



## BOARD OF TRUSTEES

Foothill-De Anza Community College District  
12345 El Monte Road  
Los Altos Hills, CA 94022

*For information and disability access to materials, call 650-949-6100.  
Requests for accommodation should be made no later than one business  
day prior to meeting. Meetings are held in a location accessible to the  
disabled.*

**March 8, 2010**

Closed Session: 5:00 p.m.  
**De Anza College**  
21250 Stevens Creek Blvd.  
Cupertino, CA 95014  
Hinson Campus Center  
Meeting Room 1

**Public Session: 6:00 p.m.**

**De Anza College**  
21250 Stevens Creek Blvd.  
Cupertino, CA 95014  
Hinson Campus Center  
Conference Room A

*Members of the public who wish to comment on items or address the Board may do so  
by completing a request form prior to the start of the meeting and are limited to five minutes each.*

### **AGENDA Regular Meeting**

CALL TO ORDER & ROLL CALL

ADJOURN TO CLOSED SESSION

**Closed Session — 5:00 p.m.**

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

CONFERENCE WITH LABOR NEGOTIATOR

District Negotiator: Dorene Novotny  
Employee Organizations: All Represented and Unrepresented Groups

**Public Session — 6:00 p.m.**

REPORTING OUT FROM CLOSED SESSION

**INFORMATION**

HEARINGS: ITEMS NOT ON THE AGENDA

**INFORMATION**

*The Board does not take action or respond to items not on the agenda.*

- Public
- Students
- Staff
- Board

APPROVAL OF CONSENT CALENDAR

**ACTION**

1. [Human Resources Report \(Novotny x6211\)](#)

2. **Personnel Actions as Follows: (Novotny x6211)**

- Resignation – Andy Dunn, Vice Chancellor, CS
- Reassignment – Pat Hyland, Dean, Foothill
- Reduction in Contract – Marsha Kelly, Manager, CS
- Reassignment – Donald Mac Neil, Faculty, Foothill
- Reduction in Load – Robert Doc Pelzel, Faculty, Foothill

PUBLIC HEARING

3. Open Negotiations for Successor Agreement between the Foothill-De Anza Community College District and the Faculty Association (FA) **(Novotny x6211)**  
*(See Public Memo for backup)*

HUMAN RESOURCES/PERSONNEL

- |   |               |
|---|---------------|
| 4. <b>Reassignment, Layoff, Reduction in Contract or Notice of Non-Renewal of Employees (Novotny x6211)</b> | <b>ACTION</b> |
| 5. <b>Approve Administrator Contracts (Novotny x6211)</b>   | <b>ACTION</b> |
| 6. <b>Approve Executive Administrator Contracts (Novotny x6211) (See Public Memo for backup)</b>            | <b>ACTION</b> |

FACILITIES

MEASURE C PROJECTS

- |  |               |
|--|---------------|
| 7. <b>Energy Services Contract with Chevron Energy Solutions Company for the Installation of a 1,062 kW Photovoltaic System at Foothill College (Measure C Project #154) (Allen x6150)</b> | <b>ACTION</b> |
| 8. <b>Reject All Bids, Bid Document 1238-142, Soccer and Softball Complex, Foothill College (Redmond x6166)</b>  | <b>ACTION</b> |

ADJOURNMENT

DATES TO REMEMBER / FUTURE AGENDA ITEMS

- |                 |                               |
|-----------------|-------------------------------|
| March 9, 2010 - | CBOC                          |
| April 5, 2010 - | Regular Meeting               |
| May 3, 2010 -   | Regular Meeting               |
| June 3, 2010 -  | Audit & Finance               |
| June 7, 2010 -  | Regular Meeting (at De Anza)  |
| June 15, 2010 - | CBOC                          |
| June 21, 2010 - | Regular meeting (at Foothill) |

# FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT

## Office of the Chancellor

TO: Members of the Board of Trustees

FROM: Linda Thor, Chancellor

DATE: March 4, 2010

RE: Public Session — **March 8, 2010**

### 1. Human Resources Report

The Human Resources report is presented for Board Approval. The report reflects the personnel actions in the following categories: new hires, new positions, promotions, reassignments, reclassifications, separations, 39 month re-employment, permanent contract changes, professional growth awards, service recognition awards and longevity awards.

Vice Chancellor of Human Resources and Equal Opportunity Dorene Novotny recommends **approval**.

