

**2024 – 2025 Contra Costa County
Civil Grand Jury**

**Measure J Citizen's Bond Oversight Committee
Mt. Diablo Unified School District
A Case of Impeded Oversight**

Report 2507
May 29, 2025

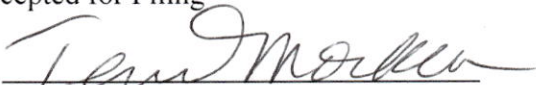
Approved by the Grand Jury


Peter Appert
GRAND JURY FOREPERSON

Date

6/4/25

Accepted for Filing


Hon. Terri Mockler
JUDGE OF THE SUPERIOR COURT

Date

5/30/25



SUMMARY

In November 2018, voters approved \$150 million in bonds for Measure J, issued by the Mount Diablo Unified School District (MDUSD). As a condition of approval under Proposition 39, MDUSD was required to establish an independent Citizens' Bond Oversight Committee (CBOC). The CBOC is required to review and report on the expenditure of taxpayers' money for school construction and to verify that funds are only spent on authorized purposes.

However, MDUSD has failed to establish an independent oversight committee. The current CBOC is not independent as its bylaws are written and controlled by MDUSD. These bylaws give MDUSD the authority to control who is appointed as a member of the CBOC. In addition, under the bylaws, the CBOC is prohibited from amending the bylaws without MDUSD consent and approval. This undermines the principle of independence that is essential for effective oversight.

Further, under the California Education Code (EDCODE), MDUSD is obligated to provide the CBOC with the necessary technical and administrative support it requests. The CBOC has formally asked for independent legal counsel to support its review of Measure J expenditures, but MDUSD has failed to provide that support. The lack of independent legal representation has impeded the committee's ability to carry out its oversight duties.

As a result, the current structure and operation of MDUSD's Measure J CBOC does not satisfy the requirements of the EDCODE and does not meet the best practices for creation and operation of a CBOC.

This report provides recommendations for the MDUSD and the Measure J CBOC to follow the best practices and align with the EDCODE, to ensure the CBOC can function as an independent oversight committee on behalf of taxpayers.

BACKGROUND

Mt. Diablo Unified School District

The Mt. Diablo Unified School District (MDUSD) includes more than 50 school sites in Contra Costa County and serves approximately 29,000 students from kindergarten through grade 12, as well as adult learners. The school district serves the cities of Clayton, Concord, Pleasant Hill, portions of Martinez, Pittsburg, and Walnut Creek, and the unincorporated areas of Bay Point, Lafayette and Pacheco.

Bond Programs

In recent years, school districts across California have increased the use of general obligation school bonds as a source of funds for operational and capital expenditures. In contrast to parcel taxes and other types of bonds, which require 66 2/3 percent voter approval, general obligation bonds used for the purpose of constructing and improving school facilities require only 55 percent voter approval. The lower voter approval rate for these bonds was the result of Proposition 39, which was passed in 2000. A condition placed on a bond approved under Proposition 39 is that the district has to form a Citizen's Bond Oversight Committee (CBOC) to review and report on the proper expenditure of taxpayers' money for school construction.

In addition, the CBOC is charged with confirming the school district is in compliance with the provision of the California Constitution, which requires that no bond funds are used for any teacher or administrative salaries or other school operation expense. The passage of Proposition 39 resulted in the addition of sections to the California Education Code (EDCODE) that provide requirements for the establishment of an independent "citizens bond oversight committee." Sections 15278, 15280, and 15282 of the California Education Code (EDCODE) provide the details of the CBOC. (These sections are included in Appendix A.)

The MDUSD's bond program began with passage of Measure A in November 1989 for \$90 million. This was followed by Measure C in June 2010 for \$348 million and Measure J in November 2018 for \$150 million. Measure A was passed prior to Proposition 39 and required approval of two-thirds of voters. It was a general obligation bond measure that provided a funding source for operational expenses including equipment and furniture. Measures C and J were issued for facility improvements and only required 55 percent voter approval. As of the end of 2024, Measures A and C have used all funds for the intended projects. Measure J still has approximately \$50 million funds remaining. The Measure J funds are being used to improve student and campus safety and security measures; replace outdated electrical, mechanical, and plumbing systems; and upgrade career tech and science, engineering, and technology classrooms and labs.

Upon approval of Measures C and J, MDUSD established a CBOC for each measure. The Civil Grand Jury received a complaint relative to the Measure J CBOC regarding the MDUSD's reluctance in providing support to the committee's concerns over execution and expenditures of a major contract issued for Measure J.

Overview of Citizens' Bond Oversight Committees (CBOC)

CBOCs are all-volunteer, uncompensated committees composed of a cross section of district residents, including parents, seniors, businesses, and taxpayer advocacy organizations. The CBOC represents and reports to the taxpayers in the district. The CBOC is subject to the Brown Act, which requires all local government business be conducted at open and public meetings. The district is required by the EDCODE provisions to provide technical and administrative support to the CBOC as well as resources to publicize the conclusions and reports of the committee. The district is also to provide the CBOC with results of independent financial and performance audits, any information requested and responses to questions and concerns. All documents for the CBOC and reports are made available on a website maintained by the district: www.mdusd.org/departments/business-services/mo-home/divisions/facilities/measure-j/j-cboc.

The CBOC's purpose is to monitor district management of bond programs, and report at least annually to the public on whether the district has fulfilled the following requirements:

- Constructed the facilities or improvements promised in the bond ballot language
- Complied with laws regarding school bond program management
- Not spent bond funds on district operational costs or non-bond administrative salaries
- Performed annual financial and performance audits on the bond program

The EDCODE requires that a CBOC consist of a minimum of seven members, which includes the following five mandated categories:

- One member active in a business organization representing the business community located within the district
- One member active in a senior citizens' organization
- One member active in a bona fide taxpayers' organization
- One member who is the parent or guardian of a child enrolled in the district
- One member who is both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization

The remaining members are "at large" community positions.

The CBOC provides after-the-fact review and analysis of how a school district is managing its bond construction program. CBOC does not have the authority to approve how bond funds will be spent nor to select or participate in the negotiation or awarding of any construction contracts. The school district has the sole power to make all of these financial decisions related to how the bond funds are to be spent.

METHODOLOGY

The methods used by the Civil Grand Jury in this investigation include:

- Interviews with individuals who have experience with issues related to the CBOC
- Review of MDUSD information including Bylaws, agendas, meeting minutes, documents and reports
- Review of State Proposition 39 (2000), the State's Proposition 39 Best Practices Handbook and associated sections of the California Education Code
- Review of the Little Hoover Commission (2009) Report: "Bond Spending: Expanding and Enhancing Oversight"
- Association of Bond Oversight Committees (CABOC) information and materials from other school districts with a CBOC
- Attendance via video of a Measure J CBOC meeting

CONFLICT OF INTEREST DISCLAIMER

One or more Grand Jurors recused themselves due to a possible conflict of interest and did not participate in the investigation, preparation or approval of this report.

DISCUSSION

Measure J CBOC

Measure J was passed by voters of the District in November 2018 and the Measure J CBOC was organized in March 2019. The Measure J CBOC has nine members who serve two-year terms and are termed out after three consecutive terms. The CBOC is composed of the five mandated members and four "at large" members. The committee meets quarterly. The CBOC committee member's applications are reviewed by the superintendent, who recommends them to the MDUSD for approval.

Support for the CBOC is provided by a staff member from the District's Facilities and Bond Division. There is also a member of MDUSD board who serves as a liaison.

Bylaws for the CBOC (Appendix B) were written and approved by the MDUSD in March 2019. The CBOC does not prepare and approve its own Bylaws; it uses those prepared and approved by the MDUSD. If the CBOC wants to change the Bylaws the modification requires approval by the MDUSD.

The CBOC webpage is in the Business Services Department section of the District website ([Measure J CBOC - Mt. Diablo Unified School District](#)). It is the only means by which the reports are disseminated to the public.

The CBOC's latest annual report issued in 2024 for the period between July 1, 2022 to June 30, 2023 was critical of the MDUSD Measure J performance. It indicated the committee has questions concerning the extension of a contract awarded for Measure J; the impact of the turnover in key staff supporting Measure J; and concern the MDUSD wasn't meeting the promises made to the taxpayers in the Measure J language in a "timely and efficient manner." Also, the CBOC made note of the fact that the MDUSD had not provided the requested independent legal advice to assist in their review of the extension for a Measure J contract.

CBOC Independence

The EDCODE requires that a CBOC be independent which means a CBOC is to be capable of acting on its own and is not influenced or controlled by others in matters of opinion, conduct or authority. An independent CBOC controls its operations. It has its own Bylaws that establish how it functions including organization, officers, meeting schedule, agenda, subcommittees, reviews, construction site observations and annual report preparation. It only relies of the board to provide it with the financial information required and/or requested to do its work. The school district is required to provide support relative to the operating budget of the committee, meeting locations, report publication and distribution, access to project constructors and consultants, site visits and independent advice for technical and administrative issues.

The California Association of Bond Oversight Committees (CABOC) has a list of questions which are indicative of an independent CBOC. The answer to each question should be yes.

1. Can you prepare your own agenda?
2. Can you meet whenever you want?
3. Can you approve your own bylaws?
4. Can you establish subcommittees?
5. Do you have your own budget?
6. Do you have ability to post documents to the CBOC website?
7. Does the District provide you with all documents requested?
8. Do you have independent legal counsel who works for the CBOC?
9. Do you receive and accept the annual financial and performance audit reports?
10. Does the CBOC prepare and issue its annual report including compliance opinion?
11. Can CBOC members talk with contractors, architects, consultants, and auditors without restriction?
12. Can CBOC members visit construction sites?

As further discussed below, the answer to questions #3 and #8 is NO, calling into question the independence of the Measure J CBOC.

Bylaws

The MDUSD has established the Bylaws (Appendix B) for the Measure J CBOC and has instructed the committee to use them. Changes or modifications have to be approved by the MDUSD. The Bylaws prepared by the MDUSD instruct the CBOC in what it is to do and not do and how the MDUSD will support the committee. It does not have the items specific to operating the committee. Also, the Measure J Bylaws contain a provision (Section 4 e) which limits CBOC activities to those directed by the MDUSD. But EDCODE Section 15278 (5) says the oversight activities are not limited to those listed in that section (see Appendix A).

While MDUSD has acknowledged that the CBOC can request changes in its bylaws, MDUSD also believes that any changes in the bylaws must be approved by the school board. The EDCODE is silent on this issue, neither granting nor denying a CBOC the right to create or change its own bylaws. MDUSD has taken the position that it controls the CBOC's bylaws. As a result, The MDUSD effectively controls the activities of the CBOC. An oversight committee is not an independent committee if it is controlled by the body it is supposed to oversee. The CBOC should prepare and control its own Bylaws.

Selection of CBOC Members

The present process for approving members for the CBOC does not align with the concept of independence. The MDUSD Board initially establishes and appoints members to the CBOC as required by the EDCODE. However, since the terms of CBOC members are two years, existing member appointments have to be renewed or new members approved. The process for approving committee members after the initial establishment of the CBOC involves the MDUSD soliciting applicants, the MDUSD superintendent reviewing applications and making recommendations to the MDUSD Board for approval. The MDUSD controls the committee's membership.

Some of the Measure J CBOC members are soon coming to the end of their terms. There is concern that MDUSD will not reappoint these members because they have been critical of the District's performance in the latest CBOC annual report.

In 2009, the Little Hoover Commission, an independent California State oversight agency charged with evaluating the structure, organization and operation of units of State government, issued a report "Bond Spending: Expanding and Enhancing Oversight." In reviewing the information in this report and data posted on the California Association of Bond Oversight Committees (CABOC) website ([Home - California Association of Bond Oversight Committees](#)),

there are a number of ways in which various districts organize their CBOCs to assure their independence.

One option to promote an independent CBOC is to develop a Memorandum of Understanding (MOU) between the district and the CBOC. Others involve variations that include participation of members of the CBOC and/or local civic organizations in the process of selecting and approving members for the committee. The MOU approach has been used by large districts such as Los Angeles Unified School District and is best planned at the time the bond issue is proposed to the voters. Other districts have organized a committee consisting of CBOC representatives, district board members and staff that screens, reviews and approves members of the CBOC directly (without approval by the school board). The objective of these approaches is to provide an independent CBOC by reducing influence of the district overseen by the committee.

While most other districts in Contra Costa County that have active CBOCs still use approaches similar to MDUSD, other districts throughout the state have taken steps to assure the independence of CBOC members. Locally, the West Contra Costa Unified School District (WCCUSD), which is comparable in size to the District, recently (2023) changed its method of approving members for the CBOC by forming a selection committee consisting of two CBOC members, two Board of Education members and the superintendent or CBOC liaison.

The Little Hoover Commission report cited earlier, along with the CABOC website, provide options that other School Districts in California have used in choosing CBOC members. These should be considered by MDUSD in deciding on an approach to selecting and approving returning and new CBOC members. As noted in the 2009 report, “When bond oversight committee members are chosen by the entity they are supposed to oversee, they are much more likely to see their job as being a ‘fig leaf’ to cover the entity than be an independent oversight force.”

MDUSD CBOC Support

The MDUSD provides the CBOC with documents associated with the financials of the Measure J contract, contract documents, financial and performance audit reports, access to construction sites, as well as budget and staff support. However, during the CBOC’s 2024 review of a contract extension issued for Measure J, the committee requested consultation with an independent attorney. The issue in question had previously been prepared by MDUSD’s former counsel. When the CBOC initially requested legal consultation, the MDUSD offered their present legal counsel. The CBOC rejected this offer and the MDUSD then offered use of the legal firm that supported them on bond preparation. The CBOC reiterated their need for an independent counsel and provided the MDUSD with the name of an independent attorney and an estimate of 30 hours of effort expected for the consultation. The MDUSD refused to retain the

requested counsel and asked the CBOC volunteers to obtain two other proposals for the service. To date, the CBOC has not been able to obtain estimates from two additional attorneys that are willing to accept the assignment. The reluctance over the past year of the MDUSD to provide independent counsel has impeded the CBOC members in their effort to understand the issues of concern and perform as required by EDCODE.

EDCODE section 15280 (a) (1) requires that the MDUSD shall provide the CBOC with any necessary technical and administrative assistance. Legal support is one form of such assistance. By not providing the requested assistance the MDUSD is not providing the required support.

There is a precedent for a school district in Contra Costa County to provide the type of independent legal assistance the Measure J CBOC requested. One of the other large school districts in Contra Costa County (WCCUSD) has historically provided an independent attorney for consultation with its CBOC.

Additional Concern

The sole means of publicizing the required CBOC annual reports is via the MDUSD website. Thus, the information isn't widely distributed to the taxpayers. Other districts provide the information through local government, civic, business and taxpayer associations.

FINDINGS

- F1. By the California Education Code, the Measure J CBOC is to be independent of MDUSD and represents and informs the taxpayers.
- F2. The CBOC does not prepare its own Bylaws which detail how the committee operates.
- F3. The MDUSD provides the CBOC Bylaws.
- F4. The CBOC cannot modify the Bylaws without MDUSD approval.
- F5. The MDUSD reviews and appoints CBOC renewing and new members.
- F6. The MDUSD is required by the EDCODE to provide support to the CBOC.
- F7. The CBOC does not have an independent legal consultant.
- F8. The CBOC is not independent as intended by Proposition 39.
- F9. The last annual report from CBOC presented negative findings.
- F10. The CBOC reports are not widely distributed to the taxpayers and are only posted on the MDUSD website.

RECOMMENDATIONS

R1. By December 31, 2025, the MDUSD should recognize that California Education Code requires that the Measure J CBOC is an independent oversight committee reporting to the taxpayers and not controlled by the MDUSD.

R2. By December 31, 2025, the MDUSD should permit the Measure J CBOC to independently prepare, modify and approve the committee's Bylaws.

R3. By December 31, 2025, the MDUSD should provide assistance the CBOC has requested.

R4. By December 31, 2025, the MDUSD should include the CBOC in activities associated with screening, selection and approval of CBOC candidates for continuing and new members' positions.

R5. By December 31, 2025, the MDUSD should distribute CBOC annual reports electronically to taxpayers within the district via local governments, parent groups and civic organizations.

REQUEST FOR RESPONSES

Pursuant to California Penal Code § 933(b) et seq. and California Penal Code § 933.05, the 2023-2024 Contra Costa County Civil Grand Jury requests responses from the following governing bodies:

| Responding Agency | Findings | Recommendations |
|--|----------|-----------------|
| Mt. Diablo Unified School District Board of Education | F1-F10 | R1-R5 |

INVITED RESPONSES

Pursuant to California Penal Code § 933(b) et seq. and California Penal Code § 933.05, the 2024-2025 Contra Costa County Civil Grand Jury invites responses from the following governing bodies:

| Responding Agency | Findings | Recommendations |
|---|----------|-----------------|
| MDUSD Measure J Citizen's Bond Oversight Committee | F1-F10 | |

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street
P.O. Box 431
Martinez, CA 94553-0091

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

APPENDIX A

[Up^](#)[Add To My Favorites](#)**EDUCATION CODE - EDC****TITLE 1 GENERAL EDUCATION CODE PROVISIONS [1. - 32527]** (Title 1 enacted by Stats. 1976, Ch. 1010.)**DIVISION 1 GENERAL EDUCATION CODE PROVISIONS [1. - 32527]** (Division 1 enacted by Stats. 1976, Ch. 1010.)**PART 10. SCHOOL BONDS [15100 - 17204]** (Part 10 repealed and added by Stats. 1996, Ch. 277, Sec. 2.)**CHAPTER 1.5. Strict Accountability in Local School Construction Bonds Act of 2000 [15264 - 15288]** (Chapter 1.5 added by Stats. 2000, Ch. 44, Sec. 3.)**ARTICLE 2. Citizens' Oversight Committee [15278 - 15282]** (Article 2 added by Stats. 2000, Ch. 44, Sec. 3.)

15278. (a) If a bond measure authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution is approved, the governing board of the school district or community college shall establish and appoint members to an independent citizens' oversight committee, pursuant to Section 15282, within 60 days of the date that the governing board enters the election results on its minutes pursuant to Section 15274.

(b) The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues. The citizens' oversight committee shall actively review and report on the proper expenditure of taxpayers' money for school construction. The citizens' oversight committee shall advise the public as to whether a school district or community college district is in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution. The citizens' oversight committee shall convene to provide oversight for, but not be limited to, both of the following:

(1) Ensuring that bond revenues are expended only for the purposes described in paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(2) Ensuring that, as prohibited by subparagraph (A) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, no funds are used for any teacher or administrative salaries or other school operating expenses.

(c) In furtherance of its purpose, the citizens' oversight committee may engage in any of the following activities:

(1) Receiving and reviewing copies of the annual, independent performance audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(2) Receiving and reviewing copies of the annual, independent financial audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(3) Inspecting school facilities and grounds to ensure that bond revenues are expended in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(4) Receiving and reviewing copies of any deferred maintenance proposals or plans developed by a school district or community college district, including any reports required by Section 17584.1.

(5) Reviewing efforts by the school district or community college district to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all of the following:

(A) Mechanisms designed to reduce the costs of professional fees.

(B) Mechanisms designed to reduce the costs of site preparation.

(C) Recommendations regarding the joint use of core facilities.

(D) Mechanisms designed to reduce costs by incorporating efficiencies in schoolsite design.

(E) Recommendations regarding the use of cost-effective and efficient reusable facility plans.

(Added by Stats. 2000, Ch. 44, Sec. 3. Effective January 1, 2001.)

15280. (a) (1) 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.

(2) The governing board of the district shall provide the citizens' oversight committee with responses to any and all findings, recommendations, and concerns addressed in the annual, independent financial and performance audits required by subparagraphs (C) and (D) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution within three months of receiving the audits.

(b) All citizens' oversight committee proceedings shall be open to the public and notice to the public shall be provided in the same manner as the proceedings of the governing board of the district. The citizens' oversight committee shall issue regular reports on the results of its activities. A report shall be issued at least once a year. Minutes of the proceedings of the citizens' oversight committee and all documents received and reports issued shall be a matter of public record and be made available on an Internet Web site maintained by the governing board of the district.

(Amended by Stats. 2013, Ch. 91, Sec. 1. (SB 581) Effective January 1, 2014.)

15282. (a) The citizens' oversight committee shall consist of at least seven members who shall serve for a minimum term of two years without compensation and for no more than three consecutive terms. While consisting of a minimum of at least seven members, the citizens' oversight committee shall be comprised, as follows:

(1) One member shall be active in a business organization representing the business community located within the school district or community college district.

(2) One member shall be active in a senior citizens' organization.

(3) One member shall be active in a bona fide taxpayers' organization.

(4) For a school district, one member shall be the parent or guardian of a child enrolled in the school district. For a community college district, one member shall be a student who is both currently enrolled in the community college district and active in a community college group, such as student government. The community college student member may, at the discretion of the governing board of the community college district, serve up to six months after his or her graduation.

(5) For a school district, one member shall be both a parent or guardian of a child enrolled in the school district and active in a parent-teacher organization, such as the Parent Teacher Association or schoolsite council. For a community college district, one member shall be active in the support and organization of a community college or the community colleges of the district, such as a member of an advisory council or foundation.

(b) An employee or official of the school district or community college district shall not be appointed to the citizens' oversight committee. A vendor, contractor, or consultant of the school district or community college district shall not be appointed to the citizens' oversight committee. Members of the citizens' oversight committee shall, pursuant to Sections 35233 and 72533, abide by the prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code.

(Amended by Stats. 2013, Ch. 76, Sec. 27. (AB 383) Effective January 1, 2014.)

APPENDIX B

EXHIBIT B

CITIZEN'S OVERSIGHT COMMITTEE BYLAWS

Section 1. Committee Established. The voters of the Mount Diablo Unified School District (the "District") have previously approved the issuance by the District of its general obligation bonds (the "Bonds") at an election held on November 6, 2018 approving Measure J which authorized \$150,000,000 aggregate principal amount of general obligation bonds of the District ("Measure J").

The Bond election was conducted under Proposition 39, being chaptered as the Strict Accountability in Local School Construction Bonds Act of 2000, at Section 15264 *et seq.* of the Education Code of the State ("Proposition 39"). Pursuant to Section 15278 of the Education Code, the Board of Trustees of the District (the "Board") has adopted its Resolution on March 25, 2019, establishing a citizens oversight committee for Measure J (the "Committee"). The Committee shall have the duties and rights set forth in 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 Proposition 39, and these Bylaws are specifically made subject to the applicable provisions of Proposition 39 as to the duties and rights of the Committee. As used herein, the term "Bond Proceeds" means the proceeds of the Bonds which are issued by the District from time to time pursuant to Measure J. The Committee shall confine itself specifically to Bond Proceeds generated under Measure J. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee's review.

Section 3. Duties. To carry out its stated purposes, the Committee shall perform duties to include the following:

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 consensus 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 Measure J; 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;

- (b) a summary of the Committee's proceedings and activities for the preceding year; and
- (c) such other duties as may be assigned by the Board.

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:

- (a) approval of construction contracts;
- (b) approval of construction change orders;
- (c) appropriation of construction funds;
- (d) handling of legal matters;
- (e) approval of construction plans and schedules;
- (f) approval of deferred maintenance plans; and
- (g) approval of any matters relating to the issuance and the sale of the Bonds.

If and to the extent directed by the Board in its sole discretion, the Committee shall perform the following types of activities:

- (a) review of contracts;
- (b) review of change orders;
- (c) review of project management procedures and provide recommendations for improvement;
- (d) provide recommendations on expenditures of the Bond Proceeds;
- (e) provide recommendations on handling of legal matters;
- (f) review of project plans and schedules;
- (g) review of deferred maintenance plans; and
- (h) provide recommendations relating to the issuance and sale of the Bonds.

3.5 Measure J 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 shall be outside the authority of the Committee;
- (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; and
- (f) 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 Proposition 39.

However, the Board may direct the Committee to review and provide recommendations on any of the above.

Section 4. Authorized Activities.

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

- (a) receive and review copies of the District's annual independent performance audit and annual independent financial audit, required by Article XIII A of the California Constitution;
- (b) inspect school facilities and grounds for which Bond Proceeds have been or will be expended, in accordance with any access procedure established by the Superintendent of the District;
- (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; and
- (e) other activities as directed by the Board.

Section 5. Membership.

5.1. Number. The Committee shall consist of a minimum of seven members appointed by the Board from a list of candidates submitting written applications, and based on criteria established by Proposition 39, to wit:

- One member shall be a parent or guardian of a child enrolled in the District.
- One 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 school site council.
- One member active in a business organization representing the business community located in the District.
- One member active in a senior citizen's organization.
- One member active in a bona-fide taxpayers association.
- Two members of the community at-large.
- Any other members as appointed by the Board.

5.2. Qualification Standards. To be a qualified to serve as a member on the Committee, such person must be at least 18 years of age. Preference will be given to those who reside within the District's geographic boundary, in accordance with Government Code Section 1020. The Committee may not include any employee, official of the District or any vendor, contractor or consultant of the District.

5.3. Ethics; Conflicts of Interest. Members of the Committee are not subject to Articles 4 (commencing with Section 1090) and 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code and the Political Reform Act (Gov. Code §§ 81000 *et seq.*), and are not required to complete the Form 700. However, each member shall comply with the Committee Ethics Policy attached to these Bylaws.

5.4. Term. Except as otherwise provided herein, each member shall serve a term of two years, commencing on the date of the first meeting of the Committee. No member may serve more than three 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 one-year term and the remaining members for an initial two-year term.

5.5. Appointment. Members of the Committee shall be appointed by the Board through the following process: (a) the District shall advertise in local newspapers, on its website or by any other appropriate means, as well as solicit appropriate local groups for

applications; (b) the Superintendent will review the applications; and (c) the Superintendent will make recommendations to the Board.

5.6 Removal; Vacancy. The Board may remove any Committee member for any reason, 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, in accordance with the established appointment process shall fill any vacancies on the Committee and shall use reasonable efforts to do so within 90 days. Members whose terms have expired may continue to serve on the Committee until their successor has been appointed.

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 which are funded from Measure J.

Section 6. Meetings of the Committee.

6.1 Regular Meetings. The Committee shall meet at least once a year.

6.2 Location. All meetings shall be held within the Mount Diablo Unified School District, located in Contra Costa 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 shall be conducted according to such additional procedural rules as the Committee may adopt. A majority of the number of Committee members shall constitute a quorum for the transaction of any business.

Section 7. District Support.

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

- (a) preparing and posting public notices as required by the *Ralph M. Brown Act*, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the Board of Trustees;
- (b) provision of a meeting room, including any necessary audio/visual equipment;
- (c) preparation and copies of any documentary meeting materials, such as agendas and reports; and
- (d) retention of all Committee records, and providing convenient public access to such records on an the District's

Internet website. All records shall be posted on the website in a timely manner maintained by the District.

7.2 Attendance at Meetings. 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 3.2, the Committee may report to the Board from time to time in order to advise the Board on the activities of the Committee. Such reports shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

Section 9. Officers. The Committee shall elect a 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 and may be re-elected 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 the 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 Bond Proceeds.

CITIZENS' BOND OVERSIGHT COMMITTEE ETHICS POLICY STATEMENT

This Ethics Policy Statement provides general guidelines for Committee members to follow in carrying out their roles. 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 provide a financial benefit to 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. A 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. A 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 Mount Diablo Unified School District.

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