

GOVERNING BOARD
CONTRA COSTA COMMUNITY COLLEGE DISTRICT
OF
CONTRA COSTA COUNTY
MARTINEZ, CALIFORNIA

REPORT NO. 32-C

DATE November 10, 2010

PURPOSE Resolution Declaring Intent to Proceed with Brentwood Center Construction Project in a Manner Consistent with the Measure A (2006) Bond Project List – ROLL CALL VOTE REQUIRED

TO MEMBERS OF THE GOVERNING BOARD

RECOMMENDATION

It is recommended that the attached Resolution Declaring Intent to Proceed with Brentwood Center Construction Project in a Manner Consistent with the Measure A (2006) Bond Project List, be adopted.

FUNDING SOURCE

The proposed funding source for the acquisition of land for a new Brentwood Education Center campus is the Measure A 2006 local bond.

BACKGROUND

The Cowell Foundation donated the 29-acre property (Cowell property) on Marsh Creek Road to the District for a location of a permanent Los Medanos College Brentwood campus in 2002. The 29-acre property was annexed into the city limits of Brentwood in 2004 as part of a larger project called the Vineyards at Marsh Creek.

The language in the Measure A 2006 local bond project list states the District may: construct permanent classrooms and other educational facilities to develop the Brentwood Center on land donated to the District.

As more in-depth investigation and planning began for the new Center, it became clear the Cowell property had several issues that made its development problematic.

- There are significant costs (\$3M or higher) to extend off-site infrastructure to the site.
- Developing the property will require a \$600,000 Habitat Conservation Program fee.
- The property is isolated on grazing land away from retail services and amenities.
- The site appears to lack access to public roadways due to filing dates on several related deeds by the Cowell Foundation in 2002.
- Title to the property contained a reverter provision that restricted its use to a community college. The provision also specified that if improvements to the property for community college use were not made within ten years, ownership of the property would revert back to the Cowell Foundation. Due to the pace of growth and the time

it takes to receive State approval for a new center and construct a new facility, it was unlikely the District could meet the provision deadline.

Staff was concerned that these issues reduced the desirability of the Cowell property in that there could potentially be very little value in the property and very high development costs. The District began exploring alternate sites since early 2009 and sent out a request for proposals (RFP) for land in the East County area. The RFP asked for a 12-acre site, with the ability to expand to 15 acres at the District's option.

The District received ten responses to the RFP (see attached Proposal Rankings). The Pioneer Square Proposal was selected on the basis of location, acreage, projected positive future of surrounding area, price, and resolution of the Cowell property reverter issues as a result of Cowell's participation in the proposal. The location and land use for the Cowell property and the Pioneer Square site are provided as Attachment 2.

Specific advantages to the Pioneer Square site include:

- all utilities are already provided to the edge of the property;
- the developers of the Vineyards at Marsh Creek are responsible for the costs and contracts for all of the streets and curbs;
- retail space will be available nearby which could attract student related amenities such as dining and local retail services; and
- the purchased land surrounds a three acre park which will be constructed with city and college input at the developer's cost. This will essentially provide the appearance that the park is part of the campus, and will be available for use by the students. This leverages land valued over \$1M at no cost to the District.

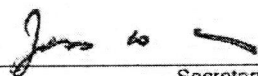
The appraised value of the Cowell property is approximately \$900,000, and the District is realizing a \$1.2M reduction in the property cost by the Cowell Foundation's release of their interest in the Pioneer Square property and recovering the original site by the reverter provision. Thus, District staff's analysis shows the Pioneer Square site is a better value, and includes a realized value link to the land donated for the new Brentwood Center listed in the Measure A 2006 bond language. The District will also be able to avoid over \$3M in site development costs and realize the advantages above.

APPROVED

Disposition _____
Governing Board

Date

NOV 10 2010



Secretary

**GOVERNING BOARD
OF THE
CONTRA COSTA COMMUNITY COLLEGE DISTRICT
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

RESOLUTION NO. 32-C

**RESOLUTION DECLARING INTENT TO PROCEED WITH BRENTWOOD CENTER
CONSTRUCTION PROJECT IN A MANNER CONSISTENT WITH THE MEASURE A
(2006) BOND PROJECT LIST**

WHEREAS, this Governing Board of Contra Costa Community College District (the "District"), located in the County of Contra Costa (the "County"), California, duly called and an election was regularly held in the District on June 6, 2006, at which the following summary of a bond proposition, known as "Measure A" was submitted to the electors of the District:

