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Measures B, J & Y Independent Citizens' Bond Oversight Committee

Annual 2023 Progress Report and
Review of Fiscal Year 2021-22 Audit Reports

SUMMARY

This report was prepared by the Measures B, J, and Y Independent Citizens' Bond Oversight Committee (CBOC) for the Oakland Unified School District (OUSD) in accordance with California Education Code §15280(b) and OUSD Board Bylaw 9131, Section 2, Subparagraph 4. The purpose of this report is twofold: (1) provide a publicly available annual report of bond activities and expenditures; and (2) provide a review of the annual financial and performance audits of OUSD that are required by Article XIII A of the California Constitution. The first component primarily covers the time period where CBOC meetings were held from August 2022 through May 2023. Due to the timing of the audit reports, the second component is a review of the auditor's finding for the fiscal year that ended June 30, 2022 (i.e., FY 2021-22).

PURPOSE OF THE OUSD CITIZENS' BOND OVERSIGHT COMMITTEE

The OUSD CBOC is a state-mandated committee of local residents that oversees the approximately \$1.645 billion in School Facilities bonds approved by voters. According to state law (Cal. Educ. Code § 15278-15282), our job is to inform the public about the expenditure of bond revenues by reviewing and reporting on "the proper expenditure of taxpayers' money for school construction". California Law requires that "taxpayers directly participate in the oversight of bond expenditures" and "the members of the oversight committee appointed pursuant to this chapter promptly alert the public to any waste or improper expenditure of school construction bond money" Cal. Educ. Code § 15264.

In addition to the state-mandated oversight authority, in January 2021, the OUSD School Board approved additional oversight authority for the CBOC in Resolution No. 2021-0031, which is codified in Section 2 of Board Bylaw (BB) 9131. In addition to authorizing us to review the annual financial and performance audits, this resolution tasks us with "[p]reparing a publicly available annual report of bond activities and expenditures." OUSD BB § 9131(2)(4). The Board Bylaws further provide that the CBOC's authority includes "reviewing and making advisory recommendations to the OUSD Board of Directors regarding proposed alterations to project budgets, timelines, and other changes to bond program expenditures that are subject to OUSD Board of Directors approval." OUSD BB § 9131(2)(8).

BOND BACKGROUND

In June 2006, Oakland voters passed **Measure B, a \$435 million** School Facilities Improvement Bond which provided funding to the Oakland Unified School District (OUSD). Except for some remaining fire alarm projects, all Measure B funds have largely been spent prior to fiscal year 2019-2020.

In June 2012, Oakland voters passed **Measure J, a \$475 million** School Facilities Improvement Bond, for OUSD to enhance the educational environment for the students and communities of Oakland and better prepare students for college and jobs. Bond funds have been allocated to upgrade science labs, classrooms, computers, and technology; improve student safety and security; repair bathrooms, electrical systems, plumbing and sewer lines; improve energy efficiency; and make seismic upgrades.

In November 2020, Oakland voters passed **Measure Y, a \$735 million** School Facilities Improvement Bond, for OUSD to provide, among other things, classroom repair and school safety improvements, upgrading classrooms, science labs and technology; improving student safety and security; repairing bathrooms, electrical systems, plumbing and sewers; and improving energy-efficiency and earthquake safety.

BOND PROGRAM OVERSIGHT

In fiscal year 2021-2022, Tadashi Nakadegawa was the OUSD Deputy Chief of Facilities Planning and Management. Mr. Nakadegawa and his staff are the primary points of contact for this committee. In early 2023, Tadashi Nakadegawa retired. Kenya Chatman is currently fulfilling the role and responsibilities of Deputy Chief of Facilities. The permanent position of Chief is still vacant as of May 2023. Publicly noticed meetings of the CBOC are typically held on the second Monday of each month from August through June. Scheduling information and meeting agendas are available at www.ousd.org/domain/67 under the body "Measures B, J, and Y Independent Citizens' School Facilities Bond Oversight Committee."

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In the past year 2021-2022 OUSD fiscal year, they continued to be the unprecedented challenge of dealing with the impacts of the global coronavirus pandemic. OUSD Schools opened to students for the school year; however, meetings of the CBOC continued to be held virtually over zoom between August 2021 through February 2023. Meetings resumed in person beginning March 2023.

OUSD provided the 2021-2022 Financial Audit and Performance Audit Reports to this committee on March 31, 2023. Eide Bailly LLP, a third-party CPA and business advisor firm, prepared the Audits Reports, and presented them to the CBOC at our April 10, 2023 meeting, which are discussed in more detail later in this report below. In November 2021, OUSD made its first drawdown of Measure Y funds in an amount of \$185 million.

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BOND PROJECT OVERVIEW

OUSD completed one project funded by Measure Y between 2022 and 2023 – the upgrade of outdoor athletic facilities and accessible bathrooms at Castlemont High School. (Please see the CBOC's May 2021 annual report for a list of projects completed with Measure J funding that year.) Several projects discussed below were in the planning, demolition and/or construction phases in 2022-23.

The following are notable projects that remain in-progress and rely on, or will rely on, Measure J and Measure Y funds:

- **Cole Administrative Office Conversion:** OUSD is in the process of converting what used to be Cole Elementary School into district administrative office space. The project consists of a new 56,176 sf two-story Administration building. Site improvements include landscaping, fences, parking lots, and driveways on the 2.6-acre site. The construction phase began in 2021, with a timeline for completion yet to be determined. OUSD has identified \$57 million in Measure J and Y funding for this project.
- **Claremont Multi-Purpose Building:** Planning and design continue to replace the kitchen that was destroyed by a fire and build a new multi-purpose room at Claremont Middle School. Construction began in summer 2022, with a planned completion in fall 2023. OUSD has identified \$21 million in Measure Y funding for this project.
- **Laurel CDC:** The project consists of building new classrooms, administrative, foodservice, and other spaces. Site work includes new paved play and learning spaces. Construction began in summer 2023, with a planned completion of winter 2023. OUSD has identified \$17.5 million in Measure J and Y funding for this project.
- **McClymonds High School:** The project consists of modernizing various aspects of the school's facilities. Perkins-Eastman Architects completed the Project Definition phase in June 2022, this was developed by the architect through a series of community engagements with stakeholders including parents, students, staff, community partners, site leadership, and the Project Advisory Committee (PAC). OUSD

awarded contracts to design-build firms after reviewing and selecting submitted proposals. OUSD has identified \$65 million in Measure Y funding for this project. OUSD has identified \$65 million in Measure Y funding for this project.

- **Coliseum College Prep Academy (CCPA):** OUSD has initiated community engagement and is in the design and scoping process with architect Shah Kawasaki for the modernization of CCPA. OUSD has identified \$35.5 million in Measure Y funding for this project.
- **OUSD Solar Projects:** The project includes the installation of photo-voltaic panels at 17 different school sites, spread across the entire school district. Several sites will receive new roof solar array panels, while others will receive a play yard, play field or parking shade structures to house the solar panels. Construction is planned to begin in spring 2023, with planned completion in fall 2024. OUSD has identified \$1.2 million in Measure Y funding for this project.
- **Roosevelt Middle School:** Completion of the Project Programming Phase resulted in identification of the project scope which prioritizes the needs of the Main Classroom Building, the scope is aligned to the approved construction budget. The next step is to start design of the project scope with the continued participation of stakeholders including parents, students, staff, community partners, site leadership, and the Project Advisory Committee (PAC). Construction on modular units is planned to begin in summer 2023, with main building construction planned to begin in Winter 2024. OUSD has identified \$71.6 million in Measure Y funding for this project.
- **Castlemont High School:** This project includes replacement of the outdoor athletic field, track, specialty athletic sport areas, and bleachers. Existing restroom facilities will be upgraded and new single-occupancy accessible restroom facilities will be added. Construction began in summer 2022 and was completed in spring 2023. OUSD has identified \$11.1 million in Measure Y funding for this project.

Citizens' Bond Oversight Committee Observations

CBOC's responsibility is to actively review and report on the expenditure of taxpayers' money for school construction with voter-approved projects in accordance with Cal. Educ. Code § 15278. In addition, OUSD Resolution No. 2021-0031, which is codified in Section 2 of Board Bylaw (BB) 9131, requires Staff to present to this committee for review and advice any substantial changes to project scope, budget or timeline that are subject to Board of Education approval.

Over the past year, the committee held virtual public meetings on our regular monthly schedule and reviewed program expenditures and other facility reports pertinent to expenditures of bond revenues. While the committee typically includes project site visits as part of our regular work, site visits were suspended due to the global pandemic.

[The current CBOC OUSD Board Member liaison to CBOC is Director Sam Davis. In fiscal year 2021-2022 Director Clifford Thomas was the OUSD Board liaison to this committee.](#)

2022-2023 CBOC MEMBERS (current)

- | | | |
|---|-------------------|-----------------|
| ● Andrea Dawson, <i>Chairperson</i> | ● Andrew Nelsen | ● Andrew Butler |
| ● Travis Ritchie, <i>Vice Chairperson</i> | ● Victor Valerio | ● <i>Vacant</i> |
| ● Sarah Price, <i>Secretary</i> | ● Elsie Eskandari | ● <i>Vacant</i> |

2021-2022 CBOC Membership

<u>Salem Shakir-Gilmore, Chairperson</u>	<u>Renee Swayne</u>	<u>Victor Valerio</u>
<u>Andrew Nelsen, Vice Chair</u>	<u>Andrew Spearman</u>	<u>Mike Beebe</u>
<u>Travis Ritchie, Secretary</u>	<u>Sarah Price</u>	

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OBSERVATIONS AND CONCERNS

We appreciate the efforts of OUSD Facilities Staff and Board Office Staff to manage CBOC meetings and present information to our committee each month. Facilities Staff members are at most times responsive to our concerns and strive to provide the information that our committee requests in a format that is most helpful to us.

The CBOC notes the following specific observations related to bond expenditures:

- **Improvements to Clarity of Financial Records Presented to CBOC:** This committee has previously made suggestions to the District related to creating financial records that are more useful in tracking the spending on bond-funded projects. District staff has responded to those requests by updating the layout and fields of the financial reports provided to this committee and by making District staff available to answer related questions. Secretary Price met with Facilities Planning and Management staff to discuss possible revisions to the format of the Measures B, J and Y Budgets to Actual Expenditures and Cash Flow Projections report. On multiple occasions, Michael Ezeh, Accounting Manager, Facilities Planning and Management, gave reports on the Measures B, J and Y Budgets to Actual Expenditures and Cash Flow Projections and responded to comments and questions from CBOC at our regular meetings.
- **Improvements to Documentation of Decision Making:** While we remain concerned about the implementation and documentation of formal processes outlined in the Procedures Manual for decision-making related to the on-going planning and prioritization of bond projects, we recognize the District's creation and use of Equity Scorecards to aid in the decision-making related to bond funds.
- **CBOC Inclusion in Process for Substantial Changes:** We have seen improvements in Staff's communication to the CBOC about important budget changes that affect use of bond program funds. On multiple occasions during this budget year, Staff has joined regular meetings of this committee to provide updates on individual projects, including the projects' current activities, important dates design and construction milestones, and the amount of bond funding dedicated to the project. These presentations were accompanied by Fact Sheets prepared for each project. Additionally, at our regular meeting on April 10, 2023, Kenya Chapman, Executive Director of Facilities, Planning & Management, made a presentation to CBOC regarding scope reductions for projects due to significant increases in costs of construction. This presentation allowed for CBOC questions and input, and was provided prior to the Facilities Committee's decision on specific scope reductions.

Using Measure J Bond money for lease payments at 1000 Broadway: We have noted this concern in years 2019, 2020, 2021, and 2022. The CBOC continues to be concerned that lease payments may be an inappropriate use of bond funds, a concern we have raised in previous years. In response, Staff noted, and the Bond Auditor confirmed, that the State Trustee and Bond Counsel reviewed this issue and determined that "the [Measure J] language provides ample coverage for paying the lease of the 1000 Broadway site pending the construction of a new administration building..." (22-0881, Memo on Bond Performance Audit, May 3, 2022 at p.9.). Nevertheless, the lease payments occurred over several years without OUSD identifying a new

administration building project, so the relationship of these costs to a specific project were not in evidence. In February of 2023 the OUSD Board voted to direct staff to not renew the lease at 1000 Broadway and to make accommodations for administrative staff to be moved to/placed at underutilized school sites.

Annual Financial and Performance Audit Review and Findings

CBOC's primary duty is to provide a written statement on compliance for the public on both our review of the bond program expenditures and activities and the independent auditor's Financial and Performance Audit to ensure that Measure B, J and Y bond funds are spent in accordance with the bond language.

Each fiscal year a financial and performance audit of Measures B, J, and Y expenditures is required to be conducted. Eide Bailey LLP was contracted to conduct the performance and financial audit of Measures B, J and Y for the year ending June 30, 2022. This committee received the Audit Reports on March 31, 2023 and received a presentation of the findings from Eide Bailey LLP during our regular meeting on April 10, 2023,

The Audit Reports are available for review on the District website (www.ousd.org/domain/67) by searching for file number 22-0881.

The following are a summary of specific findings from the Audit Reports:

- **District Improvement** - The Audit Reports noted that OUSD has improved the reports presented to the CBOC in more comprehensive format. The District has provided meaningful reports, including the project status, timeline, budget, and expenditures.
- **Interim Updates of Spending Plan** – The Audit Reports noted that the risk of inefficient use of bond funds, as well as confusion regarding inconsistencies between budgets and spending plans, may be mitigated by adopting a policy of allowing interim updates to the annual spending plan.
- **Payment Procedures** - The Audit Reports noted improvements related to payment processing time, which was a noted issue in the prior year's Audit Reports. The District's payment procedures were consistently applied throughout the fiscal year with minor administrative errors.
- **Change Order Procedures** - The Audit Reports continued to note several deficiencies related to change orders. The policies and procedures that relate to change order are not applied consistently. Additionally, the Audit Reports noted a deficiency in the documentation related to change orders, notably the lack of documentation related to the internal cost estimator review – a step in the District's change order diligence procedures. The Audit Reports suggests updating documentation of change orders and amendments to demonstrate the due-diligence procedures the District performs. The Audit Reports notes progress in the District providing change order information to this committee, partially by updating the project fact sheet to include the project scope, costs, schedule, funding, relevant change orders and cumulative budget changes.
- **Bidding and Procurement Procedures** - The Audit Reports noted a lack of documentation reflecting bidding and procurement procedures in practice. The Auditors suggest updating the policies and procedures to ensure the maintenance of bid and procurement documentation readily available in a central location, either physically or electronically. The Auditors also suggest designating an individual responsible for administrative reviewing the completeness of the contract documentation including the awarded board memo.
- **Procurement of Materials** – As noted in the 2021 Annual Report, the District's standardized items list

for Bond Program materials procurement is not current and is potentially not complete. The auditors recommend that the District update its list of materials more frequently and include a process for future updates in the procedures manual.

- **Conflict of Interest Forms** - The District resolved the prior year's observations related to Conflict of Interest. The District provided the California Form 700, Statement of Economic Interest, filed by the Deputy Chief and the Executive Director of Facilities Planning and Management. As for consultants, the Bond Program supplemented the District-wide policy by providing an alternative conflict of interest form to be completed by all employees who work within that department.
- **Procedures Manual - The District is making progress on implementing the prior year's bond performance audit report's recommendations related to policies and procedures.** Policies and procedures were updated, centrally located, defined roles and responsibilities, and readily available on the District's website; however, some procedures are inconsistent and incomplete. The Auditors suggest that the District should continuously update and review the procedures manual to ensure the District policy and procedures reflect current requirements under State laws and regulations.

CBOC COMPLIANCE STATEMENT

In accordance with Cal. Educ. Code § 15278 (b), the CBOC is tasked with advising the Board of Education and the public on OUSD's compliance with the California Constitution's requirements related to the expenditure of bond funds. Although we have noted above some observations and concerns with the expenditure of bond funds, these concerns do not at this time rise to a level that constitutes improper use of bond funds. We therefore **find that OUSD is in compliance** with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution.