

**SAN JOSE EVERGREEN COMMUNITY COLLEGE DISTRICT**

**RESOLUTION NO. 080510-1**

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE SAN JOSE EVERGREEN COMMUNITY COLLEGE DISTRICT ORDERING AN ELECTION, AND ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER**

WHEREAS, each of San Jose City College and Evergreen Valley College (together, the "Colleges") provide essential job training, re-training and workforce preparation for local area students of all ages; and

WHEREAS, in today's tough economic times and competitive job environment, the Colleges should continue offering local residents accessible, affordable training and education in the nursing, health sciences, emerging medical and dental assistant fields, and solar and clean energy technology fields; and

WHEREAS, the costs to attend a State or UC college in California continue to increase and are as much as 10 times more expensive than the Colleges; and

WHEREAS, with fewer and fewer students able to afford the State and UC systems, the Colleges ensure that our community has high quality, affordable college options for students transferring to these four-year college systems; and

WHEREAS, due to the recession, demands for the Colleges' affordable classes are at an all-time high, but the Colleges have had to turn away hundreds of students, and classes are overflowing while budget cuts have forced at least a 5% reduction in the number of school classes; and

WHEREAS, many of the Colleges' classrooms are outdated and simply do not meet today's requirements, and the Board has determined that upgrading and replacing aging classrooms, buildings, laboratories for science and allied health programs; providing up-to-date classrooms for math, science, writing and other core academic programs, as well as improved job training and career technical education; installing fire safety equipment; establishing a capital improvement and deferred maintenance endowment; improving electrical, lighting, ventilation, fire detection systems in existing classrooms to increase energy efficiency and reduce costs; ensuring access for disabled students; repairing aging plumbing systems to prevent leaking and water damage and reduce future maintenance expenses; and improving college buildings to provide students with more affordable course options are among the highest priorities of the Colleges; and

WHEREAS, after an extensive review, the Board of Trustees (the "Board") has determined that many classrooms, buildings, properties and facilities within the San Jose Evergreen Community College District (the "District") need to be acquired, constructed, improved, furnished and equipped to enable the Colleges and the District's outreach education centers, to provide affordable, local higher education; and

WHEREAS, notwithstanding concerted and ongoing efforts by the District to obtain sufficient money from the State of California (the "State"), the State has been unable to provide the

District with enough money for the District to adequately maintain and enhance the Colleges for students; and

WHEREAS, if the District passed a local general obligation, the Board anticipates that it may be eligible for up to \$20 million of additional State and/or Federal matching funds for facility improvements; and

WHEREAS, after much consideration, discussion and public input and outreach on June 8, 2010, the Board approved the San Jose City College and Evergreen Valley College Educational/Facilities Master Plans 2010-2025 (together, the "Master Plan") which set forth not only the long range strategy plans for the Colleges, but also identifies their most immediate and critical project needs; and

WHEREAS, as the Board identifies critical need school improvements to be funded with a local general obligation bond, the Board intends to consider incorporating into each such project, regardless of whether it is a new construction or a repair and upgrade project Leadership in Energy and Environmental Design ("LEED") environmental and sustainability criteria to the extent feasible, such as improving student performance and staff health through daylighting, use of non toxic-emitting materials and sound insulation or isolation to minimize noise and enhance acoustical quality in the classroom; reduce operating cost, through energy and water efficiency; and minimize the impact of District operations on the environment, through, for example, the installation of purchase of renewable energy resources; and

WHEREAS, in the judgment of the Board, it is advisable to provide additional funding for such facility, technology and basic infrastructure repairs as described in the Master Plan by means of a general obligation bond; and

WHEREAS, Proposition 46, approved by the voters of the State of California on June 3, 1986 ("Proposition 46"), amended Section 1(b) of Article XIII A of the California Constitution by adding a provision which exempts from the 1% of full cash value limitation, those ad valorem taxes used to pay for debt service of any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by voters voting on the proposition; and

