REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, August 22, 2012

SCHOOL DISTRICT DATA	
School District:……..…….....WASHINGTON UNIFIED	County:..... ……..FRESNO
Application Number: ……..50/76778-00-001	School Name: .....…AMERICAN UNION ELEMENTARY
Total District Enrollment:……..……..……3,060	Project Grade Level: ……K-6

PURPOSE OF REPORT

To present the District's request for Financial Hardship (FH) status for a new construction project at American Union Elementary School.

DESCRIPTION

On April 11, 2011, American Union Elementary School District (ESD) submitted a FH approval request for full construction for two projects. During this timeframe, the District was undergoing reorganization with West Fresno ESD and Washington Union High School District to form the new Washington Unified School District (USD). The Office of Public School Construction (OPSC) was unable to approve the new construction project because the District did not submit all the necessary documentation to complete the review for FH status with respect to the new construction project.

On March 7, 2012, the OPSC received the District's appeal for FH status for project, application number 50/76778-00-001. The District requests that the Board grant FH status for the new construction project.

AUTHORITY

See Attachment.

BACKGROUND

On April 11, 2011, American Union ESD submitted a FH request for full funding of project number 50/62000-00-001. The project received design funding in January 2011. The FH request did not include a required developer fee needs analysis dated within one year of the request or a certification that the District was exempt from levying developer fees (Level 2) and supporting documentation that verified the certification. The District ultimately did not submit the required information therefore the new construction project did not receive FH approval.

On June 30, 2011, American Union ESD submitted an *Application for Funding*, (Form SAB 50-04), believing the new construction project would move forward without FH approval. Staff returned the application because a FH approval for the project had not been issued. Staff also discovered that the District had been reorganized and notified the OPSC's FH unit regarding the status change.

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BACKGROUND (cont.)

On January 24, 2012, Staff conducted an on-site review of newly formed Washington USD to determine whether the newly reorganized District qualified for FH and whether funds were available. The Washington USD did not qualify for FH because their bond indebtedness was below the 60 percent requirement for FH hardship and there was available funding in excess of the estimated FH need on the project.

STAFF ANALYSIS/COMMENTS

While processing the appeal, Staff discovered that the former American Union ESD would have met the developer fee criteria within the period under review had they submitted the required documentation. The documents were ultimately submitted after the former American Union ESD's FH approval expired and revealed that the District could not have legally levied Level 2 developer fees under Government Code Section 65995.5. Staff recognizes that the challenges and timing of the unification process precluded the former American Union ESD from resubmitting for FH status. The former American Union ESD would have received FH approval for the new construction application received on June 30, 2011, if they had timely submitted the proper documents.

The new Washington USD is now requesting FH status for the new construction project at American Union Elementary School, which they do not qualify for. Given the new information received, staff is seeking Board direction on whether or not to provide FH status for the American Union Elementary School project, application number 50/76778-00-001(Former American Union ESD project 50/6200-00-001).

Approving FH status for the American Union Elementary School project will allow the OPSC to process the funding application recently submitted by the Washington USD. If the new construction funding application would have been approved for FH status and processed when it was submitted on June 30, 2011, the project would have been added to the unfunded list at the September 28, 2011 SAB meeting. If the Board approves FH status for the project, the Board could also consider taking action to allow the project to be added to the unfunded list as of September 28, 2011. If the Board denies the District's appeal staff will return the funding application to the District.

RECOMMENDATION

Seek Board direction.

BOARD ACTION

In considering this Item, the SAB approved the District's request for Financial Hardship status for a new construction project at American Union Elementary School.

ATTACHMENT
AUTHORITY

School Facility Program Regulation 1859.81(c) states that…" The district has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the district meets at least one of the following:

(1) The current outstanding bonded indebtedness of the district issued for the purpose of constructing school facilities in accordance with Education Code Section 17072.35 or 17074.25 as appropriate, at the time of request for financial status, is at least 60 percent of the district's total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.
(2) The district had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status. The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the district's matching share requirement for SFP project(s).
(3) It is a County Superintendent of Schools.
(4) The district's total bonding capacity at the time of the request for financial hardship status is $5 million or less.
(5) Other evidence of reasonable effort as approved by the SAB."

Government Code Section 65995.5(b) states that…" To be eligible to impose the fee, charge, dedication, or other requirement up to the amount calculated pursuant to this section, a governing board shall do all of the following:

(1) Make a timely application to the State Allocation board for new construction funding for which it is eligible and be determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17070.10) and Article 3 (commencing with Section 17071.75) of Chapter 12.5 of Part 10 of the Education Code. A governing board that submits an application to determine the district's eligibility for new construct funding shall be deemed eligible if the State Allocation Board fails to notify the district of the district's eligibility within 120 days of receipt of the application.
(2) Conduct and adopt a school facility needs analysis pursuant to Section 65995.6.
(3) Until January 1, 2000, satisfy at least one of the requirements set forth in subparagraphs (A) to (D), inclusive, and, on and after January 1, 2000, satisfy at least two of the requirements set forth in subparagraphs (A) to (D), inclusive:

(A) The district is a unified or elementary school district that has a substantial enrollment of its elementary school pupils on a multitrack year-round schedule. "Substantial enrollment" for purposes of the paragraph means at least 30 percent of district pupils in kindergarten and grades 1 to 6, inclusive, in the high school attendance area in which all or some of the new residential units identified in the needs analysis are planned for construction. A high school district shall be deemed to have met the requirements of this paragraph if either of the following apply:

(i) At least 30 percent of the high school district's pupils are on a multitrack year-round schedule.
(ii) At least 40 percent of the pupils enrolled in public schools in kindergarten and grades 1 to 12, inclusive, within the boundaries of the high school attendance area for which the school district is applying for new facilities are enrolled in multitrack year-round schools.

(B) The district has placed on the a ballot in the previous four years a local general obligation bond to finance school facilities and the measure received at least 50 percent plus one of the votes cast.
(C) The district meets one of the following:

(i) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 15 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that are approved by a vote of landowners prior to November 4, 1998, and revenues received pursuant to the Community Redevelopment Law ((Part1 (commencing with Section 33000) of Division 24 of the Health and Safety Code). Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

(ii) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 30 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that are approved by a vote of landowners after November 4, 1998, and revenues received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code). Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

(D) At least 20 percent of the teaching stations within the district are relocatable classrooms.

THE SANTA CLARA COE/SANTA CLARA ITEM (50/10439-00-010) HAS BEEN WITHDRAWN