

# FCMAT

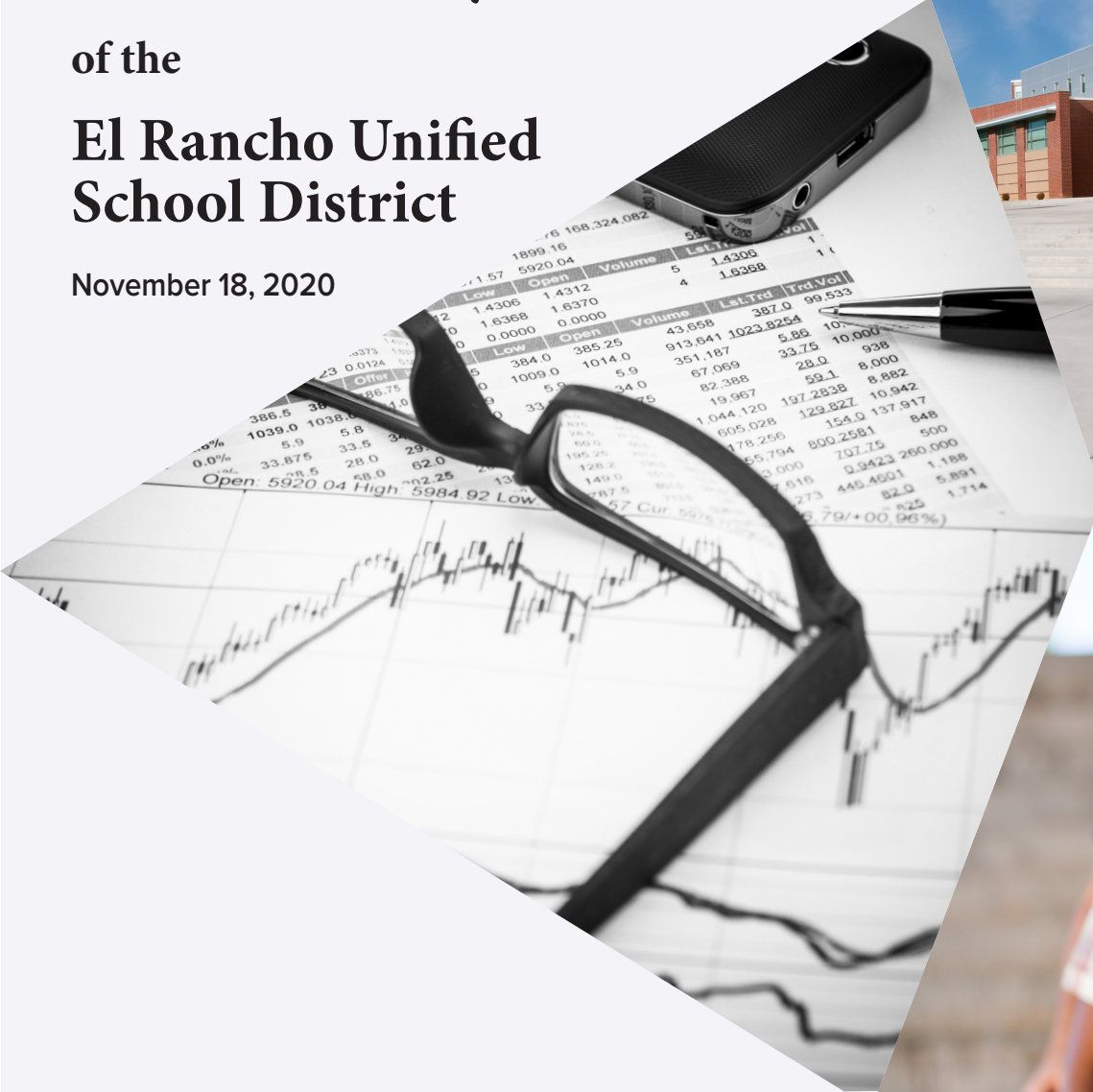
FISCAL CRISIS & MANAGEMENT  
ASSISTANCE TEAM

## Extraordinary Audit

of the

## El Rancho Unified School District

November 18, 2020



## Los Angeles County Office of Education

Michael H. Fine  
Chief Executive Officer

# FCMAT

FISCAL CRISIS & MANAGEMENT  
ASSISTANCE TEAM

November 18, 2020

Debra Duardo, Superintendent  
Los Angeles County Office of Education  
9300 Imperial Highway  
Downey, CA 90242

Dear Superintendent Duardo:

In May 2019, the Los Angeles County Office of Education and the Fiscal Crisis and Management Assistance Team (FCMAT) entered into an agreement to conduct an Assembly Bill (AB) 139 extraordinary audit of the El Rancho Unified School District to determine if fraud, misappropriation of funds or other illegal fiscal practices may have occurred. The county office requested that FCMAT perform the following related to bond Measure ER:

1. Review bidding and award process, expenditures, oversight, and possible conflict of interest, in activities related to bond Measure ER for facilities and/or new construction projects.
2. Test recorded transactions from the time Measure ER was approved in November 2016 to the date the request was initiated (May 23, 2019).

This report contains the study team's findings and recommendation.

FCMAT appreciates the opportunity to serve you and extends thanks to all the staff of the Los Angeles County Office of Education and the El Rancho Unified School District for their cooperation and assistance during this review.

Sincerely,



Michael H. Fine  
Chief Executive Officer

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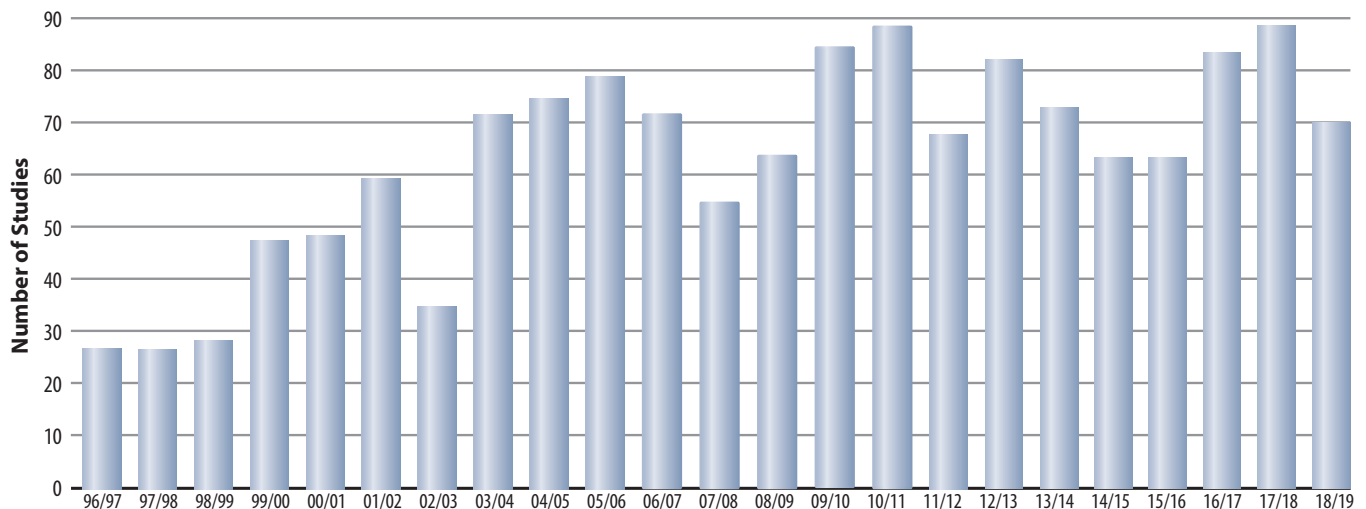
# About FCMAT

FCMAT’s primary mission is to assist California’s local K-14 educational agencies to identify, prevent, and resolve financial, human resources and data management challenges. FCMAT provides fiscal and data management assistance, professional development training, product development and other related school business and data services. FCMAT’s fiscal and management assistance services are used not just to help avert fiscal crisis, but to promote sound financial practices, support the training and development of chief business officials and help to create efficient organizational operations. FCMAT’s data management services are used to help local educational agencies (LEAs) meet state reporting responsibilities, improve data quality, and inform instructional program decisions.

FCMAT may be requested to provide fiscal crisis or management assistance by a school district, charter school, community college, county office of education, the state Superintendent of Public Instruction, or the Legislature.

When a request or assignment is received, FCMAT assembles a study team that works closely with the LEA to define the scope of work, conduct on-site fieldwork and provide a written report with findings and recommendations to help resolve issues, overcome challenges and plan for the future.

## Studies by Fiscal Year



FCMAT has continued to make adjustments in the types of support provided based on the changing dynamics of K-14 LEAs and the implementation of major educational reforms. FCMAT also develops and provides numerous publications, software tools, workshops and professional learning opportunities to help LEAs operate more effectively and fulfill their fiscal oversight and data management responsibilities. The California School Information Services (CSIS) division of FCMAT assists the California Department of Education with the implementation of the California Longitudinal Pupil Achievement Data System (CALPADS). CSIS also hosts and maintains the Ed-Data website ([www.ed-data.org](http://www.ed-data.org)) and provides technical expertise to the Ed-Data partnership: the California Department of Education, EdSource and FCMAT.

FCMAT was created by Assembly Bill (AB) 1200 in 1992 to assist LEAs to meet and sustain their financial obligations. AB 107 in 1997 charged FCMAT with responsibility for CSIS and its statewide data management work. AB 1115 in 1999 codified CSIS’ mission.

AB 1200 is also a statewide plan for county offices of education and school districts to work together locally to improve fiscal procedures and accountability standards. AB 2756 (2004) provides specific responsibilities to FCMAT with regard to districts that have received emergency state loans.

In January 2006, Senate Bill 430 (charter schools) and AB 1366 (community colleges) became law and expanded FCMAT's services to those types of LEAs.

On September 17, 2018 AB 1840 was signed into law. This legislation changed how fiscally insolvent districts are administered once an emergency appropriation has been made, shifting the former state-centric system to be more consistent with the principles of local control, and providing new responsibilities to FCMAT associated with the process.

Since 1992, FCMAT has been engaged to perform more than 1,000 reviews for LEAs, including school districts, county offices of education, charter schools and community colleges. The Kern County Superintendent of Schools is the administrative agent for FCMAT. The team is led by Michael H. Fine, Chief Executive Officer, with funding derived through appropriations in the state budget and a modest fee schedule for charges to requesting agencies.

# Introduction

## Background

The El Rancho Unified School District is located in the city of Pico Rivera approximately 11 miles southeast of downtown Los Angeles. The district provides educational programs and services to approximately 9,115 students in grades K-12 and is governed by a five-member board of education.

The community has historically supported district bond measures, passing Measure A for \$49.5 million in 2003 and Measure EE for \$52 million in 2010. On November 8, 2016, voters in El Rancho Unified School District approved Measure ER for \$200 million. Measures A and EE were passed under Proposition 39 (2000), which requires a minimum of 55% voter approval, while Measure ER was passed with two-thirds vote (Proposition 46/1986). The proceeds of each bond were directed towards acquisition, construction and modernization of district sites and facilities.

The county superintendent, based on allegations suggesting that the district did not follow appropriate bid/award procedures when it awarded a project management contract to oversee Measure ER facilities projects, requested this review. The specific concerns raised included the following:

1. The district awarded a construction/project management contract to a small inexperienced firm even though the firm was not the highest-ranked submission.
2. The owner of the firm contributed to board member campaign(s) and was a friend of two board members when the contract was awarded.
3. Measure ER proceeds were used for projects not included in the project list.

In May 2019 the Los Angeles county superintendent of schools requested that FCMAT assist the county office by conducting an Assembly Bill (AB) 139 extraordinary audit to determine if fraud, misappropriation of funds or other illegal fiscal practices may have occurred at the El Rancho Unified School District.

## Study and Report Guidelines (AB 139 Audit Authority)

Education Code Section 1241.5(b) permits a county superintendent of schools to review or audit the expenditures and internal controls of any school district in the county if he or she has reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. This is known as an AB 139 extraordinary audit or review.

The purpose of an extraordinary audit is to determine if sufficient evidence exists that fraud, misappropriation of funds, or other illegal fiscal practices may have occurred, and to document the findings for referral to the local district attorney's office and further investigation by law enforcement if needed.

In writing its reports, FCMAT uses the Associated Press Stylebook, a comprehensive guide to usage and accepted style that emphasizes conciseness and clarity. In addition, this guide emphasizes plain language, discourages the use of jargon, and capitalizes relatively few terms.

## Extraordinary Audit Procedures

An extraordinary audit is conducted based on the study team's experience and judgment. These audits have many components including: obtaining and examining available original source documents; corroborating documents and information through third-party sources when possible; interviewing potential wit-

nesses; gaining an understanding of internal controls applicable to the scope of the work; and assessing factors such as intent, capability, opportunity, and possible pressures or motives.

The audit consists of gathering adequate information about specific allegations, establishing an audit plan, and performing audit test procedures, often based on sampling of transactions, using the team's judgment and experience to determine whether fraud, misappropriation of funds, or other illegal fiscal practices may have occurred; evaluating the loss that resulted from the inappropriate activity; and determining who was involved and how it may have occurred.

## Audit Objectives

1. Determine if the district followed an appropriate formalized process for contracting services for projects and expending Measure ER bond proceeds.
2. Determine if the district established and maintained an active Citizens' Bond Oversight Committee (CBOC) in compliance with Education Code Section 15278.
3. Determine if the district has established and follows a formalized process to comply with the Political Reform Act and whether a conflict associated with gifts and donations to board members and/or their campaigns is identifiable.

FCMAT visited the El Rancho Unified School District on August 21-23, 2019 and February 26-28, 2020 to conduct interviews, collect data and review documents. Following fieldwork, FCMAT continued its review of documents and analysis.

## Study Team

The study team was composed of the following members:

Marisa A. Ploog, CPA, CFE, CICA, CGMA Intervention Specialist	Tami Ethier, CFE Intervention Specialist
Leonel Martínez FCMAT Technical Writer	Brad Pawlowski* FCMAT Consultant

\*Those members of this study team who are otherwise employed by a local educational agency (LEA) were not representing their respective employers but were working solely as independent contractors for FCMAT.

Each team member reviewed the draft report to confirm its accuracy and to achieve consensus on the final recommendation.

# Fraud, Occupational Fraud and Internal Controls

Fraud can include an array of irregularities and illegal acts characterized by intentional deception and misrepresentations of material facts. Although all employees have some degree of responsibility for internal controls, the governing board, superintendent and senior management ultimately are responsible.

