
INDEPENDENT CITIZEN'S BOND OVERSIGHT COMMITTEE

2022-2023 FISCAL YEAR ANNUAL REPORT

RELATED TO MEASURE P



I. INTRODUCTION

The City of Foster City voters passed Measure P on the June 5, 2018 ballot, which authorizes the City to issue \$90,000,000 aggregate principal amount of general obligation bonds to fund improvements to the City's Levee system. As a result of Measure P, the City has issued \$85,000,000 in bonds to date. The Levee improvements will allow Foster City to maintain FEMA accreditation and also protect essential city services during storms or earthquake damage. The Measure P Election was conducted under California Government Code Section 53411. Pursuant to Section 2 of the City Resolution No. 2018-15 of the City Council of the City of Foster City, the City is obligated to establish a citizens' oversight committee to review all expenditures of the bond proceeds. Section 2, Fiscal Accountability, reads as follows:

The expenditure of bond proceeds to construct the levee system improvements will be subject to strict financial accountability requirements, including review of all expenditures of bond proceeds by a citizens' oversight committee, and annual reports pursuant to Government Code Section 53411. The citizens' oversight committee, composed of citizens appointed by the City Council, will ensure the bond proceeds are spent for their authorized purposes, and meet at least two times per calendar year and will submit at minimum two times a year a written report to the City Council and the public on the bond expenditures.

At the December 16, 2019 City Council meeting, the City Council of the City of Foster City established the Independent Citizens' Bond Oversight Committee and Bylaws were adopted. The Bylaws specify the Committee's purview within Section 3. Duties and Section 4. Authorized Activities, respectively as follows:

3.1 Inform the Public. The Committee shall inform the public concerning the City's expenditure of bond proceeds. In fulfilling this duty, all official communications to either the City Council or the public shall come from the Chair acting on behalf of the Committee. The Chair shall only release information that reflects the majority view of the Committee.

3.2 Review Expenditures. The Committee shall review expenditure reports produced by the City to ensure that bond proceeds were expended only for the purposes set forth in Measure P.

3.3 Bi-Annual Reports. The Committee may, from time to time and on an as-needed basis, submit written reports to the City Council, which the Council shall review in public session. Additionally, the Committee shall present to the City Council, in public session, at least two written reports annually, which shall include the following:

- a) A statement indicating whether the City is in compliance with the requirements of Measure P; and*
- b) A summary of the Committee's proceedings and activities since its last report to the Council.*

4.1 In order to perform the duties set forth in Section 3, the Committee may engage in the following authorized activities:

- a) Receive copies of the City's annual independent performance audit and annual independent financial audit ("Audits") at the same time Audits are submitted to the City and review the Audits.*
- b) Inspect City facilities and property where bond proceeds have been or will be expended, in accordance with any access procedure established by the City's Public Works Director or designee.*
- c) Review efforts by the City to maximize bond proceeds by implementing various cost-saving measures, as applicable.*

II. CURRENT MEMBERSHIP OF THE INDEPENDENT CITIZEN'S OVERSIGHT COMMITTEE

Bob Fitzgerald, Chairperson
Al DeGroot, Vice-Chairperson
Qing Liu, Member
Sanford Heisler, Member

III. SUMMARY OF PROCEEDINGS AND ACTIVITIES

The Independent Citizens’ Bond Oversight Committee has met quarterly to review and discuss information pertaining to the Levee Project expenditures. Below is a summary of the Committee’s proceedings and activities for the 2022-2023 fiscal year.

Meeting Date	Summary
October 27, 2022	Review and discussion of the Fourth Quarterly Report and Expenditures for FY 2021/2022 and First Quarterly Report for FY 2022/2023. Approved the FY 2021/2022 Annual Report to City Council.
January 26, 2023	Committee meeting was cancelled due to quorum not being met.
April 27, 2023	Review and discussion of the Second and Third Quarterly Report and Expenditures for FY 2022/2023.
July 27, 2023	Review and discussion of the Fourth Quarterly Report and Expenditures for FY 2022/2023. Approved the Annual Report to City Council.

Each meeting has been conducted in compliance with the Brown Act. The meetings have been open to the public and formally scheduled with agendas duly posted and noticed. Meeting minutes have been taken, approved and posted on the City’s webpage. In addition, individual committee members have taken the opportunity to visit the project site to view progress.

IV. STATEMENT OF COMPLIANCE

The members of the Bond Oversight Committee have reviewed the expenditure reports produced by the City for the 2021-2022 fiscal year through the First Quarter of 2023.

Fixed Contracts

Since the project inception, the City has issued fixed contracts in the total amount of \$72,122,421.53. The total billed to date on these contracts is \$63,727,205.83 Active fixed contracts are billed as monthly progress payments based on the completion of work. These monthly progress payments are reviewed by the Committee on a quarterly basis. The Committee has found the progress payments to be consistent with the completion of work. The members of the Bond Oversight Committee have reviewed the expenditure reports produced by the City for Fixed Contracts since September 2015 through June 30, 2023.

The Bond Oversight Committee finds that the expenditures for fixed contracts are in compliance with the requirements of Measure P. The Bond Oversight Committee further finds that bond proceeds from Measure P in regards to fixed contracts have been expended only for the purposes set forth in Measure P.

Time and Material Contracts

There is a time and material contract with Tanner Pacific, Inc. for construction management services in the amount of \$9,585,087.81 of which \$8,196,002.35 has been paid to date. In addition, there have been three different time & material contracts with Schaaf & Wheeler to provide Pre-Design (Phase I), Final Design (Phase II) and Bidding, Construction Support and Project Closeout Services (Phase III). Schaaf & Wheeler issued separate contracts to Consultants which were required to assist Schaaf & Wheeler to complete their work. These separate contracts, as well as the work done directly by Schaaf & Wheeler, are provided on a cost plus basis with total cost not to exceed the contract amounts. Each consultant provides separate progress payment requests to Schaaf & Wheeler, which are then included as reimbursables in the Schaaf & Wheeler progress payment request to the City. The total amount of these contracts is \$8,097,825, of which \$7,808,720.29 has been paid to date.

It should be noted that, up to this date, no detailed review of any individual progress payments submitted by either Tanner Pacific, Inc. or Schaaf & Wheeler, or its consultants, for accuracy as regards to labor hours, rates, reimbursables, markups or other charges to ascertain their compliance with terms of the time and material contracts has been done. It should be considered at what point in the project this review will be done. It should also be noted that the original request for CO # 1 to the Phase II contract was \$990,000, for expenses already incurred by Schaaf & Wheeler and its consultants above and beyond the original contract amount of \$2,324,286. Schaaf & Wheeler subsequently agreed to accept \$529,150 as full payment for these expenses, a reduction of \$460,850. A reduction of this amount, for expenses which had already occurred is unusual and warrants further review and explanation.

Due to the lack of information noted above, the Bond Oversight Committee cannot determine at this time whether or not the Tanner Pacific, Inc. or Schaaf & Wheeler contracts are in compliance with the requirements of Measure P.