



East Side Union High School District  
*Academic, Personal and Social Success for All Students*

# Board Meeting of

**July 28, 2010**

BOARD OF TRUSTEES

Eddie Garcia, President

Lan Nguyen, Vice President

Patricia Martinez-Roach, Clerk

J. Manuel Herrera, Member

Frank Biehl, Member

Dan Moser, Interim Superintendent

**EAST SIDE UNION HIGH SCHOOL DISTRICT**  
**Special Meeting of the Board of Trustees**  
**830 N. Capitol Avenue**  
**San Jose, CA 95133**

**AMENDED**

**AGENDA**  
**July 28, 2010**

In compliance with the Americans with Disabilities Act, if you need special assistance, disability-related modifications or accommodations, including auxiliary aids or services, in order to participate in the public meeting of the Board of Trustees, please contact the office of the District Superintendent at (408) 347-5011. Notification 24 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accommodation and accessibility to this meeting. Upon request, the District shall also make available this agenda and all other public records associated with this meeting in appropriate alternative formats for persons with a disability.

**Open Session will begin at 5:00 P.M.**

The Special Board Meeting will begin at 5:00 p.m. in the Board Room of the Education Center. Anyone wishing to address the Board regarding Closed Session items may speak at this time. The Board will then adjourn to Closed Session in the Superintendent's Conference Room.

Board Clerk Patricia Martinez-Roach intends to participate in this Special Board Meeting by teleconference from the following location, which shall be freely accessible to the public:

Holiday Inn Express, Room #224  
LT 5 MZ 29 Fracc Playacar  
Playa del Carmen, 77713  
Mexico  
Telephone Number: 1 011 52 984 2063434

**1. Call to Order/ Roll Call**

- 1.01 Roll Call
- 1.02 Announcement and Public Comment regarding Items to be discussed in Closed Session (*Government Code §54957.7*)
- 1.03 Recess to Closed Session in the Superintendent's Conference Room (Open Session will resume at the end of Closed Session in the Board Room at approximately 6:00 p.m.)  
**SEE ITEM 2 ON AGENDA (CLOSED SESSION)**

**2. Closed Session**

- 2.01 Expulsion(s): A
- 2.02 Public Employee Discipline/Dismissal/Release  
(*Government Code Section 54957*)
- 2.03 Public Employee Performance Evaluation  
(*Government Code Section 54957*)

2.04 Public Employment/Public Employee Appointment  
(*Government Code Section 54957*)

- *Associate Superintendent of Student Services and Facilities*
- *Associate Superintendent of Administration and Business Services*
- *Associate Superintendent of Human Resources and Instruction*
- *Superintendent*

2.05 Conference with Labor Negotiators  
(*Government Code Section 54957.6*)

Agency Designated Representatives:

Dan Moser, Interim Superintendent

Jerry Kurr, Associate Superintendent of Administration and Business Services

Cathy Giammona, Associate Superintendent of Human Resources and Instruction

Vida Branner-Siders, Director of Compensation and Classified Employee Relations

Employee Organizations:

American Federation of Teachers (AFT)

California School Employees Association (CSEA)

East Side Teachers Association (ESTA)

2.06 Conference with Legal Counsel – Existing Litigation  
Subdivision (a) of Section 54956.9 of the Government Code: Two (2) Cases

- *Kinetics Mechanical Services, Inc. vs. East Side Union High School District, Santa Clara County Superior Court, Case No. 109CV141312*
- *Geraldine Forte vs. East Side Union High School District, U.S. District Court for the Northern District of California, San Jose Division, Case Number CV 10-01368 HRL*

2.07 Conference with Legal Counsel – Anticipated Litigation  
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code:

- *One (1) potential case*

2.08 Conference with Real Property Negotiators

Property: ESUHSD Educational Center, or portion thereof  
830 N. Capitol Avenue  
San Jose, CA 95133

District Negotiators: Dan Moser, Interim Superintendent  
Jerry Kurr, Associate Superintendent of Administration  
and Business Services  
Rogelio Ruiz, Legal Counsel  
Real Estate Representatives Sam Swan, Bob Hunt and Andre Hunt

Negotiating Parties: ESUHSD, Santa Clara Development Company, and  
Other Parties to be Determined

Under Negotiation: Price and Terms

**Open Session at approximately 6:00 P.M. – Education Center Board Room**

**3. Pledge of Allegiance**

**4. Welcome and Explanation to Audience**

Information explaining Board meeting procedures and how citizens can address the Board will be read. Written information is located near the entrance to the Board Room.

**5. Consideration of Proposed Amendments to Agenda**

**6. Public Members who wish to Address the Board of Trustees**

Persons wishing to address the Board must fill out a gold request form, which is located at the entrance of the Board Room.

**7. Superintendent/Board of Trustees - Operational Items/Board Discussion and/or Action**

7.01 Hold Public Hearing at approximately 6:00 p.m. regarding Ordering an Election to be Held on Tuesday, November 2, 2010, for the Purpose of Submitting to the Qualified Electors of the District the Question of Levying a Qualified Special Tax upon Each Parcel in the District for Educational Purposes and Establishing the Specifications of the Election Order – Dan Moser, Interim Superintendent

7.02 Adopt Resolution #2010/2011-01 Ordering an Election to be Held on Tuesday, November 2, 2010, for the Purpose of Submitting to the Qualified Electors of the District the Question of Levying a Qualified Special Tax upon Each Parcel in the District for Educational Purposes and Establishing the Specifications of the Election Order – Dan Moser, Interim Superintendent

7.03 Approve Agreement for Exclusive Right to Negotiate possible Exchange of a Portion of the Education Center Property – Dan Moser, Interim Superintendent

**8. Business Services - Operational Items/Board Discussion and/or Action**

- 8.01 Reauthorization of Board Resolution #2009/2010-46 regarding Authorizing a Lease Purchase Agreement for the Purpose of Financing the Energy Services Contract, Designating the Lease Purchase Agreement as a Tax Exempt Obligation, and Authorizing and Prescribing Other Matters related Thereto – Jerry Kurr, Associate Superintendent of Administration and Business Services and Rogelio Ruiz, Legal Counsel
- 8.02 Adopt Resolution #2010/2011-02 an Itemized List of Surplus/ Obsolete Equipment for Sale and/or Disposal per Education Code Sections 17545 and 17546 - Jerry Kurr, Associate Superintendent of Administration and Business Services
- 8.03 Approve Change Orders to Purchase Orders for Year End Reconciliation (*Amended*) - Jerry Kurr, Associate Superintendent of Administration and Business Services
- 8.04 Approve Contracts for Professional Services at or below \$50,000 - Jerry Kurr, Associate Superintendent of Administration and Business Services
- 8.05 Approve Contracts for Professional Services over \$50,000 - Jerry Kurr, Associate Superintendent of Administration and Business Services

**9. Attachment A - Consent Calendar Items**

*See Attachment A – Administration recommends approval of the consent items shown on Attachment A.*

**10. Board of Trustees/Superintendent Communications/Comments**

10.01 Board of Trustees

- Lan Nguyen, Vice President
- Patricia Martinez-Roach, Clerk
- J. Manuel Herrera, Member
- Frank Biehl, Member
  - MetroED
- Eddie Garcia, President

10.02 Dan Moser, Interim Superintendent

**11. Report Closed Session Action(s)**

**12. Adjournment**

## **Attachment A - Consent Calendar**

- 9. Superintendent asserts that the attached Business Transactions, Personnel Actions, Maintenance of Records, Approvals and Recommendations Requiring Board Action have been carried out to the best of his knowledge in accordance with the law.**

9.01 Ratify/Approve Certificated Personnel Actions Presented July 28, 2010

# **Section 7**

**Operational Items/  
Board Discussion  
and/or Action**

**Board/  
Superintendent**



## EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Meeting of July 28, 2010

Item: 7.01

TO: Board of Trustees

FROM: Dan Moser, Interim Superintendent

SUBJECT: Hold Public Hearing at approximately 6:30 p.m. regarding Ordering an Election to be Held on Tuesday, November 2, 2010, for the Purpose of Submitting to the Qualified Electors of the District the Question of Levying a Qualified Special Tax upon Each Parcel in the District for Educational Purposes and Establishing the Specifications of the Election Order

The East Side Union High School District will hold a public hearing for the consideration to establish an education parcel tax for a period of six years, beginning July 1, 2011, at the rate of \$98 per year, on each parcel located in the ESUHSD with an exemption available for senior citizens and to implement accountability measures in connection with the temporary levy that are over and above those required by law, including the appointment of an independent citizen oversight committee to provide oversight and accountability.

