



## ADOPTED MINUTES

### FOR THE REGULAR MEETING OF THE IMPERIAL COMMUNITY COLLEGE DISTRICT BOARD OF TRUSTEES

Wednesday, July 16, 2008

#### CALL TO ORDER/ROLL CALL

On Wednesday, July 16, 2008, at 6:00 p.m., Board Clerk Carlos Acuña called the regular meeting of the Imperial Community College District Board of Trustees to order in the Administration Building Board Room.

#### BOARD MEMBERS PRESENT:

Carlos R. Acuña  
Rudy Cardenas, Jr.  
Norma Sierra Galindo  
Jerry D. Hart  
Romualdo Medina [6:03 p.m.]  
Louis Wong  
Rebecca L. Ramirez [6:13 p.m.]

#### BOARD MEMBERS ABSENT:

None.

#### REPRESENTATIVES PRESENT:

Dr. Bruce Seivertson, Academic Senate Representative  
Chantilee Mendenhall, Student Representative  
Suzanne Gretz, CTA President [6:03 p.m.]  
John Abarca, CSEA President

#### CONSULTANTS PRESENT:

Dr. Ed Gould, Superintendent/President  
Gary Rodgers, Interim Superintendent/President  
Dr. Victor Jaime, Vice President for Student Services  
Travis Gregory, Associate Dean of Human Resources  
Carlos Fletes, Director of Fiscal Services  
Frank Oswalt, Counsel [6:30 p.m.]

#### PLEDGE OF ALLEGIANCE

President Gould led the Pledge of Allegiance to the Flag.

#### PUBLIC COMMENT

1. Michael Boyle spoke and read an email he stated he wrote and sent the Board of Trustees as follows, "My name is Clarence Michael Boyle and I am a Microcomputer Laboratory Assistant for Imperial Valley College. I am also the subject of Resolution No. 14173, which is on the Board Agenda for July 16, 2008. The intent of this e-mail is to inform you of facts you may not be privy to. The Notification of Layoff (my second one) that I received on July 9, 2008 shows my options according to Article 17 of the CSEA Contract. Option 4 says: "Apply for any vacant position". It is important to make note of the word "any" in this option. Next I would like to point to Article 17.4 "Alternatives To Layoffs", of the CSEA Contract, which states the four options available to an employee who is to be laid off. Option 3 states: "apply for any vacant position in the District for which they are qualified". Again, it is important to note the word "any" in this option. Let's look now at Article 17.11 "Miscellaneous" which states: "The District will notify affected persons and affected reassigned employees by certified mail or

other means of delivery that ensures notification to the affected persons or affected reassigned employees and a receipt for delivery of all vacancies. If an affected person or an affected reassigned employee qualifies for the vacancy, the affected individual will be eligible to fill that vacancy without further examination. Eligibility will be determined by experience in a lower included classification or by ability to meet minimum qualifications for the vacancy.” In Article 17.11 it is important to note that the District must inform me of “all vacancies” (stated in the first sentence). It does not state that the District may only deliver vacancies that they wish to deliver. It states very clearly that the District must deliver “all vacancies”. It further states that if the laid off person qualifies for a vacancy the individual will be eligible to fill that vacancy “without further examination”.

Article 17.2 Notice of Layoffs (CSEA Contract)

Paragraph 3:

“The Notification of Layoff shall contain the effective date, the reason, reassignment rights, if any, re-employment rights and an Employee Response Form.”

Paragraph 6:

“Failure to provide written notice under the provisions of this section shall invalidate the layoff. In addition, failure to follow proper procedures shall be considered an improper layoff. An employee who is improperly laid off shall be re-employed immediately upon discovery of the error and shall be reimbursed for all loss of salary and benefits.”

The Employee Response Form I received with my Notification of Layoff (dated July 9, 2008) does not list any of the vacancies that are available to me (yes, there are vacancies); therefore, my Notification of Layoff dated July 9, 2008 is invalid and my layoff should be deemed improper as per the CSEA Contract. My original Notification of Layoff dated April 29, 2008 (effective date – July 1, 2008) did list “all vacancies” and I did meet the minimum qualifications for the vacant Microcomputer Technician position. Last month on June 18, 2008 this layoff and reassignment in lieu of layoff was on the Board Agenda (Resolution No. 14146 and Resolution No. 14147). Both were pulled from the agenda with no discussion and/or explanation for pulling valid layoff and reassignment in lieu of layoff resolutions. I would like to point out that “past practice” supports my choice to move into a higher classification position that I qualify for. Resolution No. 13090 that the IVC Board of Trustees passed moved three laid off employees, Ada Ceballos (effective date 7/1/04), Maria F. Garcia (effective date 8/9/04), and Connie Smith (effective date 7/1/04) into higher classification positions. Two years ago another employee, Yethel Alonzo, was laid off and she also was reassigned in lieu of layoff (although Yethel’s was a lateral move). Resolution No. 14173 refers to an improper layoff for the reasons stated above, and I urge you to not pass it at the Board Meeting on July 16, 2008. It is my conjecture that since I have not received a subsequent valid Notification of Layoff since the original one I received of April 29, 2008 (with the effective date of July 1, 2008) that the original, which has not been rescinded, is still in effect and I should be reassigned, in lieu of that layoff, to the vacancy of Microcomputer Technician effective July 1, 2008.”

2. CSEA President John Abarca spoke and stated a formal grievance had been filed due to violation of Article 17.11. He stated that vacant positions had been used in the past so that other staff would not be bumped.

3. Dean of Instruction Frank Rapp spoke and stated he wanted to highlight Chemistry Instructor Dr. Jim Fisher. He stated Dr. Fisher volunteers his time to help other science teachers in the valley.

**WRITTEN COMMUNICATIONS**

Board Clerk Acuña announced that the Board received two written communications.

## **INFORMATION REPORTS**

### Board Member Reports

No reports.