## Occupational Fraud

Occupational fraud includes asset misappropriation, corruption, and fraudulent financial statements. Occupational fraud occurs when an organization's owners, executives, managers or employees use their position within the organization to deliberately misuse or misapply the employer's resources or assets for personal benefit.

Asset misappropriation includes the theft or misuse of local educational agency (LEA) assets and may include taking cash, inventory, or other assets, and/or fraudulent disbursements. Asset misappropriation is the largest category of occupational fraud and includes numerous fraudulent disbursement schemes. Corruption schemes involve an employee(s)/board member(s) using his or her influence in business transactions to obtain a personal benefit that violates that employee's duty to the employer or the organization; conflicts of interest fall into this category.

Although there are many different types of fraud, occupational fraud, including asset misappropriation and corruption, is more likely to occur when employees are in positions of trust and have access to assets. Common elements in all fraud include the following:

- Intent, or knowingly committing a wrongful act
- Misrepresentation or intentional false and willful representation(s) of a material fact
- Reliance on weaknesses in the internal control structure, including when an individual relies on the fraudulent information
- Concealment to hide the act or facts
- Damages, loss or injury by the deceived party

This report presents the team's findings regarding whether: the procurement of products and/or services and the payment of expenditures using Measure ER bond funds were conducted following district-established policies and procedures and industry standard best practices; the district established, appropriate bond oversight; and/or a possible conflict of interest exists regarding activities for facilities and/or new construction projects funded with Measure ER bond funds.

## Internal Controls

The accounting industry defines the term "internal control" as it applies to organizations, including school agencies. Internal control is "a process, effected by an entity's board of directors, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives relating to operations, reporting, and compliance." [The Committee of Sponsoring Organizations of the Treadway Commission – May 2013] The reference to achievement of objectives refers to an organization's work of planning, organizing, directing, and performing routine tasks related to operations, and monitoring performance.



An organization establishes control over its operations by setting goals, objectives, budgets and performance expectations. Several factors influence the effectiveness of internal control, including the social environment and how it affects employees' behavior, the availability and quality of information used to monitor the organization's operations, and the policies and procedures that guide the organization. Internal control helps an organization obtain timely feedback on its progress in meeting operational goals and guiding principles, producing reliable financial reports, and ensuring compliance with applicable laws and regulations.

Internal control is the principal mechanism for preventing and/or deterring fraud or illegal acts. Illegal acts, misappropriation of assets or other fraudulent activities can include an assortment of irregularities characterized by intentional deception and misrepresentation of material facts. Effective internal control provides reasonable assurance that operations are effective and efficient, that the financial information produced is reliable, and that the organization complies with all applicable laws and regulations.

Internal control provides the framework for an effective fraud prevention program. An effective internal control structure includes the policies and administrative regulations established by the board and operational procedures used by staff, adequate accounting and information systems, the work environment, and the professionalism of employees. The five integrated components of internal control and their summarized characteristics are included in the following table.

Internal Control Component	Characteristics
Control Environment	The set of standards, processes and structures that provide the basis for carrying out internal control across an organization. Comprises the integrity and ethical values of the organization. Commonly referred to as the moral tone of the organization, the control environment includes a code of ethical conduct; policies for ethics, hiring and promotion guidelines; proper assignment of authority and responsibility; oversight by management, the board or an audit committee; investigation of reported concerns; and effective disciplinary action for violations.
Risk Assessment	Identification and assessment of potential events that adversely affect the achievement of the organization's objectives, and the development of strategies to react in a timely manner.
Control Activities	Actions established by policies and procedures to enforce the governing board's directives. These include actions by management to prevent and identify misuse of the LEA's assets, including preventing employees from overriding controls in the system.
Information and Communication	Ensures that employees receive information regarding policies and procedures and understand their responsibility for internal control. Provides opportunity to discuss ethical dilemmas. Establishes clear means of communication within an organization to report suspected violations.
Monitoring Activities	Ongoing monitoring to ascertain that all components of internal control are present and functioning; ensures deficiencies are evaluated and corrective actions are implemented.

The five components of internal control are supported by underlying principles that help ensure an entity achieves effective internal control. Each of the five components listed above and their relative principles must be present and functioning in an integrated manner to be effective. An effective system of internal control can provide reasonable but not absolute assurance that the organization will achieve its objectives.

Although the board and all employees in the LEA have some responsibility for internal control, the superintendent, board and other key management personnel have a higher ethical standard, fiduciary duty and responsibility to safeguard the assets of the LEA.

## Control Environment

The internal control environment establishes the organization's moral tone. Though intangible, it begins with the leadership and consists of employees' perception of the ethical conduct displayed by the governing board and executive management.

The control environment is a prerequisite that enables other components of internal control to be effective in achieving the goals and objectives to prevent and/or deter fraud or illegal acts. It sets the tone for the organization, provides discipline and control, and includes factors such as integrity, ethical values and competence of employees.

The control environment can be weakened significantly by a lack of experience in financial management and internal control.

## Control Activities

Control activities are a fundamental component of internal control and are a direct result of policies and procedures designed to prevent and detect misuse of an LEA's assets, including preventing any employee from overriding system controls. Examples of control and transaction activities include the following:

1. Performance reviews, which compare actual data with expectations. In accounting and business offices, this most often occurs when budgeted amounts are compared with actual expenditures to identify variances and followed up with budget transfers to prevent overspending.
2. Information processing, which includes the approvals, authorizations, verifications and reconciliations necessary to ensure that transactions are valid, complete and accurate.
3. Physical controls, which are the processes and procedures designed to safeguard and secure assets and records.
4. Supervisory controls, which assess whether the transaction control activities performed are accurate and in accordance with established policies and procedures.
5. Segregation of duties, which consists of processes and procedures that ensure that no employee or group is placed in a position to be able to commit and conceal errors or fraud in the normal course of duties. In general, segregation of duties includes separating the custody of assets, the authorization or approval of transactions affecting those assets, the recording or reporting of related transactions, and the execution of the transactions. Adequate segregation of duties provides for separate processing by different individuals at various stages of a transaction, and for independent review of the work; these measures reduce the likelihood that errors will remain undetected.

## Fiduciary Responsibilities

A fiduciary duty is the highest standard of care. The person who has a fiduciary duty is called the fiduciary, and the person to whom he or she owes the duty is typically referred to as the principal or the beneficiary. (Source: [https://www.law.cornell.edu/wex/fiduciary\\_duty](https://www.law.cornell.edu/wex/fiduciary_duty))

A fiduciary also may be a person who holds a legal or ethical relationship of trust with one or more other parties (person or group of persons). In other words, a fiduciary takes care of money or other assets for another. Board members, administrators and managers are examples of those who have fiduciary responsibilities or a fiduciary duty. The Cornell Law source cited above further describes several components of fiduciary duties, which FCMAT summarizes and applies to LEAs as follows:

Duty of Care: Before making a decision, collect all evidence and information available. Do your due diligence and review all the information and evidence available – do not just accept the information as it is presented. Assess information with a critical eye and ask the questions: who? what? when? and where? A fiduciary's responsibility is to protect the assets of the LEA.

Duty of Loyalty: You cannot use your position in the organization to further your private interests. Avoid anything that might injure the LEA.

Duty of Good Faith: Advance the interests of the LEA. Do not violate the law. Fulfill your duties and responsibilities.

Duty of Confidentiality: Keep confidential matters confidential and never disclose confidential information for your own benefit or to avoid personal liability.

Duty of Prudence: Be trustworthy, with the degree of care and skill that a prudent board member, member of management, or fiduciary would exercise. Prudent means acting with wisdom and care, including exercising good judgment.

Duty of Disclosure: Act with complete candor. Be open, sincere, honest and transparent. Disclose all financial interests on Form 700, Statement of Economic Interests.

# Findings

## Procurement

Numerous statutes, policies, procedures, regulations and legal interpretations must be followed in school district procurement processes. A school district will enter into a variety of different types of contracts for the purchase of goods and services, and each type will likely have different rules that must be followed for those documents to be valid. Regardless of what procedure must be followed, the goal of school district procurement is to purchase the highest quality good or service at the lowest reasonable price.

The board of trustees constitutes a body of elected individuals who have the responsibility to govern their schools within the context of the law. The board's role is to be responsive to the values, beliefs and priorities of the community by developing and approving the district's mission, strategic goals, objectives and ensuring accountability to the public.

School boards provide policy direction and oversight for the professionals who manage the district's day-to-day operations through the adoption of board policy and administrative regulations. Day-to-day operating decisions are delegated through these policies to competent staff with the expectation that their actions comply with the related laws while maximizing efficiency and cost savings.

Interviews with staff and independent sources indicate that governing board members have inserted themselves into the district's facilities procurement activities. Education Code Section 17604 states the following:

...no contract made pursuant to the delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, the approval or ratification to be evidenced by a motion of the board duly passed and adopted.

For the district, this understanding is acknowledged in Board Bylaw 9000, Role of the Governing Board, and Board Bylaw 9005, Governance Standards. The board should understand the distinction between school board and administrative staff roles and avoid engaging in the day to day procurement activities. Additionally, trustees should refrain from performing management functions that are the responsibilities of the superintendent and administrative staff.

## Bidding, Scoring, Selection and Award Practices

FCMAT's objective was to determine if the district had established and followed an appropriate formalized procurement process for soliciting, evaluating, selecting, and awarding contracts for projects funded with Measure ER bond proceeds.

A request for qualifications (RFQ) and a request for proposal (RFP) are documents that a public agency create to outline the requirements of a specific project or need. The RFQ/RFP process is used to solicit responses and information about a responding vendor's experience and work history and identify which vendor would be the best qualified to perform the specific work. While the professional services outlined in Government Code Section 4525-4529.5, 53060 are permitted to use the RFQ/RFP process for selecting a vendor, services for construction and the purchase of materials requires bidding.

Within the RFQ/RFP, public agencies should detail the needs of their organization. The vendors' responses will allow the district to better gauge how well each potential vendor understands the project. For projects

related to construction and modernization, districts develop facility master plans and architect and engineer created plans and specifications. Using an RFQ/RFP helps ensure transparency and shows the public that the governmental agency is accountable for project goals and vendor choices. Writing an RFQ/RFP forces an organization to create benchmarks that can be used to measure the success of a project.

The RFQ/RFPs of public agencies may vary in content, but an organization should generally start by identifying its priorities for the project. The district should establish scoring criterion that aligns with elements of the project that are critical or district priorities. These may include, for example, previous experience, capacity, schedule, workload, skill set or references and reviews. In doing so, the district can limit the number of proposals that must seriously be considered and creates a simple way to rank proposals that have been received.

Once the project priorities and scoring criterion are established, the district can prepare an RFQ/RFP that identifies the needs of the project and clearly articulates its expectations. An RFQ/RFP should clearly describe the project, summarizing project objectives. An overview of the project environment should be provided, including a brief history of the district, geography, demographics, known issues, project budget and unique district requirements.

The cultural fit of the district, such as whether it is process-oriented or outcome-focused, forward-looking, innovative, and cutting-edge, standards-driven, and risk-averse, should also be described. An interview team should be established with members who have a good sense of the district's culture and possess a clear understanding of the project objectives and desired outcome.

An evaluation matrix should be used to assess, at a minimum, the completeness of each response including fee schedule, the submitter's approach to work, litigation history, capacity, previous experience, workload, skill set and references and reviews. The RFQ/RFP should consider all legal aspects including the following:

- Insurance limits
- Forms (noncollusion affidavit, equal opportunity, conflict of interest)
- Authority of owner to accept or reject any or all proposals
- Timelines
- Indemnity
- Financial information
- Agreement/contract example

When the district is prepared to proceed, responses to the RFQ/RFP can be sought by advertising in trade magazines, newspapers and on the district website. Once all responses have been obtained, evaluated, and ranked, the district staff develops a recommendation and seek governing board approval.

When district staff seek board approval to enter into an agreement with a recommended vendor, all relative documents (such as the evaluation matrix and individual scoring sheets) should be attached to the board meeting agenda. This allows the district to be fully transparent about the documentation and process guiding the administration's recommendation.

Transparency and accountability are public agency obligations. District administrators and governing board members have fiduciary duties in exercising their decision-making authority. Providing the public with the information used to make informed business decisions demonstrates transparency. This burden must be met by proactively disclosing information that is readily available and easily understood. This type of transparency facilitates effective governance.

FCMAT reviewed the district's process for soliciting, scoring, selecting and awarding contracts for all projects funded with Measure ER bond funds. FCMAT requested from the district a list of all RFQs/RFPs and/or bids associated with work performed and Measure ER funds expended. FCMAT also requested copies of all RFQ/RFP and/or bid documents, including those seeking project management services for Measure ER projects, and all submissions, evaluation, scoring, selection and awarding documentation. The district did not provide FCMAT with a list as requested; therefore, the team could not determine if documentation was provided for all solicitations.

FCMAT was provided with a workflow diagram titled "Hiring of Consultants via RFQ/RFP Flow Chart" that outlined the RFQ/RFP process and communication with the board throughout the process. (Appendix A) The footer at the bottom of this chart states, "based on meeting with Dr. Villon, Mr. Trujillo and Mr. Fromm and Karling Aguilera-Fort August 1, 2018." A second document provided describes the process for supervising the work of, providing direction to and evaluating consultants hired through the RFQ/RFP process. (Appendix B) This chart specifically applied to legal counsel, financial advisor, and construction manager High Performance Learning Environments (HPLE), Inc.

While it is critical for the district to develop and follow a process, the practice in place between May 2015 to February 2019 did not align with industry standard or best practices. Furthermore, the district's procedure to include a board ad hoc committee with direct involvement in the oral interview and selection process may present some conflict, especially in light of the divisive nature of board member relationships. Interviews with district staff indicate that the board president was a participating member of this ad hoc committee.

As a result, at least one governing board member was a part of the selection process that recommended a vendor to the board. This creates a weakness in internal control due to a lack of separation of duties. Furthermore, interviewing and selecting a vendor to provide a good or service is a direct function of the day-to-day operations of the district, which is the responsibility of the administrative staff. Once that process is complete, the board would either accept or reject the recommendation of the administrative staff to approve a vendor.

A board members direct involvement in evaluating and recommending a contract does the following:

1. Compromises the district's system of internal control.
2. Potentially influences the outcome by assessing his or her position of authority to pressure or influence the decision of other team members.
3. May present a conflict of interest.

