

CONTRA COSTA COUNTY

TEMPORARY TRANSFER PROGRAM

CALIFORNIA CONSTITUTION

ARTICLE XVI, SECTION 6

BACKGROUND AND PURPOSE.

Section 6 of Article XVI of the California Constitution provides in part that “the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer’s office.” Such a transfer is to be made “only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county or city and county to make such temporary transfer.” Education Code Section 42620 contains comparable provisions with specific reference to school districts and to the county school service fund, and Education Code Section 85220 contains comparable provisions with respect to community college districts. The purpose of this Article is to establish a procedure whereby the County Auditor-Controller and the County Treasurer-Tax Collector can act upon requests for temporary transfers of funds to School Districts within the County of Contra Costa by the Board of Supervisors with respect to each individual request.

COUNTY AUDITOR-CONTROLLER AND COUNTY TREASURER-TAX COLLECTOR TO TAKE ACTION ON REQUESTS FOR TEMPORARY TRANSFERS OF FUNDS.

Upon written request to the Board of Supervisors by the governing body of a school district, community college district, special district, or other political subdivision, or by the County Board of Education with respect to the County school service fund, for a temporary transfer of funds as authorized under the constitutional or statutory provisions cited in this Article, or upon the determination of the Board of Supervisors that a temporary transfer of funds to districts and entities whose governing body is the Board of Supervisors is needed and authorized, and after completion by the County Auditor-Controller and by the County Treasurer-Tax Collector of all of the steps set forth in the procedure hereinafter described, the County Auditor-Controller and the County Treasurer-Tax Collector shall make a temporary transfer of funds to the requesting agency, not to exceed 85% of the amount of money which will accrue to a school district, community college district, or the County school service fund during the fiscal year, and

not to exceed 85% of the anticipated revenues accruing to a special district, other political subdivision, or entity, provided that the amount of such transfer has been determined by the County Auditor-Controller to be transferable under the constitutional and statutory provisions cited in this Article and has been certified by the County Treasurer-Tax Collector to be available. Such temporary transfer of funds shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year. Funds transferred to the credit of a school district, community college district, or the County school service fund shall be retransferred by the County Auditor-Controller and by the County Treasurer-Tax Collector to the fund from which they were taken from the first moneys accruing to the school district, community college district, or the County school service fund and before any other obligation of the requesting agency is paid from the money accruing. Funds transferred to a special district, other political subdivision, or entity shall be replaced from the revenues accruing to such special district, other political subdivision, or entity before any other obligation of the requesting agency is met from such revenue.

PROCEDURE TO BE FOLLOWED UPON RECEIVING REQUESTS FOR TEMPORARY TRANSFERS OF FUNDS.

The procedure hereinafter set forth is established and will be followed with respect to requests for temporary transfers of funds or determinations of the need for temporary transfers of funds as provided in this Article:

1. Adopt resolution of the governing body of a school district, a community college district, a special district, or other political subdivision within the County of Contra Costa, or from the County Board of Education with respect to the County school service fund, requesting a temporary transfer of funds to meet current expenses of maintenance or obligations incurred for maintenance purposes.
2. The District shall submit both a REQUEST FOR TEMPORARY TRANSFER OF FUNDS and TEMPORARY TRANSFER AGREEMENT to the County Treasurer and County Auditor-Controller that sets forth the amount requested and includes documentation to the effect that the amount requested is necessary to meet current maintenance expenses. Such documentation must include detailed cash flows that support the maintenance expenses and anticipated revenues for the relevant period. Evidence supporting the need for cash to pay current maintenance expenses is to include, at a minimum, verifiable State documents supporting deferred State allocations.
3. The County Auditor-Controller shall determine the amount which is 85% of the amount of money which will accrue to a school district, community college district or the County school service fund during the fiscal year, or the amount of the anticipated revenues accruing to a special district, other political subdivision, or entity and 85% of such amount, as applicable; the amount of prior transfers of funds to the requesting agency during the fiscal year; and the resultant amount which is transferable as of a specified date to the requesting agency within the constitutional or statutory provisions cited in this Article. The Auditor-Controller

shall set forth these amounts in a certificate placed on or attached to the request or statement of determination and transmit the request or statement and his certificate to the County Treasurer-Tax Collector.

4. The County Treasurer-Tax Collector shall state in a certificate placed on or attached to the request or statement of determination whether or not funds are available for transfer and shall retransmit the request or statement and accompanying certificates back to the County Auditor-Controller.
5. Upon completion of the foregoing actions, and on or before the last Monday in April, the County Auditor-Controller and the County Treasurer-Tax Collector shall complete procedures and adjust their accounts to accomplish the transfer of funds in the amount which their respective certificates show may be transferred under the constitutional and statutory provisions cited in and subject to the limitations and conditions set forth in this Article.