### Associated Student Government Senate Update

ASG President Chantilee Mendenhall reported the following:

- ASG will be sending the handbooks to be printed and will be available to faculty soon.
- She will be attending the student trustee training in San Francisco on Aug 7-9, 2008. Senator Brenda Antunez will be going as her alternate.
- ASG will be attending the CCCSAA Conference in the fall.

### Academic Senate Update

Academic Senate President Dr. Bruce Seivertson reported the following:

- He provided the Trustees with a handout from the Minnesota Association for Developmental Education (MNADE) titled, College Readiness: Understanding the Difference Between High School and College. He explained the brochure was a guide for students, parents, teachers, and staff to explore potential differences between high school and college. He stated the brochure would be used during staff orientation.
- Faculty will be doing a training on August 10-13, 2008, in Newport Beach with the emphasis on academic programs with ESL, English, and math, being represented. He stated he would bring information to share with the Board.
- Announced David Zielinski and other IVC employees/Basic Skills Committee Members are working with CalPass, San Diego State: IV, and participating Imperial County schools to improve secondary school students' transition to college.

Trustee Galindo asked if this was the same information tracking drop-out rates. Dr. Seivertson stated he thought it was.

### Monthly Financial Report

VP for Business Services John Lau was unable to attend the Board meeting. In his absence, Director of Fiscal Services Carlos Fletes reported the following:

- IVC started the year with a planned reduction of reserves in the amount of \$3 million but is seeing a more favorable financial position when looking at the monthly budget report for the month of June 2008.
- The fiscal year will be closed in the next month. He stated the last payroll for the last fiscal year has not been noted as it was paid out on July 10<sup>th</sup>.
- The most recent information on the budget is that the state will be introducing additional taxes to balance the budget. He stated the state is going away from the idea of balancing the budget with lottery funds for 2008-2009.
- Overall Proposition 98 proposed an increase of 2.3 billion and stated that would help with categorical programs. He stated the budget is riding on additional taxes and he hoped for an

adopted budget by the middle of August; otherwise, the Business Office would be looking at cash flow alternatives for the upcoming months.

- He stated there are three primary items that would impact IVC:
  1. COLA. The May revise showed zero percent and currently it is proposed at 2.34% with the latest equation at about \$800,000 for IVC.
  2. Provision for backfill property tax. He stated IVC lost almost \$600,000.00 due to the shortage. He stated IVC could potentially see that money coming back.
  3. Growth. He stated the state may pay up to 2% growth instead of 1.6%. He stated IVC factored the budget with a 2% growth.

Trustee Galindo asked for the current reserve amount.

Director Fletes stated it was at 14% or \$5.7 million. He noted that reserves are one time monies.

#### President's Update – Dr. Ed Gould

Dr. Gould reported the following:

- Thanked the Board for allowing him to take a pre-planned vacation.
- Announced his wife, Kathy, arrived in the Valley this afternoon.
- The Economic Report is doing some research and looking for a program for a focus on business and the 21<sup>st</sup> century. He stated this program is looking at demographics and they are interested in doing a shoot with IVC. He stated if the producer approves IVC will address workforce development. He stated the program is interested in focusing on what IVC is doing for retention, skill needs, and working with those that do not speak English as their native language. He stated Bill Gay would be IVC's point of contact and reported if the shoot came to fruition it would be viewed in the month of October and would be narrowed down to five minutes. He stated IVC would own the rights to the film, one national airing, and 19 regional airings.
- VP for Academic Services Berry reported on the accreditation progress report. She reported the report would need to be done by October 15, 2008. She provided the Board with a handout titled, Imperial Valley College Accreditation Strategy to Fulfill Requirements for the October 15, 2008 Progress Report and provided an update and recapped the recommendations and the work that is currently being done to accomplish IVC's progress report. She stated one of the notable differences is that the objectives in the Program Review cycle would drive the budget. She stated the Board would need to have their Student Learning Outcomes completed by June 2009.
- VP for Academic Services Berry reported that Dr. Haynes will continue to be our Medical Director as his contract has been renewed (Resolution 14133, June 18, 2008 Board Meeting).

## **CONSENT AGENDA – BUSINESS**

Trustee Galindo pulled the Minutes for the Board Retreat of June 14, 2008.

Dr. Gould requested the Board pull Resolution 14164 for discussion.

### **Approval of Minutes dated June 14, 2008, Board Retreat/Special Meeting M/S/C Acuña/Wong and the Board approved the minutes as corrected.**

Trustee Galindo asked for the following corrections:

#### **Page 3 of 13**

##### ***Current***

Trustee Galindo asked that ~~a new lease for Calexico be looked into as it is expensive.~~

##### ***Replace with***

Trustee Galindo asked that new options for the Calexico Campus be explored because the facility is inadequate at best and expensive.

#### **Page 4 of 13**

##### ***Current***

Trustee Galindo stated that she is not aware of all the grants and feels that IVC does not have a person with experience ~~doing grants.~~

##### ***Replace with***

Trustee Galindo stated that she is not aware of all the grants and feels that IVC does not have a person with experience writing and overseeing grants.

##### ***Current***

Trustee Galindo asked that administration heed a word of caution stating that ~~the staff hired from grants must be told upfront that grants are soft money and there is no guarantee that a full time job would be guaranteed at the end of the grant.~~

##### ***Replace with***

Trustee Galindo asked that administration heed a word of caution stating that she has concerns for recycling grant hired personnel to other positions in order to keep them employed while disregarding qualifications.

#### **Page 5 of 13**

##### ***Current***

Trustee Galindo stated there are times that she does a lot of work for the college and would find it difficult to ~~be put in the middle to ask for the Board's permission.~~

##### ***Replace with***

Trustee Galindo stated there are times that she does a lot of work for the college and would find it difficult to ask the Board for permission as an elected official when it is her constituency she must answer to.

**Current**

Trustee Galindo stated the amount would be based on FTEs of the college.

**Replace with**

Trustee Galindo stated the amount is based on FTEs per the Education Code.

