

LINCOLN UNIFIED SCHOOL DISTRICT  
BOND OVERSIGHT COMMITTEE  
OCTOBER 9, 2012, 6:00PM  
BOARD CONFERENCE ROOM

In Attendance:

- | <u>MEMBERS</u>    | <u>STAFF</u> |
|-------------------|--------------|
| • JAMES DiSERIO   | REBECCA HALL |
| • RUBEN GARZA     | TOM USLAN    |
| • EVERETT LOW     |              |
| • KAREN NAKAMURA  |              |
| • EVELYN OLIVEIRA |              |
| • STEVEN WALTON   |              |

Absent:

- TONY YADON (ABSENT)

Minutes:

Rebecca presented a brief orientation on the Measure A Oversight Committee. The following information was handed out and explained to the members:

- Summary of Proposition 39 and related legislation
- Citizens' Oversight Committee: Role of Committee
- Citizens' Bond Oversight Committee Bylaws (**please sign and return ethics policy by November 1<sup>st</sup>**)
- California Form 700 (**Please return by November 1<sup>st</sup>**)
- Lincoln Unified School District Resolution
- Proposed Project Lists of all schools

*The committee set the next meeting for 6:00pm, January 8th, 2013.*

**JONES HALL**  
A PROFESSIONAL LAW CORPORATION  
ATTORNEYS AT LAW

**SUMMARY OF PROPOSITION 39 AND RELATED LEGISLATION**

**BY BILL KADI**

On November 7, 2000, California voters decided to reduce the voter approval threshold for school district and community college district general obligation bonds from two-thirds (2/3) voter approval to 55% voter approval. Proposition 39 amends article XVIII A of the California Constitution to allow for the levy of *ad valorem* taxes on real property in excess of the one percent (1%) limit to pay debt service on bonds issued for school construction with the approval of 55% of the votes cast.

The Legislature enacted Assembly Bill 1908 (AB 1908), Lempert, which establishes the issuance procedure for bonds authorized at an election requiring only 55% voter approval, rather than two-thirds. (Stats. 2000, ch. 44, effective January 1, 2001). The statute, by its terms, became operative upon the passage of Proposition 39 by the voters. AB 1908 sets forth some important restrictions on the issuance of bonds that have been approved in an election requiring a 55% approval rate. More recently, AB 2659 was passed by the legislature, was signed by the Governor on September 22, 2000, and filed with the Secretary of State on September 23, 2000. AB 2659 amends certain provisions of AB 1908, as discussed below.

**Analysis of the Initiative and Legislation**

*Proposition 39*

*Proposition 39 amends portions of the California Constitution to provide for the issuance of general obligation bonds by school districts, community college districts, or county offices of education "for 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" upon approval by 55% of the electorate. The local ballot measure must: 1) list the specific school facilities projects to be funded, and must certify that the governing board has evaluated safety, class size reduction and information technology needs in developing the list; 2) require that the governing board conduct an annual independent performance audit to ensure that the funds have been expended only on the specific projects listed; and 3) require that the governing board conduct an annual independent financial audit of the bond proceeds until all of the proceeds have been expended.<sup>(1)</sup>*

*Assembly Bill 1908*

*AB 1908, as amended by AB 2659, provides the issuance procedure for bonds approved by a 55% vote. The legislation does not replace existing law that provides for the issuance of general obligation bonds approved by a two-thirds vote, but it allows the governing board to make a choice between the existing and new procedures at the time it calls the election. A school board may only proceed under the 55% election process upon a two-thirds vote of the Board members. Once a board decides to utilize the 55% bond option, it may not subsequently opt out of that procedure, even if the proposition ultimately obtains two-thirds voter approval.*

*Assembly Bill 2659*

*AB 2659 amends the tax rate limitation contained in AB 1908 by transforming what had been an absolute cap on the tax rate that may be levied to pay debt service on the bonds approved at a particular election to the following: a district may only issue bonds using the Prop. 39 55% voter approval procedure if the district projects, at the time of issuance of the bonds, that the tax rate needed to pay debt service on the bonds will not, taking into account any increases in the tax base allowed under Prop. 13, exceed the applicable limit (\$60 per \$100,000 for unified school districts, \$30 per \$100,000 for elementary and high school districts).<sup>(2)</sup>*

**Opportunities and Limitations.**

*There are both opportunities and limitations associated with the new 55% bond approval process contained in Proposition 39 and AB 1908/AB 2659. School and community college districts should consider the following.*

**Opportunities.**

be brought by a citizen who is assessed and required to pay an ad valorem tax to repay bonds issued pursuant to the 55% bond approval option. In order to prevail, the citizen must show that the challenged expenditure of bond funds is not in compliance with the law, that the expenditure will produce waste or great or irreparable injury, or that the governing board has willfully failed to appoint an Oversight Committee. This legal remedy supplements existing remedies to challenge school bond elections and expenditures.

1. Proposition No. 39 also contains a charter school component. This component of Prop. 39 requires every school district to make available to all charter schools facilities sufficient for the charter school to accommodate all of the charter school's in-district students in conditions reasonably equivalent to those in regular public schools, and the facilities must be "contiguous, furnished and equipped." The school district may charge the charter school a pro-rata share of the school district's facilities costs as specified in the legislation. The facilities requirement takes effect three years from the date of the measure or, if the school district passes a general obligation bond measure, the first day of July following passage.
2. AB 2659 amends Section 15268 of the Education Code (added by AB 1908), for example, to read, in pertinent part, as follows: "The bonds may only be issued if the tax rate levied . . . [to pay debt service on the bonds approved] . . . at a single election, would not exceed . . . [\$30 per \$100,000] . . . of taxable property when assessed valuation is projected by the district to increase in accordance with . . . [Prop. 13]."

If you wish to discuss the impact of Proposition 39 and related legislation on your decision process call us at (415) 391-5780, ask for Bill Kadi, Chick Adams or Bill Madison.

