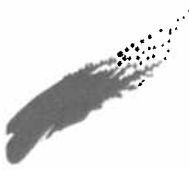


ALUM ROCK UNION
ELEMENTARY SCHOOL DISTRICT

**MEASURE G
PERFORMANCE AUDIT
PERIOD ENDED JUNE 30, 2010**

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**TOTAL SCHOOL SOLUTIONS
4751 MANGELS BOULEVARD
FAIRFIELD, CA 94534**

**Alum Rock Union
Elementary School District**

BOARD OF TRUSTEES

June 30, 2010

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Jose Manzo, Superintendent



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INTRODUCTION

On June 3, 2008, the Alum Rock Union Elementary School District (the "District") submitted for voter approval Measure G, a bond measure to authorize the sale of \$179 million in bonds to improve school facilities. This measure was submitted to voters under the terms and conditions of Proposition 39 (Article XIII of the California State Constitution), which requires a 55 percent affirmative vote for passage. Measure G passed with 79.09 percent vote.

Because the bond measure was passed pursuant to Proposition 39, the District was required to establish a citizens' oversight committee and conduct two independent audits. The first audit is a financial audit similar to a district's annual financial audit. The second audit is a performance audit, which evaluates the effectiveness, economy and efficiencies of the bond facilities program.

The District engaged Total School Solutions (TSS) to conduct the annual independent performance audit for Measure G and report findings to the Board of Trustees and the independent Citizens' Bond Oversight Committee. This report is the annual performance audit of the Alum Rock Union Elementary School District's bond-funded facilities program from July 1, 2009 through June 30, 2010.

Besides ensuring that the District uses bond proceeds in conformance with the provisions listed in the Measure G ballot language, the scope of this examination includes a review of design and construction schedules and cost budgets; change orders and claim procedures; compliance with law, District policies, and guidelines on facilities and procurement; and the effectiveness of the public outreach program and communication channels among the stakeholders; and other facilities-related areas.

In accordance with the California State Constitution, the District intends to have a performance audit completed annually until all Measure G funds have been expended. These reports are designed to meet the requirements of Article XIII of the California State Constitution; inform the community of the appropriate use of funds generated through the sale of bonds authorized by Measure G; and help the District improve its overall bond program.

EXECUTIVE SUMMARY

Total School Solutions (TSS) conducted this annual performance audit of the \$179 million Measure G Facilities Bond program for the period July 1, 2009 through June 30, 2010.

TSS, in conducting the audit, reviewed numerous documents produced by District staff and consultants and interviewed persons involved in the bond program. Representations made by District staff and consultants were used, where appropriate, to make assessments and formalize conclusions, which are documented in this report. Each audit component was evaluated separately and collectively based on the materiality of each activity and its impact on the total bond program.

Following are the expenditures on Measure G projects since the passage of measure on June 3, 2008:

Fiscal Year	Expenditure	Percent of Authorization
2008-09	\$11,075,067	06.18 %
2009-10	\$18,866,698	10.54 %
Total	\$29,941,765	16.72 %

The District issued \$39 million of the original Measure G bond authorization and expended approximately 17 percent of the total bond authorization (\$30 million of the bond proceeds) on the District's facilities construction projects. The District utilized available funds from the State School Facilities Program, Capital Facilities and Deferred Maintenance funds on other non-bond funded facilities projects. Under the Measure G facilities construction program, the District has now completed HVAC upgrades, streetscapes and re-roofing projects in nine schools since the start of the program. In addition, the District awarded contracts for modernization and HVAC projects for three schools and the new replacement campus project at San Antonio Elementary School to start construction in the summer of 2010.

The current economic downturn has severely decreased the District's assessed property values and limited its ability to issue bonds in 2011 and the coming years. Staff reported that it will be necessary to temporarily put the program on hold and the construction of projects deferred until the economy improves and remaining Measure G bonds are issued. The District anticipates that it could take three to four years before assessed property values increase to a level sufficient for the District to issue an adequate portion of the remaining authorized bonds and continue with the program.

The District facilities program uses an in-house facilities program management approach combined with an outside third-party Project/Construction Management (PM/CM) firm in the delivery of Measure G projects. This combined approach resulted in low overall program management costs when compared to other districts. The District primarily utilized a Lease-Leaseback (LLB) delivery method for the construction of streetscapes, modernization, HVAC upgrades and new construction projects under Measure G.

A seven member Citizens' Bond Oversight Committee (CBOC) was appointed by the Board on October 9, 2008, to provide oversight of the Measure G bond program, as required by law. As of June 30, 2010, the Committee had held seven meetings to review facilities projects, including four meetings during the current audit period. A CBOC website, set up in compliance with the law, is accessible in the District website. It provides pertinent information, including bond ballot language and CBOC bylaws, meeting agendas/minutes and facilities project updates. The Committee presented its "2008-09 Annual Report" on April 15, 2010, during the regular meeting of the Board of Trustees.

The performance audit identified commendations to the District for various aspects of the facilities program, such as: accelerating schedules to take advantage of favorable bid pricing; a cost-effective program management approach; keeping current information available on the CBOC website; preparing expenditure reports and project status reports for all Measure G projects; maintaining well organized project files; and good communication practices to keep the community and District stakeholders informed about Measure G.

A number of sections throughout the audit report include recommendations which, in the opinion of TSS, would enhance the District's facilities program if implemented. Some of the more pertinent recommendations include the development of a transition plan for the period from the summer of 2011 to the projected resumption of the program, the establishment of modernization eligibility for State funding, closer review of contingencies and allowances for lease-leaseback contracts and providing the community with regular and timely information about the Measure G bond program.

It is important that strong systems and procedures be in place and understood by all participants in the Measure G bond process. The observations and recommendations made throughout this audit report can help to strengthen those systems and procedures.

It should be noted that this work has been performed to meet the requirements of a performance audit in accordance with Article XIII of the Constitution of the State of California. Any known significant weaknesses and substantial noncompliance items have been reported to the District's management. This performance audit is not a fraud audit, which would be much wider in scope and more significant in nature than this examination.

The readers of this report are encouraged to review the report of the independent financial auditors in conjunction with this report before forming opinions and drawing conclusions about the overall operations of the bond program.

INDEPENDENT PERFORMANCE AUDITOR'S REPORT

We have conducted a performance audit of the Measure G bond program of the Alum Rock Union Elementary School District, as of and for the fiscal year ended June 30, 2010. The information provided herein is the responsibility of the District's management. Total School Solutions' responsibility is to express an opinion on the pertinent issues included in the scope of this performance audit.

In our opinion, the Measure G funds are being expensed in accordance with Resolution No. 41-07/08 passed by the Board of Trustees on February 27, 2008. It is also our opinion that, for the period ending June 30, 2010, the expenditures of the funds generated through Measure G bonds were only for the projects listed in Appendix A, Exhibit B in this report. We have also determined that the representations made to the public regarding the availability of state funds were true and reasonable and that management's estimates were reasonable and complied with the best practices in modernization and new construction of school facilities.

This performance audit was conducted in accordance with the District's defined scope of a performance audit of the school facilities program and in accordance with the Government Auditing Standards issued by the Comptroller General of the United States for financial and performance audits. The District is also required to request and obtain an independent financial audit of Measure G bond funds. Our opinion and accompanying report should be read in conjunction with the independent financial auditor's report when considering the results of our performance audit and forming opinions about the District's bond program.

This report is intended solely for the use of the management, the Board of Trustees, and the independent Citizens' Bond Oversight Committee of the Alum Rock Union Elementary School District, which have taken responsibility for the sufficiency of the scope of work deemed appropriate for this performance audit.

Total School Solutions

A handwritten signature in cursive script that reads "Total School Solutions".

April 30, 2011

COMPLIANCE WITH BALLOT LANGUAGE

On February 27, 2008, the Board of Trustees of the Alum Rock Union Elementary School District approved the placement of a \$179 million dollar bond measure (Measure G) on the ballot with the adoption of Resolution No. 41-07/08.

The full text of the ballot measure is presented in Appendix A. The following excerpt is abbreviated language of the bond proposition as it appears in the ballot:

To improve neighborhood schools, fix leaky, deteriorated roofs, improve fire safety, repair and upgrade classrooms, improve student safety and security, renovate outdated restrooms, upgrade heating/ventilation/electoral systems for energy efficiency, and computer technology, shall Alum Rock Union Elementary School District issue \$179 million of bonds at legal rates to renovate, acquire, construct, repair and equip schools, sites and facilities, with required independent financial audits, citizens' oversight and no money for administrators' salaries.

Measure G, a Proposition 39 general obligation bond measure, required an affirmative vote of 55 percent of voters. The measure was passed by the voters on June 3, 2008, with 79.09 percent of the vote. As required by Proposition 39 and the State Constitution, the District established an independent citizens' oversight committee to provide the requisite oversight and commissioned annual financial and performance audits.

A question regarding the use of general obligation bond funds for program managers and other internal staff is often a concern for school districts and oversight committees. In legal opinion No. 04-110 dated November 9, 2004, the California Attorney General opined that. "A school district may use Proposition 39 school bond proceeds to pay the salaries of district employees to the extent they perform administrative oversight work on construction projects authorized by a voter approved bond measure." (For the full text of this Attorney General opinion, refer to Appendix B.) The District is in compliance with the Attorney General opinion.

As of June 30, 2010, the District has issued \$39 million (\$39,000,328) of the original bond and expended approximately \$30 million (\$29,941,765) of issued bond funds. Total Measure G expenditures as of June 30, 2010, are 16.72 percent of the \$179 million authorization. All of the expenditures of Measure G funds were for projects within the scope of the ballot language.

TSS finds the Alum Rock Union Elementary School District in compliance with the Measure G ballot language.

DISTRICT FACILITIES PROGRAM

While the scope of the performance audit is limited to the Measure G bond program, it is useful to review the District's entire facilities program and other sources of funds to place Measure G into context. In addition to Measure G funds, the District has received funds from developer fees, the State School Facility Program, the State Deferred Maintenance Program, and various other sources.

The District funds used to account for facilities revenues and expenditures appear in the table below.

Fund	Description ¹
14	Deferred Maintenance
21	Building (Land Sales and General Obligation Bonds)
25	Capital Facilities (Developer Fees)
35	School Facilities (State Match Monies)
40	Special Reserve Fund Capital Outlay

¹Refer to the following tables for a detailed accounting of funds and for an explanation of the use of the funds.

The table below presents the financial summary of the District's facilities program for fiscal years 2008-09 through 2009-10. As of June 30, 2010, the District's combined facilities funds have an ending balance of \$11.9 million. For more detailed data by fund, refer to the Capital Outlay Funds tables.

Revenues and Expenditures for Facilities Program (Consolidation of Funds)

	Fiscal Year Ending June 30, 2009	Fiscal Year Ending June 30, 2010
Beginning Balance	\$4,274,168	\$32,877,537
Revenues	\$1,376,439	\$376,171
Expenditures	(\$12,386,085)	(\$21,321,776)
Sources	\$39,000,328	\$0
Transfers In	\$612,687	\$0
Net Change	\$28,603,369	(\$20,945,605)
Ending Balance	\$32,877,537	\$11,931,932

The Building Fund (Fund 21) is used to account for the District's Measure G bonds including interest earnings. Accounting for Measure G only is maintained by the District and is reported separately in the Measure G Financial Audit Report. For 2008-09 through 2009-10, Measure G bond activity was as follows:

Building Fund 21 (Measure G)		
	Fiscal Year Ending June 30, 2009²	Fiscal Year Ending June 30, 2010³
Beginning Balance	\$0	\$28,639,331
Revenues	\$714,070	\$196,103
Expenditures	(\$11,075,067)	(\$18,866,699)
Sources ¹	\$39,000,328	\$0
Net Change	\$28,639,331	-\$18,670,596
Ending Balance	\$28,639,331	\$9,968,735

¹Sale of Measure G bonds, in the amount of \$39,000,328 on August 28, 2008

²Source: June 30, 2009 District's Financial Audit, Vavrinek, Trine, Day & Co., LLP

³Source: June 30, 2010 District's Financial Audit, Vavrinek, Trine, Day & Co., LLP

The District's outstanding debt is presented in the table below. This table includes prior bonds, Measure G bond funds (including bond premium), certificates of participation, and capital leases.

District's Long-Term Debt Obligations		
	Fiscal Year Ending June 30, 2009	Fiscal Year Ending June 30, 2010
General Obligation Bonds		
1998 GOB	\$6,666,749	\$0
2002 GOB	\$7,945,000	\$0
2003 GOB	\$5,640,000	\$5,580,000
2005 GOB	\$15,105,000	\$13,280,000
2007 GOB	\$9,365,000	\$9,365,000
2009 GOB, Series A ¹	\$39,000,328	\$39,053,245
2010 GOB	\$0	\$13,600,000
Total GOB	\$83,722,077	\$80,878,245
Premium	\$1,216,096	\$2,031,557
Discount	\$0	(\$41,048)
Defeasance Costs	(\$4,095,129)	(\$4,082,127)
COP ²	\$0	\$28,000,000
Discount	\$0	(\$3,734,500)
Capital Leases ³	\$963,609	\$758,347
Total	\$81,806,653	\$103,810,474

¹Passed on June 3, 2008, Measure G authorized the sale of General Obligation bonds totaling 179 million. Series A bonds in the amount of \$39,000,328 were issued on August 28, 2008. The remaining unused bond authority is about \$140 million. Detailed financial data for each issue, including bond premiums, is provided in the District's audit report. Payments on the general obligation bonds are made by the bond interest and redemption fund with local revenues.

²Certificates of Participation (COPs) are loans, not a source of revenue. In May 2010, the District issued \$25 million in COPs and in June 2010 an additional \$3 million were issued for the purpose of subsidizing the funding of construction projections while continuing to obtain funding from the issuance of additional general obligation bonds.

³Capital leases are payments of capital outlay expenditures, such as portables, which provide for title to pass to the District upon expiration of the lease period. Capital leases are paid by the General Fund.

**CAPITAL OUTLAY FUNDS
FISCAL YEAR 2008-09 (AUDITED)**

Fiscal Year Ending June 30, 2009	Deferred Maintenance Fund	Capital Facilities Fund	Building Fund	County Schools Facilities Fund	Total
Beginning Balance	\$213,709	\$479,797	\$0	\$3,580,662	\$4,274,168
Revenues	\$454,665	\$64,086	\$714,070	\$143,618	\$1,376,439
Expenditures	(\$213,709)	(\$2,850)	(\$11,075,067)	(\$1,094,459)	(\$12,386,085)
Sources			\$39,000,328		\$39,000,328
Transfers In	\$612,687				\$612,687
Net Change	\$853,643	\$61,236	\$28,639,331	-\$950,841	\$28,603,369
Ending Balance	\$1,067,352	\$541,033	\$28,639,331	\$2,629,821	\$32,877,537

**CAPITAL OUTLAY FUNDS
FISCAL YEAR 2009-10 (AUDITED)**

Fiscal Year Ending June 30, 2010	Deferred Maintenance Fund	Capital Facilities Fund	Building Fund	County Schools Facilities Fund	Total
Beginning Balance	\$1,067,352	\$541,033	\$28,639,331	\$2,629,821	\$32,877,537
Revenues	\$10,197	\$141,778	\$196,103	\$28,093	\$376,171
Expenditures	(\$612,687)	(\$280,304)	(\$18,866,669)	(\$1,562,116)	(\$21,321,776)
Uses					\$0
Sources					\$0
Net Change	(\$602,490)	(\$138,526)	(\$18,670,566)	(\$1,534,023)	(\$20,945,605)
Ending Balance	\$464,862	\$402,507	\$9,968,765	\$1,095,798	\$11,931,932

¹The Deferred Maintenance Fund (14) is used for projects identified in the District's Five-Year Deferred Maintenance Plan. Typically, funding comes from a District-match contribution (transfer from the General Fund) and a state-match contribution. Beginning with the 2008-09 fiscal year, the requirement for districts to contribute matching funds has been suspended by the State through June 30, 2013.

²The Building Fund (21) is used to account for revenues and expenditures from General Obligation bond proceeds (Measure G) on acquisition or construction of facilities and from land sales. Measure G, Series A for \$39,000,328 was issued on August 28, 2008.

³The Capital Facilities Fund (25) is used to account for developer fees.

⁴The School Facilities Fund (35) is used to account for proceeds received from the State Allocation Board for modernization and new construction projects. Other sources include transfers from the General Fund and Capital Facilities Fund.

FACILITIES PROGRAM HISTORY/STATUS

To assist the community in understanding the District's facilities program and the chronology of events and/or decisions that resulted in the current scopes and costs for projects, this report documents the events that have taken place since July 1, 2008. Major actions of the Board of Trustees are listed in the table below.

