

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of EducationMarch 2021 AgendaItem #W-03

## Subject

Request by **four local educational agencies** to waive California *Education Code* sections specific to statutory provisions for the sale or lease of surplus property.

## Waiver Numbers

* Orange Unified School District: 10-9-2020
* Ravenswood City Elementary School District: 4-10-2020
* Ravenswood City Elementary School District: 5-10-2020
* San Lorenzo Unified School District: 19-12-2020
* Santa Rosa City Schools: 18-12-2020

## Type of Action

Action, Consent

## Summary of the Issues

The Orange Unified School District (Orange USD) is requesting to waive all of California *Education Code* (*EC*) sections 17473 and 17474, and portions of sections 17455, 17466, 17468, 17470, 17472, and 17475, which will allow the district to maximize the return on the lease of one piece of property through the Request for Proposal (RFP) process, maximizing the benefit from the lease.

The Ravenswood City Elementary School District School District (Ravenswood City ESD) is requesting to waive all of *EC* sections 17473 and 17474, as well as portions of sections 17455, 17466, 17469, 17472, and 17475, which will allow the district to maximize the return on the sale or lease of two pieces of property in a manner that best serves their schools and community.

The San Lorenzo Unified School District (San Lorenzo USD) is requesting to waive all of *EC* sections 17472, 17473, and 17474, as well as portions of sections 17455, 17466, 17468, 17469, 17470, and 17475, which will allow the district to maximize the return on the sale or lease of three pieces of property through the RFP process, maximizing the benefit from the sale or lease of each.

Santa Rosa City Schools (Santa Rosa CS) is requesting to waive all of *EC* sections 17472, 17473, and 17474, and portions of sections 17455, 17466, 17468, 17469, 17470, and 17475, which will allow the district to maximize the return on the sale of one piece of property through the RFP process, maximizing the benefit from the sale.

## Authority for Waiver

California *EC* Section 33050

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

The California Department of Education (CDE) recommends approval with the following conditions: that the proposal each district’s respective governing board determines to be the most desirable shall be selected within 30 to 60 days of the public meeting where the proposal was received, and that the reasons for that determination be discussed in public session and included in the minutes of the meeting.

## Summary of Key Issues

Under provisions of *EC* Section 33050, the districts are requesting that specific portions of the *EC* relating to the sale or lease of surplus property be waived.

### Orange USD

Orange USD requests that the specified *EC* sections be waived in order to allow the district to maximize the return on the lease of one piece of approximately 19.57 acres of real property located at 2190 North Canal Street in Orange, known as the Peralta Property, in a manner that best serves its schools and community. The property is no longer needed and was declared surplus in 2008. In November 2011, the district’s governing board obtained a waiver from the State Board of Education (SBE) with the goal of leasing the property through the RFP process that can be found at <https://www.cde.ca.gov/be/ag/ag/yr11/documents/nov11w10a05.doc>. The property was made available to all interested parties on February 20, 2012, but an agreeable lease agreement was never approved by the district’s board and the waiver expired in November 2013. The property is currently being utilized by five different entities, pursuant to separate license agreements with the district. In an effort to enter into a more long-term arrangement, the district again seeks to lease the property via the RFP process. The district will work to develop a strategic plan for advertising and marketing the property in order to solicit proposals from interested parties. The district will also work closely with legal counsel to ensure that the process by which the property is leased is fair and open.

One of the bargaining units, the Orange Unified Education Association, took a stance of neutral because, while they were apprised of the specifics of the waiver request by the district, they felt that a greater level of information would be necessary for the unit to offer a position of support. However, the unit presented no objections to the waiver and stated that it was fine with it moving forward as part of their neutral stance.

To ensure current community representation the district consulted with its Facilities Master Plan Committee in January 2021, and there were no objections raised. The district previously consulted their District Site Council in August 2011, but subsequently amended the request to include more recent community engagement.

### Ravenswood City ESD

Ravenswood City ESD requests that the specified *EC* sections be waived in order to allow the district to maximize the return on the sale or lease of two pieces of real property. The first is the site formerly known as the James Flood Elementary School, located at 320 Sheridan Drive in Menlo Oaks. The second is the former site of the Menlo Oaks School, located at 475 Pope Street in Menlo Park. The district seeks tenants that will maximize income potential without imposing high-impact land uses on the community.

Flood Elementary School was closed in 2011 and the students were moved to Willow Oaks Elementary School. The district has engaged in a number of conversations to explore leasing the Flood site, but has never entered into any formal agreements. As for the Menlo Oaks site, the district has been leasing the site for over 10 years, and the current lessee is Alto International, a private school.