LINCOLN UNIFIED  
SCHOOL DISTRICT

MEASURE A

OVERSIGHT COMMITTEE  
ORIENTATION

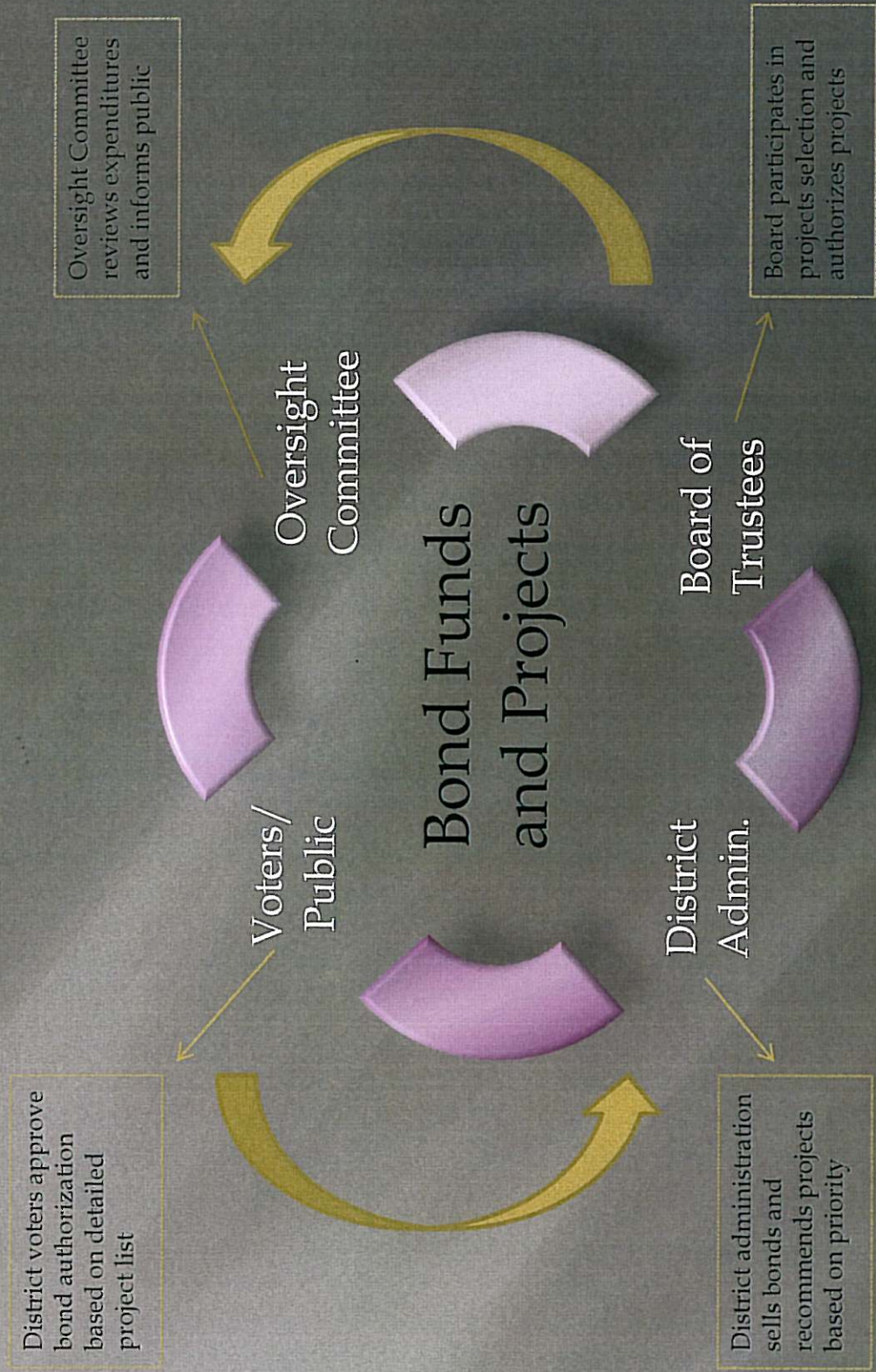
OCTOBER 9, 2012

# Oversight Committee Orientation

## Process to Date

- ▣ Project list created totaling \$57 million in projects
- ▣ Financial analysis and voter feasibility study
- ▣ Public Information Program initiated
  - Meetings with community leaders, groups and companies to gauge level of support
  - Survey to test attitudes toward District, project preferences and tax tolerance
  - School site meetings held for school site input
- ▣ Board adopted resolution and project list calling for June 5<sup>th</sup> election
- ▣ Voters approved Measure A (48.6 million) with approximately 60%
- ▣ District certificate election results, sold 16 million in bonds and appointed oversight committee

# Oversight Committee Orientation Organizational Chart



# Oversight Committee Orientation

## Proposition 39 History/Overview

- ▣ On November 7, 2000 California voters reduced voter approved threshold for k-14 district general obligation bonds from 2/3<sup>rds</sup> to 55%
- ▣ Proposition 39 and AB 1908 amends California Constitution to lower this threshold provided certain restrictions are met
- ▣ Restrictions include:
  - tax rate limitations
  - a detailed project list
  - Annual performance and financial audits
  - an election held on a regularly scheduled election date
  - the appointment of an oversight committee
- ▣ Oversight committee's purpose is to
  - actively review and report on the proper expenditures of taxpayers' money
  - Advise the public as to whether the school district is in compliance
- ▣ "It is the express intent of the Legislature that the members of the Committee 'promptly alert the public to any waste or improper expenditures of school construction bond money.'" (Education Code 15264)

# Oversight Committee Orientation

## By Laws

- ▣ Membership
  - A minimum of seven members must be appointed by the Board from a list of candidates
  - Candidates are members of : Business Organization, senior citizen's organization, taxpayers association, parent or guardian of child in District, both a parent and guardian of a child in District and active in a PTA or School Site council, and 2 at large members of the community.
  - Must be 18 and reside in District's geographic boundary and may not include any employee, official or vendor, contractor or consultant of the District
- ▣ Meeting of Committee
  - Meetings held at least once a year within the District
  - Subject to Brown Act
  - Officers- Superintendent appoints initial Chair; Committee elects a Chair and Vice Chair thereafter
- ▣ District Support
  - Public notices, meeting rooms, copies of documents, retention of committee records



# Oversight Committee Orientation

By Laws (continued)

- ▣ Duties
  - Inform the Public
  - Review Expenditures
  - Annual Report
  - Duties of Board/Superintendent
  - Voter-Approved Projects only
- ▣ Authorized Activities
  - District's annual independent performance and finance audits
  - Inspect school facilities and grounds
  - Review copies of deferred maintenance proposal or plans
  - Review efforts by the District to maximize bond proceeds
- ▣ Termination - when (a) all bond proceeds are spent, or (b) all projects funded by bond proceeds are completed

**LINCOLN UNIFIED SCHOOL DISTRICT  
CITIZENS' BOND OVERSIGHT COMMITTEE  
BYLAWS**

**Section 1. Committee Established.** The Lincoln Unified School District (the "District") was successful at the election conducted on June 5, 2012 (the "Election"), in obtaining authorization from the District's voters to issue up to \$48,500,000 aggregate principal amount of the District's general obligation bonds, pursuant to a 55% vote. The election was conducted under Proposition 39, being chaptered as the Strict Accountability in Local School Construction Bonds Act of 2000, at Section 15264 *et seq.* of the Education Code of the State of California ("Prop 39"). Pursuant to Section 15278 of the Education Code, the District is now obligated to establish the Oversight Committee to satisfy the accountability requirements of Prop 39. The Board of Trustees of the Lincoln Unified School District (the "Board") hereby establishes the Citizens' Bond Oversight Committee (the "Committee") which shall have the duties and rights set forth in these Bylaws. The Committee does not have independent legal capacity from the District.

**Section 2. Purposes.** The purposes of the Committee are set forth in Prop 39, and these Bylaws are specifically made subject to the applicable provisions of Prop 39 as to the duties and rights of the Committee. The Committee shall be deemed to be subject to the *Ralph M. Brown Public Meetings Act* of the State of California and shall conduct its meetings in accordance with the provisions thereof. The District shall provide necessary administrative support at District expense to the Committee as consistent with the Committee's purposes as set forth in Prop 39.

The proceeds of general obligation bonds issued pursuant to the Election are hereinafter referred to as "bond proceeds." The Committee shall confine itself specifically to bond proceeds generated under the ballot measure. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee review.

**Section 3. Duties.** To carry out its stated purposes, the Committee shall perform the following duties:

3.1 Inform the Public. The Committee shall inform the public concerning the District's expenditures of bond proceeds.

3.2 Review Expenditures. The Committee may review quarterly expenditure reports produced by the District to ensure that (a) bond proceeds are expended only for the purposes set forth in the ballot measure; (b) no bond proceeds are used for any teacher or administrative salaries or other operating expenses.

3.3 Annual Report. The Committee shall present to the Board, in public session, an annual written report which shall include the following:

(a) A statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and

(b) A summary of the Committee's proceedings and activities for the preceding year.