Chronology of Facilities Board Agenda items July 10, 2008 - June 30, 2010.¹

<u>DATE</u>	<u>ACTION</u>	<u>AMOUNT</u>
July 10, 2008 Business Services Item # 9.1	Adopted Resolution No. 03-08/09 authorizing the sale of Measure G Bonds that was approved by the voters in the Alum Rock Elementary School District on June 3, 2008. Based on the interest rates and staying within the taxing requirements of no more than \$25 per \$100,000 of assessed valuation as specified in the ballot language, the amount of bonds to be sold cannot exceed \$40 million.	
July 10, 2008 Business Services Item # 9.2	Adopted Resolution No. 04-08/09 Bond Oversight Committee Establishment and By-Laws in compliance with Prop. 39 and authorized the solicitation of members from the community within 60 days of the date that the election results were certified.	
August 14, 2008 Consent Item # 6.7	Approved contracts for Professional Services – Firms/Organizations	
August 14, 2008 Business Item # 8.1	Approved Resolution No. 05-08/09 officially entering the June 3, 2008 General Obligation Bond Election Results into the minutes of the Board meeting.	
August 14, 2008 Business Item # 8.2	Introductions and brief company synopsis from three (3) firms selected through the Request For Proposal (RFP) process PM/CM; Blach Construction, Inc., Skanska, and Facilities Management Planning and Operations (FMPO). The Board authorized staff to negotiate agreements with all three (3) firms to provide Program Management and Construction Management (PM/CM) Services for the District Bond Program.	
September 11, 2008 Consent Item # 7.6	Approved contracts for Professional Services – Firms/Organizations.	
September 11, 2008 Consent Item # 7.13	General Obligation Bonds Election 2008, Series 2008A, Summary of Bond Sales.	

DATE	ACTION	AMOUNT
September 11, 2008 Consent Item # 7.4	Lease Leaseback Agreement with Blach Construction, Inc.	
October 9, 2008 Consent Item # 7.7	Approved contracts for Professional Services – Firms/Organizations.	
October 9, 2008 Consent Item # 7.19	Approved contract with Blach Construction, Inc for Bond Program Construction Management/ Program Management Services for the Measure G Alum Rock Bond Program. Twelve Requests for Proposals (RFPs) were received and screened by the committee. Interviews were conducted on July 28, 2008. Blach Construction, Inc. was recommended to be awarded the contract for a three year period with a cost estimate of \$1,670,481.	\$1,670,481
October 9, 2008 Supt/Board Item # 11.1	Approved appointment of members of the Citizen’s Oversight Committee (COC) which consisted of seven (7) members as follows: Parent: Josefina Ponce PTA: LeLand Lowe Business Organization: Maruim Bamburg Senior Organization Ray Turner Taxpayer Association Marc Frietas Community At Large: Bertha Razo; Margarita Meza	
November 13, 2008 Consent Item # 7.8	Approved contracts for Professional Services – Firms/Organizations.	
November 13, 2008 Consent Item # 7.9	Approved Architectural Services Agreement.	
November 13, 2008 Consent Item # 7.14	Approved Resolution #17-08/09 and Resolution #18-08/09 California Uniform Public Construction Cost Accounting Act (CUPCCAA).	
November 13, 2008 Consent Item # 7.15	Approved Contract Extension for Airedale AC Units and Heat Pumps 80809-280209.	
November 25, 2008 Consent Item # 4.1	Approved contracts for Professional Services – Firms/Organizations.	

DATE	ACTION	AMOUNT
December 18, 2008 Consent Item # 7.10	Approved the Architectural Services Agreement	
December 18, 2008 Consent Item # 7.11	Approved NTD Architectural Fees for Services Provided	
December 18, 2008 Consent Item # 7.11	Approved WLC Architectural Fees for Service.	
March 17, 2009 Bond Program Item #10.1	The Bonds Group presented a broad base view of current and future projects under the Measure G Bond Program which included streetscapes, pick-up/drop-off improvements at six schools and HVAC replacement at Mathson Elementary School.	
March 17, 2009 Bond Program Item #10.2	Authorized staff and Caldwell Flores Winters, Inc. to proceed with filing of an application with the Department of State Architects for the review and approval of the design and necessary contracts for the reconstruction of San Antonio Elementary School.	
April 9, 2009 Bond Program Item # 10.1	Approved the concept of Construction Careers Agreement (CCA) and direct staff to commence negotiations with the Santa Clara and San Benito Counties Building and Construction Trades Council (BTC) on such an agreement to bring back to the Board for future and final approval.	
May 14, 2009 Consent Item # 7.16	Approved six (6) Streetscape Construction Projects and one (1) HVAC project. Scope of projects include safe drop-off/pick-up areas to meet current ADA access requirements for students, visitors and staff, as well as site security, fencing and other off-site improvements at six elementary schools and new HVAC installation at Mathson Middle School.	\$14,174,559
	Arbuckle Streetscape.....\$2,107,080 Chavez Streetscape1,624,526 Cureton Streetscape1,976,646 Dorsa Streetscape1,916,197 Hubbard Streetscape1,449,489 Mathson Streetscape2,006,026 Mathson HVAC Replacement3,094,595	
May 14, 2009 Bond/ Facilities Item # 10.1	Approved and accepted the Construction Design for San Antonio Elementary School as presented by Mr. Ernesto Flores of Caldwell, Flores, Winters, Inc. (CFW).	

DATE	ACTION	AMOUNT
May 14, 2009 Bond/ Facilities Item # 10.2	Approved Blach Construction, Inc. for the not to exceed price of \$250,000 to be the contractor to build the new San Antonio Elementary School.	\$250,000
May 14, 2009 Bond/ Facilities Item # 10.3	Approved the contract for pre-design and architectural services with NTD Architecture for the not-to-exceed price of \$1,137,063 for the new San Antonio Elementary School.	\$1,137,063
May 14, 2009 Bond/ Facilities Item # 10.4	Approved the Delegation of Authority to the Superintendent to Approve Bids for Relocation of Portable Classrooms (Ed Code Section 17604). (Non-Bond Projects)	
June 18, 2009 Contracts Over \$100,000 Item # 7.2	Approved the Universal Maintenance Contract, Bonds Department, Supplemental Warranty Services at six Streetscape Sites, \$125,000.	\$125,000
June 18, 2009 Bond/ Facilities Item # 8.1	Approved the Project Labor Agreement with a career component. The purpose is to promote efficiency of construction operations during the construction of the Alum Rock School District projects funded by proceeds of the Measure G Bond.	
July 9, 2009 Contracts Over \$100,000 Item # 7.1	Approved AMS.Net Contract, Bonds Department, Combine Technology from Cisco and Berbee at Lucha School, \$150,000.	\$150,000
July 9, 2009 Contracts Over \$100,000 Item # 7.2	Approved WLC Architects, Inc. Contract, Bonds Department, Design HVAC and ADA Upgrades for Linda Vista Campus, \$300,249.	\$300,249
July 9, 2009 Contracts Over \$100,000 Item # 7.3	Approved AMS.Net Contract, Bonds Department, Combine Technology from Cisco and Berbee at Linda Vista School, \$150,000.	\$150,000
July 9, 2009 Contracts Over \$100,000 Item # 7.4	Approved BFGC Architects, Inc. Contract, Bonds Department, Design HVAC and ADA Upgrades for Meyer School Campus, \$300,704.	\$300,704
July 9, 2009 Contracts Over \$100,000 Item # 7.5	Approved BFGC Architects, Inc. Contract, Bonds Department, Design HVAC and ADA Upgrades for Lyndale School Campus, \$300,557.	\$300,557

DATE	ACTION	AMOUNT
July 9, 2009 Bond/ Facilities Item # 8.1	Approved petition to Authorize the Superintendent to file a Notice of Exemption on the San Antonio School project site with the County Clerk.	
July 9, 2009 Bond/ Facilities Item # 8.2	Approved Delegation of Authority to the Superintendent to approve bids/award contracts per Education Code Section 17604, for the Repair and Maintenance of Classroom and Administrative Office Building – formerly the Santa Clara County Ridgmont High School located at 1665 Woodridge Way, San Jose.	
July 9, 2009 Bond/ Facilities Item # 8.3	Approved Resolution No. 01-09/10, directing the Superintendent to proceed with the application for Qualified School Construction Bond (QSCB) funds through the California Department of Education of up to \$25 Million under the American Recovery and Reinvestment Act of 2009 (ARRA) program funds.	
September 10, 2009 Contracts Over \$100,000 Item # 10.1	Approved the ratification of bid to Guerra Construction Group, the lowest responsive bidder for the 2009 Portable Building Relocation at Fischer School (B0910-MT001C), in the amount of \$356,255. (Non-Bond Project).	\$356,255
September 10, 2009 Contracts Over \$100,000 Item # 10.2	Approved the ratification of bid award and contract to Guerra Construction Group, the lowest responsive bidder for the 2009 Portable Building Relocation and Site Work at Rogers Elementary School and Slonaker Academy (B0910-MT001A), in the amount of \$478,683. (Non-Bond Project).	\$478,683
September 10, 2009 Contracts Over \$100,000 Item # 10.3	Approved the ratification of award and contract to Guerra Construction Group, the lowest responsive bidder for the 2009 Portable Building Relocation at Linda Vista Elementary School (B0910-MT001B), in the amount of \$236,231. (Non-Bond Project).	\$236,231
October 8, 2009 Contracts Over \$100,000 Item # 11.1	Approved NTD Architecture Contract, Bonds Department, San Antonio School Modernization Project, \$550,000.	\$550,000
November 12, 2009 Bond/ Facilities Item # 8.1	Approve refunds to District for the final deductive change orders based on completion of summer projects at below the original proposed costs in the amount of \$1,908,357.	\$1,908,357

DATE	ACTION	AMOUNT
November 12, 2009 Consent Item # 9.13	Approve the Notices of Completion forms for the summer Streetscape Projects at Arbuckle, Chavez, Cureton, Dorsa, Hubbard, and Mathson, as well as the Air-conditioning Project at Mathson to be filed with the county and complete the close-out projects with the Division of State Architect (DSA).	
December 10, 2009 Business Services Item # 9.3	Adopted Resolution No. 17-09/10, Qualified School Construction Bonds (QSCB) Issuance, to authorize the execution and delivery of QSCB certificates of participation and attendant legal documents and proceed to obtain the financing available thereunder per recommendation of Caldwell Flores Winters, Inc.	
December 10, 2009 Business Services Item # 9.4	Adopted Resolution No. 18-09/10, Qualified School Construction Bonds (QSCB) Issuance, to apply for an extension, so that the District may issue QSCB certificates of participation beyond the original December 31, 2009 deadline, as per advice by the district's Bond Counsel, Fulbright & Jaworski, LLP.	
January 14, 2010 Contracts Over \$100,000 Item # 10.1	Approved Bill Gould Design Art & Architecture Contract, Bonds Department, to perform updates to the District's existing facilities master plan to incorporate the outcome of the community forums related to school consolidation in the amount of \$150,000. This firm will be able to revise the current master plan developed for Measure G to capture the outcome of school consolidation discussions and guide the housing of students and the ongoing facility improvement program district-wide.	\$150,000
February 11, 2010 Bond/Facilities Item # 7.1	Approved delegation of authority to the Superintendent to approve Lease-Leaseback Contract or phases thereof for Pala Middle School Leaseholder Improvements (add parking spaces, demo CNS building wing, electrical work and new meal assembly space) to be ratified by the Board at the next appropriate Board meeting.	
February 11, 2010 Contracts Over \$100,000 Item # 8.1	Approved Addendum No. 3 to provide Airedale units to upcoming HVAC project at Linda Vista, Lyndale, Meyer and Hubbard. Contract was awarded on Nov. 13, 2008 to Air Treatment Corporation to provide Airedale HVAC units to Alum Rock School District. Measure G Projects. NTE \$700,000.	\$700,000

DATE	ACTION	AMOUNT
February 11, 2010 Contracts Over \$100,000 Item # 8.2	Approved Lease-leaseback Agreement for the Hubbard Elementary School Administration Building and Modernization Project. This project includes construction of a new administration building, the addition of air conditioning at the multi-use building, remodeling the existing administrative space into a library/instructional space, student restroom modernizations and mandated ADA upgrades. Measure G Projects. NTE \$3,750,000.00 to Blach Construction, Inc.	\$3,750,000
February 11, 2010 Consent Item# 9.16	Approved Resolution No. 29-09/10 that the Board of Trustees of the Alum Rock Elementary School District Proclaims the Exemplary Team Effort of Neil Rauschhuber, Caldwell Flores Winters, Inc., NTD Architects and Blach Construction, in obtaining State approval for the New San Antonio School Project.	
February 11, 2010 Consent Item# 9.23	Approved an applicant, Mr. Andres Quintero to be appointed to the Citizen's Oversight Committee (COC) who is an active member in a bona-fide taxpayers association.	
March 11, 2010 Admin Services Item # 8.3	Approved Resolution No. 44-09/10 Authorizing the Issuance of Alum Rock Union Elementary School District of Santa Clara 2010 General Obligation Refunding Bonds (GOB). Sale of refunding bonds will be for the purpose of reducing debt service obligations of District taxpayers. More specifically, proceeds from the sale of the refunding bonds will be used to redeem certain prior bonds of the district issued in 1997 and 2001.	
April 15, 2010 Administrative Services Item # 8.1	Assistant Superintendent of Administrative Services reported that the District's \$13,600,000 1991 Election General Obligation Refunding Bonds 2010 Series A were sold to Piper Jaffray & Company on March 18, 2010, in the aggregate principal amount of \$13,600,000.	
April 15, 2010 Contracts Over \$100,000 Item # 10.1	Approved contract for DSA Inspector of Record (IOR) for the San Antonio Phase I Project. Proposals were solicited from the District's pre-qualified pool of IOR's for this project. Bonds Department, \$213,840.	\$213,840
April 15, 2010 Contracts Over \$100,000 Item # 10.2	Approved contract for Emery Smith, DSA Special Inspector, for the San Antonio Phase I Project. Smith Emery, Co. possesses adequate resources and submitted the most competitive proposal from among the District's pool of pre-qualified special inspection providers. Bonds Department, \$193,942.80.	\$193,943

DATE	ACTION	AMOUNT
April 15, 2010 Bond/ Facilities Item # 11.1	Mr. Ray Turner, Chairperson of the Citizens Oversight Committee (COC), presented the annual COC report on the Measure G Bond. Of the \$179 million authorized, \$39 million have been sold, \$19 million have been spent on completed projects to date, and approximately \$11 million were spent on the projects in the 2008-09 school year.	
May 13, 2010 Bond/ Facilities Item # 9.1	Authorized staff to enter into a Lease-Leaseback contract with a Guaranteed Maximum Price (GMP) not-to-exceed \$5.65M, with savings to be returned to the District per the terms of contract for Linda Vista air-Conditioning, Streetscape, and Modernization Project with Blach Construction. Staff is seeking authorization to enter into contracts for this work within the Board approved limits once the competitive bidding is completed, the qualified, responsive bidders are selected; and DSA approval is granted, all of which will occur prior to the June Board meeting.	\$5,650,000
May 13, 2010 Bond/ Facilities Item # 9.2	Authorized staff to enter into a Lease-Leaseback contract with a Guaranteed Maximum Price (GMP) not-to-exceed \$5.85M, with savings to be returned to the District per the terms of contract for Lyndale Air-Conditioning, Streetscape, and Modernization Project with Blach Construction. Staff is seeking authorization to enter into contracts for this work within the Board approved limits once the competitive bidding is completed, the qualified, responsive bidders are selected; all of which will occur prior to the June Board meeting.	\$5,850,000
May 13, 2010 Bond/ Facilities Item # 9.3	Authorized staff to enter into a Lease-Leaseback contract with a Guaranteed Maximum Price (GMP) not-to-exceed \$17.5M, with savings to be returned to the District per the terms of contract for the construction of San Antonio Elementary School Phase I (New Campus) with Blach Construction. The final contract will be executed upon receipt of the financing authorized under the QSCB program. This work will begin in June of 2010 and be completed in August of 2011.	\$17,500,000
May 13, 2010 Bond/ Facilities Item # 9.4	Approved the Delegation of Authority to Approve Bids and Award Contracts for the Repair and/or replacement of roofing, flooring, lockers and concrete/asphalt District-wide. Due to conflicts between bid dates and board agenda deadlines, significant delays may occur necessitating the flexibility afforded by Delegation of Authority in order to complete the projects on schedule. The Delegation of Authority will be valid for the duration of a three (3) month period from the Board approved date.	

DATE	ACTION	AMOUNT
May 13, 2010 Consent Item # 10.16	The Superintendent recommended that the Board appoint Mr. Frank Q. Cortez to the Citizen's Oversight Committee (COC) as a member active in a business organization representing the business community in the District.	
June 23, 2010 Bond/ Facilities Item # 8.1	Approved the Lease Agreement for Interim Housing between the City of San Jose and Alum Rock School District for the San Antonio students at the Mexican Heritage Plaza.	
June 23, 2010 Bond/ Facilities Item # 8.2	Approved the San Antonio Elementary School Interim Housing Lease-Leaseback Contract with Blach Construction Company in the amount of Not-To-Exceed \$400,000 with savings to be returned to the District per the terms of the contract. The scope of this contract is to provide modification of (3) potential classroom spaces at the Mexican Heritage Plaza, to augment (2) classrooms already existing at that site, as well as make required modifications to (2) classrooms at Mathson Middle School to temporarily house San Antonio students displaced by construction of the new school at their existing campus. This work begins in June 2010 and complete in August 2010.	\$400,000

¹ Several facilities items included in the list are not related to the bond program, but have been included to present a more complete picture of the District's entire facilities program. Non-bond items should be considered to be information only, and are not a part of the bond performance audit.

