

MINUTES OF THE SPECIAL MEETING
OF THE BOARD OF TRUSTEES
MONROE COUNTY COMMUNITY COLLEGE DISTRICT

Board of Trustees Room, Z-203
La-Z-Boy Center
6:00 p.m., August 24, 2015

Members Present: William Bacarella, Joseph N. Bellino, James E. DeVries, Lynette M. Dowler (via conference call), Marjory A. Kreps, Mary Kay Thayer

Members Excused: William H. Braunlich

Also Present: Jack Burns, Randy Daniels, Jamie DeLeeuw, Thomas Kabel (Butzel Long), Eugene Kutz (The Agora Staff), Brian Lay, Bob Leonard, Barbara McNamee, Kojo Quartey, Selma Rankin, Joe Verkennes, Suzanne Wetzel, Grace Yackee, Penny Dorcey (recording secretary)

1. Chair Bellino called the meeting at order at 6:59 p.m.
2. *A motion was made by Mrs. Thayer and supported by Mrs. Kreps that the changes to Policy 1.00, Bylaws of the Board of Trustees of Monroe County Community College District, be approved with revisions.*

A roll call vote was taken as follows:

Ayes [6] Mr. Bacarella, Mr. Bellino, Dr. DeVries, Mrs. Dowler, Mrs. Kreps,
Mrs. Thayer
Nays [0] None

The motion carried.

3. Suzanne Wetzel explained that two bids had been submitted on the HVAC project. Attorney Thomas Kabel of Butzel Long reviewed the resolution authorizing execution and delivery of an installment lease purchase agreement (and related documents) for the purchase from, and installation by, Ameresco, Inc. of certain geothermal HVAC/energy conservation improvements for the College's existing facilities. He explained the structure of the financing. The only parameters are that the installment contract cannot exceed 25 years and the life of the equipment must be at least the same length as the life of the contract. The vendor will enter into the lease agreement with the Community College. The vendor, therefore, is the lessor and will assign the contract to whomever the College selects as the financier. The total amount of the loan will not exceed \$16.5 million and interest will not exceed 4.5 percent. The College will agree to make repayment a budget first priority each year.

Mrs. Wetzel explained that bids were received from George K. Baum & Company and Bank of America Merrill Lynch. A summary of the bids was reviewed with the Board.

A motion was made by Mr. Bacarella and supported by Dr. DeVries to adopt the resolution authorizing Lease Purchase Agreement:

WHEREAS, the Board has determined that, in the exercise of its statutory duties and in order to best serve the needs of Monroe County Community College (the "College"), it is necessary to replace existing heating and cooling infrastructure located throughout the College's facilities with new geothermal HVAC/energy conservation improvements including, without limitation, a new geothermal system, a loop field, piping and equipment, air handler improvements and electrical upgrades and to perform asbestos removal as necessary (collectively, the "Improvements"); and

WHEREAS, under the provisions of Act No. 331, Public Acts of Michigan, 1966, as amended (the "Act"), the District is authorized to provide for energy conservation improvements to be made to the College's facilities and may acquire and pay for such improvements by installment contract for a term not to exceed 25 years from the date of installation; and

WHEREAS, the District has determined that the proposed Improvements are all properly classified as energy conservation improvements under the Act; and

WHEREAS, the District proposes to enter into a lease purchase agreement (the "Installment Contract") with Ameresco, Inc. ("Vendor") and a financial institution selected by the District

pursuant to a competitive bid process (the “Lender”), for the purchase from, and installation by, Vendor of the Improvements, substantially in the form presented to the Board at this meeting; and

WHEREAS, the District proposes to acquire the Improvements and cause the Improvements to be installed for an aggregate price of not more than \$16,500,000.00 (the “Purchase Price”), which amount shall be financed through the execution of the Installment Contract and all documents required to be executed in connection therewith (collectively, “Related Documents”); and

WHEREAS, for the purpose of providing the financing under the Installment Contract, the Lender shall act as the financing source under the Installment Contract and, in connection therewith, Vendor shall assign all of its rights (including, but not limited to, the right to collect the installment payments due and payable under the Installment Contract), but none of its obligations, under the Installment Contract to the Lender; and

WHEREAS, the outstanding balance of all purchases by the District of land, property or equipment for public purposes, to be paid for in installments (i.e.. installment purchase agreements, land contracts, leases, etc.), including the Installment Contract, exclusive of interest, is not more than \$16,500,000.00; and

WHEREAS, the taxable value of all real and personal property within the District is \$5,666,210,209.00; and

WHEREAS, the Board has determined that it is for the benefit of the District and for the efficient and effective administration thereof to enter into the Installment Contract and Related Documents for the acquisition, installation and financing of the Improvements as more particularly set forth in the Installment Contract;

NOW, THEREFORE, BE IT RESOLVED by the Board that:

- 1. Approval of the Improvements. It is hereby found and determined that the purchase And installation of the Improvements pursuant to the terms of the Installment Contract, in the form presented at this meeting, and the Related Documents, are in the best interests of the District.*
- 2. Installment Contract Terms. The form, terms and provisions of the Installment Contract are hereby approved in the form presented at this meeting, with such insertions, omissions and changes as shall be approved by the Treasurer of the District or such other authorized officer of the District (the “Authorized Officer”) executing the same, the execution of the Installment Contract being conclusive evidence of such approval. The Authorized Officer of the District is hereby authorized and directed to sign and deliver the Installment Contract and any Related Documents if and when required; provided, however, that without further authorization from the Board, (a) the Purchase Price shall not exceed \$16,500,000.00; (b) the maximum term of the Installment Contract shall not exceed twenty (20) years plus a twelve (12) month construction period; and (c) the maximum interest rate on the outstanding balance of the Purchase Price shall not exceed the lesser of the maximum rate permitted by law or 4.5% per annum. The Authorized Officer may sign and deliver the Installment Contract and all Related Documents to Vendor on such terms and conditions as are determined by the Authorized Officer to be in the best interests of the District up to the maximum Purchase Price, maximum term and maximum interest rate provided above.*
- 3. Assignment of Agreement. The assignment of the Installment Contract by Vendor to the Lender is hereby approved.*
- 4. Payment of Purchase Price. The District hereby irrevocably pledges to make the Principal and interest payments under the Installment Contract, beginning with the first fiscal year after installation of the Improvements and during each fiscal year for which an operating budget is adopted, the first operating budget obligation within its authorized millage until such time as the principal installments and interest payments have been paid in full.*
- 5. Security; Limited Tax Pledge. The District hereby pledges its limited tax full faith And credit for the payment of the principal installments and interest payments on the Installment Contract, payable from ad valorem taxes which will be levied within the authorized constitutional and statutory operating millage rate available to the District and an irrevocable appropriation of a sufficient amount of taxes will be made each year from said millage rate for the payment of principal installments and interest payments on the Installment Contract.*

The obligation to pay the principal installments and interest payments will be the limited tax general obligation of the District, and if tax collections are insufficient to pay the principal of or interest on the borrowing when due, the District pledges to use any and all other resources legally available for the payment of principal and interest on the Installment Contract. As further security, the District may grant the Lender a security interest in the Improvements.

6. *Useful Life of Improvements.* *The useful life of the Improvements is hereby determined to be not less than twenty (20) years.*
7. *Tax-Exempt.* *The District hereby covenants to comply with all requirements of the Internal Revenue Code of 1986, as amended (the “Code”) that must be satisfied subsequent to the execution of the Installment Contract in order that interest thereon be or continue to be excluded from gross income for federal income tax purposes, including the filing of Form 8038-G or 8038-GC with the Internal Revenue Service.*
8. *Not Bank Qualified.* *The Installment Contract shall not be designated as a “qualified tax exempt obligation” under section 265(b) of the Code, and, accordingly, the interest payable under the Installment Contract shall not be excludable from gross income for federal income tax purposes.*
9. *Further Acts.* *The Authorized Officer or designee is further authorized to take all Action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated by the Installment Contract and Related Documents (including, but not limited to, the execution and delivery of any certificates contemplated therein, including appropriate arbitrage certifications) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Installment Contract.*
10. *Approval of Counsel.* *The representation of Butzel Long, a professional corporation, as counsel to the District in connection with the Installment Contract and Related Documents is hereby approved.*
11. *Outstanding Balance.* *The outstanding balance of all of the District’s contractual agreements for the purchase of real or personal property in installments, including pursuant to the Installment Purchase Agreement, exclusive of interest, does not exceed 1.25% of the taxable valuation of real and personal property in the District.*
12. *Conflict.* *All resolutions insofar as they conflict with the provisions of this resolution be and the same are rescinded.*

A roll call vote was taken as follows:

Ayes [6]	Mr. Bacarella, Mr. Bellino, Dr. DeVries, Mrs. Dowler, Mrs. Kreps, Mrs. Thayer
Nays [0]	None

The motion carried.

4. *A motion was made by Mr. Bacarella and supported by Dr. DeVries to approve the Response to the Higher Learning Commission as presented.*

The motion carried.

5. *Discussion was had regarding the President’s Measurable Goals for the 2015-16 year. Dr. Quartey will revise his goals and present them at the next regular Board meeting for Board approval.*
6. *A motion was made by Mrs. Thayer and supported by Mrs. Kreps to accept the Board Self-assessment.*

The motion carried.

7. *A motion was made by Mr. Bacarella and supported by Dr. DeVries that the meeting be adjourned.*

The motion carried and the meeting adjourned at 7:43.p.m.

Respectfully submitted,

Joseph N. Bellino Jr.
Chair

James E. DeVries
Secretary

/prd

These minutes were approved at the September 28, 2015 regular meeting of the Board of Trustees.