Approval of this special parcel tax by two-thirds (2/3) of the registered voters on the measure will authorize the district to:

- Retain and attract excellent teachers and staff;
- Increase student access to science, technology, math and core academic classes required for college admission and careers;
- Keep guidance counselors;
- Continue to fund art, music, and athletics; and
- Keep our schools safe and secure.

A copy of the posting of Public Hearing Notice is attached.

**Recommendation:**

It is recommended the Board of Trustees hold a public hearing at approximately 6:30 p.m. regarding Ordering an Election to be Held on Tuesday, November 2, 2010, for the Purpose of Submitting to the Qualified Electors of the District the Question of Levying a Qualified Special Tax upon Each Parcel in the District for Educational Purposes and Establishing the Specifications of the Election Order



# NOTICE OF PUBLIC HEARING

## EAST SIDE UNION HIGH SCHOOL DISTRICT

PLEASE TAKE NOTICE THAT on Wednesday, July 28, 2010 at approximately 6:00 p.m., the Board of Trustees of the East Side Union High School District (ESUHSD) will hold a public hearing during the Board's special meeting. The meeting and the hearing will take place in the Board Room of the East Side Union High School District, Education Center located at 830 North Capitol Avenue, San Jose. The ESUHSD Board of Trustees will consider adopting a resolution proposing to establish a Special Tax to be submitted for voter approval on November 2, 2010, in an amount not to exceed \$98 per year per parcel for up to 6 years for a variety of educational programs, which include retaining and attracting qualified excellent teachers and support staff, increasing student access to science, technology, math and core academic classes required for college admission and careers, keeping guidance counselors, continuing funding for art, music and athletics, and to keep our schools safe and secure. All interested staff, parents, and community members are invited to attend. Please contact the Superintendent's office at the address shown above or at 408-347-5010 for additional information.



## EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Meeting of July 28, 2010

Item: 7.02

TO: Board of Trustees

FROM: Dan Moser, Interim Superintendent

SUBJECT: Adopt Resolution #2010/2011-01 Ordering an Election to be Held on Tuesday, November 2, 2010, for the Purpose of Submitting to the Qualified Electors of the District the Question of Levying a Qualified Special Tax upon Each Parcel in the District for Educational Purposes and Establishing the Specifications of the Election Order

The East Side Union High School District proposes to establish an education parcel tax for a period of six years, beginning July 1, 2011, at the rate of \$98 per year, on each parcel located in the ESUHSD with an exemption available for senior citizens and to implement accountability measures in connection with the temporary levy that are over and above those required by law, including the appointment of an independent citizen oversight committee to provide oversight and accountability.

Approval of this special parcel tax by two-thirds (2/3) of the registered voters on the measure will authorize the district to:

- Retain and attract excellent teachers and staff;
- Increase student access to science, technology, math and core academic classes required for college admission and careers;
- Keep guidance counselors;
- Continue to fund art, music, and athletics; and
- Keep our schools safe and secure.

**Funding Source:**

To be determined by the number of eligible parcels.

**Fiscal Impact:**

Not applicable

**Recommendation:**

It is recommended the Board of Trustees adopt Resolution #2010/2011-01 Ordering an Election to be Held on Tuesday, November 2, 2010, for the Purpose of Levying a Qualified Special Tax upon Each Parcel in the District for Educational Purposes.

**RESOLUTION #2010/2011-01**

**BOARD OF TRUSTEES  
EAST SIDE UNION HIGH SCHOOL DISTRICT**

**RESOLUTION ORDERING AN ELECTION TO BE HELD ON TUESDAY,  
NOVEMBER 2, 2010 FOR THE PURPOSE OF SUBMITTING TO THE  
QUALIFIED ELECTORS OF THE DISTRICT THE QUESTION OF LEVYING A  
QUALIFIED SPECIAL TAX UPON EACH PARCEL IN THE DISTRICT FOR  
EDUCATIONAL PURPOSES AND ESTABLISHING THE SPECIFICATIONS OF  
THE ELECTION ORDER**

**WHEREAS**, the Board of Trustees (the "Board") of the East Side Union High School District (the "District") has determined that the present revenues of the District are inadequate to fund the cost of education within said District, and

**WHEREAS**, Section 4 of Article XIII A of the California Constitution and California Government Code Sections 50079 et seq. and 50075 et seq. (the "Law") authorize a school district, upon approval by two-thirds (2/3) of the electorate voting on the measure, to levy a qualified special tax for specified purposes following notice and a public hearing; and

**WHEREAS**, the Board has on this date held a public hearing which was duly noticed where all interested persons have been heard on the matter of holding an election in the District on the matter of levying a qualified special tax on each parcel in the District; and

**WHEREAS**, the Board of Trustees desires at this time to order an election to be held on November 2, 2010 in the District for the purpose of submitting to the voters in the District the matter of levying a qualified special tax on each parcel in the District for educational purposes and to designate the specifications thereof, pursuant to Education Code Section 5320 et seq.; and

**NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE EAST SIDE UNION HIGH SCHOOL DISTRICT DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:**

**Section 1. Call for Election.** The Board hereby orders an election and submits to the electors of the District the question of whether a qualified special tax shall be levied and collected in the District for the purposes as set forth more fully in the ballot proposition approved herein. This Resolution constitutes the order of the District to call such election and shall constitute the "specifications of the election order," pursuant to Education Code Section 5322.

**Section 2. Election Date.** The date of the election shall be November 2, 2010, and the election shall be held solely within the boundaries of the District.

**Section 3. Purpose of Election; Ballot Proposition.** The purpose of the election shall be for the voters in the District to vote on a proposition, a full copy of which is attached hereto and marked Exhibit "A", containing the question of whether the District shall levy a qualified special tax in the District for the purpose stated therein, together with the accountability requirements of Government Code Section 50075.1. As required by Elections Code Section 13247, the abbreviated form of the measure to appear on the ballot is attached hereto and marked as Exhibit "B". The Superintendent or his designee is hereby authorized and directed to

make any changes to the text of the proposition as required to conform to any requirements of the Law or the Santa Clara County Registrar of Voters.

**Section 4. Authority for Election.** The authority for ordering the election is contained in Section 4 of Article XIII A of the California Constitution and California Government Code Sections 50079 et seq. and 50075 et seq. The authority for the specification of this election order is contained in Section 5322 of the Education Code.

**Section 5. Type of Tax Rate, and Method of Collection.** Said qualified special tax shall be levied in an equal amount against each parcel of taxable real property in the District in the amount of \$98 per parcel annually (except as described below) for 6 years, commencing with fiscal year 2011-12.

A parcel shall be defined as any unit of land in the District that receives a separate tax bill from the Santa Clara County Tax Collector.

**Section 6. Exemptions.** All property that would otherwise be exempt from property taxes will also be exempt from the qualified special tax. In addition, an exemption shall be available to persons who own and occupy as a principal residence a parcel and are 65 years or older and apply to the District for an exemption under procedures established by the District or otherwise as required by law or by the Santa Clara County Tax Collector.

**Section 7. Accountability Requirements.** The members of the Board, the Superintendent and officers of the District are hereby requested and directed, individually and collectively, to comply with the accountability measures pursuant to Government Code Section 50075.1 that include, but are not limited, to the following: (a) a statement indicating the specific purposes of the special tax, (b) a requirement that the proceeds of the special tax be applied only to the specific purposes identified in the ballot measure, (c) the creation of an account into which the proceeds of the special tax shall be deposited, and (d) an annual report pursuant to Government Code Section 50075.3 as provided in Section 7 hereof. Such accountability measures shall be set forth on the ballot in the form of Exhibit A attached hereto and incorporated herein by reference.

In addition, the Governing Board of the District will appoint a Citizens' Oversight Committee with responsibility to review the expenditures of the District from the special tax to ensure the special tax is expended for authorized purposes, and to prepare an annual report to the District and the public concerning the expenditure of the special tax proceeds.

**Section 8. Annual Report.** Pursuant to Government Code Section 50075.3, the Board directs the chief fiscal officer of the District to file a report with the Board each year containing (a) the amount of special tax funds collected and expended and (b) the status of any project required or authorized to be funded from the proceeds of the special taxes as identified in Section 6(a) hereof.

**Section 9. Delivery of this Resolution.** The Clerk of the Board is hereby directed to send a copy of this Resolution to the Santa Clara County Superintendent of Schools, the Santa Clara County Registrar of Voters (the "County Registrar") and the Santa Clara County Clerk of the Board of Supervisors.