A conflict of interest occurs when a personal or private interest could directly, or appear to, improperly influence the performance of one's duties or responsibilities. A conflict can take the following form:

- An actual conflict of interest involves a direct conflict between official duties and school district responsibilities and a competing interest or obligation, whether personal or involving a third-party.
- A perceived conflict of interest occurs when it could reasonably be perceived or appear that a competing interest could improperly influence the performance of official duties and school district responsibilities.
- A potential conflict of interest arises when an interest or obligation, whether personal or involving a third-party, could conflict with official duties and school district responsibilities in the future.

A conflict can result from being related to an applicant; engaging in social interaction outside of work; or having a personal financial interest connected to an applicant or the company he or she represents. However, to foster public confidence, the board has adopted Board Bylaw (BB) 9270 Conflict of Interest stating that board members shall not engage in any activities that are inconsistent, incompatible or in conflict with the board member's duties as an officer of the district.

When the district conducts oral interviews, panel members should be carefully selected. Factors to consider include the potential member's knowledge of the district's established selection process or outcome; ability to maintain confidentiality; ability to exercise good judgment; and a willingness to participate in the interview process. It is also important to ensure no potential conflict of interest exists between the panel members and vendors interviewed. The process should be well documented evidenced by the RFQ/RFP process, selection criteria, independent scoring and ranking sheets, and any other documentation used to evaluate submissions and develop a recommendation. Transparency is essential. There is no evidence in this case that this process occurred.

This topic is addressed in greater detail in the Political Reform Act-Disclosure, Conflict of Interest and Enforcement section of this report.

## Substantive Testing – Bidding, Scoring, Selection and Award

The objective of this testing was to determine whether the district properly solicited, approved, and awarded contracts for Measure ER projects and whether fund expenditures appear to be consistent with the projects described in the ballot proposition project list.

FCMAT requested all documentation supporting the district's RFQ/RFP procurement activities, conducted by the district from 2017 through the end of August 2019. While FCMAT's request for a comprehensive list was not fulfilled, documentation for the following publications soliciting proposals was provided and correlates with recorded expenditure transactions during the period under review:

FCMAT tested five criteria-based factors in evaluating the bidding, scoring, selection and award and payment practices. They included:

1. Does the district clearly articulate expectations within an RFQ/RFP?
2. Does the district have an interview team that does not pose a conflict of interest?
3. Does the district have and follow established evaluation criterion and for each proposal was documentation complete and the process transparent?
4. Does the district have and follow an established public process for recommending and approving a vendor?
5. Was payment documentation complete and supporting documentation adequate (executed contract, purchase order [if applicable]), original invoice and supporting documentation?

The results of FCMAT's testing are summarized in the table below:

Type of RFP	Vendor	Year	Test 1	Test 2	Test 3	Test 4	Test 5
Construction Management	HPLE	2017	No	N/A	N/A	Yes	No
Industrial Hygiene	Group Delta	2017	Yes	Yes	No	Yes	Yes
Architectural	LPA	2017	Yes	Yes	No	Yes	Yes
Geotech Engineering	Guida Surveying	2017	Yes	Yes	No	Yes	Yes
Construction Management	TELACU	2019	Yes	Yes	Yes	Yes	N/A

FCMAT was provided with documentation supporting an RFQ/RFP process for four of the five vendors noted in the table above; no documentation was provided supporting contracts approved by the governing board for HPLE after 2015. Of the documentation provided, each was publicly advertised on the district's purchasing webpage. Additionally, each RFQ contained the selection criteria to evaluate a firm. Four of the five reviewed RFQ's contained no evidence that the board was provided with the documentation supporting the team's evaluation of all submissions, including the evaluation criteria (matrix) prior to approval. Only the master agreement between the district and the recommended contractor/vendor was presented as an attachment to the related board agenda item.

Because the evaluation criteria was not included in the public meeting agenda, the process lacked transparency and did not provide an opportunity for the community or trustees to review and question the evaluation process. The district failed to follow industry standard and best practices for selecting and hiring HPLE and other contractor/vendors reviewed by FCMAT. No documentation was provided supporting that an RFP/RFQ process was followed for the services contracted with HPLE related to projects funded using Measure ER bond proceeds.

## **HPLE Procurement**

In June 2015, the district awarded a program/project/construction management (PM/CM) contract to HPLE to "implement the construction and modernization of projects" funded by Bond Measures A and/or EE, which voters approved before November 2016. While transactions for these bond measures are outside of the scope of the FCMAT study agreement, this information is necessary to understand the historical relationship between HPLE and the district.

In May 2015, administrative staff publicized a RFP/RFQ for program/project/construction management services. The Purchasing Department administered this RFQ/RFP process. In the RFQ/RFP, the district indicated that a selection committee would be established and clearly identified the selection criteria that would be used to determine the top ranked firm.

FCMAT requested copies of the individual evaluation matrix for each selection committee member who reviewed all of the submitted RFQs; however, district staff did not provide them. FCMAT reviewed content on the district's website including historical board agendas, but could not locate any backup documentation demonstrating why the RFQ/RFP submitted by HPLE was recommended to the board for approval. On June 16, 2015, the board approved an agreement with HPLE that was valued at \$1,061,650 for PM/CM services. The scope of work was limited to projects outlined in an exhibit, which were projects identified in Bond Measures A and EE and had a term of the agreement was three years.

In November 2016, the voters of the El Rancho Unified School District approved Measure ER, a \$200 million general obligation facilities bond. Just after Measure ER passed two new board members took office, and a new interim superintendent and CBO started in their respective positions (see Appendix C). With the passage of Measure ER, the district determined a need for additional PM/CM services for the projects that were identified to be funded by Measure ER. On February 7, 2017, a new agreement was approved with HPLE.

The new agreement with HPLE for PM/CM services specifically called for the "Complete Redevelopment of El Rancho High School." A lack of documents and interviews with district staff confirm that an RFP was not published for these new services. The February 7, 2017 board meeting maintained a quorum; however, two board members were absent. Approval of this agreement was valued at \$10.92 million and significantly increased the compensation for HPLE.



FCMAT's review of district documents and interviews with district staff and HPLE could not determine why El Rancho Unified chose to approve a new agreement with HPLE for Measure ER projects without following a traditional RFQ process. Interviews with staff, former board members, and Community Bond Oversight Committee (CBOC) members indicated that the approval of this agreement created the perception that HPLE was rewarded for its assistance in campaigning and encouraging the community to approve the Measure ER general obligation bond.

Between November 2017 and the summer of 2018, work and relationships between the district and HPLE continued in the same manner they did prior to November 2017. HPLE routinely submitted invoices that were paid by the district without any apparent dispute.

Source documents from February 2017 to July 2018 (which included the board meeting minutes, email communication and interviews with staff) indicate a positive working relationship existed between HPLE and the district. At a December 5, 2017 meeting the governing board recognized Jaime Ortiz and the HPLE team for their work on district projects. A review of historical board meeting minutes confirms the board received regular updates on approved construction projects, steering committee meetings and construction budgets. However, a notable shift occurred in July 2018, just after a new chief business official (CBO) was appointed. Board members, community members and teaching staff increasingly asked questions about billing costs on HPLE's monthly invoices. Some of these questions appeared to result from HPLE billing errors, which are discussed later in this report.

In the summer of 2018, HPLE offered to the students of El Rancho High School a paid internship that was to occur from June 11, 2018 through August 3, 2018. Students were required to apply by submitting a resume, letter of interest and letter of support. FCMAT interviews indicated one board member was not satisfied with the applicants chosen for the internship program because her grandson was not selected.

On October 25, 2018 the board took action to terminate services with HPLE. Trustees provided authority, direction, and approval for staff to enter into a settlement agreement and mutual release of HPLE from the contract dated February 7, 2017. The three board members who attended this meeting unanimously approved this action with input from legal counsel. The contract dated February 7, 2017, required the district to pay HPLE \$50,000 for damages related to early termination. As of October 2018, the district paid HPLE \$1,649,699.75 for projects utilizing Bond Measure ER funds.

In November 2018, the community of Pico Rivera elected two new board members. As a result, the majority interest of the board shifted, and on January 15, 2019, the board entered into a new construction management services agreement with HPLE for the High School Phase 1 Redevelopment Project. This agreement limited the scope of work for HPLE and restructured the contract with a maximum compensation of \$3.5 million.

Interviews with district staff indicated HPLE was rehired because the firm had historical knowledge of the district's bond program and familiarity with the El Rancho High School. No evidence demonstrates that the district engaged in a competitive selection process before approving the agreement.

Interviews with both HPLE and district staff indicate that the district requested reimbursement of the early termination fee paid to HPLE in October 2018, but as of the date of FCMAT's fieldwork, HPLE had not reimbursed those funds. Follow-up interviews in February 2020 indicated that HPLE had verbally agreed to discount future invoices under the new contract to refund the early termination fee by the end of the project.

From January 2019 to June 2019, HPLE received continued criticism from the minority of board members and a few community members related to job performance and monthly invoicing costs, and FCMAT interviews indicated that this increased level of criticism and scrutiny prompted HPLE to initiate early termination of the agreement. On June 15, 2019, the board ratified the superintendent's acceptance of HPLE's request

to terminate the January 15, 2019 agreement. The approval of this motion terminated the construction management services agreement effective May 20, 2019; however, HPLE ultimately did not reimburse the October 25, 2018 termination fee noted in the preceding paragraph to the district. As of June 20, 2019 HPLE received \$1,785,264.75 for Bond Measure ER invoices paid by the district.

Because the district continued to perform facility improvement projects but lacked expertise within its staff, it again solicited for PM/CM services. The new CBO publicized an RFQ on May 28, 2019, using the same RFQ utilized for previous requests for qualifications. The district once again indicated that a selection committee would be established and clearly identified the selection criteria for determining the top ranked firm.

FCMAT's review of the district-supplied documents found that a transparent and public process was used in evaluating the submissions. By the closing date of the RFQ, the district had received six proposals. The district provided an evaluation matrix that averaged the scores of each evaluator and clearly identified the evaluators and date of the review.

The district provided an Interview Evaluation Worksheet, and the initial evaluation determined that district staff would interview five PM/CM firms. The names of the interviewers are listed on the form, and the district invited subject matter experts from the county office to observe the process.

During the time that HPLE held district contracts, the district had significant turnover in administrative staff and board members. An organization's ability to function effectively substantially diminishes with a leadership team that is in constant flux and is further compromised by a continuous shift in the governing board majority. Turnover of this nature is indicative of a larger systemic organizational problem that can hinder district operations, and in this case, resulted in poor management of public resources.

The district has demonstrated it can select vendors using clearly identified criteria through a public and transparent process. However, it failed to follow best practices when selecting and hiring a firm for PM/CM services for Measure ER projects in 2017 and early 2019. The expeditious and ambiguous manner in which HPLE was hired, terminated and rehired raises question about the influences driving those decisions and erodes community trust.

Irregular and inconsistent actions affect public perception of the district. Interviews with staff and community members indicate that many unsubstantiated rumors created a culture of distrust within the district. This lack of transparency and trust can permanently tarnish an organization's image. Clear and open communication is key to maintaining or regaining the public's trust.

A combination of conflict between board member viewpoints and their individual interests, routine changes in district administrative leadership and deviation from proper procurement and contracting practices indicates that one or more representatives of the district, including board members, may have inappropriately and directly influenced the results of contracts awarded to HPLE.

# Bond Measure ER Expenditures

The authorized expenditures of bond funds are governed by three sources:

- California Constitution Article XIII A
- The bond ballot measure
- The bond project list (for a 55% voter approval bond measure only)

## The California Constitution, Article XIII A

The California Constitution, Article XIII A defines the allowable purposes for the expenditure of bond funds under both a two-thirds voter-approval bond measure and a 55% voter approval bond measure. For a two-thirds voter-approval bond measure, Section 1(b)(2) authorizes the following purposes, "...the acquisition or improvement of real property..."

For a 55% voter approval bond measure, Section 1(b)(3) authorizes the following purposes:

...the 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...

Section 1(b)(3)(A) further specifies the authorized purposes under a 55% voter approval bond measure:

...proceeds from the sale of the bonds (are to) be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses. The bond ballot measure describes the authorized purposes of the particular measure.

Bond Measure ER was a two-thirds voter-approval initiative; while Bond Measures A and EE were both 55% voter approval initiatives. Bond Measure ER asked voters to approve the following on November 8, 2016:

To modernize/rebuild El Rancho High School for the 21st Century, prepare students for jobs of the future, improve/expand science/career training labs, repair/improve neighborhood schools, including aging classrooms, roofs, restrooms, heating/air conditioning/electrical systems, strengthen school safety/security, and repair/acquire/construct school sites and facilities, shall El Rancho Unified School District issue \$200,000,000 in bonds at legal rates, requiring annual audits, citizen oversight and no money for administrator salaries, all funds for local schools."

While under a 55% voter approval bond measure, California Constitution, Article XIII A, Section 1(b)(3) (B) requires that the measure include "a list of the specific school facilities projects to be funded," the requirement is not the same under a two-thirds voter approval bond measure. However, the resolution presented to the governing board for Measure ER contained a bond project list, which is presented in Appendix D. Other requirement differences are discussed further in the Bond Oversight and Reporting section of this report.

## Substantive Testing – Bond Measure ER Expenditure Review

FCMAT developed and conducted procedures to analyze and evaluate the allegations and identify potential outcomes. Transactions selected for review were analyzed and compared to board policies, administrative regulations, operational procedures and industry standards or best practices. Each was evaluated for

proper authorizations and reasonableness based on the team's judgment and technical expertise in school business operations, internal controls, and accounting best practices.

The scope, objectives, and substantive transaction testing were based on the FCMAT study team's experience and professional judgment and did not include the testing or evaluation of all available transactions and records. The transactions sampled were those selected randomly and/or those selected specifically based on the team's judgment. Sample testing and examination results are intended to provide reasonable, but not absolute assurance of the accuracy of the transactions and financial activity and/or to identify whether fraud, misappropriation of funds or other illegal fiscal practices may have taken place during the period under review.

The team examined bond fund financial activity to determine whether expenditures of bond funds complied with the bond authorization or if any expenditures appeared to be outside the bond funds' authorized purpose.

FCMAT analyzed expenditures for the bond funds recorded in the district's financial records exported and provided by the Los Angeles County Office of Education for the 2016-17, 2017-18 and 2018-19 fiscal years. The bond funds are held by the district in fund 21 (building fund). Transactions specific to the individual bond measure are further segregated by resource code in the financial system. Each export was confirmed against certified financial reports for the related fiscal year to confirm completeness and was then used to isolate transactions solely attributable to Bond Measure ER.

From this detail, the team selected transactions for review and testing. The table below summarizes the volume and value of transactions reviewed.