The waiver request originally indicated an ending date of January 1, 2999, but this was clarified via email correspondence and revised to March 16, 2023.

The consulted advisory committee was originally submitted as the Ravenswood Board of Trustees, but to ensure community engagement the district convened its Budget Working Group and Bond Oversight Committee on January 8, 2021, and no objections were raised.

### San Lorenzo USD

San Lorenzo USD requests that the specified *EC* sections be waived in order to allow the district to maximize the return on the sale or lease of three pieces of real property in a manner that best serves their schools and community. The three properties are as follows:

The El Portal Site: The district previously owned a 5.44-acre parcel known as the El Portal site, but sold four acres of it, leaving 1.44 acres. This remaining acreage sits as vacant and undeveloped land that the district anticipates may be purchased by a residential developer, in which case a transaction may need to be structured to allow the developer to obtain entitlements and financing. The site may also be purchased by potential homeowners seeking to build a residence on a portion of the site, which would require the district to work with potential buyers to determine the location and size of the prospective lots. The district is seeking the waiver because selling this property through the traditional bid process would make it difficult to negotiate and work with potential buyers to generate the highest value for the site.

The Fairmont Terrace Site: Since May of 2000, this site has been leased to the Seneca Residential and Day Treatment Center for Children, but that lease will expire in 2022. The district does not need the site and is exploring either entering into a new lease or selling the site. If the site is leased, it is possible that the district would generate the highest return by leasing portions of the site to different partners based on the specific needs of each. It is also possible that certain portions of the site would be "common areas" used by more than one partner. Without the flexibility to do an RFP, the pool of potential lessors would be limited, thereby likely limiting the financial return for the district. If the property is sold, there will be a challenge created by the site's topography. Portions of the site are too steep to be useable for most buyers, which means that buyers will have to purchase unusable land, or the land will need to be sold in portions to various buyers with different needs. The district would like to expose the property to the market and tailor any sale in a manner that maximizes its return. The traditional bid process would make it difficult to work with potential buyers and lessors to negotiate the best terms possible for the district.

The Lewelling Site: This site has not been used as a school site for decades. In 2016, the district leased a portion of the property to Woodroe, Inc., and in 2020, the district leased a different portion of the property to The Primary School, Inc. (a childcare and development services provider). The site contains approximately 40,000 square feet of buildings and, as a result, there are not many agencies that could feasibly lease the entire site, thus it will likely need to be occupied by more than one entity. The district needs flexibility to work with potential lessors to tailor lease agreements that meet their needs, while ensuring they can co-exist with other entities on the site in the common areas. The traditional bid process would make it difficult to work with potential lessors to negotiate the best terms possible for the district.

### Santa Rosa City Schools

Santa Rosa CS requests that the specified *EC* sections be waived in order to allow the district to maximize the return on the sale of one piece of real property, approximately 6.03 acres of raw, undeveloped real property located in Santa Rosa. The property is currently not being used by the district, and the district no longer needs the property. The district wishes to sell the property in a manner that will provide the district the most benefit.

The property was affected by the 2017 Tubbs fire, and anticipates that the most likely buyer for the property would be a residential developer. The property's location, topography, and proximity to fire-affected areas will likely require a prospective buyer to make a respectable investment in entitlements, and require an extended due diligence period. As a result, the district would benefit from having the flexibility to issue an RFP and consider offers that may need special terms to allow potential buyers to obtain entitlements and finance the transaction. Additionally, the district would like to have the ability to use the services of a commercial real estate agent to market the property and maximize the district's return.

### Demographic Information

Orange USD has a student population of 27,473 and is located in Orange County.

Ravenswood City ESD has a student population of 3,269 and is located in San Mateo County.

San Lorenzo USD has a student population of 11,256 and is located in Alameda County.

Santa Rosa CS has a student population of 15,390 and is located in Sonoma County.

**Because these are general waivers, if the SBE decides to deny the waivers, it must cite one of the seven reasons in *EC* Section 33051(a), available on the California Legislation Information Web page at** <https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051.>

## Summary of Previous State Board of Education Discussion and Action

The SBE has approved all previous waivers regarding the bidding process and the sale or lease of surplus property. The districts are requesting to waive the same or similar provisions for the sale or lease of surplus property.

## Fiscal Analysis

The flexibility in property disposition requested herein will allow the districts to maximize revenue from the sale or lease of the properties.

The districts have certified that the sites have been owned for more than 10 years and therehave been no improvements funded by monies from the State School Facilities Program within the last 10 years. Therefore, pursuant to *EC* Section 17462.3, financial reimbursement is not due to the State Allocation Board.

