

BOARD OF TRUSTEES	ACTION
Santa Monica Community College District	June 7, 2022

MAJOR ITEMS OF BUSINESS

RECOMMENDATION NO. 31

SUBJECT: **RESOLUTION OF THE BOARD OF TRUSTEES OF THE SANTA MONICA COMMUNITY COLLEGE DISTRICT ORDERING AN ELECTION TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS, ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER, AND REQUESTING CONSOLIDATION WITH OTHER ELECTIONS OCCURRING ON NOVEMBER 8, 2022**

SUBMITTED BY: Superintendent/President

REQUESTED ACTION: It is recommended that the Board of Trustees approve the following resolution calling for an election authorizing the issuance of general obligations bonds of the District at an election to be held November 8, 2022.

WHEREAS, Santa Monica Community College District (the “**District**”) offers local students the highest rate of transfers to four-year universities and preparation for skilled careers, and by repairing and upgrading classrooms and facilities, the District can continue to increase opportunities for local students to earn college credits, certifications and job skills at a reasonable price; and

WHEREAS, certain facilities of the District are outdated, deteriorating and require improvements and repairs such as upgrades in ventilation, wiring/electrical systems and gas and sewer lines, meeting handicapped accessibility and earthquake safety requirements and fixing plumbing and leaky roofs; and

WHEREAS, the District wishes to provide additional funding for the improvement, construction, equipping and furnishing of District facilities, to ensure that students have modern, safe and efficient classrooms and indoor and outdoor laboratories and that they have access to technology necessary for them to compete for good careers; and

WHEREAS, the District wishes to enhance student success and equitable outcomes by adapting existing and new classrooms to offer both in-person and online classes and to incorporate classroom designs in support of student, teacher, and staff interaction; and

WHEREAS, the District wishes to provide and equip lab space for “hands-on” applications and add specialized facilities for faculty to prepare their classes for a hybrid environment; and

WHEREAS, the District seeks to meet its established equity goals by making the cost of higher education more affordable for students by providing on-campus housing, specifically targeted for low-income students; and

WHEREAS, students within the City of Santa Monica, the City of Malibu, and surrounding cities face challenges such as higher than state average monthly rents, limited stock of affordable housing, and inequities for low-income housing; and

WHEREAS, providing a local match to funds available from the State of California for investment in student housing directly responds to community and student need for an increased supply of low-income housing and can reduce students’ total cost of attendance; and

WHEREAS, the Board of Trustees of the District (the “**Board**”), has determined that it is advisable to call an election to submit to the electors of the District the question of whether bonds of the District shall be issued and sold for the purpose of funding the construction, reconstruction, rehabilitation and replacement of District facilities, including the furnishing or equipping of District facilities, or the acquisition or lease of real property for District facilities and paying costs incident thereto; and

WHEREAS, pursuant to the provisions of Proposition 39, adopted by the voters of the State of California (the “**State**”) on November 7, 2000 (“**Proposition 39**”), comprising Article XIII A, Section 1, paragraph (b) of the California Constitution (“**Article XIII A**”), the District may incur bonded indebtedness upon the vote of fifty-five percent (55%) or more of the qualified electors of the District voting on the proposition; and

WHEREAS, pursuant to California Education Code (“**Education Code**”) Section 15264 et seq. (the “**Act**”), the Board is specifically authorized, upon approval by two-thirds (2/3) of the members of the Board, to submit to the electorate of the District the question of whether bonds of the District shall be issued and sold for specified purposes pursuant to paragraph (3) of said subdivision (b) of Section 1 of Article XIII A and subdivision (b) of Section 18 of Article XVI of the California Constitution; and

WHEREAS, the Board desires to make certain findings to be applicable to the within election order and to establish compliance with Proposition 39 and the applicable requirements of the Education Code and the Elections Code of the State (the “**Elections Code**”), as further specified herein; and

WHEREAS, the Board has obtained reasonable and informed projections from experts of assessed property valuations and has determined that, based upon a projection of assessed property valuation, 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 maximum tax rate permitted by Section 15270 of the Education Code; and

