

**SANTA ANA UNIFIED SCHOOL DISTRICT
INDEPENDENT CITIZENS BOND
OVERSIGHT COMMITTEE**



Annual Report

July 1, 2003 – June 30, 2004

We, the members of the Santa Ana Unified School District Independent Citizens Measure C Citizens Bond Oversight Committee (the Committee), submit this report to the Board of Trustees (the School Board) of the Santa Ana Unified School District (SAUSD, the District). As instructed by our by-laws, this report states whether or not the District is in compliance with Article XIII A Section 1(b)(3) of the California State Constitution and reviews the activities of the Committee during the past twelve months. The School Board has instructed us to operate according to the Strict Accountability in Local School Construction Bond Act of 2000, also known as Proposition 39, requiring that the School Board form an independent citizens oversight committee, and that this committee report to the public on the proper expenditure of bond funds at least once annually.

The Committee wishes to thank those members of the District staff and the School Board who have so diligently worked with us to set up the review processes to ensure that vigorous and independent oversight will endure throughout the lifetime of the Measure C construction program. We appreciate this opportunity to serve the children, parents, residents, voters and taxpayers of the District.

The Committee looks forward to continuing its efforts to ensure bond funds are spent wisely and keep the community informed. Thank you for your continued support.

Respectfully submitted,

Michael Metzler, Chair
Santa Ana Unified School District 2003-2004
Measure C Independent Citizens Bond Oversight Committee

Statement of Compliance

The Santa Ana Unified School District Independent Citizens Bond Oversight Committee submits this Annual Report to the Board of Trustees in conformance with the standards of the Strict Accountability in Local School Construction Bond Act of 2000, also known as Proposition 39.¹

Based on the information provided by the District for the reporting period of July 1, 2003 through June 30, 2004, the Committee finds that the Santa Ana Unified School District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution.

*During this fiscal year, no funds were used for any teacher or administrative salaries or other operating expenses prohibited by Article XIII A, Section 1(b)(3)(a) of the California Constitution. Proceeds from the sale of bond funds in this reporting period were used only for the permitted purposes of construction, rehabilitation, and replacement of school facilities. We note also that bond revenue was spent only as specified in the voters' ballot and board resolution of Measure C.

*During this fiscal year, bond revenue has been expended only on new construction and modernization of projects listed in the School Board bond resolution ² and the SAUSD website ³.

*Independent performance and financial audits will be conducted for the reporting period.

Respectfully Submitted,

Michael Metzler, Chairperson
Santa Ana Unified School District
Independent Citizens' Bond Oversight Committee

¹California Education Code Sections 15264 et seq.

² SAUSD Resolution No. 98/99-2230

³ www.sausd.k12.ca.us

I. Executive Summary

In a special election on November 2, 1999, the Santa Ana Unified School District succeeded in obtaining authorization from the District's voters to issue \$145,150,000 in general bonds (the "Bond Measure" or "Measure C"). Proceeds from the sale of the bond were intended to relieve severe overcrowding, improve safety for children, repair and renovate school facilities; obtain eligibility for State funding for construction and renovation, including replacing portables with permanent classrooms; and to establish a citizens' oversight committee.

On May 27, 2003, the School Board voluntarily reorganized the Measure C Independent Citizens' Bond Oversight Committee in accordance with strict accountability requirements of Proposition 39 and Article XIII A Section 1(b)(3). New bylaws tasked this Committee with publication of an Annual Report to advise the public on: 1) whether or not the bond program is in compliance with the accountability requirements of Article XIII A Section 1(b)(3); 2) the activities of the Committee during the year under report. ⁴

Under our new bylaws, the Committee's responsibility is straightforward. We are charged with reviewing the use of Measure C proceeds and informing the public about the proper use of their tax dollars. In this annual report, we must determine whether the Bond Program has been conducted in accord with Article XIII A Section 1(b)(3) of the State Constitution during this particular twelve (12) month period and report on our activities of the past year. ⁵

⁴ The Measure C bond program is not legally required to comply with many of the strict accountability requirements imposed on later bond measures by Proposition 39 and Title XIII A Section 1(b)(3) of the California State Constitution. The special election was conducted before the passage of Proposition 39, also known as the Strict Accountability in Local School Construction Bond Act of 2000, which enabled just 55% of the voters to pass such a bond as long as certain strict accountability requirements were met. The district voters approved the Measure C Bond with a 2/3 vote as opposed to just 55% vote permitted under Proposition 39, with 3,406 no votes, and 8,207 yes votes out of 11,744 cast, including 6,598 absentee votes.

⁵ It is beyond the scope of this first Annual Report to discuss the difficult beginnings of the Measure C bond program from 1999 through June 30, 2003. The Committee is well aware of the importance of accurately reporting on those developments and of our fiduciary responsibility to state our findings and opinions to the taxpayer and voter on the status of the bond program before July 1, 2003. The Committee has conducted an extensive review of the reported problems and questionable policies and actions within the District for the period November 1999 through June 30, 2003, and will issue supplemental reports on our findings, opinions, and recommendations. We believe this is essential to restore the credibility of the Bond program.

It is the consensus of the Committee that the Measure C bond program must be held not only to the provisions of Article XIII A Section 1(b)(3) but also to the promises of the language of the bond resolution of June 1999 and ballot language of the special election of November 1999.

At times, we found it inappropriate to retroactively hold the District strictly accountable for complying with the stringent accountability provisions of Article XIII A Section 1(b)(3). In those circumstances, we used our common sense and sound judgment to apply the standard of substantial compliance with the spirit and purpose of the requirements.

After reviewing basic information updates on all construction and modernization projects currently underway or completed, the accountability requirements of Article XIII A, Section 1(b)(3), and the original ballot and resolution language, we uncovered no instances where bond proceeds were spent on purposes not authorized by the bond resolution, ballot language, or Article XIII A Section 1(b)(3) for the period July 1, 2003 through June 30, 2004, except where noted in Section XI of this report.

We note with approval that during the reporting period July 1, 2003 through June 30, 2004, District staff greatly improved the process of securing and presenting timely, useful, accurate, and understandable data on bond program expenditures and aggressively and successfully sought and acquired State-matching funds for Measure C construction projects as required by the Bond language.

This first annual report reviews the 2003-2004 activities and findings of the Measure C Independent Citizens' Bond Oversight Committee and is organized into the following topics:

- **Executive Summary**
- **Measure C Ballot Proposition**
- **Original Intent of Measure C Bond**
- **Article XIII A Section 1 (b) (3) and Proposition 39**
- **Responsibilities**
- **Membership**
- **Meeting Dates**
- **Activities**
- **Statement of Compliance**
- **Findings**
- **Exceptions**
- **Recommendations**
- **Attachments**
 - Committee Minutes and Selected Correspondence
 - Master Plan Report (CPM)
 - Status Report on Construction (SAUSD Facilities Department)

II. Original Intent of Measure C Bond

Five years ago, SAUSD went to the voters to raise money to construct two (2) high schools for just under \$100 million, eleven (11) elementary schools for \$121 million, renovation and expansion works at twenty (20) schools and additional improvements at all schools for \$86 million. SAUSD citizens voted to pay for these projects through the approval of the Measure C school construction bond. According to the ballot language, SAUSD would maximize the impact of the proceeds of the Measure C bond to build and modernize these schools by seeking state matching funds. A citizens oversight committee would guarantee funds were spent only for specified purposes.

III. Measure C Resolution and Ballot Proposition

The first Bond Oversight Committee was established under the requirements of the School Construction Bond program known as Measure C. The following is the full ballot proposition presented to the voters by the Santa Ana Unified School District on their ballots in the special election on November 2, 1999.

"To relieve severe overcrowding, improve safety for children, repair and renovate school facilities, and obtain eligibility for State funding for construction and renovation, including replacing portables with permanent classrooms, shall the Santa Ana Unified School District be authorized to issue \$145,150,000 of bonds at interest rates within the legal limit, to acquire, construct, and improve school sites and facilities, and establish a citizens' oversight committee to guarantee funds are spent only for the specified purposes?"⁶

⁶ The following **ARGUMENT IN FAVOR OF MEASURE C** by bond proponents in favor of Measure C were published by the Orange County Registrar of Voters in the materials accompanying the ballot proposition:

ARGUMENT IN FAVOR OF MEASURE C

MEASURE C MAKES URGENTLY NEEDED REPAIRS AT EVERY NEIGHBORHOOD SCHOOL WITH STRICT TAXPAYER SAFEGUARDS. Our schools are deteriorating, run down and in desperate need of repair. Many schools are 30 or 40 years old. Roofs leak, Sewage pipes have burst. Electrical Systems, heating and plumbing need replacement. Wood is rotting. Foundations and floors are cracked. Tiles are falling.

MEASURE C REPAIRS OUTDATED FIRE AND SAFETY EQUIPMENT PROVIDES SCHOOLS WITH EARTHQUAKE RETROFITTING. Measure C will replace outdated:

- Fire/security alarms, smoke detectors, and emergency lighting.
- Intercoms for better emergency communication.
- Fire doors and sprinklers.

BY LAW, NO MONEY CAN BE SPENT ON ADMINISTRATORS' SALARIES. MONEY CAN ONLY BE SPENT ON SCHOOL BUILDINGS AND CLASSROOMS.

- An Independent Citizens Oversight Committee will oversee all expenditures.
- An Annual Audit will be conducted and the results published in the Orange County Register and posted on the Internet.

Strict Taxpayer Safeguards guarantee Measure C money will be spent efficiently and without waste.

MEASURE C ADDRESSES THE MOST URGENT AND BASIC REPAIRS THAT WILL MAKE CLASSROOMS CLEAN AND SAFE FOR LEARNING. MEASURE C WILL:

- Replace deteriorated wiring/electrical systems and rewire classrooms for technology.
- Help continue class size reduction to alleviate overcrowding.
- Repair restrooms.
- Build new classrooms to replace termite infested portable classrooms.
- Add libraries to schools without libraries.

Unlike later Bond measures that were legally subject to higher levels of scrutiny, in 1999 the District was not required to post a certified list of specific construction and modernization projects to be funded by the bond, and did not do so. However, the Bond resolution unanimously passed by the Board of Education to hold the special election and subsequent bond campaign materials identified the following specific list of projects for which bond money would be used:

Spending Plan: It is the intent of the Board of Education that the following projects be completed with these funds: two (2) new high schools, eleven (11) new elementary schools; expansion of Santa Ana Valley High; expansion of Carr Intermediate; modernization of: Adams Elementary; Fremont Elementary; Hoover Elementary; Jackson Elementary; Jefferson Elementary; Lincoln Elementary; Lowell Elementary; Madison Elementary; Monroe Elementary; Remington Elementary; Roosevelt Elementary; Taft Elementary; Carr Intermediate; Lathrop Intermediate; McFadden Intermediate; Saddleback High; Valley High; and additional improvements at all schools. (Resolution No. 98/99-2230, Section 10)

The Board did not certify that evaluation of safety, class size reduction, and information technology needs were taken into account in developing that list.

IV. Reorganization of Bond Program and Committee

As of March 2003, none of the new schools had been built, and the bond program had come under considerable public criticism. To restore public confidence in the program, a newly constituted School Board reorganized the Bond Oversight Committee, relying on Article XIII A Section 1 (b) (3) and Proposition 39 as the model. These laws provide the scope and standard of review for this Annual Report.

1. Proposition XIII A Section 1 (b) (3) and the original bond language require that proceeds from the sale of bond funds in this reporting period be used only for construction, rehabilitation, or replacement of school facilities. Unlike Article XIII A Section 1 (b) (3), the original bond ballot language does not permit furnishings, equipping of school facilities or the lease of real property for school facilities.
2. Proposition XIII A Section 1 (b) (3) requires that a list of the specific school facilities projects to be funded using Measure C funds be published, generally in the bond ballot language, along with certification by the School Board that evaluation of safety, class size reduction, and information technology needs have been taken into account in developing that list.

3. Proposition XIII A Section 1 (b) (3) requires the District to conduct:

- a) An annual, independent performance audit to ensure that funds have been expended only on the specific projects listed.
- b) An annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

According to our bylaws, the Committee must oversee the Bond program's compliance with these accountability requirements.

V. Committee Responsibilities

Under our new bylaws, the mission of the Committee is focused on overseeing the expenditures of taxpayer money for the construction, repair and modernization of schools by the District and to communicate its findings and recommendations to the School Board and the public so that Measure C bond funds are invested as the voters intended and projects are completed prudently and efficiently. The Committee oversees both internal and external controls and provides feedback to the School Board and public by highlighting successes, shortcomings and identifying areas for improvement. We monitor if our recommendations are acted on so the controls are constantly improved and updated.

VI. Committee Membership

Under our new bylaws, the Committee is composed entirely of district residents, including those with experience in business, government, finance, law, and education, as well as parents of school children, and members of parent-teacher organizations and a taxpayer association.

Name	Representative Group	Term
Michael Metzler, Chair	Business Community	Three Year Term 6/1/03 – 5/31/06
Oscar Garza, Vice Chair	Taxpayers Organization	Three Year Term 6/1/03 – 5/31/06
Joseph J. Gerda, Clerk	General Member	Three Year Term 6/1/03 – 5/31/06
Ellen M. Koldewey, Member	General Member	Three Year Term 6/1/03 – 5/31/06
Alfredo Amezcua, Member	General Member	Two Year Term 6/1/03 – 5/31/05

Manuel Esqueda, Member	Senior Citizens Organization	Two Year Term 6/1/03 – 5/31/05
Roland Lujan, Member	Parent of SAUSD Student	Three Year Term 6/1/03 – 5/31/06
Robert Muñoz, Member	General Member	Two Year Term 6/1/03 – 5/31/05
Irma Macias, Member	Parent of SAUSD Student & Active PTO Member	Three Year Term 6/1/03 – 5/31/06

VII. Meeting Dates

Committee bylaws require only that regular meetings be held quarterly. The committee met their requirement of meeting quarterly and included eight (8) special meetings. The Committee decided it was necessary to meet monthly to keep abreast of all the construction projects in progress.

The Committee met on June 19, 2003; July 17, 2003; August 21, 2003; September 18, 2003; October 16, 2003; November 20, 2003; January 15, 2004; February 19, 2004; March 18, 2004; April 22, 2004; May 20, 2004 and June 24, 2004. At its March meeting, the Committee held a public hearing to invite public input into the Annual Report and Committee proceedings.

VIII. Committee Activities

During the past year, the Committee focused on improving the procedures followed to obtain data from the District concerning project progress, budget information, and work quality. The data gathering systems are now in place to provide the committee with the essential reports needed to make it possible to conduct oversight of expenditures, and the status of the construction program.

Oversight of Budget and Expenditures

The Committee

1. Received regular monthly budget and expenditure reports and financial statements from the Financial Program Consultant, Capital Program Management (CPM). CPM presented the Bond Program Master Plan Budget and Expenditure Report, covering funding sources, budgets, expenditures and status of all construction and modernization projects, according to their status as: projects under construction; projects with filed notice of completion; or pending projects with or without allocated state funding.

2. Reviewed the pertinent portions of the SAUSD Annual Financial Report with District staff to determine the impact of the District budget concerns on the Bond program.
3. Requested and reviewed an agreed-upon procedures analysis of 50 measure C contracts over \$200,000. This financial analysis of 50 major vendors was conducted by Gelman and Associates. The analysis followed standard government procedures for an independent performance audit, and did not reveal any significant exceptions to Article XIII A Section 1 (b) (3) in the expenditure of bond revenues.
4. Provided guidelines for the methodology and scope of the Article XIII A Section 1 (b) (3) performance and financial audits. When the records of this fiscal year are closed in late fall, the Committee looks forward to receiving the reports of these audits.
5. Reviewed the procedures and status of District efforts to secure Proposition 47 state matching funds.
6. Reviewed information pertaining to the resolution of litigation with the previous bond program management consultant.
7. Based on concern expressed by some members and the general public, analyzed the following 2001-3 particular expenditures to ensure compliance with the purpose of the bond:
 - a) El Sol Academy loan of interest proceeds from Measure C funds and district policy on use of Measure C bond proceeds, including interest and funds from sales of property.
 - b) Use of proceeds from sale of Farmer's Insurance site, purchased with Measure C funds in 2003 for original Lorin Griset school site.
 - c) Attorney's fees for litigation – Tustin Settlement Agreement.

Oversight of the progress and management of the School Construction Program

The Committee

1. Reviewed Monthly Measure C facilities and construction status reports, listing projects in priority order and showing what projects

are in planning or construction phase, including new school construction and additions (P2P) and modernization projects.

2. Reviewed the organization and adequacy of District staffing of the Bond program.
3. Inspected new construction and modernization sites.

Response to Allegations of Fraud and Waste in the Bond Program

The Committee

1. Secured the complete Rutan & Tucker "Report of Independent Review of Contract Selection and Negotiation for Measure C programs" conducted by independent counsel for the District in 2002 in response to two anonymous letters submitted to this Committee, District Board members, and the media in March and June of that year complaining about the conduct of the bond program at that time.
2. Requested that a forensic audit be conducted to verify that no fraud or waste had occurred in the bond program expenditures. We are waiting for the results of an examination by Capital Program Management to inform us whether bond revenues have been expended only for authorized purposes, and expect it to be concluded by the end of the calendar year.

Improvement of Committee Practices

1. Adopted the February 2003 standards of conduct enacted by the School Board for trustees and staff.
2. Requested that the School Board provide independent legal counsel as needed. This request was declined.
3. Interviewed representatives of administration and consultants on a broad range of topics.
4. Provided feedback, guidance, and regular updates of Committee activities to members of the Board and District.
5. Held a Public Hearing inviting comments on Annual Report content.
6. Began a written supplemental report on Committee activities and topics of concern to the public.

IX. Statement of Compliance

The Committee unanimously finds that the District is currently, as of this reporting period, July 1, 2003 through June 30, 2004, in compliance with the standards of Article XIII A Section 1 (b) (3) of the California State Constitution as described below.

X. Findings and Conclusions on Accountability Requirements

Based on information provided by the District, the Committee finds and concludes that from July 1, 2003 to June 30, 2004, the School District is currently in compliance with the accountability requirements of Article XIII A, Section 1 (b) (3) and the original bond ballot and resolution language as follows.

1. Except for the transactions noted in Section XI below, proceeds from the sale of bond funds in this reporting period are being used only for construction, rehabilitation, or replacement of school facilities. In compliance with the original bond ballot and resolution language, funds have not been used for furnishings, equipping of school facilities, or the lease of real property for school facilities.
2. Except as noted in Section XI below, the District is in compliance with the requirement of publishing a list of the specific school facilities projects to be funded using Measure C funds. This list has been published on the District website.

XI. Exceptions to the Accountability Requirements of Article XIII A, Section 1(b) (3) during this Reporting Period

1. During the reporting period, the Committee discovered that the District in May, 2001 had extended a loan of \$2.4 million to El Sol that was not contemplated in the original bond resolution, ballot language, or Article XIII A Section 1(b)(3).

El Sol Academy loan: This year El Sol Science & Arts Academy, an independent charter school, defaulted on its loan repayment of \$2,224,487 plus interest to the District. In June 2004, the District took title of the property located at 1010-1016 and 1020 N. Broadway, in lieu of repayment of the loan. The original loan was approved in closed session by the School Board in 2001 and funded through interest accrued from the sale of Measure C Bonds, contrary to the guideline that funds should be used only for the purposes specified in the bond ballot and resolution language. This loan was not within the scope of projects reasonably contemplated by the original

ballot and bond resolution language or Article XIII A Section 1 (b) (3).

2. Legal fees for the litigation involving the Tustin settlement were paid from the Measure C fund, contrary to the guideline that no funds be used for any purpose other than construction, rehabilitation, or replacement of school facilities, such as teacher and administrator salaries and other school operating expenses.
3. The Board did not publish a list of projects in the ballot language, and has never certified that evaluation of safety, class size reduction, and information technology be considered in developing the list. The list of the specific school facilities projects to be funded using Measure C funds published on the District website fulfils the purpose of this requirement, but it is out of date and inaccurate. It should be noted that this requirement is specific to Proposition 39 bonds, and was not in effect when the Measure C ballot language was drafted in 1999.

XII. Recommendations

The Committee recommends that the District, under the guidance of the Board,

1. Develop a policy for use of interest money specifically that interest follows principal for all Capital Facilities Funds. In particular, we strongly recommend that interest bond monies be used for only the publicly approved Measure C projects listed on the District's official website. When loans are made using Measure C funds, full disclosure to the public and the bond oversight committee regarding the terms and conditions and status of repayment should be made in a timely manner.
2. Reimburse Measure C Bond, Fund 21, for expenditures related to the legal costs for the Tustin Settlement Agreement.
3. At the close of escrow, deposit all net proceeds into Measure C Bond, Fund 21, from the sale of the Farmer's site.
4. Adopt a "Best Practices Procedure" that addresses the awarding and hiring of Measure C Professional Services contracts over \$15,000 to include Request For Qualifications and/or Request For Proposal and Board authorization.
5. Conduct an Annual Independent Financial and Performance Audit of the Measure C Bond expenditures (Fund 21), as required by

Article XIII A Section 1(b) (3), for the period July 1, 2003 through June 30, 2004 to be included in the next Bond Oversight Committee Annual Report.

6. Require Board certification that evaluation of safety, class size reduction, and information technology needs have been taken into account in developing that list.

XIII. Attachments:

(1) Status Report On Construction Program (SAUSD Facilities Department)

(2) Measure C Master Program and Expenditures (Capital Program Management)

(3) Committee Minutes and Selected Correspondence

Our Meeting minutes and various other documents are attached to this annual report, which provide further detail on BOC activities. Additional information is also available on the District website, www.sausd.k12.ca.us. If you have any questions about the local construction program, please contact the Oversight Committee at (714) 480-5371.