### 2. Personnel Actions as Follows:

*Name:* **Andy Dunn**  
*Position:* Vice Chancellor  
*College:* Central Services  
*Division:* Business Services  
*Action:* **Resignation**  
*Effective Date:* June 30, 2010

*Name:* **Pat Hyland**  
*Position:* Dean  
*College:* Foothill College  
*Division:* Student Affairs and Activities  
*Action:* **Reassignment**  
*Effective Date:* July 1, 2010 through June 30, 2011

*Name:* **Marsha Kelly**  
*Position:* Manager, Risk Management  
*College:* Central Services  
*Division:* Business Services  
*Action:* **Employment**  
*Effective Date:* July 1, 2010 through June 30, 2011  
*Comments:* Appointment at 80% FTE

*Employee:* **Donald Mac Neil**

*Position:* Faculty  
*College:* Foothill College  
*Division:* Physical Education  
*Action* **Reassignment**  
*Effective Date:* July 1, 2010

*Employee:* **Robert Doc Pelzel**  
*Position:* Faculty  
*College:* Foothill College  
*Division:* Fine Arts and Communication  
*Action* **40% load reduction as per Article 18**  
*Effective Date:* AY 2010-2011, AY 2011-2012, AY 2012-2013

**3. Public Hearing – Open Negotiations for Successor Agreement between the Foothill De Anza Community College District and the Faculty Association (FA)**

In accordance with Government Code section 3547, the Foothill-De Anza Community College District and Faculty Association, propose to reopen negotiations on the following articles:

Articles: 1, 3, 6, 6A, 7, 8, 9, 11, 16, 17, 18, 19, 20, 22, 22A, 23, 23A, 24, 25, 27, 31, 32, 34 and 35.

Both parties reserve the right to add, alter, or delete any of the above proposed articles, or to make proposals on other articles not specified above.

This Public Hearing affords members of the public the opportunity to express themselves regarding this matter.

**4. Reassignment, Layoff, Reduction in Contract or Notice of Non-Renewal of Employees**

*The following employees will be affected by reassignment.*

1. Donald Mac Neil: In accordance with Article 15 and Article 12 of the Faculty Agreement, reassign Foothill faculty member Donald Mac Neil to Foothill Physical Education faculty position, effective July 1, 2010.  
**Recommendation: Informational only. Action included on the Personnel Actions report.**
2. Pat Hyland: In accordance with Chapter III of the Administrator Handbook, reassign Foothill administrator Pat Hyland to Foothill Dean, Student Affairs and Activities, effective July 1, 2010 through June 30, 2011.  
**Recommendation: Informational only. Action included on the Personnel Actions Report.**

*The following Faculty employees will be affected by layoff.*

1. Sharon Hack, Instructor, Business and Social Sciences, Travel Careers Program, to be laid off from employment as a tenured faculty member, effective date June 30, 2010.

**Recommendation: That the Board of Trustees approve the termination of the position of Instructor, Business and Social Sciences, Travel Careers Program, due to discontinuance of the Travel Careers Program, Sharon Hack, and direct that written notice of position termination and layoff be provided.**

2. Linda Dinucci, Instructor, Adaptive Learning Division and Disability Services, to be laid off from employment as a tenured faculty member, effective date June 30, 2010.

**Recommendation: That the Board of Trustees approve the termination of the position of Instructor, Adaptive Learning Division and Disability Services, due to discontinuance of the Adaptive Learning Division and Disability Services Program, Linda Dinucci, and direct that written notice of position termination and layoff be provided.**

The following Administrator employees will be affected by notice of non-renewal.

1. Timothy Woods, Dean, Computers, Technology and Information Systems, to not be renewed for employment, effective date June 30, 2010.

**Recommendation: That the Board of Trustees approve the non-renewal of the Administrator contract for Tim Woods, Dean, Computers, Technology and Information Systems, and direct that written notice of non-renewal be provided.**

2. Herlisa Hamp, Dean, Student Support Program and Services, to not be renewed for employment, effective date June 30, 2010.

**Recommendation: That the Board of Trustees approve the non-renewal of the Administrator contract for Herlisa Hamp, Dean, Student Support Program and Services, and direct that written notice of non-renewal be provided.**

3. Maria Vicky Criddle, Director, FHDA Internship Training, to not be renewed for employment, effective date June 30, 2010.

**Recommendation: That the Board of Trustees approve the non-renewal of the Administrator contract for Director, FHDA Internship Training, Maria Vicky Criddle and direct that written notice of non-renewal be provided.**

4. Katie Townsend-Merino, Vice President, Instruction and Institutional Research, to not be renewed for employment, effective date June 30, 2010.

