



BOARD OF TRUSTEES

Foothill-De Anza Community College District
12345 El Monte Road
Los Altos Hills, CA 94022

*For information and disability access to materials, call 650-949-6100.
Requests for accommodation should be made no later than one business day
prior to meeting. Meetings are held in a location accessible to the disabled.*

December 1, 2008

Closed Session: 4:00 p.m.
Chancellor's Office

Holiday Reception: 5:00 p.m.
District Board Room

Public Session: 6:00 p.m.
District Board Room

*Members of the public who wish to comment on items or address the Board may do so
by completing a request form prior to the start of the meeting and are limited to five minutes each.*

AGENDA

Regular Meeting

CALL TO ORDER & ROLL CALL

ADJOURN TO CLOSED SESSION

Closed Session — 4:00 p.m.

CONFERENCE WITH PROPERTY NEGOTIATORS

- Under Negotiation: Price and terms of payment
- Agency Negotiator: Kevin Crawford, Andy Dunn and John Shupe
- Property: 4000 Middlefield Road, Palo Alto, CA 94303
- Negotiating Parties: City of Palo Alto
- Property: 189 N. Bernardo Avenue, Mt. View, CA 94043
- Negotiating Parties: Cornish & Carey Commercial
- Property: 21265-21269 Stevens Creek Blvd., Cupertino, CA 95014
- Negotiating Parties: Homeland Management, Inc.

STUDENT DISCIPLINE — EXPULSIONS

- Student ID: 11226924
- Student ID: 11213727

Recess — 5:00 p.m.

ANNUAL HOLIDAY RECEPTION

Public Session — 6:00 p.m.

RECONVENE PUBLIC SESSION

REPORTING OUT FROM CLOSED SESSION

ANNUAL ORGANIZATION MEETING

- Election of Officers
 - President
 - Vice President
 - Secretary
- Committee Appointments
 - Board Rep. to County Committee on School District Organization
 - Chairperson, Audit & Finance Committee

**INFORMATION
ACTION**

Member, Audit & Finance Committee
Foothill-De Anza Colleges Foundation, Two Directors
Trustee Scholarship Interview Committee, Two Members

APPROVAL OF MINUTES

ACTION

November 3, 2008

CORRESPONDENCE

INFORMATION

HEARINGS: ITEMS NOT ON THE AGENDA

INFORMATION

The Board does not take action or respond to items not on the agenda.

- Public
- Students
- Staff
- Board

APPROVAL OF CONSENT CALENDAR

ACTION

1. Resolution Honoring Former Trustee Paul Fong **(Kanter x6104)**
2. Ratification of Contracts and Agreements **(Dunn x6201)**
3. Ratification of B Warrants Greater Than \$5,000 for September and October 2008, and Wire Transfers Greater Than \$5,000 for August and October 2008 **(Dunn x6201)**
4. Ratification of B Warrants Greater Than \$5,000 for Enterprise Funds for July, August and September 2008 **(Dunn x6201)**
5. Delegation of Authority Resolutions **(Dunn x6201)**
6. Authority to Modify Banking Relationship **(Dunn x6201)** *(See Public Memo for backup)*
7. Resolution Authorizing Separate Bank Accounts **(Dunn x6201)**
8. Resolution Authorizing Termination of the Agreement with the Retiree Health Benefit Program Joint Powers Agency Sponsored by the Community College League of California **(Dunn x6201)**
9. Authorization to Renew Adobe Open Options CLP Licensing Program Membership **(Sherman x6120)**
10. Foothill and De Anza Colleges Impact – Community Education Short Courses for Winter/Spring 2009 **(Blinick x8280)**
11. Donation of De Anza Auto Tech Engines **(Bailey x6165)**
12. Sale of Miscellaneous HVAC and Auto Tech Equipment **(Bailey x6165)**
13. Sale of Surplus Equipment **(Bailey x6165)**

14. [Sale of Miscellaneous Surplus E-Waste Equipment](#) **(Bailey x6165)**
15. [Donation of Surplus District Personal Property](#) **(Bailey x6165)**
16. [Authorization to Purchase Microscopes and Related Accessories Pursuant to Bid 1173](#) **(Bailey x6165)**
17. [Personnel Actions as Follows:](#) **(Novotny x6211)**
 - Extend Employment Contract – Brenda Ann Davis Visas, Foothill Director **(See Public Memo for backup)**
 - Reduction in Load by 33% – Lesley Dauer, Foothill Faculty
 - Employment – Brenda Hanning, Foothill Director/Instructor
 - Temporary Leave Replacement – Lakshmi Padmanabhan, De Anza Faculty
 - Temporary Leave Replacement – Karen Yamamoto, De Anza Faculty
18. [Human Resources Report](#) **(Novotny x6211)**

BOARD BUSINESS

19. [Selection of Finalists for Trustee Vacancy](#) **(Kanter x6104)** *(See Public Memo for backup)* **ACTION**
20. [Appointments to Citizens’ Bond Oversight Committee](#) **(Kanter x6104)** **ACTION**
21. [New Board Policy 3260, Electronic Information Security](#) *(first reading)* **(Sherman x6210)** **INFORMATION**

BUSINESS AND FINANCE/FACILITIES

22. [Audit for Year Ended June 30, 2008](#) **(Dunn x6201)** **INFORMATION**
23. [Independent Auditor’s Report on Measure C Agreed Upon Procedures](#) **(Dunn x6201)** **INFORMATION**
24. [Quarterly Listing of District Investments](#) **(Dunn x6201)** **INFORMATION**
25. [Budget and Enrollment Update](#) **(Dunn x6201)** **INFORMATION**
26. [NASA Research Park \(NRP\) Development Update](#) **(Dunn x6201)** **INFORMATION**