COMPLIANCE WITH STATE LAW, GUIDELINES, AND DISTRICT POLICY

Process Utilized

TSS examined standard bid documents, contract documents, applicable State of California laws and regulations, District policies, reports, and other relevant documentation related to the District's bond program. Interviews with key District staff were held to obtain information regarding the District's practices.

Background

There are numerous legal and regulatory requirements associated with the delivery of California public school construction projects. Various codes and regulations govern these processes.

This review assesses the overall compliance with standards resulting from these legal and regulatory requirements. TSS has developed this assessment of compliance to analyze the functionality of the District's bond facilities program. It should not be viewed or relied upon as a legal opinion. This section does not include a review of compliance with the California Building Code or other related requirements.

TSS has reviewed the following two distinct categories of requirements (1) compliance with state law and regulations and (2) compliance with District policies.

State Law

Many requirements for the construction of public schools appear in different California codes, accompanied by regulations from various agencies. The Alum Rock Union Elementary School District complies with these requirements through the District's bidding and contract documents.

The following items are required to appear in the bid documents:

- *Division of the State Architect (DSA) approval* for individual project/plans and specifications, if subject to DSA review and approval.
- *Notice To Bidders*: The Notice To Bidders includes the required notification for project identity; date, time, and place of bid opening; contractor's license requirements for the type of construction and the validity of that license; bid bond and certified bid security check requirements; payment bond requirements; performance bond requirements; substitution of securities information; definition of prevailing wage requirements; statement establishing blind bid process; and a reservation of the right to reject all bids.
- *Bid Bond*: A bid bond is present in the package and demanded of the contractor on a form prepared by the District, as required.
- *Non-collusion Affidavit*: A non-collusion affidavit form is provided and demanded of the contractor.
- *Escrow Agreement for Security Deposits in Lieu of Retention*: This item is included as an option, as required.

- *Performance Bond*: A performance bond for 100 percent of the contract price, on a form prepared by the District, is demanded of the contractor and included in the bid package.
- *Payment Bond*: A payment bond for 100 percent of the contract price, on a form prepared by the District, is demanded of the contractor and included in the bid package.
- *Workers' Compensation Certification*: The contractor is required to certify compliance with the state workers' compensation regulations.
- *Prevailing Wage and Related Labor Requirements Certification*: The contractor is required to certify compliance.
- *Drug-Free Workplace Certification*: The contractor is required to provide a drug-free workplace certification.
- *Hazardous Materials Certification*: The contractor is obligated to provide certification that no hazardous materials were to be furnished, installed, or incorporated in any way into the project.
- *Lead-Based Materials Certification*: The contractor is required to certify compliance with lead-based materials regulations.
- *Criminal Background Investigation/Fingerprinting Certification*: The contractor is required to select a method of compliance and to certify compliance with criminal background investigation/fingerprinting requirements.

State law does not require the items listed below; however, they are required for State funding:

- *Prevailing Wage and Related Labor Requirements Certification*: The contractors are required to certify compliance with the State Public Works Contract requirements.
- *Disabled Veteran Business Enterprise (DVBE) Participation Certification*: The contractor is required to certify compliance with the DVBE requirements as set forth in the State's School Facilities Program.

The items below are best practices. They are not required by state law or for state funding:

- *Instructions to Bidders*
- *Notice of Award*
- *Notice to Proceed*
- *Agreement*
- *Escrow of Bid Documentation*

For a full review of the District's compliance with contract and bidding requirements please see the Best Practices in Bidding and Procurement section of this report.

Prevailing Wage Law/Labor Compliance Program

In California, contractors and subcontractors on public works projects must comply with the California Prevailing Wage Law (Labor Code 1720 et seq.). This law stipulates that workers must be paid the prevailing hourly wages and fringe benefits, as specified by the State Department of Industrial Relations, for the region where a construction project is located.

Traditionally, a school district ensures that the Prevailing Wage Law is complied with by requiring contractors and subcontractors to maintain certified payroll records for each worker.

In 2002, enactment of AB 1506 created the Labor Compliance Program (LCP), which added an additional requirement for school district construction projects that received State funding from Proposition 47 (2002) and Proposition 55 (2004). AB 1506 was intended to ensure that contractors and subcontractors complied with the prevailing wage law. Under AB 1506, a school district must provide assurances in writing, that it, or a third-party contractor, will enforce the required LCP, transmit that information to the State Allocation Board (SAB) and take all appropriate measures throughout the construction project to verify compliance.

In November 2007, Proposition 1D passed without the requirement of a LCP. Subsequent legislation that would have reinstated LCP (SB 18, 2007) for Proposition 1D funding was vetoed by the Governor.

On February 20, 2009, SBX2 9 was signed into law which re-established the LCP for school district facility construction projects that receive State bond funds. Prior LCP programs required school districts to provide LCP services directly, or through third-party providers. SBX2 9 requires the Department of Industrial Relations (DIR) to directly enforce prevailing wage requirements. Funding for this process would be provided by a fee from the School Facilities Program equaling 0.25 percent of the State funding. This fee would be provided directly to the DIR for enforcement of labor compliance. (Note: The SAB grant amounts will be increased accordingly.) School districts that have an approved in-house LCP at the time the new regulations are established may apply for an exemption from the new fee. If a school district contracts with a third-party LCP provider, such services may not be eligible for this exemption.

On October 21, 2010, the DIR took emergency action to suspend the implementation of SBX2 9, which resulted in all existing LCP programs reverting back to pre-SBX2 9 status. Since the District has a contract with a third party provider (PB Americas, Inc.) for labor compliance services there is no need to do anything as it relates to SBX2 9 until the DIR takes further steps to implement SBX2 9.

Regardless of whether a school district is required to have a LCP for state-funded projects, it must fully comply with the prevailing wage law. To ensure compliance with the law, a school district should develop and implement policies and procedures to be applied to all construction projects, regardless of the source of funding.

District Policy

Comprehensive board policy and administrative regulations allow for informed and timely decision making and governance, as well as establishing clear protocols for business functions and facilities program management.

TSS reviewed existing District policies related to business services and facilities for completeness and compliance, which are available for review on the District's website. The 7000 series policies related to Facilities and School Construction have most recently been updated in 2004.

The District has adopted the following Board Policies (BP) and Administrative Regulations (AR) for its community relations, business and non-instructional operations and facilities program:

Series 1000 – Community Relations (Select Items)

BP/AR	Description	Date of Adoption	Most Recent Date of Revision
BP 1100	Communication with the Public	06/04	06/04
AR 1100	Communication with the Public	06/04	06/04
BP 1220	Citizen Advisory Committees	06/04	06/04
AR 1220	Citizen Advisory Committees	06/04	06/04
BP 1330	Use of School Facilities	06/04	07/07
AR 1330	Use of School Facilities	06/04	06/04

Series 3000 – Business and Non-instructional Operations (Select Items)

BP/AR	Description	Date of Adoption	Most Recent Date of Revision
BP 3111	Deferred Maintenance Funds	04/04	04/04
BP 3280	Sale, Lease, Rental of District-Owned Real Property	04/04	10/07
AR 3280	Sale, Lease, Rental of District-Owned Real Property	04/04	04/04
BP 3310	Purchasing Procedures	04/04	04/04
AR 3310	Purchasing Procedures	04/04	04/04
BP 3311	Bids	04/04	08/07
AR 3311	Bids	04/04	04/04
BP 3312	Contracts	04/04	04/04
BP 3511	Energy and Water Conservation	04/04	04/04
AR 3511	Energy and Water Conservation	04/04	04/04
AR 3515	Campus Security	04/04	04/04
AR 3515.6	Criminal Background Checks for Contractors	04/04	04/04
BP 3517	Facilities Inspection	10/07	10/07

Series 7000 – Facilities

BP/AR	Description	Date of Adoption	Most Recent Date of Revision
BP 7000	Concepts and Roles	06/04	06/04
BP 7110	Facilities Master Plan	06/04	06/04
AR 7111	Evaluating Existing Buildings	06/04	06/04
BP 7131	Relations with Local Agencies	06/04	06/04
BP 7140	Architectural and Engineering Services	06/04	06/04
AR 7140	Architectural and Engineering Services	06/04	06/04
BP 7150	Site Selection and Development	06/04	06/04
AR 7150	Site Selection and Development	06/04	06/04
AR 7160	Charter School Facilities	06/04	06/04
BP 7210	Facilities Financing	06/04	06/04
BP 7211	Developer Fees	06/04	06/04
AR 7211	Developer Fees	06/04	06/04
BP 7213	School Facilities Improvement Districts	06/04	06/04
AR 7312	School Facilities Improvement Districts	06/04	06/04
BP 7214	General Obligation Bonds	10/07	10/07
AR 7214	General Obligation Bonds	06/04	06/04
BP 7310	Naming of Facility	06/04	06/04

Observation

- Related specifically to the Citizens' Bond Oversight Committee, which was created to provide oversight of the Measure G bond, as required by the provisions of Proposition 39, the Board approved Administrative Regulation 7214 in June 2004, which defines the CBOC and its duties. Included within AR 7214 is a provision that the "oversight committee shall issue regular reports, at least once a year, on the results of its activities."

CITIZENS' BOND OVERSIGHT COMMITTEE

California Education Code Sections 15278-15282 established the duties of a school district and its duly formed citizens' oversight committee with respect to Proposition 39 bond measures. This code requires that the governing board establish and appoint members to an independent citizens' bond oversight committee within 60 days of the date that election results are certified.

After passage of Measure G on June 3, 2008, the District created a Citizens' Bond Oversight Committee (CBOC) to oversee Measure G. On October 9, 2008, the Board appointed seven members to the CBOC, with initial membership representation from the following six categories:

- Business Community (one member)
- Senior Citizens' Organization (one member)
- Taxpayers' Organization (one member)
- Parent or Guardian of child enrolled in the District (one member)
- Parent or Guardian of child enrolled in the District, plus Active in a Parent-Teacher Organization (one member)
- Community-At-Large (two members)

On February 11, 2010, one additional member of the CBOC was appointed by the Board, representing a Taxpayers' Organization. This member was appointed to replace the Taxpayers' Organization representative who was unable to complete their service on the CBOC. The District subsequently lost the individual representing the Business Community and that position remained vacant for the remainder of 2009-10.

To provide direction to the CBOC, in addition to the law, the Board approved Bylaws on October 9, 2008. Those Bylaws set forth the duties and responsibilities of the CBOC, including a requirement that the committee meet at least once a year, and present an annual written report to the Board of Education.

Education Code Section 15280(b) requires that a Citizens' Bond Oversight Committee establish and maintain a website. The District CBOC and Measure G information can be found on the District's website and includes information on the CBOC Members, and Bylaws, Ballot Language, Measure G Project updates, and meeting agendas and minutes.

According to District staff and records, the CBOC held four meetings during July 1, 2009 through June 30, 2010: August 12, 2009, October 21, 2009, February 23, 2010, and March 16, 2010, as required by the Bylaws. Meeting attendance is outlined in the table below.

Committee Meetings and Membership

<u>Meeting Date</u>	<u>Present</u>	<u>Absent</u>	<u>Quorum</u>
August 12, 2009	6	1	Yes
October 21, 2009	6	1	Yes
February 23, 2010	4	2	Yes
March 16, 2010	5	1	Yes

The website information included minutes from the March 16, 2010 meeting; however, no meeting agenda was available on the website for the March 16, 2010 meeting. The Annual report from the CBOC to the Board of Education, presented on April 15, 2010, was available on the website, as required by the Bylaws. The website also identifies a future meeting schedule. This is the first Performance Audit prepared by TSS of the Measure G program; therefore, there were no previous audits posted.

Observations

- The District has established a page on the District website for Measure G information and Citizens' Bond Oversight Committee information, easily accessible by members of the public.
- The records available on the District website regarding meeting schedules, agendas and minutes of the CBOC were found to be complete with the exception of the March 16, 2010 meeting. Additionally there was information available regarding the status of projects in the Measure G program.
- The District was successful in initially recruiting and appointing a seven member CBOC, but has had difficulty filling vacated membership slots and maintaining a seven member committee, which is required by law.

Recommendation

- The District should recruit a minimum of two additional members to serve on the CBOC to meet the minimum of seven member requirement outlined in Citizen's Bond Oversight Committee Bylaws, Section 5.1. Further, the District should consider an annual appointment of additional committee members to ensure that terms of service are staggered to avoid a potential problem if all member terms expired at the same time.

STATE SCHOOL FACILITY PROGRAM

Background

Board Resolution No. 41-07/08, approved by the Board on February 27, 2008, called for Bond Measure G to provide funding:

“To improve neighborhood schools, fix leaky, deteriorated roofs, improve fire safety, repair and upgrade classrooms, improve student safety and security, renovate outdated restrooms, upgrade heating/ ventilation/ electrical systems for energy efficiency, and computer technology.....”. The language of Measure G directed the District to seek all available sources of funding: “The District must maximize its resources through efficient facility and financial management, seek energy and utility cost savings, must aggressively apply for State matching funds.....” in conjunction with bond funds.

The Measure G Priority Schools Project List presented generalized groups of projects in the following categories; (a) install and upgrade fire prevention, security and emergency response systems, including safety locks and fencing at school sites so that all students are safe; (b) basic repairs, such as leaky roofs and installing and upgrading heating, cooling and ventilation systems to make them more energy efficient; (c) upgrade classroom technology and technology infrastructure; (d) renovate, upgrade classrooms, buildings, including support areas, upgrade facilities as needed, improve access for student and teachers with disabilities, remove hazardous materials, if any; and (e) enhance student safety with improved security systems, lockable gates, security locks and emergency communication systems and outdoor lighting. The majority of these groups of projects are eligible construction work for funding under the State School Facilities Program (SFP). During the last ten years, the District filed facilities applications and completed projects under the following SFP programs:

- 50 – New Construction
- 57 – Modernization

Under the SFP, the District applied for, received funding and completed the construction of one new construction project (San Antonio Elementary School). It also applied for, received funding and completed the construction of twelve modernization projects under the SFP program prior to Measure G. The following table summarizes the amounts of funds received from the State, the District matching funds for completed projects and active construction projects.

State Program	SAB Application #	State Grant Amounts	District Match
New Construction - Completed	50--002 ¹	\$2,567,280	\$4,560
New Construction - Active	50-008 ²	\$6,951,356	\$6,951,356
Modernization - Completed	57- 001 thru 012 ³	\$19,364,268	\$3,954,719
Modernization - Active	none	\$0	\$0
Totals		\$28,882,904	\$10,910,635

¹This new construction project at San Antonio Elementary School was funded by the state under financial hardship application prior to the passage of Measure G.

²The application for new construction grant for the replacement of San Antonio Elementary School is currently in the Unfunded Approvals List of the OPSC/SAB.

³These modernization projects for twelve elementary schools were funded by the state under financial hardship applications prior to the passage of Measure G.

(The financial data presented in the above table came from the Office of Public School Construction/State Allocation Board [OPSC/SAB] website, which maintains current project status for all school districts).

Please refer to the sections entitled "State Modernization Status" and "State New Construction Status" for detailed discussion on the status and details of District applications and grants under the SFP program.

STATE NEW CONSTRUCTION STATUS

New Construction Baseline Eligibility

Under the State School Facility Program (SFP), the state provides New Construction Grants on a 50/50 State/ local sharing basis for public school capital facility projects. The grant is the State's share for the estimated project costs which include, but are not limited to, funding for design, building construction, technology, tests, inspections and furniture/equipment. State new construction grants do not include the costs for site acquisition, site utilities, off-site, service-site, and general-site development costs that may qualify for additional or separate funding. Funds for new construction are granted on per unhouseed pupil basis and calculated based on the District's new construction eligibility or the number of unhouseed pupils established by the district and approved by OPSC/SAB.

The District's New Construction baseline eligibility is the difference between the projected enrollment and the existing building's student capacity. It is determined and approved by the OPSC/SAB based on calculations prepared and submitted by the District on form SAB 50-03 (Eligibility Determination) and data submitted by the District previously on forms SAB 50-01 (Enrollment Certification/Projection) and SAB 50-02 (Existing School Building Capacity). In the SAB 50-01 form, the District uses the California Basic Educational Data System (CBEDS) data to provide the OPSC/SAB with information such as current enrollment numbers, previous three or seven year enrollment numbers and projected enrollment numbers for the next five or ten years. In the SAB 50-02 form, the District reports the existing school building student capacities using the number of classrooms or teaching stations available in the facilities that are used to house the projected enrollment reported in the SAB 50-01. Once the baseline new construction eligibility has been established, the District may update its eligibility annually based on current CBEDS enrollment data. The District's certified enrollment projection reflects enrollment growth or decline which, in turn, results in an increase or decrease in new construction eligibility. As of June 30, 2010, the District's new construction eligibility is presented in the table below.

