



**CUESTA  
COLLEGE**

**OCTOBER 7, 2009—BOARD OF DIRECTORS' FINANCING  
CORPORATION MEETING  
San Luis Obispo County Community College District**

**AGENDA ITEM TITLE:** Resolution to Amend the Financing Corporation By-Laws

**PURPOSE:** Adopt a Resolution to Amend the Board of Directors Financing Corporation By-Laws

**AGENDA SECTION:**

**Report:** \_\_\_\_\_ **Consent:** \_\_\_\_\_ **Action:** X **Discussion/Action:** \_\_\_\_\_ **Information:** \_\_\_\_\_

**Prepared By:** Toni Sommer *T. Sommer*

**PRESENTERS:** Toni Sommer

**SUMMARY:**

Adopt the resolution approving the amendment to the Bylaws in order to be compliant with Section 81345 of the Education Code of the State of California which requires "that no person shall be eligible to serve as a member or director of the nonprofit corporation except a person initially approved by resolution of the governing board of the community college district."

It is recommended that the Board approve the resolution (attached) authorizing amendment of the Financing Corporation Bylaws.

**APPROVED FOR BOARD AGENDA:**

*Dave Pelham*

*10-2-09*

Dave Pelham  
Superintendent/President

Date

**RESOLUTION NO. 01-09**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN  
LUIS OBISPO COUNTY COMMUNITY COLLEGE FINANCING  
CORPORATION AMENDING BY-LAWS**

**WHEREAS**, the San Luis Obispo County Community College Financing Corporation (the "Corporation") has been formed for the purpose of providing financial assistance to the San Luis Obispo County Community College District (the "District"); and

**WHEREAS**, Section 81345 of the Education Code of the State of California authorizes a nonprofit corporation to participate in lease financing arrangements with a community college district provided that certain conditions are satisfied, including the condition that no person shall be eligible to serve as a member or director of the nonprofit corporation except a person initially approved by resolution of the governing board of the community college district; and

**WHEREAS**, the By-Laws of the Corporation provide that the Board of Directors of the Corporation consist of three persons, consisting of the individuals who act as the Superintendent of the District, the Assistant Superintendent of Business Services of the District and the President of the Board of Trustees of the District; and

**WHEREAS**, the Board of Directors of the Corporation wishes to amend the By-Laws of the Corporation at this time to conform to the requirements of Section 81345 of the Education Code;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the San Luis Obispo County Community College Financing Corporation that Section 3 of Article II of the By-Laws of the Corporation shall be, and is hereby, amended to read in its entirety as follows:

*"SECTION 3. Selection, Tenure of Office and Vacancies. The individuals who act as the Superintendent of the San Luis Obispo County Community College District (the "District"), the Assistant Superintendent of Business Services of the District and the President of the Board of Trustees of the District shall constitute the Board of Directors of the Corporation, and each person who holds any such office of the District shall be and remain a member of the Board of Directors of the Corporation for so long as such person remains the holder of such office. No person shall be eligible to serve as a member or director of the Corporation except a person initially approved by resolution of the governing board of the District."*

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The foregoing Resolution was duly and regularly introduced, passed, and adopted by the Board of Directors of the San Luis Obispo County Community College Financing Corporation at a regular meeting thereof held on the 7th day of October, 2009.

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Patrick W. Mullen  
President

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W. David Pelham, Ed.D.  
Secretary to the Board



**CUESTA COLLEGE**

**OCTOBER 7, 2009—BOARD OF DIRECTORS' FINANCING CORPORATION MEETING  
San Luis Obispo County Community College District**

**AGENDA ITEM TITLE:** Delivery and Sale of Certificates of Participation

**PURPOSE:** Adopt a Resolution Approving the Execution, Delivery and Sale of the Certificates of Participation

**AGENDA SECTION:**

**Report:** \_\_\_\_\_ **Consent:** \_\_\_\_\_ **Action:** X **Discussion/Action:** \_\_\_\_\_ **Information:** \_\_\_\_\_

**Prepared By:** Toni Sommer *T. Sommer*

**PRESENTERS:** Toni Sommer

**SUMMARY:**

Adopt a resolution approving the execution, delivery and sale of Certificates of Participation in the maximum principal amount of \$25 million for the purpose of completing the Theater Arts Building project, constructing the Learning Resource Center project, payment of principal and interest on the 2007 Grant Anticipation Notes, and refunding of an equipment lease with LaSalle Bank.

It is recommended that the Board approve the resolution (attached) authorizing the Assistant Superintendent/Vice President, Administrative Services to administer the issuance and sale of the refunding of Certificates of Participation, on behalf of the District, not to exceed \$25,000,000.

