

CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT

RESOLUTION NO. 14-1213

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT AUTHORIZING THE FILING OF A REQUEST TO WAIVE CERTAIN PROVISIONS OF THE CALIFORNIA EDUCATION CODE GOVERNING THE PUBLIC BIDDING PROCEDURES FOR LEASE OF PROPERTY LOCATED AT 5020 FRANKLIN DRIVE, PLEASANTON, CALIFORNIA

WHEREAS, the District is the owner of certain real property commonly known as 5020 Franklin Drive, Pleasanton, California consisting of approximately 25,000 square feet of improved interior space (“Property”); and

WHEREAS, by resolution of the Board of Trustees (“Board”) adopted concurrently herewith, the Board authorized the lease of the Property (the “Lease Resolution”) pursuant to the public bidding procedures in California Education Code §§ 81360 *et seq.*; and

WHEREAS, in the event the Board does not receive acceptable proposals meeting the minimum lease requirements specified in the Lease Resolution for the lease of all or a portion of the Property, the Board believes it is in the best interest of the District to retain the services of a real estate brokerage firm to market the Property directly to potential lessees without public bidding and minimum lease requirements; and

WHEREAS, after considering public comments at the public hearing at which this resolution was adopted, the Board further believes that leasing the Property, in whole or in part, through the efforts of a real estate broker firm without the requirement of public bidding and minimum lease terms is in the best interest of the District;

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

1. The Board authorizes the filing of a request with the Board of Governors of the California Community Colleges to waive certain provisions of the Education Code substantially in the form of Exhibit A, 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 Exhibit A.

2. The Board hereby directs the Vice Chancellor of Business Services to submit the waiver request with the Board of Governors in accordance with Education Code Sections 81250 *et seq.*

Resolution No. 14-1213
April 16, 2013
Page 2

I, Secretary to the Board of Trustees of the Chabot-Las Positas Community College District, do hereby certify that the foregoing Resolution No. 14-1213 was regularly introduced and adopted by the District Board of Trustees at a duly-noticed regular meeting held on the 16th day of April 2013, by the following roll call vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

President, Board of Trustees
Chabot-Las Positas Community College District

Attest:

Secretary, Board of Trustees
Chabot-Las Positas Community College District

EXHIBIT A

(Education Code Provisions to be Waived and Statement of Purpose)

Education Code Section 81365. ~~Before ordering the sale or lease of any property the governing board, in a regular open meeting, by two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it. and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.~~

If the Board is unsuccessful in leasing the Property under the Lease Resolution, which requires public bidding and minimum lease terms, waiver of this portion of Section 81365 would allow the Board to avoid specifying a minimum bid at a public meeting and would allow the Board to set their own terms and conditions and remove references to minimum bids and actions to be taken with “sealed” bids. The Board may instead work with a real estate broker to develop a strategic plan for advertising and marketing of the Property in order to solicit proposals from potential buyers interested in the Property.

Education Code Section 81370.

~~(a) At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals that have been received shall, in public session, be opened, examined, and declared by the board. Except as provided in subdivision (b), of the proposals submitted that conform to all terms and conditions specified in the resolution of intention to sell or to lease and that are made by responsible bidders, the sealed proposal that is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless the board rejects all of these bid [ADD: The governing body may accept the proposal that the governing body determines is in the best interest of the District.]~~

~~(b) Notwithstanding subdivision (a), the governing board of any community college district may apply to the Board of Governors of the California Community Colleges for a waiver of the requirement that the governing board accept the highest responsible bid for the sale or lease of real property. The board of governors may grant a waiver pursuant to this subdivision if it determines that the waiver is in the best interests of the community college district.~~

This waiver will allow the Board the greatest flexibility in evaluating proposals. The Board at some point in the future may decide to take possession of the Property for educational or administrative purposes. In the event proposed tenant’s contemplate alterations or improvements to the Property, the Board will have flexibility to consider such alterations and improvements in evaluating and awarding proposals.

Education Code Section 81374. ~~The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 10 days~~ 30 days ~~next following.~~

The Board sets its meeting calendar at the start of each calendar year. This modification would allow the Board to adjourn to the next regularly scheduled meeting rather than a special meeting. Public participation is likely to increase if the adjourned meeting is held at a regularly scheduled meeting.