



New Central Kitchen @ Old Foster Site

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

Annual Report for Fiscal Year 2017-2018 *and Progress Report*

Executive Summary

PURPOSE OF THE OAKLAND USD CITIZENS' BOND OVERSIGHT COMMITTEE (CBOC)

A Citizens' Bond Oversight Committee is convened as a result of the Districts using Proposition 39 (55% voter approval threshold) for passage of the General Obligation Bond Measures A, B and J. This legislation is referred to as "The Strict Accountability in Local School Construction Bonds Act of 2000". It states 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." Ed Code §15278 through Ed Code §15282 regulates the process of appointing "an independent oversight committee" and expresses the oversight role of the committee.

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) for educational facilities such as science labs, computer labs, and art and music rooms. The Bond also provided funding for construction, renovation and repair of classrooms, multi-purpose rooms, playgrounds, gymnasiums, pre-school/early childhood development centers and student health centers.

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 will be used 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.

BOND PROGRAM ADMINISTRATION WORK

Joe Dominguez was OUSD Facilities Chief from June 2016 to January 2018, at which time the District terminated his contract. Tim White left the District in March of 2015. He had been facilities Chief for over 10 years. During the period from March 2015 to June 2016 outside consultant Lance Jackson was interim chief, recommended by then Superintendent Antwan Wilson.

Tim White returned as OUSD Chief Deputy Superintendent of Facilities in March 2018. Tim White immediately took on the task of reprioritizing projects to realign them with the original 2012 Bond Measure J project list. A revised modernization and new construction spending plan was Board approved in August 2018 (*plan is attached*). This action was necessary as the previous superintendent, Antwan Wilson, with the school board's approval identified \$160 million of new projects and added them to the existing project list with no identified resources for funding. Some of the projects that were originally listed to be completed under Measures J and B now will need to be funded by a future bond Measure.

In December 2018, OUSD's Request for Proposal (RFP) for Bond Program Auditor resulted in retaining Moss Adams LLP. The previous Chief Business Officer Marcus Battle facilitated the process. In January of 2019 Moss Adams LLP was recommended by the RFQ selection team. Moss Adams three year contract was Board approved in late January 2019 and an amendment for additional services was Board approved in May 2019.

Marcus Battle's contract as OUSD Chief Business was terminated by District leadership in March 2019.

Moss Adams LLP performed the fiscal year 2017/18 Bond Performance Audit discussed on page 4 of this report. The District is also required to do an annual Bond Financial Audit Report. As of the date of this report, OUSD has not completed the Bond Financial Report for 2017/18. At the August 12, 2019 joint meeting of the CBOC and Board Facilities Committee the OUSD State Trustee, Christopher Learned recommended that this audit could be accomplished by Vavrinek, Day and Trine LLP they already have a yearly contract with OUSD to provide the general fund audit. No date for completion of the fiscal year 2017/18 Bond Financial Audit has been confirmed by OUSD.

Also in January 2019 the District selected a new Bond Financial Advisor. ISOM Advisors was selected and board approved. Their role is to advise the District on bond program financing and to manage the sale of the local Bonds that fund the capital program construction projects. ISOM Advisors facilitated the sale of the last series of \$175,000 million in general obligation bonds. The bonds were sold at competitive borrowing rates, with the sale closing on August 13, 2019.

(BOND PROGRAM ADMINISTRATION WORK CONTINUED)

Under Tim White and Tadashi Nakadegawas leadership, major projects have moved forward in the last year fiscal, June 2018 through 2019:

- New Central Commissary Kitchen (cover photo). The project is scheduled to complete in October 2019. It will provide a new district nutrition program providing Oakland school children with healthier and fresher meals.
- Madison Upper Campus Addition: The project is scheduled for completion in December 2019. The expanded facility will provide a K-12 pathway for students in the Sobrante Park neighborhood.
- New Glenview K-5 Elementary School: The building is scheduled for completion December 2019, with other campus improvements to complete in May 2020.
- Fremont High School: Phase I completed in August 2018 and Phase 2 completed in August 2018. Phases 3 and 4 are scheduled for completion in June 2020. The project consists of new campus entry, new two-story classroom wing to replace portables, and renovation of the main classroom wing, new gym, sports field and stadium.
- New artificial turf fields at Claremont, Westlake, Frick and Bret Harte Middle Schools, giving kids more recreation opportunities.

Citizens Bond Oversight Committee Work

CBOC's responsibility is to actively review and report on the expenditure of taxpayers' money for school construction in accordance with voter-approved projects in accordance with Cal. Educ. Code § 15278. As required by Education Code §15278, the District appointed a Committee of local residents comprised of 9 appointees, including a Chairperson, Vice Chairperson and Secretary.

The committee met monthly and reviewed program expenditures and other facility reports pertinent to expenditures of bond revenues. Other activities included visiting project sites to observe construction progress, getting updates from prior years, and monitoring on-going developments to capital improvements related to the bond program. Site that were visited include:

In the fiscal year 2017/18 the CBOC continued to keep an attentive watch on the ongoing progress of Measure J and B bond-funded projects. This annual report summarizes and highlights the work of the independent CBOC and our review of the expenditures in the Measure B and Measure J School Facilities Improvement Bond for the fiscal year 2017-2018.

2017-18 CBOC MEMBERS:

Andrea Dawson, Chair
Chan U Lee*, Vice Chair
Saleem Shakir Gilmore, Secretary

Joyce Nilo
Renee Swayne
Brendan Havenar-Daughton**

Daniel Chesmore
Victor Valerio
Andrew Nelsen

* Resigned in April 2019; ** Resigned in May 2019

CBOC OBSERVATIONS and CONCERNS

- Lack of formal Board policy related to the Chief Facilities Officer controlling process of management and project allocation decisions for the bond program.
- Lack of transparent and formal process for decision-making related to scoping and funding of projects named in the original bond language.
- Lack of formal process to communicate to CBOC about important changes that affect use of bond program funds.
- Possible misuse of accrued interest from General Obligation taxpayer bonds including from Measure A.
- Districts continued use of Bond funds to pay rent for administration offices at 1000 Broadway. In June 2019 the District Board approved a modernization plan of Cole Elementary School for use as administration headquarters put forth by Facilities Chief Tim White. Approximately \$10million of Measure J bond money has been earmarked for lease payments at 1000 Broadway in years 2019, 2020, and 2021 until the Cole project renovation. Funds from a future bond measure will be required to complete the new Cole Administration Building Project.
- The District used \$2.063 million in 2017/18 of Measure J funds on the "Blue Print for Quality Schools Plan". CBOC has questioned what portion of this Plan updates the district facilitates master plan -the physical buildings conditions and therefore would be considered an allowable expenditure of Bond measure funds.

Audit Review and Findings

ANNUAL EXPENDITURE REVIEW

CBOC's primary duty is provide a written statement on compliance based on our review of the program expenditures and activities and the independent auditors Financial and Performance Audit to ensure that the Measure B and J funds are spent in accordance with the Bond language.

CBOC received the official outside Auditors Measures B & J Annual Performance Report for Measures B & J on March 29, 2019 in accordance with Education Code §15286, receiving the report at the same time it was submitted to the District (no later than March 31 of each year).

The expenditure summary document provided at the end of this report reflects the project expenditures for the Fiscal Year ended June 30, 2018 as presented by the District. The report is organized to reflect the life of each project commencing with the Pre-Design Phase and concluding with the Completed Phase. The cumulative expenditures reported by the District for the Measure B and J bond program totaled \$ 626,620,377 million through June 30, 2018. This report has not been audited because the District has not performed the required annual financial audit.

FINANCIAL and PERFORMANCE AUDIT

Each fiscal year a financial and performance audit of Measures B and J expenditures is required to be conducted. Moss Adams LLP was contracted to conduct the performance audit on of Measures B and J year ending June 30, 2018. The Performance Audit evaluates the District's compliance to ensuring all proceeds were spent on bond-approved projects. The yearly Bond Financial Audit was not contracted for by the District for the fiscal year 2017/18. *The 2017/18 Financial Audit was completed in March 2020 and presented to CBOC and CBOC voted to accept the report at our May 12, 2020 meeting.*

Identified findings from the MOSS ADAMS LLP Bond Performance Audit Report included:

(Link to report: Moss Adams LLP 2017/2018 Measures "B & J" Performance Audit Report)

- Ballot language addresses projects at the District and school site levels; however it is unclear if some expenditures are allowable per Bond language:
 - \$3,472,831 rent for 1000 Broadway for housing administration offices. Previous legal counsel in October of 2014 supported the expenditure and on February 26, 2018 the State Trustee appointed to oversee the District concluded "District has authority to use Measure J funds for lease payments of 1000 Broadway".
 - Using Measures' J and/or B funds for Community Outreach
 - Using Measures' J and/or B funds for Non-Site-Specific Equipment for Use in Facilities
 - The District could not provide adequate documentation to support staff charge allocations to the Bond Program.

Moss Adams also identified good management practices as described:

- OUSD has a master schedule that visually represents each phase of projects in the form of a timeline
- The budget presented to CBOC on June 11, 2018 agreed with the budget that was approved by the Board on June 28, 2018.
- The District reported historical expenditures date for the projects and clearly separated Measure J and B expenditures.
- The District used other revenue sources to maximize the impact of Measure J and B funds.

CBOC STATEMENT Regarding COMPLIANCE

The 2017/2018 CBOC Statement of Compliance opinion on the Measure J and B Bond program is submitted to OUSD Board of Education in accordance with Education Code § 15278 (b). The committee advises that, based on available information provided by the District and the Moss Adams fiscal year 2017/2018 Performance Audit that was submitted to the District and CBOC on March 29, 2019 and further due to the District not providing the annual GO Bond Financial Report, CBOC does not find the District is in compliance with the requirements of Article XXIIA, Section 1(b)(3) of the California Constitution.