## Attachments

* **Attachment 1:** Summary Table (4 pages)
* **Attachment 2:** Orange Unified School District General Waiver Request 10-9-2020 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Ravenswood City Elementary School District General Waiver Request 4-10-2020 (4 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Ravenswood City Elementary School District General Waiver Request 5-10-2020 (4 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 5:** San Lorenzo Unified School District General Waiver Request
19-12-2020 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 6:** Santa Rosa City Schools General Waiver Request 18-12-2020
(5 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 17455 et seq.

| **Waiver Numbers** | **District** | **Properties** | **Periods of Request** | **Local Board Approval Date** | **Public Hearing Date** | **Bargaining Unit Representatives** | **Advisory Committee Consulted** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 10-9-2020 | Orange Unified School District | 19.57 acres of real property located at 2190 N. Canal Street, Orange, known as the Peralta Property | **Requested:**November 6, 2020 to November 6, 2022**Recommended:**March 18, 2021 to March 16, 2023 | 7/23/2020 | 7/23/2020Public Hearing Advertised: Notice was published in the Orange County Register on July 18, 2020 and was posted outside the Board Room a week prior to the public hearing. | California School Employee Association (CSEA 67)Darleen Swanson, President9/29/2020**Support**Orange Unified Education AssociationGreg Goodlander, President9/25/2020**Neutral** | Facilities Master Plan Committee1/12/2021**No Objections** |
| 4-10-2020 and5-10-2020 | Ravenswood City Elementary School District | 1. Former site of James Flood Elementary School, located at 320 Sheridan Drive, Menlo Oaks2. Former site of the Menlo Oaks School, located at 475 Pope Street, Menlo Oaks | **Requested:**October 23, 2020 to January 1, 2999**Recommended:**March 18, 2021 to March 16, 2023 | 10/8/2020 | 10/22/2020Public Hearing Advertised: Advertised in the Daily Post newspaper | California State Employees Association (CSEA)Randolph Jackson, President10/16/2020**Support**Ravenswood Teacher AssociationRonda White, President10/14/2020**Support** | Budget Working Group and Bond Oversight Committee1/8/2021**No Objections** |
| 19-12-2020 | San Lorenzo Unified School District | 1. El Portal Site, located on 1.44 acres at Pomar Vista Ave. in Castro Valley2. Fairmont Terrace Site located at 2275 Arlington Dr. in San Leandro3. Lewelling Site located at 750 Fargo Avenue in San Leandro | **Requested:**March 19, 2021 to March 19, 2022**Recommended:**March 19, 2021 to March 19, 2022 | 12/15/2020 | 12/15/2020Public Hearing Advertised: Notice was published in the East Bay Times for two consecutive weeks, and also posted outside of the district office for public view for two weeks prior to the meeting. | CSEA Chapter 692Julie Glenn-Juuko, President12/11/2020**Support**San Lorenzo Education AssociationKaren Rosa, President12/03/2020**Support**San Lorenzo Management AssociationAngela Webster, President12/10/2020**Support**Service Employee International Union Local 1021Steven Larsen, President12/17/2020**Support** | Fiscal Efficiency and Revenue Enhancement Committee12/04/2020**No Objections** |
| 18-12-2020 | Santa Rosa City Schools | 6.03 acres of undeveloped real property located on Fir Ridge Dr. in Santa Rosa | **Requested:**March 19, 2021 to March 19, 2022**Recommended:**March 19, 2021 to March 19, 2022 | 12/14/2020 | 12/14/2020Public Hearing Advertised: Notice of the public hearing was posted at various physical locations throughout the district and posted on the district's website. | CSEA Santa Rosa Chapter 75Tammy Affonso, President12/08/2020**Support**Santa Rosa Teachers' AssociationWill Lyon, President12/10/2020**Support** | Citizens' Bond Oversight Committee12/03/2020**No Objections** |

Created by the California Department of Education

January 2021

# Attachment 2: **Orange Unified School District General** **Waiver Request 10-9-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3066621

Waiver Number: 10-9-2020

Active Year: 2020

Date In: 9/30/2020 12:01:34 PM

Local Education Agency: Orange Unified

Address: 1401 North Handy St.

Orange, CA 92867

Start: 11/6/2020

End: 11/6/2022

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

*Ed Code* Title: Lease of Surplus Property

*Ed Code* Section: 17455, 17466, 17468, 17470, 17472, 17473, 17474, 17475

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: The Orange Unified School District desires to waive the following sections and portions of the *Education Code* ("*EC*"). Specifically, the

District requests that the language in brackets [] be waived:

*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 language indicating that the lease of property is to be made in the manner provided by this article is to be waived, since the District is asking that several provisions of the article be waived and consequently, the lease will not be made in the manner provided by this Article.

