

**PERALTA COMMUNITY COLLEGE DISTRICT  
RESOLUTION NO. 07/08-59**

**TO EXCHANGE REAL PROPERTY**

**WHEREAS**, the City of Alameda ("City") has approved the implementation of "Wilver 'Willie' Stargell Avenue," which was formerly known as "Tinker Avenue," ("Stargell Avenue") and its extension as an arterial four-lane roadway between Main Street and Webster Street ("Stargell Extension Project") and, subject to separate Peralta Community College District Board of Trustee ("Board") approval, the donation by Peralta Community College District ("District") of certain real property located within the proposed right of way for the Stargell Extension Project ("College ROW Property"); and

**WHEREAS**, the donation of the College ROW Property will sever approximately two acres of real property from the College of Alameda campus ("College"), creating a remainder parcel ("College Remainder Parcel") as more particularly depicted on Attachment "A" hereto; and

**WHEREAS**, the Community Improvement Commission of the City of Alameda ("CIC") has proposed an exchange of the College Remainder Parcel with the District ("Proposed Exchange") for certain real property located at 860 Atlantic Avenue in the City, APN No. 074-1343-006 ("Property"); and

**WHEREAS**, the District has entered into, conditioned upon the Board's approval, that certain Agreement of Property Exchange and Joint Escrow Instructions ("Exchange Agreement") dated as of May 13, 2008 for the Proposed Exchange; and

**WHEREAS**, the District has conducted the following investigation of the Property the feasibility and cost of converting the building to classroom use pursuant to all applicable laws and regulations ("Due Diligence"), and has found that: (1) there are certain restrictions ("CCR's") on the Property which (a) create an architectural committee to review and approve exterior changes to the building on the Property, (b) create an association to perform certain maintenance of common areas and which require an annual assessment for such maintenance of approximately \$16,161 a year and possibly special assessments to reimburse the Property's association for any special maintenance, (c) requires the District to maintain the building at its own cost and expense, and (d) allows shared parking between 960 Atlantic and the Property; and (2) a 1915 Bond assessment in the amount of \$70,000 per year until the year 2013 ("Assessment"); and

**WHEREAS**, the terms and conditions terms of the Proposed Exchange and the Exchange Agreement are as follows: (1) the City shall indemnify the District for any challenges filed during the Notice of Determination period (which period is thirty (30) days after the filing of the Notice of Determination with the County Clerk), (2) the City has agreed, in the event that the Proposed Exchange does not occur and the City condemns the College ROW Property, not to introduce this Resolution into evidence for purposes of determining the value of the College ROW Property, (3) the Developer shall indemnify the District in the event that the Proposed Exchange does not occur and Caltrans condemns the College ROW Property and introduces this Resolution into evidence

for purposes of determining the value of the College ROW Property for attorney's fees and costs to defend such action not to exceed \$25,000.00, (4) although no use for the College Remainder Parcel has been proposed, the District agrees not to oppose a mixed use, commercial or affordable housing use for the College Remainder Parcel, and (5) the closing of the Proposed Exchange under the Exchange Agreement is no later than August 7, 2008 ("Closing"); and

**WHEREAS**, pursuant to California Education Code Section 81430, the District has reviewed the District's need for use of the College Remainder Parcel for school classroom buildings for the time period prior to September 30, 2008 ("Finding Period"), and the Board hereby finds according to California Education Code Section 81430 that the College Remainder Parcel "is not and will not at the time of delivery of title or possession be needed for school classroom buildings by the College" ("Classroom Use Finding"); that the Classroom Use Finding shall only be relevant and applicable to the Finding Period and shall be automatically revoked on September 30, 2008 if the Closing has not occurred on or before such date; and the need for school classroom buildings is diminished by the Dedication in Resolution 07/08-58 and exchange for Property, a building that can be used for classroom purposes.

**WHEREAS**, the Board finds that the conditions of California Education Code Section 81432, which must be satisfied prior to any exchange of the District's real property, have been or will be met prior to Closing; and

**WHEREAS**, in conjunction with the Board's decision to adopt this Resolution of Order to Exchange Real Property, the Board, as a Responsible Agency has adopted under Resolution No. 07/08-51 certain findings as required under the California Environmental Quality Act, Public Resources Code, Division 13, Sections 21000 *et seq.*; and

**WHEREAS**, the Board hereby approves the Proposed Exchange, ratifies the Exchange Agreement, approves the Due Diligence and waives the Contingency Period under the Exchange Agreement, and orders the Closing pursuant to the Exchange Agreement.

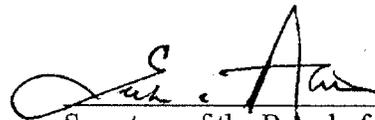
**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby adopts this Order to Exchange the College Remainder Parcel with the City; and

**BE IT FURTHER RESOLVED** that the Board has received the report required under California Public Resources Code Section 21151.2 from the City's Planning Commission and as the "Governing Board" pursuant to Government Code section 53094(b) hereby renders the City's zoning ordinances inapplicable to classroom facilities planned for the Property; and

**BE IT FURTHER RESOLVED** that the Chancellor, as Secretary of the Board, is authorized and directed to execute the necessary exchange documents and the Grant Deed for the College Remainder Parcel ("Closing Documents"), deliver them to escrow and, upon the satisfaction of all conditions precedent to the closing of the transactions set forth in the Exchange Agreement, deliver the Closing Documents to the City and accept a Grant Deed for the Property vesting title in fee to the Property in the District. The time within which judicial review of this decision pursuant to California Code of Civil Procedure Section 1094.5 must be sought is governed by the California Code of Civil Procedure Section 1094.6.

**PASSED AND ADOPTED** at a regular meeting of the Board of Trustees of the Peralta Community College District held on this 24<sup>th</sup> day of June, 2008, by a unanimous vote:

AYES: Trustees González Yuen, Guillén, Gulassa, Handy, Hodge, Riley, and Withrow.  
NOES: None  
ABSTAIN: None  
ABSENT: None



Secretary of the Board of Trustees  
Peralta Community College District  
Alameda County  
State of California

ATTACHMENT "A"



ALAMEDA

IRVING STREET

WEBSTER SQUARE

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