

ATTACHMENT B

Resolution No. 032216B

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE
LONG BEACH COMMUNITY COLLEGE DISTRICT
AUTHORIZING A REQUEST FOR WAIVER OF EDUCATION CODE SECTION 81360
ET SEQ. IN RELATION TO THE DISTRICT'S SALE OF THE LOS COYOTES
DIAGONAL PROPERTY**

WHEREAS, the Long Beach Community College District ("District") owns property located at 3320, 3340 Los Coyotes Diagonal and 3325 Palo Verde Avenue, Long Beach, CA 90808, Assessor's Parcel Numbers 7191-014-902, 903, 904, 905 and 906 ("Property"), as more particularly described in the legal description attached hereto as Exhibit "A"; and

WHEREAS, the District previously adopted and approved Resolution No. 042313B on April 23, 2013 declaring the Property surplus and authorizing the offer of the Property for lease pursuant to the competitive bidding procedures set forth in the Education Code; and

WHEREAS, despite a good faith effort, which included a lack of public agency interest in acquiring the Property, the District was not able to lease the Property; and

WHEREAS, the District previously adopted and approved Resolution No. 102213A on October 22, 2013, requesting a waiver of Education Code section 81360 *et seq.* to allow the District to select one or more entities that would be the best fit for the development of the Property through a negotiated income producing ground lease; and

WHEREAS, the District received a waiver for lease of the Property, but did not lease the Property; and

WHEREAS, the District subsequently adopted and approved Resolution No. 061014A on June 10, 2014, re-confirming the declaration of the Property as surplus and authorizing the offer of the Property for lease or sale pursuant to the competitive bidding procedures set forth in the Education Code section 81360 *et seq.*; and

WHEREAS, the District offered the Property for sale pursuant to the procedures set forth in Education Code section 81363.5 and received no offers; and

WHEREAS, the District drafted and disseminated a bid package that set forth terms and solicited bids from interested parties for the sale and purchase of the Property; and

WHEREAS, on October 28, 2014, the District's Board received and considered all the proposals submitted at a public bid hearing, all which constituted counter-offers, and selected one counter-offer; and

WHEREAS, on or about November 18, 2014, escrow was opened but subsequently cancelled by the buyer; and

WHEREAS, the District drafted and disseminated a bid package for a second time that set forth terms and solicited bids from interested parties for the sale and purchase of the Property; and

WHEREAS, on or about May 12, 2015, the District's Board received and considered all the proposals submitted at a public bid hearing, and selected and opened escrow with the highest conforming proposal on or about May 25, 2015; and

WHEREAS, on or about December 18, 2015 escrow was subsequently cancelled by the buyer; and

WHEREAS, the District has determined that complying with the procedures set forth in Education Code section 81360 *et seq.*, specifically the public auction requirement, will not allow the District to take advantage of the potential of the Property and desires greater flexibility to select a suitable entity and negotiate a successful sale and purchase agreement for the Property; and

WHEREAS, Education Code section 81250 *et seq.* allows a community college district to waive all or part of any section of Education Code Part 49; Chapter 2. Property: Sale, Lease, Use, Gift, and Exchange; including Education Code section 81360 *et seq.*; and

WHEREAS, to obtain a waiver, the District must comply with certain Education Code requirements set forth in Education Code section 81250 *et seq.*; and

WHEREAS, the Board must conduct a public hearing regarding the District's intention to request a waiver; and

WHEREAS, the Board must provide written notice of the public hearing at least thirty (30) days prior to the hearing, to any city, county, park or recreation district, regional park authority, or public housing authority within which the land is situated, pursuant to Education Code Section 81250(b); and

WHEREAS, the Board of Governors of the California Community Colleges may approve any request for waiver upon finding that the waiver would promote efficiency and further the public benefit, and may be approved for proposals including, but not necessarily limited to, joint or shared use of property and facilities and for collaborative partnerships between colleges and other public and private entities; and

