

**MT. PLEASANT ELEMENTARY SCHOOL DISTRICT
INDEPENDENT CITIZENS' BOND OVERSIGHT COMMITTEE
SECOND AMENDED AND RESTATED BYLAWS**

Section 1. Committee Established. The Mt. Pleasant Elementary School District (the "District") was successful at the election conducted on November 6, 2012 (the "2012 Election") in obtaining authorization from the District's voters to issue up to \$25,000,000 aggregate principal amount of the District's general obligation bonds ("Measure L"). The District was also successful at the election conducted on November 6, 2018 (the "2018 Election") in obtaining authorization from the District's voters to issue up to \$27,500,000 aggregate principal amount of the District's general obligation bonds ("Measure JJ"). The District was further successful at the election conducted on November 3, 2020 (the "2020 Election", and together with the 2012 Election and the 2018 Election, the "Elections") in obtaining authorization from the District's voters to issue up to \$12,000,000 aggregate principal amount of the District's general obligation bonds ("Measure Q", and together with Measure L and Measure JJ, the "Measures").

The Elections were conducted under paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, and subdivision (b) of Section 18 of Article XIII A of the California Constitution, being chaptered as the Strict Accountability in Local School Construction Bonds Act of 2000, in Education Code Section 15264 *et seq.* (collectively, "Prop 39"). Pursuant to Education Code Section 15278, the District is obligated to establish an Independent Citizens' Bond Oversight Committee in order to satisfy the accountability requirements of Prop 39. The Board of Trustees of the District (the "Board") has previously established an Independent Citizens' Bond Oversight Committee (the "Committee") in connection with Measure L and Measure JJ. Pursuant to a separate resolution, the Board has elected to modify the role of the existing Committee and charge the Committee with responsibility for reviewing expenditures of bond proceeds pursuant to Measure Q, Measure L, and Measure JJ. The Committee shall have the duties and rights set forth in these Second Amended and Restated Bylaws (these "Bylaws"). The Committee does not have legal capacity independent from the District.

Section 2. Purposes. The purposes of the Committee are set forth in Prop 39 and Education Code Section 15278 *et seq.*, and these Bylaws are specifically made subject to the applicable provisions thereof as to the duties and rights of the Committee. The Committee shall be deemed to be subject to the *Ralph M. Brown Public Meetings Act* of the State of California and shall conduct its meetings in accordance with the provisions thereof. The District shall provide necessary administrative support to the Committee as shall be consistent with the Committee's purposes, as set forth herein.

The proceeds of general obligation bonds issued pursuant to the Elections are hereinafter referred to as "bond proceeds." The Committee shall confine itself specifically to bond proceeds generated under the Measures. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee's review. However, to the extent that facilities are financed with a combination of the Measures' monies and other non-bond funds, such projects shall be subject to Committee oversight and review.

Section 3. Duties. To carry out its stated purposes, the Committee shall perform only the duties set forth in Sections 3.1, 3.2, and 3.3 hereof, and shall refrain from those activities set forth in Sections 3.4 and 3.5.

3.1 Inform the Public. The Committee shall inform the public concerning the District's expenditure of bond proceeds. In fulfilling this duty, all official communications to either the Board or the public shall come from the Chair acting on behalf of the Committee. The Chair shall only release information that reflects the majority view of the Committee.

3.2 Review Expenditures. The Committee shall review expenditure reports produced by the District to ensure that (a) bond proceeds were expended only for the purposes set forth in the Measures; and (b) no bond proceeds were used for teacher or administrative salaries or other operating expenses in compliance with Attorney General Opinion 04-110, issued on November 9, 2004.

3.3 Annual Report. The Committee shall present to the Board, in public session, an annual written report which shall include the following:

- (a) A statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and
- (b) A summary of the Committee's proceedings and activities for the preceding year.

3.4 Duties of the Board/Superintendent. Either the Board or the Superintendent, as the Board shall determine, shall have the following powers reserved to it, and the Committee shall have no jurisdiction over the following types of activities:

- (i) Approval of contracts,
- (ii) Approval of change orders,
- (iii) Expenditures of bond funds,
- (iv) Handling of all legal matters,
- (v) Approval of project plans and schedules,
- (vi) Approval of all deferred maintenance plans, and
- (vii) Approval of the sale of bonds.

3.5 Measures Projects Only. In recognition of the fact that the Committee is charged with overseeing the expenditure of bond proceeds, the Board has not charged the Committee with responsibility for:

- (a) Projects financed through the State of California, developer fees, redevelopment tax increment, certificates of participation, lease/revenue bonds, the general fund or the sale of surplus property without bond proceeds.
- (b) The establishment of priorities and order of construction for the bond projects, which shall be made by the Board in its sole discretion.