**Section 10. Consolidation of Election.** The County Registrar and the Santa Clara County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on November 2, 2010, within the District.

**Section 11. Ballot Arguments.** Any and all members of this Board are hereby authorized to act as an author of any ballot argument prepared in connection with the election, including a rebuttal argument. The Superintendent, President of the Board, or their designees, are hereby authorized to execute any document and to perform all acts necessary to place the measure on the ballot.

**Section 12. Notice of Election.** That the Santa Clara County Registrar of Voters is hereby requested to prepare a formal Notice of Election in time, form and manner as required by law. The suggested form of notice of the election is as follows:

EAST SIDE UNION HIGH SCHOOL DISTRICT  
ELECTION NOTICE

NOTICE IS HEREBY GIVEN to the qualified electors of the East Side Union High School District (the "District") of Santa Clara County, that in accordance with law, an election will be held on Tuesday, the 2nd of November, 2010 in the District, at which election there will be submitted the question of levying \$98 per parcel annually for six years, exempting seniors, with citizens' oversight and no money for administrators' salaries, for the purpose of raising money to pay educational costs.

**Section 13. Reimbursement for Services Performed.** The East Side Union High School District agrees to reimburse Santa Clara County Registrar of Voters for services performed when work is completed on the election upon presentation of a bill.

**Section 14. Election Pursuant to Law.** In all particulars not recited in this Resolution, said election shall be held and conducted as provided by law for holding school district elections in the District.

**Section 15. Certification by Clerk of the Board.** That the Clerk of the Board shall certify to the passage and adoption of and shall make minutes of the passage and adoption therefore in the records of the proceedings of the Board of Trustees of the District, in the minutes of the meeting at which the same is passed and adopted.

ADOPTED, SIGNED AND APPROVED this \_\_\_\_\_ day of July, 2010.

BOARD OF TRUSTEES OF THE  
EAST SIDE UNION HIGH  
SCHOOL DISTRICT

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

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Trustees

STATE OF CALIFORNIA     )  
  )ss.  
COUNTY OF SANTA CLARA     )

I, \_\_\_\_\_, Clerk of the Board of Trustees of the East Side Union High School District, do hereby certify that the foregoing Resolution was duly adopted by the Board of Trustees of said District at a special meeting thereof held on the 28th day of July, 2010, and that it was so adopted by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

By: \_\_\_\_\_  
Clerk of the Board of Trustees of the  
East Side Union High School District

By: \_\_\_\_\_  
Superintendent  
East Side Union High School District

## EXHIBIT A

### BALLOT MEASURE FULL TEXT OF MEASURE

#### INTRODUCTION

*“To retain and attract excellent teachers and support staff, increase student access to science, technology, math and core academic classes required for college admission and careers, keep guidance counselors, continue to fund art, music and athletics and keep our schools safe and secure, shall the East Side Union High School District be authorized to levy \$98 per parcel annually for six years with citizen oversight, an exemption for seniors, no money for administrator salaries, and guaranteed local control of funds?”*

#### PURPOSE

To retain and attract excellent teachers and support staff, increase student access to science, technology, math and core academic classes required for college admission and careers, keep guidance counselors, continue to fund art, music and athletics and keep our schools safe and secure, the East Side Union High School District (grades 9-12 and Adult Education) proposes to establish an education parcel tax for a period of 6 years, beginning July 1, 2011, at the rate of \$98 per year, on each assessor’s parcel located within the East Side Union High School District, with an exemption available for senior citizens, and to implement accountability measures in connection with the temporary levy that are over and above those required by law, including the appointment of an independent citizens’ oversight committee to provide oversight and accountability to ensure the funds are used to:

- Retain and attract excellent teachers and support staff;
- Increase student access to science, technology, math and core academic classes required for college admission and careers;
- Keep guidance counselors;
- Continue to fund art, music, and athletics; and
- Keep our schools safe and secure.

The Board of Trustees will utilize parcel tax proceeds for the purposes listed above, unless the Board of Trustees determines in any given year that changes in student population, fiscal constraints, or other changes in state or federal funding make doing so infeasible or inadvisable. In any event, the Board of Trustees will not fund any program or reduction other than those listed above from the proceeds of the special parcel taxes.

## **EXEMPTIONS**

All property that would otherwise be exempt from property taxes will also be exempt from the qualified special tax. In addition, in order to provide tax relief to certain citizens within the District, an exemption shall be available to persons who own and occupy as a principal residence a parcel and are 65 years or older, and apply to the District for an exemption under procedures established by the District or otherwise as required by law or by the Santa Clara County Tax Collector.

## **PROCEDURES**

*Generally.* Subject to two-thirds approval of the voters, the special tax of \$98 per parcel annually (except exempt parcels, as described above) shall become effective as of July 1, 2011 and be collected by the Santa Clara County Tax Collector at the same time as and along with, and shall be subject to the same penalties as general *ad valorem* taxes collected by said tax collector.

*Definition of Parcel.* A parcel shall be defined as any unit of land in the District that receives a separate tax bill from the Santa Clara County Tax Collector.

*Exemptions.* Exemptions from the parcel tax are described above under “EXEMPTIONS.”

*Exclusive Procedures.* The procedures described herein with respect to the levy and collection of the special tax and exemptions, and any additional procedures established by the Board of Trustees, shall be the exclusive claims procedure for claimants seeking an exemption, refund, reduction, or re-computation of the special parcel tax. Whether any particular claim is to be resolved by the District or by the County shall be determined by the District, in coordination with the County as necessary. The District’s Board of Trustees may adopt such additional or supplemental procedures as it deems necessary or convenient for the administration of the special parcel tax.

## **ACCOUNTABILITY MEASURES**

In accordance with the requirements of California Government Code sections 50075.1 and 50075.3, the following accountability measures, among others, shall apply to the special parcel taxes levied in accordance with this Measure: (a) the specific purposes of the special parcel tax shall be those purposes identified above; (b) the proceeds of the special parcel tax shall be applied only to those specific purposes identified above; (c) a separate, special account shall be created into which the proceeds of the special parcel taxes must be deposited; and (d) an annual written report shall be made to the Board of Trustees of the District showing (i) the amount of funds collected and expended from the proceeds of the special taxes and (ii) the status of any projects, programs, or purposes required or authorized to be funded from the proceeds of the special taxes, as identified above.

In addition to the accountability measures required by State law, an independent citizens' oversight committee shall be appointed by the Board of Trustees to advise the Board on the expenditures funded by the measure in order to ensure that said funds are spent for the purposes approved by the voters. The Citizens' Oversight Committee will monitor the expenditures of these funds by the District and will report on an annual basis to the Board and community on how these funds have been spent.

### **PROTECTION OF FUNDING**

Current law forbids any decrease in State or Federal funding to the District because of the District's adoption of a parcel tax. However, if any such funds are reduced because of the adoption of this parcel tax, then the amount of the special parcel taxes will be reduced annually as necessary in order to restore such State or Federal funding.

### **SEVERABILITY**

The Board of Trustees of the District hereby declares, and the voters by approving this measure concur, that every section, paragraph, sentence and clause of this measure has independent value, and the Board of Trustees and the voters would have adopted each provision hereof regardless of every other provision hereof. Upon approval of this measure by the voters, should any part be found by a court of competent jurisdiction to be invalid for any reason, all remaining parts hereof shall remain in full force and effect to the fullest extent allowed by law.

**EXHIBIT B**

**BALLOT MEASURE  
ABBREVIATED FORM\***

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*“To retain and attract excellent teachers and support staff, increase student access to science, technology, math and core academic classes required for college admission and careers, keep guidance counselors, continue to fund art, music and athletics and keep our schools safe and secure, shall the East Side Union High School District be authorized to levy \$98 per parcel annually for six years with citizen oversight, an exemption for seniors, no money for administrator salaries, and guaranteed local control of funds?” \_\_\_\_\_*

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*\*Limited to 75 words pursuant to Section 13247 of the California Elections Code.*

**EXHIBIT C**

**FORMAL NOTICE OF PARCEL TAX ELECTION**

NOTICE IS HEREBY GIVEN to the qualified electors of the East Side Union High School District of Santa Clara County, California, that in accordance with the provisions of the Government Code of the State of California, an election will be held on November 2, 2010, at which election the following proposition shall be submitted to the qualified electors of the District and voted upon:

*“To retain and attract excellent teachers and support staff, increase student access to science, technology, math and core academic classes required for college admission and careers, keep guidance counselors, continue to fund art, music and athletics and keep our schools safe and secure, shall the East Side Union High School District be authorized to levy \$98 per parcel annually for six years with citizen oversight, an exemption for seniors, no money for administrator salaries, and guaranteed local control of funds?”*

The Santa Clara County Registrar of Voters, by this Notice of Election, has called the election pursuant to a Resolution of the Board of Trustees of the East Side Union High School District, adopted July 28, 2010.

IN WITNESS WHEREOF, I have hereunto set my hand this day, August 2, 2010.

SANTA CLARA COUNTY SUPERINTENDENT  
OF SCHOOLS

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



## EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Meeting of July 28, 2010

Item: 7.03

TO: Board of Trustees  
FROM: Dan Moser, Interim Superintendent  
SUBJECT: Approve Agreement for Exclusive Right to Negotiate

The Board previously authorized the issuance of an Offering Memorandum to interested persons for the exchange of all or a portion of the District's Educational Center. The District has received interest from Santa Clara Development Company for a possible exchange of all or a portion of the Education Center property for other real property to be designated by the District. Administration recommends the Board approve the attached Agreement for Exclusive Right to Negotiate between the District and Santa Clara Development Company ("SCDC") pursuant to which the District agrees to negotiate exclusively with SCDC for a period of 90 days regarding a possible exchange agreement for an approximate 7.5 acres portion of the Education Center. Paragraph 3 of the Agreement provides in part as follows:

"[N]othing herein shall obligate the parties to enter into an Exchange Agreement and final exclusive contract. Developer understands and agrees that the final determination of whether or not to enter into an Exchange Agreement shall be made by the District's Governing Board based upon the needs and best interests of the District as determined solely and exclusively by the Governing Board."

**Recommendation:**

Administration recommends the Board approve the Agreement.

AGREEMENT FOR EXCLUSIVE RIGHT TO NEGOTIATE

THIS AGREEMENT FOR EXCLUSIVE RIGHT TO NEGOTIATE (this "Agreement") is made and entered into as of \_\_\_\_\_, 2010 (the "Execution Date") by and between Santa Clara Development Company, a California corporation ("Developer"), and East Side Union High School District ("District").

RECITALS

A. District owns approximately 7.5 acres of real property currently improved as the primary public parking lot for the East Side Union High School District Education Center located at 830 North Capitol Avenue, San Jose, California, as more particularly described on Exhibit A attached hereto (the "Property").

B. District is considering entering into an exchange transaction pursuant to the California Education Code whereby the District would exchange the Property for other real property which could be used and/or developed for the District's educational purposes and programs (an "Exchange").

C. The District solicited interest from third parties regarding a potential Exchange.

D. As a result of such solicitation, District has preliminarily identified Developer as the party with which District would like to enter into negotiations the terms of an agreement (the "Exchange Agreement") pursuant and subject to which Developer and District would consummate an Exchange.

E. As an inducement to Developer to undertake certain preliminary due diligence and other feasibility analyses with respect to the Property and the Exchange, District has agreed to grant to Developer the exclusive right to negotiate with District for the Exclusive Right Period described herein in an effort to agree upon the terms of and enter into the Exchange Agreement, and Developer desires to be granted such exclusive right.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Developer and District hereby agree as follows:

1. Grant of Exclusive Right. Subject to Developer's payment of the Exclusive Right Fee (as defined in Paragraph 2 below), District hereby grants to Developer the exclusive right (the "Exclusive Right") to negotiate with District with respect to the terms and conditions of a mutually acceptable Exchange Agreement. The Exclusive Right shall remain in effect from the Execution Date until 5:00 p.m. Pacific Time on the ninetieth (90<sup>th</sup>) day following the Execution Date (the "Exclusive Right Period"). In the event the parties do not enter into the Exchange Agreement prior to the expiration of the Exclusive Right Period, the Exclusive Right shall

terminate and, except as otherwise expressly stated herein, neither party shall have any further rights or obligations hereunder.

2. Exclusive Right Fee. Within two (2) business days following complete execution of this Agreement by Developer and District, Developer shall deliver to District Developer's company check in the amount of Fifty Thousand Dollars (\$50,000), of which One Thousand Dollars (\$1,000) shall constitute payment in full for the Exclusive Right (the "Exclusive Right Fee"), and the remainder of which (the "Payment Remainder") shall be credited against the first deposit(s) payable by Developer pursuant to the Exchange Agreement (if it is entered into by Developer and District). District acknowledges and agrees that the Exclusive Right Fee constitutes good and sufficient consideration for granting the Exclusive Right. Developer acknowledges that the Exclusive Right Fee is in consideration for the Exclusive Right and shall not be refundable to Developer if the parties do not enter into the Exchange Agreement, except in the case of a breach of this Agreement by District; provided that in all events the Payment Remainder shall be refunded to Developer immediately upon any termination of negotiations between Developer and District, or upon the first business day following the expiration of the Exclusive Right Period if the Exchange Agreement is not entered into by Developer and District during the Exclusive Right Period.

3. Conduct of the Parties During Exclusive Right Period. During the Exclusive Right Period, Developer and District shall negotiate in good faith with respect to all matters pertaining to the Exchange Agreement; provided that nothing herein shall obligate the parties to enter into an Exchange Agreement and that Developer understands and agrees that the final determination of whether or not to enter into an Exchange Agreement shall be made by the District's Governing Board based upon the needs and best interests of the District as determined solely and exclusively by the Governing Board.

4. Representations of the Parties. Each of District and Developer (each a "Representing Party") represents and warrants to the other that (i) Representing Party has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement; (ii) the entering into and performance by Representing Party of this Agreement does not and will not violate or breach any agreement, covenant or obligation binding on Representing Party, and does not and will not require any consent, approval, or other authorization from any person or governmental entity which has not been obtained; and (iii) this Agreement has been duly authorized and executed by Representing Party, and upon delivery to and execution by both parties, shall be a valid and binding agreement of Representing Party.

5. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by the law of the State of California.

(b) Notices. All notices or demands which either party is required or desires to give to the other shall be given in writing by certified mail, return receipt requested with the

appropriate postage paid, by personal delivery, by facsimile (provided receipt of a facsimile transmission is confirmed telephonically or otherwise) or by private overnight courier service to the address or facsimile number set forth below for the respective party, or such other address or facsimile number as either party may designate by written notice to the other. All such notices or demands shall be effective as of actual receipt or refusal of delivery. Should any act or notice required hereunder fall due on a weekend or holiday, the time for performance shall be extended to the next business day.

To District: East Side Union High School District  
Attn: Dan Moser  
830 N. Capitol Avenue  
San Jose, CA 95133  
Telephone: (408) 347-5010  
Fax: (408) 347-5045

To Developer: Santa Clara Development/Robson Homes  
Attn: Mark Robson  
2185 The Alameda, Suite 150  
San Jose, CA 95126  
Telephone: (408) 345-1767  
Fax: (408) 345-1768

(c) No Assignment. Developer shall not assign this Agreement to any other person without the express written consent of District, which District may withhold or condition in its sole and absolute discretion.

(d) Counterparts. This Agreement may be executed in counterparts, including facsimile or email counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the Execution Date.

“DISTRICT”

EAST SIDE UNION HIGH SCHOOL DISTRICT

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

Its: \_\_\_\_\_

“DEVELOPER”

SANTA CLARA DEVELOPMENT COMPANY

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

Its: President

## EXHIBIT A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Beginning at the point of intersection of the Northwesterly line of that certain 30.00 acre tract of land described in the Deed from Erastus C. Benedict, Jr., to Emile Nolting, dated April 12, 1876, Recorded April 26, 1876 in Book 41 of Deeds at Page 90, Santa Clara County Records, with the Northeasterly line of Capitol Avenue, as said line was established by that certain Final Judgment and Decree of Condemnation entered on March 6, 1957 in the Superior Court of the State of California, in and for the County of Santa Clara, in that certain action entitled, "County of Santa Clara, Plaintiff, vs. Rosaria Pisturino, et al, Defendants", Case No. 98589, a certified copy of which Decree was filed for record on March 6, 1957 in Book 3745 of Official Records at Page 320, Santa Clara County Records; thence from the said point of beginning along the said Northeasterly line of Capitol Avenue North  $41^{\circ} 15' 00''$  West 948.57 feet; thence North  $48^{\circ} 45' 00''$  East 9.00 feet; thence North  $41^{\circ} 15' 00''$  West 274.61 feet to a point where said Northeasterly line of Capitol Avenue intersects with the centerline of Penitencia Creek, said centerline also being the Northwesterly line of the said Lands of Rosaria Pisturino, et al; thence along the said centerline of Penitencia Creek North  $47^{\circ} 45' 00''$  East 187.39 feet; thence North  $41^{\circ} 20' 00''$  East 159.02 feet; thence North  $33^{\circ} 30' 00''$  East 291.06 feet; thence North  $15^{\circ} 15' 00''$  East 393.04 feet; thence North  $55^{\circ} 00' 00''$  East 125.00 feet; thence North  $61^{\circ} 24' 30''$  East 144.44 feet; thence North  $51^{\circ} 15' 00''$  East 159.06 feet; thence North  $22^{\circ} 55' 00''$  East 385.44 feet; thence South  $79^{\circ} 00' 00''$  East 177.54 feet; thence North  $51^{\circ} 30' 00''$  East 66.00 feet to the Northerly corner of the said Lands of Pisturino, et al, said point also being the Northwest corner of the Pala Rancho; thence, leaving said centerline of Penitencia Creek, along the Westerly line of Pala Rancho South  $28^{\circ} 37' 40''$  East 1611.79 feet to the Northerly corner of the aforementioned 30.00 acre tract; thence along the Northwesterly line of said 30.00 acre tract South  $50^{\circ} 57' 50''$  West 1557.19 feet to the point of beginning. Excepting therefrom that portion described in the Deed to the County of Santa Clara Recorded February 2, 1978 in Book D444, Page 111, as Instrument No. 5917978, in the office of the Santa Clara County recorder, as follows:

Beginning at the point of intersection of the Northwesterly line of that certain 30.00 acre tract of land described in the Deed from Erastus C. Benedict, Jr., to Emily Nolting, dated April 12, 1876, Recorded April 26, 1876 in Book 41 of Deeds, at Page 90, Santa Clara County Records, with the Northeasterly line of Capitol Avenue, as said line was established by that certain Final Judgment and Decree of Condemnation entered on March 6, 1957 in the Superior Court of the State of California, in and for the County of Santa Clara, in that certain action entitled, "County of Santa Clara, Plaintiff, vs. Rosaria Pisturino, et al, defendants", Case No. 98589, a certified copy of which Decree was filed for record on March 6, 1957 in Book 3745 of Official Records, at Page 320, Santa Clara County Records; thence from the said point of beginning along the said Northeasterly line of Capitol Avenue, North  $41^{\circ} 15' 00''$  West 948.57 feet; thence North  $48^{\circ} 45' 00''$  East 9.00 feet; thence North  $41^{\circ} 15' 00''$  West 274.61 feet to a point where said Northeasterly line of Capitol Avenue intersects with the centerline of Penitencia Creek, said centerline also being the Northwesterly line of the said lands of Rosaria Pisturino, et al; thence along the said

centerline of Penitencia Creek, North 47° 45' 00" East 187.39 feet, North 41 ° 20' 00" East 159.02 feet, North 33° 30' 00" East 291.06 feet; North 15° 15' 00" East 393.04 feet; North 55° 00' 00" East 50.63 feet to the true point of beginning; thence continuing along the center line of Penitencia Creek North 55° 00' 00" East 74.37 feet, North 61° 24' 30" East 144.44 feet, North 51° 15' 00" East 159.06 feet, North 22° 55' 00" East 385.44 feet; South 79° 00' 00" East 177.54 feet and North 51° 30' 00" East 66.00 feet to the Northerly corner of said lands of Pisturino, et ai, said point also being the Northwest corner of the Pala Rancho; thence leaving said centerline of Penitencia Creek along the Westerly line of the Pala Rancho South 28° 37' 40" East 1609.96 feet; thence leaving said Westerly line of the Pala Rancho South 50° 53' 52" West 812.53 feet; thence North 39° 02' 10" West 674.14 feet; thence North 50° 57' 50" East 207.89 feet; thence North 39° 02' 10" West 897.94 feet to the true point of beginning. Also excepting therefrom those portions thereof described in the Deed to the Santa Clara Valley Transportation Authority Recorded January 31, 2003 as Instrument No 16790389, in the office of the Santa Clara County Recorder. APN: 592-01-0242



# **Section 8**

**Operational Items/  
Board Discussion and/or  
Action**

**Business Services**



## EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Meeting of July 28, 2010

Item: 8.01

TO: Board of Trustees

FROM: Dan Moser, Interim Superintendent

PREPARED BY: Jerry Kurr, Associate Superintendent of Administration and Business Services  
and Rogelio Ruiz, Legal Counsel

SUBJECT: Reauthorization of Board Resolution #2009/2010-46 regarding Authorizing a Lease Purchase Agreement for the Purpose of Financing the Energy Services Contract, Designating the Lease Purchase Agreement as a Tax Exempt Obligation, and Authorizing and Prescribing Other Matters related Thereto

On May 20, 2010, after public hearing and the presentation of financial analysis, the Board approved resolution 2009/2010-46 pursuant to which the Board approved the Energy Services Contract for Phase II of the District-wide solar program with Chevron Energy Solutions, and also approved the Lease Purchase financing for the Phase II equipment in the principal amount of \$14,619,998.00. Since approval Administration has been working with Bank of America to finalize and close the subject financing. Lender Bank of America has requested clarification regarding the Board's Resolution 2009/2010-46 and Administration and Legal Counsel recommend the reauthorization of Paragraph 6 of Resolution 2009/2010-46 to clarify that the payment term of the Lease Purchase Agreement shall not exceed 15 years, and extending the date for execution of the Lease Purchase Agreement to and including August 15, 2010, and clarifying the Board's direction to Legal Counsel to designate the Lease Purchase Agreement as a tax exempt obligation. The financing amount, interest rate and payment period are unaffected by the recommended changes and shall remain as previously approved.

FINANCIAL IMPACT:  
Net current benefit to District \$17 million

FUNDING SOURCE:  
Not Applicable

RECOMMENDATION:  
It is recommended that the Board reauthorize/reapprove Resolution 2009/2010-46.

# **EAST SIDE UNION HIGH SCHOOL DISTRICT**

## **REAUTHORIZATION OF RESOLUTION NO. #2009/2010 – 46**

### **Regarding**

### **AUTHORIZING A LEASE PURCHASE AGREEMENT FOR THE PURPOSE OF FINANCING THE ENERGY SERVICES CONTRACT, DESIGNATING THE LEASE PURCHASE AGREEMENT AS A TAX EXEMPT OBLIGATION; AND AUTHORIZING AND PRESCRIBING OTHER MATTERS RELATED THERETO**

**WHEREAS**, Chevron Energy Solutions Company ("Chevron") has represented to the East Side Union High School District ("District") that Chevron has developed certain procedures for the design and installation of energy conservation measures as defined in Government Code section 4217.11 ("Energy Conservation Measures"); and

**WHEREAS**, Chevron has analyzed the energy needs of the District's high schools, adult education and Education Center facilities (collectively the "District Sites") and has represented that Chevron's provision of Energy Conservation Measures and energy conservation facilities to the District Sites will result in a reduction in energy consumption or demand from utilities that will result in net cost savings to the District; and

**WHEREAS**, Chevron proposes to enter into an Energy Services Contract with the District for the provision of certain electrical or thermal energy or conservation services and other Energy Conservation Measures to the District from an energy conservation facility on the terms and conditions specified in the proposed Energy Services Contract presented to the Board on his date (the "Energy Services Contract"); and

**WHEREAS**, based upon the energy analysis and presentation by District staff and Chevron, the anticipated cost to the District for thermal or electrical energy or conservation services to be provided by the energy conservation facility and improvements specified in the Energy Services Contract will be less than the anticipated marginal cost to the District of thermal, electrical, or other energy that would have been consumed by the District in the absence of the Energy Conservation Measures and the energy conservation facilities to be provided by Chevron under the Energy Services Contract; and

**WHEREAS**, Government Code section 4217.12 (a)(1) authorizes a public agency to enter into an energy service agreement with respect to such Energy Conservation Measures and energy conservation facilities if the District's Governing Board finds that the anticipated cost to the District for such measures provided by the energy conservation facilities will be less than the anticipated marginal costs to the District of thermal, electrical or other energy that would have been consumed by the District in the absence of such purchases; and

**WHEREAS**, the District has determined that the District payment to Chevron is anticipated to be offset by below-market energy purchases or other benefits provided under the terms of the Energy Services Contract pursuant to Government Code section 4217.12(a); and

**WHEREAS**, the District is authorized under the Constitution and laws of the State of California (the "State"), to enter into financing agreements (including lease obligations) to finance capital improvements for the governmental and miscellaneous functions of the District; and

**WHEREAS**, the District desires to enter into a lease purchase agreement (“Lease Purchase Agreement”) to finance a portion of the purchase of the equipment and Energy Conservation Measures under the Energy Services Contract; and

**WHEREAS**, on this date, pursuant to Government Code section 4217.10 *et seq.*, the Governing Board of the District held a public hearing with respect to the District entering into the Energy Services Contract with Chevron and a Lease Purchase Agreement; and

**WHEREAS**, the District desires to retain Chevron to provide, install, and maintain the Energy Conservation Measures and energy conservation facilities pursuant to the terms and conditions of the Energy Services Contract; and

WHEREAS, the Board passed Resolution 2009/2010-46 at the time of its Regular Meeting on May 20, 2010; and

WHEREAS, at the time of the May 20, 2010, Board meeting the Board held a public hearing concerning the proposed Lease Purchase financing at which time the Board and public were presented evidence indicating the payment term for such financing to be 15 years; and

WHEREAS, the District desires to reauthorize the Lease Purchase Agreement and under Paragraph 6 below to clarify that the term of repayment shall not exceed 15 years, and extending the date for execution of the Lease Purchase Agreement to and including August 15, 2010.