3.4 Duties of the Board/Superintendent. Either the Board or the Superintendent, as the Board shall determine, shall have the following powers reserved to it, and the Committee shall have no jurisdiction over the following types of activities:

- (i) Approval of construction contracts,
- (ii) Approval of construction change orders,
- (iii) Appropriation of construction funds,
- (iv) Handling of all legal matters,
- (v) Approval of construction plans and schedules,
- (vi) Approval of Deferred Maintenance Plan, and
- (vii) Approval of the sale of bonds.

3.5 Voter-Approved Projects Only. In recognition of the fact that the Committee is charged with overseeing the expenditure of bond proceeds, the District has not charged the Committee with responsibility for:

(a) Projects financed through the State of California, developer fees, redevelopment tax increment, certificates of participation, lease/revenue bonds, the general fund or the sale of surplus property without bond proceeds shall be outside the authority of the Committee.

(b) The establishment of priorities and order of construction for the bond projects shall be made by the Board in its sole discretion.

(c) The selection of architects, engineers, soil engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the project based on District criteria established by the Board in its sole discretion.

(d) The approval of the design for each project including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent) by the Board in its sole discretion and shall report to the Committee on any cost saving techniques considered or adopted by the Board.

(e) The selection of independent audit firm(s), performance audit consultants and such other consultants as are necessary to support the activities of the Committee.

(f) The approval of an annual budget for the Committee that is sufficient to carry activities set forth in Prop 39 and included herein.

(g) The adoption of a plan for publicizing the activities of the Committee and the determination as to whether a mailer, a newspaper notice or website materials would best suit the distribution of the Committee's findings and recommendations.

(h) The amendment or modification of the Bylaws for the Committee as provided herein, subject to the legal requirements of Prop 39.

(i) The appointment or reappointment of qualified applicants to serve on the Committee, subject to legal limitations, and based on criteria adopted in the Board's sole discretion as part of carrying out its functions under Prop 39.

#### **Section 4. Authorized Activities.**

4.1 In order to perform the duties set forth in Section 3.0, the Committee may engage in the following authorized activities:

(a) Receive and review copies of the District's annual independent performance audit and annual independent financial audit, required by Article XIII A of the California Constitution.

(b) Inspect school facilities and grounds for which bond proceeds have been or will be expended, in accordance with any access procedure established by the District's Superintendent.

(c) Review copies of deferred maintenance proposals or plans developed by the District.

(d) Review efforts by the District to maximize bond proceeds by implementing various cost-saving measures.

#### **Section 5. Membership.**

5.1 Number. The Committee shall consist of a minimum of seven (7) members appointed by the Board of Trustees from a list of candidates submitting written applications, and based on criteria established by Prop 39, to wit:

- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizen's organization.

- One (1) member active in a bona-fide taxpayers association.
- One (1) member shall be a parent or guardian of a child enrolled in the District.
- One (1) member shall be both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization or school site council.
- Two (2) members of the community at-large appointed by the Board.

## 5.2 Qualification Standards.

(a) To be a qualified person, he or she must be at least 18 years of age and reside within the District's geographic boundary, in accordance with Government Code Section 1020.

(b) The Committee may not include any employee, official of the District or any vendor, contractor or consultant of the District.

5.3 Ethics: Conflicts of Interest. By accepting appointment to the Committee, each member agrees to comply with Articles 4 (commencing with Section 1090) and 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code and the Political Reform Act (Gov. Code §§ 81000 *et seq.*), and to complete the Form 700 as required by all "designated employees" of the District. Additionally, each member shall comply with the Committee Ethics Policy attached as "Attachment A" to these Bylaws.

5.4 Term. Except as otherwise provided herein, each member shall serve a term of two (2) years, beginning October 9, 2012. No member may serve more than two (2) consecutive terms. At the Committee's first meeting, members will draw lots to select a minimum of two (2) members to serve for an initial one (1) year term and the remaining members for an initial two (2) year term.

5.5 Appointment. Members of the Committee shall be appointed by the Board through the following process: (a) appropriate local groups will be solicited for applications; (b) the Superintendent or his designee will review the applications; (c) the Superintendent or his designee will make recommendations to the Board.

5.6 Removal; Vacancy. The Board may remove any Committee member for any reason, including failure to attend two (2) consecutive Committee meetings without reasonable excuse or for failure to comply with the Committee Ethics Policy. Upon a member's removal, his or her seat shall be declared vacant. The Board, in accordance with the established appointment process shall fill any vacancies on the Committee.

5.7 Compensation. The Committee members shall not be compensated for their services.

5.8 Authority of Members. (a) Committee members shall not have the authority to direct staff of the District. (b) Individual members of the Committee retain the right to address the Board as an individual.

**Section 6. Meetings of the Committee.**

6.1 Regular Meetings. The Committee is required to meet at least once a year including an annual organizational meeting to be held in October.

6.2 Location. All meetings shall be held within the District.

6.3 Procedures. All meetings shall be open to the public in accordance with the *Ralph M. Brown Act*, Government Code Section 54950 *et seq.* Meetings shall be conducted according to such additional procedural rules as the Committee may adopt. A majority of the number of Committee members shall constitute a quorum for the transaction of any business except adjournment.

**Section 7. District Support.**

7.1 The District shall provide to the Committee necessary technical and administrative assistance as follows:

(a) preparation of and posting of public notices as required by the *Ralph M. Brown Act*, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the District Board;

(b) provision of a meeting room, including any necessary audio/visual equipment;

(c) preparation and copies of any documentary meeting materials, such as agendas and reports; and

(d) retention of all Committee records, and providing public access to such records on an Internet website maintained by the District.

7.2 District staff and/or District consultants shall attend all Committee proceedings in order to report on the status of projects and the expenditures of bond proceeds.

7.3 No bond proceeds shall be used to provide District support to the Committee.

**Section 8. Reports.** In addition to the Annual Report required in Section 3.2, the Committee may report to the Board at least semi-annually in order to advise the Board on the activities of the Committee. Such report shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

**Section 9. Officers.** The Superintendent shall appoint the initial Chair. Thereafter, the Committee shall elect a Chair and a Vice-Chair who shall act as Chair only when the Chair is absent, which positions shall continue for two (2) year terms. No person shall serve as Chair for more than two (2) consecutive terms.

**Section 10. Amendment of Bylaws.** Any amendment to these Bylaws shall be approved by a two-thirds vote of the entire Board.

**Section 11. Termination.** The Committee shall automatically terminate and disband at the earlier of the date when (a) all bond proceeds are spent, or (b) all projects funded by bond proceeds are completed.

**CITIZENS' BOND OVERSIGHT COMMITTEE  
ETHICS POLICY STATEMENT**

This following Ethics Policy Statement provides general guidelines for Committee members to perform their roles. Not all ethical issues that Committee members face are covered in this Statement. However, this Statement captures some of the critical areas that help define ethical and professional conduct for Committee members. The provisions of this Statement were developed from existing laws, rules, policies and procedures as well as from concepts that define generally accepted good business practices. Committee members are expected to strictly adhere to the provisions of this Ethics Policy.

**POLICY**

- **CONFLICT OF INTEREST.** A Committee member shall not make or influence a District decision related to: (1) any contract funded by bond proceeds or (2) any construction project which will benefit the committee member's outside employment, business, or a personal finance or benefit an immediate family member, such as a spouse, child or parent.

- **OUTSIDE EMPLOYMENT.** A Committee member shall not use his or her authority over a particular matter to negotiate future employment with any person or organization that relates to: (1) any contract funded by bond proceeds, or (2) any construction project. A Committee member shall not make or influence a District decision related to any construction project involving the interest of a person with whom the member has an agreement concerning current or future employment, or remuneration of any kind. For a period of two (2) years after leaving the Committee, a former Committee member may not represent any person or organization for compensation in connection with any matter pending before the District that, as a Committee member, he or she participated in personally and substantially. Specifically, for a period of two (2) years after leaving the Committee, a former Committee member and the companies and businesses for which the member works shall be prohibited from contracting with the District with respect to: (1) bidding on projects funded by the bond proceeds; and (2) any construction project.