New Construction Baseline Eligibility

District	Eligibility				
	K-6	7-8	9-12	Non-Severe	Severe
Established Eligibility	5,390	-1,874	0	0	0
SAB approvals/Adjustments	-4,137	88	0	-250	135
Remaining Eligibility	1,253	-1,786	0	-250	135

The District processed SAB 50-03's, SAB 50-04's, and SAB 50-05's for funding of a new construction project for San Antonio Elementary School during the period from 2000 through 2003, before the election of Measure G bond. The District received state funds in the amount of \$2,567,280 under a financial hardship application and contributed \$4,560 of District funds. For this project, the District received a state grant of 99 percent of the total estimated cost of the project. The attached table entitled, "Pre-Measure G New Construction Projects" list the details of state (SFP) funded new construction as of June 30, 2010.

Pre-Measure G State (SFP) New Construction Projects

School	Grade	SAB Application # ¹	SAB Eligibility Approval (50-03) ²	Eligibility Enrollment	SAB Project Approval (50-04)
		50/002	05/24/00		05/24/00
San Antonio Elementary	K-5	SAB Fund Release (50-05)	SAB Grant Amount (%) ³	District Match Amount (%)	Status As of June 30, 2010
		01/21/03	\$2,567,280 (99%)	\$4,560 (1%)	PM Complete
Total			\$2,567,280	\$4,560	

¹A project number is assigned when form SAB 50-04 is filed, which requires DSA-stamped plans and California Department of Education (CDE) approval.

²SAB eligibility is based on Forms SAB 50-01 (Enrollment Certification/Projection), SAB 50-02 (Classroom Inventory), and SAB 50-03 (Eligibility Determination). Updated forms SAB 50-01 with current CBEDS enrollments must be submitted when SAB 50-04 project applications are filed.

³The state grant amount is 50 percent of the total state new construction budget, unless a facility or financial hardship application was filed and approved.

The following table, "Measure G State (SFP) New Construction Projects", lists the District's active project applications and status as of June 30, 2010. The scope of the new construction/school replacement project for San Antonio Elementary School includes tear down and replacement of the school, new multipurpose building, administration building and classroom buildings as well as parking lot, drop-off lanes, playfields, hard court areas and other associated work. According to the data published in the OPSC/SAB website, this project is listed on the state SFP Unfunded Approvals List for an unfunded state apportionment of \$6,951,356, as of May 26, 2010. The District did not apply for facility or financial hardship for this project, therefore, the total state apportionment for this project will not include additional apportionment for hardship. The district match amount for this project, which is anticipated to be \$6,951,356 (50 percent of the state approved construction budget), is presumed to come from Measure G bond funds.

With the San Antonio Elementary School Project on the SFP Unfunded Approvals list, the District now has the opportunity to receive funding of the apportionment when the State Allocation Board (SAB) allocates additional funds and approves apportionments for qualified school projects during their meetings in the coming months when priority funding is determined. Several priority funding rounds occur during the year as state funds become available.

Measure G State (SFP) New Construction Projects

School	Grade	SAB Application # ¹	SAB Eligibility Approval (50-03) ²	Eligibility Enrollment	SAB Project Approval (50-04)
		50/008	05/24/00	525	05/26/10
San Antonio Elementary School	K-5	SAB Fund Release (50-05)	SAB Grant Amount (50%) ³	District Match Amount (50%)	Status As of June 30, 2010
			\$6,951,356 ⁴	\$6,951,356	PM Complete
Total		\$0	\$6,951,356	\$6,951,356	

¹A project number is assigned when form SAB 50-04 is filed, which requires DSA-stamped plans and California Department of Education (CDE) approval.

²SAB eligibility is based on Forms SAB 50-01 (Enrollment Certification/Projection), SAB 50-02 (Classroom Inventory), and SAB 50-03 (Eligibility Determination). Updated forms SAB 50-01 with current CBEDS enrollments must be submitted when SAB 50-04 project applications are filed.

³The state grant amount is 50 percent of the total state new construction budget, unless facility or financial hardship applications have been filed and approved.

⁴The project is listed under the SFP Unfunded Approvals as of May 26, 2010.

STATE MODERNIZATION STATUS

Modernization Baseline Eligibility

The State School Facility Program (SFP) modernization grant provides state funding for improvements to school facilities on a 60/40 basis. Projects eligible under the program include upgrades and replacements to air conditioning, plumbing, lighting and electrical systems and other building systems. Eligibility for a modernization project is established when Form SAB 50-03 is filed with the state, and the State Allocation Board (SAB) approves the application. A school district designs and submits a project to the Division of State Architect (DSA) and the California Department of Education (CDE). The district awaits both agencies' approvals before filing Form SAB 50-04, which establishes funding for a project. If financially advantageous, a district may file a revised SAB 50-03 to reflect the most recent enrollment data. Once the bidding process for a project is complete, the district files form SAB 50-05 to request a release of the state share of modernization funds for the project.

The District's previous modernization program occurred during the period from 2000 through 2005. SAB 50-03's, SAB 50-04's and SAB 50-05's were processed by the District for twelve school modernization projects constructed from 1999 through 2002. The District received state funds totaling \$19,364,268 (83 percent) for these modernization projects for which the District contributed \$3,954,719 (17 percent) of the overall costs. These projects were funded under the SFP program as financial hardship modernization projects and therefore received state shares ranging from 88 percent up to 97 percent of the total estimated cost of the project. The table below titled, "Pre-Measure G State Modernization Projects", shows data and status of these twelve modernization projects as of June 30, 2010.

The Office of Public School Construction/State Allocation Board (OPSC/SAB) maintains an internet website and publishes and updates the current project status of SAB applications from all school districts. Based on data published in the website, the District has no active funding applications in-process for modernization projects that could be co-funded and constructed under the Measure G facilities construction program. As the District files additional modernization documents with OPSC/SAB, the District could receive state funding for eligible schools included in the Measure G bond project list. The amount and timing of potential future state modernization funding cannot be determined until the District files project applications for funding (Form SAB 50-04).

The District has nineteen elementary schools, eight middle schools and an urban community school. Modernization eligibilities under the SFP Modernization Program for twelve of these schools were established in 1999, funded and modernized through 2002. These previously modernized schools currently do not have remaining modernization funding eligibility. However, the fourteen remaining school sites which were not included in the 1999-2002 modernization program could potentially be eligible for state funding under the SFP. Based on the State School Facilities Program (SFP) criteria, school facilities become eligible for state modernization funding when the facility reaches 25 years old. Exceptions are portable classrooms which become eligible after 20 years. The table below titled, "Potential Future State (SFP) Modernization Projects", lists seventeen schools that could potentially become eligible for funding under the SFP Modernization Program as of June 30, 2010".

Pre-Measure G State (SFP) Modernization Projects

Existing Schools (Year Built)	Grade	SAB# ¹ (57/69369 -00-xxx)	SAB Eligibility Approval 50-03	Eligibility Enrollment	SAB Project Approval (50-04)	SAB Fund Release (50-05) ²	SAB Grant Amount (%) ³	District Match Amount (%)	Status
Elementary Schools									
Cassell (1963)	K-6	001	04/28/99	603	7/05/00	06/15/01	\$1,805,504 (92%)	\$150,940 (8%)	Closed 07/22/05
Goss (1961)	K-6	003	04/28/99	478	7/05/00	08/09/00	1,360,279 (94%)	93,704 (6%)	Closed 08/03/05
Hubbard (1959)	K-6	004	04/28/99	528	7/05/00	08/09/00	1,320,247 (89%)	169,429 (11%)	Closed 08/03/05
Meyer (1962)	K-6	005	04/28/99	651	7/05/00	05/04/01	1,797,400 (96%)	79,733 (4%)	Closed 07/22/05
Miller ()	K-6	006	04/28/99	447	7/05/00	06/15/01	\$1,178,234 (89%)	\$144,327 (11%)	Closed 07/22/05
Painter (1961)	K-6	007	04/28/99	337	7/05/00	08/09/00	\$1,087,962 (96%)	\$40,291 (4%)	Closed 08/03/05
Rogers/Adelante (1967)	K-5/ K-6	008	04/28/99	503	7/05/00	01/15/02	\$1,369,960 (94%)	\$121,841 (6%)	Closed 07/22/05
San Antonio (1967)	K-6	009	04/28/99	475	7/05/00	01/15/02	\$1,288,103 (91%)	\$120,853 (9%)	Closed 08/03/05
Slonaker (1962)	K-6	011	04/28/99	475	7/05/00	05/04/01	1,363,533 (94%)	93,358 (6%)	Closed 07/22/05

Existing Schools (Year Built)	Grade	SAB# ¹ (57/69369 -00-xxx)	SAB Eligibility Approval 50-03	Eligibility Enrollment	SAB Project Approval (50-04)	SAB Fund Release (50-05) ²	SAB Grant Amount (%) ³	District Match Amount (%)	Status
Middle Schools									
George (1973)	7-8	002	04/28/99	653	7/05/00	01/15/02	\$1,919,546 (94%)	\$128,100 (6%)	Closed 07/22/05
Sheppard (1961)	7-8	010	04/28/99	863	7/05/00	08/09/00	\$2,470,398 (95%)	\$122,663 (5%)	Closed 08/03/05
Ocala (1972)	7-8	012	04/28/99	810	7/05/00	01/15/02	\$2,403,100 (95%)	\$132,200 (5%)	Closed 07/22/05
Total							\$19,364,268	\$3,954,719	

Twelve Schools

¹A "000" indicates that the District filed form SAB 50-03 to establish eligibility. A project number is assigned when form SAB 50-04 is filed, which requires DSA-stamped plans and CDE approval.

²This column presents actual fund releases. For SAB approved grant amounts, see "SAB Grant Amount" column.

³The state grant amount is 60 percent of the total state modernization budget for project applications (SAB 50-04) filed after April 29, 2002, unless facility or financial hardship applications have been filed. (Applications filed before April 29, 2002, receive 80 percent in state matching funds.) State funding is released to the District after the project has gone to bid, a construction contract has been awarded, and form SAB 50-05 has been filed. The District must provide its matching share of the project budget. This column shows the SAB approved grant amount.

Potential Future State (SFP) Modernization Projects

Existing Schools (Year Built)	Grade	SAB# ¹ (57)	SAB Eligibility Approval (50-03)	Eligibility Enrollment	SAB Project Approval (50-04)	SAB Fund Release (50-05) ²	SAB Grant Amount (%) ³	District Match (%) Amount (%)	Status
Elementary Schools									
A. J. Dorsa (1960)	K-5								
A. Russo/ J. McEntee Academy (1956)	K-2/ 3-6								
Cesar Chavez (1950)	K-5								
Clyde Arbuckle (1961)	K-5								
Horace Cureton (1952)	K-5								
L.U.C.H.A. (1964)	K-5								
Linda Vista (1959)	K-5								
Lyndale (1959)	K-5								
Millard McCollam (1958)	K-5								
Thomas P. Ryan (1967)	K-6								

Existing Schools (Year Built)	Grade	SAB# ¹ (57/)	SAB Eligibility Approval (50-03)	Eligibility Enrollment	SAB Project Approval (50-04)	SAB Fund Release (50-05) ²	SAB Grant Amount (%) ³	District Match (%) Amount (%)	Status
Middle Schools									
C. L. Fischer/Renaissance Academy (1960)	6-8/ 6-8								
Kipp Heartwood Academy ⁵ ()	5-8								
Lee Mathson (1958)	6-8								
Pala (1938)	7-8								
Total	Seventeen Schools								
							\$-0-	\$-0-	

¹A "000" indicates that the District filed form SAB 50-03 to establish eligibility. A project number is assigned when form SAB 50-04 is filed, which requires DSA-stamped plans and CDE approval.

²This column presents actual fund releases. For SAB approved grant amounts, see "SAB Grant Amount" column.

³The state grant amount is 60 percent of the total state modernization budget for project applications (SAB 50-04) filed after April 29, 2002, unless facility or financial hardship applications have been filed. (Applications filed before April 29, 2002, receive 80 percent in state matching funds.) State funding is released to the District after the project has gone to bid, a construction contract has been awarded, and form SAB 50-05 has been filed. The District must provide its matching share of the project budget. This column shows the SAB approved grant amount.

⁴Adjusted SAB 50-03 forms were submitted for these schools. The date is the date of submittal, not the SAB approval date. A new modernization eligibility form was submitted for Voorhies Elementary, which had previously been withdrawn.

⁵This School is not listed in the Measure G Bond Project List or on the District Website. However, it is listed in the Department of Education's California Basic Educational Data System (CBEDS) report and had an enrollment of 360 students in 2008-09 and 369 students in 2009-10.

Observation

- According to the records published in the Office of Public School Construction/State Allocation Board (OPSC/SAB) website, the District has not established the eligibilities for state modernization funding of the remaining twelve elementary schools and five middle schools. When the District approved Resolution # 41-07/08 to place Measure G on the ballot, the District stated that it will apply for State matching facility improvement money when eligible. Measure G bond funds can be used to match potential funds received from the SFP as required by the program.

Recommendation

- It is recommended that the District compile and submit all the necessary documentation for the establishment of modernization eligibilities for the remaining school sites to the OPSC/SAB as soon as possible. Early establishment of eligibility and availability of an estimate of state funding/grant available for district modernization projects will prove useful in the development of project budgets and cash flow analysis for the Measure G facilities program.

PROJECT/CONSTRUCTION MANAGEMENT

The District utilizes the following two approaches to project and construction management: (1) a “traditional” method as described below; and (2) hiring an outside construction management firm for project and construction management of most bond project tasks.

The “traditional” method involves the following participants:

- Owner Representative (District staff – see table below)
- General Contractor
- Architect/Engineer of Record (AOR)
- Inspector of Record (IOR)
- Consultants (specialists, as needed, such as civil engineer, geotechnical engineer, labor compliance consultant, etc.)

As of June 30, 2010, District staff with responsibility for oversight and management of bond projects are noted in the table below. These positions were assigned to the bond program during both the 2008-09 and 2009-10 fiscal years.

Staff Position	Full-time Equivalent (FTE)¹
Chief Facilities Bond Officer	1.0
Facilities Manager/Coordinator	0.75
Administrative Assistant	1.0
Total	2.75

¹A 1.0 Full-time Equivalent or 1.0 FTE is an employee who works a standard 40 hour week.

The primarily in-house facilities management approach often results in a more cost-effective project management program when compared to other project management approaches. The District takes care of some project management in-house, such as hiring of Architects and other Consultants, tracking State funding applications, overseeing bidding, etc. The District operates the bond program primarily with three in-house staff members; a Chief Facilities Bond Officer (1.0 FTE), Facilities Manager/Coordinator (only 0.75 FTE), an Administrative Assistant (1.0). Other internal District staff assist with work on bond projects but are not charged to the bond program. These other staff members include a Purchasing Agent, a Chief Technology Officer and the Director of Maintenance, Operations and Transportation (MOT).

The external method for project management involves hiring a third-party project/construction management firm for construction projects. The District hired Blach Construction to manage most of the project management and construction management tasks in the bond program. Blach Construction is responsible for overseeing the Architects, Contractors and Inspectors. The firm also conducts the bid job walks, works with the Purchasing Department to assemble bids, tracks contractor progress, oversees inspection staff and is also the primary point of contact for the Architects during design and construction.

The District issued a formal Request for Proposals for Project and Construction Management Services in the summer of 2008. Twelve firms provided proposals to the District. Initial interviews were conducted on July 28, 2008, from which three firms were moved forward for further consideration; Blach Construction, Inc., Skanska, and Facilities Management Planning and Operations (FMPO). The Board gave authorization on August 14, 2008, for the District to enter into negotiations with these three firms. After negotiations were finalized, the Board approved a contract with Blach Construction, Inc. on October 9, 2008. The initial contract was signed for a three year period with a cost estimate of \$1,670,481.

Blach Construction, Inc. was also subsequently hired, along with Caldwell, Flores, Winters, Inc. as a primary contractor for the District under a lease-leaseback delivery method. Blach Construction, Inc. served as the contractor for all of the District's lease-leaseback delivered projects in the 2008-09 and 2009-10 fiscal years with the exception of one project, San Antonio Elementary School, which was awarded to Caldwell, Flores, Winters, Inc.

The District has released requests for proposals, received bids for services, and contracted with consultants necessary for administering other services required of the bond program. These services include the following:

- Architect/Engineer of Record (AOR)
- Inspector of Record (IOR)
- Environmental Consultant
- Geotechnical Consultant
- Asbestos Monitoring
- Funding Consultant
- Legal Consultant
- Testing and Special Inspection

Architectural Selection Process

The District requested proposals in the fall of 2008 from qualified architectural firms to provide services on Measure G projects. Several firms responded and a few were selected to be interviewed. Four firms were engaged by the Board of Education on December 18, 2008; BFGC Architects, WLC Architects, Bill Gould Design Art and Architecture and NTD Architecture. As work is identified, the District assigns a task order to each Architect on a project-by-project basis.