"To renovate outmoded college facilities (making energy savings, safety, and handicapped accessibility improvements), and update facilities used by transfer, career and vocational students (for math, science, nursing, technology and other programs) at Contra Costa College, Diablo Valley College, Los Medanos College, the San Ramon Valley and Brentwood centers, shall the Contra Costa Community College District issue \$286,500,000 of bonds at legal interest rates with annual audits and a citizens' oversight committee to monitor spending?"

and

WHEREAS, at least 55% of the votes cast on said proposition were in favor of issuing said bonds; and

WHEREAS, as required by Article XIII A, Section 1(b)(3) of the California Constitution, and by the Strict Accountability in Local School Construction Bonds Act of 2000 (codified at Education Code Sections 15264 and following), said proposition includes a Bond Project List describing the specific projects the District proposed to finance with proceeds of the bonds, if approved; and

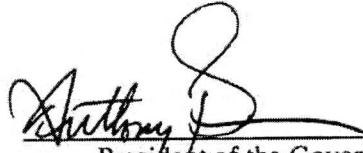
WHEREAS, the Bond Project List for Measure A printed in the voter information pamphlet included authorization for the following project:

REGIONAL EDUCATIONAL CENTERS

- Construct permanent classrooms and other educational facilities to develop the Brentwood Center on land donated to the District.

This bond shall not be entitled to any benefit under the Paying Agent Agreement, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon endorsed shall have been signed by the Paying Agent.

IN WITNESS WHEREOF the Governing Board of the Contra Costa Community College District has caused this CONTRA COSTA COMMUNITY COLLEGE DISTRICT 2010 GENERAL OBLIGATION REFUNDING BOND to be signed by facsimile signatures of its President and Secretary, and has caused this Bond to be dated as of the date given on the face hereof.



President of the Governing Board of the
Contra Costa Community College District



Secretary of the Governing Board
Contra Costa Community College District

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is one of the CONTRA COSTA COMMUNITY COLLEGE DISTRICT 2010 GENERAL OBLIGATION REFUNDING BONDS described in the within-mentioned Paying Agent Agreement authenticated and registered on _____.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., as Paying
Agent/Registrar and Transfer Agent

By _____
Authorized Officer

WHEREAS, the property known familiarly as the "Cowell Ranch Property" was donated to the District for the purpose of developing the Brentwood Center; and

WHEREAS, the District has now determined that development of the Cowell Ranch Property into the Brentwood Center poses unanticipated difficulties, including:

- lack of easement for access to and from public roadways
- the need to develop utilities and other infrastructure for the site
- various environmental issues, including proximity to a Native American burial site and further needed environmental study and mitigation
- lack of nearby support businesses for students and staff
- constrained overall perimeter, limiting space available for development of Center buildings and parking; and

WHEREAS, these issues ensure at a minimum that construction of the Brentwood Center on the donated Cowell Ranch Property will entail significant additional costs that must be funded from limited bond resources, and, in the worst case, may make development of said donated property impossible; and

WHEREAS, District staff has identified an alternative site in the vicinity of the Cowell Ranch Property determined to be suitable for development and construction of the Brentwood Center, known familiarly as the "Pioneer Square" site; and

WHEREAS, this Governing Board has determined that development of the Pioneer Square site into the Brentwood Center may be accomplished at the same or lower cost than developing the Brentwood Center on the donated land as originally proposed; and

WHEREAS, the Governing Board has determined the value of the Cowell Ranch Property is \$900,000 dollars, and the District is realizing a \$1.2 million reduction in the property cost by the Cowell Foundation's release of their interest in the Pioneer Square property; and

WHEREAS, this Governing Board has determined that development of the Pioneer Square site into the Brentwood Center will be the best, most efficacious, and cheapest alternative for accomplishing the purposes approved by the voters in the Bond Project List, and

WHEREAS, the California Court of Appeal, 6th District, decided in the case of Foothill de Anza Community College District v. Emerich that following voter approval of a Proposition 39 bond measure including a specific project list printed in the voter pamphlet, "[a]ny future changes would have to be consistent with the projects specified in the proposition the voters approved"; and

WHEREAS, this Governing Board has determined that development of the Pioneer Square site and constructing permanent classrooms and other education facilities thereon to develop the Brentwood Center is consistent with the Measure A Bond Project List and its

purposes and intent for the Brentwood Center, and that it is necessary and advisable to approve the expenditure of Measure A Bond Proceeds on the alternative site for the Brentwood Center Project;

NOW, THEREFORE, be it resolved, found, determined and ordered by the Governing Board of the Contra Costa Community College District as follows:

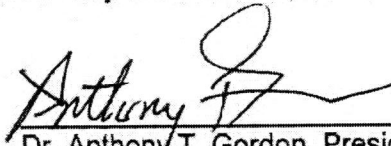
Section 1. Recitals. All of the above recitals are true and correct.