MEASURE E PROJECTS

27. **Measure E Consent Calendar (Allen x6150)** **ACTION**
- A) Revision #1 (Visual and Performing Arts Center) – Allana Buick + Bers
 - B) Revision #2 to Addendum #D-24 (Visual and Performing Arts Center) – Cleary Consultants
 - C) Revision #9 (Visual and Performing Arts Center) – DES Architects
 - D) Change Order #14 (Visual and Performing Arts Center) – S.J. Amoroso
 - E) Professional Services Agreement (Radio Station/Language Arts) – Allana Buick + Bers
 - F) Revision #2 to PAA #1 (Radio Station/Language Arts) – Architerra
 - G) Budget Transfer #68
 - H) Agreement – Salas O’Brien Engineers
 - I) Project Authorization Amendment #D-001 (Campus Site Lighting) – Salas O’Brien Engineers

MEASURE C PROJECTS

28. **Measure C Consent Calendar (Allen x6150)** **ACTION**
- A) Change Order #2 (Visual and Performing Arts Center) – Avidex Industries
 - B) PAA #1 (Mediated Learning Center) – Cogent Energy
 - C) Change Order #1 (Visual and Performing Arts Center) – Legend Theatrical
 - D) Project Authorization Amendment #F-HMC-#1B (Buildings 5500, 6400 and 1900) – HMC Architects
 - E) Revision #1 to PAA #1C (Seminar) – Noll & Tam Architects
 - F) Revision #2 to PAA #1B (Seminar) – Noll & Tam Architects
 - G) Project List Revision / Budget Transfers CS #05, DA #10 and FH #09
29. **Foothill College Facilities Master Plan Environmental Impact Report (Allen x6150)** **ACTION**
30. **Pre-Qualification of Prospective Bidders for Measure C Project (Mediated Learning Center – Civil Site Preparation) at De Anza College (Bailey x6165)** **ACTION**
31. **Notice of Intent to Adopt a Mitigated Negative Declaration for the East Cottage and Baldwin Winery Building Rehabilitation Projects Proposed for De Anza College (Allen x6150)** **ACTION**

DATES TO REMEMBER / FUTURE AGENDA ITEMS

INFORMATION

December 2, 2008 — Citizens' Bond Oversight Committee
December 8, 2008 — Special meeting
 Reception Honoring Paul Fong
 Appointment to Fill Trustee Vacancy
January 20, 2009 — Workshop and Regular meeting
 Chancellor's Evaluation
 Educational Master Plan 2005-2015 and 2010-2020
 Budget
 Facilities and Measure C Progress Report
 Sustainability Plan
 Legislative Principles
 Board Protocol
 Board Goals
 Presentation on De Anza Mediated Learning Center

ADJOURNMENT

ACTION

Foothill-De Anza Community College District
Financing Corporation
AGENDA
December 1, 2008

- I. Call to Order
 - II. Report of Status of Projects
 - III. [Approval of Minutes of December 3, 2007](#)
 - IV. Election of New Officers
 - V. Public Comments
 - VI. Other Business
 - VII. Adjournment
-

FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT

Office of the Chancellor

TO: Members of the Board of Trustees
FROM: Martha J. Kanter, Chancellor
DATE: November 25, 2008
RE: Public Session, **December 1, 2008**

CONSENT CALENDAR

1. Resolution Honoring Former Trustee Paul Fong

Former trustee Paul Fong was elected to the California State Assembly on November 4, 2008. This resolution honoring his 15 years of leadership and service on the Board of Trustees is presented in recognition of the occasion. Chancellor Martha Kanter recommends **approval**.

2. Ratification of Contracts and Agreements

Presented to the Board for ratification is the list of contracts and agreements signed by Andy Dunn, Vice Chancellor of Business Services. Vice Chancellor Andy Dunn recommends **ratification of the contracts and agreements as presented**.

3. Ratification of B Warrants Greater Than \$5,000 for September and October 2008, and Wire Transfers Greater Than \$5,000 for August and October 2008

Attached for Board ratification are B Warrants greater than \$5,000 for September and October 2008, and Wire Transfers greater than \$5,000 for August and October 2008. There were no Wire Transfers greater than \$5,000 for the month of September 2008. A complete listing of all B Warrants and Wire Transfers is available for public viewing in the Chancellor's Office. Vice Chancellor of Business Services Andy Dunn recommends **ratification**.

4. Ratification of B Warrants Greater Than \$5,000 for Enterprise Funds for July, August and September 2008

Presented to the Board for ratification are the B Warrants greater than \$5,000 for the following Enterprise Funds for the months of July, August and September 2008: De Anza Bookstore and Food Services, Foothill Bookstore, and Flint Center. A complete listing of all B warrants is available for public viewing in the Chancellor's Office. Vice Chancellor of Business Services Andy Dunn recommends **ratification of the Enterprise Funds B Warrants greater than \$5,000 as presented.**

5. Delegation of Authority Resolutions

Presented to the Board for ratification are resolutions to permit certain individuals to purchase materials and services and to enter into contracts subject to Board review or ratification. Vice Chancellor of Business Services Andy Dunn recommends **adoption of the Delegation of Authority Resolutions #2008-19A through #2008-19H as submitted.**

6. Authority to Modify Banking Relationship

Bank of the West has provided operational banking services to Santa Clara County since 1987. The Foothill-De Anza Community College District has enjoyed a relationship with Bank of the West for a similar period. The Santa Clara County Controller-Treasurer Department (County) has had their banking relationship under study since 2005. Following the issuance of a Request For Proposal (RFP) and a lengthy qualification-based selection process, earlier this year the County awarded a new contract for operational banking services to Bank of America. Wanting to maintain the efficiencies the District has enjoyed in the past by utilizing the same bank as the county, Business Services asked the County to provide a copy of the RFP in order to gauge whether the District would be able to utilize this same solicitation process; i.e., "piggyback" on the county RFP. Staff also requested a meeting with the new representative from Bank of America to validate whether Bank of America would extend the same cost structure they provided to the County to local governments within Santa Clara County. The RFP was forwarded to legal counsel John Shupe for review, who made the following observations:

The County handles the District's funds and has its own banking relationships for those activities. The District also has its own direct banking relationships, some of which do not include the County as a necessary partner. The County's switch to a new bank for its activities with the District's funds does not require the District to switch to the same bank to handle the District's own direct banking matters.

