



Ravenswood City School District

ADMINISTRATIVE OFFICE

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Superintendent

RESOLUTION No. 2020/2021 -10

RESOLUTION OF THE RAVENSWOOD CITY SCHOOL DISTRICT BOARD OF TRUSTEES REGARDING INTENTION AND DIRECTION TO SEEK A WAIVER FROM THE STATE BOARD OF EDUCATION RELATING TO POTENTIAL SALE OR LEASE METHODS FOR SURPLUS DISTRICT REAL PROPERTY AT THE MENLO OAKS SCHOOL SITE, MENLO PARK, CA.

WHEREAS, the Ravenswood City School District ("District") is the owner of approximately two-and-a-half acres of land situated within the District's jurisdictional boundaries, at 475 Pope Street, Menlo Park, CA 94025 (hereinafter, "Menlo Oaks School Site"), and included as part of the land identified as Assessor Parcel Number 062-370-400 (the "Property") and incorporated herein by reference, the former site of the District's Menlo Oaks School and the current location of the Alto International School; and

WHEREAS, on May 14, 2020 this Board of Trustees unanimously recommended submitting to the State Board of Education a request for a waiver of certain provisions of the California Education Code to afford the District additional flexibility, options and control over the disposition of the Menlo Oaks School Site; and

WHEREAS, the District determined that the Menlo Oaks School Site is not and will not be needed by the District for school classroom buildings or other District purposes and the site has already been declared surplus pursuant to the requirements and provisions of the California Education Code; and

WHEREAS, this Board of Trustees has determines that it is in the best interest of the District to seek a waiver from the State Board of Education of certain provisions of the California Education Code related to the potential sale or lease of the Menlo Oaks School Site.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. **Recitals.** The Board of Trustees finds that the foregoing recitals are true and correct.
2. **Noticing of Intent to Seek Waivers/Direction to Apply for Waivers.** The Superintendent is authorized and directed to seek waivers, on behalf of the District, from the California Department of Education pursuant to Education Code 33050 related to disposition of the Menlo Oaks School Site, as set forth in Attachment A to this Resolution which is incorporated herein by reference. In the event that the District is unable to obtain such waivers, the Superintendent is further directed the commence the noticing process

and/or offer the Menlo Oaks School Site for lease to various entities as and to the extent required by Education Code sections 17455, et seq., 17485, et seq., and Government Code sections 54220, et seq. Any expressions of interest from noticed agencies and organizations to lease all or a portion of site shall be brought to the Board for consideration and possible future action.

3. **Delegation of Authority.** The Superintendent or any designee of the Superintendent is hereby authorized and directed to do any and all things which they may deem necessary or advisable in order to consummate the directives herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution.

4. **Effective Date.** This Resolution shall take effect from and after its date of adoption.

Approved this 8th day of October, 2020, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Ana Maria Pulido
President of the Board of Trustees

Stephanie Fitch
Clerk of the Board of Trustees

Attachment A

The Ravenswood City School District (“District”) desires to waive the following sections and portions of certain Education Codes as lined out below:

EC 17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district, ~~and shall be made in the manner provided by this article.~~

Rationale: The District requests the specified *Education Code* sections be waived in order to allow the district to maximize the return on the lease of one of its sites in a manner that best serves our schools and community. The District would like to offer the property for lease through proposals from potential lessees. The article referenced by *Education Code* Section 17455 consists of sections 17455 through 17484, which contain provisions regarding the sale or lease of real property that are inconsistent with the manner in which the district hopes to market the property.

EC 17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it ~~and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.~~

Rationale: The language to be waived provides for a minimum price or rental and requires sealed proposals to purchase or lease the property. This requirement restricts the District’s flexibility in negotiating price, payments, and other terms that may yield greater economic and other benefits to the District than a sealed bid process.

EC 17469. Notice of the adoption of the resolution ~~and of the time and place of holding the meeting~~ shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district, ~~not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein].~~

Rationale: Since the District is requesting to waive the requirement that the resolution adopted pursuant to *Education Code* Section 17466 fix a time not less than three weeks thereafter for a public meeting at which sealed proposals will be received and considered, it also seeks to waive the corresponding provisions in Section 17469.

