

PERALTA COMMUNITY COLLEGE DISTRICT
Board of Trustees Agenda Report
For the Trustee Meeting Date of July 17, 2012

ITEM #

ITEM TITLE:

Consider Approval of Resolution 12/13-1, Approval of the Merritt College Trail Agreement

SPECIFIC BOARD ACTION REQUESTED:

Approval is requested for Resolution 12/13-1, which will authorize the District to enter into the Merritt College Trail Agreement with the City of Oakland.

ITEM SUMMARY:

Approval of Resolution 12/13-1 authorizes the District to enter into an agreement with the City of Oakland that provides for relocation on Merritt College property of the City of Oakland pedestrian/equestrian trail by an even exchange of identically sized land between the District and the City. Under the terms of the agreement, the City of Oakland will grant the property that comprises the existing trail to the District, and, in exchange, the District will grant the property that comprises the new trail location to the City of Oakland.

SOURCE OF FUNDS (AND FISCAL/BUDGETARY IMPACT):

No fiscal/budgetary impact.

BACKGROUND/ANALYSIS:

The existing 13-foot-wide pedestrian/equestrian trail located on Merritt College property has been owned and maintained by the City of Oakland since 1961. It is desired to re-route the trail to a new location uphill toward the edge of Parking Lot "C" to create a more unified parcel of land that is District owned property. The trail currently splits a parcel of land at Merritt College, rendering the property less desirable for potential future use. In 2005, the District made a request to the City to re-route the trail. The request has been under review by the City, and they have now agreed to re-route the trail as specified in this agreement. The agreement provides for relocation of the trail by an even exchange of land between the District and the City. Under the terms of the agreement, the City of Oakland will grant the property that comprises the existing trail to the District, and, in exchange, the District will grant the property that comprises the new trail location to the City of Oakland. The agreement will benefit the District by resulting in a unified parcel of land for potential future development. The District hired a surveyor to define the new boundaries, and that work has been completed.

DELIVERABLES/SCOPE OF WORK

Not applicable.

ANTICIPATED COMPLETION DATE:

A specific completion date is not identified in the agreement, although it is noted that "time is of the essence with respect to every provision of the agreement."

ALTERNATIVES/OPTIONS:

Not applicable.

EVALUATION AND RECOMMENDED ACTION:

Approval is recommended for Resolution 12/13-1, which will authorize the District to enter into the Merritt College Trail Agreement with the City of Oakland.

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

YES _____ NO X

COMMENTS:

This resolution required unanimous Board approval.

WHO WILL BE PRESENTING THIS ITEM AT THE BOARD MEETING? (VICE CHANCELLOR)

Vice Chancellor Ikharo

(****Board contract approval is subject to negotiation and execution by the Chancellor.)

DOCUMENT PREPARED BY:

Prepared by: Dr. Sadiq B. Ikharo Date: July 5, 2012
Vice Chancellor of General Services

DOCUMENT PRESENTED AND APPROVED BY:

Presented and approved by: Dr. Sadiq B. Ikharo Date: July 5, 2012
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: Ronald Gerhard Date: _____
Ronald Gerhard, Vice Chancellor of Finance

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: Thuy Thi Nguyen Date: _____
General Counsel

CHANCELLOR'S OFFICE APPROVAL

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

Signature: José M. Ortiz Date: _____
José M. Ortiz, Chancellor

MERRITT COLLEGE TRAIL AGREEMENT

This Merritt College Trail Agreement (“Agreement”) is made as of May 7, 2012 by and between Peralta Community College District (“District”) and City of Oakland, a municipal corporation (“City”).

RECITALS

This Agreement is made with respect to the following facts:

1. City owns of record the City “trail” shown on the attached Merritt College Proposed Trail Map dated September 15, 2010 (“Trail Map”).
2. District has requested that City realign the existing City “trail” to conform to the proposed relocated City “trail” shown on the Trail Map.
3. Subject to the terms and conditions of this Agreement, City agrees to the proposed trail alignment shown on the Trail Map.

AGREEMENTS

In consideration of the mutual covenants and undertakings described hereinafter, District and City agree as follows:

1. **Trail Realignment:** City agrees to the proposed trail alignment shown on the Trail Map. At no cost to the City, District shall have the option to prepare a Quitclaim Deed containing the legal description of the existing trail in favor of the District. When the Quitclaim Deed with the legal description is presented to City, City agrees to promptly execute and the deliver the Quitclaim Deed in recordable form to District. In exchange, District shall simultaneously or concurrently deliver a Quitclaim Deed containing the legal description of the proposed relocated City “trail” in favor the City in recordable form. In lieu of exchanging Quitclaim Deeds, District shall have the option to use any other legal means to realign the trail boundary and City agrees to cooperate with District to

accomplish this objective.

2. **Maintenance of Parking Lot:** District agrees to maintain and keep in good repair the parking lot located above the relocated City trail as shown on the Trail Map.

3. **Notices.** Notices under this Agreement may be made by personal delivery to the individuals specified below or by prepaid, registered or certified mail, return receipt requested, addressed as follows:

To City: City of Oakland
 Real Estate Division
 250 Frank H. Ogawa Plaza, Fourth Floor
 Oakland, California 94612-2032
 Attention: Manager of Real Estate

To District: Peralta Community College District
 333 East 8th Street
 Oakland, CA 94606
 Attention: Facilities Operations Manager

Either party with a written Notice to the other party may change the address and person designated for notice.

4. **Entire Agreement.** This Agreement contains the entire understanding between the parties relating to this transaction and may not be amended except in writing signed by both parties.

5. **Choice of Law and Jurisdiction.** The laws of the State of California apply to this Agreement. The parties agree that any dispute with respect to this Agreement shall be subject to the jurisdiction of the Superior Court of Alameda County.

6. **Litigation Costs.** If an action is commenced to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees in addition to other costs and fees from the other party.

7. **Time is of the Essence.** Time is of the essence with respect to each and every provision

of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written below.

Peralta Community College District

By: _____

Title: _____

Date: _____, 2012

Approves as to form and legality:

By: _____

City of Oakland, a municipal corporation

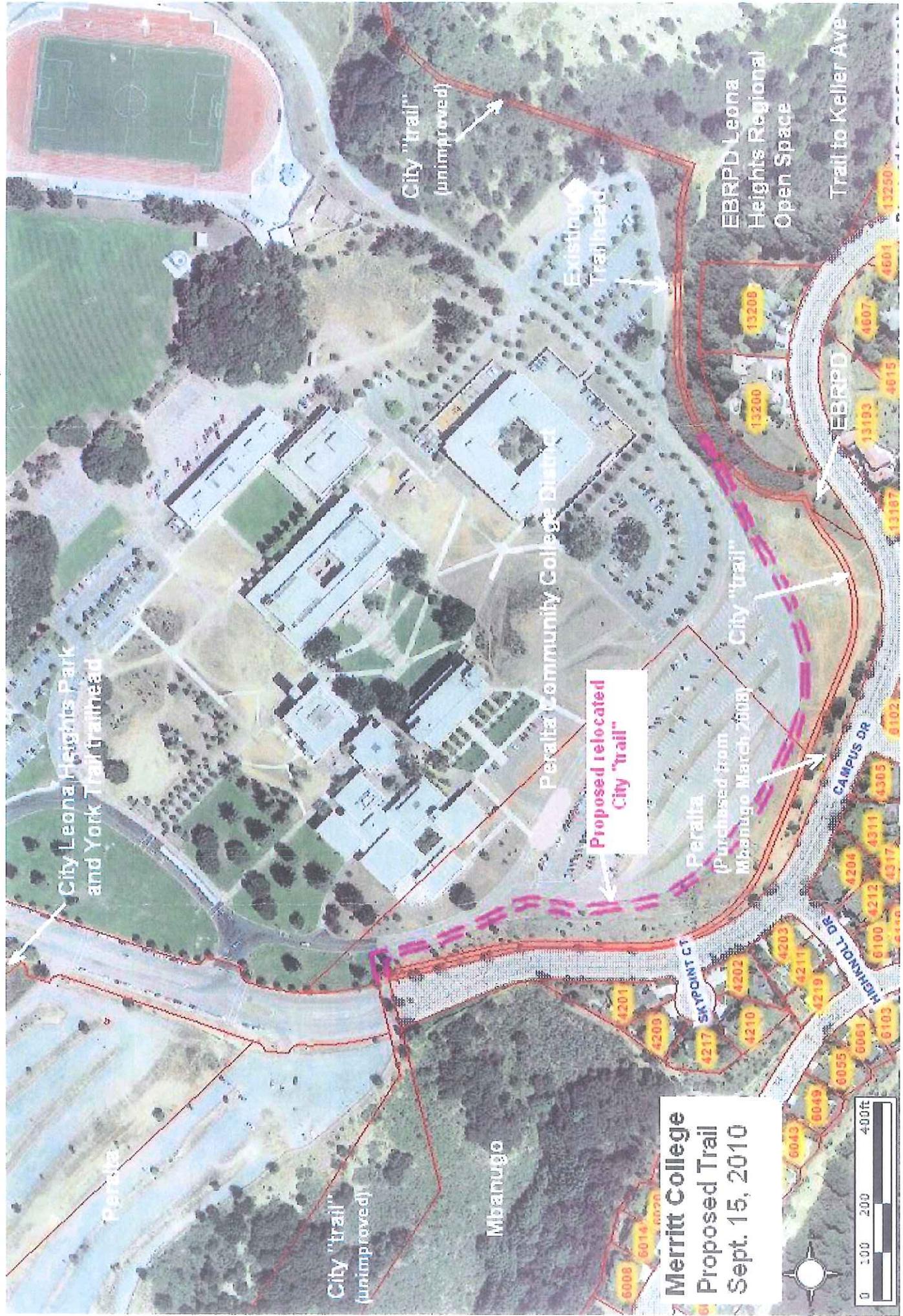
By: _____

Title: _____

Date: _____, 2012

Approved as to form and legality:

City Attorney



City Leona Heights Park and York Trail Trailhead

City "trail" (unimproved)

Existing Trailhead

EBRPD Leona Heights Regional Open Space

Trail to Keller Ave

Peralita Community College District

Proposed relocated City "trail"

City "trail"

Peralita (Purchased from Mbanugo March 2008)

Peralita

Mbanugo

City "trail" (unimproved)

Merritt College
Proposed Trail
Sept. 15, 2010