The District's ability to "piggyback" on a County RFP depends primarily upon whether the County's RFP expressly contemplates other entities doing that in lieu of

running their own banking RFPs. If the County's RFP expressly calls for the successfully responding vendor to honor the same deal with other entities which choose to piggyback, then it is legally permissible for the District to do so. In reviewing this RFP, there is, however nothing indicating any intent to require responders to allow other public entities to piggyback. In fact, the RFP seems quite tailored to just the County's needs, which also suggests lack of intent to allow piggybacking.

There is, however, not a legal requirement to issue an RFP and go through that sort of qualification-based selection process to procure professional financial services such as those now being provided to the County by Bank of America (Government Code section 53060). Ultimately, the decision as to whether to issue an RFP would lie with the Board of Trustees, presumably based upon a staff recommendation.

Additional research by staff suggests a strong business rationale for maintaining this relationship. First, members of the Business Services group met with the Bank of America representative and were able to procure a letter confirming the same cost metric for service that is being provided to the County. Further, The District incurs a significant number of banking transactions, many of which occur on a daily basis. These activities include warrants involving payroll, vendor and student financial aid disbursements. In addition, the County processes direct deposits for payroll twice a month and student financial aid on a weekly basis. The District maintains a depository account to process cash, check and credit card deposits. These are activities that occur on a daily basis. The District also disburses the medical insurance claim expenses through the depository account. All the auxiliary entities include bookstores, associated student body for both colleges, Foundation, California History Foundation and Flint Center, which maintain separate accounts to process the daily deposits and disbursements. With this level of activity, maintaining the same operational banking relationship as the County does provide the District with cost and operating efficiencies. Under the same banking network, the District is able to transfer funds the same day between the District's account and the County in a real time environment. Absent that same network, the District would need to transfer the excess cash either by mailing a check or wiring the funds to the County. These inefficiencies would also result in lost investment opportunity costs and additional bank charges. The increase of the processing float is two days by mail and one day by wiring. With an average transfer of \$495,000, the annual missed opportunity yield is around \$34,650 by mail and \$17,325 by wire plus \$25 bank fee per wire.

On November 3, 2008, this matter was reviewed and discussed by the Audit and Finance Committee. The Audit and Finance Committee agreed with the staff recommendation that the District modify its banking relationships and move to Bank of America in order to maintain the efficiencies outlined above.

Vice Chancellor of Business Services Andy Dunn recommends that the Board **approve the proposed modification to the District's banking relationship.**

7. Resolution Authorizing Separate Bank Accounts

In compliance with the California Community Colleges Budget and Accounting Manual, the Board is presented with a list of bank accounts for review and confirmation. The list of bank accounts includes the position titles of those individuals authorized as signers on these accounts. A resolution to authorize separate bank accounts and to authorize the signers of these accounts, by position, is presented to the Board for adoption. Vice Chancellor of Business Services Andy Dunn recommends that the Board **adopt Resolution #2008-20 authorizing separate bank accounts.**

8. Resolution Authorizing Termination of the Agreement with the Retiree Health Benefit Program Joint Powers Agency Sponsored by the Community College League of California

The Board of Trustees authorized entering into an agreement with the Retiree Health Benefit Program Joint Powers Agency (JPA), sponsored by the Community College League of California, on December 6, 2004. The agreement includes a termination clause that the District wishes to invoke in order to proceed with a Request For Proposal (RFP) process for a GASB 43 and 45 Compliance Plan.

As part of the RFP process, the District may select an alternative vendor other than the JPA. In order to allow for the selection of an alternative vendor effective July 1, 2009, the District must prepare a termination resolution to be approved by the Board and submitted to the JPA prior to December 31, 2008. If the RFP process results in a recommendation to continue the relationship with the JPA, the District will be able to revoke the termination. A resolution to authorize termination of the agreement with the Retiree Health Benefit Program Joint Powers Agency (JPA) is presented to the Board for adoption.

Vice Chancellor of Business Services Andy Dunn recommends that the Board **adopt Resolution #2008-21 Authorizing Termination of The Agreement With The Retiree Health Benefit Program Joint Powers Agency (JPA) Sponsored By The Community College League of California.**

9. Authorization to Renew Adobe Open Options CLP Licensing Program Membership

The Adobe Open Options (AOO) CLP 4.5 Volume Licensing Program is a two-year licensing program membership that sets a discount level for orders placed during the life of the CPL 4.5 membership. The Foothill-De Anza Community College District is currently at the highest level of discount available and will continue at this level by renewing this agreement. The discount level was determined by the cost of an initial order placed in 2002. There is no cost for the membership, which is due for renewal on January 2, 2009.

Adobe does not sell direct and therefore requires the District to purchase software licenses from an approved reseller. The resellers are allowed by Adobe to sell at a higher price from Adobe's base price. Educational Technology Services (ETS) and Purchasing Services will conduct a competitive bidding process during November and December 2008 to procure reseller services for Adobe software licenses.

Educational Technology Services recommends the Board authorize Fred Sherman or his designee, to renew the Adobe Open Options CLP licensing program membership, which is due for renewal on January 2, 2009.

Vice Chancellor of Technology Fred Sherman recommends that the Board **authorize the Vice Chancellor of Technology or his designee to renew the Adobe Open Options CLP Licensing Program Membership.**

10. Foothill and De Anza Colleges Impact – Community Education Short Courses for Winter/Spring 2009

Board approval is requested for the attached schedule of Community Education Short Courses for Winter/Spring quarters 2009. De Anza President Brian Murphy recommends **approval.**

11. Donation of De Anza Auto Tech Engines

The De Anza College Auto Tech program has two (2) obsolete engines that are of no further use to the District (see attached spreadsheet). Education Code 81450.5(b) provides that a community college district may donate any personal property belonging to the district if the district determines that the property is no longer required for school purposes. The property may be donated to a school district, a community college district, or a public entity.