As of June 30, 2010, projects assigned to BFGC Architects as Architect of Record include the following:

- Lyndale Elementary School HVAC and Modernization
- Meyer Elementary School HVAC and Modernization
- Mathson Middle School HVAC
- Master Plan

As of June 30, 2010, projects assigned to WLC Architects as Architect of Record include the following:

- Linda Vista Elementary HVAC and Modernization
- District Standards

As of June 30, 2010, projects assigned to NTD Architecture as Architect of Record include the following:

- Arbuckle Elementary School Streetscape
- Chavez Elementary School Streetscape
- Cureton Elementary School Streetscape
- Dorsa Elementary School Streetscape
- Hubbard Elementary School Streetscape
- Mathson Middle School Streetscape
- Hubbard Elementary School Administration Building
- San Antonio Elementary School New Campus Phase I
- San Antonio Elementary School Modernization

Bill Gould Design Art and Architecture has also provided services to the District on both non-bond and Measure G projects. As of June 30, 2010, Bill Gould Design served as the Architect of Record on the following projects:

- Perform updates to the District's existing Facilities Master Plan for the Measure G Bond
- Fischer Middle School HVAC Units and Heat Pumps
- Fischer Middle School Portable Relocations 2009 (non-Measure G)
- Rogers Elementary School and Slonaker Academy Portable Relocations and Site Work 2009 (non-Measure G)
- Linda Vista Elementary School Portable Relocations 2009 (non-Measure G)

The District also contracted with Ave Architects for some minor projects. Ave Architects had participated in the Measure G bond Architectural solicitation in the fall of 2008. However, they were not selected to work on Measure G projects except for two small projects including the following:

- Ocala Middle School Re-roofing
- Sheppard Middle School Re-roofing

Observation

- Due to a decrease in assessed property value and a subsequent drop in bonding capacity, the District's ability to sell Measure G bonds has been delayed. Therefore, for several years after June 2011, additional projects cannot be funded. At the time of the audit interviews in February 2011, the District's primary Project and Construction Manager from Blach Construction, Inc. indicated that his position was being eliminated. Staff reductions were also being considered for internal Facilities staff as well.

Commendation

- The District is commended for keeping project and construction management costs at a reasonable level by having District staff provide some project management and for keeping the use of outside consultants to a reasonable level.
- The District is also commended for accelerating the bond project schedule to take advantage of favorable bid pricing. The District has either completed or started the design of a substantial portion of bond projects ahead of schedule.

DESIGN AND CONSTRUCTION BUDGETS

Process Utilized

TSS conducted a series of interviews with members of the Citizens' Bond Oversight Committee, facilities and consultant staff, and members of the Board of Education. TSS also reviewed documents related to the management and control of District bond funds.

Background Information

The Measure G Bond was approved on June 3, 2008, for \$179,000,000 to improve the District's Elementary and Middle Schools and the District Office. The table below refers to the projected costs/budgets identified in the Facilities Assessment and Master Plan dated March 13, 2008, which identified a total need of \$420,513,808. The plan prioritized the work to be completed at each facility with rankings ranging from 1 to 3, with more urgent projects identified as Priority 1 and less important projects identified as Priority 3. Priority 1 projects included those required for health and safety, Division of State Architect requirements, HVAC upgrades, electrical infrastructure and roofing issues. Priority 2 projects included site improvements, discretionary needs, program considerations and District support needs. Only Priority 1 and 2 projects were factored into the \$420,513,808 plan.

Projects in the Master Plan were also grouped into Phases of planned construction; Phase I to occur during 2008-2010, Phase II to occur during 2011-2012, Phase III to occur during 2013-2014 and Phase IV to occur during 2016-2017. Estimated project budgets are presented in the following table.

MEASURE G BOND PROGRAM MASTER PLAN BUDGETS

Projects	Priority 1 Project Costs	Priority 2 Project Costs	Total Project Budget Per Facilities Assessment and Master Plan¹
Phase I: 2008-2010			
Arbuckle Elementary	\$3,501,058	\$5,591,199	\$9,092,247
Chavez Elementary	\$5,072,405	\$8,571,211	\$13,643,616
Dorsa Elementary	\$5,513,748	\$4,686,618	\$9,825,367
San Antonio Elementary	\$7,757,660	\$6,850,171	\$14,607,832
Slonaker Elementary	\$4,846,934	\$7,167,380	\$12,014,314
Fischer Middle Renaissance Academy	\$8,862,233	\$10,750,430	\$19,612,663
Hubbard Elementary	\$3,545,307	\$7,202,734	\$10,748,041
Phase II: 2011-2012			
Cureton Elementary School	\$5,021,863	\$13,008,062	\$18,029,924
Linda Vista Elementary	\$5,415,704	\$18,507,187	\$23,922,891
Lyndale Elementary	\$5,915,148	\$7,622,618	\$13,537,677
Mathson Middle	\$9,025,372	\$12,532,075	\$21,557,447
Phase III: 2013-2014			
Russo Academy McEntee Academy	\$5,308,143	\$6,961,754	\$12,269,897
George Middle School	\$7,061,365	\$12,668,619	\$19,729,983
McCollam Elementary	\$7,257,474	\$8,592,335	\$15,849,810
Ryan Elementary	\$4,932,573	\$6,920,870	\$11,852,442
Phase IV: 2016-2017			
Sheppard Middle	\$9,448,698	\$27,291,843	\$36,740,541
Cassell Elementary	\$6,473,147	\$6,287,746	\$12,760,893
Goss Elementary I	\$4,311,348	\$8,719,979	\$13,031,327
LUCHA	\$7,797,215	\$6,429,809	\$14,227,024
Meyer Elementary	\$5,724,310	\$10,886,385	\$16,610,704
Ocala Middle	\$9,054,451	\$20,113,288	\$29,167,740
Painter Elementary	\$3,959,964	\$7,408,298	\$11,367,261
Pala Middle	\$10,430,161	\$16,142,983	\$26,573,144
Rogers Elementary Adelante Academy	\$6,390,988	\$8,270,881	\$14,661,869
District Office	\$12,145,364	\$6,933,691	\$19,079,055
Grand Total	\$164,395,639	\$256,118,168	\$420,513,808

¹ Source: Facilities Assessment Master Plan, March 13, 2008.

The following table lists the total project bond expenditures to date as of the end of the 2008-09 and 2009-10 fiscal years.

MEASURE G BOND PROGRAM EXPENDITURES

Projects	Audited Actual Costs 2008-09	Unaudited Actual Costs 2009-10	Total Actual Costs as of June 30, 2010	Total Project Budgets Per Facilities Assessment and Master Plan
Phase I: 2008-2010				
Arbuckle Elementary	\$581,786	\$1,564,993	\$2,146,778	\$9,092,247
Chavez Elementary	\$472,534	\$1,240,163	\$1,712,697	\$13,643,616
Dorsa Elementary	\$441,135	\$1,464,853	\$1,905,988	\$9,825,367
San Antonio Elementary	\$395,653	\$2,284,195	\$2,679,848	\$14,607,832
Slonaker Elementary	\$54,132		\$54,132	\$12,014,314
Fischer Middle and Renaissance Academy	\$2,343,479	\$10,299	\$2,353,778	\$19,612,663
Hubbard Elementary	\$749,977	\$2,667,497	\$3,417,474	\$10,748,041
Phase II: 2011-2012				
Cureton Elementary	\$402,717	\$1,599,308	\$2,002,027	\$18,029,924
Linda Vista Elementary		\$1,702,430	\$1,702,430	\$23,922,891
Lyndale Elementary		\$1,508,765	\$1,508,765	\$13,537,677
Mathson Middle School	\$2,253,937	\$3,326,347	\$5,580,284	\$21,557,447
Phase III: 2013-2014				
Russo Academy and McEntee Academy				\$12,269,897
George Middle				\$19,729,983
McCollam Elementary				\$15,849,810
Ryan Elementary				\$11,852,442
Phase IV: 2016-2017				
Sheppard Middle	\$716,337	\$55,048	\$771,386	\$36,740,541
Cassell Elementary				\$12,760,893
Goss Elementary				\$13,031,327
LUCHA		\$53,788	\$53,787	\$14,227,024
Meyer Elementary		\$345,098	\$345,098	\$16,610,704
Ocala Middle School	\$755,847		\$755,847	\$29,167,740

Projects	Audited Actual Costs 2008-09	Unaudited Actual Costs 2009-10	Total Actual Costs as of June 30, 2010	Total Project Budgets Per Facilities Assessment and Master Plan
Painter Elementary		\$24,906	\$24,906	\$11,367,261
Pala Middle				\$26,573,144
Rogers Elementary and Adelante Academy				\$14,661,869
District Office				\$19,079,055
Miscellaneous Costs				(Soft costs area budgeted into each item above)
Administration	\$355,291	\$402,488	\$757,779	
Construction Planning	\$276,355	\$155,749	\$432,104	
Bond Facilities Office Portable	\$176,765		\$176,765	
Bond Issuance Expenses	\$567,660		\$567,660	
Transfer to Deferred Maintenance	\$612,687		\$612,687	
Bond Project Manager	\$486,435	\$460,771	\$947,206	
Grand Total	\$11,642,729	\$18,866,698	\$27,962,432	\$420,513,709

¹ Source: Budget to Actual by Object and Program To Date Total Expenses as of October 20, 2009.

² Source: Monthly Financial Report as of June 30, 2010 for Measure G – Fund 21.

³ Source: Facilities Assessment Master Plan, March 13, 2008.

Observations

- The District identified priorities in the Facilities Assessment and Master Plan of March 13, 2008 totaling \$420,514,000, which is more than double the current Measure G bond program of \$179,000,000. Decreased assessed property value has impacted the District's ability to issue all the authorized Measure G bonds at this time, which makes the gap between identified needs and financial capital even greater. Realizing the shortfall, the District has put many of the remaining projects on hold until the assessed value and overall economy improve.
- To date, all of the Measure G expenditures are significantly below the amounts budgeted in the Facilities Assessment Master Plan. As of June 30, 2010, \$27,962,432 (15.6 percent) of Measure G bond funds have been expended out of the \$179,000,000 total allotment. In large part, this is due to the fact that a significant portion of the construction work has yet to be completed.

Commendations

- The District is commended for forecasting project shortfalls before they occur. Foreseeing a shortfall in assessed value and bonding capacity, the District put on hold remaining Measure G projects before unnecessary expenses were incurred in design fees. The District also is considering staff reductions to coincide with the end of the 2011 fiscal year and likely end of the current Measure G bond revenue.
- The District has kept bond Program Management costs low. Program Management costs (for both internal staff and outside Project/Construction Management) totaled \$2,313,854 for the 2008 through 2010 fiscal years, representing only 8 percent of the total bond expenditures to date. This is well below other typical districts, many whom have had program management costs as high as 30 percent of total expenditures.

Recommendations

The District's facility needs far outweigh the total Measure G bond amount. Even though projects have been prioritized from 1 to 3, the total Priority 1 and 2 projects will exceed the Measure G bond. The District should further establish which projects they intend to complete under Measure G as the bond program may only be able to fund Priority 1 projects.

- The District should develop a transitional plan for the period starting July 2011 (the date the bond design and construction spending will be put on hold) until the resumption of the bond program. Even though design and construction can be suspended, there are many bond tasks that will need to be completed during this transitional time. Such tasks could include; closing out of projects with the Division of State Architect, annual reporting, resolving lingering change orders and punch list items, resolving construction warranty items, dealing with final payment invoices, closeout of State funding applications, etc. Also, it will be easier to restart the program if there is a plan in place to convey the original bond program goals and current project status to the future bond staff. With several projects only partially completed at each school, the plan should also outline what work has been completed in detail and what known issues exist to make the future planning more effective.

DESIGN AND CONSTRUCTION COSTS AND SCHEDULES

Process Utilized

In this examination, TSS reviewed files and documents and conducted interviews with the Facilities staff and Project/Construction Manager. This section documents schedules of projects in various stages of planning, design and construction.

Background

The Measure G Bond was approved in June 2008 for \$179,000,000 to improve the District's Elementary and Middle Schools and District Office. Included on the bond project list was work at all eighteen of the District's elementary schools, six middle schools, the District office and Academy Schools.

The District had a Facilities Assessment and Master Plan prepared March 13, 2008 to prioritize the bond construction projects. The plan prioritized the work to be completed at each facility in terms of greatest need from 1 to 3, with more urgent projects identified as Priority 1 and projects of less importance identified as Priority 3. Priority 1 projects included those required for health and safety, Division of State Architect requirements, HVAC upgrades, electrical infrastructure and roofing issues. Priority 2 projects included site improvements, discretionary needs, program considerations and District support needs. Only Priority 1 and 2 projects were factored into the \$420,513,808 plan.

Projects in the Master Plan were also grouped into Phases of planned construction; Phase I to occur during 2008-2010, Phase II to occur during 2011-12, Phase III to occur during 2013-14 and Phase IV to occur during 2016-17.

The District anticipates the completion of a majority of the Priority 1 projects under the Measure G program. However, the recent national economic down turn has led to a decrease in assessed value in properties throughout California. The decreased assessed value has caused the District's bonding capacity to be limited such that the District is unable to issue any more bonds under Measure G at this time. The District plans to put the Measure G bond program on hold at the end of the 2011 fiscal year. The District anticipates restarting the program when overall economic conditions improve.

Status of Measure G Projects

The District has completed construction of a portion of the projects planned at sixteen of the District's schools. As of June 30, 2010, \$30,509,427 (17.04 percent) of Measure G bonds have been spent out of the \$179,000,000 total allotment. A significant number of projects are scheduled to be completed at the end of the 2010-11 fiscal year with the remainder postponed until the District is able to sell additional Measure G bonds.

STATUS OF MEASURE G BOND PROJECTS

Projects	Project Completed in 2008-09	Projects Completed in 2009-10	Projects to be Completed in 2010-11	Remaining Projects Planned for Future
Phase I: 2008-2010				
Arbuckle Elementary		Playground, Student Safety & Streetscape Improvement		Remainder of Bond project list
Chavez Elementary		Student Safety & Streetscape Improvement		Remainder of Bond project list
Dorsa Elementary		Student Safety & Streetscape Improvement		Remainder of Bond project list
San Antonio			Construction of New Campus and Modifications to Mexican Heritage Plaza	
Slonaker Elementary				Bond project list
Fischer Middle Renaissance Academy	New HVAC			Remainder of Bond project list
Hubbard Elementary		Playground, Student Safety & Streetscape Improvement	Modernization & New Admin Bldg	
Phase II: 2011-2012				
Cureton Elementary		Student Safety & Streetscape Improvement		Remainder of Bond project list
Linda Vista Elementary			New HVAC, Modernization & Streetscape Improvement	
Lyndale Elementary			New HVAC, Modernization & Streetscape Improvement	
Mathson Middle		New HVAC, Student Safety & Streetscape Improvement	Modifications to Classrooms	

Phase III: 2013-2014				
Russo Academy McEntee Academy				Bond project list
George Middle				Bond project list
McCollam Elementary				Bond project list
Ryan Elementary				Bond project list
Phase IV: 2016-2017				
Sheppard Middle	Re-roofing			Remainder of Bond project list
Cassell Elementary				Bond project list
Goss Elementary				Bond project list
LUCHA	Some Planning occurred	Some Planning occurred		Remainder of Bond project list
Meyer Elementary		Some Planning occurred		Remainder of Bond project list
Ocala Middle	Re-roofing			Remainder of Bond project list
Painter Elementary				Remainder of Bond project list
Pala Middle			Leaseholder Improvements	Remainder of Bond project list
Rogers Elementary Adelante Academy				Bond project list
District Office	Facilities Office Trailer Lease			Remainder of Bond project list
Miscellaneous				
Program Items	Master Plan, ADA Transition Plan			

Observations

- The District adopted a Facilities Assessment and Master Plan dated March 13, 2008. This document identified project priorities and a master schedule for the Measure G bond program. Several Phase I and II bond projects have been or will be completed on time as per the schedule. Remaining work for all phases of the Measure G Bond program will be put on hold at the end of the 2011 fiscal year due to lack of revenue from halted bond sales.
- The District completed a small number of the Phase IV improvements in the 2008-09 and 2009-10 fiscal years. Although Phase IV projects were scheduled for the 2016-17 fiscal year, the District determined that some of the work was necessary sooner than anticipated. Such projects included re-roofing at Ocala Middle School and Sheppard Middle School, leaseholder improvements at Pala Middle School and District Office improvements such as an office trailer for the Facilities Department.
- The District has effectively managed the project schedule, keeping projects on track and on schedule.

Recommendation

- The District should develop a new Master Schedule for the Measure G Bond program once the program resumes. Similar to the current schedule, the new schedule should recognize the priority of projects as identified in the Facilities Assessment and Master Plan, with more urgently needed work occurring first. The Measure G Bond program will likely only fund a portion of all the projects identified in the Facilities Assessment and Master Plan, but could likely cover most of the Priority 1 projects.

