January 1, 1994. The semiannual interest payments received on the note on each January 1 and July 1 are reflected as receipts. Sales of portions of the note occur periodically on January 1, 1995, September 1, 1995, and March 1, 1996, and are also reflected as receipts.

**Table 1**

Date	U.S. Treasury Note		7.530%	
	Buy Payment (-)	Sell Receipt (+)	Interest Receipt (+)	Investment Balance
01/01/94	(41,000,000)			41,000,000
02/01/94				41,000,000
05/01/94				41,000,000
07/01/94			1,543,650	41,000,000
01/01/95		1,780,000	1,543,650	39,220,000
07/01/95			1,476,633	39,220,000
09/01/95		18,275,000	231,844	20,945,000
01/01/96			788,579	20,945,000
03/01/96		20,945,000	259,971	0
	(41,000,000)	41,000,000	5,844,328	

Table 2 illustrates the accounting entries for payments and receipts on the fund investment. The purchase of the initial investment in the fund is shown as an \$8,000,000 payment on January 1, 1994. Purchases of subsequent investments in the fund (representing immediate reinvestment in the fund of all receipts from interest earnings on the note and the fund on each date) are reflected as additional payments on July 1, 1994, July 1, 1995, and January 1, 1996. The periodic interest payments received on the fund are reflected as receipts. Sales of portions of the fund occur on February 1, 1994, May 1, 1994, January 1, 1995, September 1, 1995, and March 1, 1996, which are also reflected as receipts.

**Table 2**

Date	U.S. Treasury Money Fund		4.970%	
	Buy Payment (-)	Sell Receipt (+)	Interest Receipt (+)	Investment Balance
01/01/94	(8,000,000)			8,000,000
02/01/94		2,966,230	33,770	5,033,770
05/01/94		4,938,996	61,004	94,774
07/01/94	(1,544,437)		787	1,639,212
01/01/95		1,635,279	41,071	3,932
07/01/95	(1,476,730)		97	1,480,662
09/01/95		1,480,655	12,500	7
01/01/96	(788,579)		0	788,586
03/01/96		788,586	6,443	0
	(11,809,746)	11,809,746	155,672	



Table 3 combines the amounts of payments and receipts for each date from Table 1 and Table 2 to summarize the payments and receipts included in the computation of rebate amount and the computation of yield on investment. The total payments column represents the sum of payments for purchases of the note and the fund, represented as negative amounts. The total receipts column represents the sum of receipts from investment earnings on and sales of the note and the fund, represented as positive amounts. The net payments and receipts column is the sum of the payments and receipts columns.

**Table 3**

Date	Total Payments (-)	Total Receipts (+)	Net Payments and Receipts
01/01/94	(49,000,000)	0	(49,000,000)
02/01/94	0	3,000,000	3,000,000
05/01/94	0	5,000,000	5,000,000
07/01/94	(1,544,437)	1,544,437	0
01/01/95	0	5,000,000	5,000,000
07/01/95	(1,476,730)	1,476,730	0
09/01/95	0	20,000,000	20,000,000
01/01/96	(788,579)	788,579	0
03/01/96	0	22,000,000	22,000,000
	(52,809,746)	58,809,746	6,000,000

Generally, on dates when investments mature or are sold, or interest earnings are received, a receipt is included in the calculation of rebate amount. On dates when investments roll over or are purchased, or interest earnings are reinvested, a payment is included in the calculation of rebate amount. The payments and receipts on a corresponding date offset each other and the daily net total is included in the calculation of rebate amount.

### Rebate Amount Calculation

Table 4 illustrates the calculation of rebate amount for the January 1, 1999, computation date based on the net payments and receipts column from Table 3 and the permitted computation credit on the last day of each bond year during which there are amounts allocated to gross proceeds of an issue subject to the rebate requirement. The rebate amount for the computation date is calculated as the sum of the future values of each payment, receipt and computation credit<sup>68</sup> as of the computation date using the bond yield (7.00% per year) as the rate of return in the future value computation. The rebate amount as of January 1, 1999, is \$452,432.

<sup>68</sup> Prior to 2007, the amount of the computation credit available under Treas. Reg. Section 1.148-3(d)(1)(iv) was \$1,000. See also footnote 58 for more information on the increase in the computation credit.

**Table 4**

Date	Net Payments and Receipts	Future Value at Bond Yield
01/01/94	(49,000,000)	(69,119,339)
02/01/94	3,000,000	4,207,602
05/01/94	5,000,000	6,893,079
07/01/94	0	0
01/01/95	5,000,000	6,584,045
01/01/95	(1,000)	(1,317)
07/01/95	0	0
09/01/95	20,000,000	25,155,464
01/01/96	0	0
01/01/96	(1,000)	(1,229)
03/01/96	22,000,000	26,735,275
01/01/97	(1,000)	(1,148)
		452,432

Table 4 demonstrates that the rebate amount is \$452,432 as of the January 1, 1999, computation date. The issuer must submit a rebate payment of at least 90% of this amount within 60 days of this interim computation date by filing Form 8038-T and including the required payment. If January 1, 1999 was the final computation date, the issuer must submit 100% of the rebate amount.