**Page 13 of 13**

**Current**

Trustee Galindo spoke and stated she goes to different schools and introduces herself at the school meetings.

**Replace with**

Trustee Galindo spoke and stated she regrets not having seen any of her colleagues at school board meetings.

**Approval of Minutes dated June 18, 2008, Regular Board Meeting**

**M/S/C Acuña/Wong and the Board approved the minutes as presented.**

**M/S/C Acuña/Wong**

**Resolution No. 14151: Purchase Orders**

BE IT RESOLVED that the Board approves the recommendation of the Superintendent/President to approve the issuance of Purchase Orders in the amount of \$933,573.55 and Direct Payments in the amount of \$81,494.24 for the month of June, 2008.

**M/S/C Acuña/Wong**

**Resolution No. 14152: Payroll Warrant Orders**

BE IT RESOLVED that the Board approves the recommendation of the Superintendent/President to approve the issuance of the following Payroll Warrants for the month of June 2008:

Date	#	Fund 10 General Fund	Fund 45 Child Dev.	Fund 80 Bond Fund	Warrant Total
6/10/08	24	281,345.17			281,345.17
6/30/08	25	2,946,069.99	31,422.22	7,255.40	2,984,747.61
		3,227,415.16	31,422.22	7,255.40	3,266,092.78

**M/S/C Acuña/Wong**  
**Resolution No. 14153: Commercial Warrant Orders**

BE IT RESOLVED that the Board approves the recommendation of the Superintendent/President to approve the issuance of the following Commercial Warrants for the month of June 2008:

Date	#	Fund 10		Fund 20	Fund 45	Fund 50	Fund 80	Warrant Total
		General Fund	Financial Aid	Building Fund	Child Dev.	Cert. of Part.	Bond Fund	
6/5/08	46	110,733.83			89.71		1,387,408.85	1,498,232.39
6/12/08	47	580,506.48		2,340.00	2,027.11	520.00	114,772.87	700,166.46
6/19/08	48	146,425.52	130,660.70				16,800.00	293,886.22
6/30/08	49	464,791.21			3,779.86		916,773.55	1,385,344.62
		1,302,457.04	130,660.70	2,340.00	5,896.68	520.00	2,435,755.27	3,877,629.69

**M/S/C Acuña/Wong**  
**Resolution No. 14154: Budget Transfers**

BE IT RESOLVED that the Board approves the following transfers between major object codes: J4056860 and J4056861.

**M/S/C Acuña/Wong**  
**Resolution No. 14155: District Purchases**

WHEREAS, procurement is one of the major functions of the administration of school business; and

WHEREAS, Education Code Section 81656 authorizes delegation of purchasing and contract authority;

NOW THEREFORE BE IT RESOLVED that the Vice President for Business Services under the guidance of the Superintendent/President, is hereby authorized and directed to contract for all supplies, materials, apparatus, equipment and services for the District; and

BE IT FURTHER RESOLVED that contracts or purchases exceeding the current bid threshold amount as specified in Section 20651(a) of the Public Contract Code shall be approved by the Board of Trustees in advance of execution; and

BE IT FURTHER RESOLVED that administrative rules and regulations shall be implemented pursuant to the Education Code, Budget and Accounting Manual of the California Community Colleges, and other codes and directives as applicable; and

BE IT FINALLY RESOLVED that this policy shall be reviewed annually.

**M/S/C Acuña/Wong**

**Resolution No. 14156: Delivery of Documents to the Imperial County Superintendent of Schools**

BE IT RESOLVED that the Imperial County Superintendent of Schools be authorized to mail and/or deliver warrants and correspondence from the Accounting Section of the Office of the Imperial County Superintendent of Schools for the Imperial Community College District to the Vice President for Business Services, his designee, or Carlos Fletes, Mary Bell, Nancy Hoyt, Mary Carter, Susan Rodriguez, Mirtha Galindo, Betty Kakiuchi, Phyllis Gilliam, Rosalind Summers, Travis Gregory, Martha P. Garcia, Martha Sanchez, Sheila Dorsey-Freeman, Zula Hartfield and Angie Gallo.

**M/S/C Acuña/Wong**

**Resolution No. 14157: Imperial County Superintendent's Office to Make Corrections on Commercial and/or Payroll Warrants**

WHEREAS, an occasional error is found in the total amount of a payment of a commercial and/or payroll warrants; and

WHEREAS, the delay of returning said warrant or warrants and the expense of returning them is not a sound business practice;

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of the Imperial Community College District hereby authorizes the Office of Imperial County Superintendent of Schools to correct the commercial warrant in any amount not to exceed ten dollars (\$10.00), and make corrections to the payroll warrant in any amount necessary.

**M/S/C Acuña/Wong**

**Resolution No. 14158: School Orders**

BE IT RESOLVED that pursuant to Education Code Section 42632/85232, the Imperial Community College District Board of Trustees, representing Imperial County, hereby authorizes the following persons to sign any and all orders in the name of said District during the 2008-2009 school year:

Dr. Ed Gould, Superintendent/President  
John Lau, Vice President for Business Services  
Kathy Berry, Vice President for Academic Services  
Dr. Victor Jaime, Vice President for Student Services  
Carlos Fletes, Director of Fiscal Services



**M/S/C Acuña/Wong**

**Resolution No. 14159: Authorized Agents**

BE IT RESOLVED that the Superintendent/President, Vice President for Business Services, Vice President for Academic Services, Vice President for Student Services, and the Associate Dean of Human Resources be designated the "Authorized Agents" for the Imperial Community College District to sign the following documents:

- Notices of Employment
- Notices of Termination
- Changes of Salary
- Payroll Authorization
- Commercial Warrant Orders
- State Compensation Insurance Claims
- State Teachers' Retirement Membership Forms
- Time Sheets
- Notices of Leave of Absence
- State and Federal Project Requests
- PERS Membership Forms
- Any Other Items Approved by the Superintendent

**M/S/C Acuña/Wong**

**Resolution No. 14160: Authorized Agents**

BE IT RESOLVED that the following persons be designated as "Authorized Agents" to sign the documents indicated for the 2008-2009 school year:

Student Notices of Employment	Superintendent/President Vice President, Business Services Vice President, Student Services Vice President, Academic Services Dean, Financial Aid and State Programs
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**M/S/C Acuña/Wong**

**Resolution No. 14161: Authority to Sign Checks**

BE IT RESOLVED that the following persons be authorized to sign checks for the accounts indicated for the 2008-2009 school year:

Commercial Warrants Account (2 signers)	Superintendent/President Vice President/Business Services Vice President/Student Services Vice President/Academic Services Director of Fiscal Services
Associated Students (2 signers)	Superintendent/President Vice President/Business Services Vice President/Student Services Vice President/Academic Services Associate Dean/Student Affairs

	Associated Students Treasurer Director of Fiscal Services
Campus Organizations (2 signers)	Superintendent/President Vice President/Business Services Vice President/Student Services Vice President/Academic Services Associate Dean/Student Affairs Director/Fiscal Services
Revolving Account (1 signer)	Superintendent/President Vice President/Business Services Vice President/Student Services Vice President/Academic Services Director/Fiscal Services
IVC Trust Account (2 signers)	Superintendent/President Vice President/Business Services Vice President/Student Services Vice President/Academic Services Dean/Financial Aid/State Programs Director/Fiscal Services
IVC Holding Account (1 signer)	Superintendent/President Vice President/Business Services Vice President/Student Services Vice President/Academic Services Director/Fiscal Services

**M/S/C Acuña/Wong**  
**Resolution No. 14162: Investment of Monies**

BE IT RESOLVED that the Vice President for Business Services is hereby empowered to authorize and instruct the Treasurer of Imperial County to invest monies not required for the immediate necessities of the Imperial Community College District, as determined. Said funds are to be used to establish an interest bearing inactive bank deposit account for the period specified, or to purchase United States Government Bonds, notes, bills, or certificates for the account of Imperial Community College District; and

BE IT FURTHER RESOLVED that said Imperial County Treasurer be authorized and instructed to deposit for safekeeping, in a legal depository, in the State of California or New York, any such bonds notes, bills, and certificates purchased for the account of Imperial Community College District; and

BE IT FURTHER RESOLVED that this resolution be reviewed and acted upon annually.

**M/S/C Acuña/Wong**

**Resolution No. 14163: Designation of District Negotiators**

BE IT RESOLVED that the Board approves the District Negotiating Team appointments of John Lau, Vice President for Business Services, and Travis Gregory, Associate Dean for Human Resources.

BE IT FURTHER RESOLVED that the Vice President for Business Services is designated as the lead Negotiator for the District.

**M/S/C Medina/Acuña**

**Resolution No. 14164: Request to the Board of Supervisors of the County of Imperial to Issue Principal Amount of Tax and Revenue Anticipation Notes for Fiscal Year 2008-2009**

**Discussion**

Dr. Gould asked that Director Fletes present a brief recap on this item.

Director Fletes stated that he and VP Lau are looking for different ways to work with budgeting issues that may arise. He stated the \$8,000,000 is taking into account the cash flow analysis done and the Board reserves that would carry IVC for approximately two months. He stated this money would be used if the worst case scenario occurred and the budget was not adopted until November.

Director Fletes stated this transaction is being set up to be issued on August 27<sup>th</sup> to ensure IVC has enough money to meet payroll in the event the state budget is not approved. He stated this would be paid in January and February after IVC receives property tax monies. He stated Bank of America was selected as the bank because it is rated number one and would be able to offer a better rate. He stated the consultant is the same as the one IVC is using for the bond. He stated this is preparation so that there are no interrupted operations at IVC.

Trustee Medina stated he understood this as a typical financial strategy and the purpose of it.

**Resolution**

WHEREAS, the Board Requests to the Board of Supervisors of the County of Imperial to issue not to exceed \$8,000,000.00 principal amount of tax and revenue anticipation notes for fiscal year 2008-2009, approving distribution of official statement, purchase contract and authorizing and directing certain actions with respect thereto

WHEREAS, community college districts organized and existing under the laws of the State of California are authorized by Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code of the State (the "Law") to borrow money by the issuance of temporary notes, the proceeds of which may be used and expended for any purpose for which the community college district is authorized to spend moneys; and

WHEREAS, pursuant to the Law, such notes shall be issued in the name of such community college districts by the board of supervisors of the county, the county superintendent of which has jurisdiction over such community college district, as soon as possible following receipt of a resolution of the governing board of such community college district requesting such borrowing; and

WHEREAS, the Board of Trustees (the "District Board") of the Imperial Community College District (the "District") has determined that it is desirable that the District borrow funds in an amount not to exceed \$8,000,000.00 with respect to fiscal year 2008-2009 for authorized purposes of the District, and to issue notes (the "Notes") under the Law for that purpose; and

WHEREAS, such Notes are payable twelve months after their date of delivery, but as required by Section 53854 of the Act, such date shall not be later than fifteen months after the date of issue, and such Notes shall be payable only from revenue received or accrued during the fiscal year 2008-2009 in which issued; and

WHEREAS, such Notes may not bear interest to exceed twelve percent (12%) per annum, as permitted by Section 53531 of the Act, notwithstanding Section 53854 of the Act; and

WHEREAS, pursuant to Section 53856 of the Act, the District may pledge any taxes, income, revenue, cash receipts, or other moneys of the District deposited in inactive or term deposits (but excepting certain moneys encumbered for a special purpose); and this Resolution specifies that certain Unrestricted Revenues, as hereinafter defined, which will be received by the District for the General Fund of the District during or allocable to fiscal year 2008-2009 are pledged for the payment of the Notes; and

