

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

Sale or Lease of Surplus Property Waiver

# California State Board of Education September 2019 AgendaItem #W-06

## Subject

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

## Waiver Numbers

* Oxnard Union High School District: 11-7-2019
* Redwood City Elementary School District: 8-6-2019
* San Bruno Park Elementary School District 16-6-2019
* San Mateo Union High School District: 10-5-2019

## Type of Action

Action, Consent

## Summary of the Issues

The Oxnard Union High School District (Oxnard UHSD) is requesting to waive all of California *EC* sections 17473 and 17474, and portions of 17455, 17466, 17468, 17469, 17470, 17472, and 17475, which will allow the district to maximize the return on the sale of three pieces of property through the Request for Proposal (RFP) process.

The Redwood City Elementary School District (Redwood City ESD) is requesting to waive all of California *EC* sections 17473 and 17474, and portions of 17455, 17466, 17472, and 17475, which will allow the district to maximize the return on the lease of four pieces of property through the RFP process.

The San Bruno Park Elementary School District (San Bruno Park ESD) is requesting to waive all of California *EC* sections 17473 and 17474, and portions of 17455, 17466, 17469, 17472, and 17475, which will allow the district to maximize its return on the sale or lease of one piece of property through the RFP process.

The San Mateo Union High School District (San Mateo UHSD) is requesting to waive all of California *EC* sections 17473 and 17474, and portions of 17455, 17466, 17469, 17472, and 17475, which will allow the district to maximize the return on the sale or lease of one piece of property through the RFP process.

## 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 the districts’ governing boards determine to be the most desirable shall be selected within 60 days of the public meetings where the proposals were received, and that the reasons for those determinations be discussed in public session and included in the minutes of the meetings.

## 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.

### Oxnard UHSD

The Oxnard UHSD requests that the specified *EC* sections be waived in order to allow the district to sell the following pieces of real property:

* 220 and 309-315 South K Street, Oxnard, California
* 527 Hueneme Road, Oxnard, California
* 3400 W. Gonzales Road, Ventura County, California

The process of selling the properties will be done in a manner that best serves its schools and community. The district and its board have determined that the sites are no longer needed for school purposes. No students will be displaced by the sale of these properties. The district has declared the properties surplus and intends to offer the properties for sale via the RFP process. The district hopes to attract potential buyers who will pay the maximum price for each of the properties and are able to purchase properties near the adjacent airport. Based on past sales of real property in the area, previous attempts to sell these specific properties, and the location of the properties, the district believes it will have greater success through a direct, negotiated sale process than it would through the bid process.

### Redwood City ESD

The Redwood City ESD requests that the specified *EC* sections be waived in order to allow the district to lease the following pieces of real property:

* Adelante School (3150 Granger Way, Redwood City, California)
* Orion School (815 Allerton Street, Redwood City, California)
* Hawes School (909 Roosevelt Avenue, Redwood City, California)
* District Office (750 Bradford Street, Redwood City, California)

The process of leasing the properties will be done in a manner that best serves its schools and community. The district has declared the properties surplus because it no longer uses or needs them and all of them are presently vacant, with the students having been appropriately placed at other schools. The district seeks to lease the properties through the RFP process, which will ensure that lessees act consistently with community needs, in addition to maximizing the value to the district.

### San Bruno Park ESD

The San Bruno Park ESD requests that the specified *EC* sections be waived in order to allow the district to sell or lease one piece of real property located at 2101 Sneath Lane in San Bruno, known as the former Engvall School site. The school closed in 1978 and the site has since been used as a district warehouse. The district has determined that this site is no longer needed for school purposes and hopes to attract potential buyers or lessees who will enhance the surrounding neighborhood. Based on past sales of real property in the area and the location of the property, the district believes it will have greater success through the RFP process than through the bid process. This is a renewal of Waiver 1-7-2017 (Item #W-06), which was previously approved by the SBE as part of the November 2017 agenda and expires on August 30, 2019.

### San Mateo UHSD

The San Mateo UHSD requests that the specified *EC* sections be waived in order to allow the district to maximize the return on the sale or lease of one piece of real property located at 300 Piedmont Avenue in San Bruno, known as the Crestmoor Site, in a manner that best serves its schools and community. For the past 20 years, the site has housed a continuation high school, but the district has recently purchased a site at a different location, where they will relocate at the end of the 2019 school year. After the students are relocated to the new site, the district has determined that the Crestmoor Site will no longer be needed for school purposes. The district will develop a strategic plan for marketing the property in order to solicit proposals from potential buyers or lessees who will enhance the surrounding neighborhood. Based on past sales and leases of real property in the area and the location of the property, the district believes it will have greater success through the RFP process than through the bid process.