### Yield Restriction Analysis

An issuer determines whether it has complied with the yield restriction requirements by comparing the yield on investment with the maximum yield that is not materially higher than the yield on the bond issue. The issuer should include all unconditionally payable receipts and all unconditionally payable payments.

### Computation of Yield Reduction Payments

For certain investments, an issuer can make yield reduction payments (including rebate payments) to the U.S. Treasury that reduce the yield on the investments for the yield restriction requirements. For an eligible investment class, an issuer must pay the amount that will result in the yield on that class not being materially higher than the bond yield.

The example below assumes that the bond issue is entitled to the general 30-day temporary period and the general 1/8th of 1% materially higher yield limit.

Table 5 shows the payments for and receipts from investments in the note and the fund. The amounts entered for January 31, 1994 (the first day after the end of the general 30-day temporary period) are the values of the investments as of that date for the note and the fund, originally purchased on January 1, 1994. As permitted under the arbitrage requirements, the issuer values the note at present value and the fund at fair market value (essentially par plus accrued interest). The yield restriction requirements provide for certain temporary periods during which yield restriction does not apply. Consequently, the initial temporary period is not included in the determination of yield on investment. The result is that instead of the calculation starting on the issue date, it starts when the temporary period ends.

**Table 5**

Date	U.S. Treasury Note		7.530%	U.S. Treasury Money Fund		4.970%
	Value Payment (-)	Sell Receipt (+)	Interest Receipt (+)	Value/Buy Payment (-)	Sell Receipt (+)	Interest Receipt (+)
01/01/94	N/A			N/A		
01/31/94	(41,245,085)			(8,032,681)		
02/01/94					2,966,230	33,770
05/01/94					4,938,996	61,004
07/01/94			1,543,650	(1,544,437)		787
01/01/95		1,780,000	1,543,650		1,635,279	41,071
07/01/95			1,476,633	(1,476,730)		97
09/01/95		18,275,000	231,844		1,480,655	12,500
01/01/96			788,579	(788,579)		0
03/01/96		20,945,000	259,971		788,586	6,443
	(41,245,085)	41,000,000	5,844,328	(11,842,427)	11,809,746	155,672

Table 6 summarizes the payments and receipts from Table 5 included in the computation of yield on investment. The total payments column represents the sum of payments from the value of investments (as of January 31, 1994) and purchases of the fund. The total receipts column represents the sum of receipts from investment earnings on and sales of the note and the fund.

Under the yield restriction requirements, the yield on investments cannot be materially higher than the yield on the bonds. The yield on an investment allocated to an issue is the discount rate that, when used in computing the present value as of the date the investment is first allocated to the issue of all unconditionally payable receipts from the investment, produces an amount equal to the present value of all unconditionally payable payments for the investment. When the net receipts and payments in Table 6 are present valued to January 31, 1994, that discount rate (which is the yield on investment) is 7.451%, exceeds the materially higher yield limit of 7.125%.

**Table 6**

Date	Total Payments (-)	Total Receipts (+)	Net Payments and Receipts
01/01/94			0
01/31/94	(49,277,766)	0	(49,277,766)
02/01/94	0	3,000,000	3,000,000
05/01/94	0	5,000,000	5,000,000
07/01/94	(1,544,437)	1,544,437	0
01/01/95	0	5,000,000	5,000,000
07/01/95	(1,476,730)	1,476,730	0
09/01/95	0	20,000,000	20,000,000
01/01/96	(788,579)	788,579	0
03/01/96	0	22,000,000	22,000,000
	(53,087,512)	58,809,746	5,722,234

Table 7 illustrates a method of calculating the excess arbitrage earnings equaling the amount

of a yield reduction payment necessary to reduce the yield on investment to the maximum permitted yield of 7.125%, which is not materially higher than the bond yield. The yield reduction payment is calculated using the sum of the future values of each payment and each receipt as of the relevant computation date (January 1, 1999) using the bond yield adjusted to the materially higher yield (7.125% per year) as the interest rate in the future value computation.