*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 purpose of this request is to allow the District to waive the sealed proposal requirement of the *Education Code* and use an alternative procedure for the lease of the Peralta Property. Specifically, the District desires to lease the Peralta Property via an alternative “Request for Proposals” (“RFP”) process, in which the District seeks proposals and negotiates with selected proposers to enter into a lease agreement that provides the most benefit to the District. The deleted language indicates that the District must pass a resolution setting a time by which the District will open all sealed bids for the Peralta Property. Since the District will not be conducting a bid process, and cannot predict the timing of the RFP process and its subsequent negotiations with proposers, it cannot at the time of adopting the resolution contemplated by Section 17466 know when proposals must be brought back to the governing board for consideration. After passing a resolution that authorizes the District to go forward with the RFP process, the District intends to solicit proposals for the Peralta Property and bring proposals to the governing board to consider the approval of an agreement.

*EC* 17468. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the [sealed] proposal [or stated in or with the oral bid,] which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

Rationale: The purpose of this request is to allow the District to waive the sealed proposal requirement of the *Education Code* and use an alternative procedure for the lease of the Peralta Property. Specifically, the District desires to lease the Peralta Property via an alternative RFP process, in which the District seeks proposals and negotiates with selected proposers to enter into a lease agreement that provides the most benefit to the District. The deleted language indicates the District will receive sealed proposals and oral bids to lease the property at an identified meeting of the District’s governing board. The District is requesting that the requirement of sealed proposals and oral bidding to lease the property be waived, allowing the District to negotiate the lease of the Peralta Property with an interested lessor.

*EC* 17470. (a) The governing board of a school district that intends to sell or lease real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice [of the public meeting prescribed by Section 17466,] in writing, by certified mail[, at least 60 days prior to the meeting]. (b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest bid price.

Rationale: The purpose of this request is to allow the District to waive the sealed proposal requirement of the *Education Code* and use an alternative procedure for the lease of the Peralta Property. Specifically, the District desires to lease the Peralta Property via an alternative RFP process, in which the District seeks proposals and negotiates with selected proposers to enter into a lease agreement that provides the most benefit to the District. The deleted language indicates the Board would be setting a specific meeting to receive proposals for the lease of the Peralta Property. Such a requirement, however, will be removed pursuant to the language stricken within *Education Code* Section 17466. As modified, the District would still be required to take reasonable steps to provide notice to the former owner, but the provision of such notice would no longer be tied to an established date to receive proposals.

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 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: The purpose of this request is to allow the District to waive the sealed proposal requirement of the *Education Code* and use an alternative procedure for the lease of the Peralta Property. Specifically, the District desires to lease the Peralta Property via an alternative RFP process, in which the District seeks proposals and negotiates with selected proposers to enter into lease agreement that provides the most benefit to the District. The deleted language requires the District to obtain sealed bids and select the highest bid. The District is seeking a waiver to allow it to seek proposals and negotiate with interested parties to select the proposal that best meets the needs of the District. The District may select a proposal that offers a lower price but agrees to terms that are more beneficial to the District. Thus, the District seeks to eliminate the language which requires it to enter into an agreement with the highest bidder.

*EC* 17473. WAIVE ENTIRE SECTION [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 purpose of this request is to allow the District to waive the sealed proposal requirement of the *Education Code* and use an alternative procedure for the lease of the Peralta Property. Specifically, the District desires to lease the Peralta Property via an alternative RFP process, in which the District seeks proposals and negotiates with selected proposers to enter into a lease agreement that provides the most benefit to the District. The deleted language relates to the bid process and allows school districts to accept oral bids at the bid hearing. The District will not be accepting bids or conducting a bid hearing but instead will accept proposals and negotiate with interested parties. Thus, the District will not need or accept oral bids.

*EC* 17474. WAIVE ENTIRE SECTION [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.]

Rationale: The purpose of this request is to allow the District to waive the sealed proposal requirement of *Education Code* and use an alternative procedure for the lease of the Peralta Property. Specifically, the District desires to lease the Peralta Property via an alternative RFP process, in which the District seeks proposals and negotiates with selected proposers to enter into a lease agreement that provides the most benefit to the District. The deleted language relates to the bid process and allows school districts to accept oral bids at the bid hearing. The District will not be accepting bids or conducting a bid hearing but instead will accept proposals and negotiate with interested parties. Thus, the District will not need or accept oral bids.