### Demographic Information

The Oxnard UHSD has a student population of 16,775 and is located in a suburban area of Ventura County.

The Redwood City ESD has a student population of 7,400 and is located in an urban area of San Mateo County.

The San Bruno Park ESD has a student population of 2,535 and is located in an urban area of San Mateo County.

The San Mateo UHSD has a student population of 9,575 and is located in a small area of San Mateo 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.

Waiver 1-7-2017 (San Bruno Park ESD, Item #W-06) was previously approved by the SBE as part of the November 2017 agenda and it expires on August 30, 2019. It is available on the SBE Web page located at <https://www.cde.ca.gov/be/ag/ag/yr17/documents/nov17w06.doc>.

## Fiscal Analysis (as appropriate)

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 noimprovements 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:** Oxnard UHSD General Waiver Request 11-7-2019 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Redwood City ESD General Waiver Request 8-6-2019 (4 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** San Bruno Park ESD General Waiver Request 16-6-2019
(6 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 5:** San Mateo UHSD General Waiver Request 10-5-2019 (4 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

*California EC Section 17455 et seq.*

| **Waiver Number** | **District** | **Properties** | **Period of Request** | **Local Board Approval Date** | **Public Hearing Date** | **Bargaining Unit Representatives** | **Advisory Committee Consulted** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 11-7-2019 | Oxnard Union High School District | 220 and 309-315 South K Street, Oxnard, CA527 Hueneme Road, Oxnard, CA3400 W. Gonzales Road, Ventura County, CA | **Requested:**July 1, 2019 toJuly 1, 2021**Recommended:**September 12, 2019 toJuly 1, 2021 | 5/29/2019 | 5/15/2019Public Hearing Advertised: Published in the Ventura Star newspaper and posted on the district Web site, as well as at the district office | Oxnard Federation of Teachers and School EmployeesEric Montijo, President 6/12/2019**Support** | Oxnard UHSD Surplus Property Advisory Committee (7-11)3/14/2018**No Objections** |
| 8-6-2019 | Redwood City Elementary School District | Adelante School, 3150 Granger Way, Redwood City, CAOrion School,815 Allerton Street, Redwood City, CA Hawes School, 909 Roosevelt Avenue, Redwood City, CADistrict Office, 750 Bradford Street, Redwood City, CA | **Requested:**August 1, 2019 toAugust 1, 2022**Recommended:**September 12, 2019 toSeptember 10, 2021 | 5/22/2019 | 5/22/2019Public Hearing Advertised: The public hearing was posted through the district’s Agenda Online site, on the district’s main calendar page on its Web site, and by hardcopy posting at the district office | California School Employees AssociationMaria Stockton, President5/22/2019**Support**Redwood City Teachers AssociationKevin Sugar, President5/13/2019**Support** | 7-11 Surplus Property Committee4/29/2019**No Objections** |
| 16-6-2019 | San Bruno Park Elementary School District | 2101 Sneath Lane, San Bruno, CA,known as the former Engvall School site | **Requested:**September 1, 2019 toAugust 31, 2021**Recommended:**September 12, 2019 toAugust 31, 2021 | 6/26/2019 | 6/26/2019Public Hearing Advertised: Notice published in the San Mateo Daily Journal and posted at each school, per the Brown Act | California School Employees Association #139 Theresa Stoneman-Wellman, President3/25/2019**Neutral**San Bruno Education AssociationKaren Byrne, President3/25/2019**Neutral** | 7-11 Committee, Board of Trustees5/30/2019**No Objections** |
| 10-5-2019 | San Mateo Union High School District | Crestmoor Site, 300 Piedmont Avenue,San Bruno, CA | **Requested:**May 9, 2019 toMay 9, 2021**Recommended:**September 12, 2019 toMay 9, 2021 | 5/9/2019 | 5/9/2019Public Hearing Advertised: Notices posted in the San Mateo Daily Journal and posted at each school, per the Brown Act | American Federation of State, County and Municipal EmployeesJo Bates, Council 57 Business Agent5/2/2019**Neutral**California School Employees Association Chapter 519Mark Westerberg, Labor Relations Representative5/2/2019**Neutral**San Mateo Union High School District Teachers AssociationCraig Childress, President5/1/2019**Neutral** | District Parent Teacher Organization (PTO) Presidents Council4/15/2019 **No Objections** |

Created by the California Department of Education

June 10, 2019

# Attachment 2: **Oxnard Union High School District General** **Waiver Request 11-7-2019**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 5672546

Waiver Number: 11-7-2019

Active Year: 2019

Date In: 7/16/2019 1:04:10 PM

Local Education Agency: Oxnard Union High

Address: 309 South K St.