Fremont High School and Homestead High School have evaluated the engines and found them to be acceptable for use by their respective high schools (see attached letters). Therefore, it is recommended that one engine each be donated to Fremont High School and Homestead High School.

Purchasing Services Supervisor Gina Bailey recommends that the Board **authorize the Purchasing Services Supervisor to donate the engines to Fremont High School and Homestead High School in accordance with Education Code 81450.5(b).**

12. Sale of Miscellaneous HVAC and Auto Tech Equipment

The District has miscellaneous HVAC and Auto Tech equipment that Plant Services has determined is obsolete and of no further use to the District (see attached). California Education Code 81452(a) provides that if the governing board by a unanimous vote of those members present, finds that the property, whether one or more items, does not exceed in value the sum of five thousand dollars (\$5,000.00), the property may be sold by any employee of the District empowered for that purpose by the board.

The equipment does not function and all salvageable parts have been removed. Additionally, all fluids have been disposed of properly. The residual value of the equipment is as scrap metal only. Therefore, Purchasing Services plans to post a notice on BidNet and call for competitive bids from metal recycling companies. Proceeds will be deposited to the District's general fund.

Purchasing Services Supervisor Gina Bailey recommends that the Board **make a finding that the property does not exceed \$5,000 in value and authorize the Purchasing Services Supervisor to sell the items in accordance with Education Code 81452(a).**

13. Sale of Surplus Equipment

The District has twelve (12) oscilloscopes and a floor-mounted sander that is of no further use to the District (see attached). The estimated aggregate market value is less than \$5000.00 based upon the estimated current value. California Education Code 81452(a) provides that if the governing board, by a unanimous vote of those members present, finds that the property, whether one or more items, does not exceed in value the sum of five thousand dollars (\$5000.00), the property may be sold by any employee of the District empowered for that purpose by the board.

Purchasing Services plans to call for competitive bids on PublicSurplus.com. Public Surplus is a government surplus auction system that has been developed for public agencies. Public Surplus is similar to eBay and allows anyone to register free on the website for the purposes of bidding. However, if an item sells, the District pays a seller's fee to Public Surplus equal to 7% of the final selling price. Purchasing Services will sell the property to the highest responsive bidder. Net proceeds will be deposited to the District General Fund.

Purchasing Supervisor Gina Bailey recommends that the Board, in accordance with Education Code 81452 (a), **make a finding that the property does not exceed \$5000 in value and authorize the Purchasing Services Supervisor to sell the twelve (12) oscilloscopes and the floor mounted sander.**

14. Sale of Miscellaneous Surplus E-Waste Equipment

The District has approximately 10 pallets of computers, monitors, printers, and miscellaneous electronic equipment. Educational Technology Services departmental staff have determined that the items are obsolete and of no further use to the District. De Anza College Occupational Training Institute and the DASB have also found them to be unsuitable for further use. The District also has other electronic items that are in non-working condition or are of no further use. In accordance with the Electronic Waste Recycling Act, these items are considered electronic waste and should be sold to an authorized State of California CRT material handlers, collectors and recyclers. See attached surplus forms prepared by the colleges for a list of electronic waste scheduled to be sold. The estimated aggregate market value of this electronic equipment is less than \$5,000.

California Education Code 81452(a) provides that if the governing board by a unanimous vote of those members present, finds that the property, whether one or more items, does not exceed in value the sum of five thousand dollars (\$5,000.00), the property may be sold by any employee of the District empowered for that purpose by the board.

Purchasing Services plans to post a notice on BidNet and call for competitive bids from companies that are authorized State of California CRT material handlers, collectors and recyclers. Proceeds will be deposited to the District's general fund.

Purchasing Services Supervisor Gina Bailey recommends that the Board **make a finding that the property does not exceed \$5,000 in value and authorize the Purchasing Services Supervisor to sell the items in accordance with Education Code 81452(a).**

15. Donation of Surplus District Personal Property

The District has 42 monitors and 21 computers that have been replaced with new equipment. The used equipment is unsatisfactory for further use by the District. Each monitor has an estimated value of \$20 and each computer has an estimated value of \$40. Therefore, the estimated aggregate value is \$1,680.

The De Anza College Occupational Training Institute evaluated this equipment and found it acceptable for refurbishment and donation to students as scholarships. Therefore, it is recommended that the computers and monitors be donated to the Foothill-De Anza Colleges Foundation, which is a tax-exempt public benefit corporation under Section 501c(3) of the Internal Revenue Service Code.

California Education Code 81452(c) provides that if the governing board, by a unanimous vote of those members present, finds that the property, is of insufficient value to defray the costs of arranging a sale, the property may be donated to a charitable organization deemed appropriate by the board.

Purchasing Services Supervisor Gina Bailey recommends that the Board **make a finding that the items are of insufficient value to defray the costs of arranging a sale and authorize the Purchasing Services Supervisor to donate the items to the Foothill-De Anza Colleges Foundation.**

16. Authorization to Purchase Microscopes and Related Accessories Pursuant to Bid 1173

Invitation to Bid 1173 called for bids for the purchase of ninety-three (93) student microscopes and one (1) instructor microscope with digital camera. The bid opportunity was legally advertised in the San Jose Post Record on October 17 and October 22, 2008. The Invitation to Bid was distributed to twelve (12) vendors and also advertised online at BidNet. Purchasing Services staff publicly opened and read the bids on November 7, 2008.

The District received a “no bid” response from Frey Scientific and a bid from Olympus America, Inc. The Olympus DP71 camera specified in the bid document is no longer available new. Therefore, Olympus America, Inc. submitted a price for a refurbished model. Section 1, paragraph 1.03 – Equals or Substitutions of the bid document provide that the District reserves the right to accept exceptions or deviations if an article substantially meets or exceeds the specifications. Foothill College representatives have confirmed that the refurbished camera proposed by Olympus America, Inc. is an acceptable equal. The bid price of \$167,050.42 submitted by Olympus America, Inc. includes all delivery fees, assembly, installation, and sales taxes.