*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: The purpose of this request is to allow the District to waive the sealed proposal requirement of *Education Code* and use an alternative procedure for the Peralta Property. Specifically, the District desires to lease the Peralta Property via an alternative RFP process, in which the District seeks proposals and negotiates with selected proposers to enter into an agreement that provides the most benefit to the District. The deleted language indicates that a school district’s governing board shall accept the highest bid at the bid hearing or within the next 10 days. The District will not conduct a bid hearing but instead will engage in negotiations with any party submitting a proposal in response to the RFP. Once the negotiations end, and the District identifies the best proposal, the District’s Board will accept the proposal. Thus, the language in this Section requiring the board to accept a bid on the bid date or within 10 days does not apply to the RFP process.

Outcome Rationale: Orange Unified School District (“District”) owns approximately 19.57 acres of real property located at 2190 N. Canal Street, Orange, California, 92865 (the “Peralta Property”). In 2008, the District’s Governing Board received a report from the District’s Advisory Committee stating that the Peralta Property will not be needed and in the future for school facilities and should be considered surplus. In 2011, the District’s Governing Board determined that it is comfortable with leasing the Peralta Property and sought a waiver from the State Board of Education. *Education Code* section 17466 et seq. requires school districts either selling or leasing property to conduct a formal bid hearing process in which the school district solicits bids and then enters into a lease or sale agreement with the winning bidder. In November 2011, the District obtained a waiver from the State Board of Education regarding surplus property procedures set forth in *Education Code* section 17466 et seq. for lease of real property relating to the Peralta Property. The waiver was effective until November 2013 and allowed the District to dispose of the Peralta Property through an RFP. On February 16, 2012, the District’s Board of Education approved a resolution declaring the District’s intent to offer the Peralta Property for lease through issuance of an RFP. The Peralta Property RFP was made available to all interested parties on February 20, 2012. An agreeable lease agreement was never approved by the District’s Board and the waiver expired. The Peralta Property is currently being utilized by five different entities, pursuant to separate license agreements with the District. In an effort to enter into a more long-term arrangement in the best interest of the District, the District again seeks a waiver of certain portions of the procedure set forth in *Education Code* section 17466 et seq. as it related to leasing the Peralta Property. This RFP process will allow the District to receive offers to lease the Peralta Property and then determine which proposer offers the best terms and conditions for the District. The bid auction scenario requires the District to pursue either a sale or lease of the Peralta Property and then limits the District’s selection to the highest bidder. The District needs the ability to be flexible and work with interested parties to determine whether a lease is in the best interest of the District and establish the terms of an agreement. A waiver from the surplus property requirements, similar to the one previously requested and obtained, will allow the District to do this. The District will work to develop a strategic plan for advertising and marketing the Peralta Property in order to solicit proposals from parties interested in the Peralta Property. The District will work closely with legal counsel to develop an RFP seeking proposals to lease the Peralta Property and develop a process by which the Peralta Property is leased is fair and open.

Student Population: 27,473

City Type: Urban

Public Hearing Date: 7/23/2020

Public Hearing Advertised: Notice was published in the Orange County Register on July 18, 2020 and was posted outside the Board Room a week prior to the public hearing.

Local Board Approval Date: 7/23/2020

Community Council Reviewed By: District Site Council

Community Council Reviewed Date: 8/23/2011

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Suparna Jain

Position: Attorney for District

E-mail: [sjain@aalrr.com](file:///%5C%5CCDE.Cal%5CDATA%5CSFTSDATA%5CSHARED%5CSBE-Waivers-Items%5CWaivers%5C2021%5C01%20January%202021%5CProperty%20Waivers%5Csjain%40aalrr.com)

Telephone: 626-773-7664

Bargaining Unit Date: 9/29/2020

Name: California School Employee Association (CSEA - 67)

Representative: Darleen Swanson

Title: President

Phone: (714) 628-6244

Position: Support

Bargaining Unit Date: 9/25/2020

Name: Orange Unified Education Association (OUEA)

Representative: Greg Goodlander

Title: President

Phone: 714-288-1288

Position: Neutral

# Attachment 3: **Ravenswood City Elementary School District General** **Waiver Request4-10-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4168999

Waiver Number: 4-10-2020

Active Year: 2020

Date In: 10/22/2020 7:51:51 PM

Local Education Agency: Ravenswood City Elementary

Address: 2120 Euclid Ave.

East Palo Alto, CA 94303

Start: 10/23/2020

End: 1/1/2999

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

*Ed Code* Title: Lease of Surplus Property

*Ed Code* Section: 17455, 17466, 17469, 17470, 17472, 17473 (all), 17474 (all), 17475.

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: The Ravenswood City School District desires to waive the following sections and portions of the *Education Code* ("*EC*"). Specifically, the

District requests that the language in brackets [] be waived:

*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 [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.