WHEREAS, the Notes shall be a general obligation of the District, and to the extent not paid from the taxes, income, revenue, cash receipts, and other moneys of the District pledged for the payment thereof, shall be paid with interest thereon from any other moneys of the District lawfully available therefor, as required by Section 53857 of the Act; and

WHEREAS, the Notes shall be in denominations of \$5,000 or integral multiples thereof, as permitted by Section 53854 of the Act; shall be sold on the date provided in the Purchase Contract, as permitted by Section 53853 of the Act; and shall be in the form and executed in the manner prescribed in this Resolution, as required by Section 53853 of the Act; and

WHEREAS, the District Board has found and determined that said \$8,000,000.00 maximum principal amount of Notes to be issued by the Board of Supervisors of Imperial County (the "Board of Supervisors") in the name of the District in fiscal year 2008-2009, when added to the interest payable thereon, does not exceed eighty-five percent (85%) of the estimated amount of the uncollected taxes, income, revenue (including, but not limited to, revenues from state and federal governments), cash receipts and other moneys of the District which will be available for the payment of the Notes and interest thereon, as required by Section 53858 of the Act; and

WHEREAS, the District Board has found and determined that the Notes will not be outstanding after a period ending twelve months after the date on which such Notes are issued, will not be issued to finance a working capital reserve and will be expended within the time period required as provided in the Income Tax Regulations of the United States Treasury; and

NOW, THEREFORE, BE IT RESOLVED by the District Board as follows:

**Section 1. Recitals True and Correct.** All of the recitals herein set forth are true and correct, and the District so finds and determines.

**Section 2. Authorization of Issuance of Notes; Terms Thereof; Paying Agent.** The District Board hereby requests the Board of Supervisors to issue in the name of the District, an amount not to exceed \$8,000,000.00 principal amount of Notes under Sections 53850, et seq., of the Act, designated "Imperial Community College District, Imperial County, State of California, 2008-2009 Tax and Revenue Anticipation Notes" (the "Notes"); to be numbered from 1 consecutively upward in order of issuance; to be in the denominations of \$5,000, or integral multiples thereof, to be dated the date of delivery thereof; to mature (without option of prior redemption) twelve months after said date of delivery, or if such date is not a day on which banks in New York or California are open for business, on the last day prior to such date; and to bear interest, payable at maturity and computed on a 30-day month/360-day year basis, at the rate or rates determined at the time of sale thereof, but not in excess of twelve percent (12%) per annum. Subject to Section 4 hereof, both the principal of and interest on

the Notes shall be payable, only upon surrender thereof, in lawful money of the United States of America at the principal office of the County of Imperial Treasurer-Tax Collector (the "Treasurer-Tax Collector"), which is hereby designated by this Board as the paying agent for the Notes.

**Section 3. Deposit of Note Proceeds; No Arbitrage.** The moneys so borrowed shall be deposited in the Treasury of the County of Imperial (the "County") in a proceeds fund to the credit of the District to be withdrawn, used or expended by the District for any purpose for which it is authorized to invest or expend funds from the general fund of the District, including, but not limited to, current expenses, capital expenditures or the discharge of any obligation of indebtedness of the District. The District hereby covenants that it will make no use of the proceeds of the Notes that would cause the Notes to be "arbitrage bonds" under Section 148 of the Code; and, to that end, so long as any of the Notes are outstanding, the District, and all of its officers having custody or control of such proceeds, shall comply with all requirements of (a) said section, including restrictions on the use and investment of proceeds of the Notes and the rebate of a portion of investment earnings on certain amounts, including proceeds of the Notes, if required, to the Federal government, and (b) of the Income Tax Regulations of the United States Treasury promulgated thereunder or any predecessor provisions, to the extent that such regulations are, at the time, applicable and in effect, so that the Notes will not be "arbitrage bonds."

**Section 4. Payment of Notes.**

(a) Source of Payment. The principal amount of the Notes, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts, and other moneys which are received by the District during fiscal year 2008-2009 and which are available therefor. The Notes shall be a general obligation of the District, and, to the extent the Notes are not paid from the Pledged Revenues defined below, the Notes shall be paid with interest thereon from any other moneys of the District lawfully available therefor, as provided herein and by law.

(b) Pledged Revenues. As security for the payment of the principal of and interest on the Notes, the District hereby pledges and covenants to deposit in the "Repayment Fund," as hereinafter defined, an amount equal to 50% of the principal amount of the Notes, from the first "Unrestricted Revenues" (as hereinafter defined) to be received in January, 2009; an amount equal to 50% of the principal amount of the Notes, from the first Unrestricted Revenues to be received in May, 2009; plus an amount equal to all interest due on the Notes at maturity, from the first Unrestricted Revenues to be received in May, 2009 (such pledged amounts being hereinafter called the "Pledged Revenues"). The term "Unrestricted Revenues" shall mean taxes, income, revenue, cash receipts and other money of the District as provided in Section 53856 of the Act, which are intended as receipts for the general fund of the District and which are generally available for the payment of current expenses and other obligations of the District.

The principal of the Notes and the interest thereon shall be a first lien and charge against and shall be payable from the first moneys received by the District from such Pledged Revenues, as provided by law.

In the event that there are insufficient Unrestricted Revenues received by the District to permit the deposit into the Repayment Fund, as hereinafter defined, of the full amount of Pledged Revenues to be deposited from Unrestricted Revenues in any month on the last business day of such month, then the amount of any deficiency shall be satisfied and made up by the District from any other moneys of the District lawfully available for the repayment of the Notes and the interest thereon.

(c) The Treasurer-Tax Collector is hereby authorized to create a special fund on behalf of the District separate and distinct from all other County and District funds and accounts designated the "Imperial Community College District 2008-2009 Tax and Revenue Anticipation Notes Repayment Fund" (the "Repayment Fund") and applied as directed in this Resolution. Any money placed in the Repayment

Fund shall be for the benefit of the holders of the Notes, and until the Notes and all interest thereon are paid by the District or until provision has been made for the payment by the District of the Notes at maturity with interest to maturity, the moneys in the Repayment Fund shall be applied solely for the purposes for which the Repayment Fund has been created.