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

WHEREAS, pursuant to Section 10403 et seq. of the Elections Code, the Board now deems it appropriate and necessary to request consolidation of the election authorized hereby (the “**Election**”) with any and all other elections to be held on November 8, 2022, and to request the Registrar of Voters (the “**Registrar of Voters**”) of the County of Los Angeles (the “**County**”) to perform certain election services for the District; and

WHEREAS, the proposed Bond Measure (defined below) to be considered at the Election includes requirements for strict accountability, including establishment of a Citizen’s Oversight Committee and independent annual financial and performance audits to insure all bond proceeds are used effectively and as promised, with no funds going towards administrator’s salaries or pensions;

NOW, THEREFORE, THE BOARD OF TRUSTEES OF SANTA MONICA COMMUNITY COLLEGE DISTRICT HEREBY RESOLVES, DETERMINES, AND ORDERS AS FOLLOWS:

Section 1. Call for Election. The Board hereby orders an election and submits to the electors of the District the question of whether general obligation bonds of the District shall be issued and sold in one or more series from time to time in the aggregate principal amount not to exceed \$375,000,000 for the purpose of raising money for construction, reconstruction, rehabilitation and replacement of District facilities, including the furnishing or equipping of District facilities, or the acquisition or lease of real property for District facilities and paying costs incident thereto, as set forth more fully in a ballot proposition approved pursuant to Section 4 below.

Section 2. Order of Election. This Resolution shall stand as the order to the Registrar of Voters to call the Election within the boundaries of the District on November 8, 2022. The Registrar of Voters is hereby requested, pursuant to Section 5322 of the Education Code, to take all steps to call and hold the Election in accordance with law and these specifications.

Section 3. Election Date and Consolidation. The date of the Election shall be November 8, 2022, and the Election shall be held solely within the boundaries of the District. Pursuant to Section 15121 of the Education Code and Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, the Board of Supervisors of the County is requested to order consolidation of the community college bond election ordered herein with such other elections as may be held on the same day in the same territory or in territory that is in part the same.

Section 4. Purpose of Election; Ballot Proposition. (a) The purpose of the Election shall be for the voters of the District to vote on a proposition, a full copy of which is attached hereto as **Exhibit A** (the “**Bond Measure**”), containing the question of whether the District shall issue the Bonds for the purposes stated therein, together with the accountability requirements of Article XIII A and the requirements of Section 15272 of the Act.

(b) The Registrar of Voters is hereby requested to reprint Exhibit A hereof in its entirety in the voter information pamphlet to be distributed to voters. As required by Elections Code Sections 13119 and 13247, and Education Code Section 15122, the abbreviated form of the Bond Measure to appear on the ballot appears below and is attached hereto as **Exhibit B**:

SANTA MONICA COLLEGE AFFORDABLE HIGHER EDUCATION, CAREER TRAINING, CLASSROOM UPGRADES. To improve access to affordable education for local students, veterans, first-generation college students; provide affordable housing for homeless students; modernize instructional labs for nursing, healthcare, sustainability, media, science career training; repair/upgrade obsolete vocational classrooms/aging facilities, shall Santa Monica Community College District authorize \$375,000,000 in bonds at legal rates, levying 2.5 cents per \$100 assessed valuation, raising \$23,000,000 annually while bonds are outstanding, with citizens oversight, public spending disclosure?

The District’s Superintendent/President, Vice President, Business/Administration (or any of their respective designees) is hereby authorized and directed to make any changes to the text of the proposition or its abbreviated form as required to comply with the intent of this Resolution, the requirements of election officials, and requirements of law.