Outcome Rationale: The rationale for seeking the waiver is to allow the district to seek the tenants and land uses that represent the best balance of public interests -- that is, maximizing income potential without imposing high-impact new land uses the community.

Student Population: 2,000

City Type: Suburban

Public Hearing Date: 10/22/2020

Public Hearing Advertised: Please see attachment E. You can also view the hearing here: <https://www.youtube.com/watch?v=gJMiySNDm6w>

Local Board Approval Date: 10/8/2020

Community Council Reviewed By: Ravenswood Board of Trustees (see Attachment D)

Community Council Reviewed Date: 10/8/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. William Eger

Position: Chief Business Officer

E-mail: [weger@ravenswoodschools.org](file:///%5C%5CCDE.Cal%5CDATA%5CSFTSDATA%5CSHARED%5CSBE-Waivers-Items%5CWaivers%5C2021%5C03%20March%202021%5CProperty%20Waivers%5Cweger%40ravenswoodschools.org)

Telephone: 650-329-2800 x1101

Bargaining Unit Date: 10/16/2020

Name: CSEA

Representative: Randolph Jackson

Title: CSEA President 303

Phone: 650-329-2800

Position: Support

Bargaining Unit Date: 10/14/2020

Name: Ravenswood Teacher Association

Representative: Ronda White

Title: President

Phone: 650-329-2800

Position: Support

# Attachment 4: **Ravenswood City Elementary School District General** **Waiver Request5-10-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4168999

Waiver Number: 5-10-2020

Active Year: 2020

Date In: 10/22/2020 7:57:36 PM

Local Education Agency: Ravenswood City Elementary

Address: 2120 Euclid Ave.

East Palo Alto, CA 94303

Start: 10/23/2020

End: 1/1/2999

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

*Ed Code* Title: Lease of Surplus Property

*Ed Code* Section: 17455, 17466, 17469, 17470, 17472, 17473 (all), 17474 (all), 17475.

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: The Ravenswood City School District desires to waive the following sections and portions of the *Education Code* ("*EC*"). Specifically, the

District requests that the language in brackets [] be waived:

*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 or sale 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 or sale through proposals from potential lessees or buyers. 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 or buy 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 [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 or sell the property to the party that presents the most favorable proposal to the District. The Board would, therefore, be able to lease or sell 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 or sell 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.

Outcome Rationale: The rationale for seeking the waiver is to allow the district to seek the tenants and land uses that represent the best balance of public interests -- that is, maximizing income potential without imposing high-impact new land uses the community.

Student Population: 2,000

City Type: Suburban

Public Hearing Date: 10/22/2020

Public Hearing Advertised: Please see attachment E. You can also view the hearing here: <https://www.youtube.com/watch?v=gJMiySNDm6w>

Local Board Approval Date: 10/8/2020

Community Council Reviewed By: Ravenswood Board of Trustees (see Attachment D)

Community Council Reviewed Date: 10/8/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. William Eger

Position: Chief Business Officer

E-mail: [weger@ravenswoodschools.org](file:///%5C%5CCDE.Cal%5CDATA%5CSFTSDATA%5CSHARED%5CSBE-Waivers-Items%5CWaivers%5C2021%5C03%20March%202021%5CProperty%20Waivers%5Cweger%40ravenswoodschools.org)

Telephone: 650-329-2800 x1101

Bargaining Unit Date: 10/16/2020

Name: CSEA

Representative: Randolph Jackson

Title: CSEA President 303

Phone: 650-329-2800

Position: Support

Bargaining Unit Date: 10/14/2020

Name: Ravenswood Teacher Association

Representative: Ronda White

Title: President

Phone: 650-329-2800

Position: Support:

# Attachment 5: **San Lorenzo Unified School District General** **Waiver Request 19-12-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 0161309

Waiver Number: 19-12-2020

Active Year: 2020

Date In: 12/18/2020 6:28:09 PM

Local Education Agency: San Lorenzo Unified

Address: 15510 Usher St.

San Lorenzo, CA 94580

Start: 3/19/2021

End: 3/19/2022

Waiver Renewal: N

Waiver Topic: Sale or Lease of Surplus Property

*Ed Code* Title: Sale or Lease of Surplus Property

*Ed Code* Section: § 17455, 17466, 17468, 17469, 17470, 17472 (all), 17473 (all), 17474 (all), 17475.

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: The San Lorenzo Unified School District desires to waive the following sections and portions of the *Education Code* ("*EC*"). Specifically, the

District requests that the language in brackets [] be waived:

*Education Code* § 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 describethe 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.]

*Education Code* § 17468.

If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified [in the resolution]. No commission shall be paid unless there is contained in or with the [sealed] proposal [or stated in or with the oral bid], which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

*Education Code* § 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.