The microscopes and accessories will be purchased with the State of California Capital Outlay Life Science’s Building Equipment funds that must be expended May 15, 2009. The total amount budgeted by Foothill College for this purchase is \$170,000.

Purchasing Services Supervisor Gina Bailey recommends that the Board **authorize the District Purchasing Supervisor to issue purchase orders in the amount not to exceed \$167,050.42 to Olympus America, Inc., pursuant to the prices, terms, and conditions set forth in Bid 1173.**

17. Personnel Actions

<i>Name:</i>	Brenda Ann Davis Visas
<i>Position:</i>	Director
<i>College:</i>	Foothill College
<i>Division:</i>	Facilities and Special Projects
<i>Action:</i>	Extend Employment Contract
<i>Effective Date:</i>	January 1, 2009 through December 31, 2009

Name: **Lesley Dauer**
Position: Faculty
College: Foothill College
Division: Language Arts
Action: **Reduction in Load by 33%**
Effective Date: January 5, 2009 through June 30, 2009

Name: **Brenda Hanning**
Position: Director / Instructor
College: Foothill College
Division: Respiratory Therapy Program
Action: **Employment**
Compensation: Column I / Step F @ \$6,672.96/month
Effective Date: January 1, 2009 # of Months: 12

Name: **Lakshmi Padmanabhan**
Position: Faculty
College: De Anza College
Division: Child Development Center
Action: **Temporary Leave Replacement**
Compensation: Column I / Step E @ \$3,269.43
Effective Date: November 3, 2008 through June 30, 2009 # of Months: 8

Name: **Karen Yamamoto**
Position: Faculty
College: De Anza College
Division: Child Development Center
Action: **Temporary Leave Replacement**
Compensation: Column IV / Step H @ \$5,489.65
Effective Date: November 3, 2008 through June 30, 2009 # of Months: 8

Vice Chancellor of Human Resources and Equal Opportunity Dorene Novotny recommends **approval**.

18. Human Resources Report

The Human Resources report is presented for Board approval. The report reflects the personnel actions in the following categories: new hires, promotions, permanent contract changes, reclassifications, resignations, retirements, leaves of absence, professional growth awards, service recognition awards and longevity awards for classified staff, part-time faculty and short-term and temporary employees. Vice Chancellor of Human Resources and Equal Opportunity Dorene Novotny recommends **approval**.

BOARD BUSINESS

19. Selection of Finalists for Trustee Vacancy

Following the election of Trustee Paul Fong to the California State Legislature on November 4, 2008 and his subsequent resignation from the Board, the District announced a vacancy on the Board with advertisements in local newspapers, press releases and website postings. Candidates were requested to submit by 5:00 p.m. on December 1, 2008 a resume and cover letter addressing three questions:

- Why did you apply for the position? How does the Foothill-De Anza trustee position fit your personal and professional goals?
- How do you define and evaluate ethics in the decisions and behavior of a trustee?
- How would you balance competing needs in a collective bargaining environment?

All application materials submitted by the deadline will be distributed to the Board at the December 1, 2008 meeting with a ballot listing each candidate who meets the qualification of being a registered voter within the Foothill-De Anza District boundary. After reviewing the application materials, each trustee will be asked to vote for those candidates they would like to invite for an interview with the Board in public session on December 8, 2008. The Chancellor will immediately tabulate and announce the ballot results. Any candidate receiving at least two votes will be invited for an interview.

20. Appointments to Citizens' Bond Oversight Committee

The terms are ending for three positions on the Citizens' Bond Oversight Committee: at large representative, senior citizens' organization representative, and student representative. Under the Committee's bylaws, the three incumbents in those positions are eligible to re-apply for one more consecutive term. The District announced the openings with advertisements in local newspapers, website postings and press releases. Eight individuals submitted applications, including the three incumbents. In accordance with the Committee's bylaws, the Chancellor and Board President met to review the applications and are recommending that the following individuals be appointed for two-year terms:

At Large	Carol Johnson (incumbent)
Senior Citizen's Organization	Jim Sandstrom (incumbent)
Student	Sarah Wiehe (incumbent)

Copies of their applications are attached.

Board President Bruce Swenson and Chancellor Martha Kanter recommend that the Board **re-appoint Carol Johnson, Jim Sandstrom and Sarah Wiehe to serve on the Citizens' Bond Oversight Committee.**

21. New Board Policy 3260, Electronic Information Security

The District has developed a new Board Policy to address electronic information security, which has been reviewed and endorsed by the Chancellor's Advisory Council. The policy is presented for a first reading. An accompanying Administrative Procedure 3260 has also been developed and is included for the Board's information.

BUSINESS AND FINANCE/FACILITIES

22. Audit for Year Ended June 30, 2008

Education Code 84040(b) requires that each governing board of each community college district provide an annual audit of all funds, books, and accounts of the district in accordance with regulations of the Board of Governors. Perry-Smith LLP, Certified Public Accountants located in Sacramento, California, completed the Foothill-De Anza Community College District annual audit for the year ended June 30, 2008, which was reviewed by the Board's Audit and Finance Committee on November 3, 2008. The audit report is presented to the Board for information.

23. Independent Auditor's Report on Measure C Agreed Upon Procedures

The accountability requirements of Proposition 39 include annual performance and financial audits on use of Bond proceeds. According to our external auditors, Perry-Smith, the professional engagement most closely aligned with the objectives of the performance audit is referred to as an "Agreed Upon Procedures" engagement. Proposition 39 requirements for a financial audit are met by the performance of the District's annual financial audit.

The agreed-upon-procedures include:

- Compilation of Bond fund proceeds, detailing bond revenues, expenditures, and balances remaining at June 30, 2008. Verification that the bond proceeds have been expended only on projects designated as Bond fund projects; and
- Selection of a sample of 50 expenditures identified by the District as Bond expenditures incurred between July 1, 2007 and June 30, 2008. Verification that the expenditures represent valid expenditures, are properly charged to the location indicated, are properly coded as to the nature of the expenditure (account classification), and represent District improvements, not District salaries or administration.