- **COMMITMENT TO UPHOLD LAW.** A Committee member shall uphold the federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the Lincoln Unified School District;

- **COMMITMENT TO DISTRICT.** A Committee member shall place the interest of the District above any personal or business interest of the member.

The undersigned acknowledges he or she has received a copy of this Ethics Policy Statement, understands the provisions of this policy and agrees to adhere to its requirements.

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Date

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Member, Oversight Committee



# 2012/2013 Statement of Economic Interests



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# Form 700

A Public Document

*Also available on the FPPC website:*

- *Form 700 in Excel format*
- *Reference Pamphlet for Form 700*

## **California Fair Political Practices Commission**

428 J Street, Suite 620 • Sacramento, CA 95814

Email Advice: [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov)

Toll-free advice line: 1 (866) ASK-FPPC • 1 (866) 275-3772

Telephone: (916) 322-5660 • Website: [www.fppc.ca.gov](http://www.fppc.ca.gov)

BEFORE THE BOARD OF TRUSTEES OF THE  
LINCOLN UNIFIED SCHOOL DISTRICT, COUNTY OF SAN JOAQUIN

RESOLUTION NO. 12-17

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PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL  
OBLIGATION BONDS, ELECTION OF 2012 OF LINCOLN UNIFIED  
SCHOOL DISTRICT IN THE AGGREGATE PRINCIPAL AMOUNT OF  
NOT TO EXCEED SIXTEEN MILLION FIFTY THOUSAND DOLLARS  
(\$16,050,000)

WHEREAS, an election was duly called and regularly held in the Lincoln Unified School District (the "District"), County of San Joaquin (the "County"), State of California, on June 5, 2012 (the "Election"), and thereafter canvassed pursuant to law; and

WHEREAS, at such Election there was submitted to and approved by the requisite fifty-five percent (55%) vote of the qualified electors of the District a question as to the issuance and sale of general obligation bonds of the District for various purposes set forth in the ballot submitted to the voters, in the maximum principal amount of Forty-Eight Million Five Hundred Thousand Dollars (\$48,500,000), payable from the levy of an *ad valorem* tax against the taxable property in the District (the "Authorization"); and

WHEREAS, the Board of Trustees of the District is authorized to provide for the issuance and sale of any series of Bonds on behalf of the District pursuant to the provisions of Article 4.5 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Bond Law"); and

WHEREAS, the District has previously caused to be issued and sold none of the Authorization leaving \$48,500,000 unissued, and has determined that it is in the best interests of the District to issue and sell a portion of the remaining Authorization, in an amount of not to exceed \$16,050,000; and

WHEREAS, the District may elect to issue bonds in one or more series, consisting of tax-exempt bonds and taxable bonds, including as taxable direct-pay New Clean Renewable Energy Bonds; and

WHEREAS, this Board of Trustees desires to make certain determinations and to authorize the issuance of said Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE LINCOLN UNIFIED SCHOOL DISTRICT, AS FOLLOWS:

**SECTION 1. Purpose of the Bonds.** Bonds of the District shall be issued in the name and on behalf of the District in the aggregate principal or issue amount of not to exceed \$16,050,000 for the projects specified in the ballot proposition authorizing the Bonds.

**SECTION 2. Certain Definitions.** As used in this Resolution, the terms set forth below shall have the following meanings ascribed to them:

(a) **"Accreted Interest"** means, with respect to the Capital Appreciation Bonds, the Accreted Value thereof minus the Denominational Amount thereof as of the date of calculation.

(b) **"Accreted Value"** means, with respect to the Capital Appreciation Bonds and with respect to the Convertible Bonds prior to the Conversion Date, as of the date of calculation, the Denominational Amount thereof, plus Accreted Interest, compounded semiannually on each February 1 and August 1, unless specified otherwise in the Purchase Contract, commencing from the date of issuance of the Capital Appreciation Bonds.

(c) **"Available Project Proceeds"** means (i) the proceeds from the sale of the Bonds, (ii) less costs of issuing the Bonds paid from proceeds of the sale of the Bonds (not exceeding 2% of the proceeds of the sale thereof), plus (iii) investment earnings on the difference between (i) - (ii).

(d) **"Bond Insurer"** means any insurance company which issues a municipal bond insurance policy insuring the payment of principal and interest on the Bonds.

(e) **"Bond Payment Date"** means, with respect to interest on the Current Interest Bonds, if any, February 1 and August 1, commencing February 1, 2013 and with respect to the principal payments on any Current Interest Bonds, August 1, unless otherwise provided upon the sale of the Bonds. With respect to the Capital Appreciation Bonds, "Bond Payment Date" means the stated maturity dates thereof or optional or mandatory redemption dates, as applicable.

(f) **"Bond Register"** means the listing of names and addresses of the current registered owners of the debt, as maintained by the Paying Agent.

(g) **"Bonds"** means the Lincoln Unified School District General Obligation Bonds, Election of 2012, issued in one or more series as provided herein with such series designations as are set forth in the Purchase Contract.

(h) **"Building Fund"** or **"Building Funds"** shall have the meaning set forth in Section 4 hereof.

(i) **"Capital Appreciation Bonds"** means those Bonds the interest component of which is compounded semiannually on each Bond Payment Date to maturity as shown in the table of Accreted Values for such Bonds in the Purchase Contract or Official Statement.

(j) **"Capital Appreciation Term Bonds"** means those Capital Appreciation Bonds for which mandatory sinking fund redemption dates have been established upon the sale of the Bonds.

(k) **"Code"** means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bonds, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

(l) **"Conversion Date"** means, with respect to the Convertible Bonds, the date from which such Bonds bear current interest.

(m) **"Conversion Value"** means, with respect to Convertible Bonds, the Accreted Value thereof as of the Conversion Date.

(n) **“Convertible Bonds”** means Bonds issued as Capital Appreciation Bonds which automatically convert to Current Interest Bonds on a specified Conversion Date, all according to terms and conditions specified in the Purchase Contract.

(o) **“Convertible Term Bonds”** means Convertible Bonds for which mandatory sinking fund redemption dates have been established.

(p) **“Current Interest Bonds”** means the Bonds the interest on which is payable on each Bond Payment Date specified for such Bonds as designated and maturing in the years and in the amounts set forth upon the sale of the Bonds.

(q) **“Current Interest Term Bonds”** means those Current Interest Bonds for which mandatory sinking fund redemption dates have been established upon the sale of the Bonds.

(r) **“Debt Service Fund”** shall have the meaning set forth in Section 4 hereof.

(s) **“Denominational Amount”** means, with respect to the Capital Appreciation Bonds and the Convertible Bonds, the initial offering price thereof, which represents the principal amount thereof, and, with respect to the Current Interest Bonds, the principal amount thereof.

(t) **“DTC”** means the Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York in its capacity as securities depository for the Bonds.

(u) **“Expenditure Period”** means the “expenditure period” defined in Section 54A(d)(2)(B)(ii) of the Tax Code and consists of the period beginning on the date of issuance of the Bonds and ending on the later of the date which is three years after the date of such issuance or such later date, if any, as permitted by the Internal Revenue Service in response to a request to extend the Expenditure Period.

