

CARDIFF SCHOOL DISTRICT
1888 Montgomery Avenue
Cardiff-by-the-Sea,

**NOTICE OF SPECIAL MEETING
AGENDA**

Written notice is hereby given in accordance with Education Code Section 35144, Government Code 54956, and other applicable law, that the following Special Meeting of the Board of Trustees of the Cardiff School District will be held on:

DATE: Thursday, July 7, 2016
TIME: 4:00 p.m.
PLACE: Cardiff School District
1888 Montgomery Avenue
Cardiff-by-the-Sea, CA 92007

TELECONFERENCE LOCATION
Mark Whitehouse
127011 Newton B., Drury Scenic Pkwy.
Orick, CA 95555

In compliance with Government Code 54957.5, agenda-related documents that have been distributed to the Board less than 72 hours prior to the board meeting are available for inspection at the Cardiff School District, 1888 Montgomery Avenue, Cardiff.

In compliance with the American with Disabilities Act, if you need special assistance, disability-related modifications, including auxiliary aids or services, in order to participate in the public meeting of the district's governing board, please contact the office of the District Superintendent by sending a written request to the District Office at 1888 Montgomery Avenue, Cardiff-by-the-Sea, California, or by faxing the request to (760) 942-5831. Notification by letter or fax 72 hours prior to the meeting will enable the district to make reasonable arrangements to ensure accommodation and accessibility to this meeting. Upon request, the district shall also make available this agenda and all other public records associated with this meeting in appropriate alternative formats for persons with a disability

The business to be transacted at the meeting shall be limited to the following:

I. ORGANIZATIONAL ITEMS

Exhibit

- A. Call to Order
- B. Pledge of allegiance
- C. Mr. Mark Whitehouse, President
Ms. Nancy Orr, Clerk
Mr. Dave Clark, Member
Mr. David Ross, Member
Ms. Siena Randall, Member
Ms. Jill Vinson, Superintendent
- D. Approval of agenda for July 7, 2016

- II. PUBLIC COMMENT *Any member of the public who wishes to address the Board on an item on the agenda or on another topic which lies within the governing board's jurisdiction may do so, but must present a written request. Please hand your form to the secretary before the meeting. Presentations are limited to 3 minutes per person per topic. The total amount of time to be allowed on any item is fifteen minutes, unless the time limit is waived by a majority vote of the Board. The Board may 1) acknowledge receipt of the information; 2) refer to staff for further study; or 3) refer the matter to a future agenda*

III. GENERAL FUNCTIONS

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|----|--|----------|
| A. | Approve revised resolution 15-16-18 of the Board of Trustees of the Cardiff School District ordering an election to authorize the issuance of School Bonds, establishing specifications of the election order, and requesting consolidation with other elections occurring on November 8, 2016 | A |
| B. | Adopt SDCTA School Construction and Professional Services Procurement Best Practices | B |
| C. | Adopt SDCTA Oversight Committee Best Practices | C |
| D. | Consider approval of cancellation of regular July 14, 2016 meeting | |

IV. ADJOURNMENT OF MEETING

RESOLUTION NO. 15-16-18
REVISED JULY 7, 2016

RESOLUTION OF THE BOARD OF TRUSTEES OF THE CARDIFF SCHOOL DISTRICT ORDERING AN ELECTION TO AUTHORIZE THE ISSUANCE OF SCHOOL BONDS, ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER, AND REQUESTING CONSOLIDATION WITH OTHER ELECTIONS OCCURRING ON NOVEMBER 8, 2016

WHEREAS, in the judgment of the Board of Trustees (the "Board") of the Cardiff School District (the "District"), it is advisable to call an election to submit to the electors of the District the question whether bonds of the District shall be issued and sold for the purpose of raising money for the acquisition or improvement of real property, and the furnishing and equipping of school facilities; and

WHEREAS, as a result of the approval of Proposition 39 on November 7, 2000, Article XIII A, Section 1, paragraph (b), of the California Constitution ("Article XIII A") provides an exception to the limit on *ad valorem* property taxes on real property for bonded indebtedness incurred by a school district approved by 55 percent of the voters of the district voting on the proposition; and

WHEREAS, the Board is specifically authorized, upon approval by a two-thirds vote of the Board, to pursue the authorization and issuance of bonds by a fifty-five percent (55%) vote of the electorate on the question whether bonds of the District shall be issued and sold for specified purposes, pursuant to Education Code Section 15264 *et seq.* (the "Act"); and

WHEREAS, pursuant to the California Elections Code, it is appropriate for the Board to request consolidation of the election with any and all other elections to be held on Tuesday, November 8, 2016, and to request the San Diego County Registrar of Voters to perform certain election services for the District; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees of the Cardiff School District the following:

Section 1. Call for Election. The Board hereby orders an election and submits to the electors of the District the question of whether general obligation bonds of the District shall be issued and sold in the maximum principal amount of \$22 million for the purpose of raising money to finance school facilities and property of the District, and paying costs incident thereto, as set forth more fully in the ballot proposition approved pursuant to Section 3. This Resolution constitutes the order of the District to call such election.

Section 2. Election Date. The date of the election shall be November 8, 2016, and the election shall be held solely within the boundaries of the District.

Section 3. Purpose of Election; Ballot Proposition. The purpose of the election shall be for the voters in the District to vote on a proposition, a full copy of which is

attached hereto and marked Exhibit A, containing the question of whether the District shall issue the Bonds for the purpose stated therein, together with the accountability requirements of Article XIII A and Government Code Section 53410 and the requirements of Section 15272 of the Act. The San Diego County Registrar of Voters (the "County Registrar") is requested to print the Full Text of Measure contained on Exhibit A in the sample ballot pamphlet. As required by Elections Code Section 13247, the abbreviated form of the measure to appear on the ballot is attached hereto and marked as Exhibit B. The Superintendent or designee is hereby authorized and directed to make any changes to the text of the proposition or this resolution as required to conform to any requirements of Article XIII A, the Act, or the San Diego County Registrar of Voters.

Section 4. Authority for Election. The authority for ordering the election is contained in Section 15264 *et. seq.* of the Education Code and Section I, paragraph (b), subsection (3), of Article XIII A. The authority for the specification of this election order is contained in Section 5322 of the Education Code.

Section 5. School Facilities Projects. As required by Article XIII A, the Board hereby certifies that it has evaluated safety, class size reduction, enrollment growth, and information technology needs in developing the list of school facilities projects set forth on Exhibit A.

Section 6. Covenants of the Board upon Approval of the Bonds by the Electorate. As required by Article XIII, Section 15278 of the Act, and Government Code Section 53410, in the event 55 percent of the voters voting in the District approve of the Bonds, the Board shall:

1. conduct an annual, independent performance audit to ensure that the funds have been expended only on the projects listed in Exhibit A;
2. conduct an annual, independent financial audit of the proceeds from the sale of the Bonds until all of those proceeds have been expended for the school facilities projects listed in Exhibit A;
3. establish and appoint members to an independent citizens' oversight committee in accordance with Sections 15278, 15280, and 15282 of the Act;
4. apply the bond proceeds only to the specific purposes stated in the ballot proposition;
5. cause creation of accounts into which bond proceeds shall be deposited; and
6. cause the preparation of an annual report pursuant to Government Code Sections 53410 and 53411.

