

Citizens' Bond Oversight Committee

AP 6740

Section 1. Citizen's Bond Oversight Committee established.

The Foothill-De Anza Community College District (the "District") was successful at the election conducted on June 6, 2006 (the "Election"), in obtaining authorization from the District's voters to issue up to \$490,800,000 aggregate principal amount of the District's general obligation bonds (the "Measure C"). The 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 ("Prop 39"). Pursuant to Section 15278 of the Education Code, the District is now obligated to establish the Committee in order to satisfy the accountability requirements of Prop 39. The Board of Trustees of the Foothill-De Anza Community College District (the "Board") hereby establishes the Citizens' Bond Oversight Committee (the "Committee") which shall have the duties and rights set forth in these Bylaws. The Committee does not have independent legal capacity from the District.

Section 2. Purpose

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

The proceeds of general obligation bonds issued pursuant to the Election are hereinafter referred to as "bond proceeds." The Committee shall confine itself specifically to bond proceeds generated under Measure C. 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 only the following duties:

3.1 Inform the Public. The Committee shall inform the public concerning the District's expenditure of bond proceeds.

3.2 Review Expenditures. The Committee shall review expenditure reports produced by the District to ensure that (a) bond proceeds were expended only for the purposes set forth in the Measure C; and (b) no bond proceeds were used for any teacher or administrative salaries or other operating expenses.

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

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(a) A statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and

(b) A summary of the Committee's proceedings and activities for the preceding year.

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

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

3.5 Voter-Approved 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) by the Board in its sole discretion and shall report to the Committee on any cost saving techniques considered or adopted by the Board.
- (e) The selection of independent audit firm(s), performance audit consultants

and such other consultants as are necessary to support the activities of the Committee.

(f) The approval of an annual budget for the Committee that is sufficient to carry out the activities set forth in Prop 39 and included herein.

Section 4. Authorized Activities

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

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

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

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

Section 5. Membership

5.1 Number.

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

- One (1) student enrolled and active in a community college support group, such as student government.
- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizens' organization.
- One (1) member active in a bona-fide taxpayers association.
- One (1) member active in a support organization for Foothill College or De Anza College, such as a foundation or advisory council.
- Two (2) members of the community at-large.

5.2 Qualification Standards.

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(a) To be a qualified person, he or she must be at least 18 years of age and reside within the boundaries of the District.

(b) 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.

By accepting appointment to the Committee, each member agrees to comply with Articles 4 (commencing with Section 1090) and 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code.

5.4 Term.

Except as otherwise provided herein, each member shall serve a term of two (2) years, commencing on the date of the first meeting of the Committee. No member may serve more than three (3) consecutive terms. At the Committee's first meeting, members will draw lots or otherwise select a minimum of two members to serve for an initial one (1) year term and the remaining members for an initial two (2) year term.

5.5 Appointment.

Members of the Committee shall be appointed by the Board through the following process:

- (a) appropriate local groups will be solicited for applications;
- (b) the Chancellor or his or her designee will review the applications; and
- (c) the Chancellor or his or her designee, following consultation with the Board President, 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 Board of Trustee 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. Vacancies shall be filled within 90 days from the initial date of each such vacancy.

5.7 Compensation.

The Committee members shall not be compensated for their services.

5.8 Authority of Members.

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- (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 may only receive copies of reports and documents which have been previously presented to the Board and which are a public record.

Section 6. Meetings of the Committee

6.1 Regular Meetings.

The Committee is required to meet at least once a year but may meet more often as the Committee shall determine, but no more frequently than quarterly.

6.2 Location.

All meetings shall be held within the boundaries of the Foothill-De Anza Community College District.

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 of the Committee.

Section 7. District Support

7.1 Assistance.

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

- (a) preparation of and posting of public notices as required by the Brown Act, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the District Board;
- (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 public access to such records on an Internet website maintained by the District.

7.2 Attendance

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

7.3 Proceeds to support the committee

No bond proceeds shall be used to provide District support to the Committee.

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. The Annual Report shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

Section 9. Officers

The Chancellor shall appoint the initial Chair to serve for an initial one (1) year term. The Committee shall elect an initial Vice-Chair. Thereafter, the Committee shall elect a Chair and a Vice-Chair who shall act as chair only when the Chair is absent

Section 10. Amendment of Bylaws

Any amendment to these Bylaws shall be approved by a majority vote of the Board.

Section 11. Termination

The Committee shall automatically terminate and disband 180 days following the date when all Measure C bond proceeds have been spent.

See Board Policy 6740 Citizens' Bond Oversight Committee

Education Code Sections 15278, 15280, and 15282

Approved by the Chancellor's Advisory Council 11/15/13
Revised 1/17/14