**Table 7**

Date	Net Payments and Receipts	Future Value to Yield Restriction Limit
01/01/94	0	0
01/31/94	(49,277,766)	(69,538,765)
02/01/94	3,000,000	4,232,654
05/01/94	5,000,000	6,932,027
07/01/94	0	0
01/01/95	5,000,000	6,615,919
07/01/95	0	0
09/01/95	20,000,000	25,256,907
01/01/96	0	0
03/01/96	22,000,000	26,826,890
	5,722,234	325,632

Table 7 demonstrates that the yield on investments exceeds the bond yield increased to the materially higher limit by \$325,632, which, unless reduced, would cause the bonds to be arbitrage bonds. In this example, the issuer can make a yield reduction payment because this is a variable yield bond. The yield reduction payment necessary to reduce the yield on investment to the allowable materially higher limit (that is, 7.125%) is \$325,632. The issuer must submit a yield reduction payment within 60 days of the interim computation date by filing Form 8038-T together with the required payment, but need not submit a payment more than once every five years.

In this example, the issuer's arbitrage liability to the U.S. Treasury, as of the January 1, 1999 computation date, would include a yield reduction payment of \$325,632 and rebate of \$126,800 (\$452,432 minus \$325,632), because the yield reduction payment is treated as a payment in the determination of rebate amount under Treas. Reg. Section 1.148-3(d)(1)(v). The issuer would report this arbitrage liability and submit payment using Form 8038-T. Because January 1, 1999 is an interim computation date, the issuer need only make a payment equal to at least 90% of the rebate amount as of that date to satisfy the rebate requirements.<sup>69</sup> For the final computation date, an issuer must pay 100% of the rebate amount.

<sup>69</sup> Treas. Reg. Section 1.148-3(f)(1).

## Part VII

### Information and Services

---

You can find information about the tax laws that apply to tax-exempt bonds and other municipal financing arrangements at [IRS.gov/bonds](https://www.irs.gov/bonds), including:

- **Published guidance** about the tax laws that apply to municipal financing arrangements, including revenue rulings, revenue procedures, notices and announcements.
- **Tax forms, instructions and publications** related to tax-exempt bonds.
- Additional educational resources on **Voluntary Compliance**.

If you have account specific questions, call Customer Account Services toll-free at 877-829-5500.

#### What to do if you discover a violation - The TEB Voluntary Closing Agreement Program

The IRS is committed to resolving federal tax violations with the issuer. The TEB Voluntary Closing Agreement Program (TEB VCAP) provides remedies for issuers of tax-exempt bonds, tax credit bonds, and direct pay bonds that voluntarily come forward to resolve a violation that cannot be corrected under self-correction programs found in the Treas. Reg. or other published guidance. **Notice 2008-31** provides information and general guidance about TEB VCAP. **Internal Revenue Manual (IRM) Section 7.2.3** provides general procedures under which the IRS will enter into closing agreements. Closing agreement terms and amounts vary by the degree of the violation as well as the facts and circumstances.

TEB VCAP offers standardized methods for resolving certain types of noncompliance, referred to as resolution standards. For example, TEB VCAP offers a resolution standard for circumstances in which a failure of an escrow agent or trustee to perform obligations under an escrow agreement to purchase U.S. Treasury Securities – State and Local Government Series necessary to maintain compliance with yield restriction requirements results in a yield restriction violation. TEB VCAP is also available to resolve other violations of the yield restriction and rebate requirements.

An issuer must use **Form 14429**, Tax Exempt Bonds Voluntary Closing Agreement Program Request, to submit a request and provide the required information. While the IRS generally enters into closing agreements with the issuer of the bonds, in certain cases other parties to the bond transaction (including an entity borrowing the bond proceeds) may also participate in the negotiations and jointly execute the agreement.

For more information about this program, including request submission requirements, case processing procedures and resolutions standards, see **IRM Section 7.2.3**.



[Home](#) ->> [CDLAC](#) ->> What Are Bonds and Why Are They Used?



CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

## What Are Bonds And Why Are They Used?

### Definition

Government agencies sell bonds to finance a variety of projects and activities. When investors purchase bonds, they essentially lend money to the bond seller, or issuer. In this way, a bond is similar to an IOU. In return for the bond proceeds, the issuer promises to pay the investor a specified rate of interest over the life of the bond and to repay the bond when it comes due.

### Municipal Bonds

Bonds issued by government agencies are called municipal bonds. The funds are used to finance projects that benefit the community such as roads, schools, bridges, sewers, parks, water treatment or low-income housing. Most bonds issued by government agencies are tax-exempt. This means bondholders do not have to pay federal income taxes and, in most cases, state income taxes on the interest they earn.

In addition to the tax-exempt status, investors benefit from the taxing authority of the government agencies. That authority strengthens the security of municipal bonds, giving investors greater assurance they will get paid on time and in full. The tax-exempt status and minimal risk of default lead investors to agree to lower interest rates relative to other forms of borrowing. As such, government agencies, and thus the taxpayers, can benefit from lower borrowing costs as compared to standard market loans or even taxable bonds.

### Private Activity Bonds

Government agencies may also, in certain cases, issue tax-exempt bonds on behalf of private businesses. These bonds are known as "Qualified Private Activity Bonds" and may be issued for various purposes such as low income multi-family housing, industrial development, redevelopment projects, enterprise zones or facilities that treat water, sewage or hazardous materials. The lower borrowing costs facilitate the development of projects that may not otherwise be feasible if financed at market rates.