(c) The selection of architects, engineers, soils engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the project based on District criteria established by the Board in its sole discretion.

(d) The approval of the design for each project including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent) which shall be determined by the Board in its sole discretion.

(e) The selection of independent audit firm(s), performance audit consultants and such other consultants as are necessary to support the activities of the Committee.

(f) The amendment or modification of the Bylaws for the Committee, as provided herein, subject to the legal requirements of Prop 39.

(g) The appointment or reappointment of qualified applicants to serve on the Committee, subject to legal limitations, and based on criteria adopted in the Board's sole discretion as part of carrying out its function under Prop 39.

Section 4. Authorized Activities.

4.1 In order to perform the duties set forth in Section 3.0, the Committee may engage in the following authorized activities:

(a) Receive copies of the District's annual, independent performance audit and annual, independent financial audit required by Prop 39 (Article XIII A of the California Constitution) (together, the "Audits") at the same time said Audits are submitted to the District, and review the Audits.

(b) Inspect District facilities and grounds for which bond proceeds have been or will be expended, in accordance with any access procedure established by the District's Superintendent.

(c) Review copies of deferred maintenance plans developed by the District.

(d) Review efforts by the District to maximize bond proceeds by implementing various cost-saving measures.

(e) Receive from the Board, within three months of the District receiving the Audits, responses to any and all findings, recommendations, and concerns addressed in the Audits, and review said responses.

Section 5. Membership.

5.1 Number.

The Committee shall consist of at least seven (7) members appointed by the Board from a list of candidates submitting written applications, and based on criteria established by Prop 39, to wit:

- One (1) member shall be the parent or guardian of a child enrolled in the District.
- One (1) member shall be both a parent or guardian of a child enrolled in the District and active in a parent-teacher organization, such as the P.T.A. or a school site council.
- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizens' organization.
- One (1) member active in a bona-fide taxpayers association.
- Two (2) members of the community at-large.

The Board may also appoint one (1) alternate member to the Committee. The alternate member is expected to attend all meetings and participate. The alternate member's responsibility is to temporarily substitute, with full voting powers, for any Committee member who is absent from a meeting.

5.2 Qualification Standards.

- (a) To be a qualified person, he or she must be at least 18 years of age.
- (b) The Committee may not include any employee, official of the District or any vendor, contractor or consultant of the District.
- (c) The Board shall determine if an applicant to the Committee satisfies the membership categories set forth in Section 5.1 above.

5.3 Ethics: Conflicts of Interest.

(a) Members of the Committee are not subject to the Political Reform Act (Gov. Code Section 81000 *et seq.*), and are not required to complete Form 700; but each member shall comply with the Committee Ethics Policy attached as "Attachment A" to these Bylaws.

(b) Pursuant to Education Code Section 35233, the prohibitions contained in Article 4 (commencing with Section 1090) of Division 4 of Title 1 of the Government Code ("Article 4") and Article 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code ("Article 4.7") are applicable to members of the Committee. Accordingly:

(i) Members of the Committee shall not be financially interested in any contract made by them in their official capacities or by the Committee, nor shall they be purchasers at any sale or vendors at any purchase made by them in their official capacity, all as prohibited by Article 4; and

(ii) Members of the Committee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to duties as a member of the Committee or with the duties, functions, or responsibilities of the Committee or the District. A member of the

Committee shall not perform any work, service, or counsel for compensation where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of the Board, except as permitted under Article 4.7.

5.4 Term. Except as otherwise provided herein, each member shall serve a term of three (3) years, commencing as of the date of appointment by the Board. No member may serve more than three (3) consecutive terms. At the Committee's first meeting, members will draw lots or otherwise select a minimum of two members to serve for an initial two (2) year term and the remaining members for an initial three (3) year term. Members whose terms have expired may continue to serve on the Committee until a successor has been appointed, but in no event longer than six months from the expiration of such member's term. Members who have previously served on the Measure L and Measure JJ Committee and the initial Measure L Committee shall be permitted to serve on the Committee and, if appointed by the Board, are entitled to serve new three (3) consecutive three (3) year terms from the date of their appointment.

5.5 Initial Appointment. Members of the Committee (regular members and alternates) shall initially be appointed by the Board through a process that shall include the following elements: (a) appropriate local groups shall be solicited for applications. Solicitation may be via personal or email contact by Board members and District Administration. Solicitation will also include posting notice on the District and Committee websites; (b) the Board shall appoint two of its members to review the applications; and (c) the appointed Board members shall forward recommendations to the Board regarding appointment of candidates to the Committee.