	2016-17	2017-18	2018-19	Total	% of Total
Value Measure ER Transactions	\$327,989.65	\$3,046,209.61	\$3,186,516.85	\$6,560,716.11	
Value of Transactions Selected for Testing	\$313,139.65	\$2,973,610.02	\$3,000,502.86	\$6,287,252.53	
% of total	95.5%	97.6%	94.2%	95.8%	
# Vendors	1	3	5	9	
# Warrants	5	19	17	41	
# Invoices	5	28	36	69	
HPLE Inc.	\$313,139.65	\$993,079.05	\$479,046.05	\$1,785,264.75	28.4%
LPA, Inc.		\$1,844,530.97	\$1,220,520.23	\$3,065,051.20	48.8%
Guida Surveying, Inc.		\$136,000.00		\$136,000.00	2.2%
Saifco Construction			\$389,720.56	\$389,720.56	6.2%
Group Delta Consultants			\$75,111.52	\$75,111.52	1.2%
National Demolition Company			\$836,104.50	\$836,104.50	13.3%
	\$313,139.65	\$2,973,610.02	\$3,000,502.86	\$6,287,252.53	

FCMAT reviewed 41 district warrants paying 69 unique invoices totaling \$6,287,252.53; this testing represents 95.8% of the total vendor invoices charged against Measure ER bond funds.

Of the transactions reviewed, 46 were from LPA Inc., Guida Surveying Inc., Saifco Construction, Group Delta consultants, and National Demolition Company. FCMAT did not identify any deficiencies for these transactions; each contained complete and adequate documentation supporting its payment. The remaining 23 invoices reviewed were specific to HPLE.

Numerous questions arose about the HPLE activities that prompted the county superintendent's request to FCMAT to conduct the review. FCMAT reviewed supporting documentation for all warrants issued to HPLE for Measure ER transactions from March 2017 to June 2019, as presented in the table below:

Period Ending	Invoice Date	Invoice #	# Time sheets	Total Hours	Labor \$	Reimbursable Expenses	Total Invoice
2/28/17	3/2/17	ER PMCM - 001	3	285.00	\$39,119.00	\$-	\$39,119.00
3/31/17	4/4/17	ER PMCM - 002	6	392.00	52,171.75	-	52,171.75
4/30/17	5/4/17	ER PMCM - 003	5	665.00	81,671.15	146.95	81,818.10
5/31/17	6/1/17	ER PMCM - 004	5	563.00	68,537.35	-	68,537.35
6/30/17	6/27/17	er pmcm - 005	6	585.00	71,493.45	-	71,493.45
7/31/17	8/2/17	ER PMCM - 006	9	722.75	90,845.05		90,845.05
8/31/17	9/1/17	ER PMCM - 007	6	487.00	60,267.10		60,267.10
9/30/17	10/9/17	ER PMCM - 008	8	590.00	74,138.45		74,138.45
10/31/17	11/3/17	ER PMCM - 009	7	853.40	106,343.75		106,343.75
11/30/17	12/4/17	ER PMCM - 010	7	672.20	83,472.80		83,472.80
12/31/17	1/3/18	ER PMCM - 011	7	651.00	78,604.00		78,604.00
1/31/18	3/20/18	ER PMCM - 012	7	760.34	95,022.25		95,022.25
2/28/18	3/23/18	ER PMCM - 013	9	777.00	95,827.20		95,827.20
3/31/18	4/10/18	ER PMCM - 014	9	919.33	106,158.35		106,158.35
4/30/18	5/2/18	ER PMCM - 015	8	877.00	98,673.65		98,673.65
5/31/18	6/6/18	ER PMCM - 016	9	927.40	103,726.45		103,726.45
6/30/18	6/30/18	ER PMCM - 017	11	1184.35	133,418.85		133,418.85
7/31/18	8/17/18	ER PMCM - 018	9	880.00	101,695.31		101,695.31
8/31/18	9/7/18	ER PMCM - 019	11	932.00	108,366.89		108,366.89
2/28/19	5/8/19	ER CM - 001	5	223.00	32,115.00		32,115.00
3/31/19	5/8/19	ER CM - 002	5	267.00	39,005.00		39,005.00
4/30/19	5/8/19	ER CM - 003	5	276.00	40,125.00		40,125.00
5/17/19	5/17/19	ER CM - 004	4	163.00	24,320.00		24,320.00
			161	14652.77	\$1,785,117.80	\$146.95	\$1,785,264.75

Documentation provided by the district was extremely limited and only included copies of the district warrant, HPLE invoice and HPLE timesheets. HPLE invoices were initialed and dated by the CBO appointed to the position at the time the invoice was being processed, consistent with administrative review and approval for payment. However, FCMAT identified deficiencies in all documentation provided, which should have raised question before each payment was approved. In most cases, documentation was insufficient to demonstrate that work cited in invoices had actually been performed.

HPLE's contract with the district Section 7.2 Payment states the following:

Payment to be made by the Owner to the PM/CM for the cost of providing services will be **based on monthly invoices which will set forth the time spent and a description of the work performed during the billing period based upon the fees and rates which are set forth and attached hereto as Appendix "A"**.

Appendix A of this contract contains HPLE's fee schedule. To comply with this invoicing format, HPLE apparently established a standardized timesheet and requested each employee and subcontractor/consultant complete one for each month worked and if applicable, invoiced.

Each timesheet included dates, hours, and description of work performed. The team noted billable hours for 12 individuals in the 23 invoices reviewed. However, timesheets did not clearly identify the role of the individual correlating to the fee schedule nor did they indicate whether he or she was an HPLE employee or independent subcontractor/consultant.

HPLE confirmed that work performed on Measure ER projects on behalf of HPLE included that of six HPLE employees, including the owner himself, and five individuals from four subcontractor or consulting firms. FCMAT identified payments to one additional individual, Aman Jain, who was not reflected in the payroll summaries, and no subcontractor/consultant documentation was provided. The work performed by this individual is indicative of services HPLE generally contracted.

The five individuals from four subcontractor firms included the following:

- Integrated Education Planning & Programing (iep2); Tim Haley and Ellen Mejia Hooper
- Silva Cost Consulting Inc.; Javier Silva
- A SustainAble Production, LLC (ASAP); Jennifer Berthelot-Jelovic
- McInroe Consulting; Garret McInroe

On February 27, 2020 FCMAT met with and requested documentation directly from the president/owner of HPLE. Before and during this meeting, FCMAT requested copies of all invoices for work performed on Measure ER contracts and all documentation supporting the billing within each invoice. The team also requested documentation supporting the employment and payroll of each employee presented in invoices, copies of contracts or other executed agreements for each subcontractor including subcontractor invoices and any documentation supporting the work performed on Bond Measure ER projects.

On June 2, 2020 HPLE provided a general monthly payroll summary for each HPLE employee, but this document did not contain detail about the employees, days, hours worked, and allocations to duties assigned. No employee payroll timecard or other time accounting documentation was included.

HPLE did not provide Internal Revenue Service (IRS) Form I-9 confirming the employment of these individuals or any other payroll related documentation that confirms employment of each employee and distribution of billable time.

Because complete payroll records were not provided, FCMAT could not determine whether each employee's time was committed solely to work performed on the district's Measure ER project. FCMAT also could not confirm and/or validate the dates, hours and/or description of work performed by HPLE employees against those included in HPLE invoices.

FCMAT requested from HPLE copies of all subcontractor/consultant contracts and/or agreements for work performed on Measure ER projects. HPLE was able to provide only two agreements, one for ASAP for LEED and/or WELL consulting dated March 29, 2017 and one from iep2, dated June 20, 2015, which was not applicable to Measure ER projects. The owner of HPLE acknowledged during FCMAT's interview that he did not obtain a separate agreement with iep2 for Measure ER projects. However, this does not seem plausible because iep2 was invoicing HPLE based on a percentage of contract completion; to do so would require an agreed-upon compensation. HPLE did not provide any agreements for Silva Consulting, Inc. and McInroe Consulting.

Not all subcontractor/consultant invoices were accompanied by HPLE timesheets. FCMAT reviewed communications between HPLE and subcontractor/consultants. While some emails had attachments, FCMAT could not verify their content since communications were provided in pdf. format. A review of email communications between HPLE staff and subcontractor/consultants indicates that HPLE did ask subcontractor/

consultants to complete HPLE timesheets monthly, indicating at least some expectation that subcontractor/consultants prepare and submit these documents. However, one email communication dated March 6, 2017 between HPLE staff and an employee for iep2 stated that, “Jaime said he would fill out [timecards] based on our percentage of completeness for each task.” This is an indication of at least some intent to manufacture billable hours in timesheets that would reflect percentage of work performed as opposed to billing for actual hours worked.

FCMAT compared all HPLE invoices and accompanying timesheets provided by HPLE to those submitted by the district. FCMAT also compared these two sources of documents to those provided by HPLE from subcontractor/consultants. The respective employee or subcontractor/consultant did not sign 70 of 161 timecards (43%) that accompanied district-paid invoices. While not required by law, an employee’s signature is an acknowledgment and certification of the completeness and accuracy of the information presented. Furthermore, many signed timesheets appeared to contain signature images as opposed to original signatures. In the case of one subcontractor, email communications indicate that a single timesheet was prepared that was made up of time from multiple employees of that firm. FCMAT also observed changes in signature format between some timesheets accompanying the subcontractor/consultant invoice, HPLE invoice and district-paid invoice. This raises the question of who modified documentation and/or added signature images.

Invoices from iep2 are representative of a flat rate contract billed at varying stages of completion. The content of the timesheets for the two employees representing iep2 appeared to be cut-and-paste duplications; the hours presented for each were most often in four-hour and eight-hour increments, and representative employees did not sign any of the timesheets. Most timesheets for this firm appeared to be manufactured for the sake of providing a timesheet. Subcontractor invoices for the same period did not provide names of personnel performing work or dates and hours of work detail. The subcontractor/consultant invoice was often substantially less than the representational hourly billing presented in the timesheets that accompanied HPLE’s invoice to the district.

FCMAT reviewed consultant invoices for ASAP and when provided, timesheets and email communications and found that the November 30, 2017 Exhibit A – Timesheet (provided by the subcontractor) did not match the supporting documentation provided to the school district. The timesheet provided to the school district with HPLE’s invoice was changed. Specifically, changes were made to dates, hours worked, and the description of work performed. It is unclear whether the creator of this document was aware of the revisions. The document contains a signature of the employee who generated it; however, when signatures were compared on all documents concerning this contractor, it is obvious that an embedded image file was used.

HPLE also subcontracted with McInroe Consulting for construction management services. In two of these instances, the documents that HPLE provided on June 2, 2020, included timesheets that were signed while the documents provided to the district with the HPLE invoice did not. In most cases, the signature appeared to be an image rather than an original signature. In one instance, the subcontractor/consultant invoiced HPLE for work performed for multiple clients, and the timesheet accompanying the HPLE invoice was for dates and hours worked on a different nondistrict project. In another case, different hourly rates were presented on two separate timesheets for the same period.

FCMAT noted a break in HPLE billings between the months of August 2018 and February 2019, consistent with the termination and subsequent rehiring. When billings resumed, HPLE invoices no longer were accompanied by individually prepared timesheets for each subcontractor/consultant/employee. Instead, they included an electronic report listing each individual, dates and hours worked and generalized activity categories. HPLE did not provide FCMAT with subcontractor/consultant invoices for this time period; therefore, FCMAT could make no determination about the validity of these billings due to the lack of reasonable documentation provided by HPLE.

The master agreement between HPLE and the district included a requirement for documentation and document ownership. However, neither HPLE nor the district produced all of the documents requested by FCMAT, even though the documents requested would be considered standard documentation for an engagement and relationship like the one between HPLE and the district.

During the timeframe under review the district received two separate refunds from HPLE for billing errors:

- June 12, 2018            Check 1342            \$39,965.97
- June 28, 2019            Check 1491            \$39,622.51

The letters accompanying each refund stated that the billing errors were identified during a yearly internal HPLE audit that identified errors in a select number of timesheets because of a discrepancy in the timesheet system. The first refund dated June 12, 2018 reported errors for six subcontractor/consultant/employee timesheets for two individuals from June 2017 through December 2017. The June 28, 2019 refund included the same verbiage about discovery through an “annual internal audit,” but the errors were still made in the 2017 calendar year. These additional errors identified a year later were related to 14 subcontractor/consultant/employee timesheets for four different individuals, including the owner of HPLE himself. FCMAT requested all supporting documentation for each refund from HPLE; however, nothing was provided.

FCMAT also found that HPLE issued check #1341 to the Palmdale School District on June 22, 2018 with the same reasoning. The documentation reviewed indicated that the district staff reviewed the time revisions and questioned the reimbursement. The Palmdale School District subsequently requested a revised refund reducing the amount from \$49,181.34 to \$47,661.54. The revised check #1338 was issued on June 21, 2018. The check sequence raises further question about HPLE’s business practices since the revised check number is out of sequence with the preceding check issuances.

While HPLE suggested that these errors were identified through an annual internal audit, the lack of reconciliation backup raises further question about the issues origin. The district did not identify the billing errors, and there is no indication that anyone at the district performed an internal audit of billable hours.

A contractor can commit fraud by knowingly submitting false, inflated or duplicate invoices to clients with the intent to defraud [International Anti-Corruption Resource Center, Guide to Combatting Corruption & Fraud in Development Projects and California’s False Claims Act, Government Code Section 12650, et seq.]. The discrepancies and deficiencies observed in the documentation supporting HPLE invoices and paid by the district were characteristic of false, inflated and/or duplicate billing schemes. General red flags of this type of fraud observed through review of documents include the following:

- Weak controls over the review and payment of invoices
- Discrepancies between contract and invoices
- Discrepancies between contractor’s billings and supporting documents
- Lack of supporting documents
- Vague or incomplete information on invoices
- Sequential invoice numbers over extended period of time

HPLE’s processes and procedures for preparing and maintaining the business records related to client billing reflected at a minimum poor business practice. The absence, inadequacies and/or apparently altered documentation supporting HPLE invoices provides sufficient evidence to indicate that fraud may have occurred against the district.



# Communication

During FCMAT's fieldwork, most individuals interviewed commented that communication within the district needs improvement. Employees cited a need for consistent communication, information that is available in a centralized location, knowing who to contact, and improved written communication. Communication about district construction and/or maintenance projects is minimal or nonexistent, personnel indicated. Additionally, employees who had critical knowledge of infrastructure or known deficiencies were reportedly not consulted about the scope and design of facilities projects.