Section 7. Additional Covenants of the Board.

1. The District will promote fair and open competition for all District construction projects so that all contractors and workers, whether union or non-union, are treated equally in the bidding and awarding of District construction contracts. The District, prior to any discussion and/or vote of a resolution to negotiate a project labor agreement, shall inform district taxpayers 90 days in advance, via public notice, of any board discussion and/or vote. Acceptable forms of public notice shall be: District newsletter, District website home page, posting on social media sites, and Board public email distribution list. If the item is on an agenda the agenda item shall be communicated within the body of an email to the distribution list.

2. The District will not authorize the sale of any form of Capital Appreciation Bonds or Convertible Capital Appreciation Bonds without review by the District's citizens' bond oversight committee. All annual assessed value growth assumptions within any proposed financing will be the lesser of (a) the average of the past ten years or (b) 5%.

3. In order to maximize community benefit and efficiently apply taxpayer dollars, the District shall demonstrate a good faith effort to pursue all practical opportunities to expand community joint use facilities in every new or expanded construction project. In pursuing joint use, the District's goal will be to maximize the use of facilities to the broader community without adversely impacting operations or finances. Examples of appropriate joint use provisions for incorporation into construction plans include but are not limited to new and expanded library facilities, recreational/physical-education facilities, computer labs, meeting rooms, and childcare and health care facilities. The elected Board shall direct staff to implement the following procedure:

a) Prior to the obligation of funds for new facilities expansion or construction, a joint use implementation certification shall be presented to the Independent Citizens' Oversight Committee and approved by the elected board.

b) The joint use implementation certification shall include the following minimum information:

i. Project description

ii. A list and description of joint use elements that could potentially be incorporated into the project

iii. A list of agencies and organizations contacted regarding potential joint use elements, including description of how agencies and organizations were contacted

iv. For each agency or organization contacted:

a. Joint use development criteria discussed or developed for the project

b. Equity of contribution considerations discussed or developed for the project

In addition, it is the intention of the elected board to make official, policy level contacts with overlapping public jurisdictions in order to make joint-use and the efficient application of

taxpayer dollars a priority of all agencies serving within their boundaries. Agencies contacted should include, but not be limited to: adjacent cities, County of San Diego, Community College Districts, and Transit agencies.

Section 8. Delivery of this Resolution. The Clerk of the Board is hereby directed to send a copy of this Resolution to the County Registrar and the San Diego County Clerk of the Board of Supervisors.

Section 9. Consolidation of Election. The County Registrar and the San Diego County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on November 8, 2016, within the District.

Section 10. Ballot Arguments; Tax Rate Statement. Any and all members of this Board are hereby authorized to act as an author of any ballot argument prepared in connection with the election, including a rebuttal argument. The Superintendent, President of the Board, or their designees, are hereby authorized to execute any Tax Rate Statement or other document and to perform all acts necessary to place the bond measure on the ballot.

Section 11. Elections Code. Pursuant to Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors of San Diego County, is requested to permit the Registrar of Voters to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the District agrees to reimburse San Diego County in full upon presentation of a bill, such services to include the mailing of the sample ballot and tax rate statement (described in Section 9401 of the Elections Code).

Section 12. Agreement. The Superintendent is authorized and directed to execute the agreements on file with Jones Hall, A Professional Law Corporation, which firm is appointed hereby to perform bond and disclosure counsel services in regard to the Bonds, and Isom Advisors, a Division of Urban Futures Inc. which firm is appointed to perform financial advisory services in regard to the Bonds.

Section 13. Effective Date. This revised resolution shall take effect on and after its adoption.

PASSED AND ADOPTED by the Board of Trustees of the Cardiff School District the 7th day of July, 2016.

Signed:

Clerk

CLERK'S CERTIFICATE

I, Nancy Orr, Clerk of the Board Trustees of the CARDIFF SCHOOL DISTRICT, hereby certify that the foregoing is a full, true, and correct copy of Resolution 15-16-18 adopted at a regular meeting place thereof on the 7th day of July, 2016, of which meeting all the members of said Board of Trustees had due notice and at which a majority thereof were present, and that at said meeting said resolution was adopted by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTENTIONS: _____

An agenda of said meeting was posted at least 72 hours before said meeting at Cardiff, California, a location freely accessible to members of the public, and a brief general description of said resolution appeared on said agenda.

I further certify that I have carefully compared the same with the original minutes of said meeting on file and of record in my office; that the foregoing resolution is a full, true and correct copy of the revised resolution adopted at said board meeting and entered in said minutes; and that said resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

Dated: _____, 2016

Clerk of the Board of Trustees of the
CARDIFF SCHOOL DISTRICT

EXHIBIT A

BALLOT MEASURE FULL TEXT OF MEASURE

This proposition may be known and referred to as the Cardiff School District General Obligation Bond of 2016, or Measure ____.

BOND AUTHORIZATION

By approval of this proposition by at least 55% of the registered voters voting on the proposition, the Cardiff School District (the "District") shall be authorized to issue and sell bonds of up to \$22 million in aggregate principal amount to provide financing for the specific school facilities projects listed in the Bond Project List below, and in order to qualify to receive State matching grant funds, subject to all of the accountability safeguards specified below.

ACCOUNTABILITY SAFEGUARDS

The provisions in this section are specifically included in this proposition in order that the District's voters and taxpayers may be assured that their money will be spent wisely to address specific facilities needs of the District, all in compliance with the requirements of Article XIII A, Section 1(b)(3) of the State Constitution, and the Strict Accountability in Local School Construction Bonds Act of 2000 (codified at Education Code Sections 15264 and following).

Evaluation of Needs. The Board of Trustees hereby certifies that it has evaluated safety, class size reduction and information technology needs in developing the Bond Project List.

Limitation on Use of Bond Proceeds. The State of California does not have the power to take locally approved school district bond funds for any State purposes. The Constitution allows proceeds from the sale of bonds authorized by this proposition to be used only for the construction, reconstruction, rehabilitation, or replacement of school facilities listed in this proposition, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, and not for any other purpose, including teacher and administrator salaries and other school operating expenses. Proceeds of the bonds may be used to pay or reimburse the District for the cost of District staff only when performing work on or necessary and incidental to the bond projects.

Independent Citizens' Oversight Committee. The Board of Trustees shall establish an independent Citizens' Oversight Committee (pursuant to Education Code Section 15278 and following), to ensure bond proceeds are spent only for the school facilities projects listed in the Bond Project List. The committee shall be established within 60 days of the date on which the Board of Trustees enters the election results on its minutes.

Annual Performance Audits. The Board of Trustees shall conduct an annual, independent performance audit to ensure that the bond proceeds have been expended only on the school facilities projects listed in the Bond Project List.