*Education Code* § 17470.

(a) The governing board of a school district that intends to sell real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice [of the public meeting prescribed by Section 17466], in writing, by certified mail, [at least 60 days prior to the meeting].

(b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest bid price.

*Education Code* § 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 whichare made by responsible bidders, the proposal which 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].

*Education Code* § 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, afterdeducting 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.]

*Education Code* § 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.]

*Education Code* § 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].

Outcome Rationale: The San Lorenzo Unified School District ("District") owns the following properties:

1. 1.44 acres on APN 84A-185-1-24 (the "El Portal Site");

2. 2275 Arlington San Lorenzo, Ca, APN 80A-174-21 (the "Fairmont Terrace Site"); and

3. 750 Fargo Avenue, San Leandro APN: 80G-1290-4-6 (the "Lewelling Site").

These sites are referred to herein individually as a "Property," and collectively referred to herein as the "Properties."

**The El Portal Site**

The District previously owned a 5.44-acre parcel known as the El Portal site. The District sold 4 acres which left a remainder of 1.44 acres. This remaining acreage (the El Portal Site) now sits as vacant and undeveloped land. The District anticipates that the El Portal Site may be purchased by a residential developer, in which case a transaction may need to be structured to allow the developer to obtain entitlements and financing (which would be difficult using a traditional bid process). The site may also be purchased by potential homeowners seeking to build a residence on a portion of the site, which would require the District to work with potential buyers to determine the location and size of the prospective lots (which would also be difficult using a traditional bid process). In short, selling this property through a traditional bid process would make it difficult to negotiate and work with potential buyers to generate the highest value for the site.

**The Fairmont Terrace Site**

Since May of 2000, the Fairmont Terrace Site has been leased to the Seneca Residential and Day Treatment Center for Children. This lease will expire in 2022. The District does not need the site, and is exploring either entering into a new lease, or selling the site.

If the site is leased, it is possible that the District would generate the highest return by leasing portions of the site to different partners based on their specific needs. It is also possible that certain portions of the site would be "common areas" used by more than one partner. It would be difficult to do this type of transaction through a traditional bid process. Without the flexibility to do an RFP, the pool of potential lessors would be limited (thereby likely limiting the financial return for the District).

If the property is sold, there will be a challenge created by the site's topography. Portions of the site are too steep to be useable for most buyers, which means that buyers will have to purchase unusable land, or the land will need to be sold in portions to various buyers with different needs. The District would like to expose the property to the market and tailor any sale in a manner that maximizes its return. The traditional bid process would make it difficult to work with potential buyers and lessors to negotiate the best terms possible for the District.

**The Lewelling Site**

The Lewelling Site has not been used as a school site for decades. In 2016, the District leased a portion of the property to Woodroe, Inc., and in 2020, the District leased a different portion of the property to a The Primary School, Inc. (a childcare and development services provider). The site contains approximately 40,000 square feet of buildings. As a result, there are not many agencies who could feasibly lease the entire site, and there will likely need to be occupied by more than one entity. The District needs flexibility to work with potential lessors to tailor lease agreements that meet their needs, while ensuring they can co-exist with other entities on the site in the common areas. The traditional bid process would make it difficult to work with potential lessors to negotiate the best terms possible for the District.

Based on the foregoing, the District would benefit from having the flexibility to issue a Request for Proposals ("RFP") and tailor the terms of these transactions in a manner that maximizes the District's return. The District is seeking a waiver of certain portions of the Education Code so it can pursue a sale or lease through an RFP. The District plans to issue an RFP package describing the Property and asking interested parties to submit proposals describing their proposed terms and conditions. District staff, in consultation with legal counsel, will review the RFP responses and determine which offer provides the most beneficial terms to the District.

Student Population: 11,256

City Type: Small

Public Hearing Date: 12/15/2020

Public Hearing Advertised: Notice of the public hearing was published in a newspaper for two consecutive weeks. The notice was also posted outside of the district office for public view for two weeks prior to the meeting.

