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Board of Education Executive Summary

Facilities Support Services

Surplus Property: Options and Overview of Process

March 21, 2024



I. Overview/History of Department or Program:

In 2013, the District closed seven (7) elementary schools that included:

- Joseph Bonnheim (re-opened as a Charter)
- Maple
- Washington (re-

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committee is not statutorily required to hold a specific number of meetings, however, the District may adopt criteria for its 7-11 Committee such that it shapes the requisite number of meetings and determines the date upon which a final report, containing not only a recommendation on whether to surplus the property, but also guidance on the above preliminary steps, will be provided to the Board. The 7-11 Committee must provide for hearings of community input to the Board on acceptable uses of space and real property, including the sale or lease of surplus real property for childcare development purposes, and must forward to the District's Board of Trustees a report recommending uses of surplus space and real property. In certain circumstances, the property may be exempt from the 7-11 Committee requirements.

The District convened a 7-11 Committee in 2014 to discuss the potential disposal of surplus properties. That Committee recommended to the Board that the District lease the properties in case they might need to be opened back up for educational purposes in the future. Given the passage of time, changes in the law, and the importance of community input on these issues, staff is recommending that a new Committee be formed to review and recommend action regarding current surplus property.

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District. (Ed. Code, § 17489(c).) Should a noticed entity desire to purchase the property, the price shall not exceed the school district's cost of acquisition adjusted by cost-of-living increases, and the price may not be less than twenty five percent (25%) of the fair market value. (Ed. Code, § 17491.) Any land purchased by a public agency pursuant to the Naylor Act offer must maintain the land for playground, playing field, or other outdoor recreational and open-space use.

Second, the District must provide "Tier 1" and "Tier 2" Notices. Following the Naylor Act offers, the property must be offered to two (2) groups consisting of various governmental and charitable entities. (Ed. Code, § 17464; Gov. Code, §§ 54222, *et seq.*) These groups must be allowed sixty (60) days after receiving notice to respond and are also entitled to a negotiation period of ninety (90) days after giving notice to the District of their interest in the Property. A school district may make the Tier 1 and 2 notices simultaneously. (Ed. Code § 17463.7 (e)(2).)

Third, the District mu

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successive weeks before the meeting in a newspaper of general circulation within the county in which the District is located. (Ed. Code, § 17469.)

After adopting a resolution of intent to sell, the District may sell the Property through a competitive bidding process. (Ed. Code, § 17466, *et seq.*) At the meeting identified in the resolution, the governing board must open, examine, and declare all sealed proposals that have been received; make a call for oral bids; and either accept the highest responsible bid that conforms to the terms and conditions specified in the resolution of intention to sell the Property, reject all bids or within ten (10) days, return to make the decision. (Ed. Code, § 17472, *et seq.*) If there are no competitive bids, and the Property remains available after all of these procedures have been satisfied, the District may engage in the private sale of the surplus property.

The District may also seek a waiver of the competitive bidding requirements from the State Board of Education, which would allow more flexibility in the process through use of a request for proposals where factors other than price can be considered and negotiated. (Ed. Code, §§ 33050, *et seq.*) Many districts utilize this process, and in our experience, the State has been routinely approving these waivers for more than a decade. Seeking a waiver involves its own separate process, including consulting with the appropriate committee or council and the District's bargaining units.

Exceptions and Alternatives

The above summary explains the general process applicable to the sale or lease of surplus real property by a school district. There are some exceptions that could apply to a particular property or intended buyer or lessee, which are not discussed above. For example, Education Code section 17458 allows a district to bypass the surplus property process when conveying property to entities performing "child care and development services" and where certain additional requirements are met.

III. Budget:

A minimal budget may be required to provide overtime support for possible 7-11 Committee meetings.

IV. Goals, Objectives and Measures:

To provide family and community engagement opportunities around the ongoing operational excellence of the

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