WHEREAS, on November 7, 2000, the voters of California approved the Smaller Classes, Safer Schools and Financial Accountability Act ("Proposition 39") which reduced the voter threshold for ad valorem tax levies used to pay for debt service or bonded indebtedness to 55% of the votes cast on a community college district general obligation bond; and

WHEREAS, concurrent with the passage of Proposition 39, Chapter 1.5, Part 10, Division 1, Title 1 (commencing with Section 15264) of the Education Code (the "Act") became operative and established requirements associated with the implementation of Proposition 39; and

WHEREAS, the Board desires to make certain findings herein to be applicable to this election order and to establish certain performance audits, standards of financial accountability and citizen oversight which are contained in Proposition 39 and the Act; and

WHEREAS, the Board desires to authorize the submission of a proposition to the District's voters at an election to authorize the issuance of bonds to pay for essential improvements to the District's educational facilities; and

WHEREAS, the Board determines that, in accordance with Opinion No. 04-110 of the Attorney General of the State of California, the restrictions in Proposition 39, which prohibit any bond money to be used for administrator salaries and other operating expenses of the District shall be strictly enforced by a District Citizens' Oversight Committee; and

WHEREAS, pursuant to Education Code Section 15270, based upon a projection of assessed property valuation, the Board has determined that, if approved by voters, the tax rate levied to meet the debt service requirements of the bonds proposed to be issued will not exceed the Proposition 39 limits per year per \$100,000 of assessed valuation of taxable property; and

WHEREAS, Section 9400 *et seq.* of the Elections Code of the State of California (the "Elections Code") requires that a tax rate statement be contained in all official materials relating to the election, including any ballot pamphlet prepared, sponsored, or distributed by the District; and

WHEREAS, the Board desires to authorize the filing of a ballot argument in favor of the proposition to be submitted to the voters at the election; and

WHEREAS, pursuant to the California Elections Code, it is appropriate for the Board to request consolidation of the election with any and all other elections to be held on November 2, 2010, and to request that the Santa Clara County Registrar of Voters perform certain election services for the District; and

NOW THEREFORE, THE BOARD OF TRUSTEES OF THE SAN JOSE EVERGREEN COMMUNITY COLLEGE DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the Board, pursuant to Education Code Sections 15100 *et seq.*, 15264 *et seq.* and Government Code Section 53506, hereby requests the Santa Clara County Registrar of Voters to conduct an election under the provisions of Proposition 39 and the Act and submit to the electors of the District the question of whether bonds of the District in the aggregate principal amount not-to-exceed \$268 million (the "Bonds") shall be issued and sold to raise money for the projects described in Exhibits "A" and "B" hereto. Both exhibits are directed to be printed in the voter sample ballot pamphlet.

Section 2. That the date of the election shall be November 2, 2010.

Section 3. That the purpose of the election shall be for the voters in the District to vote on a proposition, a copy of which is attached hereto and marked Exhibit "A" and incorporated by reference herein, containing the question of whether the District shall issue the Bonds to pay for improvements to the extent permitted by such proposition. In compliance with Proposition 39 and the Act, the ballot proposition in Exhibit "A" and "B" are subject to the following requirements and determinations:

(a) that the proceeds of the sale of the Bonds shall only be used for the purposes set forth in the ballot measure and not for any other purpose, including teacher or administrator salaries or other college operating expenses;

(b) that the Board, in establishing the projects set forth in Exhibit "B," evaluated safety, class size reduction, class size and offerings, and information technology needs of the District;

(c) that the Board will cause to be conducted an annual, independent performance audit to ensure that the Bond moneys are expended for the projects identified in Exhibit "B" hereto;

(d) that the Board will cause an annual, independent financial audit of the proceeds from the sale of Bonds to be conducted until all Bond proceeds have been expended;

(e) that the Board will cause the appointment of a Citizens' Oversight Committee in compliance with Education Code Section 15278 no later than 60 days after the Board enters the election results in its minutes pursuant to Education Code Section 15274; and

(f) that the tax levy authorized to secure the bonds of this election shall not exceed the Proposition 39 limits per \$100,000 of taxable property in the District when assessed valuation is projected by the District to increase in accordance with Article XIII A of the California Constitution.

Section 4. That the authority for ordering the election is contained in Education Code Sections 15100 *et seq.* and 15264 *et seq.* and Government Code Section 53506.

Section 5. That the authority for the specifications of this election order is contained in Section 5322 of the Education Code.

Section 6. That the Santa Clara County Registrar of Voters 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 7. That this Resolution shall stand as the "order of election" to the Santa Clara County Registrar of Voters to call an election within the boundaries of the District on November 2, 2010.

Section 8. That the Secretary of the Board is hereby directed to deliver an original or a certified copy of this Resolution to the Santa Clara County Registrar of Voters no later than August 6, 2010.

Section 9. That any Bonds issued pursuant to Section 15264 *et seq.* of the Education Code shall have a maturity not exceeding twenty-five (25) years, and Bonds issued pursuant to Section 53506 of the Government Code shall have maturity not exceeding forty (40) years. The maximum interest rate on any Bond shall not exceed the maximum rate allowed by Education Code Sections 15140 to 15143, as modified by Government Code Section 53531.

Section 10. That the Board requests the governing body of any such other political subdivision, or any officer otherwise authorized by law, to partially or completely consolidate such election and to further provide that the canvass be made by any body or official authorized by law to canvass the returns of the election, and that the Board consents to such consolidation.

Section 11. That the Board authorizes the Chancellor and Vice Chancellor, Administrative Services to execute contracts with Piper Jaffray & Co. and RBC Capital Markets for bond underwriting services and Stradling Yocca Carlson & Rauth for bond counsel services in connection with bonds authorized by this election.

Section 12. Pursuant to Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors of Santa Clara County is requested to permit the Registrar of Voters of Santa Clara County to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the District agrees to reimburse the County, such services to include the publication of a Formal Notice of School Bond Election and the mailing of the sample ballot and tax rate statement (described in Section 9401 of the Elections Code) pursuant to the terms of Section 5363 of the Education Code and Section 12112 of the Elections Code.

ADOPTED, SIGNED AND APPROVED this 5<sup>th</sup> day of August, 2010.

BOARD OF TRUSTEES OF THE SAN JOSE  
EVERGREEN COMMUNITY COLLEGE  
DISTRICT

By   
Board President

Attest:

  
Secretary

STATE OF CALIFORNIA   )  
  )  
SANTA CLARA COUNTY   )

I, Rita Cepeda, do hereby certify that the foregoing is a true and correct copy of Resolution No. 080510-1, which was duly adopted by the Board of Trustees of the San Jose Evergreen Community College District at the meeting thereof held on the 5<sup>th</sup> day of August, 2010, and that it was so adopted by the following vote:

AYES: 6

NOES: 0

ABSENT: 1

ABSTENTIONS: 0

By  \_\_\_\_\_  
Secretary to the Board of Trustees of San Jose  
Evergreen Community College District

EXHIBIT A

“To better prepare San Jose City College/ Evergreen Valley College students for good paying jobs and transfer to four-year colleges, shall San Jose Evergreen Community College District upgrade, acquire, construct energy-efficient, technology-driven teaching classrooms, labs, sites, facilities/ equipment for health/ science, general education/ job-training, upgrade outdated electrical, plumbing, heating/ ventilation systems, by issuing \$268 million in bonds at legal rates, qualifying for matching funds, with citizen oversight, no money for administrator salaries, all funds staying local?