**APPROVED FOR BOARD AGENDA:**

*Dave Pelham*

*10-2-09*

Dave Pelham  
Superintendent/President

Date

## RESOLUTION NO. 02-09

### RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN LUIS OBISPO COUNTY COMMUNITY COLLEGE FINANCING CORPORATION AUTHORIZING DELIVERY AND SALE OF CERTIFICATES OF PARTICIPATION IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$25,000,000 TO PROVIDE FINANCIAL ASSISTANCE TO THE COLLEGE DISTRICT, AND APPROVING RELATED DOCUMENTS AND ACTIONS

**WHEREAS**, the San Luis Obispo County Community College District (the "District") is proceeding to construct a Learning Resource Center at the North County Campus (the "Learning Resource Center Project") and a Theater Arts Building and related parking facilities at the Cuesta College Campus (the "Theater Arts Project"); and

**WHEREAS**, in order to finance the Theater Arts Project and other educational facilities of the District, the Board of Supervisors of the County of San Luis Obispo has previously issued grant anticipation notes of the District, designated the San Luis Obispo County Community College District (County of San Luis Obispo, California) 2007 Grant Anticipation Notes, in the aggregate principal amount of \$29,250,000 (the "2007 Notes"); and

**WHEREAS**, the District requires funds at this time for the purpose of completing the Theater Arts Building Project, financing the construction of the Learning Resource Center Project, paying the principal of and interest on the 2007 Notes and refinancing an equipment lease-purchase agreement between the District and LaSalle Bank National Association (the "Equipment Lease"); and

**WHEREAS**, in order to provide funds for the foregoing purposes, the District proposes certain real property constituting a portion of the Cuesta College Campus (the "Leased Property"), to the San Luis Obispo County Community College Financing Corporation (the "Corporation") under a Site Lease and to lease the Leased Property back from the Corporation under a Lease Agreement, and the Corporation and District propose to cause the execution and delivery of 2009 Certificates of Participation in the principal amount of not to exceed \$25,000,000, which may be delivered in one or more series (the "Certificates of Participation"), which evidence the lease payments required to be paid by the District under said Lease Agreement; and

**WHEREAS**, the Corporation has been formed for the purpose of providing financial assistance to the District, and the Board of Directors wishes at this time to authorize and approve said financing plan and all related documents and actions, in furtherance of the nonprofit purposes of the Corporation;

**NOW, THEREFORE**, the Board of Directors of the San Luis Obispo County Community College Financing Corporation hereby resolves as follows:

**Section 1. Approval of Financing Plan and Related Documents.** The Board of Directors hereby approves the financing plan outlined above. To that end, the Board of Directors hereby approves each of the following financing documents in substantially the respective forms on file with the Secretary, together with any changes therein or

additions thereto approved by the Executive Director or the Treasurer (each, an "Authorized Officer"):

- Site Lease, between the District as lessor and the Corporation as lessee, under which the District leases the Leased Property to the Corporation in consideration of the payment by the Corporation of a Site Lease Payment which is sufficient to provide financing for the Theater Arts Building Project and the Learning Resource Center Project, and to provide funds to refinance the 2007 Notes and the Equipment Lease.
- Lease Agreement, between the Corporation as lessor and the District as lessee, under which the Corporation leases the Leased Property back to the District in consideration of the payment by the District of semiannual lease payments.
- Assignment Agreement, between the Corporation and the Trustee, under which the Corporation assigns substantially all of its rights under the Lease Agreement to the Trustee for the security of the Certificates of Participation.
- Trust Agreement, among the District, the Corporation and U.S. Bank National Association, as trustee, whereby the trustee agrees to execute and deliver the Certificates of Participation.

The Executive Director is hereby authorized and directed for and in the name and on behalf of the Corporation to execute the final form of each of the foregoing documents. Execution of each of the foregoing documents by the Executive Director shall be conclusive evidence of the approval of any changes therein or additions thereto by an Authorized Officer. The schedule of lease payments attached to the Lease Agreement shall correspond to the payments of principal and interest represented by the Certificates of Participation, to be determined upon the sale thereof as set forth in Section 2.

**Section 2. Sale of Certificates of Participation.** The Board of Directors hereby approves the negotiated sale of the Certificates of Participation to Piper Jaffray & Co., as underwriter (the "Underwriter"). The Certificates of Participation shall be sold pursuant to the Purchase Contract among the District, the Corporation and the Underwriter, in substantially the form on file with the Secretary with such changes therein, deletions therefrom and modifications thereto as an Authorized Representative may approve, such approval to be conclusively evidenced by the execution and delivery of the Purchase Contract. The true interest cost represented by the Certificates of Participation (taking into account the amount of any tax credit payment received by the District if the Certificates of Participation are sold as Build America Bonds in accordance with Section 3) shall not exceed 8.00% per annum and the Underwriter's discount shall not exceed 1.00% of the aggregate principal amount of the Certificates of Participation. The Board of Directors hereby authorizes an Authorized Representative to execute and deliver the final form of the Purchase Contract in the name and on behalf of the Corporation.

**Section 3. Build America Bond Designation.** As provided in the resolution adopted by the Board of Trustees of the District approving the delivery and sale of the

Certificates of Participation, the Certificates of Participation may be sold in the form of "Build America Bonds" under and within the meaning of Section 54AA of the Internal Revenue Code of 1986. In such event, an Authorized Representative is hereby authorized and directed to approve such amendments to the documents approved under this Resolution as may be required to effectuate such issuance.

**Section 4. Official Actions.** The President, the Executive Director, the Treasurer, the Secretary and all other officers of the Corporation and the Board of Directors are hereby authorized and directed in the name and on behalf of the Corporation to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution. Whenever in this Resolution any officer of the Corporation is directed to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

**Section 5. Effective Date.** This Resolution shall take effect from and after the date of its passage and adoption.

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The foregoing Resolution was duly and regularly introduced, passed, and adopted by the Board of Directors of the San Luis Obispo County Community College Financing Corporation at a special meeting thereof held on the 7<sup>th</sup> day of October, 2009.

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Patrick W. Mullen  
President

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W. David Pelham, Ed.D.  
Executive Director