**Recommendation: That the Board of Trustees approve the non-renewal of the Administrator contract for Vice President, Instruction and Institutional Research, Foothill College, Katie Townsend-Merino and direct that written notice of non-renewal be provided.**

The following Administrator employee will be affected by reduction in contract.

1. Marsha Kelly, Manager, Risk Management to not be renewed for employment, effective July 1, 2010.

**Recommendation: That the Board of Trustees approve the non-renewal of the Administrator contract for Marsha Kelly, Manager, Risk Management, and direct that written notice of non-renewal be provided.**

Marsha Kelly to be employed as Manager, Risk Management at 80% FTE effective July 1, 2010 through June 30, 2011.

**Recommendation: Informational only. Action included on Personnel Actions report.**

Vice Chancellor of Human Resources and Equal Opportunity, Dorene Novotny, recommends Board **approval** authorizing District representatives to provide affected employee(s) with notice of reassignment, layoff, reduction in contract or notice of non-renewal.

## **5. Approve Administrator Contracts**

Board approval is requested that where an extension of an administrative contract is warranted, to extend such contracts through June 30, 2011 as noted on the attached list.

- Due to the current budget and financial situation, all administrative contracts will not be extended beyond June 30, 2011 until further notice.
- Any new administrator contracts will not extend beyond June 30, 2011.

Per Chapter 3 of the Administrative Handbook, initial contracts for new administrators are normally for one year during each of the first two years of employment and may be increased to a two-year contract thereafter. The Board may elect to not extend a contract. All contracts for administrators must be noticed by March 15.

Chancellor Linda Thor recommends **approval**.

## **6. Approve Executive Administrator Contracts**

Board approval is requested to extend the following Employment Contracts through June 30, 2011.

1. Judy C. Miner, President, Foothill College: extend to June 30, 2011
2. Dorene Novotny, Vice Chancellor, Human Resource & Equal Opportunity: extend to June 30, 2011

Administrative contracts that have previously been approved will not be extended beyond their current contract expiration dates.

1. Linda Thor, Chancellor: current contract - June 30, 2012
2. M. Brian Murphy, President, De Anza College: current contract - June 30, 2011

3. Fred Sherman, Vice Chancellor, Technology: current contract - June 30, 2011

Chancellor Linda Thor recommends **approval**.

**7. Energy Services Contract with Chevron Energy Solutions Company for the Installation of a 1,062 kW Photovoltaic System at Foothill College (Measure C Project #154)**

On March 1, 2010, The Board of Trustees authorized District staff to negotiate and execute a contract with Chevron Energy Solutions to provide photovoltaic array installations.

The District and Chevron Energy Solutions researched locations and system sizing parameters and identified Lots 2 and 3 as a location capable of supporting a large installation. The size of the system responds to the space available in the parking lots and the ability of Chevron to complete the project during the summer when parking demand is lowest.

The outcome of the contract negotiation identifies a system sized to accommodate a 1,062 kilowatt (kW) system for Foothill College - which will be mounted on canopies in Parking lots 2 and 3. The design allows for shaded parking underneath the canopies, with lighting for night time usage. As an educational component of the installation, the system's operating information can be monitored on remote displays.

In addition to providing annual electrical power purchase savings in the amount of approximately \$250,000 per year, the project will be available for PG&E rebates estimated to be a total of \$1,300,000 over the next five years at the Foothill Campus.

The contract amount is \$6,956,648 and will be paid for out of Measure C Project #154.

Executive Director of Facilities, Operations and Construction Management Charles Allen recommends that the Board **approve** the Energy Services Contract with Chevron Energy Solutions Company.

**8. Reject All Bids, Bid Document 1238-142, Soccer and Softball Complex, Foothill College**

The Foothill College Soccer and Softball Complex project includes the following work:

1. Demolition of existing multi use fields.
2. New Synthetic Turf for Softball Field including but not limited to dugouts, fencing, backstop, grandstand seating, bullpens, batting cages, retaining walls, flagpole and scoreboard.
3. Natural Turf Field for Soccer including but not limited to fencing, sidewalks, retaining walls, and scoreboards.
4. New Synthetic Turf for Soccer Practice Area including but not limited to fencing.
5. New Modular Building with Restrooms, Storage, and possible Office and Team Rooms.
6. Underground utilities associated with the Project as indicated.