(v) **“Fair Market Value”** means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm’s length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm’s length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the District and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment. To the extent required by the Regulations, the term “investment” will include a hedge.

(w) **“Informational Services”** means Financial Information, Inc.’s Financial Daily Called Bond Service; Interactive Data Corporation’s Bond Service; Moody’s Municipal and Government; or Standard & Poor’s Called Bond Record; and in accordance with then current guidelines of the Securities and Exchange Commission, such other services providing

information with respect to called bonds as the District may designate in a Written Request of the District delivered to the Paying Agent.

(x) **"Letter of Representations"** shall have the meaning set forth in Section 10 hereof.

(y) **"Maturity Value"** means the Accreted Value of any Capital Appreciation Bond on its maturity date.

(z) **"New Clean Renewable Energy Bonds"** means bonds issued in accordance with the qualified tax credit bond program set forth in Section 54 of the Code.

(aa) **"Official Statement"** shall have the meaning set forth in Section 3 hereof.

(bb) **"Owner"** means the current registered holder of a Bond or Bonds to whom payments of principal and interest are made.

(cc) **"Participants"** means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds book-entry certificates as securities depository.

(dd) **"Paying Agent"** shall mean any bank, trust company, national banking association or other financial institution appointed as paying agent for the Bonds pursuant to the Purchase Contract in the manner provided in this Resolution.

(ee) **"Principal"** or **"Principal Amount"** means, with respect to any Current Interest Bond, the principal amount thereof, and, with respect to any Capital Appreciation Bond or Convertible Bond, the Denominational Amount.

(ff) **"Purchase Contract"** shall have the meaning set forth in Section 13 hereof.

(gg) **"Qualified Purpose"** means capital expenditures for one or more qualified renewable energy facilities as described in section 54C(a)(1) and 54C(d)(1) of the Tax Code.

(hh) **"Record Date"** means the close of business on the fifteenth day of the month preceding each Bond Payment Date.

(ii) **"Refundable Credit Payments"** means, with respect to any Bonds issued as New Clean Renewable Energy Bonds, the amounts which are payable by the Federal government under Section 6431(f) of the Tax Code, which the District has elected to receive under Section 6431(f) of the Tax Code.

(jj) **"Securities Depositories"** means the following: Depository Trust Company, 711 Stewart Avenue, Garden City, New York, 11530, Facsimile transmission: (516)227-4039, (516) 227-4190.

(kk) **"Treasurer"** means the Treasurer-Tax Collector of the County of San Joaquin, California, or any authorized deputy thereof.

**SECTION 3. Terms of Bonds; Official Statement.** The Bonds shall be issued in one or more series, and shall be designated the "Lincoln Unified School District (San Joaquin County, California) General Obligation Bonds, Election of 2012," with such letter series designation or designations as appropriate to adequately identify such series. The Bonds may be issued as tax-

exempt general obligation bonds and as taxable general obligation bonds, including as taxable New Clean Renewable Energy Bonds (Direct-Pay).

The Bonds may be issued as Current Interest Bonds, Capital Appreciation Bonds and Convertible Bonds, or any combination thereof, which shall be determined upon the sale thereof.

Any Current Interest Bonds, if issued, shall be dated its date of delivery and shall bear interest at the rate or rates not to exceed the legal maximum, payable on February 1 and August 1 of each year commencing February 1, 2013 through August 1, unless otherwise specified in the Purchase Contract, of the years designated upon the sale of the Bonds (each an "Interest Payment Date"), the actual interest rate or rates and the actual maturity schedule to be fixed at the time of sale. Each Current Interest Bond shall be issued in denominations of \$5,000 or integral multiples thereof.

The Capital Appreciation Bonds, if issued, shall accrete interest from the date of issuance of the Capital Appreciation Bonds to their maturity at the rate or rates not to exceed the legal maximum. The Capital Appreciation Bonds shall be issued in any denominations of their Principal Amounts but shall reflect denominations of \$5,000 Maturity Amount or any integral multiple thereof, except that one Capital Appreciation Bond may be issued in an odd maturity amount. The Capital Appreciation Bonds shall mature on August 1, unless specified otherwise in the Purchase Contract, of the years designated upon the sale of the Bonds. Interest on each Capital Appreciation Bond shall be compounded semiannually on February 1 and August 1 of each year until maturity, commencing on the date of issuance thereof, computed using a year of 360 days, comprised of twelve 30-day months, and shall be payable only at maturity as part of its Maturity Amount or upon prior redemption.

Bonds may be issued as Convertible Bonds, which convert from Capital Appreciation Bonds to Current Interest Bonds on the Conversion Date pursuant to terms specified in the Purchase Contract.

Only such of the Bonds as shall bear thereon a certificate of authentication and registration in the form hereinafter recited, manually signed by the Paying Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Resolution, and such certificate of the Paying Agent shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Resolution.

The Bonds shall be issued as fully registered bonds without coupons and the Current Interest Bonds shall mature on August 1 unless provided otherwise upon the sale of the Bonds, and in the Principal or Maturity Amounts to be fixed at the time of sale of the Bonds.

The Bonds shall be sold as provided in Section 13 hereof; notwithstanding anything herein to the contrary, the terms of the Bonds as set forth in this Resolution may be amended prior to delivery in accordance with the provisions of the Purchase Contract or Official Statement, as finally approved and executed by the Superintendent or Associate Superintendent, Business Services on behalf of the District.

The Board hereby approves, and hereby deems nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, the Preliminary Official Statement describing the Bonds in substantially the form on file with the Clerk of the Board. The Superintendent, Associate Superintendent, Business Services, or designee thereof, are hereby authorized to execute an appropriate certificate stating the Board's determination that the Preliminary Official Statement has been deemed nearly final within the meaning of such Rule. Such officer is hereby

authorized and directed to approve any changes in or additions to a final form of said Official Statement, and the execution thereof by the Superintendent or the Associate Superintendent or Chief Business Officer shall be conclusive evidence of his or her approval of any such changes and additions. The Board hereby authorizes the distribution of the Official Statement by the Underwriter identified in Section 13 hereof. The final Official Statement shall be executed in the name and on behalf of the District by the Superintendent or Associate Superintendent, Business Services.

The Board hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate executed and delivered in connection with the Bonds, in substantially the form attached to the Official Statement.

**SECTION 4. Delivery of Bonds, Disposition of Proceeds of the Bonds, Security for the Bonds.** The proper officials of the District shall cause the Bonds to be prepared and, following their sale, shall have the Bonds signed and delivered to the original purchaser upon payment of the purchase price in immediately available funds.

The proceeds from the sale of the Bonds, to the extent of the principal amount thereof, shall be paid and credited to the funds established and designated as the "Lincoln Unified School District General Obligation Bond, Election of 2012, Building Fund," with the appropriate series designation included therein, and similarly designated funds for any additional series of Bonds (together, the "Building Funds") of the District, if necessary, and shall be kept separate and distinct from all other District and County funds, and those proceeds shall be used solely for the purpose for which the Bonds are being issued and for payment of permissible costs of issuance and provided further that such proceeds shall be applied solely to authorized purposes which relate to the acquisition or improvement of real property. The interest earned on the monies deposited to the Building Funds shall be deposited therein and such monies shall be used for any lawful purpose of the District at the direction of the District.

The accrued interest and any premium received from the sale of the Bonds shall be kept separate and apart in the funds established and designated as the "Lincoln Unified School District General Obligation Bond, Election of 2012, Debt Service Fund," with the appropriate series designation included therein, and similarly designated funds for any additional series of Bonds (together, the "Debt Service Funds"), if necessary, for the Bonds and used only for payments of principal and interest on the Bonds. Interest earned on investments of monies held in the Debt Service Funds shall be retained therein and used to pay principal and interest on the Bonds when due.