Oxnard, CA 93030

Start: 7/1/2019

End: 7/1/2021

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

*Ed Code* Title: Sale of Surplus Property

*Ed Code* Section: Waiver: 17473 and 17474, and portions of 17455, 17466, 17468, 17469, 17470, 17472, and 17475

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: The Oxnard Union High School District desires to waive the following sections and portions of the *Education Code* lined out below:

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 stricken language be waived because the district is asking for several provisions of the law relating to surplus property be waived. The Oxnard Union High School District requests the specified *Education Code* sections be waived in order to allow the district to maximize the return on the sale or 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 sale or lease through Requests for Proposals followed by further negotiations using the services of a broker who will advertise and solicit proposals from potential 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.

The district will work closely with consultants to ensure that the process by which the property is sold or leased is fair, open, and competitive. The process the district will use will be designed to get the best result for the district, the schools, and the community.

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds votes 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. The district requests that the process of sealed proposals and oral bids be waived, allowing the district to negotiate the sale of the property with an interested purchaser through a more direct process. The 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. Once an interested party is confirmed, the district's governing board will consider approval of the sale at an open session of a regularly scheduled board meeting.

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 stricken language to be waived provides for the district to include information about a broker's commission in sealed proposals and oral bids. As stated above, the district is requesting that the requirement of sealed proposals and oral bidding to purchase the property be waived, allowing the district to use the services of a broker but waiving the requirement of a "sealed" proposal or "oral bid." If the district uses a licensed real estate broker, the commission shall be specified in documents required through a brokered sale.

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: The stricken language to be waived assumes that the governing board would be following the process of opening proposals and hearing oral bids at a specific meeting. Such a requirement, however, would be removed pursuant to the language requested to be stricken in *Education Code* Section 17466. As modified, the district would still provide notice of its adoption of a resolution to sell the property, but the posting of that resolution and notice in a newspaper would not be connected to the process of opening proposals and hearing oral bids.

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.

Rationale: The stricken language to be waived assumes that the governing board would be following the process of opening proposals and hearing oral bids at a specific meeting. Such a requirement, however, would be removed pursuant to the language requested to be stricken in *Education Code* Section 17466. As modified, the district would still take reasonable steps to provide notice to the former owner, but the provision of such notice would no longer be connected to the process of opening proposals and hearing oral bids.

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 sell or lease the property to the party that presents the most favorable proposal to the district. The board would, therefore, be able to sell or 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.

[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 offerer.]

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

[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.]

Rationale: The district asks that this entire section to be waived because the district, in negotiating an agreement to sell or lease the property, will not be accepting ·oral bids.

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 is shared openly. Prior to the decision to sell or 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, establishes a priority list of use of surplus space and real property, provides for hearings of community input on acceptable uses of space and real property, and makes a recommendation to the Board regarding the uses of surplus space and real property. (See, *Ed. Code*, § 17388.)

Request Waiver for the following properties:

527 HUENEME ROAD, OXNARD (APN 222-0-082-625)

3400 W GONZALES ROAD, COUNTY OF VENTURA (APN 183-0-030-180)

220 and 309-315 SOUTH K STREET, OXNARD (APN 202-0-010-740 and 202-0-010-630)

Outcome Rationale: The Oxnard Union High School District desires to have the requested *Education Code* sections, or portions thereof, waived because the waiver of these sections will allow the district to maximize the return on the sale or lease of several pieces of adjacent property through the RFP/RFP process.

Under the provisions of *EC* sections 33050 through 33053, the district is requesting that specific portions of the *EC* relating to the sale or lease of surplus property be waived.

The OUHSD is requesting that the requirement of sealed proposals and the oral bidding process be waived allowing the district to market several properties based on the brokerage process as several properties are unsuitable for student usage for the following reasons:

527 HUENEME ROAD, OXNARD – This property is a storefront in a strip mall and was used for adult education services a long time ago. It was never used for K-12 students.