(d) **Covenant Regarding Additional Short-Term Borrowing.** The District hereby covenants and warrants that it will not request the Treasurer-Tax Collector to make temporary transfers of funds in the custody of the Treasurer-Tax Collector to meet any obligations of the District during the 2008-2009 fiscal year pursuant to the authority of Article XVI, Section 6, of the Constitution of the State of California or any other legal authority.

**Section 5. Book-Entry Only System.** "CUSIP" identification numbers shall be imprinted on the Notes, but such numbers shall not constitute a part of the contract evidenced by the Notes and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the Notes. In addition, failure on the part of the District to use such CUSIP numbers in any notice to registered owners of the Notes shall not constitute an event of default or any violation of the District's contract with such registered owners and shall not impair the effectiveness of any such notice.

Except as provided below, the owner of all of the Notes shall be The Depository Trust Company, New York, New York ("DTC"), and the Notes shall be registered in the name of Cede & Co., as nominee for DTC. The Notes shall be initially executed and delivered in the form of a single fully registered Note in the full aggregate principal amount of the Notes. The District may treat DTC (or its nominee) as the sole and exclusive owner of the Notes registered in its name for all purposes of this Resolution, and the District shall not be affected by any notice to the contrary. The District shall not have any responsibility or obligation to any participant of DTC (a "Participant"), any person claiming a beneficial ownership interest in the Notes under or through DTC or a Participant, or any other person which is not shown on the register of the District as being an owner, with respect to the accuracy or adequacy of any records maintained by DTC or any Participant or the payment by DTC or any Participant by DTC or any Participant of any amount in respect of the principal or interest with respect to the Notes. The District shall pay all principal and interest with respect to the Notes only to DTC, and all such payments shall be valid and effective to fully satisfy and discharge the District's obligations with respect to the principal and interest with respect to the Notes to the extent of the sum or sums so paid. Except under the conditions noted below, no person other than DTC shall receive a Note. Upon delivery by DTC to the District of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the term "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

If the District determines that it is in the best interest of the beneficial owners that they be able to obtain Notes and deliver a written certificate to DTC to that effect, DTC shall notify the Participants of the availability through DTC of Notes. In such event, the District shall request the Board to issue, transfer and exchange Notes as requested by DTC and any other owners in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Notes at any time by giving notice to the District and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the District shall request the Board to deliver Notes as described in this Resolution and the Issuance Resolution (as defined in Section 14 hereof). Whenever DTC requests the District to do so, the District will cooperate with DTC in taking appropriate action after reasonable notice to (a) make available one or more separate Notes evidencing the Notes to any DTC Participant having Notes credited to its DTC account or (b) arrange for another securities depository to maintain custody of Certificates evidencing the Notes.

Notwithstanding any other provision of this Resolution to the contrary, so long as any Note is registered in the name of Cede & Co., as nominee of DTC, all payments by the District with respect to

the principal and interest with respect to such Note and all notices with respect to such Note shall be made and given, respectively, to DTC as provided as in the representation letter of the District delivered on the date of issuance of the Notes.

**Section 6. Sale of the Notes.** The Board hereby approves the sale of the Notes by negotiation with Bank of America (the "Underwriter"), under the Purchase Contract among the District, the County and the Underwriter (the "Purchase Contract"), in substantially the form on file with the Clerk of the Board of Trustees together with any changes therein or additions thereto approved by the Superintendent, the Vice President/Chief Financial Officer or any other duly appointed officer of the District authorized by resolution of the Board to act as a representative of the District hereunder (each, an "Authorized Officer"), whose execution thereof will be conclusive evidence of approval of any such additions and changes. The Authorized Officers are each separately authorized and directed to execute and deliver the Purchase Contract on behalf of the District. The Underwriter must purchase the Notes for a purchase price at least equal to 98% of the par amount thereof, and the rate of interest to be borne by the Notes may not exceed 5% per annum.

**Section 7. Transfer of Notes.** Any Note may, in accordance with its terms, but only if the District determines to no longer maintain the book entry only status of the Notes, or if DTC determines to discontinue providing such services and no successor securities depository is named or DTC requests the District to deliver Note certificates to particular DTC Participants, be transferred, upon the books required to be kept pursuant to the provisions of Section 8 hereof, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Note for cancellation at the office of the District, accompanied by delivery of a written instrument of transfer in a form approved by the District, duly executed.

Whenever any Note or Notes shall be surrendered for transfer, the District shall have the Board execute and deliver a new Note or Notes, for like aggregate principal amount.

**Section 8. Note Register.** The District shall keep or cause to be kept sufficient books for the registration and transfer of the Notes if the book entry only system is no longer in effect and, in such case, the District shall register or transfer or cause to be registered or transferred, on said books, Notes as herein before provided. While the book entry only system is in effect, such books need not be kept as the Notes will be represented by one Note registered in the name of Cede & Co., as nominee for DTC.

**Section 9. Limitation on Maximum Amount.** The principal amount of notes issued pursuant hereto, when added to the interest payable thereon, shall not exceed eighty-five percent (85%) of the estimated amount of the uncollected taxes, revenue and other moneys of the District for the General Fund of the District attributable to Fiscal Year 2008-2009, and available for the payment of said notes and the interest thereon (as hereinafter provided).

**Section 10. Official Statement.** The District hereby authorizes each Authorized Officer to separately approve, and to deem final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934 except for permitted omissions, a Preliminary Official Statement describing the Notes. The Underwriter is hereby authorized to distribute the approved form of the Preliminary Official Statement in connection with the sale of the Notes. Each Authorized Officer is hereby separately authorized and directed to (a) execute and deliver to the Underwriter a certificate deeming the Preliminary Official Statement to be nearly final prior to the distribution thereof by the Underwriter to prospective bidders, (b) approve any changes in or additions to cause the Official Statement to be put in final form, and (c) execute the final Official Statement for and in the name and on behalf of the District.