CHANGE ORDERS, CLAIM PROCEDURES, AND RESULTS

Process Utilized

In the process of this examination, TSS analyzed relevant documents and conducted interviews with staff. Change order documents were reviewed to determine the cost of change orders for each construction project and to verify that the approval process complied with the requirement of the codes. Information from Board of Trustees meeting agendas and minutes from fiscal years 2008-09 through 2009-10 and documents from facilities project files were also reviewed in the analysis.

Background

The need to authorize and issue change orders in construction projects is almost unavoidable. Unknown conditions such as inaccuracies of as-built drawings, errors in plans and drawings, soil conditions, presence of hazardous materials, additions to or deletions from the scope of work and many other factors contribute to the necessity for change orders. Change orders for modernization or facility improvement projects generally range from two percent to five percent while new construction projects range from three to four percent of the original contract amount. An article published in the *American School and University Magazine*, on November 1, 2005, recommended carrying 2 to 5 percent contingency for change orders. A higher contingency is recommended for renovations or to accommodate difficult site conditions.

Public Contract Code 20118.4.(a) stipulates that the governing board of a district may authorize changes or alterations of a contract (change orders) without the formality of securing bids if the cost so agreed upon does not exceed ten percent of the original contract price. In addition, Public Contract Code 20113 (a) allows the board to authorize, by a unanimous vote and with the approval of the county superintendent of schools, the performance of work in an emergency without advertising for or inviting bids. In this context, an emergency exists if the work is necessary for a facility of a public school to permit the continuance of existing school classes, or to avoid danger to life or property.

Change orders are usually triggered by a Request for Information (RFI), which is a request for clarification in the drawings or specifications. An RFI is reviewed and responded to by the architect and/or project engineers. If it is determined that additional work or a reduction/deletion in work is necessary, the contractor submits a Proposed Change Order (PCO) for the additional cost, a reduction in cost, and/or time extension based on the determination. The project Construction Manager (CM) reviews the proposal with the architect of record, project inspector and the District representative. If a PCO is found acceptable, the work and accordingly an increase or decrease in the contract price is authorized. The CM summarizes the PCOs in a change order document which are then submitted to the Facilities/Bonds Department for review, processing and Board of Trustees approval. Once approved by the Board, change order documents are signed-off by the Architect of Record, Contractor, Construction Manager and the District and then processed through the DSA.

Design-Bid-Build (DBB)/ Formal Public Bid Contracts

The District's typical Design-Bid-Build Contract includes contingency allowance as part of the contract amount. Contingencies are used to fund changes in work due to unforeseen conditions, errors and omissions in the plans and drawings, repairs, additional work due to discovery of utilities not shown on the drawings, or District requests to delete or add to the scope of work during the course of construction. The District, architect and contractor approve each individual proposed changes and their cost and time impact. At the completion of the project, the net additive or deductive cost of all changes is determined and a Change Order (CO) document is prepared to officially authorize adjustment of the original contract amount.

Lease-Leaseback Contracts

Lease-leaseback agreements not only include predetermined contingencies but also include allowances as part of the Guaranteed Project Cost (GPC). These contingencies and allowances are added to the GPC for the purpose of setting aside funds within the contract primarily to mitigate unforeseen conditions and known but indeterminate scopes of work, such as incomplete design and unknown material quantities and/or prices at the time the GPC and the agreement was finalized. As stipulated in the lease-leaseback agreement, the unused portion of the contingency and allowances are returned to the District at the completion of a project. The contractor prepares a change order document for this purpose.

Construction Contingency

"Construction Contingency" allowance is included in the Guaranteed Project Cost (GPC) and is set up to pay for contractor's allowable costs such as: a) changes in work due to errors and omissions in the plans and drawings, b) repairs, removals or relocations of underground structures and utilities not shown on the drawings, and c) other unforeseen conditions. During the course of construction, the District, architect and contractor approve the individual proposed changes and their cost and time impact. At the completion of the project, the net additive or deductive cost of all changes is determined and a Change Order (CO) document is prepared to officially authorize the adjustments to the Guaranteed Project Cost (GPC) of the contract.

Allowances

A list of additional scopes of work called "Allowances" are included as part of the GPC. These additional scopes of work with predetermined amounts are additional work whose need and magnitude were uncertain at the time of the execution of the agreement. Funds included in the GPC as allowances are intended to pay for the listed specific additional scopes of work if required by the District or if ascertained after the execution of the lease-leaseback agreement. The District authorizes the use of these allowances and approves payment for the work as line items in the contractor's change order and allowances log. Unused allowances are credited back to the District through deductive change orders which are reviewed by the construction team and approved by the District.

Change Orders: Measure G Projects

From the start of the 2008 Measure G construction program through June 30, 2010, the District awarded contracts for 3 Design-Bid-Build (DBB) Projects and 13 Lease-Leaseback (LLB) Projects. Change orders for all completed projects were reviewed and verified by staff and approved by the Board of Trustees. A summary of the change orders extracted from the Board agenda items and project facilities project files are shown in the following table.

Change Orders - Measure G Bond Funded Projects

School Site	Project Description/ Contractor	Contract Amount/ (Award Date)	Change Order Amount/ (Approval Date)	% of Original Contract Amount	Final Adjusted Contract Amount	Notice of Completion
Fischer Middle	Installation of HVAC Units and Heat Pumps/ Santa Clara Valley Corp. (DBB)	\$1,746,789/ (05/15/2008)				03/12/2009
Ocala Middle	Re-Roofing/ Fidelity Roofing (DBB)	\$778,461/ (06/19/2008)	-\$30,539 (08/19/2008)	-3.89%	\$747,921	10/07/2008
Sheppard Middle	Re-Roofing/ Fidelity Roofing (DBB)	\$738,029/ (06/19/2008)	-\$21,691 (08/15/2008)	-2.93%	\$716,337	10/07/2008
Arbuckle Elementary	Streetscape Project; / Blach Const., Inc. (LLB)	\$2,107,080 (05/14/2009)	-\$317,113 (11/12/2009)	-15.04%	\$1,789,967	11/12/2009
Chavez Elementary	Streetscape Project; / Blach Const., Inc. (LLB)	\$1,624,526 (05/14/2009)	-\$209,688 (11/12/2009)	-12.90%	\$1,414,838	11/12/2009
Cureton Elementary	Streetscape Project; / Blach Const., Inc. (LLB)	\$1,976,646 (05/14/2009)	-\$296,936 (11/12/2009)	-15.02%	\$1,679,710	11/12/2009
Dorsa Elementary	Streetscape Project; / Blach Const., Inc. (LLB)	\$1,916,197 (05/14/2009)	-\$341,583 (11/12/2009)	-17.82%	\$1,574,614	11/12/2009
Hubbard Elementary	Streetscape Project; / Blach Const., Inc. (LLB)	\$1,449,489 (05/14/2009)	-\$81,926 (11/12/2009)	-5.65%	\$1,367,564	11/12/2009

School Site	Project Description/ Contractor	Contract Amount/ (Award Date)	Change Order Amount/ (Approval Date)	% of Original Contract Amount	Final Adjusted Contract Amount	Notice of Completion
Mathson Middle	Streetscape Project; / Blach Const., Inc. (LLB)	\$2,006,026 (05/14/2009)	-\$388,317 (11/12/2009)	-19.35%	\$1,617,709	11/12/2009
Mathson Middle	HVAC Replacement. Blach Const., Inc. (LLB)	\$3,094,595 (05/14/2009)	-\$272,794 (11/12/2009)	-8.81%	\$2,821,801	11/12/2009
Pala Middle	Leaseholder Improvements etc./ Blach Const., Inc. (LLB)	\$2,840,775 (02/11/2010)				
Hubbard Elementary	Modernization and New Administration Bldg/ Blach Const., Inc. (LLB)	\$3,750,000 (02/11/2010)				
Linda Vista Elementary	Air-Conditioning, Streetscape and Modernization Project/ Blach Const., Inc. (LLB)	\$5,650,000 05/13/2010				
Lyndale Elementary	Air-Conditioning, Streetscape and Modernization Project/ Blach Const., Inc. (LLB)	\$5,850,000 05/13/2010				
San Antonio Elementary	Construction of New School Campus, P1/ Blach Const., Inc. (LLB)	\$17,500,000 05/13/2010				
San Antonio Elementary	Modifications to Mexican Heritage Plaza and Mathson Middle School Classrooms/ Blach Const., Inc. (LLB)	\$400,000 05/13/2010				

Observations

- On February 11, 2010, the Board delegated authority to the Superintendent to approve the lease-leaseback contract for the Pala Middle School Leaseholder Improvements project. As noted in the Board agenda, approval of the contract was subject to the ratification of the Board of Trustees at the next appropriate board meeting. Based on the review of the agenda and minutes of the Board of Trustees meetings during the succeeding months, TSS could not verify that these lease-leaseback contracts were returned to the Board for approval or ratification.
- On May 13, 2010, the Board authorized District staff to enter into Lease-Leaseback contracts with Blach Construction, Inc. for the construction of the Linda Vista Air-Conditioning, Streetscape and Modernization project, the Lyndale Air-Conditioning, Streetscape and Modernization project and the San Antonio Elementary School Phase I New Campus Construction project. The Board authorized staff based on “Not to Exceed” (NTE) amounts presented while the contractor was in the process of soliciting bids from subcontractors. Based on the review of the agenda and minutes of the Board of Trustees meetings during the succeeding months, TSS could not verify that these lease-leaseback contracts were returned to the Board complete with the final list of subcontractors and Guaranteed Project Cost (GPC) for approval or ratification.
- Final change orders submitted for the completed public bid projects were deductive change orders or return of funds which resulted in the reduction of the contract amount. Contract amounts for the public bid projects included contingency funds at 5.4 percent of the base bid for the Sheppard Re-roofing project and 5.6 percent of the base bid for the Ocala Re-Roofing project. Returned funds were not savings derived from cost-saving or value engineering measures initiated by the construction team but unused contingency funds. A review of available change order documents indicate that the actual use of contingency funds was 2.91 percent for the Sheppard Re-roofing project and 1.55 percent for the Ocala Re-roofing project.
- Final change orders submitted for the completed lease-leaseback projects were deductive change orders resulting in the reduction of the final Guaranteed Project Cost (GPC). It should be noted that the contingencies provided for in these contracts were high when compared to the 10 percent threshold established by the Public Contract Code for change orders and the commonly observed change order standard typically found in the industry. As a result, funds are returned to the District not as savings from cost-saving or value engineering measures initiated by the construction team but as excesses from contingency funds and allowances provided in the contract. Review of available change order documents indicate that the actual change orders paid for by the contingency funds ranged from 0.3 percent to 14.76 percent of the base price. Actual change orders paid for under the allowances was 2.07 percent up to 19.55 percent of the base price. Refer to the “Bidding and Procurement” section of this report for detailed information on contingencies and allowances for lease-leaseback contracts.

Recommendations

- It is recommended that the District ensure that contracts approved or entered into by staff pursuant to delegations or authorizations by the Board of Trustees are returned to the Board for approval or ratification. Such action is required by the California Education Code 17604 which states that. . . . *"the power to contract is invested in the governing board or any member thereof the power may be delegated to the Superintendent or designee and may be limited as to time, money or subject matter . . . or blanket in advance of its exercise . . . as the board may direct However, 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 be approved or ratified by the board..."* Failure to comply with these requirements could expose the District to unnecessary liabilities.
- It is recommended that the District expend more effort and vigilance in the review and approval of cost estimates to ensure that the use of contingencies and allowances in the procurement of contracts are within the appropriate and generally accepted range.

PAYMENT PROCEDURES

Process Utilized

In the process of this examination, numerous purchasing and payment documents pertaining to expenditures funded through Measure G were reviewed for compliance. Interviews were held with the Chief Facilities Bond Officer, Bond Manager, Program Manager, Chief Business Official and Director of Fiscal Services regarding payment procedures and processes.

The review consisted of the following:

- Verification that expenditures charged to the Measure G Bond were authorized as Measure G projects;
- Compliance with the District's Purchasing and Payment policies and procedures;
- Verification that back up documentation, including authorized signatures, were present on payment requests; and
- Vendor payment timelines.

To prepare for the testing of Measure G bond funded expenditures, Total School Solutions reviewed the District's Board Policies and the District's 2008-09 and 2009-10 Annual Financial Audit Reports, District's General Obligation Bond Fund Measure G Agreed-Upon Procedures Report dated June 30, 2009 and Annual Financial Report Measure G General Obligation Bond Fund Report dated June 30, 2010. The District's 2008-09 and 2009-10 audit sections entitled "schedule of audit findings and questionable costs" indicated there were no matters reported.

The results of this examination showed that the bond expenditures were used for approved bond program purposes, invoices were reviewed and approved, the District's purchasing and payment policies were followed and vendor payment timelines were acceptable.

Background

When the Board of Education approves a construction contract, a requisition is initiated for the full contract amount and coded to the appropriate budget account by the Facilities Manager. The requisition is electronically routed to the Chief Bond Officer for approval, once approved it is then routed to the Purchasing Department.

The purchasing department assigns the purchase order number. Adequate funds must be available for the purchase order to be released. The funds are encumbered for the full amount of the purchase order and as payments are made the encumbrance is reduced by the amount expended. Copies of the purchase order are then routed to the Facilities Department and to Accounts Payable.

All bond/construction related invoices are reviewed and approved by the Chief Bond Officer and Facilities Manager prior to being sent to Accounts Payable for processing.

Sample

In the course of this examination, fifty-two warrants totaling \$5,623,597 (25 percent of the total warrants issued out of Fund 21) processed during the period of July 1, 2009 – June 30, 2010 were reviewed. The sample of vendor payments reviewed was designed to provide appropriate conclusions about the processes used and the validity of the payment.

The review consisted of verification that expenditures charged to the Measure G bond were authorized and in accordance with ballot language; evidence of appropriate approvals and backup documentation were present (i.e., owner, architect, and inspector); verification of the invoice amount and reconciliation between the invoice and the amount paid; and a review of the timeline from the time invoices were received to the date of warrant issuance (i.e., the processing time to pay vendors or service providers).

The sample of payments included the following Measure G projects:

- HVAC - Linda Vista Elementary School
- Sanitation and Soil Testing – Various Sites
- Labor Compliance (LCP) – Various Projects
- Fire Protection Services – Foley Avenue
- Measure G Plan Update
- ADA Upgrades – Linda Vista Elementary School
- Program Management Services
 - San Antonio Elementary School
 - Hubbard Elementary School
- Utility Hookups – Linda Vista Elementary School
- Asbestos and Lead Inspection/Testing – Various Sites
- Security Installation – June Avenue
- Office Improvements, Underground and Public Work Services – San Antonio Elementary School
- Division State Architect DSA Plan Check Fees
- Inspection Services
 - Meyers Elementary School
 - Linda Vista Elementary School
 - Hubbard Elementary School
- Admin Building and Modernization – Hubbard Elementary School
- Architectural and Engineering Services
 - Donald Meyer Elementary School
 - Hubbard Elementary School
 - Linda Vista Elementary School
 - San Antonio Elementary School

Observations

- All of the invoices reviewed were authorized expenditures under Measure G.
- All of the invoices included in the sample showed evidence of being appropriately reviewed and approved.

BIDDING AND PROCUREMENT PROCEDURES

Process Utilized

TSS conducted a series of interviews with the District Superintendent, the Chief Bond Facilities Officer, Program Manager and the Bond Account Coordinator. TSS also reviewed Board agenda items, bidding and procurement records in the process of this examination.

The review consisted of the following:

- Verification that formal public bid projects were advertised in accordance with public contract code;
- Verification of bid results and Board approval; and
- Confirmation that project files include contract documents and other pertinent documentation

Background

Alum Rock Union Elementary School District utilized the Design-Bid-Build (DBB) construction contract formal public bid method in the delivery of construction projects prior to and in the early part of the bond facilities construction program. The District also resolved to become subject to the California Uniform Public Cost Accounting Act (CUPCAA) informal public bid method of project delivery. However, for the rest of the projects of the Measure G bond program, Lease-Leaseback construction contracts has become the primary method used in the delivery of these construction projects.

Design-Bid-Build (DBB) Contracts/ Formal Bid Process

Design-bid-build projects are delivered through the formal public bid process in accordance with Public Contracting Code 20110 thru 20118 which requires competitive bidding for public projects subject to the limits imposed by the California State Controller's office. It also requires the District governing board to award construction contracts to the lowest bidder who shall give security as the board requires. Public bids require advertisement of a notice calling for bids in a newspaper of general circulation at least once a week for two weeks.

The formal public bidding process is administered by the District Facilities/Program Management staff and architect assigned to the project. The architect is responsible for putting together the specifications and plan documents. Legal notifications and publications, coordination of the pre-bid walk and bid opening are done by the District Facilities Staff and Program Manager.

Notices to Bidders are usually published in the *San Jose Mercury News* while the specifications and plan documents are distributed to the builders' exchanges.

