

**MERCED COMMUNITY COLLEGE DISTRICT
INDEPENDENT CITIZENS' BOND OVERSIGHT COMMITTEE
AMENDED AND RESTATED BYLAWS
(Bond Measures H and J)**

Section 1. Committee Established. The Merced Community College District (the "District") was successful at the election held on November 5, 2002 (the "Election"), in obtaining authorization from the District's voters to issue up to \$53,500,000 for the Merced Campus (Measure H) and up to \$11,930,000 for the Los Banos (Measure J) aggregate principal amount of the District's general obligation bonds. The election was conducted under Proposition 39, 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 15282 of the Education Code, the District established an Independent Citizens' Bond Oversight Committee (the "Committee") in order to satisfy the accountability requirements of Prop 39 for Measures H and J. The Board of Trustees of the Merced Community College District (the "Board") established the Committee on June 17, 2003, with the intent the Committee shall have the duties and rights set forth in these Bylaws. The Committee does not have independent legal capacity for the District.

Section 2. Purposes. 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 Measures H and J. Regular and scheduled 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 the duties set forth in Sections 3.1, 3.2 and 3.3 and shall refrain from those activities set forth in Sections 3.4 and 3.5:

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 majority 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 the Measures H and J; 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:

- (i) 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

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

3.4 Duties of the Board/Superintendent/President. Either the Board or the Superintendent/President, 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) Appropriation of construction funds.
- (iv) Handling of all legal matters.
- (v) Approval of construction plans and schedules.
- (vi) Approval of all scheduled maintenance plans, and
- (vii) Approval of the sale of bonds.

3.5 Measures H and 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:

- (i) 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. All of these projects shall be outside the authority of the Committee.
- (ii) The establishment of priorities and order of construction for the bond projects. These priorities shall be made by the Superintendent/President in his or her sole discretion.
- (iii) 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. Selection will be established by the Board in its sole discretion.
- (iv) The approval of the design for each project, including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent). Approval shall be made by the Board in its sole discretion and shall report to the Committee on any cost saving techniques considered or adopted by the Board.
- (v) The selection of independent audit firm(s), performance audit consultants and such other consultants as are necessary to support the activities of the Committee.
- (vi) 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.
- (vii) The appointment or reappointment of qualified applicants to serve on the Committee.

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:

(i) Receive and review copies of the District's annual independent performance audit and annual independent financial audit, required by Prop 39 (Article XIII A of the California Constitution). The annual independent financial and performance audit reports for the preceding year must be provided to the Committee by March 31st of each year per Education Code Section 15286.

(ii) 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 Superintendent/President.

(iii) Review copies of scheduled maintenance proposals or plans developed by the District.

(iv) 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 currently enrolled and active in a community college group, such as student government. A student member may, at the sole discretion of the Board, serve up to six months after his or her graduation.
- 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' organization.
- One (1) member active in a support organization for the District, such as a foundation or advisory council.
- Two (2) members of the community at-large.

5.2 Qualification Standards.

(i) To be a qualified person, he or she must be at least 18 years of age.

(ii) 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 the ethics provisions contained in Government Code sections 1090- 1099 and 1125-1129. Additionally, each member shall comply with the Committee Ethics Policy attached as Attachment A to the Bylaws.

5.4 Term. Except as otherwise provided herein, each member shall serve a minimum term of two (2) years, commencing as of the later of the date of appointment by the Board or the date at which the Amended and Restated Bylaws are approved by the Board. No member may serve more than three (3) consecutive terms. At the Committee's first meeting, members may draw lots to 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. Members whose term has expired may continue to serve on the Committee until a successor has been appointed.

5.5 Appointment. Members of the Committee shall be appointed by the Board through the following process: (a) the District shall advertise for members in accordance with its customary practices, including through local newspapers and the District website; (b) appropriate local groups will be solicited for applications; (c) the Vice President of Administrative Services will review the applications; and (d) the Vice President of Administrative Services will make recommendations to the Board.

5.6 Removal; Vacancy. The Board may remove any Committee member for 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. The District shall seek to fill vacancies within 90 days.

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 and its members shall have the right to request and receive only copies of reports and records relating to Measures H and J projects which have been prepared for the Board and which have become a public record.

Section 6. Meetings of the Committee.

6.1 Regular Meetings. The Committee is required to meet at least once a year including an annual organizational meeting, but may not meet more frequently than quarterly.

6.2 Location. All meetings shall be held within the jurisdiction of the Merced 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.

6.4 Special Meetings.

- (a) Meeting may be called by the Chairperson of the Committee or by four (4) members of the Committee or by the Superintendent/President when approved by the Chairperson of the Committee.

- (b) Notice of such meeting, including time and place and business to be transacted, shall be delivered to each Committee member requesting a notice in writing, personally, mail or email, and shall be received twenty-four (24) hours before the time of such meeting.
- (c) Waivers may be signed by all Committee members in lieu of such notice.
- (d) No business may be transacted in such meetings other than that specified in the notice.

Section 7. District Support.

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

- (i) 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;
- (ii) provision of a meeting room, including any necessary audio/visual equipment;
- (iii) preparation and copies of any documentary meeting materials, such as agendas and reports; and
- (iv) retention of all Committee records, and providing public access to such records on an Internet website maintained by the District.

7.2 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 No bond proceeds of Measures H and J may be made to provide District support of the Committee.

Section 8. Reports. In addition to the Annual Report required in Section 3.3, the Committee may report to the Board from time to time in order to advise the Board on the activities of the Committee. Such report shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

Section 9. Officers. The Board, upon the recommendation of the Superintendent/President shall appoint the initial Chair of the Committee to serve for one year as Chair. Thereafter, the Committee shall elect the Chair and a Vice-Chair who shall act as Chair only when the Chair is absent. No person shall serve as Chair for more than three consecutive years.

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 concurrently with the Committee's submission of its final Annual Report which reflects the final accounting of the expenditure of all the proceeds of Bond Measures H and J.

**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 a personal finance or benefit 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. For a period of two (2) years after leaving the Committee, a former 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. Specifically, for a period of two (2) years after leaving the Committee, a former 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 Merced Community College District;
- **COMMITMENT TO DISTRICT.** A Committee member shall place the interests of the District above any personal or business interest of the member.