

**825Burbank Unified School District  
Administrative Services**

**REPORT TO THE BOARD**

TO: Members of the Board of Education

FROM: Andrew Cantwell, Assistant Superintendent of Administrative Services

PREPARED BY: Andrew Cantwell, Assistant Superintendent of Administrative Services

SUBMITTED BY: Terri Ramirez-Adams, Senior Administrative Assistant

DATE: June 5, 2025

SUBJECT: Surplus Property Procedure Update – Subject to the Board of Education’s  
Acceptance of the Surplus Property (7-11) Advisory Committee Report

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**Background:**

Pursuant to the California Education Code and Government Code, there are certain procedural requirements that the District must follow in declaring any real property surplus and offering such property for sale or lease.

On November 7, 2024, Constance J. Schwindt, Partner at Atkinson, Andelson, Loya, Ruud & Romor, provided the Board of Education with an overview of the Surplus Property Procedure.

On November 17, 2024, Resolution 11 – Authorizing the Formation of the Surplus Property 7-11 Advisory Committee was adopted. The Committee members and Chair were appointed on February 6, 2025.

**Discussion/Issues:**

The committee has completed its evaluation and submitted a formal report with their recommendations.

Ms. Schwindt has returned to present the next steps in the surplus property process, subject to the Board’s acceptance of the Committee’s report.

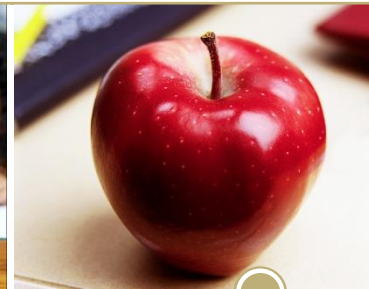
**Fiscal Impact:**

None.

**Recommendation:**

Andrew Cantwell, Assistant Superintendent of Administrative Services, will introduce Constance J. Schwindt, Partner at Atkinson, Andelson, Loya, Ruud & Romo, who will present the next steps of the surplus property procedure subject to the Board of Education’s acceptance of the Surplus Property (7-11) Advisory Committee report, as presented.

# Burbank Unified School District Surplus Property Procedures Next Steps



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Atkinson, Andelson  
Loya, Ruud & Romo

A Professional Law Corporation

# Overview of Surplus Property Procedures

- 1. Advisory Committee Formation & Report (Completed)
- 2. Board Meeting to Consider Report (June 5, 2025)
- 3. Board Meeting Declare Property Surplus (Requires Resolution)
  - Authorize Disposition Process
  - Establish RFP or Bid Auction Process
- 5. Pursue Sale or Lease
- 6. Board Consideration of Final Agreement
- 7. Use of Funds

# Potential Committee Recommendations

The Committee may recommend

## **1. Uses**

- A. Keep “As Is”
- B. Pursue Lease
- C. Pursue Sale
- D. Pursue Exchange

## **2. Process**

- A. Bid
- B. Waiver / RFP Process

## **3. Board Accepts Reports but is not required to follow recommendations**

# Board Meeting to Consider Report

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- **Review and Accept 7-11 Final Report**
  - Board is not required to follow recommendation

# Board Meeting to Declare Surplus

- **Requires a Resolution**
- **Declare Property Surplus**
  - Declare property is not needed for District purposes
  - Exempt from Surplus Lands Act
  - Authorize Staff to Take Action
  - Send statutory notices of availability of surplus property
  - Utilize “competitive bid process” or “waiver RFP process”

# Competitive Bid Process

## Features

- “Standard” process required by the Education Code
- Requires District to award an agreement to the highest bidder
- District cannot negotiate with interested parties but instead must establish the terms and conditions and assess bids based only on total price

# Competitive Bidding (Continued)

## General Process

- Prepare Bid Packet for Distribution
- Conduct Public Hearing
- Open Bids
- Call for Oral Bids / 5% of Highest Written Proposal
- Award to Highest Bidder
- Presented to Board for Consideration

# RFP Process

- Request permission from State Board of Education (SBE) to waive bid process and use RFP Process
- District issues RFP asking interested parties to propose terms and conditions of lease
- Negotiate with interested parties to determine “most beneficial deal” for the District
- Can consider price and other factors such as length of lease term, use of Property, deposit structure, due diligence period, etc.
- Requires waiver from SBE

