

RESOLUTION NO. #2019-36

RESOLUTION OF THE BOARD OF TRUSTEES OF FOOTHILL- DE ANZA COMMUNITY COLLEGE DISTRICT ORDERING AN ELECTION, AND ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER

WHEREAS, the Board of Trustees (the “Board”) of the Foothill-De Anza Community College District (the “District”) has determined that certain educational facilities need to be constructed, renovated, acquired and equipped, in a fiscally prudent manner, to enable the District to maintain both Foothill College and De Anza College as valuable community resources that provide an **affordable education** to local students who desire to learn job skills and **transfer** to four-year universities; and

WHEREAS, since the cost of attending California’s public universities has risen to at least five times that of attending a community college, more students and their families rely on their local community colleges to save tens of thousands of dollars for a quality education; and

WHEREAS, Foothill College and De Anza College must increase opportunities for local students to earn college credits, certifications and job skills at a reasonable price and transfer to four-year universities; and

WHEREAS, in today’s competitive job environment, Foothill College and De Anza College must continue providing essential job training and workforce preparation for students of all ages, veterans and local residents and education for local residents by upgrading classrooms, facilities and technology and expanding access to training programs that help students learn new skills and find better paying jobs in business, technology, nursing, manufacturing, public safety (first responders) and other high-demand careers; and

WHEREAS, because of our changing economy our classrooms and labs must be upgraded to provide students with up-to-date skills and modern technology that will allow for needed programs to keep our local economy strong; and

WHEREAS, Foothill College and De Anza College must continue to provide their students with access to a well-rounded education by continuing to offer the broad science, technology, arts and vocational opportunities students need to be prepared for four-year universities and careers; and

WHEREAS, Foothill College and De Anza College must continue to expand their online education programs, which have course offerings not available on campus and which allow students to continue their studies even when they have hectic work schedules that keep them from campus; and

WHEREAS, the State does not provide the District with enough money for it to adequately maintain Foothill College’s and De Anza College’s educational facilities and academic programs; and

WHEREAS, the Board has received information regarding the feasibility of a local bond measure and the District’s bonding capacity; and

WHEREAS, a local measure will provide funds that cannot be taken away by the State to support local job training and facilitate transfer to four-year universities; and

WHEREAS, a local measure will update Foothill College and De Anza College facilities to prepare students for jobs in business, technology, nursing, manufacturing, and public safety (first-responders); and

WHEREAS, such a local measure will include mandatory taxpayer protections, including an independent citizens' oversight of all funds and mandatory annual financial audits to ensure funds are spent only as authorized; and

WHEREAS, the Board and District have solicited stakeholder and community input on priorities from students, faculty, staff, business and civic leaders, and the community; and

WHEREAS, in the judgment of the Board, it is advisable to provide additional funding for job training and workforce preparation for students and veterans of all ages and local residents and to improve facilities for course opportunities in technical vocational careers, by means of a general obligation bond issued in a financially prudent manner; 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 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 monitored by the District's 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, Elections Code Section 9400 *et seq.* 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, the Board now desires to authorize the filing of a tax rate statement and ballot argument in favor of the proposition to be submitted to the voters at the election; and

WHEREAS, pursuant to the Elections Code, it is appropriate for the Board to request consolidation of the election with any and all other elections to be held on March 3, 2020, and to request the Santa Clara County Registrar of Voters to perform certain election services for the District; and

WHEREAS, in the judgment of the Board, it is advisable to request the Santa Clara County Registrar of Voters to call an election pursuant to Proposition 39 on the question of whether general obligation bonds shall be issued and sold on behalf of the District for purposes set forth below.

NOW THEREFORE, THE BOARD OF TRUSTEES OF FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the Board, pursuant to Education Code Sections 15100 *et seq.*, Sections 15264 *et seq.* and Government Code Section 53506, hereby requests the Santa Clara County Registrar of Voters to call 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 of \$898,000,000 (the “Bonds”) shall be issued and sold to raise money for the purposes described in Exhibits “A” and “B” hereto. Both exhibits are directed to be printed in the voter sample ballot pamphlet. The District’s Chancellor, or the Chancellor’s designee, is hereby authorized and directed to make any changes to the text of the measure, or to the abbreviated form of the measure, as may be convenient or necessary to comply with the intent of this Resolution, the requirements of election officials, and requirements of law.

Section 2. That the date of the election shall be March 3, 2020.

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” is 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 faculty and administrator salaries and other college operating expenses;

(b) that the Board, in compliance with Proposition 39, and in establishing the projects set forth in Exhibit “B”, evaluated safety, university transfer, enrollment trends, class size reduction, class availability, information technology and the technical job training facilities of the District;

(c) that the Board will cause to be conducted an annual, independent performance audit to ensure that the Bond moneys get expended for the types of projects identified in Exhibits “A” and “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 of the Bond proceeds have been expended and accounted for;

(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. The Citizens' Oversight Committee shall initially consist of at least seven (7) members and at no time consist of less than seven (7) members, with the possible exception of brief periods to fill any unexpected vacancies. The Citizens' Oversight Committee may not include any employee or official of the District or any vendor, contractor or consultant of the District. The Citizens' Oversight Committee shall include all of the following: One (1) member who is active in a business organization representing the business community located within the District; One (1) member who is active in a senior citizens' organization; One member who is active in a bona fide taxpayer association. In furtherance of its specifically enumerated purposes, the Citizens' Oversight Committee may engage in any of the following activities relating solely and exclusively to the expenditure of the Proposition 39 bond proceeds:

(i) Receive and review copies of the annual, independent financial and performance audits performed by independent consultant(s);

(ii) Inspect District facilities and grounds to ensure that Proposition 39 bond revenues are expended in compliance with applicable law;

(iii) Receive and review copies of all scheduled maintenance proposals or plans developed by the District;

(iv) Review efforts of the District to maximize Proposition 39 bond revenues by implementing cost-saving programs; 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.*, 15340 *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 Education Code Section 5322. In connection with ordering the election pursuant to the provisions cited above, the District has obtained reasonable and informed projections of assessed property valuations that take into consideration projections of assessed property valuations made by the County assessor that are available to the District.

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 March 3, 2020, within the District, and pursuant to Elections Code Section 10403, the District acknowledges that the consolidation election will be held and conducted in the manner described in Election Code Section 10418.

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 March 3, 2020.

Section 8. That the Secretary of the Board is hereby directed to send a certified copy of this Resolution to the Santa Clara County Registrar of Voters no later than December 6, 2019.

Section 9. That the bonds shall be issued pursuant to Education Code Section 15300 *et seq.* or issued pursuant to Government Code Section 53506. The maximum rate of interest on any bond shall not exceed the maximum rate allowed by Education Code Sections 15140 to 15143, as modified by Government Code Section 53531. The Board approves the filing of a Tax Rate Statement and primary and rebuttal arguments, as appropriate, and directs their publication in accordance with the requirements of the Elections Code.

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. Pursuant to Education Code Section 5303 and Elections Code Section 10002, the Santa Clara County Board of Supervisors is requested to permit the Santa Clara County Registrar of Voters to render all services specified by Elections Code Section 10418, for which services the District agrees to reimburse Santa Clara County for 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 Elections Code Section 9401) pursuant to the terms of Education Code Section 5363 and Elections Code Section 12112.

ADOPTED, SIGNED AND APPROVED this 25th day of November, 2019.

BOARD OF TRUSTEES OF THE FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT

By _____
Board President

Attest:

Secretary

STATE OF CALIFORNIA
SANTA CLARA COUNTY

I, Dr. Judy Miner, do hereby certify that the foregoing is a true and correct copy of Resolution No. 2019-36, which was duly adopted by the Board of Trustees of the Foothill-De Anza Community College District at a special meeting thereof held on the 25th day of November, 2019, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

By _____
Secretary

EXHIBIT A

“FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT AFFORDABLE CAREER, COLLEGE TRANSFER, CLASSROOM REPAIR MEASURE. To upgrade facilities preparing students/veterans for university transfer/careers like healthcare, nursing, technology, engineering/sciences; upgrade/repair aging classrooms, labs for science, technology, engineering/math-related fields of instruction; acquire, construct, repair facilities, equipment/sites; shall Foothill-De Anza Community College District’s measure authorizing \$898,000,000 in bonds at legal rates, levying 1.6 cents /\$100 assessed valuation (\$48,000,000 annually) while bonds are outstanding, with audits/no money for administrators’ salaries, be adopted?”