**NOW, THEREFORE**, it is found, determined and resolved by the Governing Board of the District as follows:

1. That the District on this date held a public hearing before the Governing Board, notice of which was given at least two weeks in advance.
2. Based upon reports and analysis of staff, reviewed and considered by the Board in connection herewith, and pursuant to Government Code section 4217.12, the Board finds that the anticipated cost to the District for the energy conservation measures and energy conservation facilities provided pursuant to the terms of the Energy Services Contract will be less than the anticipated marginal costs to the District of thermal, electrical or other energy that would have been consumed by the District in the absence of such purchases.
3. Based upon reports and analysis of staff, reviewed and considered by the Board in connection herewith, and pursuant to Government Code section 4217.13, the Board finds that funds for the repayment of the financing under the Lease Purchase Agreement or the cost of design, construction and operation of the energy conservation facilities under the energy Services Contract, or both, are projected to be available from revenues resulting from sales of electricity or thermal energy from the facility or from funding that otherwise would have been used for the purchase of electrical, thermal or other energy required by the District in the absence of the energy conservation facilities to be provided under the Energy Services Contract, or both.
4. That the District's payment to Chevron is anticipated to be offset by below-market energy purchases or other benefits provided under the Energy Services Contract.
5. It is in the best interests of the District to enter an Energy Services Contract with Chevron substantially on the terms presented to the Board.

6. Under the authority of the Constitution and laws of the State, there is hereby authorized the execution and delivery of the Lease Purchase Agreement with Lessor, in form acceptable to the Board and the District's Authorized Agent, for the financing of the energy conservation facilities to be provided under the Energy Services Contract; provided that (i) the payment term of the Lease Purchase Agreement shall not exceed 15 years, excluding any construction period, (ii) the principal amount financed pursuant to the Lease Purchase Agreement shall not exceed \$14,619,998, (iii) the Lease Purchase Agreement must be executed on or before August 15, 2010, and (iv) that the District's legal counsel is hereby directed to designate the Lease Purchase Agreement as a tax exempt obligation.
7. It is in the best interests of the District to enter a Lease Purchase Agreement upon the terms described herein.
8. That the District's Interim Superintendent or his designee is authorized to enter into the Energy Services Contract for the contract price and to enter into a Lease Purchase Agreement upon the terms provided herein and to take all steps and perform all actions necessary to execute and implement all papers, documents, certificates, and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof and to take any actions deemed necessary to best protect the interests of the District.
9. The provisions of this Resolution are hereby declared to be severable and, if any such provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder of this Resolution.
10. All resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.
11. Resolution shall take effect and be enforced from and after its adoption.

PASSED AND ADOPTED by the Governing Board of the EAST SIDE UNION HIGH SCHOOL DISTRICT at a special meeting held on July 28, 2010, by the following vote:

AYES: \_\_\_\_\_  
 NOES: \_\_\_\_\_  
 ABSTAIN: \_\_\_\_\_  
 ABSENT: \_\_\_\_\_

I, \_\_\_\_\_, Clerk of the Board of Trustees, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Governing Board of the EAST SIDE UNION HIGH SCHOOL DISTRICT at the special meeting held on July 28, 2010, which resolution is on file in the office of said Board.

DATED: July 28, 2010

\_\_\_\_\_  
 Board of Trustees, Clerk  
 East Side Union High School District



## EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Meeting of July 28, 2010

**Item: 8.02**

TO: Board of Trustees

FROM: Dan Moser, Interim Superintendent

PREPARED BY: Jerry Kurr, Associate Superintendent of Administration and Business Services

SUBJECT: Adopt Resolution #2010/2011-02 an Itemized List of Surplus/Obsolete Equipment for Sale and/or Disposal per Education Code Sections 17545 and 17546

Attached is a resolution and an itemized list of surplus/obsolete equipment that is no longer needed for school purposes and will be sold and/or disposed of in accordance with Education Code Sections 17545 and 17546.

FINANCIAL IMPACT

None

FUNDING SOURCE

None

RECOMMENDATION:

It is recommended the Board of Trustees Adopt Resolution #2010/2011-02 an itemized list of surplus/obsolete equipment for sale and/or disposal pursuant to Education Code Sections 17545 and 17546.

East Side Union High School District  
of  
Santa Clara County, State of California

Adopt Resolution #2010/2011-02  
SALE AND DISPOSAL OF SURPLUS PROPERTY

**WHEREAS**, Education Code 17545 authorizes the sale for cash of any property belonging to the District if the property is not required for school purposes, or it should be disposed of for the purpose of replacement, or it is unsatisfactory or not suitable for school use;

**WHEREAS**, Education Code 17545 and 17546 provides for procedures to implement such a sale, public or private, conducted by staff, other public agencies, or by contract with a private auction firm;

**WHEREAS**, Education code 17546 provides for private sale of items not exceeding \$2500 in value, donations to charitable organizations or disposal if property is of insufficient value to defray costs of arranging a sale;

**NOW, THEREFORE**, be it resolved that this Board does hereby authorize such a sale, donation, and/or disposal of surplus property, under the direction of the Purchasing Agent and/or Chief Financial Officer.

**PASSED AND ADOPTED** on July 28, 2010 by the Governing Board of the East Side Union High School District at its special Board meeting held at 830 N. Capitol Avenue, San Jose, State of California.

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

I certify the foregoing resolution was duly introduced, passed, and adopted by the East Side Union High School District Board of Trustees at a meeting held on July 28, 2010.

\_\_\_\_\_  
Board of Trustee, Clerk  
East Side Union High School District

**EAST SIDE UNION HIGH SCHOOL DISTRICT**  
**Surplus Equipment**  
**Board Meeting of July 28, 2010**

<b>QTY</b>	<b>DESCRIPTION</b>	<b>ESUHSD NO.</b>	<b>SERIAL NO.</b>	<b>LOCATION</b>
1	Dell L733R	*	*	Risk Management
2	Del T800R	*	*	Risk Management
44	Computer Monitors	*	*	James Lick High School
41	Computer Hard Drives	*	*	James Lick High School
10	Televisions	*	*	James Lick High School
8	VCR's	*	*	James Lick High School
9	Miscellaneous Items	*	*	James Lick High School
13	Printers	*	*	James Lick High School
6	CPU's	*	*	James Lick High School
60	Monitors	*	*	Oak Grove High School
64	CPU's	*	*	Oak Grove High School
5	Televisions	*	*	Oak Grove High School
10	Computers	*	*	Oak Grove High School
102	Keyboards	*	*	Oak Grove High School
20	Printers	*	*	Oak Grove High School
4	Computer Mouse	*	*	Oak Grove High School
4	Scanners	*	*	Oak Grove High School
2	Receivers	*	*	Oak Grove High School
1	Cassette Recorder	*	*	Oak Grove High School
3	VCR	*	*	Oak Grove High School
31	Miscellaneous Items	*	*	Oak Grove High School
2	Computer Hard Drive	*	*	Oak Grove High School
1	Fax Machine	*	*	Oak Grove High School
59	Computer Switch	*	*	W.C. Overfelt High School
131	CPU's	*	*	W.C. Overfelt High School
99	Monitors	*	*	W.C. Overfelt High School
2	Laptops	*	*	W.C. Overfelt High School
36	Computers	*	*	Yerba Buena High School
14	Monitors	*	*	Yerba Buena High School

\*Itemized serial numbers and ESUHSD numbers are on file in the Purchasing Department if applicable.

Note: All computer related items have been approved for surplus by the District's Information Technology Department and include a variety of manufacturers.



