

SAN YSIDRO SCHOOL DISTRICT

GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: September 7, 2023

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

☐ Informational
☒ Action

AGENDA ITEM: BOND PERFORMANCE REPORT FOR GENERAL OBLIGATION BONDS
MEASURES T & U

BACKGROUND INFORMATION:

The San Diego County Taxpayers Association (SDCTA or Association) conducted an independent assessment of the bond program and construction by the San Ysidro School District (SYSD or District) in for Calendar Year 2022, which is January 2022 through December 2022. The Association does not certify the program as Good, Excellent, or Outstanding, as this report focuses on areas of future risk to help the District attain the KPI Certification in another year when more substantive project work is completed.

SDCTA was hired in September 2022 to assist in independently assessing and reviewing the overall bond program for SYSD, who requested this independent review of their performance thus far on the execution of projects within the program instituted with the passage of Measure T, a \$52.985M bond issue and Measure U, a \$55.5 million bond issue passed by voters in March 2020. An unused balance of \$108.485,000 million of prior bonds approved under Proposition C of \$250 million in 1997 were to be replaced by Measure T & Measure U.

RECOMMENDATION:

Information only.

LCAP GOAL AND ACTION/SERVICE (please indicate):

☐ Renewal ☒ New ☐ Amendment ☐ Ratify ☐ Other

Financial Implications?

☐ Yes ☒ No

Are funds for this item available in the 2023-2024 Budget?

☐ Yes ☐ No

Requisition #

N/A

(Amount)

N/A

(Name of funding source and/or location)

Recommended for: ☒ Approval ☐ Denial Certification Requested ☐ Yes ☐ No



KEY PERFORMANCE INDICATORS (KPI) CERTIFICATION
SAN YSIDRO SCHOOL DISTRICT, JANUARY THROUGH DECEMBER 2022

FINAL ASSESSMENT:

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SCOPE OF WORK

SDCTA was hired in September 2022 to assist in independently assessing and reviewing the overall bond program for SYSD, who requested this independent review of their performance thus far on the execution of projects within the program instituted with the passage of Measure T, a \$52.985 M bond issue and Measure U, a \$55.5 M bond issue passed by voters in March 2020. An unused balance of \$108.485 M of prior bonds approved under Proposition C of \$250.0 M in 1997 were to be replaced by Measure T & Measure U.

This report will briefly cover the following areas:

- Program/Project Budgets
- Change Orders
- Procurement of Contractors & Professional Services
- Construction Management
- Overall Transparency of Program
- Performance vs. Bond Criteria

We began our review by meeting with Marilyn Adrianzen, the Chief Business Official of the District on November 28, 2022. Other District individuals who will be involved in the program, principally Jose Iniguez, the Assistant Superintendant of Administrative Leadership, School Support and Safety, were unavailable to attend the meeting due to other pressing commitments. Haney Hong, President & CEO of the SDCTA, and Tony Fulton with AF Consultants, the organization retained by SDCTA for this independent review, discussed the scope of work, answered general questions, and reviewed the schedule. Because there was limited activity regarding significant construction, no projects will be reviewed at this time; however, it was agreed that guidance to successful program management would be an asset to the District in the future.

Following the meeting, a document portal to facilitate our review of pertinent documents was established.

Additionally, we reviewed the District's web site for other information and requested other supplemental information from the District as needed to support our observations and recommendations. A progress meeting was held on January 25, 2023 with additional material requested.

Our observations are as follows:

KPI #1. ON PROGRAM/PROJECT BUDGETS

On March 3, 2020 the voters of the San Ysidro School District approved and authorized Measure T (\$52.985 M) and Measure U (\$55.5 M). These measures were intended to replace \$108.485 M of unissued Proposition C Bonds. The proceeds of the bond measures were to be used for student safety and security improvements, to upgrade classroom technology, replace roofs, and construct and rehabilitate school facilities. The SDCTA was presented with information about the program in late 2019, but did not have sufficient time to review these measures prior to the bond election and therefore did not recommend support.