WHEREAS, the Board of Governors of the California Community Colleges shall not approve any request for waiver of any provision of this chapter pursuant to Section 81250 unless the district seeking the waiver demonstrates all of the following:

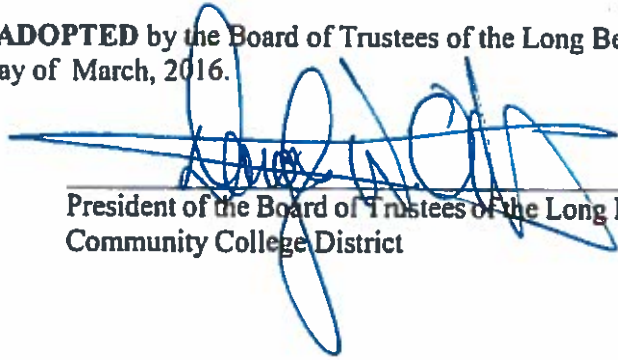
- (1) The district has provided the written notice required by subdivision (b) of Section 81250.
- (2) The district, after making a good faith effort, was unable to reach agreement with any public agency that sought to acquire the site pursuant to Section 81363.5.
- (3) The waiver will not substantially increase state costs or decrease state revenues.

(4) The waiver will further the ability of the district to meet the educational needs of the community.

NOW THEREFORE, be it resolved by the Board of Trustees of the Long Beach Community College District as follows:

1. That the above recitals are true and correct.
2. That the Board hereby declares its intention to seek a waiver of Education Code section 81360 *et seq.*
3. That the waiver will promote efficiency and benefit the public by allowing the District to select the most qualified entity that is the best fit for the Property and to negotiate a successful purchase and sale agreement with said entity in order to maximize the District's revenue. Specifically, a waiver would eliminate the Education Code imposed requirement of a public auction with which the District has already complied twice. To comply a third time would likely result in another unsuccessful bid hearing. The continued application of these Education Code requirements would dramatically limit the District's ability to find a suitable entity and negotiate a successful sale and purchase agreement that would allow the District to maximize revenue from the Property.
4. That the District has provided the written notices required by subdivision (b) of Section 81250.
5. That on March 22, 2016 the District held a public hearing at which time the public was able to comment on the waiver request.
6. The District, after making a good faith effort, was unable to reach agreement with any public agency, if any, that sought to acquire the site pursuant to Section 81363.5.
7. That the waiver will not substantially increase state costs or decrease state revenue and, in fact, will allow the District greater flexibility in negotiating a successful purchase sale agreement with an entity for the development of the Property that will likely maximize the District's revenue from the Property.
8. That the waiver will further the ability of the District to meet the educational needs of the community by providing the District with additional funds.
9. That the Chancellor, or his designee is authorized and directed to submit a copy of this Resolution to the Board of Governors, thereby seeking a waiver of Education Code section 81360 *et seq.*

APPROVED, PASSED AND ADOPTED by the Board of Trustees of the Long Beach Community College District on 22nd day of March, 2016.



President of the Board of Trustees of the Long Beach Community College District

I, Eloy Ortiz Oakley, Secretary of the Board of Trustees of the Long Beach Community College District, do hereby certify that the foregoing Resolution was adopted by the Board of Trustees of said District at a meeting of said Board held on the 22nd day of March, 2016, and that it was so adopted by the following vote:

AYES: 5

NOES: 0

ABSTENTIONS: 0

ABSENT: 0



Secretary of the Governing Board of the Long Beach Community College District

APPROVED

MAR 22 2016

**BOARD OF TRUSTEES
LBCCD**

EXHIBIT "A"

MAP/LEGAL DESCRIPTION OF PROPERTY

Lot 1, 3, and 4, of Tract 20893, in the City of Long Beach, State of California, as per Map recorded in Book 706, Page(s) 12 and 13 of Maps, in the Office of the County Recorder of Los Angeles County.

Plat Map
(not to scale)

