

**LAUSD SCHOOL CONSTRUCTION BOND
CITIZENS' OVERSIGHT COMMITTEE
CHARTER AND MEMORANDUM OF UNDERSTANDING
FEBRUARY 27, 2007**

1.	The Purpose of this Document	1
2.	The Mission and Purpose of the Committee	1
3.	Committee Membership	1
4.	Committee Governance	3
5.	Committee Reports	4
6.	Commitment to the Committee	4
7.	Access to Information	6
8.	Logistical Support from the District	9
9.	District Handling of Committee Expenses	10
10.	Protocols with the Office of the Inspector General	11

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**LAUSD SCHOOL CONSTRUCTION BOND
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1. The Purpose of this Document

1.1. The Los Angeles Unified School District (“District”) and the LAUSD School Construction Bond Citizens' Oversight Committee (the “Committee”) hereby adopt this Charter and Memorandum Of Understanding (hereafter “Charter”) to articulate the role, duties and purpose of the Committee, its place in the organization of the District, its relationship with the District, and the District’s commitment to provide the Committee with the resources, support and cooperation the Committee requires to accomplish its mission.

1.2. This Charter supersedes the charter and memorandum of understanding previously adopted and dated July 9, 2002.

2. The Mission and Purpose of the Committee

2.1. The shared vision of the Committee and the District is to build and maintain schools that promote the full development of the child, are educationally and environmentally sound, enhance their neighborhoods through design and programming as centers of community, and reflect the wise and efficient use of limited land and public resources.

2.2. The mission of a strong and independent Committee is to oversee the expenditure of money for the construction, repair and modernization of schools by the District in accordance with California law and as required by Proposition BB, Measure K, Measure R, and Measure Y. The Committee is charged with the responsibility of communicating its findings and recommendations to the District and the public so that the school bond funds authorized by the District’s voters through Proposition BB, Measure K, Measure R, Measure Y, and any future District bond measures which require an oversight committee, are expended as the voters intended and that projects are completed wisely and efficiently.

2.3. Essential to these goals are meaningful and effective community and small business outreach, so that the District may maximize available resources and achieve its construction goals in a timely and cost-efficient manner.

3. Committee Membership

3.1. The membership of the Committee shall be as follows. The five members whose qualifications are dictated by Education Code §15282(a) are noted with a pound sign (#).

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

3.1.1. The Board shall appoint one member nominated by the Los Angeles Area Chamber of Commerce who is active in the Chamber of Commerce (#).

3.1.2. The Board shall appoint one member who is active in a senior citizens' organization (#).

3.1.3. The Board shall appoint one member who is active in a bona fide taxpayers' organization (#).

3.1.4. The Board shall appoint one member who is the parent or guardian of a child enrolled in the LAUSD (#).

3.1.5. The Board shall appoint one member who is the parent or guardian of a child enrolled in the LAUSD and is active in a parent-teacher organization such as the PTSA (#).

3.1.6. The Board shall appoint one member nominated by the Tenth District PTSA.

3.1.7. The Board shall appoint one member nominated by the Thirty-First District PTSA.

3.1.8. The Board shall appoint one member nominated by the American Institute of Architects, Los Angeles Chapter.

3.1.9. The Board shall appoint one member nominated by the Associated General Contractors of California, Los Angeles District.

3.1.10. The Board shall appoint one member nominated by the Mayor of the City of Los Angeles.

3.1.11. The Board shall appoint one member nominated by the Controller of the City of Los Angeles.

3.1.12. The Board shall appoint one member nominated by the Los Angeles County Board of Supervisors from the Office of the County Auditor-Controller.

3.1.13. The Board shall appoint one member nominated by the Los Angeles County Federation of Labor AFL-CIO.

3.1.14. The Board shall appoint one member nominated by a bona fide nonprofit environmental, environmental justice or civil rights group.

3.1.15. The Board shall appoint one member nominated by the American Lung Association.

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

3.2. The Committee members shall serve in accordance with the terms permitted by law. Following an absence of one year, any individual whose term has expired due to statutory term limits shall be eligible to serve again.

3.3. Members are expected to attend all meetings. If a member without good reason acceptable to the Executive Committee of the Committee fails to attend either (a) two or more consecutive meetings or (b) three or more meetings in a year, then the Committee shall establish a procedure to define the member as inactive and shall inform the Board of its action.