3400 W GONZALES ROAD, COUNTY OF VENTURA – This property is open agriculture land and was never used for students. There are no buildings on the land, with no utilities or road access. It only was kept in case of needed expansion of the school.

220 SOUTH K STREET, OXNARD - This property and the one below are by an airport.

309-315 SOUTH K STREET, OXNARD – since they are located adjacent to a local airport, it makes them unsuitable for development due to the proximity, and the only possible / probable buyer is the Federal Aviation Authority (FAA).

Previous attempt to sell the several parcels, which are adjacent to one another, resulted in one offer significantly below market value and no other offers. Therefore, any attempt to sell the properties going through the *Education Code*, and following the competitive bidding process one more time will not result in a successful offer for the parcels. The other properties the district is requesting waivers when put on the market did not receive any conforming or responsive bids. Therefore, the district is requesting that it be allowed to sell the properties by taking them directly to the marketplace through the RFP/RFO process and selling them at the highest value on the most advantageous terms to the district. Waiver of the statutory provisions will allow the district to maximize the value of each of the properties and will help facilitate improved district operations, as well as fund other high-priority capital needs.

The district commits to bringing to the board within 60 days of when the proposals are received at a public meeting, and the reasoning for the determinations will be discussed in a public session and included in the minutes of the meeting.

These properties have been solely used for district operations and owned more than 10 years, and no improvements to the land or buildings were funded by monies from the State School Facilities Program within the last 10 years.

These properties were declared surplus by the Real Property Advisory 7–11 (Committee) on March 14, 2018, and the sale of the properties were confirmed by a majority of the Committee via email in July 2019 at the request of CDE. Subsequently, to the original approval by the Committee the district board approved the Committee’s determination that the properties were not needed for student purposes or could not be utilized for school purposes.

Student Population: 16,775

City Type: Suburban

Public Hearing Date: 5/15/2019

Public Hearing Advertised: Hearing was Posted in Ventura Star Newspaper, and posted on the district Web site, as well as at the District Office and all other sites where the board agenda is regularly posted.

Local Board Approval Date: 5/29/2019

Community Council Reviewed By: Oxnard UHSD Surplus Property Advisory Committee (7-11)

Community Council Reviewed Date: 3/14/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Jeff Weinstein

Position: Assistant Superintendent, Business Services

E-mail: jeff.weinstein@ouhsd.k12.ca.us

Telephone: 805-834-1461

Bargaining Unit Date: 06/12/2019

Name: Oxnard Federation of Teachers and School Employees

Representative: Eric Montijo

Title: President

Position: Support

# Attachment 3: **Redwood City Elementary School District General** **Waiver Request 8-6-2019**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4169005

Waiver Number: 8-6-2019

Active Year: 2019

Date In: 5/31/2019 4:29:21 PM

Local Education Agency: Redwood City Elementary

Address: 750 Bradford St.

Redwood City, CA 94063

Start: 8/1/2019

End: 8/1/2022

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

*Ed Code* Title: Lease of Surplus Property

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

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: *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].

*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.]

*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].

*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 offerer.]

*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.]

*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].

Outcome Rationale: The Redwood City School District owns Adelante School (3150 Grainger Way, Redwood City, acquired approximately 1957), Orion School (815 Allerton Street, Redwood City, acquired prior to 1980), Hawes School (909 Roosevelt Avenue, Redwood City, acquired in approximately 1955) and the property used as the district Office (750 Bradford Street, Redwood City, acquired in 1997) (collectively, "the Properties"). The district has owned each site for more than 10 years.

The district's duly constituted 7-11 Committee has recommended the Properties be declared surplus because it no longer uses or needs the Properties, which recommendation has gone to the Board of Trustees for action. While complying with the surplus property procedure required by the *Education Code*, the district decided to explore leasing the properties.

*Education Code* Section 17466 et seq. requires school districts leasing property to conduct a formal bid hearing process in which the school district solicits bids and then enters into a lease with the winning bidder based on the total price (i.e. lease payments) offered by the bidders.

The district seeks a waiver of certain portions of the procedure set forth in *Education Code* Section 17466 et seq. so it can pursue a lease of the Property. This RFP process will allow the district to receive offers to lease each Property and then determine whichproposer offers the best terms and conditions for the district. For example, the districtcan consider the length of the lease term offered, the proposed use of a Property, andother benefits that the proposer may offer in exchange for a lease.