The Independent Auditor's Report on Agreed Upon Procedures was reviewed by the Audit & Finance Committee on November 3, 2008. This report is presented to the Board for information.

24. Quarterly Listing of District Investments

Provisions with SB 564 require local agencies to report all external investments on a quarterly basis. In accordance with the aforementioned requirement, attached is a listing of the District's investments as of September 30, 2008.

The District invested its cash, \$105,635,202.14, on September 30, 2008 in the County's Commingled Investments Pool. As of September 30, 2008, the current yield on the commingled investments pool was 3.68%. As a comparison for the same time period, the yield on a 90-day Treasury Bill was 0.90%; the yield on a 6-month Treasury Bill was 1.61%; and the Local Agency Investment Fund (LAIF) was 2.48%. In addition, the County Treasury held various securities totaling \$205,151,697.13 for the Measure C Projects Fund. The yield of the securities ranges from 3% to 7.25% with maturity date ranges from October 15, 2008 to March 15, 2012.

25. Budget and Enrollment Update

Vice Chancellor of Business Services Andy Dunn will provide an outline of steps the District anticipates taking to address this year's gap between revenues and expenses and the mid-year cuts proposed by the governor to go into effect for 2008-09. The college presidents will provide an update on enrollment management.

26. NASA Research Park (NRP) Development Update

At the November 3, 2008 meeting of the Board of Trustees, an update on the status of the NASA Research Park (NRP) development at Moffett Field was provided. At that time the Board also granted authority to the Chancellor to fill positions on the Limited Liability Corporation (LLC) that will serve as the development vehicle for the University Associates (UA). Also, in the month of November, the UC Board of Regents voted at their meeting on November 18 and 19 to authorize UC to create the LLC, in addition to allowing UC to sign the Ground Lease as the majority member of the LLC, and to proceed with a Categorical Exemption under the California Environmental Quality Act (CEQA).

As was reported to the Board, December is a critical month in this development process as under current law the ground lease with the federal government must be executed by or before the end of the calendar year. The target date for that action is December 15, 2008. The signing of the ground lease will grant entitlement rights to the UA to develop approximately 1.8 million square feet of residential space, 500,000 square feet of

commercial /retail space and 650,000 square feet of institutional (educational) space. As a 20% partner in the LLC, Foothill-De Anza would have rights to develop approximately 130,000 square feet of educational space.

If all goes according to plan, a more comprehensive process under CEQA, likely involving a full Environmental Impact Report (EIR), will begin in January 2009. This part of the planning must be done at this stage so that the elements of the academic plan related to traffic impacts for students and staff can be fed into the EIR process to study the impacts. The District has done preliminary work on this and should be able to rely on the studies by TBP Architects at Middlefield to determine course offerings which would be suitable at NASA. There will need to be additional coordination with De Anza to determine if any De Anza programs would be shifted or allowed to grow at the NASA site.

The UA has committed pre-development planning funding in the amount of \$1.5 million. Such pre-development costs are an integral part of the project development process and Measure C proceeds are allowed and have been authorized previously by the Board of Trustees. The District share of this was 20%, or \$300,000. This amount was calculated to carry the project through December 31, 2008. Actual spending is well below (20 %+/-) that targeted amount. With the formation of the LLC, certain administrative costs will need to be borne by the UA. The development schedule contemplates having a Master Developer selected by the summer of 2009. Until that time the UA will need to shoulder both the continuing pre-development planning costs and the administrative costs associated with the LLC. The District's share of the costs for calendar year 2009 are anticipated to be as follows:

- Pre-development planning: \$140,000
- Administrative costs associated with the LLC: \$80,000

These figures represent estimates for the full calendar year. Part of the Master Developers responsibility will be to assume these cost burdens. To the extent the Master Developer is under contract prior to December 31, 2009, the apportioned share of these cost burdens may decline. The next major decision point will occur in late summer when the Master Developer is expected to be selected. Attached is a letter from Congresswoman Anna Eshoo echoing her support for the project.

MEASURE E PROJECTS

27. Measure E Consent Calendar

Board approval and/or ratification is requested for the following Measure E actions. The aggregate amount for these actions is \$151,393.

- A.** *Title:* Revision #1 to the Standard Form of Agreement
Vendor: Allana Buick + Bers, Inc.
Agreement Date: April 7, 2008
Campus: De Anza College
Project No.: 209
Project Name: Visual & Performing Arts Center
Amount: \$5,850
For: Additional roof construction monitoring and water testing services for the De Anza college Visual and Performing Arts Center.
Action: Ratification
- B.** *Title:* Revision #2 to Addendum #D-24
Vendor: Cleary Consultants, Inc.
Agreement Date: May 21, 2007
Campus: De Anza College
Project No.: 209
Project Name: Visual & Performing Arts Center
Amount: \$1,700
For: Additional professional soils engineering services and DSA closeout documentation for the De Anza College Visual and Performing Arts Center.
Action: Ratification
- C.** *Title:* Revision #9 to Standard Form of Agreement
Vendor: DES Architects & Engineers, Inc.
Agreement Date: January 17, 2006
Campus: De Anza College
Project No.: 209
Project Name: Visual & Performing Arts Center
Amount: \$6,220
For: Additional design, documentation, and construction administration services required to provide a LEED Measurement & Verification Plan for submission to USGBC and to revise on-stage rigging assemblies for motorized capability.
Action: Ratification

- D.** *Title:* Change Order #14
Vendor: SJ Amoroso Construction Co., Inc.
Agreement Date: June 29, 2007
Campus: De Anza College
Project No.: 765-209
Project Name: Visual and Performing Arts Center
Amount: \$111,490
For: Provide additional metal stud framing, revised mechanical, electrical and plumbing utilities, power door operators for ADA lift, revised audio-visual and rigging control, site-work alterations and other construction scope changes as described on the attached document PCCO #14. Original contract completion date of September 21, 2008 is unaltered by this Change Order.