**Amended**

EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Meeting of July 28, 2010

**Item: 8.03**

TO: Board of Trustees  
FROM: Dan Moser, Interim Superintendent  
PREPARED BY: Jerry Kurr, Associate Superintendent of Administration and Business Services  
SUBJECT: Approve Change Orders to Purchase Orders for Year-End Reconciliation

The request for change orders below are increases to purchase orders that were approved at prior Board Meetings. The increases on the attached list are being presented for approval for year-end reconciliation.

FINANCIAL IMPACT:

Various

FUNDING SOURCE:

Various

RECOMMENDATION:

It is recommended that the Board of Trustees approve the increases to purchase orders for year-end reconciliation.

**Item: 8.03**  
**Amended**

PO #	Vendor Name	Balance on PO	Increase needed
002957	Gym Doctors	\$ 2,893.16	\$ 111.21
003159	San Jose Boiler Works	\$ 10,434.00	\$ 965.15
000038	Grainger	\$ 161.90	\$ 349.11
000885	Orchard Supply	\$ 80.12	\$ 120.69
000506	Harry Murph, Inc	\$ -	\$ 4,800.00
000682	Safeway	\$ -	\$ 161.36
002682	New Readers Press	\$ 746.25	\$ 5.88
000030	CINTAS	\$ -	\$ 561.44
000068	Lincoln Commercial Pool Eq	\$ 185.33	\$ 5,085.37
002215	Lincoln Commercial Pool Eq	\$ 818.83	\$ 65.97
000021	Applied Industrial Tech	\$ 101.55	\$ 59.75
003034	Rexel	\$ 2,718.85	\$ 240.44
002994	Sargent-Welch	\$ 189.60	\$ 3.22
001249	York Insurance	\$ 2,907.95	\$ 3,639.81
000816	VTA	\$ 4,571.25	\$ 698.75
000737	Intrepid Electronic Systems, Inc	\$ 338.97	\$ 7,926.03
002762	CDW Government	\$ 69.83	\$ 7.57
002845	J.W. Pepper	\$ 1,055.00	\$ 5.54
000693	Orchard Supply	\$ -	\$ 128.78
001898	Houghton Mifflin Harcourt	\$ 121.30	\$ 3.63
000503	CAMC "Your Monitoring Center"	\$ -	\$ 751.38
806843	Bruce Flyn & Associates, Inc	\$ -	\$ 4,880.00
000755	Sargent-Welch	\$ 176.75	\$ 240.29
001122	Naviance	\$ 7,413.44	\$ 375.26
002357	James Stanfield Company, Inc	\$ 1,190.41	\$ 0.89
000508	Quick Light Recycling	\$ 517.01	\$ 444.98
000984	Acufacts Security	\$ 1,513.60	\$ 11,586.40
002336	Jostens	\$ 656.34	\$ 198.62
001153	Orchard Supply	\$ 36.96	\$ 114.88
002524	Orchard Supply	\$ 300.00	\$ 4.18
905217	Terrasearch, Inc	\$ -	\$ 3,985.00
000528	Foster Farms Dairy	\$ 612.30	\$ 7,863.57
001010	Ecolab Pest Elimination	\$ 1,868.00	\$ 616.00
000685	San Jose Water Company	\$ -	\$ 11,014.21
002527	South East Consortium for Special Education Santa Clara County	\$ -	\$ 3,130.00
001456	Office Depot Business Svcs	\$ 723.71	\$ 156.07
000360	Office Depot Business Svcs	\$ 101.27	\$ 147.56
001549	Office Depot Business Svcs	\$ 314.03	\$ 2,391.30
001461	Jostens	\$ 17.01	\$ 7.10
001779	Office Depot Business Svcs	\$ 192.92	\$ 1,069.80



## EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Meeting of July 28, 2010

**Item: 8.04**

TO: Board of Trustees  
FROM: Dan Moser, Interim Superintendent  
PREPARED BY: Jerry Kurr, Associate Superintendent of Administration and Business Services  
SUBJECT: Approve Contracts for Professional Services at or below \$50,000

The attach list of contracts for professional services are recommended for approval and to delegate authority to the Interim Superintendent/Superintendent or designee to amend said contracts and purchase orders on an as needed bases, including funding.

FINANCIAL IMPACT:  
See details on the attachment

FUNDING SOURCE:  
See details on the attachment

RECOMMENDATION:  
It is recommended that the Board of Trustees approve and ratify the contracts for professional services as listed in the attachment.

## CONTRACTS FOR PROFESSIONAL SERVICES AT OR BELOW \$50,000

### A. SCHOOL SITES/EDUCATION CENTER

Item: 8.04

	Contractor Name	Reviewed By	Contract Period	Financial Impact/ Funding Source	School/Dept. Manager	Purpose
1	Nick Franceschine F.S.A.	J. Kurr D. Bertrand	July 1, 2010 – December 31, 2010	\$3,000.00  Business Administration	Education Center/ Business Services  Jerry Kurr	Consultant to provide services in completing the GASB 45 Report-Actuarial Study for the calculation of the liabilities of the Retiree Health Benefits Program.
2	William Lazo	D. Bertrand J. Kurr	August 1, 2010 – June 30, 2011	\$15,000.00  EIA	Education Center/ Supplementary Education  Tim Nguyen	Contractor will provide English to Spanish translations both written and verbal.  Three (3) written proposals were obtained and evaluated based on price, timeliness, experience, and knowledge/expertise.
3	City of San Jose	D. Bertrand J. Kurr D. Moser	July 7, 2010 – August 13, 2010	\$14,094.00  (Revenue Contract)	Silver Creek High School  Thelma Boac	The grant will reimburse ESUHSD for its daily pool use fees that will accrue by allowing West Coast Aquatics use of Silver Creek High School's Pool to provide Aquatic Services during the contract period. No solicitation process required.
4	Plato Learning	C. Vaeth C. Giammona D. Bertrand	July 29, 2010 – June 30, 2011	\$21,057.94  WIA-ASE	Independence Adult Education Center  Cari Vaeth	For the procurement of 40 PLATO Web Learning Network Licenses; 4 PLATO Learning Paths; and 2 days of on-site professional development.  Three (3) written proposals were obtained and evaluated based on price.
5	Perseus Associates	J. Kasberger J. Kurr D. Bertrand	July 1, 2010 – June 30, 2011	\$33,000.00  Transportation	Education Center/ Transportation  Jerry Kurr	For the provision of non-exclusive right and license under the Proprietary Rights of PERSEUS ASSOCIATES and its licensors (if any) to: (1) Access and use the TransTraks Hosted System on PERSEUS ASSOCIATES' Application Server only with a Terminal Services Client through the Internet, and; (2) To transmit DISTRICT Data from the TransTraks Hosted System to DISTRICT only with a Terminal Services Client through the through the internet. No solicitation process was conducted as this is a proprietary

						system to Perseus.
6	Shelley Davis	R. Uribe C. Hersom C. Giammona D. Bertrand	August 1, 2010 – June 30, 2011	\$1,800.00  Special Day Class (L/H)	Education Center/ Special Services  Carole Hersom	Consultant to provide specific Social Skills Training for one Special Education Student as per IEP agreement.
7	San Jose/ Evergreen Community College Dist.	K. Poon J. Kurr D. Bertrand	July 1, 2009 – June 15, 2010	\$32,137.00  (Revenue Contract)	Yerba Buena High School  Juan Cruz	For the provision of curriculum development for the College Connection Academy Grant. No solicitation process was conducted for this contract.
8	ABTECH Support	D. Barbata J. Kurr D. Bertrand	July 1, 2010 – June 30, 2011	\$2,871.09  Data Processing	Education Center/ Information Technologies  Dennis Barbata Jerry Kurr	For the provision of remedial and preventive hardware maintenance support services for HP3000 equipment.  Three (3) written proposals were obtained and evaluated based on price and ability to provide the services required. (IDEAL \$440.25 month; ABTECH \$219 month; Systems Maintenance Services \$340 month)

## B. FACILITIES

	Contractor Name	Reviewed By	Contract Period	Financial Impact/ Funding Source	School/Dept Manager	Purpose
1	Richard Gonzales & Associates, Inc.	K. Lanford J. Rono D. Bertrand	August 1, 2010 – November 30, 2010	\$48,000.00  Developer Fees	Education Center/ Facilities  June Rono, Ph.D., Director	Consultant will provide facilities planning services for Measures G & E and will coordinate services with OPSC and other governmental agencies.  Three (3) written proposals were solicited from three known consultants. RGA provided a complete response for the lowest price.



# EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Meeting of July 28, 2010

Item: 8.05

TO: Board of Trustees

FROM: Dan Moser, Interim Superintendent

PREPARED BY: Jerry Kurr, Associate Superintendent of Administration and Business Services

SUBJECT: Approve Contracts for Professional Services over \$50,000

## 1. Riverside Publishing Company

Reviewed by:	Contract Period	Financial Impact/ Funding Source	School/Dept. Manager
Kirsten King Donna Bertrand	July 1, 2010, through and including June 30, 2011	\$70,014.70 AIE 33% Program Improvement 33% Title 1 33%	Kirsten King, Director of Instructional Services

East Side Union High School District (ESUHSD) is requesting authorization from the Board of Trustees to approve Administration to enter into a License Agreement for Data and Assessment Management System with Riverside Publishing Company for the Term July 1, 2010, through and including June 30, 2011, and to delegate authority to the Interim Superintendent/Superintendent or designee to amend said contract on an as needed basis, including funding.

### Reason for Purchase of Outside Services

This is a data warehouse that stores student demographic data, state assessment data, and our benchmark assessments. It is the tool that is used to administer and scan our benchmark assessments allows both teachers and administrators to view the results or benchmark assessments correlated to the California State standards, and reports students' areas of weakness and strengths which allows for teacher intervention. This is a necessary component for Program Improvement.

### Selection Process

At the March 27, 2007, Board Meeting (Agenda Item 9.6) the Board approved ESUHSD's use of piggybacking off of the Redlands Unified School Districts' Bid #02-07 for the purchase of the Data and Assessment Management Software and the Data Director License through June 30, 2010. At that time, the vendor's name was Achieve Data Solutions, LLC who has since been bought out by Riverside Publishing Company, a subsidiary of Houghton Mifflin Harcourt. ESUHSD is requesting the continuation of the License Agreement for the above Data and Assessment Management Software system currently being used at ESUHSD. This is proprietary to this vendor, therefore, no solicitation process was conducted at this time.

**RECOMMENDATION:**

It is recommended that the Board of Trustees approve the License Agreement for Data and Assessment Management System with Riverside Publishing Company for the Term July 1, 2010, through and including June 30, 2011, and to delegate authority to the Interim Superintendent/Superintendent or designee to amend said contract on an as needed basis, including funding.

**2. School Loop**

Reviewed By	Contract Period	Financial Impact/ Funding Source	School/Dept. Manager
Robert Ibarra Donna Bertrand	July 1, 2010, through and including June 30, 2013	\$33,500.00 NCLB/Title I  \$29,000.00 Enhancing Education Through Technology	Robert Ibarra, Coordinator of Professional Development

East Side Union High School District (ESUHSD) is requesting authorization from the Board of Trustees to approve an agreement with School Loop for the Term July 1, 2010, through and including June 30, 2013, for Online Communication and Collaboration Tool and to delegate authority to the Interim Superintendent/Superintendent or designee to amend said contract on an as needed basis, including funding.

Reason for Purchase of Outside Services

School Loop will provide 24/7 access to its online communication and collaboration tool for teachers, students, parents, and administrators in the ESUHSD. Parents will be able to communicate directly with teachers, view assignments and grades, follow school and class news, and participate in discussion groups.

Selection Process

No solicitation process was done for this product/service. The ESUHSD is requesting the Board to Single Source this vendor since this tool was created for the ESUHSD and to try and bid out this product would not be in the best interest of the District as School Loop has agreed to continue to provide ESUHSD with this product at a significantly reduced cost.

**RECOMMENDATION:**

It is recommended that the Board of Trustees approve an Agreement with School Loop for the Term July 1, 2010, through and including June 30, 2013, for Online Communication and Collaboration Tool and to delegate authority to the Interim Superintendent/ Superintendent or designee to amend said contract on an as needed basis, including funding

**3. San Jose/Evergreen Community College District**

Reviewed By	Contract Period	Financial Impact/ Funding Source	School/Dept. Manager
Jerry Kurr Donna Bertrand	August 15, 2009, through and including August 14, 2010	\$219,726.00  Capital Facilities	Jerry Kurr, Associate Superintendent of Administration And Business Services

East Side Union High School District (ESUHSD) is requesting ratification from the Board of Trustees for a lease agreement with San Jose/Evergreen Community College District for the use of real property that ESUHSD occupied during the Term of August 15, 2009, through and including August 14, 2010. The programs housed there were Accel, Jose Valdez and Bio Tech Academy.

Reason for Purchase of Outside Services

Not Applicable

Selection Process

No solicitation process is needed for this contract.

RECOMMENDATION:

It is recommended that the Board of Trustees approve ratification of a lease agreement with San Jose/Evergreen Community College District for the rental of real property for the Term of August 15, 2009, through and including August 14, 2010.

**4. San Jose State University**

Reviewed By	Contract Period	Financial Impact/ Funding Source	School/Dept. Manager
Robert Ibarra Donna Bertrand	October 1, 2009, through and including August 31, 2012	\$99,154.00 (for the full-term of the contract)  Teaching American History	Robert Ibarra, Coordinator of Professional Development

East Side Union High School District (ESUHSD) is requesting authorization from the Board of Trustees to approve Contract Services Agreement with San Jose State University for the term October 1, 2009, through and including August 31, 2012, to develop and provide four standards-based workshops/book talks to East Side Union High School District U.S. History Teachers during the fall and spring semesters and to delegate authority to the Interim Superintendent/Superintendent or designee to amend said contract on an as needed basis, including funding.

Reason for Purchase of Outside Services

In 2009, ESUHSD submitted a competitive grant application in response to the Teaching American History Grant Program. The Teaching American History Grant Program is a discretionary grant program funded under Title II-C, Subpart 4 of the Elementary and Secondary Education Act. The goal of the program is to support programs that raise student achievement by improving teachers' knowledge, understanding, and appreciation of American history.

Grant awards will assist LEAs, in partnership with entities that have content expertise, to develop, document, evaluate, and disseminate innovative and cohesive models of professional development. By helping teachers to develop a deeper understanding and appreciation of U.S. history as a separate subject matter within the core curriculum, these programs will improve instruction and raise student achievement.

Selection Process

Prior to submitting the competitive grant application, ESUHSD had contacted three universities; Santa Clara, Stanford and San Jose State. San Jose State was the only University who was interested in partnering with ESUHSD and in meeting our needs.

RECOMMENDATION:

It is recommended that the Board of Trustees approve the Contract Services Agreement with San Jose State University for the term October 1, 2009, through and including August 31, 2012, to develop and provide four standards-based workshops/book talks to East Side Union High School District U.S. History Teachers during the fall and spring semesters and to delegate authority to the Interim Superintendent/Superintendent or designee to amend said contract on an as needed basis, including funding.



# **Section 9**

## **Attachment A**

### **Consent Calendar**

## **Attachment A - Consent Calendar**

- 9. Superintendent asserts that the attached Business Transactions, Personnel Actions, Maintenance of Records, Approvals and Recommendations Requiring Board Action have been carried out to the best of his knowledge in accordance with the law.**

9.01 Ratify/Approve Certificated Personnel Actions Presented July 28, 2010



EAST SIDE UNION HIGH SCHOOL DISTRICT

Board Meeting of July 28, 2010

Item: 9.01

TO: Board of Trustees  
FROM: Dan Moser, Interim Superintendent  
PREPARED BY: Cathy Giammona, Associate Superintendent,  
Human Resources and Instruction  
SUBJECT: Ratify/Approve Certificated Personnel Actions Presented July 28, 2010

The following certificated personnel actions presented July 28, 2010 are recommended for approval by the Board of Trustees.

**EMPLOYMENT SEPARATION**

NAME	STATUS	FTE	LOC	POSITION	EFFECTIVE	REASON
ALLEN, Jesse	Tenured	1.0	YB	Special Education	06/12/2010	RET
DABO, Jill A.	Tenured	1.0	EC	Tchr on Spec Assign: PI-Eng I Support Coach	07/20/2010	RES
GAROFALO, Alan	Tenured	1.0	EC	Assoc. Sup't	07/01/2010	RET
TODD, Christine	Tenured	1.0	IH	Mathematics	07/09/2010	RES
TOMEI, Csilla	Tenured	1.0	AH	English	08/16/2010 – 05/26/2010	LOA

**LOA – Leave of Absence**  
**RES – Resignation**  
**RET - Retirement**

Funding Source: General and Special Education Funds

Fiscal Impact: As per salary schedule

Recommendation: It is recommended that the Board of Trustees approve the certificated personnel actions as outlined above.