Bids are opened either in the District Office or the Maintenance Office. The Chief Facilities Bond Officer and the Program Manager facilitate the opening of bids. Bids are awarded on the basis of the lowest responsive responsible bidder as required under Public Contract Code 20111. The bid opening timeline is coordinated with Board meeting timelines, so that bids can be taken to the next available Board meeting and awarded at that time. Once the bid is awarded, the contractor is required to submit all required documents within seven days. The Notice to Proceed is initiated upon receipt of the required signed agreement and security documents.

**Measure G Projects
Contracts Awarded through Formal Bid Process**

School	Project Description	Bid Opening	No. of Bidders	Base Bid (High)	Base Bid (Low)	Variances Between Bids	BOE Approval of Award	Contractor	Contract Amount
Sheppard Middle	Re-Roofing	06/02/2008	4	\$1,088,811	\$738,029	\$350,782	06/19/2008	Fidelity Roofing	\$738,029
Ocala Middle	Re-Roofing	06/02/2008	6	\$1,149,418	\$778,461	\$370,957	06/19/2008	Fidelity Roofing	\$778,461
Fischer Middle	Installation of HVAC Units and Heat Pumps	05/06/2008	2	\$2,048,000	\$1,690,989	\$357,011	05/15/2008	Santa Clara Valley Corporation	\$1,746,789 ¹

¹The actual Contract Amount awarded includes the Base Bid (\$1,690,989), an Additive Alternate (\$50,000), Delivery, Installation and Disconnection (\$1,400) and a Cost per Day work for 10 days at \$440/day (\$4,400).

Following are the details of the formal bidding process conducted by the District for bond funded projects reviewed during this audit.

Sheppard Middle School Re-Roofing Project (Bid # B0809-290104):

The notice to bidders was advertised in the *San Jose Mercury News* on May 15 and 22, 2008. The bids were received and opened on June 2, 2008 at the District Office. There were 18 days between the bid publication and bid opening date. Following is a tabulation of the bids received for this project:

Contractor	Base Bids¹
Waterproofing Associates	\$1,088,811
Fidelity Roof	\$738,029
Best Contracting Services	\$960,134
Legacy Roofing	\$1,040,901

¹The Base Bids shown above includes a \$42,000 contingency.

The Board awarded the contract to Fidelity Roofing, the lowest responsive bidder on June 19, 2008. The Notice of Award (NOA) was issued by the District on June 19, 2008. Signed contract agreements and securities which include Performance Bonds, Labor and Material Bonds, Workers Compensation Certificates, Certificates of Insurances and other certifications were submitted by the contractor as required by the district within 7 days of the issuance of the NOA. The Notice to Proceed (NTP) was issued on June 30, 2008, with a target completion date of August 8, 2008, in accordance with the Agreement executed by both parties.

Ocala Middle School Re-Roofing Project (Bid # 290103):

The notice to bidders was advertised in *San Jose Mercury News* on May 15 and 22, 2008. Bids were received and opened on June 2, 2008 at the District Office. There were 18 days between the bid publication and bid opening date. Following is a tabulation of the bids received for this project:

Contractor	Base Bids¹
Waterproofing Associates	\$1,113,980
Fidelity Roof	\$778,461
Western Roofing	\$988,800
All Seasons Roofing	\$838,300
Best Contracting Services	\$846,674
Legacy Roofing	\$1,149,418

¹The Base Bids shown above includes a \$42,000 contingency.

The Board awarded the contract to Fidelity Roofing, the lowest responsive bidder on June 19, 2008. The Notice of Award (NOA) was issued by the District on June 19, 2008. Signed contract agreements and securities which include Performance Bonds, Labor and Material Bonds, Workers Compensation Certificates, Certificates of Insurances and other certifications were submitted by the contractor as required by the district within 7 days of the issuance of the NOA. The Notice to Proceed (NTP) was issued on June 30, 2008, with a target completion date of August 10, 2008, in accordance with the Agreement executed by both parties.

**Fischer Middle School/Renaissance Academy Installation of HVAC Units and Heat Pumps
Project (Bid # B0809-290201):**

The notice to bidders was advertised in *The San Jose Mercury News* on April 18 and 25, 2008. Bids were received and opened on May 6, 2008. There were 18 days between the bid publication and bid opening date. Bidders were required to attend one of the mandatory pre-bid conferences and site visits held on April 23 and 24, 2008, at Fischer Middle School. Following is a tabulation of the bids received for this project:

Contractor	Base Bid	Additive Alternate	Delivery, Installation & Disconnection	Cost Per Day
Santa Clara Valley Corporation	\$1,690,989	\$50,000	\$1,400	\$440
ESR Construction	\$2,048,000	\$96,800	\$14,500	\$2,500

The Board awarded the contract to Santa Clara Valley Corporation, the lowest responsive bidder, on May 15, 2008. The Notice of Award (NOA) was issued by the District on June 19, 2008. Signed contract agreements and securities which include Performance Bonds, Labor and Material Bonds, Workers Compensation Certificates, Certificates of Insurances and other certifications were submitted by the contractor as required by the district within 7 days of the issuance of the NOA. The Notice to Proceed (NTP) was issued on May 26, 2008, with a target completion date of August 18, 2008, in accordance with the Agreement executed by both parties.

Lease-Leaseback (LLB) Construction Contracts

Section 17406 of the California Education Code (CEC) allows the governing board of a school district, without advertising for bids, to let district property for the purpose of constructing a school building, provided that the lease or agreement meets the conditions set forth in Section 17402 of the CEC and that the title of the building vests in the district upon completion of construction. Section 17402 requires that before the governing board of the district enters into a lease or agreement, it must have available an approved site and a set of plans and specifications for the building(s) to be constructed which are duly approved by the California Department of Education (CDE).

The District selected architects for the projects using the Request for Proposals (RFP) method and a thorough interview process. The selected architects were then assigned projects to design, prepare plans and specifications, obtain DSA approvals and prepare the construction documents. In some instances, a district may commission the lease-leaseback contractor to participate in the design process.

Lease-leaseback contractors are likewise selected through an RFP process. The Department of State Architect (DSA) approved plans and specifications are issued to the contractor for constructability review, and for soliciting competitive subcontractor bids for all the required trades. The District oversees the bidding process and contractor will not award subcontracts without owner concurrence in the selection, scope and price of subcontracted services. Once all the subcontractors are selected, the lease-leaseback contractor puts together the contractor's Guaranteed Project Cost (GPC) and submits the GPC proposal to the district for review and approval. If the district accepts and approves the GPC and completes the negotiations for the final details of the contract, a lease-leaseback agreement is prepared and approved by both parties.

The Guaranteed Project Cost (GPC) for the Districts typical lease-leaseback contract has three components; Base Price, Construction Contingency and Allowances. The Base Price includes subcontractor costs, general conditions costs and fees. Construction contingency funds are used to pay for costs related to changes in work due to design errors and omissions, repairs and removals of unknown utilities or not shown in the drawings and/or other unforeseen conditions. Allowances are funds to be used for additional scopes of work listed in the agreement whose need and magnitude were uncertain at the time of the execution of the agreement.

Lease-leaseback projects awarded during fiscal year 2008-09 through 2009-10 are shown in the following table:

Measure G Projects
Contracts Awarded Through Lease-Leaseback Agreements

School	Project Description	Base Price	Construction Contingency/ (% of Base Price)	Allowances		Guaranteed Project Cost (GPC)
				No. Of Items	Amount (% of Base Price)	
Arbuckle Elementary	Streetscape Project; / Blach Const., Inc. (LLB)	\$1,649,782	\$237,379 (16.57%)	6	\$219,920 (13.30%)	\$2,107,080 (05/14/2009)
Chavez Elementary	Streetscape Project; / Blach Const, Inc. (LLB)	\$1,258,523	\$181,083 (14.38%)	5	\$184,920 (14.69%)	\$1,624,526 (05/14/2009)
Cureton Elementary	Streetscape Project; / Blach Const., Inc. (LLB)	\$1,476,745	\$212,481 (14.38%)	8	\$287,420 (19.46%)	\$1,976,646 (05/14/2009)
Dorsa Elementary	Streetscape Project; / Blach Const., Inc. (LLB)	\$1,423,900	\$204,878 (14.38%)	8	\$287,420 (20.18%)	\$1,916,197 (05/14/2009)
Hubbard Elementary	Streetscape Project; / Blach Const., Inc. (LLB)	\$1,018,082	\$146,487 (14.38%)	7	\$284,920 (27.98%)	\$1,449,489 (05/14/2009)
Mathson Middle	Streetscape Project; / Blach Const., (LLB)	\$1,467,461	\$211,145 (14.38%)	8	\$327,420 (22.31%)	\$2,006,026 (05/14/2009)
Mathson Middle	HVAC Replacement/ Blach Const., Inc. (LLB)	\$2,517,010	\$362,160 (14.38%)	4	\$215,425 (8.55%)	\$3,094,595 (05/14/2009)
Pala Middle	Leaseholder Improvements/ Blach Const., Inc. (LLB)	\$	\$			\$2,840,775*3 (02/11/2010)
Hubbard Elementary	Modernization and New Admin Building/ Blach Const., Inc. (LLB)	\$3,103,454	\$211,546 (6.81%)	8	\$435,000 (14.01%)	\$3,750,000 (02/11/2010)
Linda Vista Elementary	Air-Conditioning, Streetscape and Modernization Project/ Blach Const., Inc. (LLB)	\$4,914,636	\$540,364 (10.99%)	6	\$195,000 (3.96%)	\$5,650,000 05/13/2010
Lyndale Elementary	Air-Conditioning, Streetscape and Modernization Project/ Blach Const., Inc. (LLB)	\$5,445,681	\$259,318 (4.76%)	6	\$145,000 (2.66%)	\$5,850,000 05/13/2010
San Antonio Elementary	Construction of New School Campus, P1/ Blach Const., Inc. (LLB)	\$15,564,891	\$1,435,109 (9.22%)	10	\$500,000 (3.21%)	\$17,500,000 05/13/2010
San Antonio Elementary	Modifications to Mexican Heritage Plaza and Mathson Middle School / Blach Const., Inc. (LLB)	\$400,000 05/13/2010				

California Uniform Public Cost Accounting Act (CUPCCAA) Contracts

On November 13, 2008, the Board of Trustees approved Resolution # 17-08/09 and 18-08/09 to become subject to the California Uniform Public Construction Cost Accounting Act (CUPCCAA), promulgated by the California State Controller. The resolution allowed the District to engage in the informal bidding procedures permitted under the Act which states that Public Contract Code 2200 permits school districts that adopt specified uniform cost accounting standards for construction work to increase the threshold for construction projects that may be performed by force account or without competitive bidding and to use certain informal procedures for letting contracts for public projects within a specified range. Currently, public projects of \$30,000 or less may be performed by force account, negotiated contract, or purchase order; public projects of \$125,000 (\$137,500 in special circumstances) or less may be performed by informal bidding procedures and public projects over \$125,000 require formal bid procedures.

Under CUPCCAA, the District is required to create and maintain a list of qualified contractors by category of work. Each year the District is required to publicly invite licensed contractors to submit their name for inclusion on the list. The District may select a qualified contractor from this list for projects under \$30,000 without going through any bid process.

Observations

- The District has previously conducted the pre-qualification process and maintained a list of contractors (by trades) qualified to perform work for the District and has also re-qualified others to current status in compliance with CUPCCAA requirements. However, the District has not utilized this method of project delivery for Measure G funded projects.
- As shown in the table “Contracts Awarded through Lease-Leaseback Agreements”, the Guaranteed Project Costs (GPC) for the seven streetscape projects which were completed in fiscal year 2008-09 include contingency funds that were as high as 16.57 percent of the base price for the Arbuckle Streetscape Project and allowances that were as high as 27.98 percent of the base price for the Hubbard Streetscape Project. Combined totals of construction contingency and allowance were as high as 42.36 percent of the base price for the Hubbard Streetscape project. These percentages for construction appear high when compared to the 10 percent threshold established by the Public Contract Code for change orders and the commonly observed levels in the industry of 3 to 5 percent for change orders. Likewise, the high percentages of allowances provided in the contracts create a perception that the design, drawings and specifications do not provide sufficient data or details to allow the contractor to develop complete and reliable cost estimates. Refer to the “Change Orders, Claim Procedures and Results” section of this report for additional information.

- Review of available lease-leaseback contract documents reveal that items typically covered under contingencies also appear as line items under allowances. Examples of these are “unforeseen underground conditions”; “additional demolition and abatement”; and “Soils Testing and Overhaul”. In addition, design items such as DSA/ADA access and PG&E upgrades which are typically included in the design and specifications appear as line items under allowances. Furthermore, base price items such as acoustical ceilings, concrete moisture control, etc. and general conditions items such as cleaning, wet weather and safety allowances also appear as line items under allowances. Again, this creates a perception that allowances are needed because the design, drawings and specifications do not provide sufficient data or design details to allow the contractor to develop complete and reliable cost estimates.

Recommendations

- It is recommended that the District conduct closer review of construction contingencies and allowances included in the lease-leaseback agreements to ensure that only appropriate items and justifiable costs are presented prior to approval.
- It is recommended that comprehensive constructability reviews of construction plans and specifications should be conducted to ensure that design issues are rectified prior to the development of the GPC and execution of lease-leaseback agreements. Comprehensive reviews aimed at ensuring complete and reliable construction design and specifications minimize the need for allowances in lease-leaseback contracts.

EFFECTIVENESS OF THE PUBLIC OUTREACH PROGRAM AND COMMUNICATION CHANNELS AMONG ALL STAKEHOLDERS WITHIN THE BOND PROGRAM

Process Utilized

TSS interviewed the Superintendent, the Assistant Superintendent, Business Services, the Chief Facilities Bond Officer, the Chief Technology Officer, the Director of Fiscal Services, the Fiscal Services Administrator, the Internal Auditor, and other personnel involved in the Districts facilities program. Some members of the Citizens' Bond Oversight Committee were interviewed to discuss communication channels among those working in and with the Bond Program, and the Districts efforts to communicate information about the program to the larger community. TSS also reviewed the District's website, and the District's press releases and newsletters and received written correspondence from the former Chief Information Officer, who had been responsible for communication matters until the time of her departure from the District.

The purpose of this review was to examine the processes used to convey information about the bond program to interested parties. These systems for communicating serve as a measurement of the effectiveness of disseminating information to parties involved and interested in the bond program and its operations. These communication systems and information also indicate the effectiveness of communication to school sites and the community at large.

Background

Effective communication between members of the District management staff, Facilities staff and key consultants, such as architects, and the Citizens' Bond Oversight Committee are an essential component of a successful Bond Program.

Public outreach is also a key component of a successful program. It is vital to keep the community informed during each phase of the program. Outreach to the community regarding the status of projects, including project timelines and updates, are important in the District's efforts to thoroughly manage information and expectations about the bond program.

The District utilizes the following methods to convey information in regards the Bond Program:

The homepage on the District's website includes a Measure G link, where updates regarding the Bond Program can be found. There are pictures and descriptions of bond projects at various sites from the beginning of the program, and relevant CBOC information.

The homepage also includes a Superintendent's Message, provided in both English and Spanish, which thanks the community for their support of the District and the Measure G program.

The District published an *Informational District Guide* that was provided to all school sites for distribution and included a section about the Measure G bond program and other facility improvements.

District staff report that Community Forums have been held throughout the District on a variety of topics ranging from academic achievement to budget concerns to facility needs. Community Forums such as these held at different school sites over an entire school year are an effective method for school districts to provide important and timely information about important events and activities to parents, staff and community members.

District budget reductions did not allow for the replacement of the former Chief Information Officer; therefore, the functions of the Public Relations and Community Development department have been assumed by the Office of the Superintendent, It appears this has resulted in fewer newsletters and press releases issued by the District.

The District routinely posts announcements for the recruitment of Citizens' Bond Oversight Committee members, and opportunities for the community to attend celebrations, ribbon cuttings or other events when specific Measure G projects are completed. Staff reported that the CBOC published a brochure that was mailed to all residents highlighting particular projects and activities.

Bond updates and information are topics of discussion at the monthly Board meetings.

Staff reported that communication between key District stakeholders regarding Bond program activities is strong. Due to the demands for increased technology in all school sites, the relationship between the facilities staff and the Technology department staff is critical. Planned technology installations can be impacted by many factors such as changes in specifications that can occur from the time of planning to actual purchase and installation. Open and regular communication between facility and technology staff is essential to ensure that Measure G resources allocated for new technology and technology upgrades are managed effectively.

Observations

- The vacant District Chief Information Officer position has made managing the public outreach program for the District and incorporating ongoing updates on the status of the Bond Program to both the school communities and local business communities more difficult.
- The District's website includes information about the Measure G program. TSS staff reviewed the District's website on numerous occasions and found it to be updated with current information.
- The Citizens' Bond Oversight Committee members expressed that staff are regularly in attendance at committee meetings and are very forthcoming with information. Information provided to the Committee was current, staff is very responsive and overall it appears the community is content with the management of the program.
- The District Facilities Master Plan is inclusive of technology needs and staff members of both the facilities and technology departments indicated a positive and collaborative working relationship.