Verde Design, Inc prepared the construction documents. A complete set of all bid documents are on file in the Purchasing Services Department.

At its November 2, 2009 meeting, the Board of Trustees approved a list of eight General Engineering Contractors as pre-qualified to bid on the project. Bid 1238-142 was legally advertised on January 13 and January 20, 2010. The “Invitation to Bid” was also sent to nine (9) builder’s exchanges, and advertised in the Daily Pacific Builder, as well as posted on “BidNet” at [www.govbids.com](http://www.govbids.com). Bids were publicly opened and read on February 16, 2010 at 2 p.m. in Purchasing Services. Six (6) of the eight (8) pre-qualified contractors submitted bids.

The bid documents provided that the contract would be awarded to the lowest responsive and responsible bidder and that lowest bid would be determined in accordance with Public Contract Code (PCC) 20103.8(c) which states:

The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that when taken in order from a specifically identified list of those items in the solicitation, and added to, or subtracted from, the base contract, are less than, or equal to, a funding amount publicly disclosed by the local agency before the first bid is opened.

The bid documents publicly disclosed that the construction estimate was \$3,404,000 and included a list of additive and deductive items.

On February 17, 2010, Purchasing Services received a bid protest letter from ValleyCrest Landscape Development, Inc. (ValleyCrest) that asserts they are the true responsible and responsive low bidder. ValleyCrest’s bid protest asks the District to either award the contract to ValleyCrest or reject all bids and readvertise for new bids (see attached letter). ValleyCrest reasons that in determining the bid amounts, the District should not subtract the amounts for the “Deductive Alternates” given that the publicly disclosed funding amount was already sufficient to purchase the Base Bid plus the Additive Alternates.

As the table below shows, if the bid amount is computed based upon Base Bid plus only the Additive Alternates, then ValleyCrest has the lowest bid amount at \$2,777,200 compared to Bothman at \$2,785,940, a difference of \$8,740. However, if the bid amount is computed based upon Base Bid plus both the Additive Alternates and the Deductive Alternates, then Bothman has the lowest bid amount at \$2,707,780 compared to ValleyCrest at \$2,719,200.

	<b>Robert A. Bothman, Inc.</b>	<b>Base Bid plus Alternates 1-4 only</b>	<b>ValleyCrest Landscape Development, Inc.</b>	<b>Base Bid plus Alternates 1-4 only</b>
<b>BASE BID</b>	\$2,699,300.00		\$2,677,000.00	
Additive Alternate 1	\$16,270.00		\$17,500.00	
Additive Alternate 2	\$23,000.00		\$15,000.00	
Additive Alternate 3	\$36,600.00		\$55,200.00	
Additive Alternate 4	\$10,770.00	<b>\$2,785,940.00</b>	\$12,500.00	<b>\$2,777,200.00</b>



Deductive Alternate 5	(\$54,000.00)		(\$45,000.00)	
Deductive Alternate 6	(\$9,560.00)		(\$7,000.00)	
Deductive Alternate 7	(\$14,600.00)		(\$6,000.00)	
<b>TOTAL</b>	<b>\$2,707,780.00</b>		<b>\$2,719,200.00</b>	

Purchasing Services has reviewed the bid protest letter with legal counsel, Mr. Phillip Jaret. It is Mr. Jaret's opinion that Public Contract Code 20103.8(c) can be interpreted more than one way. Based upon one interpretation, Bothman has submitted the lowest bid. Based upon the other interpretation, ValleyCrest has submitted the lowest bid. A decision either way is likely to result in a bid protest from one of the two lowest bidders.

Mr. Jaret recommends that the best course for the District is to reject all bids and re-bid. Public Contract Code section 20651 and the bid documents provide that the Board of Trustees may choose to either award the contract to the lowest responsible bidder or to reject all bids.

The re-bid will not be based upon the complicated Public Contract Code 20103.8(c) method of determining the low bidder. District staff initially chose this method because of a belief that there were insufficient funds to purchase the entire project, but as it turns out there are sufficient funds to purchase the entire project. Therefore, only the additive alternates will be included in the re-bid, and the lowest bid will be determined pursuant to Public Contract Code section 20103.8(b) which states the following:

(b) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.

Director of Purchasing Carmen Redmond recommends the Board **accept** the bid protest submitted by ValleyCrest Landscape Development, Inc. and reject all bids in accordance with Public Contract Code 20651 and the bid documents.