Annual Financial Audits. The Board of Trustees shall conduct an annual, independent financial audit of the bond proceeds (which shall be separate from the District's regular annual financial audit) until all of those proceeds have been spent for the school facilities projects listed in the Bond Project List.

Special Bond Proceeds Account; Annual Report to Board. Upon approval of this proposition and the sale of any bonds approved, the Board of Trustees shall take actions necessary pursuant to Government Code Section 53410 and following to establish an account in which proceeds of the sale of bonds will be deposited. As long as any proceeds of the bonds remain unexpended, the Superintendent or the Chief Business Official of the District (or such other employee as may perform substantially similar duties) shall cause a report to be filed with the Board no later than December 31 of each year, commencing December 31 of the year in which bonds are first issued, stating (1) the amount of bond proceeds received and expended in that year, and (2) the status of any project funded or to be funded from bond proceeds. The report may relate to the calendar year, fiscal year, or other appropriate annual period as such officer shall determine, and may be incorporated into the annual budget, audit, or other appropriate routine report to the Board.

FURTHER SPECIFICATIONS

Specific Purposes. All of the purposes enumerated in this proposition shall be united and voted upon as one single proposition, pursuant to Education Code Section 15100, and shall constitute the specific purposes of the bonds, and proceeds of the bonds shall be spent only for such purposes, pursuant to Government Code Section 53410.

Joint Use. The District may enter into agreements with the County of San Diego, or other public agencies or nonprofit organizations for joint use of school facilities financed with the proceeds of the bonds in accordance with Education Code Section 17077.42 (or any successor provision). The District may seek State grant funds for eligible joint-use projects as permitted by law, and this proposition hereby specifies and acknowledges that bond funds will or may be used to fund all or a portion of the local share for any eligible joint-use projects identified in the Bond Project List or as otherwise permitted by California State regulations, as the Board of Trustees shall determine.

Rate of Interest. The bonds shall bear interest at a rate per annum not exceeding the statutory maximum, payable at the time or times permitted by law.

Term of Bonds. The number of years the whole or any part of the bonds are to run shall not exceed the legal limit, though this shall not preclude bonds from being sold which mature prior to the legal limit.

BOND PROJECT LIST

The Bond Project List below describes the specific projects the Cardiff School District proposes to finance with proceeds of the bonds. Listed projects will be completed as needed at each school site according to Board-established priorities, and the order in which such projects appear on the Bond Project List is not an indication of priority for funding or completion. The final cost of each project will be determined as plans are finalized, construction bids are awarded, and projects are completed. Certain construction funds expected from non-bond sources, including State grant funds for eligible projects, have not yet been secured. Until all project costs and funding sources are known, the Board of Trustees cannot determine the

amount of bond proceeds available to be spent on each project, nor guarantee that the bonds will provide sufficient funds to allow completion of all listed projects. Completion of some projects may be subject to further government approvals or appropriation by State officials and boards, to local environmental review, and to input from the public.

Projects for Cardiff School include:

- Replace outdated roofs.
- Renovate or replace existing deteriorating plumbing, drainage, and sewer systems.
- Upgrade inadequate electrical systems including power and low voltage to meet current electrical and accessibility codes, increase capacity, and relieve overloaded systems.
- Improve energy efficiency by replacing old and energy inefficient heating, ventilation, and air conditioning (HVAC) systems, windows, and lighting systems; also, install cost-effective systems including “green” building projects and sustainable building practices to promote energy-efficiency (e.g., Energy Management Systems (EMS), solar, electrical, etc.).
- Replace aging temporary portable classrooms with new classrooms.
- Replace outdated classrooms that are now between 55-65 years old with new classrooms
- Construct new restrooms.
- Construct a new multipurpose room and warming kitchen to replace the current 55 year old building.
- Make health, safety, and security improvements, such as improve student drop-off and pick-up areas, upgrade campus fencing, and renovate/retrofit the “brick building”.
- Replace or upgrade fire alarm systems, fire safety equipment, and emergency exit lighting improvements.
- Replace campus wide intercom and telecommunication systems, clocks, and upgrade wireless systems and internet/network connections.
- Improve handicapped accessibility by making Federal and State-mandated Americans with Disabilities Act (ADA) accessibility upgrades and as mandated by the Division of the State Architect (DSA) including site access, parking, restrooms, relocation of some existing electrical devices, drinking fountains, playground equipment, etc.
- Upgrade, renovate and improve library/computer lab, art/science lab, and school office building to be integrated with the newly constructed school facilities.
- Upgrade and improve playgrounds and playfields for school and community use; preserve existing mature trees and other landscaping where possible.
- Resurface, repair, and/or replace paved surfaces, play court areas, turf, and other grounds to eliminate safety hazards and improve outside instructional areas.

Projects for Ada Harris School include:

- Improve energy efficiency by replacing old and energy inefficient heating, ventilation, and air conditioning (HVAC) systems and lighting systems; also, install cost-effective systems including “green” building projects and sustainable building practices to promote energy-efficiency (e.g., Energy Management Systems (EMS), solar, electrical, etc.).
- Replace aging temporary portable classrooms.
- Replace or upgrade fire alarm systems, fire safety equipment, and emergency exit lighting improvements.
- Replace campus wide intercom and telecommunication systems, clocks, and upgrade wireless systems and internet/network connections.

Miscellaneous District-wide Projects

- Abate and remove hazardous materials identified prior or during construction.
- Address unforeseen conditions revealed by construction/modernization (such as water, sewage or gas line breaks, dry rot, seismic, structural, etc.).
- Other site improvements required to comply with existing building codes, including the Field Act, and access requirements of the Americans with Disabilities Act.
- Necessary preparation/restoration in connection with new construction, renovation or remodeling, or installation or removal of relocatable classrooms, including ingress and egress, removing, replacing, preserving, or installing irrigation, utility lines (such as gas lines, water lines, electrical lines, sewer lines, and communication lines), trees and landscaping, relocating fire access roads, and acquiring any necessary easements, licenses, or rights of way to the property.
- Rental or construction of storage facilities and other space on an interim basis, as needed to accommodate construction materials, equipment, and personnel, and interim classrooms (including relocatables) for students and school functions or other storage for classroom materials displaced during construction.
- Acquisition of any of the facilities on the Bond Project List through temporary lease or lease-purchase arrangements, or execute purchase option under leases for any of these authorized facilities.
- All work necessary and incidental to specific projects described above, including demolition of existing structures.

The listed projects will be completed as needed. Each project is assumed to include its share of furniture, equipment, architectural, engineering, and similar planning costs, program/project management, staff training expenses and a customary contingency for unforeseen design and construction costs. In addition to the listed projects stated above, the list also includes the acquisition of a variety of instructional, maintenance and operational equipment, including the reduction or retirement of outstanding lease obligations and interim funding incurred to advance fund projects from the list; installation of signage and fencing; payment of the costs of preparation of all facility planning, facility studies, assessment reviews,

facility master plan preparation and updates, environmental studies (including environmental investigation, remediation and monitoring), design and construction documentation, and temporary housing of dislocated District activities caused by construction projects. The budget for each project is an estimate and may be affected by factors beyond the District's control. The final cost of each project will be determined as plans and construction documents are finalized, construction bids are received, construction contracts are awarded and projects are completed. Based on the final costs of each project, certain of the projects described above may be delayed or may not be completed. Proceeds of the bonds may be used to pay or reimburse the District for the costs of issuing the bonds. Bond proceeds shall only be expended for the specific purposes identified herein. The District shall create an account into which proceeds of the bonds shall be deposited and comply with the reporting requirements of Government Code § 53410.