The total change orders to date represent 3.9% against the original contract amount. The funding is included in the current budget.
Action: Ratification
- E.** *Title:* Professional Services Agreement
Vendor: Allana Buick + Bers
Agreement Date: December 2, 2008
Campus: Foothill College
Project No.: 148
Project Name: Radio Station and Language Arts Renovation
Amount: \$21,253
For: Waterproofing consulting services to prepare construction documents (drawings and specifications) for reproofing Buildings 5700 and 6200, and below grade waterproofing for Building 6200.
Action: Ratification
- F.** *Title:* Revision #2 to PAA #1 (PO #M672055)
Vendor: Architerra
Agreement Date: September 22, 2005
Campus: Foothill College
Project No.: 148
Project Name: Radio Station and Language Arts Renovation
Amount: <\$13,580>
For: Termination of the architect's services after the construction documents phase. The following phases are deleted from the Architect's basic services: DSA phase, bidding phase, and construction phase.
Action: Ratification

- G.** *Title:* Budget Transfer #68
Campus: De Anza College
For: Budget Transfer DA #68 recognizes one new project, and includes a single Program Contingency to Project Transfer to fund the new project. These actions reflect a joint effort by De Anza College, the District and Gilbane representatives to prioritize and plan the efforts required to complete the Measure E Program needs at De Anza College.
Action: Ratification
- H.** *Title:* Master Form of Agreement
Vendor: Salas O'Brien Engineers, Inc.
Agreement Date: December 1, 2008
Campus: De Anza College
For: Professional engineering and design services. Work scope and value will be assigned through Project Authorization Amendments.
Action: Approval
- I.** *Title:* Project Authorization Amendment #D-001
Vendor: Salas O'Brien Engineers, Inc.
Agreement Date: December 1, 2008
Campus: De Anza College
Project No.: 765-279
Project Name: Campus Site Lighting (Phase 2)
Amount: \$18,460
For: Programming & Pre-Schematic Design Phase: The scope of work is to provide a thorough assessment, programming, photometrics, and site surveys to continue the Phase 1 work and expand new pathway lighting to the entire campus. This includes a comprehensive survey and evaluation of campuswide site lighting, inventory type and wattage of existing fixtures, illumination measurements of night light levels and comparison to prevailing standards, identification of replacement options associated with photometrics, and development of cost estimates for the recommended Phase 2 work.
Action: Ratification

Executive Director of Facilities, Operations and Construction Management Charles Allen recommends **approval/ratification of Measure E consent items A-I.**

MEASURE C PROJECTS

28. Measure C Consent Calendar

Board approval and/or ratification is requested for the following Measure C actions. The aggregate amount for these actions is \$663,058.46.

- A.** *Title:* Change Order #2
Vendor: Avidex Industries, Inc.
Agreement Date: September 30, 2008
Campus: De Anza College
Project No.: VPAC – Group II
Project Name: Audiovisual Systems
Amount: \$4,065.34
For: Construction changes include additional equipment for the teaching lecterns that were previously upgraded in Change Order #01. Contract Completion date of December 15, 2008 is unchanged.

The total change orders to date represent 3.19% against the original contract amount. The funding is included in the current budget.
Action: Ratification

- B. Title:** Project Assignment Amendment #1
Vendor: Cogent Energy, Inc.
Agreement Date: December 1, 2008
Campus: De Anza College
Project No.: 261
Project Name: Mediated Learning Center
Amount: \$205,262
For: Professional Commissioning Services including; HVAC, Building Energy Management & Controls, Domestic Water Heat Generation, DHW Pumping & Mixing, Electrical Metering, Lighting Controls (interior and exterior), Emergency Generator including the UPS and ATS, Fire alarms, Irrigation, HVAC/Fire Alarm Systems Interaction, Renewable energy systems including the photovoltaic system and the solar thermal system and other system components required to meet LEED Fundamental and LEED Enhanced Commissioning requirements per LEED New Construction Version 2.2. Telecom systems and Audio/Visual will also be fully commissioned. This includes providing all required documentation, performing timely observations and support for specified systems, and for supporting the District's other Consultants during Commissioning of this facility within their contract.
- Action:* Approval
- C. Title:** Change Order #1
Vendor: Legend Theatrical, Inc.
Agreement Date: September 30, 2008
Campus: De Anza College
Project No.: VPAC – Group II
Project Name: Draperies and Production Lighting
Amount: \$792.12
For: Construction changes include additional lighting equipment wiring harnesses. Fixtures were changed during submittal review and these items were required for electrical connections. Contract Completion date of December 1, 2008 is unchanged.
- The total change orders to date represent 0.41% against the original contract amount. The funding is included in the current budget.
- Action:* Ratification

- D.** *Title:* Project Authorization Amendment #F-HMC-#1B
Vendor: HMC Architects
Agreement Date: July 8, 2008
Campus: Foothill College
Project No.: 104, 108 & 112
Project Name: General Classrooms (Building 5500), General Classrooms (Building 6400) & Administration Building (Building 1900)
Amount: \$444,854
For: Authorization of Construction Document, Bidding and Construction Administration services for the three buildings listed above, to complete design services begun under a previous PAA.
Action: Ratification
- E.** *Title:* Revision #1 to PAA #1-C to Master Agreement
Vendor: Noll & Tam Architects
Agreement Date: May 6, 2008
Campus: De Anza College
Project No.: 205
Project Name: Seminar Building
Amount: \$2,440
For: Additional LEED and Construction Administration (CA) services to provide a new restroom.
Action: Ratification
- F.** *Title:* Revision #2 to PAA #1-B to Master Agreement
Vendor: Noll & Tam Architects
Agreement Date: May 6, 2008
Campus: De Anza College
Project No.: 205
Project Name: Seminar Building
Amount: \$5,645
For: Additional Schematic Design/Design Development (SD/DD and Construct Document (CD) services to provide a new restroom.
Action: Ratification

- G. Title:** Project List Revision / Budget Transfers
Campus: Central Services, De Anza College and Foothill College
Project Name: Central Services Budget Transfer #05
De Anza College Budget Transfer #10
Foothill College Budget Transfer #09
- For:** This revision to the Measure C Project List is being presented based upon previous approval of the interest distribution process. This revision recognizes the actual earned interest for the first quarter of fiscal year 2008-09 by distributing it into the projects of the Measure C Program in the following manner:
- Central Services Budget Transfer #05 places \$86,806 of interest earned in project #499 District Program Contingency.
 - Foothill Budget Transfer #09 places \$1,137,867 of interest earned in project #199 Foothill Program Contingency.
 - De Anza Budget Transfer #10 places \$1,121,444 of interest earned into project #261 Mediated Learning. The Mediated Learning Center Project is the largest project of the De Anza Measure C Program and will establish a state-of-the-art environmentally sustainable building to house the Technical Resources Area, Anthropology, and additional classrooms.
- Action:** Approval

Executive Director of Facilities, Operations and Construction Management Charles Allen recommends **approval/ratification of Measure C consent items A-G.**

29. Foothill College Facilities Master Plan Environmental Impact Report

The Foothill College Facilities Master Plan Environmental Impact Report (EIR) analyzes the potential impacts of campus growth under the Facilities Master Plan (“the Project”) and addresses project-specific environmental effects associated with construction of near-term projects. The completed EIR is the result of a process dictated by the California Environmental Quality Act (CEQA) that included notification of local agencies, jurisdictions and residents, as well as public meetings.

A Notice of Preparation of the EIR was published in September 2007. After modifications to the EIR in response to public comment, a Draft EIR was published in August 2008, followed by a 45-day period for public review. The Final EIR contains responses to all comments received during that public review process.

By approving the EIR, the Board hereby finds, on the basis of the EIR and the whole record before it, that with the exception of a cumulative significant and unavoidable air

quality impact with respect to greenhouse gas emissions, all other environmental impacts are less than significant or changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects as identified in the EIR.

Impacts from any new greenhouse gas emissions on climate change are not known. Therefore the cumulative impacts associated with the Project on climate change would be considered significant and unavoidable. Despite this impact, the Project is being approved because of the overriding benefit of maintaining Foothill College as an educational resource to the community.

The Final EIR findings are attached. The Draft Environmental Impact Report and other supporting documents are available for review at the District website, www.fhda.edu, filed under the 'Facilities' tab.

Executive Director of Facilities, Operations and Construction Management Charles Allen recommends that the Board **approve the Environmental Impact Report and the Project based upon the findings set forth in the EIR and summarized in Attachment A.**

30. Pre-Qualification of Prospective Bidders for Measure C Project (Mediated Learning Center – Civil Site Preparation) at De Anza College

Public Contract Code section 20101 allows community college districts to require licensed contractors to “pre-qualify” for the right to bid on public works projects. The purpose of pre-qualification is to ensure that all prospective bidders have the appropriate construction experience and financial capacity to perform the work. The laws require that community college districts (1) use a standardized questionnaire and financial statement, (2) adopt and apply a uniform system of rating bidders based on objective criteria, and (3) establish a process that allows prospective bidders to dispute their proposed pre-qualification rating prior to the closing time for receipt of bids.

The District’s Facilities department and De Anza’s Construction Management team have concluded that prime contractors on the Measure C project listed below should be pre-qualified to ensure the financial stability of the contractors and to promote safety, quality, timeliness, and cost effectiveness in the construction of District projects.

De Anza College:

Project #261 – Mediated Learning Center – Civil Site Preparation

A draft of the pre-qualification document is attached. The Purchasing Department will report the pre-qualification results to the Board at a future meeting. At that time, the Board can choose to either:

1. Accept the list of Prime Contractors who met all of the pre-qualification requirements as the only contractors who are “pre-qualified” to bid on the listed projects, OR
2. Cancel the pre-qualification procedure for Prime Contractors for these listed projects.

This pre-qualification of contractors shall be valid for one year if accepted by the Board.

Purchasing Services Supervisor Gina Bailey recommends that the Board **authorize the pre-qualification procedure for the listed Measure C project in accordance with Public Contract Code section 20101.**

31. Notice of Intent to Adopt a Mitigated Negative Declaration for the East Cottage and Baldwin Winery Building Rehabilitation Projects Proposed for De Anza College

The consultant, Placemakers, was requested to prepare a California Environmental Quality Act (CEQA) study for the De Anza College East Cottage and Baldwin Winery building projects. These two projects are currently being designed for historical renovations necessary to support the designated College programs intended to occupy the renovated buildings. The extent of renovations will retain historical features and components while upgrading these buildings structurally, providing for ADA accessibility, and by providing up-to-date mechanical, electrical, plumbing, and interior and exterior finishes.

The scope of the CEQA study included complete assessment and a public input and review process to address both projects. This was necessary due to the fact that the Historical resources component of the East Cottage and Old Bookstore were not previously addressed sufficiently in either the 2002 Facilities Master Plan EIR or the 2005 Campus Entries EIR, therefore requiring the College to perform further CEQA studies as they relate to historical renovation plans for these facilities.

So, on May 13, 2008, a public meeting took place at the Kirsch Center for Environmental Studies regarding the findings of the Draft Initial Study developed by Placemakers. At the August 25, 2008 Board of Trustees meeting, Placemakers presented their Communication plan to the Board. They have performed their evaluations and have prepared their Administrative Initial Study / Mitigated Negative Declaration and Mitigation Monitoring Program. They are submitting this presentation for a public review of the findings and to discuss the Mitigated Negative Declaration and Mitigation Monitoring & Reporting Program. At the completion of the presentation and following any comments, action by the Board of Trustees is anticipated.

De Anza Vice President of College & Financial Services Jeanine Hawk and Executive Director of Facilities, Operations and Construction Management Charles Allen recommend that the Board **approve the Mitigation Monitoring & Reporting Program, adopt this**

Mitigated Negative Declaration, and approve the East Cottage and Baldwin Winery building projects.

MJK:jco