

CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT

June 26, 2012

Agenda Item: 6.2

Subject: Approval of Settlement Agreement and Mutual Release of Claims between Chabot-Las Positas Community College District and “Parties” and/or “Party” for the Repairs to the Physical Education Complex (PE) and Multi-Disciplinary Education Building (MD) Projects, Las Positas College

Background: On or about March 4, 2009, the District made a claim (demand for arbitration) against Sierra Bay Contractors, Inc., for alleged defects and damages arising from the design, development, construction and/or repairs to the Physical Education Complex (PE) and Multi-Disciplinary Education Building (MD) Projects.

In an effort to avoid costly and lengthy litigation by all “Parties” and/or “Party” involved, the District entered into proactive negotiations with LPA (Architect), Sierra Bay (General Contractor), approximately 19 subcontractors, and various insurance companies to resolve all of the Districts claims in a fair, equitable and timely manner. The Board previously approved a settlement for LPA to pay the District \$450,000 for LPA’s share of liability for the MD Project. Subsequently, after several mediation sessions, the remaining parties (excepting LPA) reached a settlement regarding both the MD and PE Projects. The settlement provides that the District will receive \$2,925,000 to resolve their claims for both Projects.

District legal counsel, Fagen Friedman and Fulfroost, LLP, has negotiated a binding legal Settlement Agreement to finalize the settlement. The District will receive the \$2,925,000 within 90 days of the final execution of the Settlement Agreement. In exchange for such payment, the District will release the retention held for the MD and PE Projects (with the exception of a small amount to cover an outstanding stop notice action on the MD Project) and will release the parties from all claims regarding the Projects. The total Settlement reimbursed to the District for the cost of repairs to the MD and PE Building is \$3,375,000.

Recommended Action: That the Board of Trustees approve the Settlement Agreement and Mutual Release of Claims between Chabot-Las Positas Community College District and “Parties” and/or “Party” and authorize payment to the District for the Repairs to the Physical Education Complex Project (PE), Las Positas College and for the Repairs to the Multi-Disciplinary Education Project, Las Positas College for the total amount of \$2,925,000 as final settlement in accordance with the provisions of this Settlement Agreement. It is further recommended that the Board authorize the Vice Chancellor, Business Services, to execute the Agreement on behalf of the District.

Funding Source: Measure B Bond Funds

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Submitted: Jeffrey M. Kingston/Date

Approved: Susan A. Cota/Date

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