The Bond Project List shall be considered a part of this ballot proposition, and shall be reproduced in any official document required to contain the full statement of the bond proposition.

EXHIBIT B

BALLOT MEASURE (ABBREVIATED FORM)

“To improve the quality of education with local funding that cannot be taken by the State; modernize/construct classrooms, restrooms and school facilities; repair/replace roofs; renovate deteriorating plumbing and sewer systems; upgrade inadequate electrical systems; make health, safety, and energy efficiency improvements; and replace portables with permanent classrooms; shall Cardiff Elementary School District issue \$22 million of bonds at legal interest rates, have an independent citizens’ oversight committee, and have NO money used for administrative or teacher salaries?”

School Construction and Professional Services Procurement Best Practices

(Adopted July 15, 2011)

(Amended November 20, 2015)

In April 2011, the San Diego Taxpayers Educational Foundation published a study (“School Facilities Bond Programs in San Diego County”) reviewing the performance of school facilities bond programs throughout San Diego County. This report analyzed the procurement policies and practices of all school districts in San Diego County with active school bond programs and determined that several steps could be taken by school districts to improve the transparency and objectivity of their procurement processes. This best practices document was developed in response to the findings of this report, which can be accessed at www.sdcta.org. This document also applies to other public entities.

District Policies

Fair and Open Competitive Bidding

Board policies should explicitly define all district guidelines, regulations, and procedures related to procurement of contracts through fair and open competitive bidding (Attachment 1). Negotiation of a project labor agreement(s) (PLA) shall be communicated to taxpayers prior to board vote with a minimum 90 day public notice. It is recommended a workshop be conducted prior to any negotiation to determine reasonableness of a PLA. Any common practices or unspoken rules should also be included in written Board Policies. Clearly defined procurement policies increase a school district's transparency and provide a standard to which the public and potential contractors may hold the district accountable. Provisions that should be defined in Board Policies include:

- The conditions a contract must meet in order for fair and competitive bidding to be required;
- Project labor agreements must include all taxpayer protections as outlined in Public Contract Code section 2500 (Attachment 2);
- How, when, and to whom contracting opportunities will be advertised;
- Procedures and relevant deadlines for acceptance and opening of bids;
- A description of prequalification procedures and the conditions under which contractor prequalification will or may be required;
- Under what conditions the district will award the contract to the lowest bidder and under what conditions non-price factors will be considered;
- A notice that all proposal submittals are public record;
- Procedures for post-award activities such as debriefing, bid protests, publishing of bid results.

Professional Services

Government Code section 4525 et seq. governs the procurement of professional services (private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms). Under its provisions, school districts are afforded the freedom to develop individual procurement procedures for professional services provided that they “assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices” and “prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract.” School districts should ensure that these requirements are always met by clearly defining professional services procurement procedures in formal Board Policies.

Rejection of All Bids

School districts should avoid issuing a request for proposal/qualifications if it is not the ultimate intention of the district to award a contract. Should the district wish to reject all bids received, the district should notify all bidders of its specific rationale. Such a policy will provide several benefits including increased district transparency, reduced likelihood of future litigation, and a potential incentive for increased participation by contractors in future competitive bidding.

Solicitation Procedures/Documents

Pre-Solicitation Preparation

Prior to solicitation of any private construction or professional services for a school facilities project a school district should fully develop its intended scope of work, determine which project delivery method it will use and decide how the project will be managed. All of these factors are important for a district to consider in order to select an appropriate firm(s) to meet the district's needs. In addition, by establishing these parameters in the early stages of procurement, a district can avoid issues that may result in the delay of a project, such as the need to alter or terminate contracts and contracting for additional services after the project has already begun. Factors to be considered by a school district prior to procurement should include:

- District staff capabilities;
- Time considerations;
- Project complexity;
- Degree of district control and oversight desired;
- Type of contractors the district wants to attract;
- Budget;
- Predominant trade practices in region;
- Appropriate community and business participation;
- Level of acceptable district legal and financial risk.

Document Language

Solicitation documents should be clearly written with all necessary terms outlined definitively. Clear and understandable solicitation documents provide the potential benefits of increased contractor participation, reduced confusion among potential contractors, more uniform and comparable proposal submittals and reduced likelihood of future litigation or challenges to district award determinations. Items that should be included in all solicitation documents are:

- Scope of work : The size, type, and desired design characteristics of the buildings and site, performance specifications covering the quality of materials, equipment, and workmanship, preliminary plans or building layouts, and any other information deemed necessary to describe adequately the school district's needs;
- Specific submittal requirements: Format and content requirements for proposal submittals;
- Information about all critical dates and deadlines;
- Description of how bidders will be evaluated and how the final contract award determination will be made;
- Description of any district contracting preferences or requirements, such as prevailing wage requirements, preference for small, local, or minority owned businesses, and bonding requirements.

Prequalification

Public Contract Code section 20111.5 gives school districts the authority to conduct prequalification of contractors. Any school district which elects to conduct prequalification must “adopt and apply a uniform system of rating bidders on the basis of the completed questionnaires and financial statements, in order to determine the size of the contracts upon which each bidder shall be deemed qualified to bid.” Prequalification ensures school districts adequate time to evaluate the responsibility of contractors for various projects and provides contractors with additional time to provide rebuttals in the event of a district determination of non-responsibility. In 1992, the San Diego County Office of Education, (SDCOE) in cooperation with the Associated General Contractors and a collection of local school districts developed a standardized prequalification package to be used by school districts in San Diego County. We recommend school districts implement the following suggestions made by the SDCOE prequalification package:

- Prequalification evaluation should be carried about by a review panel. Panel members should be knowledgeable in public construction and may be drawn from district staff, private program management staff, SDCOE facilities planning staff, and other district representatives;
- The district's legal counsel should be informed of the district's desire to prequalify contractors and offered an opportunity to comment on the process and review documents to be used;
- All elements of a prequalification questionnaire that require factual verification should be reviewed and verified by district staff prior to consideration by the review panel.

Evaluation Criteria

All competitively bid contracts should be evaluated based on predetermined and publicly available evaluation criteria. Evaluation criteria should be identified and described in all solicitation documents. For contracts let according to traditional competitive bidding (Public Contract Code section 20111), solicitation documents should clearly state that the contract will be awarded to the lowest responsive bid made by a responsible bidder and include a description of the district's process in establishing the responsiveness and responsibility of a bid. For contracts let through best value competitive bidding, which considers non-price factors, school districts should identify and describe all significant factors and sub-factors which will be considered in evaluating proposals, including specifically identifying how much relative significance will be given to price and non-price factors.