Bonds - Yes

Bonds – No

MEASURE G-2010

EXHIBIT B  
FULL TEXT BALLOT PROPOSITION

OF THE SAN JOSE EVERGREEN COMMUNITY COLLEGE DISTRICT  
BOND MEASURE ELECTION NOVEMBER 2, 2010

“To better prepare San Jose City College/ Evergreen Valley College students for good paying jobs and transfer to four-year colleges, shall San Jose Evergreen Community College District upgrade, acquire, construct energy-efficient, technology-driven teaching classrooms, labs, sites, facilities/ equipment for health/ science, general education/ job-training, upgrade outdated electrical, plumbing, heating/ ventilation systems, by issuing \$268 million in bonds at legal rates, qualifying for matching funds, with citizen oversight, no money for administrator salaries, all funds staying local?

**Bonds - Yes**

**Bonds – No**

**PROJECTS**

The Board of Trustees of the San Jose Evergreen Community College District, to be responsive to the needs of students and the community, evaluated the District’s urgent and critical educational needs, including completing essential repairs to aging classrooms and college buildings to today’s health, fire and earthquake safety requirements, and providing sufficient classrooms and science labs to offer more medical job training and workforce development courses and programs to students, the energy efficiency of all facilities, safety and security issues, class size reduction, class size and offerings in key disciplines such as nursing, health sciences, solar and clean technology fields, and information and computer technology, in developing the scope of projects to be funded, as outlined in the San Jose City College Educational/Facilities Master Plan 2010-2025 and the Evergreen Valley College Educational/Facilities Master Plan 2010-2025 (together, the “Master Plan”), approved by the Board of Trustees on June 8, 2010, incorporated herein by reference in its entirety. In developing the scope of projects, the District has prioritized the key health and safety needs so that the most critical needs and the most urgent and basic needs and infrastructure repairs are addressed consistent with community and District priorities. The Board conducted comprehensive facility evaluations and considered community and District perspectives in developing the scope of college projects to be funded, as described in the Master Plan. The Board, faculty and community leaders concluded that if these needs were not addressed now, the problem will only become more pressing and expensive. **In implementing the Master Plan, the Board of Trustees determines that San Jose City College and Evergreen Valley College must:**

- **Upgrade labs for science and medical training programs.**
- **Provide classrooms for math, science, writing, and other core academic classes.**
- **Update classrooms and facilities for improved job training and career technical education.**
- **Update classrooms and educational facilities to meet current fire and safety codes and provide access for students with disabilities.**
- **Upgrade facilities to improve energy efficiency and reduce operating expenses, allowing more funding for classroom instruction and student services.**
- **Establish a technology endowment to maintain up-to-date computer learning necessary for a 21<sup>st</sup> Century education.**

The Master Plan is available for review on-line at [www.sjeccd.edu](http://www.sjeccd.edu); [www.evc.edu](http://www.evc.edu); and [www.sjcc.edu](http://www.sjcc.edu). and includes the type of projects listed below.

**Repair Projects To Provide Affordable Access for  
Transferring Students and Reduce Operating Expenses  
To Restore Funding to Classroom Instruction**

**Goal and Purpose:** Since the costs to attend a State or UC college in California continue to increase and are as much as 10 times more expensive than either San Jose City College or Evergreen Valley College, and with fewer and fewer students able to afford the State or UC systems, upgrading San Jose City College and Evergreen Valley College will make sure that the community has high quality, affordable college options for local student transferring to four-year colleges:

- **Update labs for science and medical training programs.**
- Replace existing plumbing and sewer systems to prevent flooding and water damage and reduce future maintenance costs.
- Repair and renovate classrooms and facilities that lack adequate heating, ventilation, air conditioning, electrical and lighting systems to make them more energy efficient.
- Upgrade utility infrastructure such as electric, sewer and gas systems to **improve energy efficiency**, reduce energy costs and power generation.
- Repair, upgrade and replace worn-out roofs.
- Repair aging classrooms.
- Replace existing wiring systems to meet current electrical and accessibility codes and increase capacity.
- Install additional electrical service capacity to **improve computer technology** and Internet access.
- Upgrade, retrofit and equip classrooms, facilities, and educational support spaces.
- **Upgrade classrooms and educational facilities to meet current fire safety codes and provide access for students with disabilities.**
- **Upgrade facilities to improve energy efficiency and reduce operating expenses, allowing more funding for classroom instruction and student services.**