An example of this poor communication was depicted during the scope and design of a new building at the high school. A critical element of any new facility is technology. This includes the type of hardware, equipment, and number of connectivity access points, either hardwired or wireless. Interviews indicated that critical staff members were notified of the demolition of the high school building only two weeks before work started. This lack of communication forced staff to immediately prioritize work to remove any existing equipment that should be salvaged. The demolition of the building was planned to include the removal of all equipment that remained in the building. This would have caused functional equipment with years of remaining usability to have been scrapped, which could be construed as a waste of public funds.

Communication is key with any department in an organization. Effective communication is evidence of an efficiently run organization and is essential in achieving productivity and cultivating strong working relationships at all levels of the organization. Investing time and energy to define clear lines of communication promotes trust among employees, which in turn leads to higher productivity, output and morale. Employees who communicate effectively with colleagues, the community and leadership are valuable assets to the organization. Poor communication will eventually lead to an unmotivated staff, which can lead to a lack of confidence in their own performance.

Change tests an organization's resilience, confidence, and culture. The district has experienced significant change in leadership during the last five years, employing several different superintendents and CBOs as well as various changes in elected trustees. During this time, the district's mission has remained the same; however, agendas, processes, and ideology changed. This type of change requires more frequent and thoughtful communication to staff and the community.

FCMAT's interviews indicated that employees did not have a consistent understanding of the construction projects approved by the board or the stage of development or construction they were in. This resulted in frustration and confusion among staff. The lack of clear communication stressed the working relationships between colleagues. Employees did not believe they had access to people and resources who could help them perform their jobs effectively.

In February 2019, the district hired a CBO who attempted to correct these communication issues. The Business Division held routine meetings to ensure leaders of the each department were included in scoping and design meetings for projects related to Measure ER. The CBO and his team followed the best practices for securing quotes and bids and adhered to proper protocol to ensure all contractual agreements were approved by the board.

# Bond Oversight and Reporting

The requirements for bond measures passed under 55% voter approval differ significantly and are greater than those passed under the two-thirds voter approval. As mentioned earlier in this report, while not required, the board resolution ordering an election for Bond Measure ER included many of the same requirements associated with voter initiatives seeking 55% voter approval.

Bond measures passed under a 55% voter approval, which for El Rancho Unified includes Bond Measures A and EE, are subject to EC 15278 et seq and EC 15282. These sections of the Education Code are intended to ensure bond funds are spent as outlined in the district's bond measure. EC 15278 et seq. requires the district to appoint members to an independent CBOC. The code also requires the governing board to establish this committee "...within 60 days of the date that the governing board enters the election results on its minutes..." The committee's role is to actively review and report on the expenditure of bond funds ensuring that their use correlates with the bond project list and bond resolution and to advise the public on whether the district's bond construction program is operated in compliance with law.

Education Code Section 15282 requires the citizens' bond oversight committee to include no fewer than seven members with at least one active member from each of the following categories:

- A senior citizen organization
- A bona fide taxpayers' association
- A local business representative
- A parent/guardian of an enrolled student
- A parent/guardian of an enrolled student who is active in a parent teacher organization
- Members at large

Ordinarily, bond measures passed with two-thirds voter approval are not subject to this strict accountability described in EC Sections 15278 and 15282. However, the district has committed to many of the same requirements as a process of its own resolution number 01-2016/2017 ordering an election for Bond Measure ER (see Appendix D) and in the ballot language itself. The establishment of a seven-member CBOC was among these commitments; however the 60-day establishment rule was not included in the resolution.

The district has struggled to maintain a fully seated and active CBOC from the time the voters passed Measure ER through the end of FCMAT's fieldwork. Measure ER was passed by voters on November 16, 2016. On February 7, 2017, the governing board certified the Measure ER election results and at that same meeting adopted a resolution establishing the Measure ER oversight committee. At its June 27, 2017 meeting the district board appointed five members to the Measure ER oversight committee, with a term of two years.

The table below shows the activity of the appointment of the various committees from 2016 – 2019,

Bond Measure Year	A/EE 2016	ER* 2017	ER 2018	ER 2019
	J. Chavez, member at large (appointed 2/14/2013)	R. Younan, business organization member (appointed 6/27/2017)	R. Younan, business organization member (appointed 6/27/2017)	D. Torres, senior citizen's organization (appointed 7/23/2019)
	V. Chavez, senior citizen's organization (appointed 2/14/2013)	A. Gonzalez, parent (appointed 6/27/2017)	A. Gonzalez, parent (appointed 6/27/2017)	R. Murga, bona fide taxpayer organization (appointed 7/23/2019)
<b>CBOC Members</b>	E. Mejia, Parent/active PTA member (appointed 2/14/2013)	C. Saavedra, parent/active PTA member (appointed 6/27/2017)	C. Saavedra, parent/active PTA member (appointed 6/27/2017)	R. Martinez, business organization (appointed 7/23/2019)
	C. Castillo, member at large (appointed 1/20/2016)	M. Estrada, member at large (appointed 6/27/2017)	M. Estrada, member at large (appointed 6/27/2017)	P. Martinez, parent (appointed 7/23/2019)
	Rodarte, parent (appointed 12/12/2013)	G. Martinez, member at large (appointed 6/27/2017)	G. Martinez, member at large (appointed 6/27/2017)	S. Weinman, member at large (appointed 7/23/2019)
	Vacant, business organization member	Vacant, bona fide taxpayer organization member	Vacant, bona fide taxpayer organization member	A. Martinez, member at large (appointed 7/23/2019)
	Vacant, bona fide taxpayer organization member	Vacant, senior citizens' organization	Vacant, senior citizens' organization	T. Miller, parent/PTA member (appointed 7/23/2019)

\* Measure A/EE CBOC did not meet in 2017; nor was an annual report presented to the board prior to consolidation with Measure ER CBOC

When the board approved the Measure ER CBOC, five out of seven positions were seated; representation from the senior citizens' organization and the bona fide taxpayer organization were vacant.

EC 15280(b) states the following:

All citizens' oversight committee proceedings shall be open to the public and notice to the public shall be provided in the same manner as the proceedings of the governing board of the district.

Based on information accessible from the district's website, only three meetings were held once the Measure ER oversight committee was established, on November 16, 2017, April 9, 2018 and September 19, 2018, respectively. A fourth meeting was scheduled on June 14, 2018 but canceled due to a lack of quorum. Two joint meetings of the board of trustees and the CBOC were also scheduled on October 17, 2018 and March 12, 2019; however, the October 17 meeting was canceled due to the lack of quorum.

The first meeting of the Measure ER oversight committee was held on November 16, 2017. The minutes of this meeting indicate that a general overview of the committee bylaws, committee member responsibilities and projects to be covered using Measure ER fund were discussed. The district's interim CBO presented a report on monthly expenditures of Measure ER proceeds from March 2017 through September 2017 totaling \$713,104.50. Officer appointments were made, and the committee agreed to meet quarterly.

Five months later, at the district's April 3, 2018 governing board meeting, the board assigned Measure ER oversight committee with oversight of the Measure A and Measure EE bond proceeds and concurrently disbanded the Measure A and EE Citizens Bond Oversight Committee.

At the district's August 7, 2018 board meeting, an attempt was made to seat an applicant in the vacant bona fide taxpayer organization position. The item was pulled from the board agenda for discussion and failed. On September 4, 2018, the board discussed oversight committee bylaws and composition. The board later appointed the applicant pulled from the previous meeting agenda to the bona fide taxpayer committee position with a stated two-year term from September 2018 through June 2020.

On September 19, 2018 the third Measure ER oversight committee meeting was held.

On September 24, 2018, the board appointed an applicant to the position representing a senior citizen organization for a two-year term. On March 12, 2019, the board removed both the bona fide taxpayer committee representative and the senior citizen organization representative from the oversight committee stating that the appointments under a previously seated governing board did not follow protocol. No apparent oversight meetings were held while these two members were seated in their positions. On July 23, 2019, all remaining members were replaced on the committee establishing an all new committee.

Before Measure ER, the El Rancho community had passed two bond measures, A and EE. Minutes from meetings show that in some years, an active oversight committee met as many as 15 times per year. From 2013 through 2016, stability in the composition and participation of the oversight committee for Measures A and EE can be observed through documented activity available on the district website.

Interviews with past and present board trustees and oversight committee members, as well as actions documented in board and oversight committee meeting minutes, demonstrate a clear difference between the interests of each governing board member and their support of the appointed committee members. Since the passage of Measure ER and as the district governing board powers shifted between a divisive board, the district board has demonstrated a history of continuously removing and replacing oversight committee board members.

Districts should work diligently to establish a committee and maintain a full representational committee. When a member resigns from the committee, the district should seek a replacement from the same category. Common weaknesses of bond oversight committees and their members include the following:

- It may be difficult to recruit and retain members.
- Members may lack qualifications and have limited training and understanding of their role and responsibilities.
- Committee members may not perform the work necessary for adequate oversight.
- Committee members may rely too heavily on required annual financial and performance audits.
- Committees may fail to provide annual reports or provide them in a timely manner.
- Committees may disband early, before all bond proceeds have been spent

The district has been unsuccessful in fulfilling the responsibilities of establishing and maintaining an active CBOC. Between August 2019 and October 2020 only one CBOC meeting has been held and no annual reports have been made available on the district website.

Interviews with former oversight committee members indicated they sometimes inquired about Measure ER expenditure details and/or the validity of certain contracts. However, as the governing board's composition shifted, the inquirers were removed from the oversight committee by the governing board members in control of the new majority, who also may have opposed their appointment to the committee.

EC 15280(b) states "... The citizens' oversight committee shall issue regular reports on the results of its activities. A report shall be issued at least once a year." The code further states the following:

... Minutes of the proceedings of the citizens' oversight committee and all documents received and reports issued shall be a matter of public record and be made available on an Internet Web site maintained by the governing board of the district.

While committees established under EC 15278 are required by law to report to the public on the results of their activities at least once a year, they should meet more frequently to acquire adequate knowledge and understanding of active projects and use of funds. Most committees do not review detailed bond finances; Education Code Section 15278(c) states:

"(c) In furtherance of its purpose, the citizens' oversight committee may engage in any of the following 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 of the following:
  - (A) Mechanisms designed to reduce the costs of professional fees.
  - (B) Mechanisms designed to reduce the costs of site preparation.
  - (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.'

The duties of the CBOC incorporated into Board Resolution 2017-18-1 dated August 5, 2016 predominantly emulate those outlined in EC 15278, which include the following:

- Receiving and reviewing copies of the annual independent performance audit;
- Receiving and reviewing copies of the annual independent financial audit;
- Inspecting school facilities and grounds to ensure that bond revenues are expended in compliance with applicable laws; and

- Reviewing efforts of the district to maximize bond revenues by implementing cost-saving programs.

The original resolution contains errors and lacks some clarity; sections appear to have been copied from the Education Code with small edits to content. Additionally, Section 8 is an incomplete sentence that lacks sufficient information to allow for interpretation. Subsequent board action identified during review of governing board minutes indicates that these errors and/or ambiguity were identified and resolved in Resolution 2017-18-31

The district is required to provide committee members with copies of the financial and performance audits by March 31 of each year for activities through the preceding June 30. FCMAT requested copies of all presentations, financial reports and other information presented to the oversight committee during the period under review; the district did not fulfill this request.

Committee members are also required to issue a report to the taxpayers describing the bond construction program activities annually. FCMAT requested copies of all oversight committee annual reports for the period under review; the district did not fulfill the request.

The annual financial and performance audit reports and the annual report are to be posted on the district's website. A review of the content maintained on the district website through October 1, 2020 indicate that annual reports were not prepared and posted to the district website for Measure ER for the years 2016-17, 2017-18, 2018-19 and 2019-20 fiscal years. The last oversight committee annual report accessible to the public on the district website was dated from 2013-14 and relates to the Measure A and EE activity. No annual reports appear to have been prepared for Measure ER.

While the oversight committee formed for Measures A and EE experienced years of stability and active participation, the governing board turned over members of the Measure ER oversight committee three times from 2016 through July 2019 and disbanded the committee on July 23, 2019. This does not appear to be because of a lack of willing and qualified committee candidates, but the actions of an unstable and divisive governing board. Appointments under one seated governing board were revoked when new board members were seated and the composition and the majority decision-making strength shifted. The Measure ER oversight committee had vacant positions that were left unfilled from the time appointments were first made by the governing board in June 2017; this condition continued through July 2019. As a result, the district failed in its responsibility to establish and maintain a functional Citizens' Oversight Committee for Measure ER that met the statutory requirements. The district consolidated oversight responsibility for Bond Measures A, EE and ER into one single CBOC. When the committee was disbanded in July 2019, not all funds from Measures A and EE were expended. Therefore, the failure to maintain a CBOC violates the Education Code and the California Constitution and calls into question whether funds on Measures A and EE were legally expended.

In addition to the instability in the composition, the school district board and administration failed in their responsibilities to:

- Establish a Measure ER Citizens' Bond Oversight Committee within 60 days of the date that the governing board entered the election results on its minutes.
- Maintain a full representational oversight committee.
- Hold meetings within the timelines prescribed in the Measure ER oversight committee by-laws established by the governing board.

- Prepare annual reports outlining the activities of the Measure ER oversight committee.
- Make all documents received and reports issued available on an internet website maintained by the governing board.

# Political Reform Act – Disclosure, Conflicts of Interest and Enforcement

Statutes that govern conflicts of interest include the Political Reform Act, Government Code 1090, Government Code 87100, 87302, 87306, 87500, Corporations Code Section 5233 for nonprofit organizations and Education Code Section 35107(e). Government Code Section 1090 is an absolute prohibition against financial interests by board members, officers or employees in contracts “made by them in their official capacity, or by any body or board of which they are members.” (GC 1090(a)) If an employee prepares or negotiates a contract or recommends its approval, this prohibition applies to him or her. The prohibition is absolute, and the contract is voidable and has no legal effect. It is not legally possible to abstain from a contract that violates 1090 unless the contract fits the criteria of a “remote interest” under 1091 or a “non-interest” under 1091.5.

The Political Reform Act was enacted by Proposition 9 in June 1974 and revised in 2015, resulting in several significant changes to the conflict-of-interest rules that became effective November 17, 2016. The stated intent of the act was to establish a process for most state and local officials as well as certain designated employees to publicly disclose their personal income and assets as follows:

[a]ssets and income of public officials which may be materially affected by their official actions...[are] disqualified from acting in order that conflicts of interest may be avoided.

The act’s provisions are enforced by the Fair Political Practices Commission and supported by Government Code, requiring every state and local governmental agency to adopt a conflict-of-interest code. The commission is the state agency responsible for interpreting the provisions of the law and issuing California Form 700 – Statement of Economic Interests.