EC 17472. At the time and place fixed in the resolution for the meeting of the governing body, all ~~sealed~~ proposals which have been received shall, in public session, ~~be opened~~, examined, and declared by the board. Of the proposals submitted ~~which conform to all terms and conditions specified in the resolution of intention to sell or to lease and~~ which are made by responsible bidders, the proposal which the Board determines represents the most desirable sale of the property shall be ~~is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.~~

Rationale: With a waiver of the requirement that sealed proposals be received, and that the highest bidder be awarded the contract, the District will be able to lease the property to the party that presents the most favorable proposal to the District. The Board would, therefore, be able to lease to the party submitting the proposal that best meets the District’s needs. By removing the requirement that an oral bid be accepted, the District would be able to determine what constitutes the most desirable bid.

EC 17473. ~~Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions~~

~~specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.~~

Rationale: The District asks that this entire section be waived because the District, in negotiating an agreement to lease the property, will not be accepting oral bids in addition to sealed bids.

~~EC 17474. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.~~

~~EC 17475. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.~~

Rationale: Rather than specifying a certain number of days or a timeframe, the District seeks flexibility in disposing of the property disposal process. The District will ensure a public process whereby the reasons for the determination of the most desirable proposal are shared openly. Prior to the decision to lease a site, a Property Advisory Committee, whose purpose is to advise the District's governing board in the development of district-wide policies and procedures governing the use or disposition of school buildings, space, or property which is not used for school purposes, established a priority list of use of surplus space and real property, provided for hearings of community input on acceptable uses of space and real property, and made a recommendation to the Board regarding the uses of surplus space and real property.

~~EC 17485. WAIVE ENTIRE SECTION The Legislature is concerned that school playgrounds, playing fields, and recreational real property will be lost for those uses by the surrounding communities even if those communities in their planning process have assumed that the properties would be permanently available for recreational purposes. It is the intent of the Legislature in enacting this article to allow school districts to recover their investment in surplus property while making it possible for other agencies of government to acquire the property and keep it available for playground, playing field or other outdoor recreational and open space purposes.~~

~~EC 17486. WAIVE ENTIRE SECTION This article shall apply to any schoolsite owned by a school district, which the governing board determines to sell or lease, and with respect to which the following conditions exist:~~

- ~~(a) Either the whole or a portion of the schoolsite consists of land which is used for school playground, playing field, or other outdoor recreational purposes and open space land particularly suited for recreational purposes.~~
- ~~(b) The land described in subdivision (a) has been used for one or more of the purposes specified therein for at least eight years immediately preceding the date of the governing board's determination to sell or lease the schoolsite.~~
- ~~(c) No other available publicly owned land in the vicinity of the schoolsite is adequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open space purposes, as determined by the governing body of the public agency which proposes to purchase or lease land from the school district, pursuant to Section 17492.~~

~~EC 17487. WAIVE ENTIRE SECTION As used in this article, "schoolsite" means a parcel of land, or two or more contiguous parcels, which is owned by a school district. "Governing board" means the governing board of the school district which owns the schoolsite.~~

~~EC 17488. WAIVE ENTIRE SECTION The governing board of any school district may sell or lease any schoolsite containing land described in Section 17486, and, if the governing board decides to sell or lease such land, it shall do so in accordance with the provisions of this article.~~

EC 17489 WAIVE ENTIRE SECTION (a) (1) Other than as specified in paragraph (2), and notwithstanding Section 54222 of the Government Code, the governing board of a school district, before selling or leasing a schoolsite containing land described in Section 17486, excluding that portion of a schoolsite retained by the governing board of the school district pursuant to Section 17490, shall, if a charter school has not accepted an offer to purchase or lease the schoolsite pursuant to Section 17457.5, first offer to sell or lease that portion of the schoolsite consisting of land described in Section 17486, excluding that portion retained by the governing board of the school district pursuant to Section 17490, to the following public agencies in accordance with the following priorities:

(A) First, to any city within which the land may be situated.

(B) Second, to any park or recreation district within which the land may be situated.

(C) Third, to any regional park authority having jurisdiction within the area in which the land is situated.

(D) Fourth, to any county within which the land may be situated.

(2) The governing board of a school district, before selling or leasing a schoolsite to which paragraph (1) would otherwise apply, but which was purchased with or modernized with, or on which improvements were constructed that were funded with, any moneys from a state school facilities funding program, and to which subdivision (a) of Section 17462.3 is applicable, after first offering the schoolsite for sale or lease to a charter school that has requested notification pursuant to Section 17457.5, may offer to sell or lease the property to another school district, a county office of education, or a governmental entity that provides child care and development services pursuant to Section 17458 before offering to sell or lease the property to the entities listed in subparagraphs (A) to (D), inclusive, of paragraph (1).