### **Job Training; Health and Technology Projects**

**Goal and Purpose:** San Jose City College and Evergreen Valley College provide essential job training and workforce preparation for students of all ages. In today's economic times, these projects will allow the Colleges to continue offering local San Jose area residents training and education in the nursing, health sciences, and solar and clean energy technology fields:

- **Provide classrooms for math, science, writing and other core academic classes.**
- Upgrade earthquake safety for campus facilities and classrooms.
- **Update classrooms and facilities for job training and career technical education.**
- Provide and maintain up-to-date technology, data and communication equipment.
- Expand bandwidth to allow students greater access to the internet.
- Remodel Technology Center.
- Upgrade and expand telecommunications, internet and network connections.
- Upgrade and replace computers, hardware and software systems.
- Modernize classroom technology and computer labs.
- Upgrade and replace classroom instructional equipment.
- Upgrade existing applied science building complex.
- Construct new multi-disciplinary classroom buildings.
- Replace or upgrade outdated electrical systems.
- Upgrade library technology, internet access and research tools.
- Construct vocational technology building.
- Establish a Center for Environmental Sciences and Green Technology locally to prepare students for careers in these growing fields.

### **Meeting the Demand for Local Affordable Access to Higher Education - Energy Efficiency and Health and Safety Projects**

**Goal and Purpose:** Due to the recession, demands for the Colleges' affordable classes are at an all-time high. Hundreds of students have been turned away because classes are overflowing. At the same time, budget cuts have forced at least a 5 percent reduction in the number of school classes. These projects will help meet current and future demands for affordable, accessible quality education:

#### **Energy Efficiency Returns Savings to the Classroom**

- Install energy efficient systems, including solar power systems, to reduce energy/utility costs and return savings to educational programs.
- Replace existing window systems with energy efficient systems to reduce costs.
- Replace outdated inefficient heating and ventilation systems.
- Improve insulation, weather proofing and roofs to reduce costs.

## **Student Safety**

- **Improve access for faculty, staff and students with disabilities.**
- **Install and repair fire safety equipment, including alarms, smoke detectors, sprinklers, emergency lighting, and fire safety doors.**
- Inspect for/repair gas pipe leaks, replace broken concrete walks, deteriorated asphalt.
- Replace/upgrade existing signage, bells and clocks.
- Install new security systems, such as security (surveillance) cameras, outdoor lighting, fencing, gates and classroom door locks.
- Replace sewer lines and improve drainage systems to prevent flooding.
- Upgrade site parking, utilities and grounds.