Repayment of any Transfer, including interest, shall be the first payment made from the property taxes and principal apportionment accruing to the district before any other obligation of the district is met from such revenue. Interest on any Transfer will accrue and be payable by the district at a rate equal to the rate the Treasury Pool had earned in the most recent prior quarter plus ten (10) basis points or 0.10 percent from the date of Transfer until the entire Transfer and applicable interest is repaid. To effect repayment, an immediate transfer from said revenues shall be made by the Auditor-Controller to the County of Contra Costa Investment Pool's fund. In addition, the County reserves the right to seek repayment of any Transfer from any moneys accruing to the District.

RESOLUTION NUMBER: _____

RESOLUTION OF GOVERNING BOARD OF _____
DISTRICT REQUESTING TEMPORARY TRANSFER OF FUNDS

On motion of member _____, seconded by member _____ the following resolution is adopted:

WHEREAS, the California Constitution, Article XVI, Section 6 and Education Code section 42620 or 85220 provide that the Treasurer of the County shall have the power and the duty to make such temporary transfer from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any district whose funds are in custody and are paid out solely through the Treasurer's office; such temporary transfer of funds shall be made only upon resolution adopted by the governing board of the County to make such temporary transfer; such temporary transfer of funds shall not exceed 85% of the amount of money which will accrue to the district, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the first moneys accruing to the district and before any other obligation of the district is met from the money accruing; and

WHEREAS, on _____, the governing board adopted a revised budget for this district for the fiscal year 2011-12 pursuant to the provisions of the Education Code sections 42127 or 70901, and revenues accruing to the district for the remainder of the fiscal year are estimated to be \$ _____; and

WHEREAS, it is necessary to provide funds for meeting obligations incurred for maintenance purposes by this district; AND NOW THEREFORE

IT IS RESOLVED AND ORDERED pursuant to the provisions of the California Constitution, Article XVI, Section 6, and Education Code section 42620 or 85220 as follows:

1. The Board of Supervisors of the County of Contra Costa is requested to direct the Treasurer of the County of Contra Costa to make a temporary transfer from the funds in custody on or before April 24, 2012 to meet obligations incurred for maintenance purposes in the amount of \$ _____ which does not exceed a total of 85% of moneys accruing to the district by June 30, 2012, as certified by the District Superintendent and shall be verified by the County Auditor and Controller.
2. Funds will be transferred to this district by the Treasurer of the County of Contra Costa in sums as requested by the District Superintendent and certified by him/her to be necessary to provide funds for meeting the obligations incurred for maintenance purposes by the district not to exceed the maximum amount herein specified, provided the Treasurer determines that funds in his custody are

available for such transfers.

3. Repayment of any Transfer, including interest, shall be the first payment made from the property taxes and principal apportionment accruing to the district before any other obligation of the district is met from such revenue. Interest on any Transfer will accrue and be payable by the district at a rate equal to the rate the Treasury Pool had earned in the most recent prior quarter plus ten (10) basis points or 0.10 percent from the date of Transfer until the entire Transfer and applicable interest is repaid.
4. The Clerk/Secretary of this Board is directed to file a copy of this resolution with the Board of Supervisors, the County Superintendent of Schools, the County Auditor and Controller, and the County Treasurer-Tax Collector.
5. Authorize the District Superintendent or designee to sign a Temporary Transfer Agreement consistent with the terms of this Resolution.

PASSED AND ADOPTED by the Governing Board of the _____
District, County of Contra Costa, State of California, this _____ day of _____,
20____ by the following vote:

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA)

I, _____, Clerk/Secretary of the Governing Board of
the _____ District, County of Contra Costa, State of
California, do hereby certify that the foregoing is a true copy of a resolution adopted by said
Board at a meeting thereof, at the time and by the vote therein stated, which original resolution
is on file in the office of said Board.

Date

Clerk/Secretary of the Governing Board

REQUEST FOR TEMPORARY TRANSFER OF FUNDS

(California Constitution Article XVI, Sec. 6)

To: County Auditor-Controller
County Treasurer

From: _____

Request is made for temporary transfer of \$_____ from funds in custody of the County Treasurer which are certified to be necessary to provide funds for meeting the obligations incurred for maintenance purposes by the above-named district for the _____ fiscal year pursuant to Resolution No. _____ of the governing board of the district adopted on _____, pursuant to California Constitution Article XVI, Section 6. Funds will be used for: (Check one or both)

_____ Operational Expenses _____ Current Payroll

I further certify that our district has no Tax & Revenue Anticipation Notes (TRANS) outstanding.

Dated: _____
_____ Authorized Signature and Title

AUDITOR'S NOTATION

Board approved amount _____

85% of PTS est revenue _____

Loan Limit _____

Dated: _____
_____ County Auditor-Controller

CERTIFICATION OF COUNTY TREASURER

To: County Auditor-Controller

From: County Treasurer

_____ Funds are available for transfer to the above named district

_____ Funds are NOT available. Please notify the district.

Dated: _____
_____ County Treasurer

TEMPORARY TRANSFER AGREEMENT

This Temporary Transfer Agreement ("Agreement") is made and effective this ____ day of _____, _____, and is between the County of Contra Costa, California (the "County") and _____ (the "District").