The bid auction scenario requires the district to solicit bids for the lease of each Property through an auction process that limits the district's selection to the highest bidder or reject all bids. The district needs the ability to be flexible and work with interested parties to establish the specific terms of the lease that will provide the most benefit to the district. A waiver from the surplus property requirements will allow the district to do this. The district has already developed a strategic plan for advertising and marketing the Properties in order to solicit proposals from parties interested in the Properties. Specifically, the district developed RFP documents that describe each Property in detail and asks interested parties to submit proposals with its proposed terms and conditions of the lease, including price. This process is necessary to ensure that prospective tenants and developers will act consistently with community needs in addition to maximizing value of the transactions to the school district.

The waiver application was taken to and unanimously supported by the district's 7-11 Committee, which was appointed by the Board of Trustees and includes three teachers or other instructional staff and eight members of the community, as required by *Education Code* Section 17389. A resolution supporting the waiver application was subsequently adopted by the Board of Trustees on May 22, 2019 following the convening of a public hearing.

Student Population: 7,400

City Type: Urban

Public Hearing Date: 5/22/2019

Public Hearing Advertised: The public hearing was posted through the district's Agenda Online site, on the district's main calendar page, and by hardcopy posting at the District Office.

Local Board Approval Date: 5/22/2019

Community Council Reviewed By: 7-11 Surplus Property Committee, including eight community members

Community Council Reviewed Date: 4/29/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Priscilla Aquino-Dichoso

Position: Chief Business Official

E-mail: paquinodichoso@rcsdk8.net

Telephone: 650-423-2232

Bargaining Unit Date: 05/22/2019

Name: California School Employees Association

Representative: Maria Stockton

Title: President

Position: Support

Bargaining Unit Date: 05/13/2019

Name: Redwood City Teachers Association

Representative: Kevin Sugar

Title: President

Position: Support

# Attachment 4: **San Bruno Park Elementary School District General** **Waiver Request 16-6-2019**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4169013

Waiver Number: 16-6-2019

Active Year: 2019

Date In: 6/28/2019 11:49:19 AM

Local Education Agency: San Bruno Park Elementary

Address: 500 Acacia Ave.

San Bruno, CA 94066

Start: 9/1/2019

End: 8/31/2021

Waiver-Renewal: Yes

Previous Waiver Number: 1-7-2017-W-06

Previous SBE Approval Date: 11/8/2017

Waiver Topic: Sale or Lease of Surplus Property

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

*Ed Code* Section: 17455, 17466, 17469, 17472, 17473, 17474, 17475

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: See additional information attachment.

Outcome Rationale: See additional information attachment.

Student Population: 2,535

City Type: Urban

Public Hearing Date: 6/26/2019

Public Hearing Advertised: Notice in a newspaper, notice posted at each school, agendized per the Brown Act.

Local Board Approval Date: 6/26/2019

Community Council Reviewed By: 7-11 Committee, Board of Trustees

Community Council Reviewed Date: 5/30/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Wendy Richard

Position: Associate Superintendent Business Services

E-mail: wrichard@sbpsd.k12.ca.us

Telephone: 650-624-3101

Fax: 650-266-9626

Bargaining Unit Date: 03/25/2019

Name: California School Employees Association #139

Representative: Theresa Stoneman-Wellman

Title: CSEA #139 President

Position: Neutral

Bargaining Unit Date: 03/25/2019

Name: San Bruno Education Association

Representative: Karen Byrne

Title: SBEA President

Position: Neutral

## Additional Information-1.

The San Bruno Park School District desires to renew the waiver of the following sections and portions of the *Education Code* lined out below:

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 San Bruno Park School District requests the specified *Education Code* sections be waived in order to allow the district to maximize the return on the sale or 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 sale or lease through Requests for Proposals followed by further negotiations using the services of a broker who will advertise and solicit proposals from potential 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.

The district will work closely with consultants.to ensure that the process by which the property is sold or leased is fair, open, and competitive. The process the district will use will be designed to get the best result for the district, the schools; and the community;

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.

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.

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 sell or lease the property to the party that presents the most favorable proposal to the district. The Board would, therefore, be able to sell or 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.

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 sell or lease the property, will not be accepting oral bids in addition to sealed bids.

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.]

Rationale: The district asks that this entire section to be waived because the district, in negotiating an agreement to sell or lease the property, will not be accepting oral bids

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 sell or 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, establishes a priority list of use of surplus space and real property, provides for hearings of community input on acceptable uses of space and real property, and makes a recommendation to the board regarding the uses of surplus space and real property.