The listed projects will be completed as needed. Each project is assumed to include its share of furniture, equipment, architectural, engineering, and similar planning costs, program/project management, staff training expenses and a customary contingency for unforeseen design and construction costs. In addition to the listed projects stated above, the Project List also includes the acquisition of a variety of instructional, maintenance and operational equipment, including the reduction or retirement of outstanding lease obligations and interim funding incurred to advance fund projects from the Project List, payment of the costs of preparation of all facility planning, facility studies, assessment reviews, facility master plan preparation and updates, environmental studies (including environmental investigation, remediation and monitoring), design and construction documentation, and temporary housing of dislocated District activities caused by construction projects. In addition to the projects listed above, repair, renovation and construction projects may include, but not be limited to, some or all of the following: renovation of student and staff restrooms; landscaping; acquisition of land; construct maintenance and operations and physical education buildings; campus signage; repair and replacement of heating and ventilation systems; establish a capital improvement and deferred maintenance endowment; upgrade of facilities for energy efficiencies; repair and replacement of worn-out and leaky roofs, windows, walls, doors and drinking fountains; acquisition of vehicles; removal of outdated buildings and construction of new classrooms and support buildings; roadway improvements to promote better traffic circulation and student safety; renovation of locker rooms; installation wiring and electrical systems to safely accommodate computers, technology and other electrical devices and needs; repair and replacement of fire alarms, emergency communications and security systems; relocation of District administrative support facilities, including construction of such facilities; upgrading, resurfacing, replacing or relocating of hard courts, fields, turf and irrigation systems; construct or renovate athletic facilities, field lighting, gym/pool; upgrade classrooms; construct new parking lots or parking facilities; repair, upgrade and install interior and exterior lighting systems; replace water and sewer lines and other plumbing system; replace outdated security systems. The upgrading of technology infrastructure includes, but is not limited to, computers, LCD projectors, portable interface devices, servers, switches, routers, modules, sound projection systems, laser printers, digital white boards, document projectors, upgrade voice-over-IP, call manager and network security/firewall, and other wireless technology and miscellaneous equipment and educational and administrative software. Projects of the type described may also be conducted on one or several of the District's Education Centers or satellite campuses.

The allocation of bond proceeds may be affected by the District's receipt of State matching funds and the final costs of each project. Some projects may be undertaken as joint use projects in cooperation with other local public or non-profit agencies. The budget for each project is an estimate and may be affected by factors beyond the District's control. The final cost of each project will be determined as plans and construction documents are finalized, construction bids are received, construction contracts are awarded and projects are completed. Based on the final costs of each project, certain of the projects described above may be delayed or may not be completed. Demolition of existing facilities and reconstruction of

facilities scheduled for repair and upgrade may occur, if the Board determines that such an approach would be more cost-effective in creating more enhanced and operationally efficient campuses. Necessary site preparation/restoration may occur in connection with new construction, renovation or remodeling, or installation or removal of relocatable classrooms, including ingress and egress, removing, replacing, or installing irrigation, utility lines, trees and landscaping, relocating fire access roads, traffic circulation improvements, and acquiring any necessary easements, licenses, or rights of way to the property. Proceeds of the bonds may be used to pay or reimburse the District for the cost of District staff when performing work on or necessary and incidental to bond projects. Bond proceeds shall only be expended for the specific purposes identified herein. The District shall create an account into which proceeds of the bonds shall be deposited and comply with the reporting requirements of Government Code § 53410.

**NO ADMINISTRATOR SALARIES.** PROCEEDS FROM THE SALE OF THE BONDS AUTHORIZED BY THIS PROPOSITION SHALL BE USED ONLY FOR THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, REHABILITATION, OR REPLACEMENT OF SCHOOL FACILITIES, INCLUDING THE FURNISHING AND EQUIPPING OF SCHOOL FACILITIES, AND NOT FOR ANY OTHER PURPOSE, INCLUDING TEACHER AND COLLEGE ADMINISTRATOR SALARIES, PENSIONS AND OTHER OPERATING EXPENSES.

**FISCAL ACCOUNTABILITY.** THE EXPENDITURE OF BOND MONEY ON THESE PROJECTS IS SUBJECT TO STRINGENT FINANCIAL ACCOUNTABILITY REQUIREMENTS. BY LAW, PERFORMANCE AND FINANCIAL AUDITS WILL BE PERFORMED ANNUALLY, AND ALL BOND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO ENSURE THAT FUNDS ARE SPENT AS PROMISED AND SPECIFIED. THE CITIZENS' OVERSIGHT COMMITTEE MUST INCLUDE, AMONG OTHERS, REPRESENTATION OF A BONA FIDE TAXPAYERS ASSOCIATION, A BUSINESS ORGANIZATION AND A SENIOR CITIZENS ORGANIZATION. NO DISTRICT EMPLOYEES OR VENDORS ARE ALLOWED TO SERVE ON THE CITIZENS' OVERSIGHT COMMITTEE.