

**BOARD OF EDUCATION
BERKELEY UNIFIED SCHOOL DISTRICT
COUNTY OF ALAMEDA, STATE OF CALIFORNIA**

RESOLUTION NO. 10-50

**RESOLUTION ORDERING SCHOOL BOND ELECTION,
AND AUTHORIZING NECESSARY ACTIONS IN CONNECTION THEREWITH**

WHEREAS, the Board of Education (the "Board") of the Berkeley Unified School District (the "District"), is authorized to order elections within the District and to designate the specifications thereof, pursuant to Sections 5304 and 5322 of the Education Code of the State of California (the "Education Code"); and

WHEREAS, the Board is specifically authorized to order elections for the purpose of submitting to the electors the question of whether bonds of the District shall be issued and sold for the purpose of raising money for the purposes hereinafter specified, pursuant to Education Code Sections 15100 et seq.; and

WHEREAS, pursuant to Section 18 of Article XVI and Section 1 of Article XIII A of the California Constitution, and Section 15266 of the Education Code, school districts may seek approval of general obligation bonds and levy an ad valorem tax to repay those bonds upon a 55% vote of those voting on a proposition for the purpose, provided certain accountability measures are included in the proposition; and

WHEREAS, the Board deems it necessary and advisable to submit such a bond proposition to the electors, which, if approved by 55% of the votes cast, would permit the District to issue its bonds; and

WHEREAS, such a bond election must be conducted concurrent with a statewide primary election, general election, or special election, or at a regularly scheduled local election, as required by Section 15266 of the Education Code; and

WHEREAS, on November 2, 2010, a statewide general election is scheduled to be conducted throughout the District; and

WHEREAS, the District is located entirely within the County of Alameda (the "County"), and the Alameda County Superintendent of Schools has jurisdiction over the District;

WHEREAS, the District's boundaries have not changed since the November 4, 2008 general election;

WHEREAS, based upon a projection of assessed property valuation and a proposed schedule of bond issuances, the Board has determined that, if approved by voters, the tax rate levied to meet the debt service requirements of the bonds proposed to be issued will not exceed the statutory limit of \$60 per year per \$100,000 of assessed valuation of taxable property, pursuant to Education Code Section 15270; and

WHEREAS, if the project to be funded by the bonds will require State matching funds for any phase, the sample ballot must contain a statement, in form prescribed by law, advising the voters of that fact, and the Board finds that the projects listed in the proposition contained in Exhibit A of this Resolution will not require State matching funds not yet received by the District; and

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

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

NOW, THEREFORE, be it resolved, found, determined and ordered by the Board of Education of the Berkeley Unified School District as follows:

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

Section 2. Specifications of Election Order: Pursuant to Education Code Sections 5304, 5322, 15100 et seq., and 15266, a special election shall be held within the boundaries of the Berkeley Unified School District on November 2, 2010, for the purpose of submitting to the registered voters of the District the proposition contained in Exhibit A hereto.

Section 3. Order of Election; Specifications of Ballot Measure; Abbreviation of Proposition. Pursuant to Section 13247 of the Elections Code and Education Code Sections 5322 and 15122, this Board of Education hereby directs the Registrar of Voters of the County (the "Registrar of Voters") to submit to the voters of the District at said election the proposition contained in Exhibit A-II hereto, and to use as the abbreviation of the bond proposition on the ballot the Abbreviation contained in Exhibit A-I hereto.

Section 4. Required Certification. The Board of Trustees hereby certifies that it has evaluated safety, class size reduction and information

technology needs in developing the Bond Project List of the proposition contained in Exhibit A-II hereto.

Section 5. Delivery of Order of Election and Tax Rate Statement to County Officers: As soon as practicable following adoption of this Resolution, and in any event no later than August 6, 2010 (which date is not fewer than 88 days prior to the date set for the election), the Clerk of this Board of Trustees is hereby directed to cause one copy of this Resolution to be filed (1) with the Clerk of the Board of Supervisors of the County, and (2) with the Registrar of Voters of the County. The copy filed with the Registrar of Voters shall include the Tax Rate Statement (in substantially the form attached hereto as Exhibit B), completed and signed by the Superintendent of the District.