Unlike typical municipal bonds, the payment of principal and interest on private activity bonds is not the responsibility of the issuing government agency. Instead, it is the responsibility of the private business receiving the proceeds. By relieving government agencies of the financial obligations associated with bond debt, private activity bonds are a low-risk alternative for communities to finance projects.

### The California Debt Limit Allocation Committee (CDLAC)

The 1986 Federal Tax Reform Act imposed a limit on how much private activity bonds can be issued in a state each year. The limit is determined by a state's population, multiplied by a specified dollar amount. CDLAC was established to administer the allocation of this bond ceiling or "cap" and to make certain that the total amount of private activity bonds issued does not exceed the limits established under federal law. Through CDLAC's administration, the State ensures that this limited resource is efficiently used to finance projects and programs that both provide a public benefit and contribute to the economic vitality of California.

**\$50,434,849.50**  
**FRESNO UNIFIED SCHOOL DISTRICT**  
 (Fresno County, California)  
**General Obligation Bonds**  
**Election of 2010, Series B**

**\$55,570,914.90**  
**FRESNO UNIFIED SCHOOL DISTRICT**  
 (Fresno County, California)  
**General Obligation Bonds**  
**Election of 2001, Series G**

### **CERTIFICATE AS TO ARBITRAGE**

I, the undersigned Superintendent of the Fresno Unified School District (the "District"), being one of the officers of the District duly charged (by resolution of the Board of Trustees of the District), with others, with the responsibility of issuing the District's \$50,434,849.50 principal amount of General Obligation Bonds, Election of 2010, Series B (the "Series B Bonds") and \$55,570,914.90 principal amount General Obligation Bonds, Election of 2001, Series G (the "Series G Bonds," and together with the Series B Bonds, the "Bonds"), dated October 13, 2011, and being issued this date, hereby certify and covenant as follows:

(1) Purpose of Bonds. The Series B Bonds are being issued pursuant to a resolution authorizing issuance of the Bonds adopted by the Board of Education of the District adopted on June 15, 2011 (the "Series B Bond Resolution"), and pursuant to a Paying Agent Agreement, dated as of October 1, 2011 (the "Series B Paying Agent Agreement"), between the District and U.S. Bank National Association, as paying agent (the "Paying Agent"). The Series G Bonds will be issued pursuant to a resolution adopted by the Board of Education of the District adopted on August 24, 2011 (the "Series G Bond Resolution," and together with the Series B Bond Resolution, the "Bond Resolutions"), and pursuant to a Paying Agent Agreement, dated as of October 1, 2011 (the "Series G Paying Agent Agreement," and together with the Series B Paying Agent Agreement, the "Paying Agent Agreements"), between the District and the Paying Agent. The Bonds are being issued for the purpose of providing funds for the acquisition and construction of certain public educational facilities (the "Project"), which Project is more particularly described in the Certificate Regarding Use of Proceeds, dated the date hereof and included elsewhere in the transcript for the Bonds.

(2) Statement of Expectations. On the basis of the facts and estimates in existence on the date hereof, I reasonably expect the following with respect to the amount and use of gross proceeds of the Bonds:

(a) Amount Received from Sale of Bonds; No Aggregated Issues. The Bonds were sold to Stifel, Nicolaus & Company, Incorporated dba Stone & Youngberg, a Division of Stifel Nicolaus (the "Underwriter"), at their face amount (\$106,005,764.40), plus a net premium of \$2,426,553.95, less Underwriter's discount of \$392,221.32, less costs of issuing the Bonds paid by the Underwriter of \$320,392.12, for a total amount of \$107,719,704.91. Of said amount, \$1,713,940.51 will be deposited in the "Fresno USD General Obligation Bond Debt Service Fund, Election of 2010, Series B" (the "Series B Debt Service Fund"), \$50,434,849.50 will be deposited in the "Fresno USD Building Fund, Election of 2010, Series B Building Fund" and the remaining \$55,570,914.90 will

be deposited in the "Fresno USD Building Fund, Election of 2001, Series G" (together, the "Building Funds"). Such Funds are held by the County Treasurer on behalf of the District. No tax-exempt debt has been sold within fifteen (15) days before or after the date the Bonds were sold that will be paid from substantially the same source of funds as the Bonds (excluding guarantees from unrelated parties).

(b) Costs of Issuance. The proceeds of the Bonds in the amount of \$321,392.12 retained by the Underwriter will be used for payment of legal fees, printing costs and other costs of issuance of the Bonds and will be fully expended promptly upon receipt of invoices. Such amounts, if invested, will be invested without yield restrictions. Any portion of said amount not used to pay third party costs of issuing the Bonds will be transferred by the Underwriter to the County Treasurer for deposit in the Debt Service Funds to be used for the purposes thereof.

(c) Use of Building Funds; Reimbursement. The proceeds of the Bonds deposited in the Building Funds will be used for the payment of costs of acquisition and construction of the Project. No portion of the proceeds of the Bonds will be used for reimbursement of expenditures paid by the District prior to the date hereof except for (i) expenditures paid for costs of issuance of the Bonds, (ii) preliminary capital expenditures incurred before commencement of acquisition or construction of the Project that do not exceed twenty percent (20%) of the issue price of the Bonds (see below), and (iii) capital expenditures that (A) were paid no earlier than sixty (60) days before the date of the adoption by the District of a declaration of intent to reimburse such expenditures from the proceeds of obligations, and (B) are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three (3) years after the expenditure is paid). Proceeds (if any) used for reimbursement of expenditures will be deposited in the general funds of the District and will not be used to replace funds of the District to be used to refund debt of the District, to create a sinking or pledged fund for such debt or the Bonds or otherwise to create replacement proceeds for such debt or for the Bonds.

(d) Completion of Project; Investment of Building Funds; Capital Expenditures. The District has entered into a contract for construction with respect to the Project, which contract constitutes a substantial binding obligation of the District to a third party and will be in excess of five percent (5%) of the "Net Sale Proceeds" of the Bonds (namely, an amount of proceeds of the Bonds equal to the issue price of the Bonds, below, less accrued interest, if any). The District will proceed with due diligence to complete the Project and to spend the proceeds of the Bonds. Completion is expected by September 1, 2014. All expenditures from the Building Fund will be capital expenditures. Not less than eighty-five percent (85%) of the Net Sale Proceeds will be spent within three (3) years of the date hereof. Amounts deposited in the Building Funds will be invested without yield restrictions for the period from the date hereof to the date that is three (3) years after the date hereof unless earlier expended (the "3-year Temporary Period"). Interest earnings and gains resulting from investment of each Building Fund will be retained in that Fund and used for the payment of costs of the Project. Proceeds of the Bonds and interest earnings and gains thereon, if any, remaining in the Building Funds following the 3-year Temporary Period will be invested at a yield not in excess of the yield of the Bonds (see below) or yield reduction payments under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), will be made to the federal



government with respect to such investment after the end of the 3-year Temporary Period. Amounts, if any, remaining in the Building Funds upon completion of the Project will be retained in the Building Funds and used for capital expenditures in furtherance of the governmental purposes of the District.

(e) Debt Service Funds. The Series B Debt Service Fund and the "Fresno USD General Obligation Bond Debt Service Fund, Election of 2001, Series G" (with the Series B Debt Service Fund, the "Debt Service Funds") held by the County Treasurer have been established primarily to achieve a proper matching of revenues (consisting primarily of Tax Revenues, as referenced below, and certain interest earnings) and debt service due on the Bonds during each year that the Bonds are outstanding. With the exception of the \$1,713,940.51 representing interest on the Series B Bonds through September 2013, deposited in the Series B Debt Service Fund on the date hereof (the "Capitalized Interest Deposit"), amounts deposited in the Debt Service Funds will be spent within thirteen (13) months of the date of deposit, and said Fund will be depleted at least once a year except for a reasonable carryover amount not in excess of the greater of earnings on said Fund during the preceding bond year for the Bonds (see below) or one-twelfth (1/12th) of debt service on the Bonds during the preceding bond year for the Bonds. Other than the Capitalized Interest Deposit, amounts in the Debt Service Funds will be invested without yield restrictions. The Capitalized Interest Deposit will be invested without yield restrictions for the 3-year Temporary Period. Any portion of the Capitalized Interest Deposit, remaining unspent in the Series B Debt Service Fund following the 3-year Temporary Period will be invested at a yield not in excess of the yield of the Series B Bonds (see below) or yield reduction payments will be made to the federal government with respect to such investment after the end of the 3-year Temporary Period. Interest earnings and gains resulting from investment of the each Debt Service Fund will be retained in that Fund and used for the payment of debt service on the Bonds.

(f) Pledge of Tax Revenues; Excess Tax Revenues. The District has pledged the receipts from certain levies of ad valorem property taxes on taxable property within the boundaries of the District (the "Tax Revenues") to the payment of debt service on the Bonds. In the event of an excess collection of Tax Revenues due to the inability to predict accurately the exact amount of Tax Revenues to be collected in any year, the excess amount will be segregated into a separate account within the Debt Service Fund and held as a reasonably required reserve for debt service on the Bonds during the next following year, and the amount established to be collected from Tax Revenues for such year will be reduced by the amount held in such reserve. Amounts in such segregated account will not exceed maximum annual debt service on the Bonds, which amount is less than ten percent (10%) of the issue price of the Bonds excluding accrued interest, as referenced below and less than one hundred and twenty-five percent (125%) of average annual debt service on the Bonds. Amounts in the segregated account, if invested, will be invested without yield restrictions. Interest earnings and gains will be deposited in the Debt Service Fund and applied to the payment of debt service on the Bonds.

(g) No Other Pledged Amounts or Investment-Type Property. Except as described herein, no amounts have been pledged to, or are reasonably expected to be used directly or indirectly to pay, principal or interest on the Bonds, nor are there any

amounts that have been reserved or otherwise set aside such that there is a reasonable assurance that such amounts will be available to pay principal or interest on the Bonds. In addition, the District has not entered into, and does not reasonably expect to enter into, a hedge contract primarily for the purpose of reducing the District's risk of interest rate changes with respect to the Bonds.

(h) No Negative Pledges. There are no amounts held under any agreement requiring the maintenance of amounts at a particular level for the direct or indirect benefit of the owners of the Bonds or any guarantor of the Bonds, excluding for this purpose amounts in which the District may grant rights that are superior to the rights of the owners of the Bonds or any guarantor of the Bonds and amounts that do not exceed reasonable needs for which they are maintained and as to which the required level is tested no more frequently than every six (6) months and that may be spent without any substantial restriction other than a requirement to replenish the amount by the next testing date.

(i) No Replacement Proceeds. There are no amounts that have a sufficiently direct nexus to the Bonds or to the Project to conclude that the amounts would have been used for the Project or for debt service on the Bonds if the proceeds of the Bonds were not being used for those purposes; and the term of the Bonds is not longer than reasonably necessary for the Project in that the weighted average maturity of the Bonds does not exceed one hundred twenty percent (120%) of the average reasonably expected economic life of the Project.

(j) No Improper Financial Advantage. The transaction contemplated herein does not represent an exploitation of the difference between tax-exempt and taxable interest rates to obtain a material financial advantage and does not overburden the tax-exempt bond market in that the District is not issuing more bonds, issuing bonds earlier, or allowing bonds to remain outstanding longer than is otherwise reasonably necessary to accomplish the governmental purposes of the Bonds.

(k) Bond Year for the Bonds. The District hereby selects each period from August 2 through August 1 of the following calendar year as the bond years for the Bonds, except that the first bond year will commence on the date hereof and the last bond year will end on the date of payment of the Bonds in full.

(l) Rebate Requirement. The District has covenanted in the Resolutions to comply with requirements for rebate of excess investment earnings to the federal government to the extent applicable and acknowledges that the first payment of excess investment earnings, if any, is required to be rebated to the federal government no later than sixty (60) days after the end of the fifth (5th) bond year for the Bonds. No portion of the Bonds will constitute a private activity bond within the meaning of section 141(a) of the Code, the average maturity of the Bonds is greater than five (5) years and none of the interest rates on the Bonds vary during the term of the Bonds. As a consequence of the foregoing, investment earnings on the Debt Service Funds will be excluded for the purposes of computation of the amount required to be rebated to the federal government as referenced in this subparagraph without regard to the total amount of said earnings. The use of actual facts is elected for purposes of determining eligibility for and compliance with any expenditure exceptions to arbitrage rebate.

(m) Yield of the Bonds. The Underwriter has represented that the yield of the Bonds is 6.5791%, determined on the basis of regularly scheduled principal and interest payments on the Bonds, adjusted by assuming present value in lieu of certain principal payments in the case of Bonds constituting certain discounted term Bonds, if any, and by assuming certain early redemption of principal in the case of certain yield-to-call Bonds, if any, all in accordance with the procedures for computing the yield on a fixed yield issue contained in Treasury Regulation §1.148-4(b). Said amounts are all discounted to the issue price of the Bonds of \$108,432,318.35 (being the face amount of the Bonds of \$106,005,764.40, plus net original issue premium of \$2,426,553.95). The Underwriter has represented that (i) based upon reasonable expectations and actual facts which existed on the date the Underwriter agreed to purchase the Bonds from the District (the "Sale Date"), the initial offering price of each maturity of the Bonds to the public (excluding bondhouses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which a substantial amount of each maturity of the Bonds was expected to be sold to the public as of the Sale Date is set forth on Exhibit A attached hereto and by this reference incorporated herein; and (ii) the Bonds of each maturity were actually offered to the general public in a bona fide public offering for the prices set forth in Exhibit A.


(n) No Hedge Bonds. The Bonds do not constitute "hedge bonds" in that at least eighty-five percent (85%) of the Net Sale Proceeds will be used to carry out the governmental purposes of the Bonds within three (3) years of the date hereof, and not more than fifty percent (50%) of the proceeds of the Bonds, if any, are invested in investments having a substantially guaranteed yield for four (4) or more years.

(3) Investments at Fair Market Value. All investments of amounts deposited in any fund or account created by or pursuant to the Resolutions, the Paying Agent Agreements or otherwise containing gross proceeds of the Bonds (within the meaning of section 148 of the Code), shall be acquired, disposed of, and valued (as of the date that valuation is required by the Resolutions, the Paying Agent Agreements or the Code) at Fair Market Value. For this purpose, fair market value means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term fair market value means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the District and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

(4) Allocation and Accounting Procedures. The District will use a consistently applied accounting method to account for investments and expenditures of proceeds of the Bonds. Allocations of Bond proceeds to expenditures will be made only with respect to a current outlay of cash for the expenditures. The District will not invest proceeds of the Bonds in a commingled fund in which the District owns more than 10 percent (10%) of the beneficial interest thereof. The District will maintain books and records until six years after the date of retirement or redemption of the Bonds sufficient to (i) establish the accounting method used, (ii) account for all investments of proceeds of the Bonds, and (iii) substantiate the allocation of proceeds of the Bonds to expenditures. The District will allocate proceeds of the Bonds to expenditures with respect to the Project no later than 18 months after the later of the date the expenditure is paid or the date the Project is placed in service. In the event such allocations of Bond proceeds to expenditures are not made within 60 days after the date five years after the date hereof, the District will use a specific tracing accounting method to account for investment and expenditures of proceeds of the Bonds.

On the basis of the foregoing, it is not expected that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds within the meaning of section 148 of the Code and applicable regulations. To the best of my knowledge, information and belief, the expectations herein expressed are reasonable and there are no facts or estimates, other than those expressed herein, that would materially affect the expectations herein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of October, 2011.



---

Michael E. Hanson  
Superintendent

**EXHIBIT A**

**FRESNO UNIFIED SCHOOL DISTRICT  
(Fresno County, California)  
General Obligation Bonds  
Election of 2010, Series B**

**\$24,820,000 Current Interest Series B Bonds**

<b>Maturity Date (August 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Yield</b>	<b>Price</b>
2012	\$4,855,000	2.000%	0.480%	101.211%
2013	2,290,000	2.000	0.720	102.284
2017	210,000	4.000	2.000	110.898
2018	685,000	4.000	2.350	110.310
2019	1,190,000	4.000	2.670	109.306
2020	2,310,000	4.000	2.940	108.163
2021	3,585,000	4.000	3.090	107.640
2022	3,015,000	5.000	3.290	114.221 c
2023	3,155,000	5.250	3.520	114.228 c
2024	3,525,000	5.250	3.750	112.201 c

C = Priced to par call on August 1, 2021.

**\$15,907,119.35 Initial Denominational Amount (\$55,060,000 Maturity Value)  
Capital Appreciation Series B Serial Bonds**

<b>Maturity Date (August 1)</b>	<b>Initial Denominational Amount</b>	<b>Accretion Rate</b>	<b>Yield to Maturity</b>	<b>Maturity Value</b>
2025	\$ 1,618,973.85	6.090%	6.090%	\$ 3,705,000
2026	1,525,142.25	6.310	6.310	3,825,000
2027	1,406,246.40	6.460	6.460	3,840,000
2028	1,349,019.00	6.560	6.560	3,990,000
2029	1,310,778.00	6.650	6.650	4,200,000
2030	1,896,031.30	6.750	6.750	6,605,000
2031	1,814,744.40	6.830	6.830	6,860,000
2032	1,732,725.10	6.890	6.890	7,090,000
2033	1,658,766.60	6.940	6.940	7,340,000
2034	1,594,692.45	6.970	6.970	7,605,000

**Term Capital Appreciation Series B Bonds**

2041	9,707,730.15	7.000	7.000	75,435,000
------	--------------	-------	-------	------------

Schedule A

(continued from prior page)

**FRESNO UNIFIED SCHOOL DISTRICT  
(Fresno County, California)  
General Obligation Bonds  
Election of 2001, Series G**

**\$32,873,859.60 Initial Denominational Amount (\$116,965,000 Maturity Value)  
Capital Appreciation Series G Serial Bonds**

<b>Maturity Date (August 1)</b>	<b>Initial Denominational Amount</b>	<b>Accretion Rate</b>	<b>Yield to Maturity</b>	<b>Maturity Value</b>
2021	\$ 48,703.50	11.814%	4.590%	\$ 150,000
2022	275,006.00	11.814	4.810	950,000
2023	507,176.50	5.390	5.390	950,000
2024	633,362.40	5.820	5.820	1,320,000
2025	764,697.50	6.090	6.090	1,750,000
2026	2,276,748.30	6.310	6.310	5,710,000
2027	2,902,214.25	6.460	6.460	7,925,000
2028	3,316,761.00	6.560	6.560	9,810,000
2029	3,222,329.25	6.650	6.650	10,325,000
2030	3,120,342.20	6.750	6.750	10,870,000
2031	4,141,373.70	6.830	6.830	15,655,000
2032	4,054,430.10	6.890	6.890	16,590,000
2033	3,881,378.25	6.940	6.940	17,175,000
2034	3,729,336.65	6.970	6.970	17,785,000