3.4. **Alternates.** Pursuant to a request from a nominating entity listed in section 3.1, above, an individual to act as an alternate for a member of the Committee shall be selected and appointed in the same manner as the primary member. There shall be no difference for purpose of Section 3.2, above, between an individual who has been a primary member, an alternate, or both. The alternate may attend meetings in place of the primary member when the primary member cannot attend. On those occasions when the alternate member attends meetings of the Committee, the alternate member shall be accorded all of the same rights and privileges as those accorded to the primary member except that if the primary member is the Chair, Vice-Chair, or Secretary of the Committee, then the alternate is not to act as the Chair, Vice-Chair, or Secretary. For example, if the Chair of the Committee does not attend a meeting and his or her alternate attends instead, the Vice-Chair would preside over the meeting, not the alternate of the Chair. If both the primary member and his or her alternate both attend a meeting of the Committee, only the primary member shall act as a member of the Committee for the time he or she is present.

3.5. If a current member is inactive or if one of the nominating individuals or organizations noted above elects not to nominate a member, the Committee may request the Board to appoint a replacement or recommend specific changes in the number of members and/or composition of the Committee to the Board, consistent with state law. The Committee shall be consulted during the selection process to assess whether a proposed individual meets the eligibility criteria for membership set forth in this Charter.

3.6. No employee or official of the District shall be appointed to the Committee. No vendor, contractor, or consultant of the District shall be appointed to the Committee. Committee members shall comply with the District's Conflict of Interest Code and abide by Article 4 and Article 4.7 of Division 4 of Title 1 of the Government Code.

3.7. Committee members are required to sign a conflict of interest statement and to disclose any potential conflicts that may arise in the course of their service.

4. Committee Governance

4.1. The Committee shall meet monthly or as the Committee shall deem necessary to conduct its business. All Committee proceedings shall be open to the public

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

except as necessary to consider legally privileged matters consistent with state law. Notice to the public shall be provided in the same manner as the proceedings of the Board.

4.2. The Committee shall maintain bylaws regarding its internal organization. Such bylaws shall include the following:

4.2.1. A majority of the active members of the Committee shall constitute a quorum.

4.2.2. Recommendations to the District to approve or disapprove a project must be approved by a majority of the active members of the Committee. Other recommendations may be approved by a majority of the active members in attendance, provided that there is a quorum.

4.2.3. A provision for electing a Chair and other officers.

4.2.4. A provision for an Executive Committee.

5. Committee Reports

5.1. The Committee shall issue regular reports on the results of its activities. A report shall be issued at least quarterly and shall include a statement of the Committee's year-to-date budget vs. actual expenses incurred. Minutes of the Committee's proceedings and all documents received and reports issued shall be a matter of public record and be made available at Committee meetings, with the exception of any documents that are protected by a legal privileged or otherwise exempt from disclosure under the Public Records Act. Such minutes, documents and reports may be posted on a website maintained by the LAUSD.

6. Commitment to the Committee

6.1. The District acknowledges that effective oversight by the Committee is not only required by law but is essential to the District's ability to accomplish the construction, repair and modernization of its schools. Therefore, the District commits to support the oversight process through cooperation with the Committee, by providing the Committee with access to information and with sufficient logistical support so that the Committee may effectively perform its oversight function. Further, the District will insure that with regard to the Committee, all District personnel are committed to open communication, the timely sharing of information and teamwork.

6.2. The District agrees to include the Committee's recommendations as part of the District's documentation when a project or family of projects is prepared for approval. The District agrees to track all recommendations made by the Committee and to report to the Committee at each Committee meeting: (i) that the recommendation has been adopted by the District; (ii) that the recommendation has been rejected by the

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

District; or (iii) the status of the District's consideration of the recommendation. Tracking of Committee recommendations may be included as part of the Facilities Services Division's monthly reports to the Committee or as a separate written informational report to be updated on a monthly basis and provided to Committee staff not later than two (2) weeks prior to each regular Committee meeting.

6.3. At the Committee Chair's request, the District agrees to provide a time certain at Board meetings for the Committee Chair or a designated Committee member to report on Committee matters to the District.

6.4. Committee reports will be available to the public on a website to be provided for the Committee by the District.

6.5. The Committee will work with the District so that the District has in place the necessary plans, professional staff and management systems to build schools wisely and efficiently.