RECITALS

- A. By Resolution No. _____ of its Board of Trustees (attached as Exhibit A), the District has requested the County make a temporary transfer of \$_____ to enable the District to meet its current maintenance expenses.
- B. California Constitution Article XVI, Section 6, grants the County Treasurer the power and the duty to make temporary transfers of monies upon the resolution of the County's Board of Supervisors directing such temporary transfer.
- C. By Resolution No. 2011/117, the Board of Supervisors of County of Contra Costa has directed the Auditor-Controller and the County Treasurer-Tax Collector (the "Treasurer") to make such temporary transfers as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any political subdivision whose funds are in the custody of and paid out solely through the Treasurer's office.

The parties therefore agree as follows:

AGREEMENT

Section 1. **Transfer Request; Implementation.** The District shall submit a written request for a temporary transfer to the Treasurer that sets forth the amount requested and includes documentation to the effect that the amount requested is necessary to meet current maintenance expenses. Such documentation must include detailed cash flows that support the maintenance expenses and anticipated revenues for the relevant period. Evidence supporting the need for cash to pay current maintenance expenses is to include, at a minimum, verifiable State documents supporting deferred State allocations.

Upon receipt of the District's written request, the Treasurer will authorize a temporary transfer of funds in an amount that does not exceed the amount requested. Upon receipt of a transfer authorization from the Treasurer, the Auditor-Controller will confirm that the amount authorized does not exceed the Limit, as defined below. Once the amount of the transfer has been determined, the Auditor-Controller will transfer that amount to the District. The transfer is to be made within 10 days of the Treasurer's receipt of the District's written transfer request, provided, however, that in no event may the total amount of all transfers made in accordance with this Agreement exceed 85% of the remaining property taxes and principal apportionment accruing to the District through June 30, _____, prorated as of the date of the written request (such amount, the "Limit"). The authorized transfer will be made to the District in one installment (any such transfer, a "Transfer").

No Transfer will be made after April 25, 2011.

All Transfers will be made from and limited to the County of Contra Costa Investment Pool.

Section 2. **Deposit of Transfer.** All Transfers made to the District pursuant to this Agreement will be deposited in the District's General Fund Number _____.

Section 3. **Repayment; Interest.** Repayment of any Transfer shall be the first payment made from the property taxes and principal apportionment accruing to the District before any other obligation of the District is met from such revenue. To effect repayment, an immediate transfer from said revenues to the County of Contra Costa Investment Pool's ("Pool") fund will be made in accordance with instructions provided by the

Auditor-Controller. In addition, the County reserves the right to seek repayment of any Transfer from any moneys accruing to the District.

Interest on any Transfer will accrue and be payable by the District at a rate equal to the rate the Treasury Pool had earned for the same period plus ten (10) basis points or 0.10 percent from the date of Transfer until the entire Transfer and applicable interest is repaid.

Section 4. **District Covenant.** The District represents and covenants with the County that the District's Anticipated Revenue Calculation for fiscal year 2010-2011, attached as Exhibit B, represents the District's best estimate of the deferred principal apportionment. The County Auditor-Controller shall review and approve the District's Anticipated Revenue Calculation.

Section 5. **Notices.** Any and all notices between the County and the District provided for or permitted under this Agreement or by law are to be in writing and will be deemed duly given when personally delivered or, in lieu of such personal service, when deposited in the United States mail, postage prepaid, addressed to the following address(es)

If to the County:

Russell Watts, Treasurer-Tax Collector
625 Court Street, Room 100
Martinez, CA 94553
925-957-2888
rwatt@tax.cccounty.us

Robert Campbell, Auditor-Controller
625 Court Street, Room 103
Martinez, CA 94553
925-646-2181
Bob.Campbell@ac.cccounty.us

If to the District:

Name: _____
Address: _____
City, CA Zip Code: _____
Phone: _____
Email: _____

Section 6. **Governing Law, Venue and Entire Agreement.** This Agreement has been negotiated and executed in the State of California and is governed by the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Contra Costa, California.

This Agreement constitutes the entire agreement between the County and the District with respect to the Transfer and supersedes any previous agreement(s), negotiations, proposals or understanding, whether written or oral concerning such matter, unless expressly included in this Agreement.

Section 7. **Amendment or Modifications.** No amendment, modification or other alternation of this Agreement is valid unless in writing and signed by the parties.

Section 8. **Severability.** In the event that any provision of this Agreement is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and such invalidity shall in no way affect, impair, or invalidate any other provision contained herein if there is no substantive effect to the services to be rendered to the County by such judicial finding of invalidity.

Section 9. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which an original and, together, constituting but one and the same Agreement.

IN WITNESS WHEREOF, the parties are signing this Agreement as of the date first written above.

County of Contra Costa, California

Date: _____

By: _____
Russell V. Watts
Treasurer-Tax Collector

APPROVED AS TO FORM

Deputy County Counsel

School District

Date: _____

By: _____

Title: _____