The District hereby acknowledges that the County has not approved the District's Official Statement, and the County does not accept any responsibility for the accuracy or adequacy of the statements contained therein.

**Section 11. Authorization to Make Corrections.** The Authorized Officers are separately authorized to approve corrections and additions to the Purchase Contract and the Official Statement by supplement or amendment thereto, or otherwise as appropriate, provided that any such corrections or additions shall be necessary to cause the information contained therein to conform with facts material to the Notes or to the proceedings of the District and the Board, or such corrections or additions are in form rather than substance.

**Section 12. Further Authorization.** The District Representatives are separately authorized and directed to execute said Official Statement and a statement that the facts contained in the Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Notes, true and correct in all material respects and that the Official Statement did not, on the date of sale of the Notes, and does not, as of the date of delivery of the Notes, contain any untrue statement of a material fact with respect to the District or omit to state material facts with respect to the District required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. The District Representatives shall take such further actions prior to the signing of the Official Statement as are deemed necessary or appropriate to verify the accuracy thereof.

**Section 13. Approval of Action Taken.** All actions heretofore taken by the officers and agents of the District with respect to the sale and issuance of the Notes are hereby approved, and the Authorized Officers are hereby authorized and directed for and in the name and on behalf of the District, to do any and all things and take any and all actions relating to the execution and delivery of any and all certificates, requisitions, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Notes in accordance with the Board of Supervisors' Resolution and this resolution.

**Section 14. Approval of Board of Supervisors' Resolution.** The resolution entitled "A Resolution of the Board of Supervisors of the County of Imperial Providing for the Borrowing of Funds for Imperial Community College District for Fiscal Year 2008-2009 and the Issuance of Imperial Community College District 2008-2009 Tax and Revenue Anticipation Notes Therefor In An Amount Not To Exceed \$8,000,000.00, and Authorizing and Directing Certain Actions With Respect Thereto" (the "Issuance Resolution") in substantially the form presented to the Board of Trustees at this meeting, together with any additions to or changes therein deemed necessary or advisable by the Board of Supervisors and the Superintendent of the District or the Superintendent's authorized designee, is hereby approved.

**Section 15. Tax Covenants.**

(a) No Arbitrage. The District shall not take, nor permit nor suffer to be taken any action with respect to the proceeds of the Notes which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Notes (the "Closing Date") would have caused the Notes to be "arbitrage bonds" within the meaning of section 148 of the Internal Revenue Code of 1986 (the "Code").

(b) Rebate Requirement. The District shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government.

(c) Private Activity Bond Limitation. The District shall assure that proceeds of the Notes are not so used as to cause the Notes to satisfy the private business tests of section 141(b) of the Code.



(d) Federal Guarantee Prohibition. The District shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Notes to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(e) Maintenance of Tax-Exemption. The District shall take all actions necessary to assure the exclusion of interest on the Notes from the gross income of the owners of the Notes to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the Closing Date.

**Section 16. Covenants and Warranties.** It is hereby covenanted and warranted by the District Board that all representations and recitals contained in this Resolution are true and correct, and that the District Board has reviewed, or caused to be reviewed, all proceedings heretofore taken by the District Board relative to the authorization of the Notes and has found, as a result of such review, and hereby finds and determines that all acts, conditions and things required of the District Board by law to exist, happen and be performed by the District Board precedent to and in the issuance of the Notes have existed, happened and been performed in due time, form and manner as required by law, and the District Board is duly authorized to incur indebtedness in the manner and upon the terms provided in this Resolution.

**Section 17. Indemnification.** The District Board agrees to indemnify, defend and save the County (including its officers, agents and employees) harmless against any and all liabilities, costs, expenses, damages and claims which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its active negligence or bad faith.

## **CONSENT AGENDA – EDUCATIONAL SERVICES**

### **M/S/C Cardenas/Acuña**

#### **Resolution No. 14165: California State Department of Education Agreement Number CCTR-8076, Project Number 13-6315-00-8 for Child Care Contract**

BE IT RESOLVED that the Governing Board of Imperial Community College District authorizes entering into local agreement numbers CCTR-8076 project number 13-6315-00-8, for the fiscal year 2008-2009, with the California State Department of Education, and that Superintendent/President Dr. Ed Gould, and Vice President for Academic Services Kathy Berry are authorized to sign the transaction for the Governing Board.

## **CLOSED SESSION**

### **M/S/C Acuña/Hart to go into CLOSED SESSION at 6:51 p.m.**

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Three potential cases)

## **OPEN SESSION**

### **M/S/C Acuña/Galindo to go into OPEN SESSION at 7:19 p.m.**

1. Direction was given to legal counsel.

## **CONSENT AGENDA – HUMAN RESOURCES**

**M/S/C Acuña/Medina**

### **Resolution No. 14166: Compensation Method for Adjunct Credit Teaching Faculty**

BE IT RESOLVED that the Board approves the recommendation of the Superintendent/President to approve salary changes for adjunct credit (teaching and non-teaching) faculty.

Effective August 1, 2008, adjunct credit (teaching and non-teaching) faculty members shall be compensated at a rate of \$55 per hour for every lecture and lab hour taught;

BE IT FURTHER RESOLVED that the Board approves the recommendation of the Superintendent/President to compensate adjunct credit faculty (teaching and non-teaching) at the current overload rate.

**M/S/C Acuña/Medina**

### **Resolution No. 14167: Employment Contract Modification for Superintendent/President**

Be it resolved that the Board approves a modification to the Superintendent/President's employment contract terms and conditions as follows:

4. **BENEFITS.**

The President shall have the use of a credit card for all usual and customary expenses associated with the betterment of the College. In lieu of using the College's credit card, the President shall be reimbursed up to \$600.00 per month for expenses incurred for entertainment or other social needs while representing the College. The President shall submit a written request for reimbursement together with supporting credit card statements or receipts, or as provided in relevant Board Policies.