6.5.1. The District agrees that responsibility within the District for implementation of the construction and modernization program funded by the bonds shall be vested in the Facilities Services Division, which shall be headed by a Chief Facilities Executive who shall report directly to the Superintendent.

6.5.2. Managers of the Facilities Services Division shall have educational and employment experience comparable to that of persons with similar responsibility in the private sector.

6.5.3. To ensure that the District employs managers of the Facilities Services Division who are so qualified, the District shall, no less than biennially, cause a survey of compensation of managers of major construction programs and managers of major public and private facilities in comparable locations across the United States in both the public and private sector, and the District shall make a finding that the managers of the District's Facilities Services Division are being compensated accordingly.

6.5.4. The District shall provide the Facilities Services Division with dedicated procurement, accounting, legal, information-technology, personnel, and other support services sufficient for implementation of the construction and modernization program funded by bond proceeds.

6.6. Subject to the availability of adequate resources from the District, the Committee will provide the District with independent oversight reports and evaluations by the Oversight Consultant, under the direction of the Committee. The Committee will report its findings and recommendations to the District and the public.

6.7. The District and the Committee agree that to insure oversight by the Committee continues to be as effective as possible, the efficacy of this Charter and Memorandum of Understanding will be evaluated on a periodic basis and a formal review

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

will be jointly conducted by the District and the Committee within five (5) years of the adoption of this Charter and Memorandum of Understanding to determine if any amendments to this Charter and Memorandum of Understanding should be made.

7. Access to Information

7.1. The District agrees to provide the Committee with the necessary information to engage in effective oversight not hindsight. Receipt of timely and complete information is essential in order for the Committee to perform its duties.

7.2. All expenditures by the District of funds obtained through bonds authorized by Proposition BB, Measure K, Measure R, Measure Y, and any future bond measures which require an oversight committee, shall be subject to the review and oversight of the Committee, which shall review and report on all bond fund expenditures concerning whether the expenditures were made consistent with the purposes for which the bonds were authorized and otherwise made pursuant to a Strategic Execution Plan. The Committee will be entitled to access to all information concerning projects not subject to legal privilege and will have the responsibility to report to the public any information that bond funds are being spent illegally or imprudently or in a manner inconsistent with the Strategic Execution Plan adopted by the District.

7.3. The Committee shall review annual, independent performance and financial audits of the bond fund expenditures and report to the public no less than once each year in which bond funds are being spent regarding the use of the funds. The Committee shall serve as the single statutory Oversight Committee for Proposition BB, Measure K, Measure R, Measure Y, and any future bond measures which require an oversight committee.

7.4. The Committee is entitled to information concerning school construction, repair and modernization with the exception of legally privileged information such as information pertaining to litigation, personnel matters, confidential student information, labor negotiations, procurements in process and investigations of possible criminal activity. If the Committee finds it necessary to request legally privileged information, the District will consider on a case-by-base basis the balance between the Committee's need to know and the District's need and ability to protect its legal privilege.

7.5. The District acknowledges its duty to gather, analyze and publish information necessary for the Committee and the public to understand the impact of the District's construction, repair and modernization plans, policies and practices on students and on the community. This information will enable full and fair participation by all communities in the evaluation of the District's plans to build, repair and modernize schools.

7.6. The District agrees to present information concerning major projects to the Committee before the District commits itself to a course of action. If a project or any component thereof will result in an impermissible expenditure of bond funds, all parties

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

agree that it should be discovered at an early stage. The Committee has the responsibility and authority to recommend against the expenditure of bond funds when LAUSD does not provide adequate information for effective oversight, or when a project or family of projects appears to be impermissible or imprudent. To support the Committee, the District agrees that the District shall, at a minimum, provide the Committee with the following plans and reports, on a timely and consistent basis:

7.7. Strategic Execution Plans for school construction, repair, modernization, and other bond-funded activities. The necessary plans include a vision for the learning environment, mission, guiding principles, goals, lists of specific projects, milestones, budget, time schedules, management controls, information systems, cost controls, early warning systems, and the assignment of responsibility and accountability.

7.8. The District shall maintain Strategic Execution Plans for the use of the bond proceeds, which Plans shall be adopted at a public meeting at which taxpayers, parents, students, employees, other government agencies, community organizations, and business interests shall be afforded an opportunity to comment. The Plans shall provide for the regular assessment of the condition of facilities for major repairs through facility inspections and industry-based standards for the life expectancy of facility components. To this end, the District shall develop and maintain information systems adequate to inventory facility systems and structures. The Plans shall be reviewed by the Committee prior to final action by the District. Any subsequent amendment to the Strategic Execution Plans that may adversely affect the District's ability to successfully complete the Plan shall be accompanied by an analysis of the impact of the amendment on the prospects of fully achieving the Plan's goals. Any subsequent amendments to the Strategic Execution Plans shall be reviewed by the Committee prior to final action by the District.

7.9. Monthly progress reports. Monthly progress reports shall be provided to the Committee by the Facilities Services Division regarding New Construction and Existing Facilities/Modernization to identify progress made, significant schedule and budget variances, plan revisions and current estimates for cost and completion. Such monthly reports shall be composed in easy to understand language and not in an overly technical format. Periodic progress reports on other uses of bond funds will be provided to the Committee on a schedule consistent with the level of expenditure and degree of risk associated with the programs and projects so funded.

7.10. Early warning memos. Facilities Services Division ("FSD") will provide the Committee with early warning exception reports when program or project performance varies from an adopted Strategic Execution Plan ("SEP"), as follows:

7.10.1. Program – FSD will advise the Committee if cost and/or funding availability changes, or potential changes, place the completion of the program of projects at risk due to budget, schedule, or quality concerns. FSD will regularly inform the Committee of the status of program budget contingencies.

LAUSD School Construction Bond Citizens' Oversight Committee
Charter And Memorandum Of Understanding

7.10.2. **New Construction** – FSD will:

7.10.2.1. Advise the Committee and Committee staff at each occurrence when a project budget modification results in a project budget that exceeds the latest published SEP budget for that project by 5% or more.

7.10.2.2. Transmit to the Committee staff, on a monthly basis, a list of all budget changes resulting in program reserve draws. Update shall include an update on program reserve status.

7.10.2.3. Provide additional information on budget changes to the Committee and/or Committee staff when requested by the Committee staff.

7.10.2.4. Notify the Committee when a project's readiness for use as a school or campus element becomes later than the most recently published SEP schedule.

7.10.2.5. Notify the Committee when projects have scope changes, such as reduction in the number of classrooms, elimination or reduction in size of playground area, change from a "conventional" to a small learning community design, or change from "performing arts" or other specialty design to a non-specialty design, and vice-versa. The preceding are offered as examples only and are not intended as a comprehensive list of all such possible changes.

7.10.3. **Existing Facilities** – FSD will advise the Committee when:

7.10.3.1. The combined budgets for all projects of a type (such as "classroom lighting," "exterior paving," and "roofing") exceeds the combined SEP budget by 5% or more, or exceeds a previously reported modified type budget total by 1% or more from the budget contained in the most recently adopted Existing Facilities SEP budget. Subsequent Existing Facilities SEP's will include a schedule of net changes in budget by project type from the previous SEP.

7.10.3.2. The scheduled date for substantial completion of any specific project is projected to be missed by twelve months or more. "Substantial Completion" is defined as the stage in the progress of the specific project when all of the requirements of the contracted work are completed, except punch list items, final warranties and guaranties, and record documents submittals.

7.10.3.3. The project scope for any specific project is materially changed, or a project is eliminated in total (Committee staff will be notified of all such changes, significant ones will be reported to the Committee by FSD without awaiting any request from Committee staff).

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

7.10.4. Exceptions for Bond projects and programs not included in the New Construction and Existing Facilities SEP's will be reported to the Committee on a basis comparable to that outlined above.

7.10.5. The above exceptions will normally be reported in the written and oral New Construction and Modernization reports presented to the Committee at its monthly meetings. Major exceptions shall be brought to the attention of Committee staff between meetings. Questions regarding the necessity of reporting of marginal items shall be resolved by reporting such items to the Committee, that is, any item that may possibly be considered significant shall be reported without delay.

7.10.6. If there are major events that could have significant impacts on the program, FSD shall report on them to the Committee as early as possible, even if it is not then practical to develop precise quantitative predictions of their impacts.

7.10.7. Committee staff will be provided with the monthly "Financial and Operational Status Reports" (or comparable replacement reports), the complete periodic reports on changes in the program contingencies, and other reports, as appropriate with particular issues of concern highlighted in an executive summary.

8. Logistical Support from the District

8.1. The District agrees to provide the Committee with technical and administrative assistance and financial resources in furtherance of its mission and purpose. Financial support will not come from bond funds, except to the extent permitted by law. This assistance includes but is not limited to the commitment of sufficient staff time within the Facilities Services Division and Budget Office to prepare periodic reports that will show the Committee what projects are proposed, what each project is estimated to cost, when each project is scheduled to be completed, each project's current stage of completion, and the final cost of the project. Facilities, Budget and other District staff will assist the Committee and its representatives in the fulfillment of the Committee's mission and purpose, including the following:

8.1.1. A rational and timely audit system including annual financial and performance audits (as required by law), audits of new construction, repair and modernization contracts (as outlined in the Inspector General's approved work plan), process audits and other audits that are mutually agreed between the District and the Committee. To the extent such audits may not, in the opinion of District bond counsel, be funded by bond proceeds, the District commits to making District funds available for such audits.

8.1.2. In order to insure the independence and effectiveness of the Committee, the District shall commission an unbiased, competent and independent annual review of the Committee's processes, including its utilization of staff, consultants and counsel.

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

8.1.3. Providing staff and office supplies budgets sufficient for the Committee to prepare its agenda, distribute materials, prepare minutes, and publish and distribute quarterly reports. Staff shall include a Director and Administrator to assist the Committee.

8.1.4. Providing an independent Oversight Consultant with a background and skills in construction planning, management, and oversight, responsible to the Committee, who can advise the Committee regarding methods the District is using or could be using to construct, repair and modernize schools. The Oversight Consultant shall be a contractor to and paid by the District but will be answerable and responsible only to the Committee.

8.1.5. Providing Independent Legal Counsel, responsible to the Committee, to advise the Committee on relevant legal issues and attend the Committee's public meetings. The cost for such Legal Counsel will be paid by the District but all legal privilege and client loyalty shall be accorded solely to the Committee.

8.1.6. Broadcasting and recording Committee meetings, in English and in Spanish, with Spanish translators available at the meetings as needed. The District Board Meeting Room will be available to the Committee for its meetings.

8.1.7. Maintaining a website on which the Committee can post relevant information.

8.1.8. Providing a travel budget sufficient to allow each member of the Committee to attend one bona-fide conference or educational seminar related to California school facilities each year and to allow the Committee Chair or other Committee member to testify before a State authority if approved by a majority of Committee members.

9. District Handling of Committee Expenses

9.1. In order for the Committee to function within the District budget, accounting, human resources, payroll, procurement, and other procedures and systems, the Committee must have an "identity" within the District chart of accounts, organization code, and other structures.

9.2. The Committee and the District's Chief Financial Officer agree that the Chief Financial Officer will cause to be created a Committee "organization" within the organizational hierarchy of the Chief Financial Officer, directly "reporting" to the Chief Financial Officer. This Committee organization will have an annual budget assigned to it that will be adequate for the Committee to carry out its duties, responsibilities, and powers set forth in this Charter. It shall also have the ability to receive District staff services, engage and pay its independent legal counsel, consultant, and other contractors; to order and reimburse District organizations for services such as recording and televising Committee meeting, translation services, and security; to order office supplies and other

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

materials, and to otherwise conduct its necessary business activities in its conduct of the activities included in this Charter.

9.3. The Chief Financial Officer, and those personnel reporting to him, will in no way have any control over or responsibilities for the actions and activities of the Committee. For personnel purposes, District employees assigned as staff to the Committee will be considered to report to the Chief Financial Officer.

9.4. For those actions that require the approval of a senior District employee, the Chief Financial Officer, or a person or persons designated by him/her, will approve all necessary documents in a timely manner. Invoices rendered by the Committee's independent Legal Counsel, Oversight Consultant, and other contractors will be initially approved by the Committee Chair or, in the absence of the Committee Chair, the Vice Chair or other designated Committee member.

9.5. The Committee and Committee staff will receive the same periodic reports, including those relating to budget and actual expenditures and other matters that all District organizational units receive. Documents relating to Committee transactions will be limited in distribution to those with a need to access them, consistent with the provisions of California statutes.

9.6. If the Chief Financial Officer has questions regarding any Committee financial transaction or activity, he will make inquiries of the Committee Chair or, in the absence of the Chair, the Vice Chair, in a timely manner, to resolve the matter.

9.7. With respect to any procurement for the BOC, the BOC must comply with all of the District's policies and procedures for such procurements.

10. Protocols with the Office of the Inspector General

10.1. The Office of the Inspector General's charter specifically comprehends investigations, including, where appropriate, investigation that could lead to criminal indictments. The Office of the Inspector General has the statutory authority to subpoena witnesses and compel the production of information and documents and the Office of the Inspector General's Office of Investigations is staffed with trained investigators with law enforcement experience. The Committee does not have the resources to conduct investigations. Any and all matters that involve investigations are solely the responsibility of the Office of the Inspector General and the Committee shall not conduct investigations. If matters involving alleged fraud, waste, misuse, or other matters that could lead to investigations become known to Committee members or staff, the information regarding these matters will be provided to the Office of the Inspector General in a timely matter. If requested by the Office of the Inspector General, the Committee will, to the best of its ability, provide information regarding investigations of other parties and provide other requested assistance where possible.

LAUSD School Construction Bond Citizens' Oversight Committee Charter And Memorandum Of Understanding

10.2. If, with respect to any activities of the Committee or the Office of Inspector General, there is a report or allegations of fraud, waste, misuse, or other matters with respect to bond funds that could lead to an investigation of such report or allegations, then the party receiving such report or allegations, the Office of the Inspector General or the Committee, shall refer such report or allegations to the Board President. The Board President shall, with the advice of the District's General Counsel, designate and refer such report or allegations to a qualified and appropriately disinterested investigating entity independent of the District possessing the necessary authority to fully investigate the report or allegations, to evaluate such report or allegations and if warranted, to fully investigate the report or allegations.

10.3. The Office of the Inspector General has statutory responsibilities regarding the confidentiality of its investigations and the results thereof. The Committee has no unique rights to any Office of the Inspector General investigations reports or information, other than as the Office of the Inspector General shall conclude are appropriate within its statutory responsibilities.

10.4. The Committee and the Office of the Inspector General share responsibility regarding the integrity of the systems that the District and Facilities Services Division have implemented in furtherance of the bond supported construction and modernization programs that the Office of Inspector General monitors through audits and other non-investigatory types of analysis. Information regarding such audits, studies, and reports arising therefrom are not statutorily confidential and, at the discretion of the parties, may be shared between them, but will generally become public documents only when completed in final form.

10.5. The Committee and the Office of the Inspector General will endeavor to keep the other informed of the scopes of their non-investigatory work through exchange of work plans and regular periodic meetings. Each shall attempt to avoid duplication of work performed, in progress, or planned, by the other without a compelling reason to do so.

10.6. Certain matters may arise which involve both investigations and audits; for example, a potential criminal investigation that centers on a weakness in internal controls. While the Committee has no role in such investigations until completed and properly publicized, if appropriate, both the Committee and the Office of the Inspector General have an interest in the internal control issues that allowed the result to occur. To the extent practical without compromising its investigations, the Office of the Inspector General shall inform the Committee of its findings regarding internal control weaknesses and related matters. The Committee and the Office of the Inspector General shall, as appropriate in individual situations, meet and confer regarding work to evaluate and report on internal control and related matters, including which party should conduct such work, scope, and timing thereof.

10.7. The District will publicize the Inspector General's availability to investigate allegations of waste, fraud or abuse regarding the expenditure of local bond

LAUSD School Construction Bond Citizens' Oversight Committee
Charter And Memorandum Of Understanding

funds. Certain public audits or reports prepared by the Inspector General will be made available on the District's website. The Committee will provide oversight regarding the Office of the Inspector General's processes for conducting bond-related audits and any bond-funded investigations without compromising the confidentiality of such investigations.

**APPROVED AND DULY ADOPTED AS OF THIS 27th DAY OF February, 2007
BY:**

LAUSD Board Of Trustees

Los Angeles Unified School District

By: Marlene Carter
President of the Board

By: David L. Brewer III

LAUSD Office of the Inspector General

LAUSD School Construction Bond Citizens'
Oversight Committee

By: Jerry Thornton

By: Constance Rice