5.6 Removal; Vacancy. The Board may remove any Committee member for cause, including failure to attend two consecutive Committee meetings without reasonable excuse or for failure to comply with the Committee Ethics Policy. Upon a member's removal, his or her seat shall be declared vacant. The Board shall fill any vacancies on the Committee through the following process: (a) appropriate local groups shall be solicited for applications. Solicitation may be via personal or email contact by Board members, District Administration, and members of the Committee. Solicitation will also include posting notice on the District and Committee websites; (b) the Board shall appoint two of its members to review the applications; (c) the Committee shall select one of its members in good standing to review the applications; and (d) the appointed Board members and the selected Committee member shall forward recommendations to the Board regarding appointment of candidates to the Committee. The Board shall seek to fill vacancies within 90 days of the date of occurrence of a vacancy.

5.7 Compensation. The Committee members shall not be compensated for their services.

5.8 Authority of Members. (a) Committee members shall not have the authority to direct staff of the District; (b) individual members of the Committee retain the right to address the Board, either on behalf of the Committee or as an individual; and (c) the Committee shall have the right to request and receive copies of any public records relating to projects funded by the Measures.

5.9 Subcommittees. The Committee may establish subcommittees for any purpose.

Section 6. Meetings of the Committee.

6.1 Meetings. The Committee shall meet at least once a year, including an annual organizational meeting, but shall not have regularly scheduled meetings more frequently than quarterly.

6.2 Location. All meetings shall be held within the boundaries of the Mt. Pleasant Elementary School District, located in Santa Clara County, California.

6.3 Procedures. All meetings shall be open to the public in accordance with the *Ralph M. Brown Act*, Government Code Section 54950 *et seq.* Meetings may be conducted according to such additional procedural rules which are consistent with those adopted by the Board. A majority of the number of Committee members shall constitute a quorum for the transaction of any business of the Committee except adjournment.

Section 7. District Support.

7.1 The District shall provide to the Committee necessary technical and administrative assistance as follows:

(a) Preparation of and posting of public notices as required by the *Brown Act*, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the Board;

(b) Provision of a meeting room, including any necessary audio/visual equipment;

(c) Preparation, translation and copies of any documentary meeting materials, such as agendas and reports; and

(d) Retention of all Committee records, and providing public access to such records on an Internet website maintained by the District.

7.2 District staff and/or District consultants shall attend Committee proceedings in order to report on the status of projects and the expenditure of bond proceeds.

Section 8. Reports. In addition to the Annual Report required in Section 3.3, the Committee may report to the Board from time to time in order to advise the Board on the activities of the Committee. The Annual Report shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

Section 9. Officers. The Committee shall select the initial Chair and a Vice-Chair who shall act as Chair only when the Chair is absent. The Chair and Vice-Chair shall serve in such capacities for a term of one year. Both positions may be re-elected to such capacities by vote of a majority of the members of the Committee.

Section 10. Amendment of Bylaws. Any amendment to these Bylaws shall be approved by a majority vote of the Board of Trustees of the District.

Section 11. Termination. The Committee shall automatically terminate and disband concurrently with the Committee's submission of the final Annual Report which reflects the final accounting of the expenditure of all monies authorized by the Measures.

ATTACHMENT A

**CITIZENS' BOND OVERSIGHT COMMITTEE
ETHICS POLICY STATEMENT**

This Ethics Policy Statement provides general guidelines for Committee members in carrying out their responsibilities. Not all ethical issues that Committee members face are covered in this Statement. However, this Statement captures some of the critical areas that help define ethical and professional conduct for Committee members. The provisions of this Statement were developed from existing laws, rules, policies and procedures as well as from concepts that define generally accepted good business practices. Committee members are expected to strictly adhere to the provisions of this Ethics Policy.

POLICY

- **CONFLICT OF INTEREST.** A Committee member shall not make or influence a District decision related to: (1) any contract funded by bond proceeds, or (2) any construction project which will benefit the Committee member's outside employment, business, or personal finances or benefit an immediate family member, such as a spouse, child or parent.

- **OUTSIDE EMPLOYMENT.** A Committee member shall not use his or her authority over a particular matter to negotiate future employment with any person or organization that relates to: (1) any contract funded by bond proceeds, or (2) any construction project. A Committee member shall not make or influence a District decision related to any construction project involving the interest of a person with whom the member has an agreement concerning current or future employment, or remuneration of any kind. For a period of two (2) years after leaving the Committee, a former Committee member may not represent any person or organization for compensation in connection with any matter pending before the District that, as a Committee member, he or she participated in personally and substantially. Specifically, for a period of two (2) years after leaving the Committee, a former Committee member and the companies and businesses for which the member works shall be prohibited from contracting with the District with respect to: (1) bidding on projects funded by the bond proceeds; and (2) any construction project.

- **COMMITMENT TO UPHOLD LAW.** A Committee member shall uphold the federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the Mt. Pleasant Elementary School District.

- **COMMITMENT TO DISTRICT.** A Committee member shall place the interests of the District above any personal or business interest of the member.