(b) The governing board of the school district shall have discretion to determine whether the offer shall be an offer to sell or an offer to lease.

(c) An entity which proposes to purchase or lease a schoolsite offered by a school district shall notify the school district of its intention, in writing, within 60 days after receiving written notification from the school district of its offer to sell or lease.

EC 17490. WAIVE ENTIRE SECTION In determining what portion of a schoolsite shall be offered for sale or lease pursuant to this article, the governing board may retain any part of the schoolsite containing structures or buildings, together with such land adjacent thereto which, as determined by the governing board, must be included in order to avoid reducing the value of that part of the schoolsite containing such structures or buildings to less than 50 percent of fair market value.

EC 17491. WAIVE ENTIRE SECTION (a) Except as otherwise provided in subdivision (b) or (c), the price at which land described in Section 17486, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17490, is sold pursuant to this article shall not exceed the school district's cost of acquisition, calculated as a pro rata cost of acquiring the entire parcel comprising the schoolsite, adjusted by a factor equivalent to the percentage increase or decrease in the cost of living from the date of purchase to the year in which the offer of sale is made, plus the cost of any improvement to the recreational and open space portion of the land which the school district has made since its acquisition of the land. In no event shall the price be less than 25 percent of the fair market value of the land described in Section 17486 or less than the amount necessary to retire the share of local bonded indebtedness plus the amount of the original cost of the approved state aid applications on the property, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17489, at the time of the offer. These provisions shall apply to land that the school district acquired by gift or for consideration.

(b) A school district that offers a portion of a schoolsite for sale may offer such portion of property for sale at its fair market value, provided the school district offers an equivalent size alternative portion of that schoolsite for school playground, playing field, or other recreational and open space purposes.

(c) Land which is leased pursuant to this article shall be leased at an annual rate of not more than 1/20th of the maximum sales price determined pursuant to subdivision (a) of this section, adjusted annually by a factor equivalent to the percentage increase or decrease in the cost of living for the immediately preceding year.

(d) The percentage of annual increase or decrease in the cost of living shall be the amount shown for January 1st of the appropriate year by the then current Bureau of Labor Statistics Consumers Price Index for the area in which the schoolsite is located.

(e) Whenever a school district closes a schoolsite and sells any land described in Section 17486 pursuant to this article to help pay only for capital outlay costs incurred directly as a result of the transfer of pupils from the closed school to another school or other schools of the district, the sale price of the property determined pursuant to subdivision (a) shall be increased by an amount equal to the additional costs incurred due to the school closure.

EC 17492. WAIVE ENTIRE SECTION The governing body of a public agency which proposes to purchase or lease land from a school district pursuant to this article shall first make a finding, approved by a vote of two thirds of its members, that public lands in the vicinity of the schoolsite are inadequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open space purposes.

EC 17493. WAIVE ENTIRE SECTION (a) No public agency may purchase surplus school property from a school district pursuant to this article unless it has first adopted a plan for the purchase of surplus school property. The plan shall designate the surplus site or sites all or a portion of which the public agency desires to purchase at the price established pursuant to this article and shall designate at least 70 percent of the total surplus school acreage as property which the agency does not desire to purchase at the price established pursuant to this article. Where the plan indicates that the agency desires to purchase only a portion of a schoolsite at the price established pursuant to this article, it shall designate the percent of the property to be so purchased and provide a description of the general location of the property to be purchased, without designating the metes and bounds.

(b) Any property designated by public agencies as surplus schoolsites which the agencies do not wish to purchase, pursuant to subdivision (a), may be sold or leased by a school district without regard to this article.

(c) This section shall become operative on April 1, 1982.

EC 17494. WAIVE ENTIRE SECTION Any land purchased or leased by a public agency pursuant to this article shall thereafter be maintained by such agency for playground, playing field, or other outdoor recreational and open space uses. Land which prior to its sale or lease was used for playground or playing field purposes, shall continue to be maintained for such use by the acquiring agency, unless the governing body of that agency, by a two-thirds vote at a public hearing, determines that there is no longer a significant need for the land to be so used, in which case the land may thereafter be used for other outdoor recreational or open space purposes. The school district may, at any time, reacquire the land at a price calculated in the manner prescribed in Section 17491, and the rights of reacquisition provided in this section shall be set forth in the deed or other instrument of transfer. If the governing board of the public agency determines that the land is no longer needed for playground, playing field, or other outdoor recreational and open space purposes, the public agency shall offer the property to the school district for reacquisition under this section, and the school district shall notify the public agency within 60 days of its intent to reacquire the land. If the school district intends to sell the property within one year of the reacquisition date, the school district may finance the reacquisition of the land by lien against the proceeds to be obtained from the sale of the land by the school district. If the school district fails to give the public agency timely notice of its intent to reacquire the property, or if it fails to exercise its right of reacquisition, the public agency may use or dispose of the property. For purposes of this section, "cost of acquisition," as used in Section 17491, shall refer to the cost at which the land was acquired by the public agency.