# RFP Process (continued)

- Non-Waiveable Provisions
  - Offer to some public entities; Use of proceeds
- Consult Employee Collective Bargaining Units
- General Waiver Request
  - SBE two regular meetings to process waiver
- SBE must approve unless increase to State costs, or jeopardizes pupils, parental involvement, etc.
- “Un-Official” Requirements by Waiver Office:
  - RFP Process
  - Approve within 60 days of receipt of proposals
  - State reasons for “most beneficial” deal

# Benefits of RFP Process

## Versus Competitive Bid Process

- Bid is the “Standard” process required by the Education Code
- Bid requires District to award a lease or sale agreement to the highest bidder
- Bid process SBEs not allow negotiations with interested parties, but instead District must establish the terms of lease or sale and assess bids based only on total price
- RFP grants flexibility, ability to negotiate with interested parties, and option to consider both lease and sale (or exchange) concurrently to select best overall option

# Traditional Bid vs. Request for Proposal Process

<b>Traditional Bid</b>	<b>Request for Proposal</b>
1. Required by Education Code	1. Requires Waiver from SBE
2. Notification to Public of Auction	2. Issue Request for Proposal
3. Conduct Bid Auction Hearing	3. Receive and Review Proposals
4. Award to Highest Bidder	4. Select Best Proposal

# Traditional Bid vs. Request for Proposal Benefits

<b>Traditional Bid</b>	<b>Request for Proposal</b>
1. No Need for Waiver	1. Can Consider Proposed Uses & Improvements of Property
2. No Detailed Analysis of Bids Needed	2. Can Consider Different Lease Terms & Payment Structures
3. Potentially Reach More People with Public Auction	3. Can Target Specific Parties
4. Quicker Process If Rush to Lease	4. Can Negotiate with Proposing Parties

# Pursue Both Options Concurrently

## Process to Pursue Bid and RFP Process at same time

1. Start Competitive Bid Process for Lease
  - a) Send Notice to required Public Agencies
  - b) Issue “Bid Package” to solicit Bids at Bid Auction Date
2. Seek Waiver from SBE to use RFP process for Lease
  - a) Gather information required for Waiver Application
  - b) Submit Waiver Application and worked with SBE to guide waiver through process

# Board Action

1. Final Agreement Presented to Board for Consideration
  - A. RFP = Present Proposals & Negotiations
  - B. Bid Auction = Present Highest Bidder
2. Board Can Accept or Reject
  - A. If RFP, can discuss negotiations in closed session
  - B. If Bid Auction, can “reject all bids” or approve highest bidder

# Use of Proceeds

## Sale Proceeds

- 1) Capital Outlay Expenses
- 2) Maintenance
  - not recur within 5-year period
- 3) General Fund\*\*\*\*
  - Education Code 17462

# Use of Sale Proceeds

## **General Fund Only If...**

- 1) District and State Allocation Board
  - No anticipated need for additional sites or building construction
  - 10 year period following sale
- 2) One-Time Expenditure
- 3) Prohibition
  - Ongoing expenditures
  - Salaries operating expenses

# Use of Sale Proceeds (Continued)

## General Fund Drawbacks

- 1) Reduction in Apportionment of hardship assistance
  - Amount equal to amount of proceed uses for one-time expenditure
- 2) Ineligible for Hardship Funding
  - State School Deferred Maintenance Fund
  - Five years after deposit into general fund

## Use of Lease Proceeds

- Lease Proceeds to be Held in General Fund (Education Code section 41002); Unless...
- Board Resolution Specifies Fund in Which Lease Proceeds Are to be Deposited (Education Code section 41003)
- Different than Property From Sale Proceeds
- Note: SAB and OPSC Opinion

# Summary of Next Steps

- 1) Board may instruct staff to pursue disposal of properties discussed in Advisory Committee Report
- 2) Board Resolution to Declare Property Surplus
- 3) Utilize “competitive bid process” or “waiver RFP process”
- 4) Final Agreement Presented to Board for Consideration

Question & Answer  
Session