Section 6. Conduct of Election. (a) *Request to Registrar of Voters.* Pursuant to Section 5303 of the Education Code, the Registrar of Voters is required to, and is hereby requested to, take all steps to hold the election in accordance with law and these specifications.

(b) *Ballot and Voter Pamphlet.* The Registrar of Voters is requested to cause the exact wording of the Abbreviation of the Measure contained in Exhibit A-I to appear on the ballot, and to print the Full Text of the Measure contained in Exhibit A-II in the voter information pamphlet to be distributed to voters pursuant to Section 13307 of the Elections Code. The full text of the measure is all that text in Appendix A hereto between the indicators:

“BEGINNING OF FULL TEXT OF MEASURE----->>>>” and

“<<<<-----END OF FULL TEXT OF MEASURE.”

(c) *Consolidation.* Pursuant to Education Code Section 15266(a), the election shall be consolidated with the statewide general election on November 2, 2010, and pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, the Registrar of Voters and the Board of Supervisors of the County are hereby requested to order consolidation of the election with such other elections as may be held on the same day in the same territory or in territory that is in part the same.

(d) *Canvass of Results.* The Board of Supervisors of the County is authorized to canvass the returns of the election pursuant to Section 10411 of the Elections Code.

(e) *Required Vote.* Pursuant to Section 18 of Article XVI and Section 1 of Article XIII A of the State Constitution, the proposition contained in Appendix A shall become effective upon the affirmative vote of at least 55% of those voters voting on the proposition.

(f) *Election Costs.* This Board of Education shall pay all costs of the election approved by the Board of Supervisors of the County, pursuant to Education Code Section 5421.

Section 7. No Requirement of State Matching Funds. The District has determined that the projects to be funded from the proposed bonds will not require State matching funds for any phase thereof, and that Section 15122.5 of the Education Code does not apply to the proposition, and accordingly, the Registrar of Voters is directed not to include the disclosure otherwise required by that section.

Section 8. Ballot Arguments: The President of this Board, or any member or members of this Board as the President shall designate, are hereby authorized, but not directed, to prepare and file with the Registrar of Voters a ballot argument in favor of the proposition contained in Exhibit A hereof, within the time established by the Registrar of Voters, which shall be considered the official ballot argument of this Board as sponsor of the proposition.

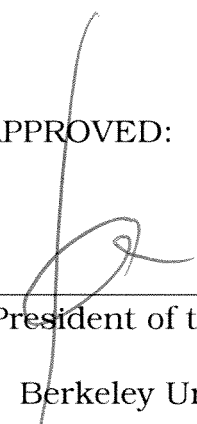
Section 9. Further Authorization: The members of this Board, the Superintendent, the Deputy Superintendent and Chief Financial Officer, and all other officers of the District are hereby authorized and directed, individually and collectively, to do any and all things that they deem necessary or advisable in order to effectuate the purposes of this resolution in accordance with the terms hereof and of applicable provisions of law.

Section 10. Effective Date; Required Vote: This Resolution shall take effect upon its adoption by a two-thirds vote.

PASSED AND ADOPTED this day, June 9, 2010, by the following vote:

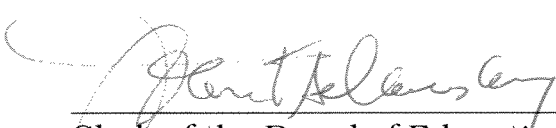
AYES: **Directors Hemphill, Leyva-Cutler, Issel, Riddle and Selawsky**
NOES: **none**
ABSTAIN: **none**
ABSENT: **none**

APPROVED:



President of the Board of Education
of the
Berkeley Unified School District

Attest:



Clerk of the Board of Education of the
Berkeley Unified School District

EXHIBIT A

I. ABBREVIATION OF THE MEASURE

To improve school safety and facilities for learning and teaching, shall Berkeley Unified School District issue \$210,000,000 in bonds at interest rates within the legal limit, to construct new classrooms for growth, complete seismic upgrades, construct science labs, upgrade computers and education technology, renovate playgrounds, replace restrooms, cafeterias, roofs, heating and fire safety systems, remove hazardous materials, improve energy efficiency, and qualify for State grants, with independent audits and citizen oversight? The State cannot take the funds.