Desired Outcome/Rationale

The San Bruno Park School District desires to have the requested *Education Code* sections, or portions .thereof, waived because the waiver of these sections will allow the district to maximize its return on the sale or lease of the district's former Engvall School site, located at 2101 Sneath Lane, San Bruno, California. The district has determined that this site is no longer needed for school purposes. It is the desire of the district to attract potential buyers who will not only pay maximum price for the property, but who will also enhance the surrounding neighborhood. Based on past sales of real property in our area and the location of the property, the District anticipates I attracting a much greater interest from potential buyers or lessees through a Request for Proposal process than a bid process.

## Additional Information-2.

The school building was opened in 1962, but since has been removed. The school building was removed in 1978. The land has a district warehouse, but no public school buildings.

## Additional Information-3.

The community council was a 7-11 committee which included parents, community members, teachers, classified staff, a city council member, and administration of the district.

## Additional Information-4.

An email was sent to the union presidents asking if their bargaining unit would have any objections on the district applying for a renewal of a waiver done in June 2017. This email was sent on March 25, 2019, and a reply was received from the teacher's union, SBEA, on March 28, 2019, and also received from the classified union, CSEA, on the same date. Neither one had no objections to the requesting of a waiver renewal.

## Additional Information-5.

The public hearing was published in the San Mateo Daily Journal.

# Attachment 5: **San Mateo Union High School District General** **Waiver Request 10-5-2019**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4169047

Waiver Number: 10-5-2019

Active Year: 2019

Date In: 5/14/2019 2:40:59 PM

Local Education Agency: San Mateo Union High School District

Address: 650 North Delaware St.

San Mateo, CA 94401

Start: 5/9/2019

End: 5/9/2021

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

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

*Ed Code* Section: 17455, 17466, 17469, 17472, 17473, 17474, 17475

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: 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 San Mateo Union High School District requests the specified *Education Code* sections be waived in order to allow the district to maximize the return on the sale or 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 sale or lease through Requests for Proposals followed by further negotiations using the services of a broker who will advertise and solicit proposals from potential 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.

The district will work closely with consultants to ensure that the process by which the property is sold or leased is fair, open, and competitive. The process the district will use will be designed to get the best result for the district, the schools, and the community.

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds votes 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.

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 17 466 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.

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 sell or lease the property to the party that presents the most favorable proposal to the district. The Board would, therefore, be able to sell or 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.

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 sell or lease the property, will not be accepting oral bids in addition to sealed bids.

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.]

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

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. The district will ensure a public process whereby the reasons for the determination of the most desirable proposal is shared openly. Prior to the decision to sell or 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, establishes a priority list of use of surplus space and real property, provides for hearings of community input on acceptable uses of space and real property, and makes a recommendation to the Board regarding the uses of surplus space and real property. (See, *Ed. Code*, § 17388.)

Outcome Rationale: The San Mateo Union High School District desires to have the requested *Education Code* sections, or portions thereof, waived because the waiver of these sections will allow the district to maximize its return on the sale or lease of the district's Crestmoor Site, located at 300 Piedmont Avenue, San Bruno, County of San Mateo, California 94558. The district has determined that this site is no longer need for school purposes. It is the desire of the district to attract potential buyers or lessees who will not only pay maximum price for the property, but who will also enhance the surrounding neighborhood. Based on past sales and leases of real property in the area and the location of the property, the district anticipates attracting a much greater interest from potential buyers and lessees through a Request for Proposal process than a bid process.

Student Population: 9575

City Type: Small

Public Hearing Date: 5/9/2019

Public Hearing Advertised: Notice in a newspaper and posted at each school; per the Brown Act

Local Board Approval Date: 5/9/2019

Community Council Reviewed By: District PTO Presidents Council

Community Council Reviewed Date: 4/15/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Kevin Skelly

Position: Superintendent

E-mail: [kskelly@smuhsd.org](kskelly%40smuhsd.org)

Telephone: 650-558-2299

Bargaining Unit Date: 05/02/2019

Name: AFSCME

Representative: Jo Bates

Title: Council 57 Business Agent

Position: Neutral

Bargaining Unit Date: 05/02/2019

Name: CSEA Chapter 519

Representative: Mark Westerberg

Title: Labor Relations Representative

Position: Neutral

Bargaining Unit Date: 05/01/2019

Name: SMUHSD Teachers Association

Representative: Craig Childress

Title: President

Position: Neutral