

OHLONE COMMUNITY COLLEGE DISTRICT
BOARD RESOLUTION NO. 5/06-07

WHEREAS, the Board of Trustees of the Ohlone Community College District of Alameda County, State of California, on August 9, 2006, did adopt Resolution No. 4/06-07, declaring its intention to dedicate an easement to the Alameda County Water District at the Newark Ohlone Project site in Newark, California; and

WHEREAS, at the direction of the President, a public notice of Resolution No. 4/06-07 was posted in three (3) public places in said District for a period of at least ten (10) days prior to the date of this meeting; and

WHEREAS, a public hearing has been conducted on the intent to dedicate such easement; and

WHEREAS, no petition protesting against said easement has been filed with this Board of Trustees;

WHEREAS, the Alameda County Water District, its successors and assigns, shall have and hold the subject easement forever for the sole objects and purposes set forth in Resolution No. 4/06-07 and no other purposes, or in that event, this dedication shall immediately lapse and become null and void, and said easement shall revert back to the Ohlone Community College District.

NOW, THEREFORE, BE IT RESOLVED that the aforesaid easement be, and the same easement is, hereby dedicated and conveyed to the Alameda County Water District, its successors and assigns, upon the terms and conditions set forth in Resolution No. 4/06-07, in consideration of the mutual promises and covenants contained therein;

BE IT FURTHER RESOLVED that the Ohlone Community College District reserves the right to use the easement area for utilities purposes in the same manner provided under Resolution No. 4/06-07;

BE IT FURTHER RESOLVED that the Ohlone Community College District shall not diminish or substantially add to the earth cover over the Alameda County Water District's facilities, nor shall the Ohlone Community College District authorize or permit any other person to do so. The Ohlone Community College District shall not construct any buildings or other similar improvements within the surface area of the easement, provided, however, that the Ohlone Community College District shall have the right to construct surface improvements such as roadways, driveways, parking, curbs, sidewalks and landscaping within the surface area of the easement, which improvements shall not unreasonably interfere with or obstruct the Alameda County Water District's replacement, installation, construction, removal, maintenance, reconstruction, repair, or use of its facilities within the easement area;

BE IT FURTHER RESOLVED that the Ohlone Community College District may, at any time, request that the Alameda County Water District relocate its facilities to a new

location either within this easement area or to another location on the Ohlone Community College District's property outside this easement area, and the Alameda County Water District shall not unreasonably delay or withhold its approval of such request. Any such facility relocation shall be at the sole expense of the Ohlone Community College District and shall be subject to the terms and conditions reasonably established by the Alameda County Water District, which may include the grant of a new easement for the new locations of the relocated facilities. In the event such relocation results in the Alameda County Water District no longer using this easement or any part of it, the Ohlone Community College District may request that the Alameda County Water District quitclaim any unused portions of this easement and the Alameda County Water District shall not unreasonably withhold or delay its approval of such request;

BE IT FURTHER RESOLVED that, in the event that the easement is not used in the manner provided under Resolution No. 4/06-07 for a period of three hundred sixty five (365) consecutive calendar days, and upon notice by the Ohlone Community College District, the Alameda County Water District shall have sixty (60) calendar days to reinstate its use of the easement. If the Alameda County Water District does not reinstate its use of the easement within sixty (60) days of receiving said notice by the Ohlone Community College District, the Alameda County Water District's easement rights shall fully lapse and terminate, and the Alameda County Water District shall take all actions necessary and execute all documents required to clear the easement from the Ohlone Community College District's title to its lands upon the request of the Ohlone Community College District;

BE IT FURTHER RESOLVED that the President and Secretary of this Board of Trustees be, and they hereby are, duly authorized and directed to execute a Deed of Dedication of Easement in said property as hereinabove described to the Alameda County Water District, its successors, assigns, for and on behalf of the Ohlone Community College District of Alameda County, State of California; and

BE IT FURTHER RESOLVED that the Vice President/Deputy Superintendent of the Ohlone Community College District Business Services Division and the staff of that Division be, and they hereby are, delegated the responsibility for monitoring whether the Alameda County Water District allows its easement rights to lapse for lack of use as provided in this resolution.

PASSED and ADOPTED at its regular meeting the _____ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Secretary of the Board of Trustees of the
Ohlone Community College District