II. FULL TEXT OF THE MEASURE

BEGINNING OF FULL TEXT OF MEASURE----->>>>>

BOND AUTHORIZATION

By approval of this proposition by at least 55% of the registered voters voting on the proposition, the Berkeley Unified School District (the "District") shall be authorized to issue and sell bonds of up to \$210,000,000 in aggregate principal amount to provide financing for the specific school facilities projects listed in the Bond Project List below, and in order to qualify to receive State matching grant funds, subject to all of the accountability safeguards specified below.

ACCOUNTABILITY SAFEGUARDS

The provisions in this section are specifically included in this proposition in order that the District's voters and taxpayers may be assured that their money will be spent wisely to address specific facilities needs of the District, all 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).

Evaluation of Needs. The Board of Education has prepared an updated facilities plan in order to evaluate and address all of the facilities needs of the District at each campus and facility, and to determine which projects to finance from a local bond at this time. The Board of Education hereby certifies that it has evaluated safety, class size reduction and information technology needs in developing the Bond Project List.

Limitation on Use of Bond Proceeds. The State of California does not have the power to take locally approved school district bond funds for any State purposes. The Constitution allows proceeds from the sale of bonds authorized by this proposition to be used only for the construction, reconstruction, rehabilitation, or replacement of school facilities listed in this proposition, 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 teacher and administrator salaries and other school operating expenses. Proceeds of the bonds may be used to pay or reimburse the District for the cost of District staff only when performing work on or necessary and incidental to the bond projects.

Independent Citizens' Oversight Committee. The Board of Education shall establish an independent Citizens' Oversight Committee

(pursuant to Education Code Section 15278 and following), to ensure bond proceeds are spent only for the school facilities projects listed in the Bond Project List. The committee shall be established within 60 days of the date on which the Board of Education enters the election results on its minutes. The Board of Education may, but need not, constitute the Citizens' Oversight Committee as the existing School Construction Oversight Committee responsible for reviewing other bonds of the District.

Annual Performance Audits. The Board of Education shall conduct an annual, independent performance audit to ensure that the bond proceeds have been expended only on the school facilities projects listed in the Bond Project List.

Annual Financial Audits. The Board of Education shall conduct an annual, independent financial audit of the bond proceeds (which shall be separate from the District's regular annual financial audit) until all of those proceeds have been spent for the school facilities projects listed in the Bond Project List.

Special Bond Proceeds Account; Annual Report to Board. Upon approval of this proposition and the sale of any bonds approved, the Board of Education shall take actions necessary pursuant to Government Code Section 53410 and following to establish an account in which proceeds of the sale of bonds will be deposited. As long as any proceeds of the bonds remain unexpended, the Superintendent or the chief fiscal officer of the District shall cause a report to be filed with the Board no later than December 31 of each year, commencing December 31, 2010, stating (1) the amount of bond proceeds received and expended in that year, and (2) the status of any project funded or to be funded from bond proceeds. The report may relate to the calendar year, fiscal year, or other appropriate annual period as such officer shall determine, and may be incorporated into the annual budget, audit, or other appropriate routine report to the Board.

FURTHER SPECIFICATIONS

Specific Purposes. All of the purposes enumerated in this proposition shall be united and voted upon as one single proposition, pursuant to Education Code Section 15100, and shall constitute the specific purposes of the bonds, and proceeds of the bonds shall be spent only for such purposes, pursuant to Government Code Section 53410.

Joint Use. The District may enter into agreements with the City of Berkeley or other public agencies or nonprofit organizations for joint use of school facilities financed with the proceeds of the bonds in accordance with Education Code Section 17077.42 (or any successor provision). The District may seek State grant funds for eligible joint-use projects as permitted by law,

and this proposition hereby specifies and acknowledges that bond funds will or may be used to fund all or a portion of the local share for any eligible joint-use projects identified in the Bond Project List or as otherwise permitted by California State regulations, as the Board of Education shall determine.

Rate of Interest. The bonds shall bear interest at a rate per annum not exceeding the statutory maximum, payable at the time or times permitted by law.

Term of Bonds. The number of years the whole or any part of the bonds are to run shall not exceed 40 years from the date of the bonds or the date of any series thereof.

