

OHLONE COMMUNITY COLLEGE DISTRICT

MEMORANDUM

TO: Board of Trustees

FROM: Dr. Eric Bishop

DATE: November 10, 2021

SUBJECT: Public Hearing for Waiver Request of Public Bidding Requirements for Lease of Surplus Real Property for Multi-Family Residential Project at Newark Campus; Adoption of Board of Trustees Resolution No. 17/21-22 to authorize submission of Waiver Request to the Board of Governors of the California Community Colleges

Pursuant to Resolution 03/21-22 adopted by the Board of Trustees (Board) at a duly noticed meeting on August 11, 2021, the Board declared as surplus property approximately 15.9 acres of vacant real property on the south/southwest side of the Ohlone College Newark Center for Health Sciences and Technology located on Cherry Street between Mowry Avenue and Stevenson Boulevard in the City of Newark, County of Alameda, State of California and is a portion of APN 901-0185-13-9 (“Property”). The Board further declared its intention to enter into a long term lease of the Property for a market-rate multi-family residential project that will benefit the District by providing ongoing cash flow that will help the District meet the educational needs of the community. The District provided notice of its intention to lease the Property to State and local agencies as required by law and no State or local agency expressed interest in leasing the Property.

The lease of surplus District property is normally subject to the public bidding requirements in Education Code sections 81360 *et seq.* The District and its real estate development consultants have determined that complying with the procedures set forth in Education Code section 81360 *et seq.* for the lease of the Property for a commercial multi-family residential project, specifically the public auction requirement, will likely “chill” proposals from developers and will not be in the best interest of the District given the size, features and development constraints of the Property. The District believes a successful long term lease of the Property for a multi-family residential project will require an aggressive marketing effort leading to extensive negotiations with potential lessees/developers of the Property to achieve a “best value” proposal that meets the District goals for rental income, compliance with affordable housing unit requirements, mitigation of environmental conditions and date of substantial completion.

The public bidding requirements in the Education Code may be waived by the Board of Governors of the California Community Colleges (Board of Governors) upon written request by the Board after providing 30-days’ written notice of a public hearing and making findings after the public hearing that the waiver request is in the best interest of the District and will not increase state costs or decrease state revenues. The District believes that processing the waiver of the parts of Part 49, Chapter 2 as provided in the proposed resolution will best allow the District to lease all or a portion of the Property and achieve its goals through targeted direct broker marketing and developer negotiations prior to award of the lease.

The required 30-days' notice of the November 10, 2021 public hearing was mailed to applicable State and local agencies on September 28, 2021. Notice of the public hearing was also published in a newspaper of general circulation (the Argus) on October 1 and 8, 2021.

RECOMMENDATION

It is recommended that the Board of Trustees (1) open a public hearing and receive comments on the waiver request; (2) close the public hearing; (3) move the item forward for approval and adoption of the attached Resolution No. 17/21-22 at the November 10, 2021 regular meeting of the Board of Trustees; and (4) authorize the President, or his designated representative, to submit a waiver request to the Board of Governors to waive certain provisions in Education Code sections 81360 *et seq.* as set forth in the resolution.