(c) The Registrar of Voters is hereby requested to reprint **Exhibit A** hereof in its entirety in the voter information pamphlet to be distributed to voters pursuant to Section 13307 of the Elections Code. If the full text of the Ballot Measure is not reprinted in the voter information pamphlet in its entirety, the Registrar of Voters is hereby requested to print, immediately below the impartial analysis of the Ballot Measure, in no less than 10 point boldface type, a legend substantially as follows [Measure designation to be assigned by the Registrar of Voters]:

“The above statement is an impartial analysis of Measure _____. If you desire a copy of the measure, please call the Los Angeles County Registrar of Voters at (800) 815-2666, or the Santa Monica Community College District at (310) 434-4000, and a copy will be mailed at no cost to you. Measure ___ is also available at <http://www.smc.edu/bondmeasure>.”

(d) As required by Section 53410 of the Government Code, a statement in substantially the following form shall be included on the Bond Measure ballot, and the Board covenants to comply with the reporting requirements contained in Section 53411 of the Government Code:

Accountability Measures

As required by Section 53410 of the Government Code, the following accountability measures are hereby made a part of the Bond Measure:

- (i) The specific purpose of the bonds is set forth in the full text of the Bond Measure; and
 - (ii) The proceeds from the sale of the District's bonds will be applied only for the purposes specified in the Bond Measure, and not for any other purpose; and
 - (iii) The proceeds of the bonds will be deposited into a Building Fund to be held by the County Treasurer, as required by the Education Code; and
 - (iv) The Superintendent/President of the District shall cause an annual report to be filed with the Board, the first report to be filed not later than one year after the issuance of the first series of the bonds, which report shall contain pertinent information regarding the amount of funds collected and expended, as well as the status of the projects listed in the Bond Measure, as required by Sections 53410 and 53411 of the Government Code.
- (e) The District hereby requests that the Registrar of Voters include the following statement in the ballot pamphlet, pursuant to Section 15122.5 of the Education Code [Measure designation to be assigned by the Registrar of Voters]:
- “Approval of Measure ___ does not guarantee that the proposed project or projects in the Santa Monica Community College District that are the subject of bonds under Measure ___ will be funded beyond the local revenues generated by Measure ___. The District’s proposal for the project or projects may assume the receipt of matching State funds, which could be subject to appropriation by the Legislature or approval of a Statewide bond measure.”
- (f) Pursuant to Section 18, Article XVI and Section 1, Article XIII A of the Constitution of the State, the foregoing Bond Measure shall become effective upon the favorable vote of no less than 55% of those qualified voters voting on the proposition.

Section 5. The Bonds. (a) The maturity of any bonds issued pursuant to the Bond Measure and under Chapter 1.5, Part 10, Division 1, Title 1 of the Education Code (commencing with Section 15264), as amended, and Article XIII A shall not exceed twenty-five (25) years and shall bear or accrete interest at a rate not to exceed the maximum legal interest rate per annum, and (b) the maturity of any bonds issued pursuant to the Bond Measure and under Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, as amended, applicable provisions of the Education Code and Article XIII A of the California Constitution shall not exceed forty (40) years, or, in the case of bonds, the interest on which is compounded, twenty-five (25) years, and shall bear or accrete interest at a rate not to exceed the maximum legal interest rate per annum.

Section 6. Authority for Election. The authority for ordering the Election is contained in the Act, Article XIII A, Section 1, paragraph (b), subsection (3) of the California Constitution, and Section 53506 et seq. of the California Government Code. The authority for the specification of this election order is contained in Education Code Section 5322.

Section 7. District Facilities Projects. A list of the specific capital projects (the “**Projects**”) to be funded from the proceeds of the Bonds is set forth in **Exhibit A** (the “**Project List**”). As required by Article XIII A, the Board hereby certifies that it has evaluated safety, class-size reduction and information technology needs of the District in developing the list of capital projects set forth in **Exhibit A**. The District understands that the costs of administering the Election, managing construction projects and costs of issuance of the Bonds shall be lawful charges against proceeds of sale of the Bonds.

