RESOLUTION NO. 16/15-16

A RESOLUTION OF THE OHLONE COMMUNITY COLLEGE DISTRICT
AUTHORIZING THE FILING OF A REQUEST TO WAIVE CERTAIN PROVISIONS OF
THE CALIFORNIA EDUCATION CODE GOVERNING THE PUBLIC BIDDING
PROCEDURES FOR GROUND LEASE OF SURPLUS FRONTAGE PROPERTY
LOCATED AT 43600 MISSION BOULEVARD, FREMONT, CALIFORNIA

WHEREAS, the Ohlone Community College District (“District”) is the owner of surplus
district frontage property consisting of an assemblage of three District sites totaling approximately
15 acres located along Mission Boulevard, Fremont, CA with the common street address 43600
Mission Boulevard, Fremont, CA (the “Property”) and depicted in Attachment 1 as Private
Development A, Private Development B-1 and Private Development B-2; and

WHEREAS, by prior resolution of the Board of Trustees (“Board”) No. 20/13-14 adopted on
February 12, 2014, the Board authorized the ground lease of the Property (the “Lease Resolution”)
pursuant to the public bidding procedures in California Education Code §§ 81360 et seq. (the
“Education Code”); and

WHEREAS, the Board did not receive any acceptable proposals meeting the minimum lease
requirements specified in the Lease Resolution for the ground lease of all or a portion of the
Property; and

WHEREAS, the public bidding requirements in the Education Code may be waived by the
Board of Governors of the California Community Colleges (the “Board of Governors”) upon written
request by the Board after providing 30-days’ written notice of a public hearing and making findings
that the waiver request is in the best interest of the District and will not increase state costs or
decrease state revenues; and

WHEREAS, the Board believes it is in the best interest of the District to request a waiver of
the Education Code as set forth in Attachment 2 to avoid a likely second unsuccessful bid process to
ground lease the Property under the Education Code; and

WHEREAS, the waiver request will allow the District to retain the services of a real estate
brokerage firm to market the Property and directly negotiate with the developer entity the Board
determines best suited to develop the Property and maximize the potential income the District will
receive from the ground lease of the Property;

NOW, THEREFORE, be it resolved by the Board as follows:

Section 1. Recitals. The Board hereby finds and determines that all the above recitals
are true and correct.

Section 2. Notice of Public Hearing. This resolution is adopted following a public
hearing at a regularly scheduled meeting of the Board for which a minimum of thirty (30) days public
notice has been duly given.

Section 3. Best Interest Findings. The Board finds it is in the best interest of the District
to directly negotiate with the developer entity the Board determines best suited to develop the
Property in order to maximize the potential income the District will receive from the ground lease of
the Property and avoid a likely second unsuccessful bid process to ground lease the Property under
the Education Code. The Board further finds the potential income from the ground lease of the
Property will further the ability of the District to meet the educational needs of the community. The
Board further finds a waiver of the Education Code to allow the Board to directly negotiate a ground
lease of the Property will not increase state costs or decrease state revenues.

Section 4. Authorization to Submit Waiver Request. The Board authorizes the
President, or her designated representative, to file a waiver request with the Board of Governors to
waive certain of the provisions in the Education Code substantially in the form of Attachment 2,
attached hereto and incorporated herein by this reference. The specific purpose and reason for
waiver of each of the applicable Education Code sections are also set forth in Attachment 2.

Section 5. Effect. This Resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED by the Governing Board of the Ohlone Community College District by
the vote of its members on the thirteenth day of January 2016 as follows:

AYES:

NOES:

ABSTAIN:

ABSENT:

I, Gari Browning, Secretary of the Board of Trustees of the Ohlone Community College District, do
hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the Board
of Trustees at a regular meeting thereof held at its regular place of meeting at the time and by the
vote stated above, which resolution is on file in the office of the Board of Trustees.

Gari Browning, Secretary
Board of Trustees
Ohlone Community College District