**Term Capital Appreciation Series G Bonds**

2041	22,697,055.30	7.000	7.000	176,370,000
------	---------------	-------	-------	-------------

STATE OF CALIFORNIA  
Supreme Court of California**PROOF OF SERVICE**STATE OF CALIFORNIA  
Supreme Court of CaliforniaCase Name: **DAVIS v. FRESNO UNIFIED SCHOOL  
DISTRICT**Case Number: **S266344**Lower Court Case Number: **F079811**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **kcarlin@carlinlawgroup.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

<b>Filing Type</b>	<b>Document Title</b>
BRIEF	Answering Brief on the Merits
MOTION	Motion to Strike
MOTION	Motion to Augment

Service Recipients:

<b>Person Served</b>	<b>Email Address</b>	<b>Type</b>	<b>Date / Time</b>
Colleen Bjercknes SEWUP	cbjercknes@keen.com	e-Serve	7/2/2021 6:58:42 PM
Yasmina Flores Twin Rivers Unified School District	yasmina.flores@twinriversusd.org	e-Serve	7/2/2021 6:58:42 PM
Timothy Thompson Whitney, Thompson & Jeffcoach LLP 133537	tthompson@wtjlaw.com	e-Serve	7/2/2021 6:58:42 PM
Jonathan Klotsche O'Connor Thompson McDonough Klotsche LLP 257992	john@otmklaw.com	e-Serve	7/2/2021 6:58:42 PM
Harold Freiman Lozano Smith, LLP 148099	hfreiman@lozanosmith.com	e-Serve	7/2/2021 6:58:42 PM
Glenn Gould Orbach Huff Suarez & Henderson LLP 141442	ggould@ohshlaw.com	e-Serve	7/2/2021 6:58:42 PM
Mandy Jeffcoach Whitney, Thompson & Jeffcoach LLP 232313	mjeffcoach@wtjlaw.com	e-Serve	7/2/2021 6:58:42 PM
Mark Creede Lang Richert & Patch, PC 128418	mlc@lrplaw.net	e-Serve	7/2/2021 6:58:42 PM
Regina Garza Lozano Smith 250780	rgarza@lozanosmith.com	e-Serve	7/2/2021 6:58:42 PM
Sandon Schwartz	SandonSchwartz@maderausd.org	e-	7/2/2021



Madera Unified School District		Serve	6:58:42 PM
Kevin Carlin Carlin Law Group, APC 185701	kcarlin@carlinlawgroup.com	e-Serve	7/2/2021 6:58:42 PM
James Traber Fagen Friedman & Fulfrost LLC 248439	jtraber@f3law.com	e-Serve	7/2/2021 6:58:42 PM
Matthew Slentz COLANTUONO, HIGHSMITH & WHATLEY, PC 285143	mslentz@chwlaw.us	e-Serve	7/2/2021 6:58:42 PM
Myron Moskovitz Moskovitz Appellate Team 36476	myronmoskovitz@gmail.com	e-Serve	7/2/2021 6:58:42 PM
Julie Arthur PSUSD	jarthur@psusd.us	e-Serve	7/2/2021 6:58:42 PM
Monica Silva Paso Robles Joint Unified School District	msilva@pasoschools.org	e-Serve	7/2/2021 6:58:42 PM
Cindy Kaljumagi Dinuba Unified School District	ckaljuma@dinuba.k12.ca.us	e-Serve	7/2/2021 6:58:42 PM
Debra Haney Caruthers Unified School District	dhaney@caruthers.k12.ca.us	e-Serve	7/2/2021 6:58:42 PM
Eduardo Martinez Sanger Unified School District	eduardo_martinez@sangerusd.net	e-Serve	7/2/2021 6:58:42 PM
Terry Bradley Kings Canyon Unified School District	garza-a@kcsd.com	e-Serve	7/2/2021 6:58:42 PM
Yvette Coronado Lang, Richert & Patch	yvette@lrplaw.net	e-Serve	7/2/2021 6:58:42 PM
Sean Selegue Arnold & Porter LLP 155249	sean.selegue@aporter.com	e-Serve	7/2/2021 6:58:42 PM
Heidi Hughes Coalition for Adequate School Housing	hhughes@m-w-h.com	e-Serve	7/2/2021 6:58:42 PM
Maiya Yang Clovis Unified School District 195970	Maiyayang@clovisusd.k12.ca.us	e-Serve	7/2/2021 6:58:42 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7/2/2021

Date

/s/Duane Besse

Signature

Carlin, Kevin (185701)

Last Name, First Name (PNum)