Section 2. Approval of Brentwood Center Site Acquisition and Development.
This Governing Board hereby approves the application of 2006 Measure A Bond proceeds to acquire a site and related rights and interests in real property at the Pioneer Square in Brentwood for the purposes of developing the Brentwood Center, including all necessary site development, and for the construction of permanent classrooms and other educational facilities thereon to develop the Brentwood Center, and for all purposes necessary and incidental thereto, as heretofore authorized by Measure A.

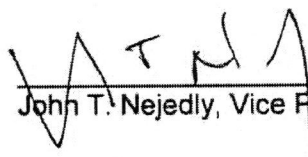
Section 3. Further Actions. This Governing Board hereby authorizes and directs the Chancellor, the Vice Chancellor-Administrative Services, the Chief Facilities Planner, and other officers, employees and agents of the District, to take such necessary actions consistent with this Resolution to accomplish the purposes hereof.

Section 4. Effective Date: This Resolution shall take effect upon its adoption.

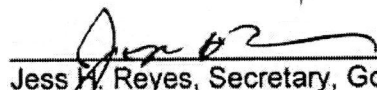
ADOPTED, SIGNED AND APPROVED this 10th day of November, 2010.



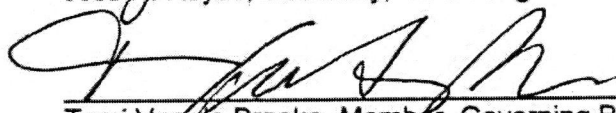
Dr. Anthony T. Gordon, President, Governing Board, Contra Costa Community College District



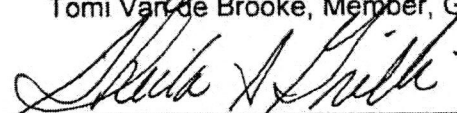
John T. Nejedly, Vice President, Governing Board



Jess H. Reyes, Secretary, Governing Board



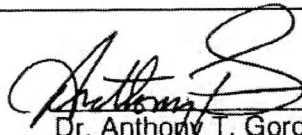
Tomi Van de Brooke, Member, Governing Board



Sheila A. Grilli, Member, Governing Board


I, Anthony T. Gordon, President of the Governing Board of the Contra Costa Community College District, do hereby certify that the foregoing Resolution was adopted by the Governing Board of said District at a meeting of said Board held on the 10th day of November 2010, and that it was so adopted by the following vote:

AYES: Sheila A. Grilli, John T. Nejedly, Anthony T. Gordon,
NOES: Jess H. Reyes, Tomi Van de Brooke, Student Trustee Advisory Vote
ABSENT: _____
ABSTAIN: _____