Bonds - Yes

Bonds – No

EXHIBIT B

FULL TEXT BALLOT PROPOSITION

FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT AFFORDABLE CAREER, COLLEGE TRANSFER, CLASSROOM REPAIR MEASURE

ELECTION MARCH 3, 2020

“FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT AFFORDABLE CAREER, COLLEGE TRANSFER, CLASSROOM REPAIR MEASURE. To upgrade facilities preparing students/veterans for university transfer/careers like healthcare, nursing, technology, engineering/sciences; upgrade/repair aging classrooms, labs for science, technology, engineering/math-related fields of instruction; acquire, construct, repair facilities, equipment/sites; shall Foothill-De Anza Community College District’s measure authorizing \$898,000,000 in bonds at legal rates, levying 1.6 cents /\$100 assessed valuation (\$48,000,000 annually) while bonds are outstanding, with audits/no money for administrators’ salaries, be adopted?”

PROJECTS

The Board of Trustees of the Foothill-De Anza Community College District, to be responsive to the needs of its community, evaluated Foothill College’s and De Anza College’s urgent and critical facility needs, and their capacity to provide students a **well-rounded and affordable education** and **job training** facilities, and prepare them for success in local jobs and in transferring to four-year universities. Job training and college transfer facilities, safety issues, class size and offerings, and information and computer technology were each considered in developing the types of projects to be funded by this measure. In developing the types of projects described herein, job training facilities, facilities supporting **college transfer** and career training classrooms, and the expansion of opportunities for local students to receive an **affordable, quality education**, were **prioritized**. If these facility needs are not addressed now, both Foothill and De Anza Colleges would be unable to remain competitive in preparing students for jobs in high demand industries and **transfer to four-year colleges and universities**.

The **Board of Trustees** determines that Foothill-De Anza **MUST**:

- (i) **Increase opportunities for local students to earn college credits, certifications, and job skills at a reasonable price and transfer to four-year universities;**
- (ii) **Obtain additional funding to upgrade classrooms, facilities and technology and expand access to training programs that help students learn new skills and find better paying jobs;**
- (iii) **Ensure that our colleges offer students broad science, technology, arts and vocational opportunities they need to be prepared for four-year universities and careers;**
- (iv) **Invest in quality online education to allow working students to access course offerings when they are not available on campus.**

The types of projects which are authorized to be undertaken at Foothill College and De Anza College campuses include:

PROVIDE LOCAL STUDENTS AN AFFORDABLE EDUCATION:

**Improvements Needed to Allow Foothill/De Anza Colleges
to Provide Affordable Job Training and Vocational
Programs That Are Needed Prepare Students for In-Demand Careers**

Goals and Purposes:

The cost to attend California's public universities has risen to at least five times that of attending a community college. As a result, more students and their families rely on their local community college to save tens of thousands of dollars. This measure would allow Foothill College and De Anza College to increase opportunities for local students to earn college credits, certifications, and job skills at a reasonable price and transfer to four-year universities.

One of the qualities that make Foothill College and De Anza College the top performers in California is that their students have access to a well-rounded education. This measure will ensure that Foothill College and De Anza College are each able to continue offering students the broad science, technology, arts and vocational opportunities needed to be prepared for four-year universities and careers.

- Repair or replace aging plumbing systems to prevent flooding and water damage.
- **Improve access to college facilities for students with disabilities.**
- Improve deteriorating gas, electrical, sewer and plumbing lines and systems.
- Improve earthquake safety.
- Upgrade classrooms and labs for science, technology, engineering, and math-related fields.
- Improve water conservation and install systems that will help manage future droughts.
- Replace aging internet and electrical wiring.

PROVIDE JOB TRAINING AND COLLEGE TRANSFER:

**Classroom and Program Improvements to Help Local Students and Veterans
Transfer to Four-Year Universities;
Be Trained for Careers in Business, Nursing and Technology**

Goals and Purposes: Foothill College and De Anza College each provide essential job training and workforce preparation for students of all ages, veterans and local residents. The measure would upgrade classrooms, facilities and technology and expand access to training programs

that help students learn new skills and find better paying jobs in business, technology, nursing, manufacturing, public safety (first responders) and other high-demand careers.

Foothill-De Anza's online education program allows students to continue their studies even when they have hectic work schedules that keep them from coming onto campus. It also lets students have access to course offerings beyond what is available on campus. This measure would make it possible to further invest in high quality online education.

- Improve and maintain classrooms and labs for career preparation in fields like healthcare and early childhood education.
- Improve vocational classrooms and labs, such as auto repair and technology training programs; construct new permanent buildings.
- Upgrade job training and vocational classrooms.
- Repair deteriorating classrooms and facilities.

In addition to the listed types of projects stated above, the types of authorized projects of the measure also include the acquisition of a variety of instructional, maintenance and operational equipment, including interim funding incurred to advance fund projects and the refinancing of outstanding lease obligations, payment of the costs of preparation of all facility planning, fiscal reporting, facility studies, assessment reviews, facility master plan preparation and updates, environmental studies (including environmental investigation, remediation and monitoring), design and construction documentation, connection fees, permit fees, and temporary housing of dislocated college 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: renovate student and staff restrooms; replace aging electrical and plumbing systems; repair and replace heating, ventilation and air conditioning systems; install building management systems; acquire vehicles, trucks; upgrade of facilities for energy efficiencies including the installation of solar panels or arrays, electric charging stations, chiller replacements and decarbonization programs; repair and replace worn-out and leaky roofs, windows, walls doors and drinking fountains; replace or remove outdated buildings and classrooms and construct new classrooms and support buildings; plan, construct, acquire or contribute to affordable employee and student housing units; upgrade wiring and electrical systems to safely accommodate computers, technology and other electrical devices and needs; upgrade facilities to meet current environmental sustainability, State compliance standards and earthquake safety; repair and replace fire alarms, emergency communications and security systems; upgrade, resurface, replacing or relocate hard courts, fields, turf and irrigation systems; replace turf on athletic fields; upgrade classrooms; build new or renovate existing facilities such as a career and technical education building, one-stop student services building, parking structures; build new or upgrade sports fields, gymnasiums, pools and other athletic facilities; upgrade, resurface and recondition existing parking lots, roads and sidewalks; improve vehicular access and circulation; improve drop-off zones; repair, upgrade and install interior and exterior lighting systems; replace water lines and valves and sewer lines; construct, upgrade, acquire or expand, multi-use classrooms and labs, swing space, student resources center, student library, outdoor classrooms/performance space, fine/ theater and visual arts, music and performing arts facilities, conference center space, field lights, bleachers, press box, track replacement, collaborative office suites and administrative offices, purchasing and maintenance facility, and public safety facilities; improve water conservation and energy efficiency; acquire land; replace existing window systems with energy-efficient systems to reduce costs; improve insulation, weatherproofing and roofs to reduce costs; improve access for

the disabled; install and repair fire safety equipment, including alarms, smoke detectors, sprinklers, emergency lighting, and fire safety doors; replace broken concrete walks, deteriorated asphalt; replace/upgrade existing signage to reflect better wayfinding, bells and clocks; demolition of unsafe facilities; install or upgrade new security systems, such as security (surveillance) cameras, burglar alarms, handrails, outdoor lighting, fencing, landscaping, gates, gateways and classroom key cards/door locks; replace sewer lines and improve drainage systems to prevent flooding; upgrade roadway and pedestrian paths and pathways and bridges for improved safety and access for emergency vehicles, site parking, utilities and grounds. The upgrading of technology infrastructure includes, but is not limited to, upgrading classroom technology, expanding wireless internet access throughout each college campus, acquire portable interface devices, servers, switches, routers, modules, sound projection systems, information systems, printers, digital white boards, upgrade voice-over-IP, communication systems, audio/visual and telecommunications systems, call manager and network security/firewall, Internet connectivity, wireless systems, technology infrastructure, acquire necessary software and other miscellaneous IT and instructional equipment, DATA storage, fiber/copper infrastructure, phones, identity access cards and the construction and installation of a data center in the cloud for District's enterprise systems, such as resource planning, websites, domain name systems, cloud applications and information security.

The listed projects will be completed as needed. Each project is assumed to include its share of furniture, equipment, architectural, engineering, legal and similar costs, connection fees, permit fees, program and project management, staff training expenses, a customary contingency, and costs associated with the Total Cost of Ownership of facilities and equipment. The allocation of bond proceeds may be affected by 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 or decisions 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 budgets of projects or on the then current priorities of the District, certain of the projects described above may be delayed or may not be undertaken. 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 on-site and off-site improvements, site preparation and restoration, including the acquisition and installation of temporary facilities (swing space) 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 traffic signals, sewer, irrigation, utility lines, trees and landscaping, relocating fire access roads, widening roads, 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 types of projects and 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 Section 53410.

FISCAL ACCOUNTABILITY

This bond measure has strict accountability requirements including:

1. All money will benefit Foothill College and De Anza College and CANNOT BE TAKEN BY THE STATE.

2. NO MONEY can be used for ADMINISTRATOR SALARIES or pensions.
3. Require TAXPAYER OVERSIGHT and yearly audits to ensure all funds are used locally, effectively and as promised.
4. 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, faculty and college administrator salaries, pensions and other operating expenses.
5. **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.**