The SYSD, founded in 1887, is located in South San Diego and is made up of five elementary schools (grades K-6) and two middle schools as well as a pre-school program serving roughly 4,500 students in the San Ysidro community adjacent to the Mexican border. A Long Range Facilities Master Plan (LRFMP) was developed in 2007 by the San Diego County of Education staff and SYSD community. Updates to that plan were developed by WLC Architects during 2020 and finalized in June 2021 after the successful passage of the bonds. Current enrollment at that time was 4,170 students with a capacity of 5,553 students. The largest excess capacity of 311 students is available at the San Ysidro Middle School. Currently the District enrollment is in decline. An amendment to the LRFMP was made in March 2022 adjusting the priorities and cost estimates for the proposed program.

The 2021 Master Plan provided lump sum rough order of magnitude budgets for the program at each site. Unfortunately, these estimates do not break down the detail for each project in sufficient detail to understand the hard construction costs, soft costs for architectural and engineering costs, contingency and escalation costs for the projects individually making them difficult to trace in detail. The project summary as presented in the master plan is as follows:

*San Ysidro School District Project Plan by Campus						
Campus	Building SQFT	Type of Constuction				Total Cost
		New Construction	Remodel Existing	Site Improvements	Furniture, Equipment, Technology	
SYSD Preschool & CDC	15,000	0	0	0	0	0
La Mirada Eementary	34,800	\$ 5,287,500	\$ 3,089,500	\$ 931,250	\$ 1,044,000	\$ 10,352,250
Ocean View Elementary	80,850	\$ 3,525,000	\$ 3,538,913	\$ 150,000	\$ 4,699,406	\$ 11,913,319
Smythe Elementary	51,150	\$ 1,762,500	\$ 591,800	\$ 1,306,250	\$ 1,534,500	\$ 5,195,050
Sunset elementary	76,500	0	\$ 2,888,623	\$ 775,000	\$ 4,446,563	\$ 8,110,186
Willow Elementary	95,973	\$ 587,500	\$ 2,999,156	\$ 150,000	\$ 5,578,431	\$ 9,315,087
San Ysidro Middle School	97,700	0	\$ 26,867,500	\$ 2,178,000	\$ 5,678,813	\$ 34,724,313
Vista Del Mar Middle School	62,050	\$ 3,525,000	\$ 3,639,063	0	\$ 3,606,406	\$ 10,770,469
Beyer Site: Community Resources	12,000	\$ 12,925,000	0	\$ 2,613,600	0	\$ 15,538,600
SYSD District Office	12,000	\$ 2,937,500	\$ 3,876,030	\$ 300,000	\$ 978,750	\$ 8,092,280
TOTAL	538,023	\$ 30,550,000	\$ 47,490,585	\$ 8,404,100	\$ 27,566,869	\$114,011,554

* summary from 2021 LRFMP

The two major projects in the program are new construction at the Beyer Community Resources Center and a renovation to the San Ysidro Middle School. According to the District, these two projects will be executed utilizing a Design-Build methodology. As of yet, there is also no information provided by the District regarding potential matching funds for renovation or new construction which might be provided by the State of California or other sources of funding. The budget estimates presented graphically in the implementation plan revision of March 10, 2022 indicate four increments for the program. \$26.0 M is devoted to increment one and \$28.0 M to increment two.

Our observation is that over 24% of the program is devoted to furniture, equipment, and technology improvements. On the surface this amount appears to be high given that many of those improvements may have a short useful life.

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Based on this brief analysis we make the following recommendations:

1. On future bond issues ensure that projects are specifically described, estimated, and listed in the ballot language by site location.
2. Conduct updates to the Long Range Master Plan at least every five years.
3. Provide program specific breakdowns of each project indicating the hard construction costs, soft costs, contingency costs, and escalation built into the budgets.
4. Provide anticipated matching funds integrated with all project estimated costs.

KPI #2. ON CHANGE ORDERS

Since no significant projects have yet been executed, several items are worthy of note as recommendations to the District on change order management:

Delegation of Authority to Approve Change Orders:

The Governing Board should enact a resolution to delegate some level of monetary authority to the Chief Business Official to approve change orders during construction. It is imperative that change orders be approved on a regular basis rather than at regularly scheduled board meetings, which are typically only held on a monthly basis. Any delay in approval of change orders can result in costly delays to project completion and result in claims by the contractor. Reporting of the changes can be made to the Governing Board at the next regularly scheduled meeting or periodically during the course of construction progress.

At this time, no delegation has been authorized by the Board. However the District will revisit this process. *We find the current procedure to place unnecessary risk on the District.*

Tracking Change Orders by Category:

Normally projects have change orders associated with them as a result of unforeseen site conditions, unavailable materials, scope changes authorized by the Owner, errors and omissions in the documents prepared by the architect or changes resulting of on-site field review by governing agencies (code interpretations). We recommend the District consider maintaining a record log of change orders on each project and to assign them a category by reason so that the District develops a database of change order causes. These are typically tracked by the following:

1. Errors on the contract documents
2. Omissions from the contract documents
3. Unforeseen job conditions
4. Changes in the requirements of regulatory agencies
5. Scope changes by the District
6. Changes in specified work due to the unavailability of specified materials
7. Back charges to the General Contractor

This tracking system will allow the District to evaluate the effectiveness of the Architect of Record (AOR) in preparing accurate project drawings and specifications, provide a database for future work, and provide transparency to the public. This activity should be conducted by the Project Manager.

Errors and Omission Recovery:

Normally, the standard of care in the industry for errors and omissions on the part of the AOR is 3.0% of construction costs. It is purely a judgment call made by the Owner and liability only attaches when the Architect or Engineer acts or fails to act below a reasonable standard of care. In order to determine if the standard of care has been breached, we calculate 100% of the error but only 20% of the omission. In such cases of breach, the District may seek to recover any costs from the AOR or include it in negotiations on other architectural work. In all cases recovery should be documented. *We recommend that language should be incorporated in the architectural contracts to clearly identify this responsibility.*

Overall Change Order Rates:

We normally see overall change order rates between 3-10% on new projects for an average of 5% and as much as 10% on renovations. In no cases should this be exceeded based on the above stated categories.

Other recommendations are as follows:

- The District should require that all large change orders be bid to separate subcontractors.
- The District should attempt to limit any Time and Material change orders. If used, this work needs strict on-site supervision by an inspector of record or project manager.
- If using a Design-Build methodology for construction, the District should clearly define whether the Architect is considered as a sub-contractor to the Design-Build Contractor on change orders in the contract.

KPI #3. ON PROCUREMENT OF CONTRACTORS AND PROFESSIONAL SERVICES

We reviewed the District web site and Governing Board policies to determine if there was compliance with Public Contract Code provisions and a process for procuring contractors and consultants. We found the Design-Bid-Build and Design-Build processes anticipated on projects to be in compliance with all provisions.

Although there were no major contractor selections made during our review, we were able to review the process for the selection of Architectural and Engineering Services conducted by the District through a Request for Qualifications (RFQ) process conducted in January 2022.

Advertisement for the RFQ was made in the Daily Transcript, a widely circulated trade publication on December 6, 2021 and December 13, 2021. An RFQ was issued requesting a Statement of Qualification (SOQ) from proposers with a due date of January 5, 2022. The RFQ listed the

evaluation criteria and point scale to be used by the selection committee in making recommendations to the Governing Board for awards. Fee proposals were to be negotiated on a project by project basis post-award. As of yet, there have been no architectural agreements provided to review.

Ten firms submitted SOQs. Five firms were selected by the screening committee for interviews conducted by a selection committee and points were awarded to each based on the published criteria. At the Governing Board meeting of March 10, 2022, it was recommended and approved that awards be made to PBK and the Lord Architecture, Inc firms for District projects. No specific projects were named.

It was unclear whether an independent evaluation committee was utilized for either prequalification or project specific evaluations. The District indicated that the Project Manager, Director of Maintenance and Operation and other qualified individuals were involved.

We recommend that the District may elect to ensure an independent evaluation committee is formed and engage a member of the ICOC in any future selection of vendors. Particular attention should be made to compose a committee which has professionals versed in the construction field as members.

KPI #4. ON CONSTRUCTION MANAGEMENT

Based on a review of Measure T & Measure U information the District decided to seek proposals from a qualified bond project manager/ consultant to assist the District in executing the construction program. Consistent with that decision the District issued an RFP on July 29, 2021 and responses were received for those services on August 13, 2021. The initial term of the contract was for three years with an additional one-year option to renew. A brief scope of services was included in the RFP and attached as an exhibit to the final consultant agreement.

After review of the RFP/RFQ the firm of Tom Silva Consulting was selected as bond project manager. This individual has worked for the District on previous projects. A contract was executed on November 19, 2021 for a three year term ending on June 30, 2024. A fee schedule was attached to the agreement as Exhibit B and included a base hourly rate fee as well as a sliding scale fee schedule. The base hourly rate was \$175.00 per hour with a 2% annual increase and the following fee schedule:

- \$3,000 minimum or up to 6% of Project value for project less than \$50,000
- 19% of Project Value for projects between \$50,001 and \$150,000
- 17% of Project Value for projects between \$150,001 and \$1,000,000

- 10% of Project Value for projects above \$1,000,000

Project Value is equal to the total contract value of the architects, engineers, and construction contract values on a project. Reimbursable expenses were to be compensated at cost plus 3%.

Without having specific project breakdowns, it is impossible at this time to determine what the final projected project management costs might be. The industry standard costs for PM services should range between 6-10% of overall program cost. With other districts we have reviewed these costs have been approximately 5-7%.

The selected Project Manager is a sole proprietor and as such has no other staff to assign to projects. While some of the minor projects may be managed by qualified District staff, it is difficult to tell how many projects will be actively managed at any one time. There is an inherent risk with only one person managing the program however the contract allows for additional hourly rates for personnel should that individual be burdened.

KPI #5. ON OVERALL TRANSPARENCY OF PROGRAM

We were able to obtain and review all written reports and meeting minutes for the Independent Citizens' Oversight Committee (ICOC) on the District's web site. The ICOC was formed to implement recommendations from the "Grand Jury Audit of the San Ysidro School District Bonds". Prior to the formation of the ICOC there were no requirements to review Prop C bonds. They first met on May 30, 2018 to review the balance of Prop C funds. By formal resolution the ICOC was established in April, 2019 as required by California Proposition 39... There are seven members on the committee of which one is a SDCTA member. While there was no specific selection process noted for initial ICOC members there are opportunities and applications posted on the web site to fill expiring terms. Currently there are two vacancies on the committee.

The charge of the committee is to review copies of the annual performance and financial audits, inspect school facilities and ground ensuring proper expenditure of bond revenues, review copies of deferred maintenance plans and proposals, and to review efforts to maximize bond revenues by implementing cost saving measures. The committee meets every other month. Annual reports are prepared with the latest report reviewed at the May 12, 2022 meeting and presented to the Governing Board at their June 23, 2022 meeting. The meeting minutes and reports of the committee are posted on the District web site within a month of the latest meeting.

It appears that the meeting minutes are rather brief, and we recommend more narrative discussion and information as the program develops. Meeting minutes do not indicate a robust probing discussion of proper spending of dollars.

We also reviewed the Performance and Financial Audits prepared for the last three years and paid special attention to the last two years. A report was prepared by Wilkinson Hadley King and Co. for FY 2020-21 and presented to the Governing Board on April 15, 2021. During the past two years there have been no findings or questioned costs regarding the bonds. At present, bond series have been sold to pay of Certificates of Participation and close out Prop C. Measure T has not been closed out. The first Measure T Series A bond sale was executed in September 2020 for \$20.0 M to pay off the Certificates of Participation. The total balance remaining in accounts for Prop U as of 6/21/22 was approximately \$20.0 M.

We recommend that the District elect to ensure that the ICOC is involved in the scope of the Performance Audit.

We found the overall program to be in need of improvement and more transparent to adequately meet SDCTA standards.

We believe that strengthening the communication with the community as projects develop may be necessary. Providing individual project status, budget, and schedules can ensure effective communication between stakeholders, the general public, the ICOC, and the Governing Board such that all are informed and involved in the decision making process.

KPI #5. ON PERFORMANCE VS. BOND CRITERIA

A Facilities Condition Assessment was not included in the latest update of the LRFMP. Brief enrollment projections from the CA Department of Education were included which indicate a steady, slight decline in enrollment over the past few years. Included were future population projections for the service area developed by the San Diego Association of Governments in 2013 showing increases in school age population. Based on the 2019-2020, current enrollment of 4,170 students and a campus capacity of 5,553 there is excess capacity for 1,383 students. No recent updates to reflect new data have been provided.

We recommend that since enrollment drives the need for facilities that updated enrollment information is provided on a periodic basis. A Facilities Condition Assessment would also provide a measure of how adequate the current facilities are being maintained, project which facilities need renovation and/or replacement, and provide a basis for future needs and priorities.

CONCLUSIONS

In summary, several areas of risk to the program arise from our review that need attention in the future.

Project Budgets and Schedules:

Individual project budgets broken down by category of expenditure and schedules for each project within the program have not been developed. It will be difficult to identify and track each project from inception to completion, identify specific information about project cost categories, identify when bond sales will be required, forecast potential change orders, and manage risk without these tools. Reporting to the Governing Board, to the ICBOC and other community stakeholders will be compromised. There is an inherent risk of backlash from community stakeholders if projects do not meet original expectations, require additional funds, or postpone future projects because of previous project overages. Individualized project budgets will give stakeholders who have an interest in specific projects an understanding of exactly how much is being invested in each project.

Design and Construction Contracts:

We did not have any design or construction contracts available to review, as expected, with the scoping of our work; however we have found with past contracts several issues that are worthy of note. Often the A/E agreement scope of work is developed by the architect rather than the District, there are poorly defined deliverables within the project, there is no integration of the latest technology, there is overlapping and redundant estimating, value engineering and other tasks among others. A schedule of standard fees based on project construction costs and complexity should also be developed and utilized in the negotiations with A/Es. There is a risk of inflated fees and excessive extra services because of poor contract language.

Design Specifications and Standards:

In our discussion with staff and the project manager we understand that no design specifications and standards have been developed by the District. Typically we would find an active interest from the maintenance personnel in the planning of security systems, IT systems, mechanical and electrical equipment standardization, and other building standards for ease of maintenance. There does not appear to be any formal design standards or minimum quality standards which can be given to architects for a baseline. If architects develop design standards and specifications for each individual project additional costs due to non-standard equipment and materials, future higher operational costs and increased potential for design errors and omissions can occur as well as change orders after discovery of the error. Sole source justification for proprietary systems, preferred vendors can also be developed. Development can also limit the long term costs to the District.

Construction Management:

We have previously discussed our concerns with the contract for construction management. It is unclear if the project manager will be coordinating all activities related to all projects, conducting and participating in interviews for all future consultants and contractors, preparing bid documents, forecasting change orders, keeping records and schedules, reporting to the Governing Board, and developing and administering a financial system. This is an enormous task normally carried out by more than one individual. We normal see 4.0 full time equivalent (FTE) staff per every \$25.0 M of construction assigned to projects.

We also note that the proposed fee schedule and scope of work is not well defined. The fee at 10% of projects over \$1.0 M is on the high end of the scale and more in line with projects of extreme complexity such as hospitals rather than K-12 education. It would also entail multiple individuals to manage the project. The reimbursable expenses at 3% plus cost is also more than we have seen on other similar projects of the scope and scale anticipated and is ill-defined.

As an example, the San Ysidro Middle School Renovation project is master planned at \$34.7 M, therefore the fee for project management would be approximately \$3.47 M. If, for example, the project duration is 36 months from design inception through project completion, the expenditure would be approximately \$96,400/month. If there are 22 working days /month, then 176 man hours would normally be expended. Should only one individual be utilized in performance of those duties his hourly rate would be \$547/hr. The highest rate we have recently seen for a project executive is \$230/hr and for a project manager \$180/hr. Using the hourly rate as indicated in the contract for the project manager of \$175/hr then it would require 3.2 FTE employees closely matching our anticipated allocation.