

STAFF SUMMARY RECOMMENDATION

DELEGATION of CERTAIN POWERS TO EXECUTIVE DIRECTOR AND DEPUTY EXECUTIVE DIRECTOR Resolution Number 2009-01

January 5, 2009

BACKGROUND: AB 1479, chaptered August 4, 2008. This bill authorized the Authority to delegate powers and duties deemed proper, including the power to delegate to the Executive Director or any other official or employee of the Authority, any powers and duties that the Authority deems proper.

PURPOSE OF THE RESOLUTION: From time to time a participating private college may desire to seek consent of the Authority relating to amendments to the Bond Documents; removing or replacing participants or agents in the transaction; the delivery of an alternate credit facility or alternate liquidity facility; the sale, encumbrance or transfer of project assets; or a merger or dissolution involving a participating private college. Currently, Board approval is necessary for the Authority to give its consent to many of these amendments. In the interest of streamlining the borrowing processes, the Authority desires to authorize the Executive Director and Deputy Executive Director to consent to various amendments without first obtaining approval of the Board.

The resolution delegates to the Executive Director and the Deputy Executive Director, upon the Executive Director's written authorization or when the position of Executive Director is vacant, the power to perform the following, when consent or approval by the Authority is required by the applicable Bond Documents and such actions are made in accordance with the terms and conditions of the Bond Documents:

- (i) Sign and certify resolutions adopted by the Board.
- (ii) Execute and deliver all Bond Documents previously or hereafter approved by the Board.
- (iii) Execute, amend and deliver certain Bond Documents.
- (iv) Appoint, consent to, or approval of (or removal of the same) defined parties.
- (v) Approve or consent to the delivery of any substitute, alternate or replacement credit enhancement or liquidity facility for bonds of the Authority (or termination of the same).
- (vi) Approve or consent to the sale, encumbrance or other transfer of all or a portion of a project financed with bonds of the Authority.
- (vii) Approve or consent to a merger, dissolution, or the sale of substantially all assets by a participating party, the sale of substantially all of the assets of a participating party.
- (viii) Carry out any ministerial actions contemplated by any Bond Documents.
- (ix) Waive, on behalf of the Authority, any provision of any Bond Document that is expressly for the benefit of the Authority and has not been assigned by the Authority, including, but not limited to, deadlines for delivery of notices, certificates, reports and other items to the Authority.
- (x) Respond to any litigation or claim made against the Authority in connection with any bond issue, or any investigation of any bonds by any state or federal regulatory or law enforcement authorities when such response is required by law and is necessary to protect the interests of the Authority, the bondholders, or to effectuate the terms of the applicable resolution adopted by the Board.

RECOMMENDATION: Staff recommends the Authority approve Resolution No. 2009-01 authorizing the delegation of certain functions to the Executive Director and Deputy Executive Director.