Because school governing board members are considered “public officials” and governing boards are considered “legislative bodies,” board members and certain designated individuals must file Form 700 annually, when they take office or begin in a position, and upon leaving office. Form 700 must usually be filed by April 1 for the preceding calendar year and within 30 days of assuming or leaving office or their position unless an exception applies. Additionally, a consultant to the organization “who makes, participates in making, or acts in a staff capacity for making governmental decisions” may be required to complete a Form 700.

FCMAT’s objective was to determine if the district has established and follows a formalized process to comply with the Political Reform Act (PRA) and whether a conflict associated with gifts and donations to board members and/or their campaigns is identifiable.

When faced with potential conflicts of interest of a public official such as a school board member, administrator or consultant, it is important to consider the legal and ethical standards and review any applicable board policies that may be even more restrictive than the statutory mandates. The board and management should demonstrate financial integrity.

Corruption does not have to involve two or more parties; a single individual in a position of trust can exercise authority for his or her own personal gain. Every conflict-of-interest issue requires one party to be in a position of trust, and every instance of corruption requires both a conflict of interest and a breach of that trust.

The district’s governing board adopted Board Bylaw 9270 on September 10, 2002, which was amended June 14, 2007. This bylaw is grossly outdated and should be reviewed and updated at least biannually.

The district’s bylaw includes a comprehensive conflict-of-interest code that adopts the PRA of 1974 and California Government Code and designates positions that must report conflicts of interest on Form 700. The district’s conflict-of-interest code contains appendices defining disclosure categories and designated



positions. Designated positions are identified, and applicable disclosure categories are assigned based on the level of decision-making authority; positions with broad decision-making authority are required to disclose more interests than those with limited discretion.

Each local educational agency (LEA) is responsible for reviewing and updating its policies to ensure they are current and reflect changes within the LEA. In addition to the biannual update, amendments to the bylaws should be adopted by the governing board when necessitated because of changed circumstances, including the creation of new positions that must be designated and/or significant changes in the duties of existing positions affecting disclosure requirements. The district has undergone frequent changes within the administrative roles during the timeframe under review, yet no apparent updates have been made to the bylaw.

While the district could not demonstrate due diligence in complying with the conflict-of-interest code, some documents for designated positions were not provided. No statements of economic interest were provided for any independent contractor. FCMAT would consider HPLE’s program management role one with broad decision-making authority.

## Review of Political Contributions

The team reviewed campaign finance documents obtained from the county of Los Angeles. The county has a seven-year record retention policy so FCMAT reviewed the election dates for Measure ER and two board member elections leading up to that measure and two board member elections following the measure. Election campaigns with individual donations exceeding \$1,000.00 are listed below:

<b>Election Date</b>	<b>Election</b>
November 5, 2013	“Jose Lara for ERUSD School Board 2013”
November 3, 2015	“Gabriel Orosco 4 School Board 2015”
November 8, 2016	“Committee for Transforming El Rancho Schools, Yes on ER, a Coalition of Arts Supporters, sponsored by the California Arts Advocates”
November 6, 2018	“Leanne Ibarra for School Board 2018”

People and firms that made political contributions to Measure ER and the board member elections were reviewed to identify any appearance of potential “pay to play” activity, in which political contributions were made in exchange for being hired to provide goods or services. Political contributors were compared with vendors that were paid by the district with bond funds.

The following table presents contributions to the Measure ER election:

<b>Date</b>	<b>Contributor</b>	<b>Amount</b>
9/1/16	Monica Rosenthal	\$69,000.00
10/31/16	High Performing Learning Environments (HPLE)	11,000.00
10/29/16	Stradling, Yocca, Carlson and Rauth	3,000.00
10/26/16	Monica Rosenthal	90,000.00
10/25/16	IBEW Local No. 11	2,500.00
10/13/16	BPI Inspection Services	1,000.00
10/13/16	CF Environmental	5,000.00
10/19/16	Dougherty and Dougherty Architects	2,000.00
10/19/16	Southern California Pipe Trades	5,000.00

While HPLE had already been awarded contracts associated with Measures A and EE, as did others listed including BPI Inspection Services, CF Environmental, and Dougherty and Dougherty Architects, its contribution to the Measure ER election raises question about whether it was designed to entice future contracts for projects funded under this new measure.

HPLE was also listed as the president of the El Rancho Education Foundation in 2017 and had made noteworthy donations of approximately \$17,289. Additionally, several vendors having contracts with the district also made sizable donations to this foundation including LPA Architects (\$5,000), EHP Solutions (\$5,000), Saifco Construction (\$5,000), Dougherty and Dougherty Architects (\$2,500), and BPI Inspection Services (\$5,000).

Several other questionable political contributions from HPLE and other contractors hired by the district have raised serious questions regarding the governing board's decisions to award contracts. The relationships within and among nonprofit organizations have raised numerous questions about donor contributions to each organization and the flow of resources supporting bond measures and board member campaigns.

While each organization and its activities were not reviewed by FCMAT, a high-level overview of basic details is sufficient to warrant question. The most noteworthy contributions to school board member campaigns include in-kind contributions to the Leanne Ibarra for School Board 2018 campaign valued at \$13,892.71 from the Citizens for Leadership in Education. This organization lists Daniel Fierro of Presidio Strategic Communications as a principal officer. Subsequent to Ms. Ibarra's election and appointment to the governing board a contract was awarded to Presidio Strategic communications after having been voted down approximately three months earlier by the then seated governing board.

HPLE and Telacu were both listed as donors to the Citizens for Leadership in Education during 2018, contributing \$15,000 and \$5,000, respectively. Both contractors were awarded contracts after making these donations.

# Internal Control Deficiencies

## Ethical Values and Fiduciary Duty

A strong system of internal control is among the most important aspects of any fraud prevention program. Board members, superintendents, chief business officials and other senior administrators are in positions of authority and therefore are responsible for exercising a higher standard of care and for establishing the ethical tone and serving as examples to other employees. Employees with governance and leadership responsibility have a fiduciary duty to the district to ensure that activities are conducted in compliance with all applicable board policies, laws, and regulations.

The control environment is an essential component of internal control. It includes the ethical tone and example set by management, and it results in a workplace where employees feel safe expressing concerns. Based on interviews and documentation reviewed, this environment clearly was not present in the district.

The district's Board Policy 3400 speaks to the board's fiduciary responsibility to oversee the district's financial integrity and the reliance on the superintendent or superintendent's designee to ensure that internal control processes and procedures function effectively and that the board has an accurate picture of the district's financial condition at all times.

Board members, management and employees with oversight and administrative responsibility have a fiduciary duty to ensure that activities are conducted in compliance with all applicable board policies, laws, regulations, and standards of conduct. Because internal controls include policies, procedures, and checks and balances, if those entrusted to set the oversight and ethical tone fail, the entire organization may be compromised.

The district has cycled through four CBOs since the passage of Measure ER in 2016. Business office instability can inadvertently or purposefully interrupt the application of established internal controls and policies and procedures because of the changes in managerial oversight and the lapse in time as each settles into the respective role. This interruption can also take place with a turnover in the superintendent position. Each administrator comes into a district with his or her own background and experience. Staff sometimes expect processes and procedures under the new administrator to emulate the previous one, but this may not be the case. Change in established procedures often causes question and/or resistance.

The district currently functions without a business services administrator/CBO as will be explained in the subsequent events section of this report. The superintendent oversees the departments that typically fall under this span of control. This leadership model is ineffective. Without a qualified business administrator overseeing day-to-day operations, interdepartmental procedures and internal control will further degrade.

During FCMATs August 2019 interviews, staff expressed fear of retaliation by district administration and external contractors. District staff reported that individual board members use their position to influence contractual decisions, at times directing district staff about which contracts should be selected and/or approved. District staff described the work environment as hostile and retaliatory. Staff who question actions that deviate from standard protocol are often moved, demoted, placed on administrative leave and sometimes released from their positions.

The superintendent and board must work to create a culture of openness and proper business procedures, rather than one of positional power, political influence, and intimidation. Districtwide training is a way to disseminate information on board and district staff relations, protocol and established processes and procedures. The district's internal control environment has significant material weaknesses that increase the probability of fraud and/or abuse.

# Conclusion

## Potential for Fraud, Misappropriation of Funds, or Other Illegal Fiscal Practices

Based on the findings in this report, there is sufficient evidence to demonstrate that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices may have occurred in the specific areas reviewed.

While program expenditures appear to be in alignment with the Bond Measure ER project list, procurement and expenditures controls, primarily focused at HPLE, as well as bond oversight activities are significantly deficient.

Deficiencies and exceptions noted during FCMAT's review of the LEA's financial records and internal control environment increase the probability of fraud, mismanagement and/or misappropriation of the LEA's assets. These findings should be of great concern to the El Rancho Unified School District and the Los Angeles County Office of Education and require immediate intervention to limit the risk of fraud, mismanagement and/or misappropriation of assets, or other illegal fiscal practices in the future.

## Judgments Regarding Guilt or Innocence

The existence of fraud, misappropriation of funds and/or assets, or other illegal fiscal practices is solely the purview of the courts. FCMAT is not making statements that could be construed as a conclusion that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices have occurred. These terms are a broad legal concept, and auditors do not make legal determinations regarding whether illegal activity has occurred.

In accordance with Education Code Section 42638(b), action by the county superintendent of schools shall include the following:

If the county superintendent determines that there is evidence that fraud or misappropriation of funds has occurred, the county superintendent shall notify the governing board of the school district, the State Controller, the Superintendent of Public Instruction, and the local district attorney.

In accordance with Education Code Section 1241.5(b), the county superintendent is required to report the findings and recommendations to the district's governing board at a regularly scheduled board meeting within 45 days of completing the audit. Within 15 days of receipt of the report, the governing board is required to notify the county superintendent of its proposed actions regarding the county superintendent's recommendations.