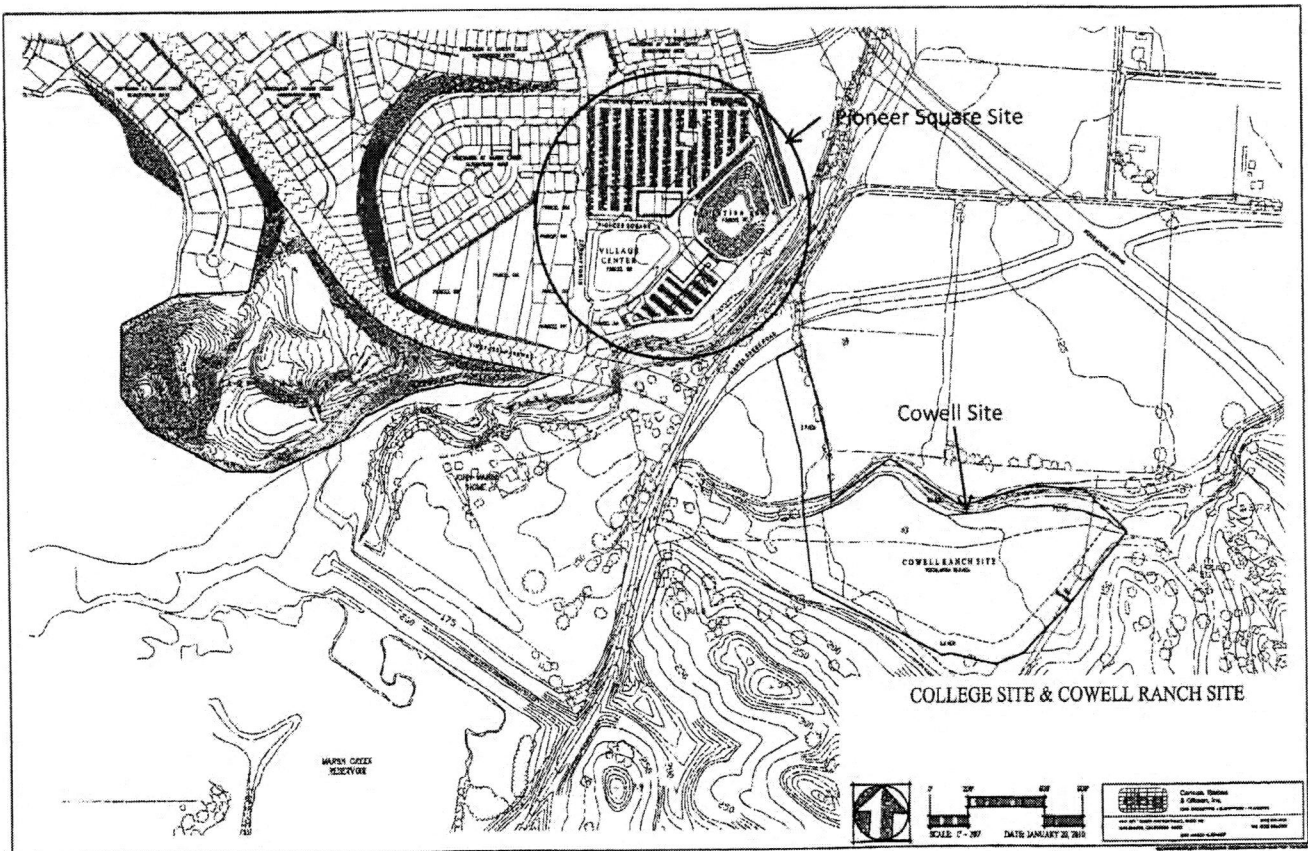


Dr. Anthony T. Gordon, President, Governing
Board, Contra Costa Community College District

Attested to:



Jess H. Reyes, Secretary, Governing Board



GOVERNING BOARD
CONTRA COSTA COMMUNITY COLLEGE DISTRICT
OF
CONTRA COSTA COUNTY
MARTINEZ, CALIFORNIA

REPORT NO. 32-D

DATE November 10, 2010

PURPOSE Planning Report for the Purchase of Property for a new Brentwood Education Center

TO MEMBERS OF THE GOVERNING BOARD

RECOMMENDATION

It is recommended that the Governing Board approve the following planning report for the purchase of property for a new Brentwood Education Center.

FUNDING SOURCE

Funds for the purchase of the property are available from the Measure A 2006 local bond.

BACKGROUND

This report has been prepared to address considerations identified in Education Code, Government Code, Public Resource Code, and the California Code of Regulations. It is a site planning evaluation for a new Brentwood Education Center to be constructed at the Pioneer Square site of the Vineyards at Marsh Creek development in Brentwood.

Education Code Section 81033 (a)

Education Code Section (ECS) 81033 (a) states "The governing board of a community college district, prior to acquiring any site on which it proposes to construct any school building as defined in Section 81130.5, shall have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only".

ECS 81033 also requires the Governing Board to review the geotechnical nature of the site, and evaluate the site with respect to the population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, and surface drainage and other factors that could affect the operating and initial costs.

To evaluate the geotechnical and soils considerations and to evaluate environmental considerations, the District hired Engeo Inc. to perform geotechnical studies and conduct an environmental site assessment. Their Preliminary Geologic Hazard Evaluation, dated January 29, 2010, is on file; it raised no concerns with respect to the geology of the site.

Their Phase One Environmental Assessment Report, dated February 2, 2010, is on file and it noted no evidence of soil or groundwater impairments associated with the current or past use of the site, no documentation of hazardous materials violations or discharge, and found no recognized environmental conditions. Their research was conducted in accordance with recognized standards and stated: "Based on the findings of this assessment, no further environmental studies are recommended at this time."