The Board hereby authorizes the Superintendent or the Associate Superintendent, Business Services to direct the County to establish, hold and maintain a fund to be known as the "Election of 2012, Sinking Fund," with the appropriate series designation included therein, if needed, to be maintained by the Treasurer as a separate account, distinct from all other funds of the County and the District. The Sinking Fund is hereby pledged for the payment of the principal of the Bonds when due, including the principal coming due and payable on the mandatory redemption of any Bonds. Amounts in the Sinking Fund, to the extent necessary to pay the principal of the Bonds when due, shall be transferred by the County to the Paying Agent as required.

For any Bonds issued as New Clean Renewable Energy Bonds, the District will deposit, or cause to be deposited, in the Debt Service Fund for such Bonds, each Refundable Credit Payment received with respect to such Bonds to be used to pay interest coming due on such Bonds.

Any excess proceeds of the Bonds not needed for the authorized purposes set forth herein for which Bonds are being issued shall, at the direction of the District, be transferred to the Debt Service Fund and applied to the payment of principal and interest on the Bonds. If, one year after payment in full of the Bonds, there remain excess proceeds, any such excess amounts shall be transferred to the general fund of the District.

Proceeds of the Bonds held by the Treasurer shall be invested at the Treasurer's discretion pursuant to law and the investment policy of the County, unless otherwise requested in writing by the District.

(i) At the written request of the District, given by the Superintendent of the District, the Treasurer may invest all or any portion of the Building Fund in the Local Agency Investment Fund in the treasury of the State of California.

(ii) At the written request of the District, given by the Superintendent of the District, all or any portion of the Building Fund may be invested on behalf of the District in investment agreements, including guaranteed investment contracts, which comply with the requirements of each rating agency then rating the Bonds.

The District covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Resolution, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Resolution or the Code) at Fair Market Value.

There shall be levied on all the taxable property in the District, in addition to all other taxes, a continuing direct *ad valorem* tax annually during the period the Bonds are outstanding in an amount sufficient to pay the principal of and interest on the Bonds when due and amounts pursuant to Education Code Section 15232 sufficient to pay the expense of paying the Bonds elsewhere than at the office of the Treasurer, which monies when collected will be placed in the Debt Service Fund, which fund is irrevocably pledged for the payment of the principal of and interest on the Bonds when and as the same fall due. The monies in the Debt Service Fund, to the extent necessary to pay the principal of and interest on the Bonds as the same becomes due and payable, shall be transferred by the Treasurer to the Paying Agent for subsequent disbursement to the beneficial owners of the Bonds. Any monies remaining in the Debt Service Fund one year after the Bonds and the interest thereon have been paid at maturity, or provision for such payment has been made, shall be transferred to the general fund of the District.

**SECTION 5. Redemption.**

The Bonds shall be subject to redemption, as provided in the Purchase Contract.

**SECTION 6. Form of Bonds.** The Current Interest Bonds and the Capital Appreciation Bonds, the form of the Paying Agent's certificate of authentication and registration and the form of assignment to appear thereon will be substantially in the forms, respectively, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Resolution and the Purchase Contract, as are set forth in Appendix A attached hereto. If the Bonds are issued as Convertible Bonds, the form of such Bonds will be revised accordingly.

**SECTION 7. Execution of Bonds.** The Bonds shall be executed by the manual or facsimile signatures of the President or the Clerk of the Board of Trustees. The facsimile signatures of the President and the Clerk of the Board of Trustees may be printed, lithographed, engraved, or otherwise mechanically reproduced. The Paying Agent shall manually



authenticate each Bond in the space provided, and no Bond shall be valid or obligatory for any purpose until so authenticated.

**SECTION 8. Bond Registration; Transfers.** As hereinafter provided, the Bonds shall be delivered in a form and with such terms as will permit them to be in book-entry only form, immobilized with DTC. If the book-entry only system is no longer in effect, the District will cause the Paying Agent to maintain and keep at its principal corporate trust office all books and records necessary for the registration, exchange and transfer of certificated Bonds as provided in this Section (the "Bond Register"). While the book-entry only system is in effect, such books need not be kept, as the Bonds will be represented by one Bond for each maturity registered in the name of Cede & Co., as nominee for DTC.

The person in whose name a Bond is registered on the Bond Register shall be regarded as the absolute Owner of that Bond for all purposes of this Resolution. Payment of or on account of the principal of and interest on any Bond shall be made only to or upon the order of the Owner thereof; neither the District, the County nor the Paying Agent shall be affected by any notice to the contrary, but the registration may be changed as provided in this Section. All such payments shall be valid and effectual to satisfy and discharge the District's liability upon the Bonds, including interest, to the extent of the amount or amounts so paid.

Any Bond may be exchanged for Bonds of the same series of any other authorized denomination upon presentation and surrender at the principal corporate trust office of the Paying Agent, together with a request for exchange signed by the Owner or by a person legally empowered to do so in a form satisfactory to the Bond Registrar. Any Bond may, in accordance with its terms (but only if the District determines no longer to maintain the book-entry only status of the Bonds, DTC determines to discontinue providing such services and no successor securities depository is named, or DTC requests the District to deliver certificated securities to particular DTC Participants) be transferred, upon the books required to be kept pursuant to the provisions of this Section, by the Owner, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation at the office of the Paying Agent, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed.

Neither the District nor the Paying Agent will be required to: (a) issue or transfer any Bonds during a period beginning with the opening of business on the 16th day of the month next preceding either any Interest Payment Date or any date of selection of Bonds to be redeemed and ending with the close of business on the Interest Payment Date or day on which the applicable notice of redemption is given, or (b) transfer any Bonds which have been selected or called for redemption in whole or in part.

**SECTION 9. Paying Agent.**

(a) *Appointment of Paying Agent.* Wells Fargo Bank, National Association, is hereby designated Paying Agent for the Bonds and, in such capacity, shall also act as registration agent and authentication agent for the Bonds. The Paying Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Resolution, and even during the continuance of an event of default with respect to the Bonds, no implied covenants or obligations shall be read into this Resolution against the Paying Agent. The Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by executing and delivering to the District a certificate to that effect.

The District may remove the Paying Agent initially appointed, and any successor thereto, and may appoint a successor or successors thereto, but any such successor shall be a

bank or trust company doing business and having an office in the State of California, having a combined capital (exclusive of borrowed capital) and surplus of at least Fifty Million Dollars (\$50,000,000), and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Paying Agent may at any time resign by giving written notice to the District and the Bond Owners of such resignation. Upon receiving notice of such resignation, the District shall promptly appoint a successor Paying Agent by an instrument in writing. Any resignation or removal of the Paying Agent and appointment of a successor Paying Agent shall become effective upon acceptance of appointment by the successor Paying Agent.

(b) *Paying Agent May Hold Bonds.* The Paying Agent may become the owner of any of the Bonds in its own or any other capacity with the same rights it would have if it were not Paying Agent.

(c) *Liability of Agents.* The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of the District, and the Paying Agent assumes no responsibility for the correctness of the same, nor makes any representations as to the validity or sufficiency of this Resolution or of the Bonds, nor shall incur any responsibility in respect thereof, other than as set forth in this Resolution. The Paying Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default.

In the absence of bad faith, the Paying Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Paying Agent and conforming to the requirements of this Resolution.

The Paying Agent shall not be liable for any error of judgment made in good faith by a responsible officer in the absence of the negligence of the Paying Agent.

No provision of this Resolution shall require the Paying Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

The Paying Agent may execute any of the powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Paying Agent shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(d) *Notice to Paying Agent.* The Paying Agent may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Paying Agent may consult with counsel, who may be counsel to the District, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its duties under this Resolution the Paying Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Paying Agent, be deemed to be conclusively proved and established by a certificate of the District, and such certificate shall be full warrant to the Paying Agent for any action taken or suffered under the provisions of this Resolution upon the faith thereof, but in its discretion the Paying Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

(e) *Compensation; Indemnification.* The District shall pay to the Paying Agent from time to time reasonable compensation for all services rendered under this Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of their attorneys, agents and employees, incurred in and about the performance of their powers and duties under this Resolution. The District further agrees to indemnify and save the Paying Agent harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or bad faith.

**SECTION 10. Book-Entry System.** The Bonds will be issued in book-entry form by appointing DTC, 55 Water Street, 19th Floor, New York, New York 10041, to act as securities depository for the Bonds. A single certificate, representing the aggregate principal amount of each maturity of Bonds, will be executed and delivered on the day of the closing to DTC. Upon closing, the County shall notify DTC that it has accepted payment of the purchase price of the Bonds, at which time DTC (in accordance with the Letter of Representations defined below) will credit the account of the Underwriter, and process the book-entry deliveries to the accounts of the subsequent purchasers of interests in the Bonds. The Bonds will be lodged with DTC until the maturity of each Bond. On the Business Day prior to each date of maturity of a Bond, the Treasurer shall remit to the Paying Agent from the Bond Fund sufficient moneys for the Paying Agent to pay all outstanding principal of and interest on such Bond.

To induce DTC to accept the Bonds as eligible for the book-entry form of issuance, the District will enter into a Letter of Representations with DTC (the "Letter of Representations") setting forth the terms and conditions of, and procedures for, the book-entry only form of issuance.

**SECTION 11. Satisfaction and Discharge.** The obligations of the District hereunder and under the Bonds herein or therein made or provided for, are to be fully discharged and satisfied as to any Bond and such Bond will no longer be deemed to be outstanding and shall be deemed to have been paid for all purposes:

(a) when such Bond is canceled or surrendered for cancellation and is subject to cancellation, or has been purchased by the Paying Agent from moneys in the Bond Fund of the District; or

(b) as to any Bond not canceled, surrendered for cancellation or subject to cancellation or so purchased, when payment of the principal of and the applicable premium, if any, on any Current Interest Bond, plus interest on such principal to the due date thereof, or the accreted value of any Capital Appreciation Bond as of the due date thereof (whether such due date be by reason of maturity or by acceleration or otherwise), either (i) has been made or caused to be made in accordance with the terms hereof, or (ii) has been provided for by irrevocably depositing with the Paying Agent, in trust, and irrevocably appropriated and set aside exclusively for such payment, either (A) moneys

sufficient to make such payment or (B) Government Obligations, as defined below, maturing as to principal and interest in such amounts and at such times as will insure the availability of sufficient moneys to make such payment, or (C) a combination of both such moneys and such Government Obligations; and all necessary and proper fees, compensation and expenses of the Paying Agent with respect to such deposit have been paid or the payment thereof has been provided for to the satisfaction of the Paying Agent. For the purposes of this Section, the term "Government Obligations" shall mean any of the following which are noncallable and which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein: (x) direct obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), or obligations, the principal of and interest on which are unconditionally guaranteed by the United States of America; or (y) bonds, debentures or notes issued by any of the following: Banks for Cooperatives, Federal Intermediate Credit Banks, Federal Home Loan Bank System, Federal Land Banks or Federal Farm Credit Banks.

At such time as a Bond is deemed to be no longer outstanding hereunder, such Bond shall cease to accrue interest or accrete value from the due date thereof (whether such due date be by reason of maturity or acceleration as aforesaid, or otherwise), and except for any payment from such moneys or Governmental Obligations set aside as aforesaid, shall no longer be secured by or entitled to the benefits of this Resolution.

#### **SECTION 12. Arbitrage and Other Tax Matters.**

(a) Private Activity Bond Limitation. The District covenants that it shall assure that the proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(b) Federal Guarantee Prohibition. The District covenants that it shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(c) Rebate Requirement. The District covenants that it shall take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such Section is applicable to the Bonds.

(d) No Arbitrage. The District has covenanted that it shall not take, or permit or suffer to be taken any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bonds would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(e) Maintenance of Tax-Exemption. The District covenants that it shall take all actions necessary to assure the exclusion of interest on the tax-exempt Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of such Bonds.

(f) Tax Covenants Relating to New Clean Renewable Energy Bonds. For any Bonds issued as Direct-Pay New Clean Renewable Energy Bonds, the District covenants as follows:

(i) Clean Renewable Energy Project. The District shall assure that all of the Available Project Proceeds will be used for a Qualified Purpose or Purposes in accordance with section 54C(a)(1) of the Code.

(ii) Qualified Issuer. The District shall maintain its status as a governmental body which constitutes a "Qualified Issuer" under and as required by Section 54C(a)(2) and as defined in Section 54C(d)(6) of the Tax Code.

(iii) Designation of Bonds as New Clean Renewable Energy Bonds. The District hereby designates such Bonds as new clean renewable energy bonds for purposes of section 54C(a)(3) of the Code.

(iv) Three Year Expenditure of Proceeds on Project. The District reasonably expects to expend all of the Available Project Proceeds for a Qualified Purpose with respect to the project within the Expenditure Period. To the extent that less than 100 percent (100%) of the Available Project Proceeds are expended for a Qualified Purpose by the end of the Expenditure Period, all nonqualified bonds (as determined under Section 142 of the Code) shall be redeemed within 90 days of the end of the Expenditure Period all in accordance with the requirements of Section 54A(d)(2)(B) of the Code in the time and manner prescribed by the Code.

(v) Binding Commitment to Spend Available Project Proceeds. The District reasonably expects that, within 6 months of the date of issue of such Bonds, it will enter into a binding commitment with a third party to spend at least ten percent (10%) of the Available Project Proceeds for a Qualified Purpose with respect to the Project.

(vi) Financing Capital Expenditures, No Working Capital. All Available Project Proceeds of such Bonds will be spent on capital expenditures with a reasonably expected economic life of one year or more.

(vii) Limitation on Issuance Costs. No proceeds of such Bonds and investment earnings thereon, in an amount in excess of two percent (2%) of the proceeds of the sale of such Bonds, will be used to pay costs of issuing of such Bonds. If the fees of the original purchaser are retained as a discount on the purchase of such Bonds, such retention shall be deemed to be an expenditure of proceeds of such Bonds for said fees.

(viii) Allocation of New Clean Renewable Energy Bond Limitation. The District has received allocations of a portion of the national new clean renewable energy bond limitation.

(ix) No Arbitrage. The District shall not take, or permit or suffer to be taken by the Paying Agent or otherwise, any action with respect to the proceeds of such Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of such Bonds would have caused such Bonds to be "arbitrage bonds" within the meaning of section 148 of the Code as modified by Section 54A(d)(4) of the Code, including the Treasury Regulations with respect thereto.

(x) Rebate Compliance. The District shall take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess

investment earnings, if any, to the federal government, to the extent that such section is applicable to such Bonds. For purposes of this paragraph, investments of Available Project Proceeds during the Expenditure Period are deemed to comply with the requirements and limitations of Section 148 of the Code.