Standardizing Scoring System

For any evaluation of potential contractors according to non-price criteria a standardized scoring system should be used in conjunction with predetermined evaluation criteria. A standardized scoring system will eliminate the potential for subjective or bias interpretation of evaluation criteria by various district staff or officials throughout the procurement process. The scoring system should identify how each evaluation criteria will be measured and the relative significance or weight that will be assigned

to each criterion. A description of the scoring system should be made publicly available and included in all solicitation documents.

Selection Panel

A committee or panel comprised of district staff and a member(s) of another school district or other outside expert(s) in public works contracting should be used in all circumstances in which a potential contractor is evaluated according to non-price criteria, including best value procurement, contractor prequalification, and professional services procurement. Use of a selection committee introduces an objective outside opinion into the selection process and assures that contractors will be evaluated fairly.

Accountability/Transparency

Notice of Intent to Award

After a district has made a final contract award determination but prior to the actual awarding of the contract, the district should send a notice of intent to award to all bidders informing them which contractor(s) the district has selected. This notice serves as an indication to unsuccessful bidders that they may apply for post-award debriefing and/or file a bid protest with the district.

Bid Protest/Contract Award Appeals Procedure

Any unsuccessful bidder should be given the opportunity to challenge a district's contract award if he/she believes that the award is inconsistent with Board Policies, the bid's specifications, or local, state, or federal law. The opportunity to challenge a district's award should not be limited to contracts awarded through traditional competitive bidding, but also applicable to professional services contracts, design-build contracts, and lease-leaseback contracts. However, for contracts awarded based on non-price evaluation criteria such as professional services contracts, design-build contracts, and lease-leaseback contracts, unsuccessful bidders should not be allowed to appeal specific district interpretation or application of evaluation criteria but should be limited to a challenge based on non-compliance with Board Policies and local, state, or federal laws. If award challenges are reviewed by district staff, a procedure should be established which allows a contractor to appeal the determination of a staff member to the Board. Districts should establish a deadline for receipt of bid protests. However they should also develop a provision allowing for the extension of the deadline if an outstanding public record request has been submitted to the district by the protesting bidder. Bid protest procedures should be described in both written Board Policies and all solicitation documents.

Post-Award Debriefing

Following the award of all competitively bid contracts, school districts should offer post-award debriefing for all unsuccessful bidders. A post-award debriefing session should provide a:

- Description of the district's evaluation of the bidder's proposal and outlining of significant weaknesses;
- Review of bidder's scoring according to district rationale (if applicable);
- Rationale for the district's decision to award the contract;
- Responses to questions regarding district's adherence to district policies and state regulations;
- Response to questions regarding district's policies and state regulations in general.

Post-award debriefing procedures and notice of the right of all unsuccessful bidders to a post-award debriefing session should be included in written Board Policies as well as all solicitation documents. School districts should refer to Federal Acquisitions Regulation section 15.506 as a model for developing formal Board Policies (Attachment 3).

Published Bid Results

Following the award of all competitively bid contracts, schools districts should publish bid results on a website available to the general public, such as the district's website. Bid results should include the names and basic information of all bidders, amount of bids, and original solicitation documents. Bid results may include additional information if it is available or applies to the contract in question, such as proposed contract documents, original district cost estimates, and bid walk attendee information.

Published Donor List

School districts should annually publish on their website a list of all parties who have donated to: (1) the district directly, (2) district elected officials, (3) related educational foundations, and/or (4) any recent bond campaign. The donor list should include the name of the contributor and the dollar amount of the donation.

Conflict of Interest

School district staff and officials should excuse themselves from participation in a particular procurement process and/or decision to award a contract if he/she: (1) knows or has reason to know he/she has a financial interest and/or (2) has a relationship with the person or business entity seeking a contract which would reasonably influence his/her decision. Districts should refer to Government Code section 87100 et seq. to determine if a financial interest exists (Attachment 4).

Attachment 1

FAIR AND OPEN COMPETITION

The District and/or Public Entity will promote fair and open competition for all District and/or Public Entity construction projects so that all contractors and workers, whether union or non-union, are treated equally in the bidding and awarding of District and/or Public Entity construction contracts

The District, prior to any discussion and/or vote of a resolution to negotiate a project labor agreement, shall inform district taxpayers 90 days in advance, via public notice, of any board discussion and/or vote.

Attachment 2

Public Contract Code 2500

2500. (a) A public entity may use, enter into, or require contractors to enter into, a project labor agreement for a construction project only if the agreement includes all of the following taxpayer protection provisions:

(1) The agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for the project.

(2) The agreement permits all qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to collective bargaining agreements.

(3) The agreement contains an agreed-upon protocol concerning drug testing for workers who will be employed on the project.

(4) The agreement contains guarantees against work stoppages, strikes, lockouts, and similar disruptions of the project.

(5) The agreement provides that disputes arising from the agreement shall be resolved by a neutral arbitrator.

(b) For purposes of this chapter, both of the following definitions apply:

(1) "Project labor agreement" means a prehire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code.

(2) "Public entity" means a public entity as defined in Section 1100.

Attachment 3

Federal Acquisition Regulation 15.506

(a) (1) An offeror, upon its written request received by the agency within 3 days after the date on which that offeror has received notification of contract award in accordance with 15.503(b), shall be debriefed and furnished the basis for the selection decision and contract award.

(2) To the maximum extent practicable, the debriefing should occur within 5 days after receipt of the written request. Offerors that requested a post award debriefing in lieu of a pre-award debriefing, or whose debriefing was delayed for compelling reasons beyond contract award, also should be debriefed within this time period.

(3) An offeror that was notified of exclusion from the competition (see 15.505(a)), but failed to submit a timely request, is not entitled to a debriefing.

(4)(i) Untimely debriefing requests may be accommodated.

(ii) Government accommodation of a request for delayed debriefing pursuant to 15.505(a)(2), or any untimely debriefing request, does not automatically extend the deadlines for filing protests. Debriefings delayed pursuant to 15.505(a)(2) could affect the timeliness of any protest filed subsequent to the debriefing.

(b) Debriefings of successful and unsuccessful offerors may be done orally, in writing, or by any other method acceptable to the contracting officer.

(c) The contracting officer should normally chair any debriefing session held. Individuals who conducted the evaluations shall provide support.

(d) At a minimum, the debriefing information shall include—

(1) The Government's evaluation of the significant weaknesses or deficiencies in the offeror's proposal, if applicable;

(2) The overall evaluated cost or price (including unit prices) and technical rating, if applicable, of the successful offeror and the debriefed offeror, and past performance information on the debriefed offeror;

(3) The overall ranking of all offerors, when any ranking was developed by the agency during the source selection;

(4) A summary of the rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror; and

(6) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.

(e) The debriefing shall not include point-by-point comparisons of the debriefed offeror's proposal with those of other offerors. Moreover, the debriefing shall not reveal any information

prohibited from disclosure by 24.202 or exempt from release under the Freedom of Information Act (5 U.S.C 552) including—

(1) Trade secrets;

(2) Privileged or confidential manufacturing processes and techniques;

(3) Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information; and

(4) The names of individuals providing reference information about an offeror's past performance.