Population considerations: The site is strategically located in the southeastern area of the Los Medanos enrollment catchment area. This location and the Los Medanos main campus will efficiently balance service to the student population in the area.

Transportation considerations: The site is located one quarter of a mile from the State Highway 4 Bypass and is easily accessible by automobile. The site may be provided bus service by Tri Delta Transit and is connected to a citywide bicycle path system. The District hired Fehr and Peers to conduct traffic analysis, and, other than the constraints required by California Environmental Quality Act (CEQA), they noted that the area has relatively little impact from the educational center being proposed for the site. In addition, the design of the primary local street serving the site has been modified to add travel and turn lanes to maximize traffic operation and minimize hazards.

Utilities and infrastructure:

- The District is in receipt of a "Will Serve Letter" for potable water and sanitary sewer services from the City of Brentwood, dated September 30, 2010. These "wet utilities" are located in the street.
- The joint trench (including electrical, natural gas, telephone, CATV and fiber optic conduit have been installed. These "dry utilities" are located behind the sidewalk.
- The City of Brentwood Engineering Department reviews all utility improvement plans located in the City's right-of-way and inspects their installation. All of these utilities are in the City's right-of-way and will be installed to code.
- A specific engineering study has not been done on utility sizing, but the property's land use designation of Mixed Use Business Park will support office building capacity with a square foot density that is four times greater than the building size planned for the Education Center buildings.

Airports: An airport search was conducted on the website, www.airnav.com, and the closest facility to the site was a private strip designated as Funny Farm Airport, located at 2650 Penny Lane, Brentwood, CA 94513. This airport is approximately five miles by air from the site, which exceeds the two mile distance referenced in the code.

Public Resource Code Section 21151.2; Government Code Section 65402

Conformance with General Plans: Both of these code sections require a community college district to notify the governing jurisdiction's Planning Commission of its intent to purchase land for an educational facility. The purpose of this notice is to determine the Planning Commissions' finding regarding the suitability of the proposed property for an educational facility. The District sent the required notice to the City of Brentwood's Planning Commission on September 13, 2010. The Planning Commission considered the matter at their October 5, 2010 meeting. Their Resolution 10-057 of that date confirms that the Commission found that the Education Center is a compatible use for the area given the current general plan and zoning.

California Code of Regulations, Title 5, Section 57013

Coordination of Planning with Recreation and Park Authorities: There is a three-acre public park adjacent to the site that is part of the Vineyards at Marsh Creek entitlement approvals. This code section requires that the District meet with the appropriate recreation and parks authorities to coordinate planning and design of new facilities. The park adjacent to the site has not been designed and there is an excellent opportunity to coordinate programming and design of the facility and the park. The letter from Craig Bronzan, City of Brentwood Director of Parks and Recreation, is on file and confirms a meeting that was held September 16, 2010, to discuss these opportunities.

This report is provided to the Governing Board to demonstrate compliance with applicable state codes related to community college district land acquisition. All letters and studies referred to herein are available for review in the District Office, in the Facilities Planning Department.

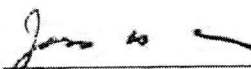
APPROVED

Disposition _____

Governing Board

Date _____

NOV 10 2010



Secretary

GOVERNING BOARD
CONTRA COSTA COMMUNITY COLLEGE DISTRICT
OF
CONTRA COSTA COUNTY
MARTINEZ, CALIFORNIA

REPORT NO. 32-E

DATE November 10, 2010

PURPOSE Authorization to Enter into an Agreement for Purchase of Land for a New Brentwood Center

TO MEMBERS OF THE GOVERNING BOARD

RECOMMENDATION



It is recommended that the Governing Board authorize the District to enter into the purchase and sale agreement (Attachment 1) to purchase land for a new Brentwood Education Center.

FUNDING SOURCE

Funds are available from the Measure A 2006 local bond.

BACKGROUND

District staff has been evaluating a proposal for land for a new Brentwood Education Center. Value and planning analysis has been provided to the Board for the Pioneer Square site in the Vineyards at Marsh Creek development in Brentwood. Negotiations are complete and the Agreement for Purchase and Sale and Joint Escrow Instructions between Contra Costa Community College District and Brentwood Commercial Partners, LLC, is provided for the Board's consideration.

 **APPROVED** **NOV 10 2010** 
Disposition _____ Date _____
Governing Board Secretary