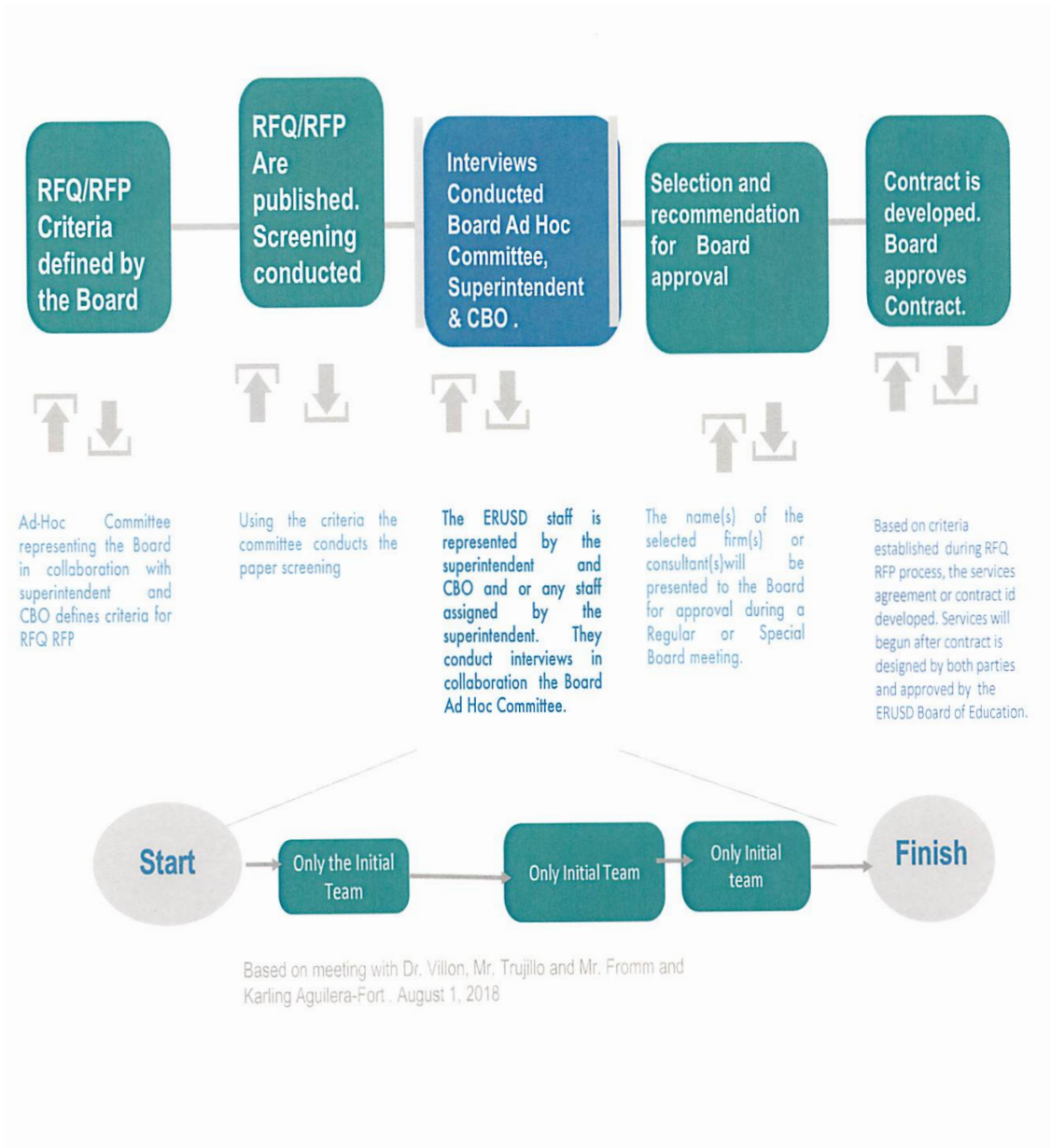
## Recommendation

*The county superintendent should:*

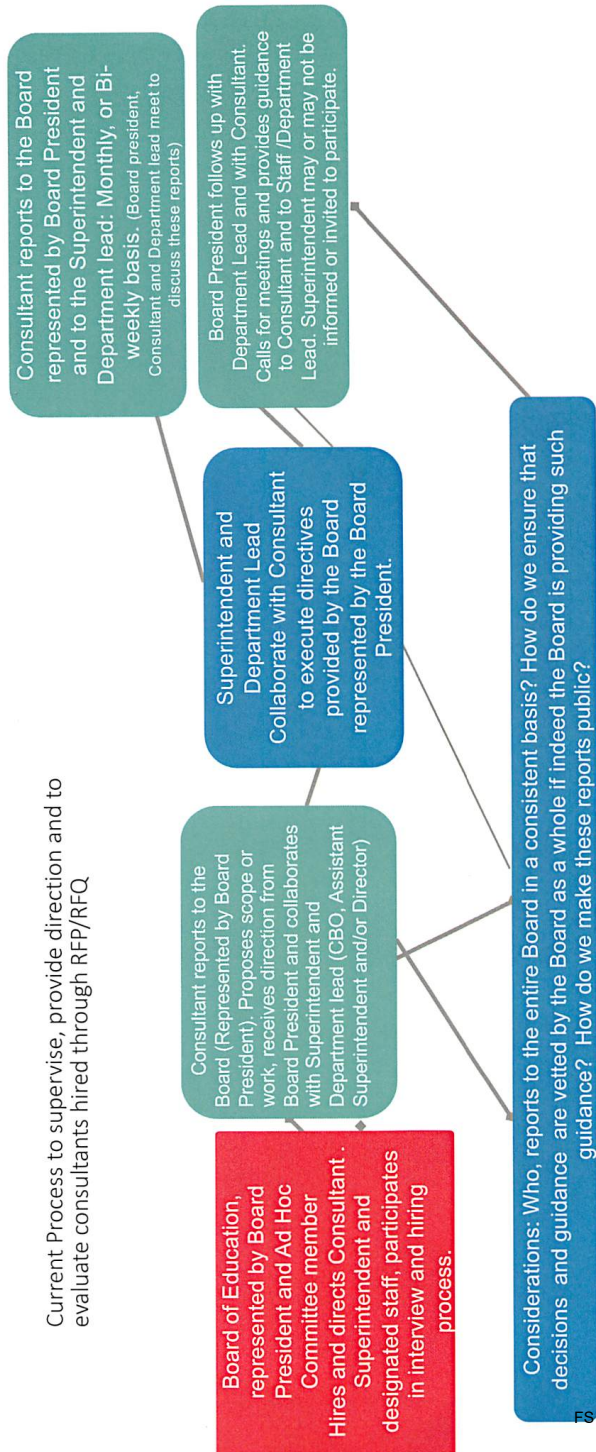
1. Notify the governing board of the El Rancho Unified School District, the State Controller, the Superintendent of Public Instruction and the local district attorney that sufficient evidence exists to indicate that fraud, misappropriation of funds and/or assets, or other illegal fiscal practices may have occurred, and that the Los Angeles County Office of Education has concluded its review.

# Appendices

# Appendix A - Hiring of Consultants via RFQ/RFP Flow Chart



# Appendix B - Consultant Supervision, Evaluation, and Direction Provision Flow Chart



ERUSD Flowchart for monitor Consultants: Currently applies to Legal Counsel, Financial Advisor, Construction Manager. Information led by Dr. Villon as Board President

ES 05 - RFQ-RFP Process Flow Chart 2 of 2

# Appendix C Measure - Bond Measure and Hiring Timeline

Year	2016	2017	2018	2019
<b>Superintendent</b>	Martin Galindo (5/23/13-11/2016)			
		Dr. Roxane Fuentes Interim Superintendent (appointed 11/23/2016)		
			Karling Aguilera-Fort Superintendent (appointed 8/8/2017-6/28/19)	
				Reynaldo Reyes Interim Superintendent (appointed 6/28/19-8/08/2019)
<b>Assistant Superintendent of Business Services / Chief Business Official (CBO)</b>	Ruben Frutos (7/1/14-6/30/16)			
		Manoj Roychowdhury (appointed 8/18/2016-10/2017)		
			Cheryl Plotkin Interim CBO (10/18/2017-6/30/17)	
				Greg Fromm (appointed 6/19/2018- 12/10/2018)
<b>Governing Board</b>	Gabriel Orosco (appointed )			
	Jose Lara (appointed )-2/4/2020			
	Aurora Villon (appointed ) - November 2018			
				Leanne Ibarra (appointed 12/10/18)
	Teresa Merino (appointed ) - November 2019			
	Rachel Canchois (appointed & resigned 3/8/17)			
			Lorraine De La O (appointed 3/23/17-November 2018)	
				Carolyn Castillo (appointed 12/10/18)
<b>HPLC Contracts</b>	Measure A & EE PMCM (6-16-2015)	Measure ER Agreement (2-7-17)	Terminated (10-25-18)	Rehired (1/15/19) Released from Contract (6-15-19)



## Appendix D – Resolution No. 01-2016/2017

### RESOLUTION NO. 01-2016/2017

#### RESOLUTION OF THE BOARD OF EDUCATION OF THE EL RANCHO UNIFIED SCHOOL DISTRICT ORDERING AN ELECTION, AND ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER

**WHEREAS**, the Board of Education of the El Rancho Unified School District (the “Board”) has determined that local neighborhood schools and facilities within the El Rancho Unified School District (the “District”), need to be acquired, constructed and improved to meet today’s academic and safety standards; and

**WHEREAS**, the Board is committed to giving its students the skills they need to graduate high school and so that they are prepared for college and jobs of the future; and

**WHEREAS**, the Board believes that El Rancho High School is an important local institution that has served the community for over 60 years, and that it should be modernized and upgraded to better serve students in the decades to come; and

**WHEREAS**, the Board has determined that, in order to provide safe and healthy learning environments for students, basic upgrades to our schools are needed, including repairing aging and leaky roofs, removing asbestos and other hazardous materials; and replacing outdated heating, air conditioning and plumbing systems; and

**WHEREAS**, the State of California (the “State”) is unable to provide the District with enough money for the District to adequately maintain and expand its educational facilities notwithstanding ongoing efforts to obtain such monies; and

**WHEREAS**, in the considered judgment of the Board, it is in the best interests of the District residents to provide facility improvement funding to meet such needs now by means of a general obligation bond, since the evidence indicates that if these needs are not addressed now, they will only become more pressing and more costly; and

**WHEREAS**, the Board has received information regarding the feasibility of a local bond measure and the District’s bonding capacity; and

**WHEREAS**, a local measure will help provide funds that cannot be taken away by the State to upgrade aging local schools, provide high quality instructional programs and attract and retain qualified teachers; and

**WHEREAS**, the local measure will include mandatory taxpayer protections, including an independent citizens’ oversight of all funds and mandatory annual financial audits to ensure funds are spent only as authorized; and

**WHEREAS**, Proposition 46, approved by the voters of the State on June 3, 1986 (“Proposition 46”), amended Section 1(b) of Article XIII A of the California Constitution by adding a provision which exempts from the 1% of full cash value limitation, those ad valorem taxes used to pay for debt service on any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by voters voting on the proposition; and

**WHEREAS**, the Board desires to authorize the submission of a proposition to the District's voters at an election to authorize the issuance of bonds to pay for certain necessary improvements and enhancements to local District school facilities; and

**WHEREAS**, Section 9400 *et seq.* of the California Elections Code requires that a tax rate statement be contained in all official materials relating to the election, including any ballot pamphlet prepared, sponsored, or distributed by the District; and

**WHEREAS**, the Board desires to authorize the filing of a ballot argument in favor of the proposition to be submitted to the voters at the election; and

**WHEREAS**, pursuant to the Elections Code, it is appropriate for the Board to request consolidation of the election with any and all other elections to be held on Tuesday, November 8, 2016, and to request the Los Angeles County Registrar of Voters to perform certain election services for the District;

**NOW THEREFORE, THE BOARD OF EDUCATION OF THE EL RANCHO UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** That the Board, pursuant to California Education Code Sections 15100 *et seq.* and California Government Code Section 53506, hereby requests the Los Angeles County Registrar of Voters to conduct an election under the provisions of Proposition 46 and submit to the electors of the District the question of whether bonds of the District in the aggregate principal amount of \$200,000,000 (the "Bonds") shall be issued and sold for the purpose of raising money for the purposes described in Exhibits "A" and "B" hereto. Both exhibits are hereby directed to be printed in the voter pamphlet.

**Section 2.** That the date of the election shall be November 8, 2016.

**Section 3.** That the purpose of the election shall be for the voters in the District to vote on a proposition, a copy of which is attached hereto and marked Exhibit "A", incorporated by reference herein, and containing the question of whether the District shall issue the Bonds on behalf of the District to pay for improvements to the extent permitted by such proposition. The ballot propositions in Exhibit "A" and "B" shall be subject to the following requirements and determinations:

(a) the proceeds of the sale of the Bonds shall be used only for the purposes set forth in the ballot measure and not for any other purpose, including teacher or administrator salaries or pensions or other school operating expenses;

(b) that the Board, in establishing the projects set forth in Exhibit "B", evaluated the importance of the safety, class size reduction, and classroom, educational, and information technology needs of schools within the District;

(c) that the Board shall cause an annual, independent performance audit to be conducted to ensure that the Bond monies get spent only for the projects identified in Exhibit "B" hereto;

(d) that the Board shall cause an annual, independent financial audit of the proceeds from the sale of Bonds to be conducted until all of the Bond proceeds have been expended;

(e) that the Board will cause the appointment of a Citizens' Oversight Committee which shall consist of at least seven (7) members. The Citizens' Oversight Committee may not include any employee or official of the District or any vendor, contractor or consultant of the District. The Citizens' Oversight Committee shall include all of the following: One (1) member who is active in a business organization representing the business community located within the District; One (1) member who is active in a senior citizens' organization; One (1) member who is active in a bona fide taxpayer association; One (1) member who is a parent of a child in the District schools; One (1) member is both a parent of a child in the District schools and active in a school site council or PTA. In furtherance of its specifically enumerated purposes, the Citizens' Oversight Committee may engage in any of the following activities relating solely and exclusively to the expenditure of bond proceeds:

(i) Inspect District facilities and grounds to ensure that bond proceeds are expended in compliance with applicable law;

(ii) Receive and review copies of all deferred maintenance proposals or plans developed by the District;

(iii) Review efforts of the District to maximize bond revenues by implementing cost-saving programs;

(iv) Receive and review copies of the annual, independent financial and performance audits performed by independent consultant(s); and

(v) Receive from the Board, within three months of the District receiving the above-described audits, responses to any and all findings, recommendations, and concerns addressed in said audits, and review said responses; and

**Section 4.** That the authority for ordering the election is contained in California Education Code Sections 15100 *et seq.*, and California Government Code Section 53506.

**Section 5.** That the authority for the specifications of this election order is contained in Sections 5322 of the California Education Code.

**Section 6.** That the Los Angeles County Registrar of Voters and the Los Angeles County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on November 8, 2016, within the District. Pursuant to Elections Code Section 10403 the Board acknowledges that the consolidation election will be held and conducted in the manner prescribed in Elections Code Section 10408.

**Section 7.** That the Secretary of the Board is hereby directed to deliver a certified copy of this Resolution to the Los Angeles County Registrar of Voters no later than August 12, 2016.

**Section 8.** That any Bonds issued pursuant to Section 15264 *et seq.* of the California Education Code hereto or pursuant to California Government Code Section 53506. The maximum rate of interest on any Bond shall not exceed the maximum rate allowed by California Education Code Sections 15140 to 15143, as modified by California Government Code Section 53531.

**Section 9.** That the Board requests the governing body of any such other political subdivision, or any officer otherwise authorized by law, to partially or completely consolidate such election and to further provide that the canvass of the returns of the election be made by anybody or official authorized by law to canvass such returns, and that the Board consents to such consolidation. The Board further authorizes the submission of a tax rate statement and primary and rebuttal arguments, as appropriate, to be filed with the Los Angeles County Registrar of Voters by the established deadlines.

**Section 10.** Pursuant to California Education Code Section 5303 and Elections Code Section 10002, the Board of Supervisors of Los Angeles County is requested to permit the Registrar of Voters to render all services specified by Elections Code Section 10418 relating to the election, for which services the District agrees to reimburse Los Angeles County, such services to include the publication of a Formal Notice of School Bond Election and the mailing of the sample ballot and tax rate statement (described in Elections Code Section 9401) pursuant to the terms of California Education Code Section 5363 and Elections Code Section 12112.

**ADOPTED, SIGNED AND APPROVED** this 5th day of August, 2016.

BOARD OF EDUCATION OF THE EL RANCHO  
UNIFIED SCHOOL DISTRICT

By \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary



EXHIBIT A

“To modernize/rebuild El Rancho High School for the 21<sup>st</sup> Century, prepare students for jobs of the future, improve/expand science/career training labs, repair/improve neighborhood schools, including aging classrooms, roofs, restrooms, heating/air conditioning/electrical systems, strengthen school safety/security, and repair/acquire/construct school sites and facilities, shall El Rancho Unified School District issue \$200,000,000 in bonds at legal rates, requiring annual audits, citizen oversight and no money for administrator salaries, all funds for local schools?

Bonds – Yes

Bonds – No

## EXHIBIT B

FULL TEXT BALLOT PROPOSITION  
OF THE EL RANCHO UNIFIED SCHOOL DISTRICT  
BOND MEASURE ELECTION NOVEMBER 8, 2016

The following is the full proposition presented to the voters by the El Rancho Unified School District.

“To modernize/rebuild El Rancho High School for the 21<sup>st</sup> Century, prepare students for jobs of the future, improve/expand science/career training labs, repair/improve neighborhood schools, including aging classrooms, roofs, restrooms, heating/air conditioning/electrical systems, strengthen school safety/security, and repair/acquire/construct school sites and facilities, shall El Rancho Unified School District issue \$200,000,000 in bonds at legal rates, requiring annual audits, citizen oversight and no money for administrator salaries, all funds for local schools?”