(xi) Limitation on Reserve Funds. No fund the proceeds of which are pledged to, or are reasonably expected to be used directly or indirectly to pay, principal or interest on such Bonds or are reserved or otherwise set aside such that there is a reasonable assurance that such amounts will be available to pay principal or interest on such Bonds will be funded with respect to such Bonds except as follows: (i) the fund is funded at a rate not more rapid than equal annual installments, (ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and (iii) the yield on the fund is not greater than the rate determined under 54A(d)(5)(B) of the Code.

(xii) Acquisition, Disposition and Valuation of Investments. Except as otherwise provided in following sentence, the District covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Resolution, or otherwise containing proceeds of such Bonds shall be acquired, disposed of, and valued (as of the date that valuation is required by this Indenture or the Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code and (unless valuation is undertaken at least annually) and investments in a reserve fund shall be valued at their present value (within the meaning of section 148 of the Code).

(xiii) Prohibition on Financial Conflicts of Interest. The District hereby covenants and agrees to comply with all State and local law requirements governing conflicts of interest as such requirements may relate, directly or indirectly, to such Bonds. The District hereby covenants and agrees to comply with any conflict of interest rules prescribed by the IRS or United States Department of Treasury governing the appropriate Member of Congress, Federal, State, and local officials, and their spouses as such rules may apply to such Bonds.

(xiv) Davis-Bacon Act Requirements. The District hereby covenants and agrees to comply with the wage rate requirements of Title 40, Subtitle II, Part A, Chapter 31, Subchapter IV of the United States Code as such requirements relate to the proceeds of such Bonds.

(xv) Direct Pay Election. The District hereby irrevocably elects to treat such Bonds as "Specified Tax Credit Bonds" within the meaning of Section 6431(f) of the Code such that the District will be eligible to receive direct payment by the federal government of a refundable credit equal to the lesser of the interest payable on such Bonds or 70% of the tax credit rate applicable to such Bonds (the "Refundable Credit Payment").

### **SECTION 13. Sale of Bonds.**

(a) Negotiated Sale of the Bonds. The Bonds will be sold at a negotiated sale by the District pursuant to the terms and conditions set forth in a Bond Purchase Contract (the "Purchase Contract"), by and between the District and the Underwriter (as defined below), in

substantially the form on file with the Clerk of the Board with such changes therein, deletions therefrom and modifications thereto as the Superintendent, Associate Superintendent, Business Services, or designee thereof may approve, such approval to be conclusively evidenced by the execution and delivery of the Purchase Agreement; *provided that* the interest rate or rates on the Bonds shall not exceed the legal maximum and the Underwriter's discount may not exceed nine tenths of one percent (0.90%) of the aggregate principal amount of Bonds sold thereunder. The Superintendent, Associate Superintendent, Business Services, or designee thereof, is further authorized to determine the principal or issue amount of the Bonds to be specified in the Purchase Contract for sale by the District, up to an aggregate principal or issue amount of \$16,050,000, to modify redemption terms and to enter into and execute the Purchase Contract, provided that the conditions set forth in this Resolution are met.

(b) Bond Insurance. If it appears in the best interests of the District to acquire municipal bond insurance to secure the Bonds, the Superintendent, Associate Superintendent, Business Services or designee thereof may so provide in the Purchase Contract or Official Statement.

(c) Purpose of Negotiated Sale. The Bonds shall be sold by negotiated sale inasmuch as: (i) such sale will allow the District to integrate the sale of the Bonds with other public financings undertaken, or to be undertaken, by the District in order to finance and fund public school facilities; (ii) such a sale will allow the District to utilize the services of consultants who are familiar with the financial needs, status and plans of the District; (iii) such a sale will allow the District to control the timing and structuring of the sale of the Bonds to the municipal bond market and, potentially, take advantage of interest rate opportunities for favorable sale of the Bonds to such market; and (iv) such a sale will allow the District to encourage the sale of bonds to local residents.

(d) Estimated Costs of Issuance. Isom Advisors, a division of Urban Futures, Inc. has been designated as Financial Advisor, Stifel, Nicolaus & Company, Incorporated DBA Stone & Youngberg, a Division of Stifel Nicolaus has been selected as Underwriter, and Jones Hall, A Professional Law Corporation, has been selected as the District's bond and disclosure counsel, in connection with the issuance and sale of the Bonds. The estimated costs of issuance associated with the bond sale are approximately \$404,000, which includes underwriting, financial advisor and bond counsel fees, costs of printing the Official Statement, election administration costs, rating agency fees, and paying agent, filing agent and calculation agent fees, if any, but not the cost of bond insurance, if any.

Purchase Contract Controlling. Notwithstanding the foregoing provisions of this Resolution, any of the terms of the Bonds may be established or modified by the Purchase Contract. In the event of a conflict or inconsistency between this Resolution and the Purchase Contract relating to the terms of the Bonds, the provisions of the Purchase Contract shall be controlling.

**SECTION 14. Taxable General Obligation Bonds**. A portion of the Bonds may be issued as Taxable General Obligation Bonds, the interest on which will not be exempt from federal income tax. The principal amount, redemption provisions and additional terms and conditions of such Bonds will be specified in the Bond Purchase Agreement.

**SECTION 15. Taxable Status of Bonds**. The Board has determined that interest payable on the Taxable Direct-Pay New Clean Renewable Energy Bonds and the Taxable General Obligation Bonds will be subject to federal income taxation, and that the provisions of Section 5900 et seq. of the California Government Code apply to such Bonds. At the determination of the Superintendent, Associate Superintendent, Business Services or designee that it would be in the best interests of the District to exercise any of the powers granted to it under the such

provisions, the District may take any action permitted thereunder whether or not such action is otherwise authorized under this Resolution or conflicts with any other provision of this Resolution.

**SECTION 16. Conditions Precedent.** This Board determines that all acts and conditions necessary to be performed by the Board or to have been met precedent to and in the issuing of the Bonds, in order to make them legal, valid and binding general obligations of the District have been performed and have been met, or will at the time of delivery of the Bonds have been performed and have been met, in regular and due form as required by law, that the full faith, credit and revenues of the District are pledged for the timely payment of the principal of and interest on the Bonds; and that no statutory or California Constitutional limitation of indebtedness or taxation will have been exceeded in the issuance of the Bonds.

**SECTION 17. Approval of Actions.** District officials and staff, including the Superintendent or his designee, are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to proceed with the issuance and sale of the Bonds and otherwise carry out, give effect to and comply with the terms and intent of this Resolution. Such actions heretofore taken by such officials and staff are hereby ratified, confirmed and approved.

**SECTION 18. Furnishing of Clerk Certification.** The Clerk of the Board is hereby authorized to furnish at least two certified copies of this Resolution to Jones Hall, A Professional Law Corporation, Bond Counsel, at or prior to closing.

**SECTION 19. Effective Date.** This Resolution shall take effect immediately upon its passage.

**APPROVED** and **ADOPTED** this 11<sup>th</sup> day of July, 2012 by the Lincoln Unified School District Board of Trustees, to wit:

AYES: 5

NOES: 0

ABSTAIN:

ABSENT:

*Van Ha To-Cowell*

VAN HA TO-COWELL

President, Board of Trustees

Lincoln Unified School District



Resolution 12-17  
July 11, 2012

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF SAN JOAQUIN            )

I, Susan Lenz, do hereby certify that the foregoing Resolution No. 12-17, was duly adopted by the Board of Trustees of the Lincoln Unified School District at a meeting thereof held on the 11<sup>th</sup> day of July, 2012, and that it was so adopted by the following vote:

AYES: 5

NOES: 0

ABSENT:

ABSTAIN:

By: Susan Lenz  
SUSAN LENZ  
Clerk of the Board of Trustees of the  
Lincoln Unified School District