SPENDING AUTHORIZATION

The Bond Project List below describes the specific projects the District proposes to finance with proceeds of the bonds. Inclusion of a project on the Bond Project List is not a guarantee that the project will be funded or completed. Listed projects will be completed as needed at a particular school site according to Board-established priorities, and the order in which such projects appear on the Bond Project List is not an indication of priority for funding or completion. The Board of Education may make changes to the Bond Project List in the future consistent with the projects specified in the proposition.

Until all project costs and funding sources are known, the Board of Education cannot determine the amount of bond proceeds available to be spent on each project, nor guarantee that the bonds will provide sufficient funds to allow completion of all listed projects. The final cost of each project will be determined as plans are finalized, construction bids are awarded, and projects are completed. Certain construction funds expected from non-bond sources have not yet been secured, including State grant funds the District expects to request for eligible projects, deferred maintenance funds, public agency or nonprofit partner contributions to joint-use projects, utility rebates, etc. Completion of some projects may be subject to further government approvals by State officials and boards, to local environmental review, and to input from the public.

Each project is assumed to include its share of costs of the election and bond issuance and other construction-related costs, such as construction management, architectural, engineering, inspection and other planning and permitting costs, legal, accounting and similar fees, independent annual financial and performance audits, a customary construction contingency, and other costs incidental to and necessary for completion of the listed projects (whether work is performed by the District or by third parties).

Unless otherwise noted, the projects in the Bond Project List are authorized to be completed at each or any of the District's sites, as shall be approved by the Board of Education:

Berkeley Arts Magnet Elementary	Cragmont Elementary	Emerson Elementary
Jefferson Elementary	John Muir Elementary	LeConte Elementary
Malcolm X Elementary	Oxford Elementary	Rosa Parks Elementary
Thousand Oaks Elementary	Washington Elementary	
	* * *	
M.L. King Jr. Middle School	Longfellow Middle School	Willard Middle School
	* * *	
Berkeley High School	B-Tech High School	Berkeley Adult School
	* * *	
1810 Hopkins Pre-school	Franklin Pre-school	King Pre-school
	* * *	
Oregon/Russell Facility	West Campus Facility Transportation Facility	East Campus Field

BOND PROJECT LIST

BERKELEY HIGH SCHOOL COMPLETION

- Complete seismic retrofit of Berkeley High School, including completion and construction of Berkeley High School facilities and grounds included in the South of Bancroft Avenue Plan
- Seismic renovation or replacement of Building C-G Bridge

NEW PROJECTS AND NEEDED EQUIPMENT

- Construct new classrooms and classroom buildings to accommodate growth in enrollment, including elementary and pre-kindergarten enrollment growth
- Construct new Career Technical Education center and technology training classrooms, classroom buildings, science labs and other facilities, and renovate, rehabilitate or reconstruct classrooms and facilities to accommodate career, technical and science education
- Acquire and install or upgrade classroom technology equipment and fixtures, including computers, digital projectors and cameras, etc.
- Upgrade, replace existing or acquire new school, office and District-wide computer and data, voice, and audio-visual communications systems, including computers and computer network equipment and electrical infrastructure to accommodate technology upgrades
- Acquire and install solar electricity generation and distribution systems, including rooftop installation of solar panels, construction of parking lot shade structures and other structures to support solar panels and related infrastructure, and electrical system enhancements to accommodate solar power. Rehabilitate and replace such systems and equipment as needed in the future.
- Acquire and install energy-saving improvements, including upgraded insulation, efficient lighting, windows and window coverings, shade canopies, energy management and conservation systems, and other passive technologies
- Construct or renovate new kitchens and serving areas at school sites to include a new facility at Longfellow Middle School
- Improve the field at the East Campus site on Derby Street
- Seismically renovate or replace District Maintenance, Food Service, and Warehouse buildings
- Furnish and equip schools, classrooms, science and technology labs, gyms, school offices, and other District facilities which may include desks,

chairs and classroom furniture, computers and audio-video production equipment, science, lab and technical equipment, kitchens and culinary equipment, gymnasium and physical education equipment, school site maintenance equipment, moveable partitions, copy machines and other school office equipment. Furnishing and equipping shall include initial purchases, and scheduled and necessary replacements, upgrades and updating technology

- Construct classrooms and classroom buildings, laboratories, libraries, lecture halls, multipurpose rooms, theaters, art and music instruction and recital rooms, and other educational facilities, gymnasiums and other physical education facilities, and maintenance and support facilities, to meet expanding and changing educational program needs at all grade levels

BUILDING SYSTEMS RENEWAL AND REPLACEMENT AND EXTERIOR GROUNDS IMPROVEMENT

- Upgrade, replace and install improved building infrastructure systems and system components, including for plumbing, gas, electrical, lighting, heating, ventilation and air conditioning systems; water supply, sewer lines and storm drains, and connections to city systems
- Upgrade, replace and install smoke and fire detection and suppression systems, and security systems, including cameras, intrusion detection, and alarm systems; doors and door locks, windows and window locks; public address, telephones, and emergency communications
- Renovate, replace or construct classrooms that have not yet been modernized, including doors, windows, walls, ceilings and floors and finishes, carpets, drapes, window coverings, lighting, sinks, fixtures and equipment
- Renovate, replace or construct and equip school kitchens, cafeterias, and teaching kitchens, including school gardens, food preparation, food storage, serving and dining areas
- Renovate, replace or construct other educational support facilities
- Construct or renovate restrooms as needed to support population size, remove accessibility barriers, and meet Americans with Disabilities Act requirements
- Install, construct, renovate or rehabilitate site improvements, including pedestrian paths, sidewalks and walkways, exterior shade canopies and rain structures, outside gathering and eating areas, lawns, quads and courtyards, benches; landscape improvements, irrigation and drainage; vehicle roads and parking, including reconfigured or new pickup/dropoff areas, ingress, egress, traffic lights and mitigation

- Install or replace exterior safety lighting, fencing, security monitoring and alarm systems, signage, electronic message boards
- Renovate, replace or construct physical education playgrounds and athletic fields and associated facilities, including all-weather tracks, natural or artificial turf fields, courts and stadiums, lighting, bleachers and restrooms. Provide storage for physical education, athletic and grounds maintenance equipment
- Resurface, refurbish, repair and paint building exteriors
- If and as opportunities become available, and to the extent the Board determines that bond funds are available for the purpose, acquire additional locations and construct, convert, renovate or improve such additional locations as the Board determines may be necessary and appropriate to serve designated educational purposes

For any project involving renovation, rehabilitation or repair of a building or the major portion of a building, the District shall be authorized to proceed with new replacement construction instead (including any necessary demolition), if the Board of Education determines that replacement and new construction is more practical than renovation, rehabilitation and repair, considering the building's age, condition, expected remaining life, comparative cost, and other relevant factors.

ADDITIONAL NECESSARY AND INCIDENTAL PROJECTS

- Remove, dispose of, and otherwise remediate hazardous materials, including asbestos, lead, etc.; address other unforeseen conditions revealed by construction or modernization (including plumbing or gas line breaks, dry rot, seismic and structural deficiencies, etc.); and acquire or construct other improvements required to comply with building codes, including seismic safety requirements, the Field Act, and access requirements of the Americans with Disabilities Act (ADA)
- Perform necessary site preparation or restoration in connection with new construction, renovation or remodeling, or installation or removal of relocatable classrooms, including demolition of structures; removing, replacing, or installing irrigation, drainage, utility lines (gas, water, sewer, electrical, data and voice, etc.), trees and landscaping; relocating fire access roads; and acquiring any necessary easements, licenses, or rights of way to the property
- Acquire or construct storage facilities and other space on an interim basis, as needed to accommodate construction materials, equipment, and personnel, and interim classrooms (including relocatables) for students and school functions or other storage for classroom materials displaced during construction

- Lease any of the facilities on the Bond Project List or acquire through lease-purchase or other appropriate financial arrangements; execute purchase option under a lease for any of these authorized facilities or other District facilities currently under lease

The Bond Project List shall be considered a part of this ballot proposition, and shall be reproduced in any official document required to contain the full statement of the bond proposition.

<<<<-----END OF FULL TEXT OF MEASURE.