Local Board Approval Date: 12/15/2020

Community Council Reviewed By: Fiscal Efficiency and Revenue Enhancement Committee

Community Council Reviewed Date: 12/04/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. James Traber

Position: Legal Counsel

E-mail: [jtraber@f3law.com](file:///%5C%5CCDE.Cal%5CDATA%5CSFTSDATA%5CSHARED%5CSBE-Waivers-Items%5CWaivers%5C2021%5C03%20March%202021%5CProperty%20Waivers%5Cjtraber%40f3law.com)

Telephone: 916-591-7751

Bargaining Unit Date: 12/11/2020

Name: CSEA Chapter 692

Representative: Julie Glenn-Juuko

Title: President

Phone: 510-674-8734

Position: Support

Bargaining Unit Date: 12/03/2020

Name: San Lorenzo Education Association

Representative: Karen Rosa

Title: President

Phone: 510-317-3157

Position: Support

Bargaining Unit Date: 12/10/2020

Name: San Lorenzo Management Association

Representative: Angela Webster

Title: President

Phone: 510-317-4641

Position: Support

Bargaining Unit Date: 12/17/2020

Name: Service Employee International Union Local 1021

Representative: Steven Larsen

Title: President

Phone: 510-317-4641

Position: Support

# Attachment 6: **Santa Rosa City Schools General** **Waiver Request 18-12-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4940253

Waiver Number: 18-12-2020

Active Year: 2020

Date In: 12/18/2020 5:50:15 PM

Local Education Agency: Santa Rosa City Schools

Address: 211 Ridgway Ave.

Santa Rosa, CA 95401

Start: 3/19/2021

End: 3/19/2022

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

*Ed Code* Title: Sale of Surplus Property

*Ed Code* Section: *Education Code* § 17455, 17466, 17468, 17469, 17470, 17472 (all),

17473 (all), 17474 (all), 17475.

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: Santa Rosa City Schools desires to waive the following sections and portions of the *Education Code* ("*EC*"). Specifically, the

District requests that the language in brackets [] be waived:

*Education Code* § 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].

*Education Code* § 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.]

*Education Code* § 17468.

If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified [in the resolution]. No commission shall be paid unless there is contained in or with the [sealed] proposal [or stated in or with the oral bid], which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

*Education Code* § 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.

*Education Code* § 17470.

(a) The governing board of a school district that intends to sell real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice [of the public meeting prescribed by Section 17466], in writing, by certified mail, [at least 60 days prior to the meeting]. (b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest bid price.

*Education Code* § 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 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].

*Education Code* § 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.]

*Education Code* § 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.]

*Education Code* § 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].

Outcome Rationale: The Santa Rosa City Schools ("District") owns approximately 6.03 acres of undeveloped real property identified as APN 173-620-030, located in Santa Rosa, California (the "Property"). The Property is currently not being used by the District, and the District no longer needs the Property. The District wishes to sell the Property in a manner that will provide the District the most benefit.

The Property is raw, undeveloped land that is located in an area that was affected by the 2017 Tubbs fire. The District anticipates that the most likely buyer for the Property would be a residential developer. The Property's location, topography, and proximity to fire-affected areas will likely require a prospective buyer to make a respectable investment in entitlements, and require an extended due diligence period.

As a result, the District would benefit from having the flexibility to issue a Request for Proposals ("RFP") and consider offers that may need special terms to allow potential buyers to obtain entitlements and finance the transaction. Additionally, the District would like to have the ability to use the services of a commercial real estate agent to market the property and maximize the District's return.

As a result, the District is seeking a waiver of certain portions of the Education Code so it can pursue a sale through an RFP. The process will allow the District to issue an RFP package describing the Property and asking interested parties to submit proposals describing the terms and conditions of their proposed purchase. District staff, in consultation with legal counsel, will review the RFP responses and determine which offer provides the most beneficial terms to the District.

The District needs the ability to be flexible and work with interested parties to determine what type of transactional terms will yield the best result for the District and a purchaser. The District will develop a strategic plan for advertising and marketing the Property, and will work closely with legal counsel to develop an RFP for the purchase of the Property, and develop a process by which the Property is sold in a fair and open manner.

Student Population: 15,390

City Type: Small

Public Hearing Date: 12/14/2020

Public Hearing Advertised: Notice of the public hearing was posted at various physical locations throughout the District and posted on the District's website.

Local Board Approval Date: 12/14/2020

Community Council Reviewed By: Citizens' Bond Oversight Committee

Community Council Reviewed Date: 12/3/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. James Traber

Position: Legal Counsel

E-mail: [jtraber@f3law.com](file:///%5C%5CCDE.Cal%5CDATA%5CSFTSDATA%5CSHARED%5CSBE-Waivers-Items%5CWaivers%5C2021%5C03%20March%202021%5CProperty%20Waivers%5Cjtraber%40f3law.com)

Telephone: 916-591-7751

Bargaining Unit Date: 12/08/2020

Name: CSEA Santa Rosa Chapter 75

Representative: Tammy Affonso

Title: President

Phone: 707-547-7986

Position: Support

Bargaining Unit Date: 12/10/2020

Name: Santa Rosa Teachers' Association

Representative: Will Lyon

Title: President

Phone: 707-888-1756

Position: Support