

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

**RESOLUTION AUTHORIZING THE CONTROLLER TO TEMPORARILY TRANSFER
AVAILABLE FUNDS TO COUNTY OPERATING FUNDS, THE SUPERINTENDENT
OF SCHOOLS, COUNTY BOARD OF EDUCATION AND SCHOOL DISTRICTS
DURING THE FISCAL YEAR 2013-14**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the County, the County Superintendent of Schools and County Board of Education, and the school districts within the County experience a cash-flow problem subsequent to July 1, of each year; and

WHEREAS, unless funds are made available to school district operating funds and county school service funds, said funds will realize a deficit and the ability of the County, the County Superintendent of Schools and the County Board of Education, and the school districts to meet their obligations in these areas would be impaired; and

WHEREAS, during the year there will be on deposit in other legally available funds amounts in excess of the needs of the County, the County Superintendent of Schools and the County Board of Education, and the school districts which amounts are not immediately needed for other purposes; and

WHEREAS, Government Code section 25252 provides that the Board of Supervisors may authorize the County Controller to transfer money from one fund to

another; and

WHEREAS, Education Code Section 42603 provides that the governing board of a school district may direct that moneys held in any fund and account of the school district may be transferred to another account of the school district for payment of district obligations, up to 75 percent of the maximum of moneys held in the fund during the current fiscal year, with any such transferred amounts to be repaid in the same fiscal year, or during the next ensuing fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year; and

WHEREAS, Education Code Section 42621 provides that the county superintendent of schools of each county, with the approval of the Board of Education, may make temporary transfers to any school district which does not have sufficient money to its credit to meet current operating expenses from the county school service fund, in such amounts and at such times as the superintendent deems necessary, provided that such transfers shall not exceed 85 percent of the amount of money accruing to the school district at the time of transfer, and further provided that the amounts so transferred shall be repaid to the county school service fund prior to June 30 of the current year from funds subsequently received by the school district; and

WHEREAS, Government Code Section 53852 et. seq. authorizes school districts to issue short term interest bearing notes in anticipation of tax revenues that will be received at a later date ("TRANS"), and the money borrowed may be used and expended by the school district to meet current expenses and to discharge any debt or

obligation of the school district, and school districts often issue a TRANS either through the County Board of Supervisors, on their own or through the California School Board Association; and

WHEREAS, Education Code Section 42620 provides that if a school district, or a county school service fund, prior to its receipt of funds, lacks sufficient money to meet its current expenses of maintenance, the Board of Supervisors shall order the temporary transfer of county funds to the school districts and the county school service fund in the amount needed, not to exceed 85 percent of the remaining amount of money which will accrue to the school district or the county school service fund during the fiscal year, and provided that the funds are not immediately needed to pay the claims of the County; and

WHEREAS, Article 16, Section 6 of the California Constitution provides that temporary borrowing between local governmental agencies may not take place after the last Monday in April of any fiscal year; and

WHEREAS, it is necessary to impose safeguards to ensure (1) that school districts and the County Superintendent of Schools fully avail themselves of the inter-fund transfer provisions of Education Code sections 42603 and 42621, and the TRANS provisions of Government Code section 53852 et. seq., to the maximum extent possible when necessary to meet ongoing school district obligations before availing themselves of the temporary borrowing provisions of Education Code section 42620; (2) that the temporary transfer of County funds to any school district does not exceed 85 percent of

the remaining funds estimated to accrue to the school district, as that amount may be adjusted from time to time; and (3) that funds that are immediately necessary for the County to meet its own financial obligations are not temporarily transferred to any school district; and

WHEREAS, this Board finds it necessary and desirable that subject to such safeguards, there be temporarily transferred from available County funds to the other funds above described, such amounts as needed until April 28, 2014; and

WHEREAS, this Board further recognizes that the purpose of these resolutions is to set forth the mutual expectations of all interested parties and to facilitate an orderly compliance with provisions of the Government Code and Education Code in the most cooperative and efficient manner and in the best interests of all interested parties.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED:

1. That the County Controller be, and is hereby, authorized from July 1, 2013 until April 28, 2014, to temporarily transfer such amounts from said available County funds to the other funds above described provided such transfers of school amounts are limited in amount as described above, and subject to the following conditions:
 - a. The Controller and Treasurer, in consultation with the County Superintendent of Schools and individual school districts if necessary, shall determine the remaining estimated amounts to accrue to each school district during the fiscal

year for which the Treasurer maintains funds. Such amounts shall be updated during the course of the fiscal year at intervals as deemed appropriate by the Controller and Treasurer. In no event shall County funds be transferred to any school district if such transfer would exceed 85 percent of the remaining estimated amount to accrue to that school district during the fiscal year.