Attachment 4

87100. No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

87100.1. (a) A registered professional engineer or licensed land surveyor who renders professional services as a consultant to a state or local government, either directly or through a firm in which he or she is employed or is a principal, does not have a financial interest in a governmental decision pursuant to Section 87100 where the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency and does not exercise public agency decision making authority as a contract city or county engineer or surveyor.

(b) For purposes of this section, the consultant renders professional engineering or land surveying services independently of the control and direction of the public agency when the consultant is in responsible charge of the work pursuant to Section 6703 or 8703 of the Business and Professions Code.

(c) Subdivision (a) does not apply to that portion of the work that constitutes the recommendation of the actual formula to spread the costs of an assessment district's improvements if both of the following apply:

(1) The engineer has received income of two hundred fifty dollars (\$250) or more for professional services in connection with any parcel included in the benefit assessment district within 12 months prior to the creation of the district.

(2) The district includes other parcels in addition to those parcels for which the engineer received the income. The recommendation of the actual formula does not include preliminary site studies, preliminary engineering, plans, specifications, estimates, compliance with environmental laws and regulations, or the collection of data and information, utilized in applying the formula.

87101. Section 87100 does not prevent any public official from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that an official's vote is needed to break a tie does not make his participation legally required for purposes of this section.

87102. The requirements of Section 87100 are in addition to the requirements of Articles 2 (commencing with Section 87200) and 3 (commencing with Section 87300) and any Conflict of Interest Code adopted there under. Except as provided in Section 87102.5, the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to elected state officers for violations or threatened violations of this article.

87102.5. (a) The remedies provided in Chapter 3 (commencing with Section 83100) shall apply to any Member of the Legislature who makes, participates in making, or in any way attempts to use his or her official position to influence any of the following governmental decisions in which he or she knows or has reason to know that he or she has a financial interest:

(1) Any state governmental decision, other than any action or decision before the Legislature, made in the course of his or her duties as a member.

(2) Approval, modification, or cancellation of any contract to which either house or a committee of the Legislature is a party.

(3) Introduction as a lead author of any legislation that the member knows or has reason to know is non-general legislation.

(4) Any vote in a legislative committee or subcommittee on what the member knows or has reason to know is non-general legislation.

(5) Any roll call vote on the Senate or Assembly floor on an item which the member knows is non-general legislation.

(6) Any action or decision before the Legislature in which all of the following occur:

(A) The member has received any salary, wages, commissions, or similar earned income within the preceding 12 months from a lobbyist employer.

(B) The member knows or has reason to know the action or decision will have a direct and significant

financial impact on the lobbyist employer.

(C) The action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(7) Any action or decision before the Legislature on legislation that the member knows or has reason to know will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the member has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(b) For purposes of this section, all of the following apply:

(1) "Any action or decision before the Legislature" means any vote in a committee or subcommittee, or any roll call vote on the floor of the Senate or Assembly.

(2) "Financial interest" means an interest as defined in Section 87103.

(3) "Legislation" means a bill, resolution, or constitutional amendment.

(4) "Non-general legislation" means legislation that is described in Section 87102.6 and is not of a general nature pursuant to Section 16 of Article IV of the Constitution.

(5) A Member of the Legislature has reason to know that an action or decision will have a direct and significant financial impact on a person with respect to which disqualification may be required pursuant to subdivision (a) if either of the following apply:

(A) With the knowledge of the member, the person has attempted to influence the vote of the member with respect to the action or decision.

(B) Facts have been brought to the member's personal attention indicating that the action or decision will have a direct and significant impact on the person.

(6) The prohibitions specified in subdivision (a) do not apply to a vote on the Budget Bill as a whole, or to a vote on a consent calendar, a motion for reconsideration, a waiver of any legislative rule, or any purely procedural matter.

(7) A Member of the Legislature has reason to know that legislation is non-general legislation if facts have been brought to his or her personal attention indicating that it is non-general legislation.

(8) Written advice given to a Member of the Legislature regarding his or her duties under this section by the Legislative Counsel shall have the same effect as advice given by the commission pursuant to subdivision (b) of Section 83114 if both of the following apply:

(A) The member has made the same written request based on the same material facts to the commission for advice pursuant to Section 83114 as to his or her duties under this section, as the written request and facts presented to the Legislative Counsel.

(B) The commission has not provided written advice pursuant to the member's request prior to the time the member acts in good faith reliance on the advice of the Legislative Counsel.

87102.6. (a) "Non-general legislation" means legislation as to which both of the following apply:

(1) It is reasonably foreseeable that the legislation will have direct and significant financial impact on one or more identifiable persons, or one or more identifiable pieces of real property.

(2) It is not reasonably foreseeable that the legislation will have a similar impact on the public generally or on a significant segment of the public.

(b) For purposes of this section and Section 87102.5, all of the following apply:

(1) "Legislation" means a bill, resolution, or constitutional amendment.

(2) "Public generally" includes an industry, trade, or profession.

(3) Any recognized subgroup or specialty of the industry, trade, or profession constitutes a significant segment of the public.

(4) A legislative district, county, city, or special district constitutes a significant segment of the public.

(5) More than a small number of persons or pieces of real property is a significant segment of the public.

(6) Legislation, administrative action, or other governmental action impacts in a similar manner all members of the public, or all members of a significant segment of the public, on which it has a direct financial effect, whether or not the financial effect on individual members of the public or the significant segment of the public is the same as the impact on the other members of the public or the significant segment of the public.

(7) The Budget Bill as a whole is not non-general legislation.

(8) Legislation that contains at least one provision that constitutes non-general legislation is non-general legislation, even if the legislation also contains other provisions that are general and do not constitute non-

general legislation.

87102.8. (a) No elected state officer, as defined in subdivision (f) of Section 14 of Article V of the California Constitution, shall make or participate in the making of, or use his or her official position to influence, any governmental decision before the agency in which the elected state officer serves, where he or she knows or has reason to know that he or she has a financial interest.

(b) An elected state officer knows or has reason to know that he or she has a financial interest in any action by, or a decision before the agency in which he or she serves where either of the following occur:

(1) The action or decision will have a direct and significant financial impact on a lobbyist employer from which the officer has received any salary, wages, commissions, or similar earned income within the preceding 12 months and the action or decision will not have an impact on the public generally or a significant segment of the public in a similar manner.

(2) The action or decision will have a direct and significant financial impact on any person, distinguishable from its impact on the public generally or a significant segment of the public, from whom the officer has received any compensation within the preceding 12 months for the purpose of appearing, agreeing to appear, or taking any other action on behalf of that person, before any local board or agency.

(c) The definitions of "public generally" and "significant segment of the public" contained in Section 87102.6 shall apply to this section.

(d) Notwithstanding Section 87102, the remedies provided in Chapter 3 (commencing with Section 83100) shall apply to violations of this section.

87103. A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503. For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

87103.5. (a) Notwithstanding subdivision (c) of Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.

(b) Notwithstanding subdivision (c) of Section 87103, in a jurisdiction with a population of 10,000 or less which is located in a county with 350 or fewer retail businesses, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official of that jurisdiction who owns a 10-percent or greater interest in the entity, if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer does not exceed one percent of the gross sales revenues that the business entity earned during the 12 months prior to the time the decision is made.

(c) For the purposes of subdivision (b):

(1) Population in a jurisdiction shall be established by the United States Census.

(2) The number of retail businesses in a county shall be established by the previous quarter's Covered Employment and Wages Report (ES-202) of the Labor Market Information Division of the California Employment Development Department.

87103.6. Notwithstanding subdivision (c) of Section 87103, any person who makes a payment to a state agency or local government agency to defray the estimated reasonable costs to process any application, approval, or any other action, including but not limited to, holding public hearings and evaluating or preparing any report or document, shall not by reason of the payments be a source of income to a person who is retained or employed by the agency.

87104. (a) No public official of a state agency shall, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or any oral or written communication to, his or her state agency or any officer or employee thereof, if the appearance or communication is for the purpose of influencing a decision on a contract, grant, loan, license, permit, or other entitlement for use.

(b) For purposes of this section, "public official" includes a member, officer, employee, or consultant of an advisory body to a state agency, whether the advisory body is created by statute or otherwise, except when the public official is representing his or her employing state, local, or federal agency in an appearance before, or communication to, the advisory body.

87105. (a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(1) Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

(2) Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(3) Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

(b) This section does not apply to Members of the Legislature.



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Oversight Committee Best Practices

Approved by the SDCTA Board of Directors on October 21, 2011

Amended November 20, 2015

The following list of observed best practices reflect the experience of the San Diego County Taxpayers Association's (SDCTA) participation in dozens of oversight committees over the past decades. One of these committees preceded the passage of Proposition 39, which mandates oversight for bond-funded projects in K-12 schools and community colleges. That change led to rapid expansion of oversight and affected similar types of ballot measures such as the four-year extension of the TransNet sales tax, public safety facilities and hospital projects. From years of observation, extensive research and direct participation in oversight committees in San Diego County, SDCTA has derived a list of practices that enhance the effectiveness of the oversight that voters rely upon when making decisions at the ballot box. SDCTA's best practices hold oversight committees and the agencies that they oversee to a higher standard than those outlined in Prop 39 (Appendix A for language of the legislation).

(Please see Appendices A through F for all supporting materials)

Notification

Recruitment, selection and appointment

For at least 45 days the district or agency shall inform the public and the entities listed below of vacancies on the oversight committee by all available means in order to recruit qualified, motivated committee members.

- San Diego County Taxpayers Association
- American Institute of Architects
- American Society of Civil Engineers
- Associated Builders and Contractors of San Diego
- Associated General Contractors of San Diego
- Community organizations (e.g. Rotary, Kiwanis, etc.)
- Construction Managers Association of America
- Financial Executives International
- Labor organizations
- Local and community papers
- Local Chambers of Commerce
- Parent teacher organizations

These announcements shall include a description of the oversight committee duties and scope of authority. Eligibility requirements and selection criteria shall be made available. Appointments shall be made at a regularly scheduled publicly noticed meeting of the district or agency.

Membership Composition

A majority of the members of the Committee shall possess expertise in one or more of the following areas:

- Large scale construction operations
- Municipal/public finance matters
- Performance and financial auditing
- Construction related project management
- Real estate acquisition or sales
- Environmental laws or regulations
- Information technology

At least one member of the Committee shall be a representative of SDCTA. SDCTA will identify and nominate a member to fulfill the duties of the member of a bona fide taxpayers association. In the case that a member of SDCTA cannot be identified to serve on the oversight committee, solicitation for such representation shall be opened to the broader community. Committee members shall be appointed by the elected board as part of a regularly scheduled and publicly noticed meeting. The process shall include statement of qualifications to the public as well as the opportunity for public comment on the nominees. It is impermissible for any bond moneys that are the responsibility of the oversight committee to be spent before the formation and first official meeting of the oversight committee; this includes carryover funds from previous bonds. At its first meeting, the committee shall appoint a chairperson and vice-chairperson to serve in the absence of the chairperson.

Terms

The elected board shall determine the term duration and staggering of oversight committee members' terms.

Bylaws

Although not required by law, it is customary practice for governing boards to adopt administrative regulations outlining fundamental aspects of committee operations and activities. While this may take the form of bylaws, it is a best practice for the committee to be granted the opportunity of prior review and the opportunity to propose changes since these bylaws will describe the manner or governing board policy in which the committee carries out its responsibilities. At a minimum, the bylaws should describe the term limits of the oversight committee's members. Bylaws must be adopted before the oversight committee is formed (see Appendix D for an example of bylaws).

Orientation

Before a new oversight committee begins work, a comprehensive orientation is **mandatory**. It is important that each oversight committee member receive a thorough briefing by the district's staff and **oversight committee member(s)**, including copies of relevant codes, bond resolutions, project descriptions, budgets and schedules, financial reports and minutes of recent meetings. It is **strongly recommended** that new appointees tour facilities included in or affected by the bond funded program, however, tours at every committee meeting are excessive. Oversight committee members that are new to the committee mid-bond (due to term limits or for other reasons) shall receive the same in-depth, thorough orientation as those who were oriented upon the formation of the committee. Oversight committee members **are strongly recommended to attend** an orientation to the process by SDCTA. **SDCTA is available to provide an in-person presentation.** For Proposition 39 committees, a copy and overview of Proposition 39 shall be provided.

Access to information

Access to critical benchmarking data in a timely and easily comprehensible manner is essential. This frequently takes the form of a so-called "dashboard" which summarizes critical metrics in graphic form. Whenever bond revenues are combined or used in conjunction with other sources of funding, the oversight committee shall be kept informed of the status of all funds. Reports shall summarize the original funds budgeted and allocated, amounts expended and obligated to date and the percent of completion as of the close of the most recent accounting quarter. A regularly updated Program Evaluation Review Technique (PERT) chart or its equivalent with milestones for each project in the program is necessary to allow oversight committee members to track progress. (See Appendix E for an example of a "dashboard" and Appendix F for an example of a PERT chart).

Public disclosure

Transparency is achieved by promptly displaying detailed information about the progress of each project included in the ballot measure and resolution, as well as the committee's minutes and materials, including subcommittees, it has received on the oversight committee website. Preferred oversight committee website will be located as a subpage of the Board's website. Oversight committee websites shall disclose, at a minimum, the following:

- Minutes of all meetings, including subcommittees, within a reasonable amount of time. Preference is by next regularly scheduled committee meeting
- Materials provided to the Committee at each meeting
- Sufficient notice of the dates and times and agendas of planned meetings of the oversight committee and its subcommittees, when applicable
- List of the committee's members and a main contact information (email and phone)
- List of projects accompanied by measurements of their status in terms of budgets and timelines
- Any alterations to project budgets or timelines with adequate explanations for these changes
- Comparison of current status of projects in terms of budgets and timelines to the original budget and timeline estimates of the project
- Oversight committee website(s) shall be kept current and up-to-date
- Whenever available, the committee shall support open data by publishing on its website the raw (non-summarized) data on spending, progress, timelines, and budgets, in an open or widely supported format such as Excel or .CSV

Meetings

The oversight committee must meet with sufficient frequency to ensure that members remain fully informed about all relevant current conditions. The Committee shall schedule at least quarterly (or more frequently as needed) meetings as either a full body, or in the form of subcommittees that shall then report back to the full Committee at its next regularly scheduled meeting, for the initial two years after passage of the bond measure or until 20 percent of bond projects are completed, and at least quarterly thereafter. Subcommittees may be formed to monitor specific components of program implementation such as the audit process or construction progress and prepare the annual report to the elected board and public. Both committees and subcommittees shall be subject to the Brown Act. As appropriate, there should be updates provided to the elected board on the oversight committee's activities.

Project Delivery Methods

The District shall present to the Oversight Committee the available project delivery options for the district and which one will be utilized for projects undertaken during the bond program. The District

shall outline the reason each particular method will be utilized. The District shall make every effort to present to the Oversight Committee prior to final approval by the Governing Board.

Budget

Pursuant to Education Code section 15280 (See Appendix B for language), “The governing board of the district shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens' oversight committee.”

Financial Audit

It is desirable for the oversight committee to participate in the process of screening independent auditors of the bond-funded program, recognizing that the governing board has the sole authority to make such appointments. Financial audits should at a minimum comply with Government Auditing Standards and all Proposition 39 requirements.

The oversight committee shall review and comment upon the annual financial report prior to its presentation to the elected board. Independent auditors shall meet annually with the oversight committee audit subcommittee and/or the full committee (prior to presentation to the elected board) at a regularly scheduled meeting. The oversight committee should make recommendations and provide input on the audit.

Performance Audit

In addition to the compliance audit usually prepared by the financial auditors, the oversight committee shall participate in a comprehensive performance audit conducted by qualified independent professionals who have demonstrated knowledge in the fields of project management and construction industry best practices. The purpose of this audit is to provide accountability to the public that those projects that were supported through their approval of the bond are being completed, and that any changes to the projects have been adequately explained. All performance audits should at a minimum comply with those standards outlined under Proposition 39 and Senate Bill 1473 (See Appendix H for language of the legislation) and provide an independent review and evaluation of at least the following:

- Current Bond Program Management Program/Plan
- Design and Construction Timelines which include benchmarking to industry standards.
- Review of Project Budgets
- Use of Best Practices and Technology Regarding the Planning and Construction of School Facilities
- Payment Procedures and Payment Processing Time
- Program and Construction Management Structure including staff and fees.
- Change Order Procedures and Results which include benchmarking to industry standards.
- Construction Project Delivery Methods and Performance Analysis
- “Best Practices” for Procurement of Contractors and Professional Services and compliance with public contracting code
- Evaluation of Public Outreach and Communication Program
- Evaluation of Overall transparency of Bond Program, including but not limited to the evaluation of the bond website information.
- Compliance with legal requirements for prevailing wage and labor compliance.
- Review performance of Independent Citizen’s Bond Oversight Committee.

The oversight committee shall review and comment upon the annual performance audit prior to its presentation to the elected board. The oversight committee should make recommendations and provide input on the audit.

Access to the governing board and chief administrative officer

The oversight committee shall periodically meet with the chief administrative officer of the district or agency and at least annually with the governing board. It is recommended that oversight committee members monitor the district's governing board meetings. The oversight committee shall meet with the governing board prior to the oversight committee's presentation of its performance assessment report. Any matters related to the bond shall go to the oversight committee prior to the elected board.

Significant program changes

The governing board shall provide the oversight committee with the opportunity to review and comment upon major changes in each bond-funded program, allocation and project prior to final action being taken. A major change is one that affects the lesser of 10% of a specific project budget allocation or \$1 million or a delay of a major project by 6 months or more.

Any board action that would significantly change the cost or schedule or bidding of bond financed projects should be reviewed by the oversight committee prior to any non-emergency governing board decision. In the event of significant program changes, the committee shall produce a special report in addition to its annual report specifically covering the program changes to scope, budget and timelines. This report shall be readily available to the public and submitted to appropriate media outlets.

Annual report

The oversight committee shall be the principal author, with staff assistance as may be requested, of its required annual report to the public. The district or agency shall provide technical, production and distribution support. The report shall appear on the oversight committee web site and be available at principal offices of the district or agency. The project priority shall be those specific projects that were approved by the public upon approval of the bond measure. The report shall contain, at a minimum:

- List of all original projects, and their status regarding budget, scope and /or implementation
- Certification of all expenditures
- Any changes, such as specific project cancellations or scope reductions, shall be highlighted and thoroughly explained
- A list of joint-use projects
- Status and scoring of deferred maintenance projects
- Prevailing wage requirements compliance report

See Appendix G for examples of adequate annual reports.

Bond issuance

The district or agency shall inform the oversight committee concerning the full details of the selection of bond counsel, underwriters, the issuance of bonds, the refinancing of bonds, project list with relevant bond ballot language and bond financing structure. The oversight committee shall be fully informed before each new series of bonds is issued.

Joint use

The oversight committee shall assure that the agency or district has demonstrated that best efforts have been applied to maximize opportunities for bond-funded projects to be used in conjunction with other local agencies in a manner that benefits the public and reduces costs. Joint-use efforts should be described and scored in the annual report.

Deferred maintenance

Part of the oversight committee's responsibility is to review the status of the district or agency's deferred maintenance elimination plan and major repair and replacement plan. The District shall submit a governing board approved funding plan to eliminate deferred maintenance using general fund revenues, and if necessary with a limited reliance on bond revenues; and an approved major repair and replacement funding plan to ensure that both new and renovated facilities do not become maintenance deferred once the backlog has been eliminated. Within the submitted plan, the District shall include the deferred maintenance funding, including the amount of state matching funds received, for the previous 10 fiscal years. The District shall also include a current list of those projects and their respective costs within the District's deferred maintenance backlog. Status of deferred maintenance should be described and scored in the annual report.

Certification of expenditures

The oversight committee must review whether expenses are within the constraints of the bond, and any non-certified expenditures shall be publicly reported. The district or agency shall present to the oversight committee written certification that all bond revenues currently expended have been in conformity with the bond resolution and applicable statutes on an annual basis. Certification of expenditures must be in the annual report.

Prevailing wage requirements

Most, if not all, publicly funded projects fall under prevailing wage requirements. The oversight committee shall request and receive an annual compliance report from the agency or district detailing related compliance issues of importance.

Liability

Committee members may be concerned about personal liability arising from serving. While this does not appear to be a problem, if requested, the governing board must provide written hold harmless agreements. This may appear in the oversight committee's bylaws.

Final report

Upon final completion of the entire bond fund program the oversight committee shall prepare and distribute a complete detailed analysis of all expenditures, noting significant variances from the original stated expenditure plan, why they occurred and how they were mitigated.

Note: *Please contact SDCTA if complications or concerns arise.*