EC 17495. WAIVE ENTIRE SECTION The sale or lease of land by a school district pursuant to this article shall be subject to, and governed by, the provisions of Article 2 (commencing with Section 17230) of Chapter 1 and Article 4 (commencing with Section 17455), except to the extent that the provisions of this article are inconsistent with a provision or provisions of Article 2 or 4, in which event the provisions of this article shall govern the sale or lease.

EC 17496. WAIVE ENTIRE SECTION Failure by the school district to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

EC 17497. WAIVE ENTIRE SECTION Notwithstanding the other provisions of this article, any school district governing board may designate not more than two surplus schoolsites as exempt from the provisions of this article for each planned schoolsite acquisition if the school district has an immediate need for an additional schoolsite and is actively seeking to acquire an additional site, and may exempt not more than one surplus schoolsite if the district is seeking immediate expansion of the classroom capacity of an existing school by 50 percent or more.

The exemption provided for by this section shall be inapplicable to any schoolsite which, under a lease executed on or before July 1, 1974, with a term of 10 years, was leased to a city of under 100,000 population for park purposes, was improved at city expense, and used for public park purposes.

EC 17498. WAIVE ENTIRE SECTION A school district having a schoolsite described in Section 17486 may, as an alternative to sale or lease of the land pursuant to the foregoing provisions of this article, enter into other forms of agreement concerning the disposition of the property with any entity enumerated in Section 17489, in accordance with the priorities therein specified, including, but not limited to each of the following:

(a) An agreement to lease to such entity all or part of the schoolsite for a specified term, with an option to purchase such properties at the end of the term.

(b) An agreement granting to the entity a permanent open space easement for recreational use over a portion of the leased site.

(c) If the lessee or a grantee under an agreement is an entity having zoning powers, an agreement requiring the entity to rezone any portion of the property retained by the school district in accordance with conditions specified in the agreement, to the

~~extent that rezoning in accordance with the conditions is in compliance with applicable laws of the state.~~

EC 17499. WAIVE ENTIRE SECTION ~~(a) No more than 30 percent of the total surplus school acreage owned by a school district may be purchased or leased by public agencies pursuant to this article.~~

~~(b) The right of any public agency to purchase or lease surplus school property pursuant to this article shall exist only with respect to an amount of surplus school acreage within its jurisdictional boundaries which, when added to the surplus school acreage within its jurisdictional boundaries already purchased or leased pursuant to this article, will not exceed 30 percent of the surplus school acreage owned by the school district which is within the jurisdictional boundaries of that agency.~~

~~(c) For purposes of this section, "surplus school acreage" of a school district means property which is owned by a district and not used for school purposes, including, but not limited to, undeveloped property and property which contains school buildings that are not in use as a result of a school closure and which is not subject to any lease or agreement executed on or before July 1, 1974, for a term in excess of six years, in which any city containing a population of less than 100,000 had use of the property for park purposes on January 1, 1981, and had improved the property.~~

~~(d) Nothing in this section shall be construed to deny local agencies the opportunity to purchase at full market value all or part of the 70 percent of the total surplus school acreage which is not affected by this article.~~

EC 17500. WAIVE ENTIRE SECTION ~~This article shall not apply to any school district having more than 400,000 pupils in average daily attendance.~~

Rationale: The District is seeking to waive the provisions and requirements of the Naylor Act (EC §§ 17485-17500) in order to allow the District to select the most desirable tenants and land uses that represent the best balance of public interests, while maximizing income potential for the District. Without the waiver, the District would be required to first offer the surplus property to certain local governmental agencies which would greatly limit the Districts ability to freely place the property for lease in the open market. If the District is required to comply with the provisions of EC §§ 17485-17500 – such compliance would inevitably create a significant fiscal impact on a district that is already facing budget constraints.

As a further matter, the property that is the subject of this waiver (the Menlo Oaks School site) is currently not a district school, and the surrounding neighborhood is not within the districts enrollment zone and therefore the neighboring community would not be eligible to attend a school on this site. Therefore, the granting of this waiver would not affect the ability of the public or the local community to access other schools.