### ***Replaced with***

4. **BENEFITS.**

Due to the unique and sometimes unanticipated nature of the professional duties required of the Superintendent/President, the District shall pay a general internal expense allowance of \$600.00 per month for use in carrying out needs customary with the betterment of the College.

**M/S/C Acuña/Medina**  
**Resolution No. 14168: Full-Time Faculty Employment**

BE IT RESOLVED that the Board approves the recommendation of the Superintendent/President to employ the following full-time, tenure track, academic personnel for the academic year 2008–2009, pending medical and background clearance:

<u>Name</u>	<u>Classification/Step</u>	<u>Assignment</u>
Guerrero, Jose	Appropriate Classification and Step Contingent Upon Verification of Records	Administration of Justice Instructor/P.O.S.T. Coordinator

FISCAL IMPACT STATEMENT: Budgeted position.
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**M/S/C Acuña/Medina**  
**Resolution No. 14169: Full-Time Temporary Faculty Employment**

BE IT RESOLVED that the following full-time temporary academic personnel be employed for the 2008-2009 academic year, pending medical and background clearance:

<u>Name</u>	<u>Classification/Step</u>	<u>Assignment</u>
Alvarado, Sotero	Appropriate Classification and Step Contingent Upon Verification of Records	Mathematics Instructor
Cozzani, Alejandro	Appropriate Classification and Step Contingent Upon Verification of Records	Physics/Mathematics Instructor

**M/S/C Acuña/Medina**  
**Resolution No. 14170: Administrator Employment**

BE IT RESOLVED that the Board approves the recommendation of the Hiring/Screening Committee, with the endorsement of the Superintendent/President, that Justina Aguirre be employed as Associate Dean of Nursing and Allied Health, a full-time administrative position, effective August 4, 2008.

FISCAL IMPACT STATEMENT: Budgeted position.
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**M/S/C Acuña/Medina**  
**Resolution No. 14171: Classified Confidential Position**

BE IT FURTHER RESOLVED that the Board approves the recommendation of the Superintendent/President to designate the following position as confidential and placed on the confidential salary scale as stated.

<u>Position</u>	<u>Department</u>	<u>Funding</u>	<u>Range</u>	<u>Effective</u>
Instructional Assistant/ Curriculum Specialist	Academic Services	District	2	July 16, 2008

FISCAL IMPACT STATEMENT: Budgeted position.

**M/S/C Acuña/Medina**  
**Resolution No. 14172: Classified Service Employment**

BE IT RESOLVED that the Board approves the recommendation of the Superintendent/President to employ the following personnel:

<u>Name</u>	<u>Position</u>	<u>Department</u>	<u>Funding</u>	<u>Range</u>	<u>Effective</u>
Stills, Linda	Infant/Toddler/ Preschool Teacher	Preschool	State 83% District 17%	13-1	07/01/2008

FISCAL IMPACT STATEMENT: Budgeted position.

**M/S/C Acuña/Medina**  
**Resolution No. 14173: Elimination of Classified Position from Classified Services**

BE IT RESOLVED that the Board approves the recommendation of the Superintendent/President that the following classified employee be laid off effective end of day August 22, 2008 from his position due to lack of categorical funding effective June 30, 2008:

<u>Name</u>	<u>Classification</u>	<u>Department</u>	<u>Range</u>
Clarence M. Boyle	Microcomputer Lab Assistant	Workforce Development	12-8

**M/S/C Acuña/Medina**  
**Resolution No. 14174: Classified Short-Term Employment**

BE IT RESOLVED that the Board approves the recommendation of the Superintendent/President to employ the following personnel.

<u>Name</u>	<u>Position</u>	<u>Department</u>	<u>Funding</u>	<u>Range</u>	<u>Effective</u>
Castro, Jose Ernesto	Audio Visual Assistant I	Learning Services	District	8-1	7/1/2008 - 7/24/2008
Patino, Blanca	Staff Secretary I	ACCESO	Federal	10-1	7/1/2008 - 8/8/2008

**M/S/C Acuña/Medina**  
**Resolution No. 14175: Classified Retirement**

BE IT RESOLVED that the Board accepts, with sincere regret, the retirement of Noe Ibarra, Audio Visual Assistant I, effective November 1, 2008.

BE IT FURTHER RESOLVED that sincere appreciation be expressed for his 24 years of service to Imperial Valley College.

**M/S/C Acuña/Medina**  
**Resolution No. 14176: Volunteer Employment**

BE IT RESOLVED that the following volunteer be approved and covered by Workman's Compensation Insurance June 25, 2008 through July 24, 2008.

BE IT FURTHER RESOLVED that thanks be hereby extended to Kayla Finnell for her volunteering in the High Tech Center and also for her contribution to Imperial Valley College.

**M/S/C Acuña/Medina**  
**Resolution No. 14177: Volunteer Employment**

BE IT RESOLVED that the following volunteer be approved and covered by Workman's Compensation Insurance July 14, 2008 through July 25, 2008.

BE IT FURTHER RESOLVED that thanks be hereby extended to Hector Larios for his volunteering in the Upward Bound Summer Residential Program and also for his contribution to Imperial Valley College.

**ADJOURNMENT**

The new Associate Dean of Nursing Justina "Tina" Aguirre was introduced. VP Berry stated she had worked for IVC as an adjunct instructor for eight years. Dr. Gould stated Tina would bring expertise in the area of grants.

**M/S/C Acuña/Wong to ADJOURN the meeting at 7:22 p.m.**

The next regular meeting of the Imperial Community College District Board of Trustees is scheduled for the **THIRD WEDNESDAY, AUGUST 20, 2008, AT 6 P.M.** in the Administration Building Board Room.

Adopted this 20<sup>th</sup> day of August 2008.

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ICCD Board President

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ICCD Board Secretary