

**PERALTA COMMUNITY COLLEGE DISTRICT
Board of Trustees Agenda Report
For the Trustee Meeting Date of October 11, 2011**

ITEM # 18

ITEM TITLE:

Consider Amendment to Right of Way Contract with the State of California Department of Transportation

SPECIFIC BOARD ACTION REQUESTED:

Approval is requested for an amendment to the Right of Way Contract with the State of California Department of Transportation (CalTrans) extending the temporary construction easement on two parcels of land.

ITEM SUMMARY:

The State of California Department of Transportation (CalTrans) has requested an amendment to the existing Right of Way Contract with the District. The amendment will extend the temporary construction easement on sub-parcels 57905-4 (25,479 sq. ft.) and 57907-5 (63,864 sq. ft.) for an additional forty-two (42) months until June 30, 2015. The total compensation to the District for the continuation of the temporary easement will be \$1,876,203.

SOURCE OF FUNDS (AND FISCAL/BUDGETARY IMPACT):

No District expenditure. The District will receive funds from the CalTrans for extension of the construction easement.

BACKGROUND/ANALYSIS:

Under the Right of Way Contract between CalTrans and the District dated May 17, 2004, CalTrans purchased land from the District through eminent domain, which was necessary for the seismic retrofitting of the 5th Street overpass on Freeway I-880. A provision of the contract provided usage by CalTrans for two parcels of land for temporary construction purposes in connection with the project. The term for usage commenced on June 1, 2005 and terminates on December 31, 2011. The contract provided that in case of delays in construction, the temporary construction easement for the two parcels could be extended monthly at a rate of \$.50 per sq. ft.

CalTrans has requested an Amendment to the Right of Way Contract which provides that the temporary construction easement on sub-parcels 57905-4 (25,479 sq. ft.) and 57907-5 (63,864 sq. ft.) be extended for an additional forty-two (42) months until June 30, 2015. The parcels of land are located at the back of the I-880 Freeway. The total compensation to the District for continued use of the two parcels will be \$1,876,203. In negotiations with CalTrans, District staff requested an up-front payment for the entire amount, but CalTrans only agreed to pay 50% up-front and the remaining 50% in July of 2014. The first payment is due to the District by January 15, 2012, in the amount of \$938,101.50; and the second payment is due by July 1, 2014, in the amount of \$938,101.50.

ALTERNATIVES/OPTIONS:

Not applicable.

EVALUATION AND RECOMMENDED ACTION:

Approval is recommended for an amendment to the Right of Way Contract with the State of California Department of Transportation (CalTrans) extending the temporary construction easement on two parcels of land.

OTHER DEPARTMENTS IMPACTED BY THIS ACTION (E.G. INFORMATION TECHNOLOGY):

Yes _____ No X

COMMENTS:

All Board recommended contracts are subject to negotiation and execution by the Chancellor.

WHO WILL BE PRESENTING THIS ITEM AT THE BOARD MEETING?

Vice Chancellor Ikharo

DID A BOARD STANDING COMMITTEE RECOMMEND THE ITEM? Yes _____ No X

IF "YES", PLEASE INCLUDE THAT INFORMATION IN YOUR SUMMARY.

PLEASE ACQUIRE SIGNATURES IN THIS ORDER:

DOCUMENT PREPARED BY:

Prepared by: Sadiq B. Ikharo Date: 10-4-2011
Dr. Sadiq B. Ikharo
Vice Chancellor of General Services

DOCUMENT PRESENTED BY:

Sadiq B. Ikharo Date: 10-4-2011
Dr. Sadiq B. Ikharo
Vice Chancellor of General Services

FINANCE DEPARTMENT REVIEW

Finance review required Finance review *not* required

If Finance review is required, determination is: Approved Not Approved

If not approved, please give reason: _____

Signature: Ron Gerhard, electronically by re Date: 10/5/11
Ronald Gerhard, Chief Financial Officer

GENERAL COUNSEL (Legality and Format/adherence to Education Codes):

Legal review required Legal review *not* required

If Legal review is required, determination is: Approved Not Approved

Signature: _____ Date: _____
Thuy T. Nguyen, General Counsel

CHANCELLOR'S OFFICE APPROVAL

Approved, and Place on Agenda Not Approved, but Place on Agenda

Signature: Wise E. Allen Date: 10/5/11
Wise E. Allen, Chancellor

<u>04</u>	<u>Ala</u>	<u>880</u>	<u>44.2</u>
Dist	Co	Rte	K.P.
<u>57905-4 & 57907-5</u>		<u>1706U9 (0400000450)</u>	
Parcel No(s).		Exp Auth	

WHEREAS, Peralta Junior College District of Alameda County (Grantor), and the State of California, acting by and through the Department of Transportation (State), have heretofore entered into that certain right of way contract dated May 17, 2004, which contract sets forth the terms and conditions under which the State acquired certain rights for State transportation purposes described in Right of Way Contract – State Highway and Grant Deeds 57905 and 57907;

WHEREAS, Subsequent to entering into said contract, due to unpredictable delays in construction, State now desires to extend the terms of the Temporary Construction Easement for parcel 57905-4 (25,479 sq. ft) and parcel 57907-5 (63,864 sq. ft) for a period of forty two (42) months from the expiration of the original Temporary Construction Easement at the rate of \$0.50/sq. ft. per month as provided in Paragraph 11 of said right of way contract.

The original Temporary Construction Easement was to expire on December 31, 2011.

WHEREAS, By reasons of the foregoing it is now the desire of the parties hereto to amend said right of way contract.

NOW, THEREFORE, It is agreed by and between the parties hereto as follows: **the Temporary Construction Easement expiration date is extended until June 30, 2015 for parcel 57905-4 and parcel 57907-5**, see attached map marked Exhibit A.

AND, THEREFORE, Be it further agreed that the compensation of \$0.50/sq. ft. for parcel 57905-4 (25,479 sq. ft.) and parcel 57907-5 (63,864 sq. ft.) for a period of forty-two (42) months as provided in Paragraph 11 of said right of way contract, which totals \$1,876,203.00, will be paid by the State to Grantor in two equal payments: the first payment will be due by January 15, 2012, in the amount of \$938,101.50; and the second payment will be due by July 1, 2014, in the amount of \$938,101.50.

AND, All outstanding issues have been addressed to the District's satisfaction and will relieve the State of any further obligations on this account.

All other terms and conditions of contract remain unchanged.

IN WITNESS WHEREOF, The parties hereto have executed this _____ day of _____, 2011.

Approved as to Form:

PERALTA COMMUNITY COLLEGE DISTRICT

Legal Counsel
Peralta Community College District

By _____
Chancellor

RECOMMENDED FOR APPROVAL:

STATE OF CALIFORNIA
Department of Transportation

JASPREET SINGH
District Branch Chief
Acquisition Services

By _____
MARK L. WEAVER
Deputy District Director
Right of Way and Land Surveys