- b. To ensure compliance with Article 16, section 6 of the California Constitution, the Treasurer and Controller shall not transfer any County funds to any school district under the authority provided in this resolution after April 28, 2014.
- c. The Treasurer and Controller shall consult with the County Superintendent of Schools, on a regular and continuing basis, to confirm that each school district either has sufficient and available funds on hand, or that such funds will accrue to such school district during the fiscal year, to meet its ongoing financial obligations through intra-fund transfer under Education Code section 42603. The County Superintendent of Schools shall identify, for each school district, such school district funds that are legally available for the purpose of making such an intra-district transfer, and conversely which funds are not available for any such intra-district transfer due to legal or other constraints. It is understood that school districts will fully avail themselves of the inter-fund transfer provisions of Education Code section 42603 to the maximum extent possible when necessary to meet ongoing school district financial obligations before availing themselves of the temporary borrowing provisions of Education Code section 42620.

- d. The Treasurer and Controller shall also consult with the County Superintendent of Schools, on a regular and continuing basis, to determine the extent to which the County Superintendent of Schools either has sufficient and available funds on hand in the county school service fund, or that sufficient and available funds will accrue to the County Superintendent of Schools, to provide necessary temporary transfers under the provisions of Education Code section 42621, to assist school districts in meeting their ongoing financial obligations if such assistance proves necessary. It is understood that school districts and the County Superintendent of Schools will fully avail themselves of the temporary transfer provisions of Education Code section 42621 to the maximum extent possible when necessary to meet ongoing school district financial obligations before availing themselves of the temporary borrowing provisions of Education Code section 42620, consistent with the County Superintendent's need to meet her own financial obligations.
- e. It is understood that school districts, to the extent legally feasible, will fully avail themselves of the TRANS provisions of Government Code section 53852 et. seq., unless market conditions are unfavorable, when necessary to meet ongoing school district financial obligations before availing themselves of the temporary borrowing provisions of Education Code section 42620.
- f. In the event, for any reason, a school district will be unable to meet its financial obligations through intra-district transfer of funds under Education Code section 42603 or temporary borrowing from the County Superintendent of Schools under Education Code section 42621, or the issuance of a TRANS per

Government Code section 53852 et. seq., the affected school district and the County Superintendent of Schools shall notify the Controller and Treasurer, in writing, of the need to temporarily borrow funds from the County (the "Notice") at least 30 days before such funds will be required, but in no event later than 30 days prior to the last Monday in April, which is April 28, 2014. The request shall include detailed cash flow forecasts for each school district for which borrowing is needed, the specific amounts requested for each school district within the 85 percent limit allowed by the Education Code, and such further information that might be necessary to support the request. Upon receipt of such request, the Controller and Treasurer, in conjunction with the County Manager, shall undertake a review to determine whether funds proposed to be temporarily transferred to a school district must instead be retained by the County to pay the immediate ongoing financial obligations of the County. Upon conducting such review, but in no event later than thirty (30) days from receiving the aforementioned written Notice from the school district and County Superintendent of Schools, the County will notify the school district and County Superintendent of Schools that it will transfer the funds requested, or will not transfer the funds requested because they are necessary to meet the ongoing financial obligations of the County. If the provision of 30 days notice is not possible because the circumstances giving rise to the school district's inability to meet its financial obligations through an intra-district transfer or temporary borrowing were not known, then the affected school district and the County Superintendent of Schools shall provide the above-referenced Notice as soon

as practicable and the County shall conduct its review and shall notify the school district and County Superintendent of Schools of its determination on an expedited basis. As provided in Education Code Section 42620, amounts transferred by the County to any school district shall be re-transferred to the County by the Controller from the first moneys accruing to the school district and before any other obligations of the school district are paid from the money accruing.

- g. If, at any time, the County Superintendent anticipates that a school district will be unable to meet its financial obligations between April 28, 2014 and June 30, 2014, because an insufficient amount of funds is expected to accrue in the fiscal year to meet its expenses during that time period, the County Superintendent may consult with the County about other available financing options. In this event, the County Controller and County Treasurer shall consult with the County Superintendent upon request.
- 2. That on or before June 30, 2014, the County Controller shall retransfer any and all principal amounts from the funds to which the amounts were transferred back to the other funds from which the amounts were transferred. Under no circumstances will the County hold any school district harmless for any County funds temporarily transferred under the provisions of Education Code Section 42620.

- 3 That, pursuant to Government Code Section 25252 and as may be necessary in the furtherance of these resolutions, the County Controller, in consultation with the County Treasurer, is hereby authorized to establish or abolish such County funds as necessary for the proper transaction of the business of the County, and may transfer monies from one County fund to another provided that the Board has authority over each such fund.
4. That in addition to re-transferring to the appropriate funds the principal amounts transferred therefrom pursuant to this resolution, the County shall also deposit in each such appropriate fund in an amount equivalent to the interest that would otherwise have been credited to the transferred funds had the temporary transfer not been made, as directed by the County Superintendent.

* * * * *