Section 8. Covenants of the Board Upon Approval of the Bonds by the Electorate. As required by Article XIII A and Section 15278 of the Act, if fifty-five percent (55%) or more of the voters of the District voting on the Bond Measure approve the Bond Measure, the Board shall:

(a) Use the bond proceeds only for the purposes of construction, reconstruction, rehabilitation, or replacement of District facilities, including the furnishing and equipping of District facilities, or the acquisition or lease of real property for District facilities, as specifically set forth in **Exhibit A**, and not for any other purpose, including teacher and administrator salaries/pensions and other District operating expenses;

(b) Conduct an annual, independent performance audit to ensure that the Bond proceeds have been expended only on the capital projects listed in **Exhibit A** until all of the Bond proceeds have been expended;

(c) Conduct an annual, independent financial audit of the proceeds from the sale of the Bonds until all of those proceeds have been expended for capital projects listed in **Exhibit A**;

(d) Establish and appoint members to an independent citizens' oversight committee in accordance with Sections 15278, 15280, and 15282 of the Act, which may consist of some or all of the citizens' oversight committee members currently sitting; and

(e) Limit the amount of bonds issued pursuant to the Bond Measure so that the tax rate on taxable property located within the District required to repay such bonds will not, based on the District's reasonable expectations at the date of issuance, exceed \$25 per \$100,000 of assessed value.

Section 9. Delivery of this Resolution. The Secretary to this Board is hereby authorized and directed to send or hand-deliver a completed and certified copy of this Resolution to each of the Superintendent of Schools of the County, the Executive Officer-Clerk of the Board of Supervisors of the County and the Registrar of Voters no later than August 12, 2022.

Section 10. Tax Rate Statement; Ballot Arguments. Any one of the Superintendent/President of the District, the President of the Board, or their designees, is hereby authorized to execute the Tax Rate Statement attached hereto as Exhibit C and any other required documents and to perform all acts necessary to place the Bond Measure on the ballot. The Tax Rate Statement shall be delivered to the Registrar of Voters on or before August 12, 2022. Any member of the Board is hereby authorized to act as an author of or signer to any ballot argument prepared in connection with the Election, including a rebuttal argument.

Section 11. Consolidation of Election; Election Services. Pursuant to Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors is requested to permit the Registrar of Voters, or other appropriate officials of the County, to render all services necessary in connection with the Election including, but not limited to, publication of a Formal Notice of Community College Bond Election pursuant to Education Code Section 5363 and related law, the mailing of the sample ballot and tax rate statement (described in Section 9401 of the Elections Code), the opportunity to submit ballot arguments in connection with the Election, the canvassing and certification of the returns of the Election, and other ballot requirements pursuant to Education Code Section 15123, for which services the District agrees to reimburse the County as required by law.

Section 12. Bond Counsel and Municipal Advisor. The Board hereby approves the retention of Norton Rose Fulbright US LLP as bond counsel and KNN Public Finance, LLC, as Municipal Advisor, pursuant to separate contracts to be entered into by the District.

Section 13. Ratification. All actions heretofore taken by the officers, or their respective designees, employees and agents of the Board and the District in connection with the financing of the facilities on the Project List are hereby ratified and confirmed. The officers and their designees, the employees and agents of the Board and the District are hereby authorized to take any and all actions in connection with the financing of such facilities and as may be necessary and consistent with the purposes of this Resolution.

Section 14. Severability. If any section, subsection, phrase or clause of this Resolution is for any reason found to be invalid, such section, subsection, phrase or clause shall be severed from, and shall not affect the validity of, all remaining portions of this Resolution which can be given effect without the severed portion.

Section 15. Authorization of Further Acts. The members of the Board, Superintendent/ President, Vice President of Business & Administration, any designee thereof, and all other staff or officers of the District are hereby authorized and directed, individually and collectively, to do any and all things necessary or advisable to effectuate the purposes of this Resolution.

Section 16. Effective Date. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Trustees of the Santa Monica Community College District at a regular meeting thereof held on the 7th day of June 2022, at Santa Monica, California, at which a quorum of the Board of Trustees was present and acting throughout, by the following vote.

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY:

AYES:

NOES: