



# MEASURE M BOND PROGRAM: ANNUAL REPORT

The independent Measure M  
Citizens' Bond Oversight  
Committee is pleased to submit its  
third annual report to the public

June 6, 2022

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## Introduction

The Measure M Citizens' Oversight Committee (Committee) is pleased to submit its third annual report, as required by Section 15280 of the Education Code. This report covers Measure M expenditures and activities from July 1, 2019 through January 31, 2022.<sup>1</sup>

## MEASURE M BACKGROUND

On November 7, 2000, California voters approved the statewide ballot measure Proposition 39, also known as the *Smaller Classes, Safer Schools and Financial Accountability Act*. This measure amended the California Constitution by lowering the voter approval threshold for local school facilities construction bonds from a two-thirds super majority to a 55% majority. The measure also required that Proposition 39 bond funds be spent only for constructing, reconstructing, rehabilitating, or replacing school facilities, and equipping school facilities, or for acquiring or leasing real property for school facilities. Further, Proposition 39 prohibits the proceeds from these bonds from being used for teacher or administrator salaries and requires the issuing district to perform independent financial and performance audits of the bond funds.

After the approval of Proposition 39, the California Legislature passed, and the then-governor signed, Assembly Bill 1908 (Chapter 44 Statutes of 2000) to require additional accountability and oversight measures. Among other things, this included that any district that issues Proposition 39 bonds establish and appoint an independent citizens' oversight committee tasked with providing the public assurance that school facilities' construction bond proceeds are spent in compliance with applicable laws.

On November 6, 2018, voters residing within the Davis Joint Unified School District (District) passed Measure M, a \$150,900,000 Proposition 39 school bond measure, which authorized funding for school construction projects and upgrades. Measure M passed with 74% voter approval.

The voter approved Measure M ballot summary reads:

*"To update classrooms, science/innovation labs, and facilities to meet current academic standards, improve accessibility for students, upgrade school safety/security, keep schools well-maintained, and modernize classroom learning technology, shall Davis Joint Unified School District issue \$150,900,000 in bonds, at legal interest rates, raising \$11,000,000 on average annually to repay bonds while outstanding, at an estimated rate*

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<sup>1</sup> Our period of review includes the District's fiscal year 2020-21, which ended on June 30, 2021 as well as mid-year expenditures for the 2021-22 fiscal year, through January 31, 2022. We also reviewed expenditure records maintained by the Facilities Department through March 28, 2022

## Measure M Citizens' Bond Oversight Committee Annual Report

*of \$60 per \$100,000 of assessed value, with citizen oversight, annual audits, no funds for administrator salaries and funds staying local[.]”*

The full text of Measure M can be found on the District’s website (<https://www.djUSD.net>) and contains a complete list of the types of projects that may be funded with Measure M bond proceeds.

On March 14, 2019, the first bond sale was completed for \$50.3 million to fund Series 1 Measure M projects, based on priorities set by the Board from among the types of projects listed in Measure M. The bonds have interest rates ranging from 3.5% to 5%, maturing on August 1, 2047. On April 28, 2020, the District completed a second bond sale which provided the District with an additional \$100.6 million for Measure M projects. The bonds from the second sale have an interest rate ranging from 3% to 5%, maturing on August 1, 2043.

The balance sheet for Measure M, as reflected in the independent financial audit for fiscal year 2019-20 (July 1, 2020 through June 30, 2021) is as follows:

### DAVIS JOINT UNIFIED SCHOOL DISTRICT MEASURE M GENERAL OBLIGATION BONDS BALANCE SHEET June 30, 2021

#### ASSETS

Cash in County Treasury (Note 2)	\$ 129,080,003
Total assets	<u>\$ 129,080,003</u>

#### LIABILITIES AND FUND BALANCE

##### Liabilities:

Accounts payable	\$ 22,273
Due to other funds (Note 3)	5,543
Total liabilities	<u>\$ 27,816</u>

Fund Balance-restricted (Note 4)	\$ 129,052,187
Total liabilities and fund balance	<u>\$ 129,080,003</u>

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The statement of revenues, expenditures and change in fund balance as of June 30, 2021 is shown below.

DAVIS JOINT UNIFIED SCHOOL DISTRICT  
MEASURE M GENERAL OBLIGATION BONDS  
STATEMENT OF REVENUES, EXPENDITURES AND  
CHANGE IN FUND BALANCE  
For the Year Ended June 30, 2021

Revenues:	
Other local sources	<u>\$ 831,009</u>
Expenditures:	
Classified salaries*	260,844
Employee benefits*	95,900
Books and Supplies	73,720
Contract services and operating expenditures	1,427,894
Capital outlay	<u>18,937,703</u>
Total expenditures	<u>20,796,061</u>
Change in fund balance	19,965,052
Fund balance July 1, 2020	<u>149,017,239</u>
Fund balance June 30, 2021	<u>\$129,052,187</u>

\* These expenditures are permissible. As we explain later in the report, the California Attorney General has advised that Proposition 39 bond funds may be used to support the salaries and benefits of administrative staff that work on the bond program.

## Measure M Citizens' Bond Oversight Committee Annual Report

The statement of revenues, expenditures, and the change in the Measure M fund balance, as reflected in the third interim report issued by the District, as of January 31, 2022, is as follows:

DAVIS JOINT UNIFIED SCHOOL DISTRICT  
MEASURE M GENERAL OBLIGATION BONDS  
STATEMENT OF REVENUES, EXPENDITURES AND  
CHANGE IN FUND BALANCE  
(Unaudited) For the Period Ended January 31, 2021

Revenues:	
Other state sources	\$ -
Other local sources	<u>516,721</u>
Total revenue	<u>516,721</u>
Expenditures	
Classified salaries*	132,721
Employee benefits*	49,531
Books and supplies	72,356
Contract services and operating expenditures	527,960
Capital outlay	<u>7,051,000</u>
Total expenditures	<u>7,833,568</u>
Deficiencies of revenues under expenditures	(7,316,847)
Other financing sources:	
Proceeds from the issuance of debt	<u>-</u>
Change in fund balance	(7,316,847)
Fund balance June 30, 2021	<u>\$149,017,239</u>
Fund balance January 31, 2022	<u>\$141,700,392</u>

\* These expenditures are permissible. As we explain later in the report, the California Attorney General has advised that Proposition 39 bond funds may be used to support the salaries and benefits of administrative staff that work on the bond program.

## EXECUTIVE SUMMARY

Based on our activities and the information we reviewed during this period, our overall conclusions are as follows:

The District complied with the various procedural requirements of Proposition 39 throughout this period. These include, among others, maintaining an independent oversight committee and conducting independent financial and performance audits.

We conclude that Measure M expenditures in the 2020-21 fiscal year were allowable and consistent with applicable provisions of the California Constitution and Measure M.

Although expenditures after the close of the 2020-21 fiscal year through January 31, 2022 have not yet been audited by the District's independent auditor, we conclude that those expenditures were also allowable. We describe the review and analysis that allowed us to reach this conclusion later in this report.

We remain concerned that the District had in the past made interest-free loans from the Building Fund, which contains the proceeds from the sale of Measure M Bonds. While it is permissible to make short-term loans from this fund, we interpret applicable law to require that the loan be repaid with the amount of interest the loaned money would have earned if it had remained in the fund. The District, to date, has refused to adopt our recommendation that it modify District policy to require the payment of interest on these loans. We find this very troubling as it creates significant risks for the District, potentially the maintenance of the bonds' tax-exempt status as well as the ability to pass future bond issues.

To be blunter, this policy has diminished the purchasing power of the bonds to an extent estimated in excess of \$182,000. See the calculations made by District staff in Appendix A of this report.

With respect to whether the District is taking appropriate steps to maximize the use of Measure M bond funds, our conclusion in this area is that the District is effectively using best practices to manage its construction projects and related expenditures so that it maximizes the use of Measure M funds. We commend the District for its ability to minimize impacts to labor and material costs due to the COVID-19 Pandemic and construction inflation impacts by employing effective and efficient contracting practices.

## Measure M Independent Oversight Committee

A key accountability measure in Proposition 39 is the requirement to form an independent citizens' oversight committee, with a prescribed composition and specified roles and responsibilities. That committee must meet regularly, in compliance with the applicable open meeting law, and must report at least once annually to the public.

### COMMITTEE MEMBERSHIP

Proposition 39 provides that the Committee shall have at least seven members who shall serve for a minimum of two years and for no more than three consecutive terms. The Education Code requires that five of the members represent certain constituencies, as follows:

- 1 member must be an active member of the business community.
- 1 member must be active in a senior citizens' organization.
- 1 member shall be active in a bona fide taxpayers' organization.
- 1 member shall be the parent or guardian of a student enrolled in the District's schools.
- 1 member shall be the parent or guardian of a student enrolled in the District's schools and active in a parent-teacher organization.

In addition, no employee or officer of the District may serve on the Committee, nor may any vendor, contractor or consultant of the District serve on the Committee.

On February 7, 2019, after conducting an open application process, the Board appointed nine members to serve on the Committee, and of the nine, four members were initially appointed to serve one-year terms and five were appointed to two-year terms. On February 6, 2020, the Board extended the initial term of the four one-year term members by an additional two years to conform to the controlling statutory provisions. The Board continued to fill vacant seats or extend terms as needed during the 2020-2021 fiscal year.

The Committee met approximately quarterly, or as needed. The meetings were open to the public and conducted in accordance with the Ralph M. Brown Act (Gov. Code § 54950 *et seq.*). The Committee will exist until bond proceeds are fully expended.



Measure M Citizens' Bond Oversight Committee Annual Report

Member	Constituency Represented	Term Expires
Bret Hewitt (Chair)	Senior citizens organization	2/2023
Andrew Cullen (Vice-Chair)	At large	5/2023
Grace Bassett	Parent teacher organization	2/2023
Jim Belenis	Business	5/2023
Amanda Cattivera	Taxpayer organization	5/2023
Michael Lehner	At large	2/2024
Linda Lingbloom	At large	5/2023
Ken Nason	Parent	2/2024

## COMMITTEE ROLES AND RESPONSIBILITIES

Section 15278 of the Education Code (Section 15278) sets out the responsibilities of the Measure M Citizen's Oversight Committee. The core responsibility of the Committee is to actively review and report on the proper expenditure of taxpayer money for school construction.

Section 15278 requires that the committee convene to provide oversight for, but not limited to, the following:

- Ensuring that bond revenues are expended only for the purposes described in paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution (see textbox)
- Ensuring that no funds are used for any teacher or administrative salaries or other school operating expenses.

In furtherance of the requirement that the Committee actively review and report on bond expenditures, Section 15278 specifically authorizes the committee to undertake certain activities:

- (1) Receiving and reviewing copies of the annual, independent performance audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
- (2) Receiving and reviewing copies of the annual, independent financial audit required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
- (3) Inspecting school facilities and grounds to ensure that bond revenues are expended in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.
- (4) Receiving and reviewing copies of any deferred maintenance proposals or plans developed by a school district or community college district, including any reports required by Section 17584.1.
- (5) Reviewing efforts by the school district or community college district to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all the following:
  - (A) Mechanisms designed to reduce the costs of professional fees.
  - (B) Mechanisms designed to reduce the costs of site preparation.

## Prop 39 Constitutional Requirements

-Bond proceeds may be used only for construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities.

-Bond proceeds may not be used for teacher and administrator salaries and other school operating expenses.

-Bond measure must contain a list of the specific school facilities projects to be funded and certification that the school district board has evaluated safety, class size reduction, and information technology needs.

-The school district board must conduct annual, independent financial and performance audits to ensure that the funds have been expended only on the specific projects listed.

(C) Recommendations regarding the joint use of core facilities.

(D) Mechanisms designed to reduce costs by incorporating efficiencies in school site design.

(E) Recommendations regarding the use of cost-effective and efficient reusable facility plans.

Other provisions of the Education Code require that the issuing district provide the necessary support to its bond oversight committee and prohibit the expenditure of bond funds to support the oversight committee (Educ. Code § 15280).

In performing our role as an independent oversight committee, we considered these requirements in the California Constitution and the Education Code to guide our work and analysis. The Committee was guided by two fundamental questions:

1. Is this Measure M expenditure or use consistent with the purposes outlined in the California Constitution and voter-approved Measure M?
2. Is the District taking reasonable measures to maximize the use of Measure bond funds?

## ACTIVITIES OF THE MEASURE M CITIZENS' OVERSIGHT COMMITTEE

The Committee's activities during this period included the following:

- Receiving information on the contracting methods used by the district to spend Measure M funds.
- Receiving updates on proposed budgets for Measure M projects and the status of those projects.
- Receiving information regarding expenditures on construction projects.
- Reviewing the unaudited actuals for Measure M bond proceeds for the 2019-20 fiscal year.
- Reviewing the financial and performance audits that covered the fiscal year that ran from July 1, 2019 to June 30, 2020.

The Committee formed a four-person subcommittee (Eric Roe, Grace Bassett, Bret Hewitt and Donna Neville) for purposes of writing this report. The report writing subcommittee also reviewed the unaudited mid-year actual expenditure information for the 2020-2021 fiscal year and reviewed additional information provided by the Facilities Department.

Committee meetings, as required by law, were held openly under the Ralph M. Brown Act (Gov. Code § 54950 et. seq.). The Committee was fully engaged in its work and had strong attendance.

## Findings of the Measure M Citizens' Oversight Committee

This section presents our findings, based on the specific roles and responsibilities outlined earlier.

## THE DISTRICT EXPENDED MEASURE M BOND FUNDS APPROPRIATELY DURING THE PERIOD OF OUR REVIEW

To determine whether bond funds were used only for the reconstruction, rehabilitation, or replacement of school facilities, and, more specifically, for the purposes authorized by the voters when approving Measure M, the Committee reviewed the annual financial and performance audits prepared by the District's independent auditor; reviewed the unaudited actual financial information for the second interim reporting period (ended January 31, 2021) for the 2021-22 fiscal year; and reviewed the construction project expenditure information maintained by the school facilities program. Most projects were completed or under construction during the period, with three remaining projects at the Davis Senior High School still under design. The textbox lists the major construction projects that have been approved by the governing board or that will be approved in the very near future.

In performing our work, we relied on the conclusions of the District's auditors in the Measure M financial and performance audits for fiscal year 2020-21 but we also performed our own independent review of expenditure information so that we could satisfy ourselves that the bond funds had been spent appropriately. More specifically, members of the report writing subcommittee met with the Executive Director of Capital Operations and reviewed all Measure M expenditures through January 31, 2022. In performing this review, we were able to confirm that Measure M funds had only been spent on permissible purposes – that is, the expenditures were consistent with the applicable provisions of the California Constitution and Measure M.

With respect to the use of Measure M funds for salaries, the California Attorney General has opined that proceeds from a Proposition 39 bond may be used to pay the salaries of district employees to the extent they are performing administrative oversight work on construction projects authorized by a voter approved bond measure (04 Ops.Cal.Atty.Gen 110 (2004)). The amounts the District used from Measure M to pay the salaries and benefits of employees reflect the salaries and benefits of the equivalent of 4.1 full-time District employees (as represented by

## Major Approved Construction Projects and Start Dates

Korematsu Elementary School  
Early Learning Center:  
Completed 9/2021

Emerson/Da Vinci Science  
Project: Completed 10/2021

Birch Lane Elementary School  
Multi-Purpose Room: Completed  
5/2022

Willett Elementary School Multi-  
Purpose Room: Completed  
5/2022

North Davis Elementary Multi-  
Purpose Room: Expected to be  
completed 6/2022

Cesar Chavez Elementary School  
Multi-Purpose Room: Expected  
to be completed 6/2022

DaVinci Tech Hub: Expected to be  
completed by Fall 2022

Davis High School: Projects are  
under design and expected to be  
completed in 2023

Hydration Stations: Construction  
started in 2019 and is progressing

the Capital Operations staff) who provide administrative oversight on Measure M projects. Based on our review of the auditor's reports and our review of expenditure information, we conclude that the expenditures subject to review during the audit period were permissible.

We also reviewed expenditure information after the close of the 2020-2022 fiscal year through to January 31, 2022. We met with the Executive Director of Capital Operations to review the project-based expenditure information maintained by the Facilities Department. Although the financial information reported by Fiscal Services at mid-year has not yet been audited, we were able to confirm that all Measure M expenditures were appropriate and consistent with Measure M. We specifically confirmed, among other things, that no Measure M proceeds were used for teacher or administrator salaries and confirmed that Measure M proceeds were not used to support the Committee.

The information that follows provides a breakdown, by school site wherever possible, that shows the expenditure of Measure M funds as of January 31, 2021, as maintained in the School Facilities project management system.

*Birch Lane Elementary School*

- Multipurpose Room:

Current Budget	Committed Budget	Expensed to Date
\$ 13,267,861	\$ 12,030,091	\$ 7,964,122
- Interim Classroom Relocation from Emerson Junior High School:

Current Budget	Committed Budget	Expensed to Date
\$17,630	\$17,630	\$17,630
- Installation expense of Kindergarten fencing included in District Wide Bond Projects section below.

Construction on the Birch Lane Elementary School Multipurpose Room began 3/22/21

Birch Lane Rendering



Birch Lane Aerial Site View



Birch Lane Concrete Footings





Birch Lane Aerial Concrete Footings View



Birch Lane MPR Construction



Birch Lane MPR Finished



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### *Cesar Chavez Elementary School*

- Multipurpose Room:

Current Budget	Committed Budget	Expensed to Date
\$ 14,022,561	\$12,253,253	\$5,846,527

#### Cesar Chavez MPR Groundbreaking



#### Cesar Chavez MPR Construction Aerial



### *Fairfield Elementary School*

- No expenditures to date.



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### *Korematsu Elementary School*

- Early Learning Center:

Current Budget

\$ 6,957,480

Committed Budget

\$ 7,494,347

Expensed to Date

\$ 7,035,700

Construction on the Korematsu Elementary School Early Learning Center began 10/27/20

ELC Rendering



ELC Groundbreaking Ceremony



ELC Aerial View



ELC Aerial View



ELC Aerial View





ELC Completed



ELC Aerial Completed



*Marguerite Montgomery Elementary School*

- Installation expense of three new gates included in District Wide Bond Projects section below.

*North Davis Elementary School*

- Multipurpose Room:

Current Budget	Committed Budget	Expensed to Date
\$ 13,876,312	\$ 12,256,889	\$ 6,704,861

North Davis MPR Groundbreaking



North Davis Construction Aerial



North Davis MPR Construction Interior





North Davis MPR Construction



- Installation expense of Kindergarten fencing included in District Wide Bond Projects section below.

*Patwin Elementary School*

- Architectural modernization services for HVAC (entire campus):

Current Budget	Committed Budget	Expensed to Date
\$ 35,709	\$35,709	\$35,709
- Installation expense of Kindergarten fencing included in District Wide Bond Projects section below.

*Pioneer Elementary School*

- Installation expense of Kindergarten fencing included in District Wide Bond Projects section below.

*Willett Elementary School*

- Multipurpose Room:

Current Budget	Committed Budget	Expensed to Date
\$12,285,577	\$11,016,985	\$6,866,567

Willett MPR Rendering



Willett MPR Groundbreaking





Willett Construction Aerial



Willett MPR Construction



Willett MPR Construction Progress





## Measure M Citizens' Bond Oversight Committee Annual Report

- Bike Rack Paving Project:

Current Budget	Committed Budget	Expensed to Date
\$73,096	\$73,096	\$73,096
- Installation expense of Kindergarten fencing included in District Wide Bond Projects section below.

### *Emerson/ Da Vinci Junior High Schools*

- NextGen Science Labs:

Current Budget	Committed Budget	Expensed to Date
\$ 6,832,197	\$ 6,056,432	\$ 5,170,952
- Installation expense of Strategic fencing included in District Wide Bond Projects section below.

Construction on the Emerson/Da Vinci NextGen Science classrooms began 11/23/20

Emerson/Da Vinci Rendering



Emerson/Da Vinci Service Trenches



Emerson/Da Vinci Modular Building Delivery and Installation



Emerson/Da Vinci Finished Exterior Construction



Emerson/Da Vinci Finished Interior Construction



Emerson/Da Vinci Ribbon Cutting



*Harper Junior High School*

- No expenditures to date.

*Holmes Junior High School*

- No expenditures to date.

*Davis Senior High School*

• Site Planning:			
Current Budget	Committed Budget	Expensed to Date	
\$ 124,950	\$ 0	\$ 0	
• STEM Building:			
Current Budget	Committed Budget	Expensed to Date	
\$31,185,430	\$ 2,803,506	\$ 1,090,176	
• Tennis Relocation:			
Current Budget	Committed Budget	Expensed to Date	
\$ 2,899,782	\$ 240,960	\$0	
• Aquatic Center:			
Current Budget	Committed Budget	Expensed to Date	
\$ 15,296,988	\$ 1,774,119	\$ 923,743	
• CTE Agriculture <sup>2</sup> :			
Current Budget	Committed Budget	Expensed to Date	
\$ 3,957,346	\$ 583,118	\$ 286,741	
• CTE Auto:			
Current Budget	Committed Budget	Expensed to Date	
\$ 3,621,309	\$ 522,044	\$ 255,417	
• CTE Engineering Robotics:			
Current Budget	Committed Budget	Expensed to Date	
\$ 6,894,807	\$ 800,177	\$ 352,824	

*Da Vinci High School + CTE*

• Da Vinci High School project design:			
Current Budget	Committed Budget	Expensed to Date	
\$ 17,056,672	\$ 15,879,845	\$ 7,059,728	
• Installation expense of Strategic fencing included in District Wide Bond Projects section below.			

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<sup>2</sup> The funding for CTE (Career Technical Education, Agriculture, Auto, and Engineering/Robotics) is funded, in part, from state funding and the District provides a 50% match using Measure M funding.



Da Vinci High School + CTE Rendering



Da Vinci High School + CTE Aerial



Da Vinci High School + CTE Construction



*Martin Luther King High School*

- Installation expense of hydration stations included in District Wide Bond Projects section below.

*Patwin Elementary School*

- Modernization Design Phase:

Current Budget	Committed Budget	Expensed to Date
\$17,630	\$17,630	\$17,630

*District Office/Davis School for Independent Study*

- Installation expense of Strategic fencing included in District Wide Bond Projects section below.

*District Wide Bond Projects – Series 1, 2 & 3*

- All Gender Restrooms:

Current Budget	Committed Budget	Expensed to Date
\$423,690	\$0	\$0
- Hydration Stations installation & equipment:

Current Budget	Committed Budget	Expensed to Date
\$ 551,872	\$ 295,152	\$ 263,192
- Access Control:

Current Budget	Committed Budget	Expensed to Date
\$243,374	\$ 228,659	\$228,659

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• Strategic fencing:		
Current Budget	Committed Budget	Expensed to Date
\$ 365,269	\$ 270,602	\$ 266,582
• District Wide Technology:		
Current Budget	Committed Budget	Expensed to Date
\$1,000,000	\$0	\$0

- | District Wide Furniture & equipment: |                  |                  |
|--------------------------------------|------------------|------------------|
| Current Budget                       | Committed Budget | Expensed to Date |
| \$ 1,345,000                         | \$0              | \$0              |

*General Non-Site-Specific Bond Program Expenses*

- | Program level consultants, bond staff costs, etc.: |                  |                  |
|--|------------------|------------------|
| Current Budget                                     | Committed Budget | Expensed to Date |
| \$ 3,821,123                                       | \$ 1,642,857     | \$ 1,326,254     |

**THE DISTRICT'S CONTINUED PRACTICE OF MAKING INTEREST FREE LOANS FROM THE BUILDING FUND TO ITS GENERAL FUND DEPRIVES THE BUILDING FUND OF INTEREST EARNINGS TO WHICH IT IS ENTITLED**

Last year we wrote: “In our prior two reports, we raised issue to the District’s practice of making short term loans from the Building Fund to the district’s general fund to address cash flow issues. We recognize that these loans are permitted by the Education Code, but we believe that the District must repay these loans with interest. More specifically, case law dictates that the District must make the Building Fund whole upon repayment of these loans by paying the amount of interest that money would have earned if it had remained in the Building Fund. Despite our repeated requests that the DJUSD governing board modify current board policy to require the payment of interest it has failed to do so. The board’s legal counsel has advised the board that she is unaware of any interest requirement related to the Building Fund and that she is unaware of any judicial decisions that require the payment of interest. We respectfully disagree. This legal advice is contrary to the view of other legal experts and is contrary to the advice provided to school districts throughout California by the Fiscal Crisis Management Assistance Team, which advises school districts on various fiscal matters. We requested for the Board to add the issue of interest free loans to their agenda during the presentation of the FY19-20 Annual Report and received no response. “

“Further, we wrote: “The Official Statement for the Measure M bonds plainly indicates that all of the principal as well as interest earned on that principal must be used for Measure M purposes. When the District makes interest free loans from the fund it fails to honor this commitment and it diminishes the amount of interest earned on the principal. Further, numerous California cases stand for the general legal principal that where a fund is entitled to retain interest, it follows that a loan made from that fund must be repaid with interest. “

The District’s refusal to modify its current policy has, so far, deprived the Measure M Building Fund, as estimated by District staff, in excess of \$182,000 in interest that it would have otherwise earned. (See Appendix A of this report.) We stand by our original recommendation that the Board should modify current District policy to require the



payment of interest. This would bring the District into line with the guidance provided by the Fiscal Crisis Management Assistance Team to all school districts throughout California and with the practices of other public agencies. By not paying interest, the District not only reduces the amount of funding available for Measure M projects, but it also exposes the District to legal liability.”

This policy and practice has had the effect of diminishing the purchasing power of the Measure M funds by some \$182,000. This figure is estimated by District staff (see Appendix A of this report The earned interest was calculated by the District and provided to the Committee on May 12, 2022. The interest was calculated based on the amount of time the cash was recorded within the General Fund instead of the Measure M Fund and the interest for the County Fund for the recorded dates. See Appendix A for a list of the interfund transfers and calculated interest from FY 2019-2020 and FY2020-2021.) This Committee finds this methodology to be sufficiently correct.

### MEASURE M CONTAINED A SPECIFIC LIST OF TYPES OF SCHOOL FACILITIES PROJECTS TO BE FUNDED ALONG WITH THE REQUIRED CERTIFICATIONS

The Committee reviewed the bond measure and the Facilities Master Plan and concluded that the bond measure contained a specific list of the types of projects to be funded by Measure M as well as the certifications required by applicable provisions of the California Constitution.

### THE DISTRICT CONDUCTED AN ANNUAL, INDEPENDENT PERFORMANCE AUDIT OF MEASURE M FUNDS

As required by law, the District contracted for this independent audit and it was presented to the Board at in February of 2022 . The audit was also provided to the Committee, which reviewed this performance audit at its February 24, 2022 meeting. This performance audit focused primarily on whether the District had complied with the various accountability measures contained in Proposition 39. The performance audit did not contain any findings of non-compliance with the Constitutional or statutory requirements and did not make any recommendations. A full copy of the Measure M performance audit can be found on the District’s website at <https://www.djUSD.net/>

The audits performed comply with Generally Accepted Government Auditing Standards. However, as the District moves forward with the Measure M program it may wish to expand the scope of the performance audit. More specifically, the performance audits for the 2018-19, 2019-20, and 2020-21 fiscal years focused exclusively on whether the District complied with various Proposition 39 requirements. The auditing standards also allow, as an alternative to, or an addition to, a compliance focus, for the performance audit to focus on economy and efficiency. The California School Boards Association and others recommend the economy and efficiency approach because it allows the auditors to delve into such issues as a review of the District’s contracting policies and procedures and whether it has effective

construction management practices, among other things. As the Measure M program moves forward, the Committee suggests the District expand the scope of its performance audit.

### **THE DISTRICT CONDUCTED AN ANNUAL, INDEPENDENT FINANCIAL AUDIT OF MEASURE M FUNDS**

The District contracted for this independent audit. The financial audit did not contain any findings of non-compliance with the Constitutional or statutory requirements and did not make any recommendations. A full copy of the Measure M financial audit can be found on the District's website at <https://www.djUSD.net/>.

### **THE REPORT WRITING SUBCOMMITTEE VISITED ONGOING CONSTRUCTION TO INSPECT SCHOOL FACILITIES AND GROUNDS**

By law, the committee has authority to inspect school grounds and facilities to determine whether bond funds are being used appropriately. Individual members of the report subcommittee scheduled appointments in May 2022 with the Executive Director of Capital Operations and visited several project sites, including the NextGen Science Lab project at Emerson/Da Vinci Junior High School, the Early Learning Center project at Korematsu Elementary School, and the Multipurpose Room at Birch Lane Elementary School. Notable work was observed at both sites during the period in accordance with expenditures to date.

### **THE COMMITTEE DID NOT RECEIVE AND REVIEW COPIES OF ANY DISTRICT DEFERRED MAINTENANCE PROPOSALS OR PLANS**

The District does not have a formal deferred maintenance plan, so we did not conduct such a review. The purpose of obtaining a deferred maintenance plan would be to confirm that the District used Measure M bond funds only for authorized purposes. As a general matter, Proposition 39 bond funds cannot be used for routine or scheduled maintenance but may be used for deferred maintenance if that maintenance falls within the range of uses permitted by the California Constitution and the voter-approved bond measure.

### **THE DISTRICT USES BEST PRACTICES TO EFFECTIVELY MANAGE MEASURE M CONSTRUCTION PROJECTS**

It is our view that effectively managing school construction projects and the costs associated with those projects are two of the most important factors for a successful Measure M program. Throughout its first two years, the Committee received numerous presentations, including an overview of the requirements that apply to K-12 school facilities construction in California, an overview of state law and District policies regarding public contracting and procurement, and information on the management of ongoing projects. We also received information regarding proposed project budgets, expenses to-date, and amounts encumbered for various projects.

Throughout these presentations, it has been clear to the Committee that the District employs highly competent project management and financial management staff, who collaborate closely in overseeing Measure M. We observed various practices that are considered best practices in school construction project and financial management. When spending bond funds, the District used various strategies designed to achieve cost effectiveness. One such strategy was the use of the same design template at multiple school sites for the same type of project. The new multi-purpose rooms at Cesar Chavez Elementary, Birch Lane Elementary, North Davis Elementary and Willett Elementary all used essentially the same architectural design, which helped to achieve an economy of scale. In addition, the District staff is aligned the construction schedules of similar projects so that additional efficiencies are achieved. The four MPRs will all started construction within a few months of each other in 2021 by the same construction company. In other words, the District has attempted to build similar buildings at different school sites at the same time to drive cost savings because it can purchase supplies and materials in greater quantities.

The District is also relies on the authority in state law to do “piggyback” contracts for some of the construction work under Measure M. The piggyback process allows the District to select plans for buildings for public entities such as schools that have already gone through the public bidding process and received the lowest bid. This way, the process is competitive, but the District can rely on an already bid contract and can save time in the contract award process. The District is also using the piggyback method to purchase new furniture for the new classrooms district-wide. A consultant was hired to select the same type of furniture to be used throughout the District that will create greater efficiency and cost savings.

The District is also taking that into consideration that certain types of construction have an impact on labor and material costs. Due to high construction costs in California the District has decided to use prefabricated modular buildings wherever possible which saves on construction cost as well as length of construction schedule which can greatly inconvenience a school campus.

Also, different contracting methods have been used where appropriate. The Design-Bid-Build method was used for the Korematsu Early Learning Center and the Emerson/Da Vinci NextGen science classrooms because they were relatively simple projects. The Lease-Leaseback method was used for the more complicated MPR projects. The Lease-Leaseback construction law authorizes a school district to lease a school site to a contractor for a token amount (for example \$1 per year), if the lease contract requires the contractor to construct, or provide for the construction of, a building to be used by the school district, so long as the title to the building would vest in the school district at the end of the lease. The Lease-Leaseback method allowed the District to select the contractor during the pre-construction phase to help develop the final plans together and “value engineer” the project for greater design efficiencies and cost savings. The projects went to bid during the pre-construction phase based on preliminary plans. Once a contractor was selected the District worked with the architect and contractor on developing final plans with the goals of design efficiency

and cost savings in mind. The District anticipated the Lease-Leaseback contracting method may have saved the bond fund as much as 8-10% in total project cost for the four MPR projects.

Another method of saving money used by the District was to partner with the City of Davis on a Sacramento Area Council of Governments (SACOG) grant application for funds to enhance the traffic flow and safety of Anderson Road in front of Chavez Elementary as part of their new MPR connectivity plan.

Finally, the District staff is acutely aware that delays in projects could result in escalating construction costs, so they are working diligently to keep projects on schedule. Several projects underwent additional public outreach, such as the Chavez Elementary MPR and the Davis Senior High School Aquatic Center. This caused a relatively small amount of delay and additional planning costs, however the outcome made for a much better project for the stakeholders and therefore we believe the delay was worth it. Despite the extra time the additional outreach took during the Chavez MPR placement process the District was able to catch back up and will start the project during the same time period as the other three MPR projects.

#### THE DISTRICT HAS HERETOFORE AVOIDED ANY SIGNIFICANT CONSTRUCTION INFLATION

Due to good management practices, conservative budgeting and timely execution by the Construction Operations staff, the District has avoided significant inflation in the various construction projects currently underway and/or completed. Most of the MPR projects' contracts or Guaranteed Maximum Practice ("GMPs") were let some eighteen months ago, well before the Pandemic-caused supply-chain misfunctions in the economy gave rise to inflationary pressures. That acknowledged, later projects were not immune to inflationary pressures (e.g., inflation expectations of four to eight percent were included in some of the GMPs). The District's sound management practices may have been aided by a bit of luck beyond the advantageous timing of the various GMPs: the weather, although devastating in so many ways, helped with the timely construction processes.

The two larger high school projects (the STEM GMP is expected to be let later this year and the Aquatic Center in eighteen months) could be impacted by inflation, although there are some recent signs that construction-related inflation may be moderating.

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In compliance with requirements of subparagraph A of paragraph (3) of subdivision (b) of Section 1 of Article XIII A, of the California Constitution, we verify that this is a true and valid annual report. We look forward to continuing to serve the public and the Davis Joint Unified School District community as the Measure M bond program moves forward.

Measure M Citizens' Bond Oversight Committee Annual Report

Respectfully submitted,

Members of the Measure M Citizens' Bond Oversight Committee

## Appendix A

<b>Action</b>	<b>Date</b>	<b>Amount</b>
General Fund borrowed cash from Building Fund	October 18, 2019	\$8,000,000
General Fund repaid cash to Building Fund	March 23, 2020	(\$4,000,000)
General Fund repaid cash to Building Fund	May 13, 2020	(\$4,000,000)
<i>Calculated Interest FY19-20</i>		<i>\$83,213</i>
General Fund borrowed cash from Building Fund	August 19, 2020	\$15,000,000
General Fund repaid cash to Building Fund	January 15, 2021	(\$7,500,000)
General Fund repaid cash to Building Fund	May 14, 2021	(\$7,500,000)
<i>Calculated Interest FY20-21</i>		<i>\$99,086</i>
<b><i>Total Interest FY19-20 and FY20-21</i></b>		<b><i>\$182,299</i></b>

\* The lost interest potential was calculated by District staff and provided to the Committee upon request.