Bonds – Yes

Bonds – No

**PROJECT LIST**

The Board of Education of the El Rancho Unified School District is committed to providing a modern learning environment in **local schools** with safe, secure and upgraded classrooms which **attract** and help retain qualified **teachers** and prepare our **students for college and jobs of the future**. To that end, the Board evaluated the District’s urgent and critical facility needs, including safety issues, enrollment, class size reduction, and technology in developing the scope of projects to be funded, as such are outlined in the District’s Student Centric Facilities Master Plan, dated as of December 9, 2014, incorporated herein by reference in its entirety (the “Master Plan”), and available for review on the District’s website ([www.erusd.org](http://www.erusd.org)). Therefore, in approving this Project List, the Board of Education determines that **the District must:**

- (i) **Make sure District schools have facilities to train students with modern career skills for jobs of the future;**
- (ii) **Modernize and transform El Rancho High School to meet 21<sup>st</sup> Century educational needs and health and safety standards;**
- (iii) **Make urgent repairs at District schools – repair leaky and aging roofs, remove asbestos and other hazardous materials, upgrade heating and air conditioning and replace outdated plumbing, wiring, and sewer systems; and**
- (iv) **ADHERE TO SPECIFIC FISCAL ACCOUNTABILITY SAFEGUARDS such as:**
  - (a) **All funds must be spent locally on District schools, and no funds will be spent on administrators’ salaries or pensions.**
  - (b) **An independent citizens’ oversight committee must be appointed to ensure that all funds are spent only as authorized.**
  - (c) **All expenditures must be subject to annual independent financial and performance audits.**

The Project List includes the following types of upgrades and improvements at District schools and sites:

**Modernization, Safety and Security Projects**

**Goal and Purpose: Several local schools are deteriorating badly and are in need of repair, including El Rancho High School, which is one of the community’s most important institutions and which has served the community well for over 60 years.**

**This measure will make urgent repairs to modernize school facilities to meet current academic and health and safety standards. This measure will rebuild and modernize El Rancho High School to improve science and technology education and strengthen El Rancho High’s partnerships with local colleges and universities.**

- Rebuild and modernize El Rancho High School to meet 21<sup>st</sup> Century educational standards
- **Repair or replace leaky or aging roofs, wiring, electrical and plumbing systems.**
- Upgrade and install new security systems, such as alarms, fencing, lighting and fire safety systems.
- **Upgrade aging heating and air conditioning systems.**
- Repair or replace outdated classrooms, restrooms, labs and school buildings.
- **Remove asbestos and other hazardous materials from older schools.**
- Replace portable classrooms and restrooms with permanent structures.

\* \* \*

The listed projects will be completed as needed. Each project is assumed to include its share of architectural, engineering, and similar planning and design costs, program/project management, and a customary contingency for unforeseen design and construction costs. In addition to the listed projects stated above, the Project List also includes the payment of the costs of preparation of all facility planning, facility studies, assessment reviews, facility master plan preparation and updates, environmental studies (including environmental investigation, remediation and monitoring), design and construction documentation, and temporary housing of dislocated District activities caused by construction projects. In addition to the projects listed above, the repair and renovation of each of the existing school facilities may include, but not be limited to, some or all of the following: installation of signage and fencing; repair and renovate student and staff restrooms; repair and replace heating, air conditioning and ventilation systems; upgrade of facilities for energy efficiencies; repair and replace worn-out and deteriorated roofs, windows, floors, walls, doors and drinking fountains; improve school facilities for disability access; install or upgrade shade structures, wiring and electrical systems to safely accommodate computers, technology and other electrical devices and needs; upgrade or construct classrooms, libraries, labs, cafeterias, visual and performing arts buildings, media centers and support facilities, including administrative, physical education, and central and site kitchens; replace deteriorating portable classrooms with permanent buildings; repair and replace gas, water and sewer systems and lines and plumbing systems, fire alarms, phone systems, emergency communication systems, security systems, doors and locks; resurface or replace hard courts, asphalt, turf and irrigation systems and campus landscaping; improve outdoor learning spaces; expand, improve or relocate parking lots and drop-off/pick-up areas for safety or traffic



mitigation; acquire land; interior and exterior painting and floor covering; demolition; construct various forms of storage and support spaces and classrooms; repair, upgrade and install interior and exterior lighting systems; improve existing or construct new athletic fields; upgrade or construct support facilities and physical education facilities, including tracks, bleachers, gyms, stadiums, pools, locker rooms; install unitary surfacing in existing playgrounds; and replace outdated security fences and security cameras (including access control systems). The budget for each project is an estimate and may be affected by factors beyond the District's control. Some projects throughout the District may be undertaken as joint use projects in cooperation with other local public or non-profit agencies. The final cost of each project will be determined as plans and construction documents are finalized, construction bids are received, construction contracts are awarded and projects are completed. Based on the final costs of each project, certain of the projects described above may be delayed or may not be completed. Demolition of existing facilities and reconstruction of facilities scheduled for repair and upgrade may occur, if the Board determines that such an approach would be more cost-effective in creating more enhanced and operationally efficient campuses. Necessary site preparation/restoration may occur in connection with new construction, renovation or remodeling, or installation or removal of relocatable classrooms, including ingress and egress, removing, replacing, or installing irrigation, utility lines, trees and landscaping, relocating fire access roads, and acquiring any necessary easements, licenses, or rights of way to the property. Proceeds of the bonds may be used to pay or reimburse the District for the cost of District staff when performing administrative work on or necessary and incidental to bond projects, in accordance with Opinion No. 04-110 of the Attorney General of the State of California.

Bond proceeds shall only be expended for the specific purposes identified herein. The District shall create an account into which proceeds of the bonds shall be deposited and comply with the reporting requirements of California Government Code § 53410.

\* \* \*

**THIS BOND HAS STRICT ACCOUNTABILITY MEASURES, INCLUDING:**

NO ADMINISTRATOR SALARIES. Proceeds from the sale of the bonds authorized by this proposition shall be used only for the acquisition, construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, and not for any other purpose, including teacher or administrator salaries, pensions and other operating expenses.

**FISCAL ACCOUNTABILITY. THE EXPENDITURE OF BOND MONEY ON THESE PROJECTS IS SUBJECT TO STRINGENT FINANCIAL ACCOUNTABILITY REQUIREMENTS. BY LAW, PERFORMANCE AND FINANCIAL AUDITS WILL BE PERFORMED ANNUALLY, AND ALL BOND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO ENSURE THAT FUNDS ARE SPENT AS PROMISED AND SPECIFIED. THE CITIZENS' OVERSIGHT COMMITTEE MUST INCLUDE, AMONG OTHERS, REPRESENTATION OF A BONA FIDE TAXPAYERS ASSOCIATION, A BUSINESS ORGANIZATION AND A SENIOR CITIZENS ORGANIZATION. NO DISTRICT EMPLOYEES OR VENDORS ARE ALLOWED TO SERVE ON THE CITIZENS' OVERSIGHT COMMITTEE.**

## Appendix E - Study Agreement



**FISCAL CRISIS & MANAGEMENT ASSISTANCE TEAM  
AB 139 STUDY AGREEMENT  
May 23, 2019  
AMENDED STUDY AGREEMENT  
July 10, 2019**

The Fiscal Crisis and Management Assistance Team (FCMAT), hereinafter referred to as the team, and the Los Angeles County Office of Education, hereinafter referred to as the COE, mutually agree as follows:

**1. BASIS OF AGREEMENT**

The team provides a variety of services to local educational agencies (LEAs). Pursuant to the provisions of Education Code (EC) Section 1241.5 (b), county superintendents may review or audit the expenditures and internal controls of any school in their county if they have reason to believe that fraud, misappropriation of funds, or other illegal fiscal practices have occurred that merit examination. The extraordinary audits conducted by the county superintendent shall be focused on the alleged fraud, misappropriation of funds, or other illegal fiscal practices and shall be conducted in a timely and efficient manner.

All work shall be performed in accordance with the terms and conditions of this agreement.

**2. SCOPE OF THE WORK**

A. Scope and Objectives of the Study

The Los Angeles County Office of Education has requested FCMAT to assign professionals to conduct an AB 139 Extraordinary Audit. This audit will be conducted pursuant to Education Code Section 1241.5 (b). The COE has received allegations of possible fraud, misappropriation of funds or other illegal fiscal practices at the El Rancho Unified School District and is requesting that FCMAT review the bidding and award process, expenditures, oversight, and possible conflict of interest, in activities related to bond Measure ER for facilities modernization and/or new construction projects.

The team will review and test recorded transactions from the time Measure ER was approved in November 2016 to the present. Any testing for this review will be based on the auditor's judgment and a sample of transactions and records for this period. Testing and review results are intended to provide reasonable but not absolute certainty about whether the district's financial transactions and activity related to Measure ER were sufficiently accurate.

FCMAT’s review will be focused on the following items related to bond Measure ER:

- Bidding and award process scoring and selection
- Bond expenditures
- Oversight responsibilities
- Conflict of interest related to gifts and donations to board members and/or their campaigns

**B. Services and Products to be Provided**

1. Orientation Meeting – The team will conduct an orientation session at the district to brief management and supervisory personnel on the team’s procedures and the purpose and schedule of the study.
2. On-site Review – The team will conduct an on-site review at the district office and at school sites if necessary; pertinent documents will also be reviewed off site.
3. Progress Reports – The team will inform the COE of material issues as the review is performed.
4. Exit Meeting – The team will hold an exit meeting at the conclusion of the on-site review to inform the COE of any significant findings to that point.
5. Draft Report – When appropriate, electronic copies of a preliminary draft report will be delivered to the COE’s administration for review and comment on a schedule determined by the team.
6. Final Report – Electronic copies of the final report will be delivered to the COE and/or district following completion of the review. Printed copies are available from the FCMAT office upon request.
7. Follow-Up Support – If requested, the team will meet with the COE and/or district to discuss the findings and recommendations of the report.

**3. PROJECT PERSONNEL**

The FCMAT study team may include:

- A. To Be Determined FCMAT Staff**
- B. To Be Determined FCMAT Consultant**
- C. To Be Determined FCMAT Consultant**

Other equally qualified staff or consultants will be substituted in the event one of the above individuals is unable to participate in the study.

#### 4. **PROJECT COSTS**

The cost for studies requested pursuant to EC 42127.8 (d) (1) shall be:

- A. \$1,100 per day for each staff team member while on site, conducting fieldwork at other locations, presenting reports, or participating in meetings. The cost of independent FCMAT consultants will be billed at their actual daily rate for all work performed.
- B. All out-of-pocket expenses, including travel, meals and lodging.

**Based on the elements noted in Section 2A, the total estimated cost of the study will be \$57,200.**

- C. Any change to the scope will affect the estimate of total cost.

Payments for FCMAT's services are payable to Kern County Superintendent of Schools - Administrative Agent, located at 1300 17<sup>th</sup> Street, City Centre, Bakersfield, CA 93301. Clients may qualify for reimbursement from funds set aside for this purpose, pursuant to AB 139.

#### 5. **RESPONSIBILITIES OF THE COE AND/OR DISTRICT**

- A. The district will provide office and conference room space during on-site reviews.
- B. The district will provide the following if requested:
  - 1. Policies, regulations and prior reports addressing the study request
  - 2. Current or proposed organizational charts
  - 3. Current and two prior years' audit reports
  - 4. Any documents requested on a supplemental list. Documents requested on the supplemental list should be provided to FCMAT only in electronic format; if only hard copies are available, they should be scanned by the district and sent to FCMAT in an electronic format
  - 5. Documents should be provided in advance of fieldwork; any delay in the receipt of the requested documents may affect the start date and/or completion date of the project. Upon approval of the signed study agreement, access will be provided to FCMAT's online SharePoint document repository where the district shall upload all requested documents.
- C. The COE's administration will review a draft copy of the study. Any comments regarding the accuracy of the data presented in the report or the practicability of the recommendations will be reviewed with the team prior to completion of the final report.

Pursuant to EC 45125.1(c), representatives of FCMAT will have limited contact with pupils. The district shall take appropriate steps to comply with EC 45125.1(c).

**6. PROJECT SCHEDULE**

The following schedule outlines the planned completion dates for different phases of the study and will be established upon the receipt of a signed study agreement:

<i>Orientation:</i>	<i>To be determined</i>
<i>Staff Interviews:</i>	<i>To be determined</i>
<i>Exit Meeting:</i>	<i>To be determined</i>
<i>Draft Report Submitted:</i>	<i>To be determined</i>
<i>Final Report Submitted:</i>	<i>To be determined</i>

**7. COMMENCEMENT, TERMINATION AND COMPLETION OF WORK**

FCMAT will begin work as soon as it has assembled an available and appropriate study team consisting of FCMAT staff and independent consultants, taking into consideration other jobs FCMAT has previously undertaken and assignments from the state. The team will work expeditiously to complete its work and deliver its report, subject to the cooperation of the district and any other parties from which, in the team’s judgment, it must obtain information. Once the team has completed its fieldwork, it will proceed to prepare a draft report and a final report. Prior to completion of fieldwork, the COE may terminate its request for service and will be responsible for all costs incurred by FCMAT to the date of termination under Section 4 (Project Costs). If the COE does not provide written notice of termination prior to completion of fieldwork, the team will complete its work and deliver its report and the COE will be responsible for the full costs. The COE understands and agrees that FCMAT is a state agency and all FCMAT reports are published on the FCMAT website and made available to interested parties in state government. In the absence of extraordinary circumstances, FCMAT will not withhold preparation, publication and distribution of a report once fieldwork has been completed, and the COE shall not request that it do so.

**8. INDEPENDENT CONTRACTOR**

FCMAT is an independent contractor and is not an employee or engaged in any manner with the COE. The manner in which FCMAT’s services are rendered shall be within its sole control and discretion. FCMAT representatives are not authorized to speak for, represent, or obligate the COE in any manner without prior express written authorization from an officer of the COE.

**9. INSURANCE**

During the term of this agreement, FCMAT shall maintain liability insurance of not less than \$1 million unless otherwise agreed upon in writing by the COE, automobile liability insurance in the amount required under California state law, and workers’ compensation as required under California state law. FCMAT shall provide certificates of insurance, with Los Angeles County Office of Education named as additional insured, indicating applicable insurance coverages upon request.

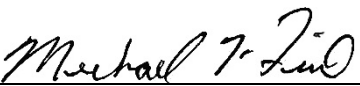
**10. HOLD HARMLESS**

FCMAT shall hold the COE, its board, officers, agents and employees harmless from all suits, claims and liabilities resulting from negligent acts or omissions of its board, officers, agents and employees undertaken under this agreement. Conversely, the district shall hold FCMAT, its board, officers, agents and employees harmless from all suits, claims and liabilities resulting from negligent acts or omissions of its board, officers, agents and employees undertaken under this agreement.

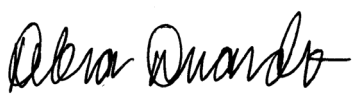
**11. CONTACT PERSON**

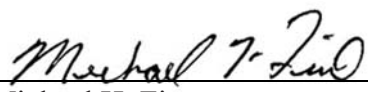
Contact: Patricia Smith  
Telephone: (562) 922-6124  
E-mail Address: [smith\\_pat@lacoedu](mailto:smith_pat@lacoedu)

SIGNED BY DEBRA DUARDO MAY 31, 2019  
Debra Duardo, Superintendent Date  
Los Angeles County Office of Education

 May 23, 2019  
Michael H. Fine Date  
Chief Executive Officer  
Fiscal Crisis & Management Assistance Team

**AMENDED STUDY AGREEMENT**

 Jul 11, 2019  
Debra Duardo, Superintendent Date  
Los Angeles County Office of Education

 July 10, 2019  
Michael H. Fine Date  
Chief Executive Officer  
Fiscal Crisis & Management Assistance Team