EXHIBIT B

TAX RATE STATEMENT

An election will be held in the Berkeley Unified School District (the "District") on November 2, 2010, to authorize the sale of up to \$210,000,000 in bonds of the District to finance school facilities as described in the proposition. If the bonds are approved, the District plans to sell the bonds in six series over a period of approximately ten years. Principal and interest on the bonds will be payable from the proceeds of tax levies made upon the taxable property in the District. The information presented in numbered paragraphs 1-3 below is provided in compliance with Sections 9400-9404 of the Elections Code of the State of California.

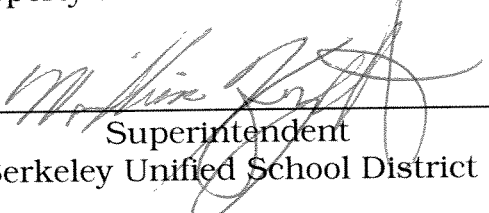
1. The best estimate of the maximum tax rate which would be required to be levied to fund this bond issue during the first fiscal year after the sale of the first series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is no more than one and one-half cents per \$100 (\$15.00 per \$100,000) of assessed valuation in fiscal year 2011-12.
2. The best estimate of the maximum 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 estimated assessed valuations available at the time of filing of this statement, is no more than six cents per \$100 (\$60.00 per \$100,000) of assessed valuation in fiscal year 2020-21.
3. The best estimate of the highest tax rate which would be required to be levied to fund this bond issue, based on estimated assessed valuations available at the time of filing of this statement, is six cents per \$100 (\$60.00 per \$100,000) of assessed valuation, which is estimated to apply in fiscal years 2018-19 through 2038-39.

Approval of the ballot measure authorizes the issuance of bonds under certain conditions, and is not approval of a specific tax rate or a specific bond issuance plan. The tax rate estimates in this statement reflect the District's current projection of future assessed values and of future debt service payments, which are based on certain assumptions. 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 and repayment structure of bonds sold, market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The dates of sale of the bonds and the amount and repayment structure of bonds sold at any given time will be determined by the District based on its need for construction funds, its intention to meet the tax rate targets stated above, the legal limitations on bonds approved by a 55% vote, and other factors. The actual interest rates at which the bonds are sold will depend on the bond

market at the time of each sale. Actual future assessed valuation 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.

Voters should note that the estimated tax rates are based on the *ASSESSED VALUE* of taxable property in the District as shown on the County's official tax rolls, *not* on the property's market value. Property owners should consult their own property tax bills to determine their property's assessed value and any applicable tax exemptions.

Dated: JUNE 18, 2010.



Superintendent
Berkeley Unified School District

SECRETARY'S CERTIFICATE

I, William Huyett, Secretary of the Board of Education of the Berkeley Unified School District, County of Alameda, California, hereby certify as follows:

The attached is a full, true and correct copy of a resolution duly adopted at a regular meeting of the Board of Education of the District duly and regularly held at the regular meeting place thereof on June 9, 2010, and entered in the minutes thereof, of which meeting all of the members of the Board of Education had due notice and at which a quorum thereof was present. The resolution was adopted by the following vote:

AYES: Directors Hemphill, Leyva-Cutler, Issel, Riddle and Selawsky

NOES: none

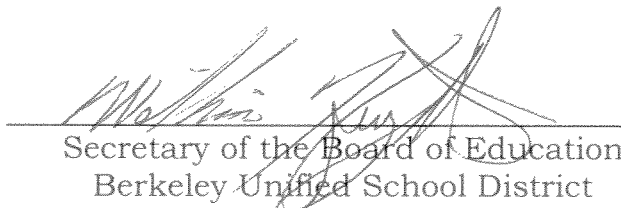
ABSTAIN: none

ABSENT: none

An agenda of said meeting was posted at least 72 hours before said meeting at 2134 Martin Luther King Jr. Way, Berkeley, California, a location freely accessible to members of the public, and a brief description of said resolution appeared on said agenda. A copy of said agenda is attached hereto.

I have carefully compared the same with the original minutes of the meeting on file and of record in my office. The resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

WITNESS my hand this 18 day of June 2010.


Secretary of the Board of Education
Berkeley Unified School District