Recommendations

- The Superintendent's Message on the Bond Program page of the District web site should be routinely updated to provide highlights of Measure G projects underway at various sites, as well as a link to any District newsletters, press releases and schedule of ribbon cutting events to provide members of the community with timely information about the bond program.
- The District should provide fact sheets or other information about the status of various Measure G projects to every school site for inclusion in school newsletters and for posting on school site web pages.

APPENDIX A
BOND MEASURE G RESOLUTION AND TEXT

RESOLUTION NO. 41 - 07/08

RESOLUTION OF THE BOARD OF TRUSTEES OF THE
ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
ORDERING AN ELECTION, AND ESTABLISHING
SPECIFICATIONS OF THE ELECTION ORDER

WHEREAS, the Board of Trustees (the "Board") has determined that each public school within the Alum Rock Union Elementary School District (the "District"), needs to be upgraded, repaired, improved, and better equipped, to enable the District to enhance the educational opportunities of all the students in the District and to achieve one of the Board's primary goals of providing comparable schools for all students throughout the District; and

WHEREAS, the District has undertaken additional significant community outreach efforts to gather opinions of parents and community members as to their assessment of the District's facility needs; and

WHEREAS, notwithstanding concerted and ongoing efforts by the District to obtain sufficient facility money from the State of California (the "State"), the State has been unable to provide the District with enough money for the District to adequately maintain, construct, repair, and equip our schools to provide an optimal learning environment for all students; and

WHEREAS, the District will apply for State matching facility improvement money when eligible; and

WHEREAS, in the judgment of the Board, it is advisable to provide additional facility funding to both repair and upgrade District schools and qualify for additional State money by means of a general obligation bond; and

WHEREAS, in seeking the passage of a local general obligation bond, the Board determines that investment in the District today will have long-term benefits for our community and our property values; 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 of 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, on November 7, 2000 the voters of California approved the Smaller Classes, Safer Schools and Financial Accountability Act ("Proposition 39") which, as of its effective date, reduced the voter threshold for ad valorem tax levies used to pay for debt service or bonded indebtedness to 55% of the votes cast on a school district general obligation bond; and

WHEREAS, concurrent with the passage of Proposition 39, Chapter 1.5, Part 10, Division 1, Title 1 (commencing with Section 15264) of the Education Code (the "Act") became operative and established requirements associated with the implementation of Proposition 39; and

WHEREAS, the Board desires to make certain findings herein to be applicable to this election order and to establish certain performance audits, standards of financial accountability and citizen oversight which are contained in Proposition 39 and the Act; and

WHEREAS, the Board hereby determines, in accordance with the opinion of the Attorney General of the State of California, that the restrictions in Proposition 39 which prohibit any bond money from being wasted or used for administrative salaries or other operating expenses of the District be strictly enforced by the Citizens' Oversight Committee; and

WHEREAS, pursuant to Education Code Section 15270, based upon a projection of assessed property valuation, the Board has determined that, if approved by voters, the tax rate levied to meet the debt service requirements of the bonds proposed to be issued will not exceed the Proposition 39 limits per year per \$100,000 of assessed valuation of taxable property; and

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

WHEREAS, the Board now 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 California 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, June 3, 2008, and to request that the Santa Clara County Registrar of Voters perform certain election services for the District;

NOW THEREFORE, THE BOARD OF TRUSTEES OF THE ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the Board, pursuant to Education Code Sections 15100 *et seq.*, 15264 *et seq.*, and Government Code Section 53506, hereby requests the Santa Clara County Registrar of Voters to conduct an election under the provisions of Proposition 39 and the Act and submit to the electors of the District the question of whether bonds of the District in the aggregate principal amount not to exceed \$179 million (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 directed to be printed in the voter pamphlet.

Section 2. That the date of the election shall be June 3, 2008.

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" and incorporated by reference herein, containing the question of whether the District shall issue the Bonds to pay for improvements to the extent permitted by such proposition. In compliance with Proposition 39 and the Act, the ballot proposition in Exhibit "A" is subject to the following requirements and determinations:

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

(b) that the Board, in establishing the projects set forth in Exhibit "B," evaluated the safety, class size reduction and information technology needs of the District as well as the importance of the projects to student achievement and enhanced instruction;

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

(d) that the Board will 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 in compliance with Education Code Section 15278 no later than 60 days after the Board enters the election results in its minutes pursuant to Elections Code Section 15274; and

(f) that the tax levy authorized to secure the Bonds of this election shall not exceed the Proposition 39 limit per \$100,000 of taxable property in the District when assessed valuation is projected by the District to increase in accordance with Article XIII A of the California Constitution.

Section 4. That the authority for ordering the election is contained in Education Code Sections 15100 *et seq.*, 15264 *et seq.*, and Government Code Section 53506.

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

Section 6. That the Santa Clara County Registrar of Voters and the Santa Clara County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on June 3, 2008 within the District.

Section 7. That the Secretary of the Board is hereby directed to send a certified copy of this Resolution to the Santa Clara County Registrar of Voters no later than March 7, 2008.

Section 8. That the maturity of any Bonds issued pursuant to Section 15264 *et seq.* of the Education Code herein shall have a maturity not exceeding twenty-five (25) years, and Bonds issued pursuant to Section 53506 of the Government Code shall have a maturity of not exceeding forty (40) years. The maximum rate of interest on any Bond shall not exceed the maximum rate allowed by Education Code Sections 15140 to 15143, as modified by 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 be made by any body or official authorized by law to canvass the returns of the election, and that the Board consents to such consolidation.

Section 10. Pursuant to Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors of Santa Clara County is requested to permit the Registrar of Voters to render all services specified by Section 10418 of the Elections Code relating to the

election, for which services the District agrees to reimburse Santa Clara County, such services to include the printing of the Full Text Ballot Proposition in the voter pamphlet, the publication of a Formal Notice of School Bond Election and the mailing of the sample ballot and tax rate statement (described in Section 9401 of the Elections Code) pursuant to the terms of Section 5363 of the Education Code and Section 12112 of the Elections Code.

ADOPTED, SIGNED AND APPROVED this 27th day of February, 2008.

BOARD OF TRUSTEES OF THE ALUM ROCK
UNION ELEMENTARY SCHOOL DISTRICT

By _____
President

Attest:

Secretary

STATE OF CALIFORNIA)
SANTA CLARA COUNTY)

I, _____, do hereby certify that the foregoing is a true and correct copy of Resolution No. _____, which was duly adopted by the Board of Trustees of the Alum Rock Union Elementary School District at meeting thereof held on the 27th day of February, 2008, and that it was so adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

By _____
Secretary

EXHIBIT A

Alum Rock Schools Safety and Repair Measure: To improve neighborhood schools, fix leaky, deteriorated roofs, improve fire safety, repair and upgrade classrooms, improve student safety and security, renovate outdated restrooms, upgrade heating/ventilation/electrical systems for energy efficiency, and computer technology, shall Alum Rock Union Elementary School District issue \$179 million of bonds at legal rates to renovate, acquire, construct, repair and equip schools, sites and facilities, with required independent financial audits, citizens' oversight and no money for administrators' salaries?"

Bonds - Yes

Bonds - No

EXHIBIT B

FULL TEXT BALLOT PROPOSITION
OF THE ALUM ROCK UNION ELEMENTARY SCHOOL DISTRICT
BOND MEASURE ELECTION JUNE 3, 2008

Alum Rock Schools Safety and Repair Measure: To improve neighborhood schools, fix leaky, deteriorated roofs, improve fire safety, repair and upgrade classrooms, improve student safety and security, renovate outdated restrooms, upgrade heating/ventilation/electrical systems for energy efficiency, and computer technology, shall Alum Rock Union Elementary School District issue \$179 million of bonds at legal rates to renovate, acquire, construct, repair and equip schools, sites and facilities, with required independent financial audits, citizens' oversight and no money for administrators' salaries?"

PRIORITY SCHOOL PROJECTS LIST

The Board of Trustees of the Alum Rock Union Elementary School District evaluated the District's urgent and critical facility needs, including safety issues, enrollment trends, class size, energy efficiency and computer technology, in developing the scope of projects to be funded. In developing the scope of projects, teachers, staff and community members have prioritized the key health and safety needs so that the most critical facility needs are addressed. The Board conducted a facilities evaluation and received public input and review in developing the scope of facility projects to be funded. This input concluded that if these needs were not addressed now, the problem would only get worse. In approving this Priority School Projects List, the Board of Trustees makes six important policy determinations:

- (i) The District must install and upgrade fire prevention, security and emergency response systems, including safety locks and fencing at school sites so that all students are safe; and
- (ii) In repairing aging schools, priority must be given to basic repairs, such as leaky roofs and installing and upgrading heating, cooling and ventilation systems to make them more energy efficient; and
- (iii) If essential repairs are not made now they will be more expensive to repair in the future; and
- (iv) The District must maximize its resources through efficient facility and financial management, seek energy and utility cost savings, most aggressively apply for State matching funds, and must spend any local bond money on projects within the District and shall not allow bond monies to be transferred to the State or any other agency; and
- (v) The District must improve technology in classrooms; and
- (vi) The District must insist that all of its schools be healthy and safe from fire dangers, earthquake risks, hazardous materials such as asbestos and mold.

The Bond Project List is on file at the District Office of the Superintendent and include the following projects:

PRIORITY SCHOOL PROJECTS

Project costs for repair and renovation of all existing schools and facilities include, but are not limited to, some or all of the following: renovate student restrooms; install, repair and/or replace plumbing, heating and ventilation systems; repair and replace worn-out roofs, windows, flooring materials, walls and doors; improve signage; install electrical system wiring to safely accommodate computers, technology and other electrical devices; improve school site parking; upgrade drainage systems, landscaping, eliminate harmful ponding; repair and replace fire alarms, emergency communications and security systems (including security locks in classrooms, security cameras, outdoor lighting and perimeter fencing); upgrade gas and water shut-off valves; interior and exterior painting; repair and improve portable classrooms; repair or replace unsafe play structures; demolition; inspect for and abate any hazardous materials, including asbestos and mold; improve access for people with disabilities; and, construct and upgrade classrooms, facilities, and various forms of storage and support space; repair unsafe asphalt, walkways, play surfaces, drinking fountains and covered areas.

Arbuckle Elementary School (Constructed in 1961)

- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, buildings, including support areas, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems and emergency communication systems, safety locks, and outdoor lighting.
- Upgrade student drop-off areas and improve off-street parking.

Cassell Elementary School (Constructed in 1963)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs
- Upgrade aging and/or deteriorating restrooms

- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, buildings, including support areas, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates, security locks and emergency communication systems and outdoor lighting.

Cesar Chavez Elementary School (Constructed in 1950)

- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, buildings, including support areas, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, door locks, fencing and emergency communication systems, building and outdoor lighting.

Cureton Elementary School (Constructed in 1952)

- Repair/replace leaking or deteriorating roofs, as needed.
- Install new or improve existing student fire safety and public address systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Improve student drop-off areas and reconfigure parking area.
- Renovate, upgrade classrooms, multi-purpose room, buildings, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems and outdoor lighting.

Dorsa Elementary School (Constructed in 1960)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, library, multi-purpose room, buildings, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Improve student drop-off areas.
- Enhance student safety with improved security systems, lockable gates, security locks and emergency communication systems, indoor and outdoor lighting, and upgrade field surfaces.

Goss Elementary School (Constructed in 1961)

- Repair/replace leaking or deteriorating roofs, as needed.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, buildings, including band room, storage areas, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems, outdoor lighting, and upgrade play courts and field surfaces.

Hubbard Elementary School (Constructed in 1959)

- Repair/replace leaking or deteriorating roofs and gutters.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, teachers' workroom, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Improve student drop-off areas.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems, outdoor lighting, and upgrade play court surfaces due to sinkholes and ponding.

Linda Vista Elementary School (Constructed in 1959)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, library, multi-purpose room, buildings, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Improve student drop-off areas.
- Enhance student safety with improved security systems, lockable gates, security locks and emergency communication systems, outdoor lighting.

Lucha Elementary School (Constructed in 1964)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and provide internet access.
- Renovate, upgrade and expand classrooms, provide library space, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates, security locks and emergency communication systems and outdoor lighting.

Lyndale Elementary School (Constructed in 1959)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, library, multi-purpose room, buildings, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Improve parking areas.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems, outdoor lighting.

Milford McCollam Elementary School (Constructed in 1958)

- Repair/replace leaking or deteriorating roofs and gutters.
- Install new or improve existing student fire safety systems.

- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, buildings, including storage areas, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Improve student drop-off areas.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems, outdoor lighting, and upgrade play courts field surfaces.

Meyer Elementary School (Constructed in 1962)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems, outdoor lighting, and replace unsafe playground equipment.

Painter Elementary School (Constructed in 1961)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade classroom technology and technology infrastructure.

- Renovate, upgrade and/or provide distinct classrooms, multi-purpose room, storage, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Improve student drop-off areas.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems, outdoor lighting, and upgrade field surfaces.

Rogers/Adelante Elementary School (Constructed in 1967)

- Repair/replace leaking or deteriorating roofs, as needed.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, provide additional classrooms (Adelante), buildings, including storage areas, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any, remodel or expand administrative facilities.
- Enhance student safety with improved security systems, lockable gates, security locks and emergency communication systems, outdoor lighting, and upgrade play courts field surfaces.

Russo Academy/McEnter Academy Elementary School (Constructed in 1956)

- Repair/replace leaking or deteriorating roofs and gutters.
- Install new or improve existing student fire safety systems
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs
- Upgrade aging and/or deteriorating restrooms
- Upgrade classroom technology and technology infrastructure
- Renovate, upgrade classrooms, multi-purpose room, workroom, upgrade facilities, as needed, improve access for students and teachers with disabilities, remove hazardous materials, if any.

- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems, outdoor lighting.

Thomas P. Ryan Elementary School (Constructed in 1967)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, buildings, including storage areas, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems and outdoor lighting.

San Antonio Elementary School (Constructed in 1967)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, facilities, add covered walkways to relocatable classrooms and covered lunch area, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Improve student drop-off areas.
- Enhance student safety with improved security systems, lockable gates, door locksets, fencing and emergency communication systems and outdoor lighting.

Slouaker Elementary School (Constructed in 1962)

- Install new or improve existing student fire safety systems

- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure
- Improve student drop-off areas.
- Renovate, upgrade classrooms, facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, perimeter fencing, lockable gates, door locksets, and emergency communication systems, outdoor lighting, and upgrade play court surfaces, expand campus visibility by relocating portable classrooms.

Clyde Fisher Middle School (Constructed In 1960)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade classroom technology and technology infrastructure.
- Add additional classrooms to reduce class size and construct new gym.
- Renovate, upgrade classrooms, facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems, outdoor lighting, and upgrade field and track surfaces.

Joseph George Middle School (Constructed In 1973)

- Repair/replace leaking or deteriorating roofs
- Install new or improve existing student fire safety systems
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure

- Expand multi-purpose building and construct a full science lab.
- Renovate, upgrade classrooms, facilities, locker building, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates and security locks, and emergency communication systems and outdoor lighting.

Lee Matheson Middle School (Constructed in 1958)

- Repair/replace leaking or deteriorating roofs, as needed.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, library, science lab, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates, security locks, and emergency communication systems and outdoor lighting, and upgrade landscaping and perimeter fencing.

Ocala Middle School (Constructed in 1972)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure
- Improve student drop-off areas.
- Renovate, upgrade classrooms, buildings, including physical education, administration areas, upgrade facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.

- Enhance student safety with improved security systems, fencing, lockable gates, security locks, emergency communication systems, outdoor lighting, and upgrade field surfaces.

Pala Middle School (Constructed in 1938)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms and plumbing.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, buildings, including physical education facilities, as needed; improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Enhance student safety with improved security systems, lockable gates, security locks, fencing, and emergency communication systems and outdoor lighting.

William Shepherd Middle School (Constructed in 1961)

- Repair/replace leaking or deteriorating roofs.
- Install new or improve existing student fire safety systems.
- Upgrade electrical, heating, cooling and ventilation systems for energy efficiency and to reduce energy costs.
- Upgrade aging and/or deteriorating restrooms.
- Upgrade classroom technology and technology infrastructure.
- Renovate, upgrade classrooms, buildings, including multi-purpose room, upgrade facilities, as needed, improve access for students and teachers with disabilities, remove hazardous materials, if any.
- Improve student drop-off areas.
- Enhance student safety with improved security systems, lockable gates, security locks, fencing, and emergency communication systems, outdoor lighting, and upgrade field surfaces.

District-Wide Projects

- Upgrade the District central support office, including electrical, heating, cooling and ventilation systems, restrooms, signage, door locks, outdoor security lighting, handicapped accessibility and adding relocatable rooms; repair/replace deteriorating roofs, and District technology systems.

Listed building, repair and rehabilitation projects and upgrades will be completed as needed. Each project is assumed to include its share of furniture, equipment, architectural, engineering, and similar planning costs, program management, staff training expenses and a customary contingency for unforeseen design and construction costs. In addition to the listed repair and construction projects stated above, the Priority School Projects List also includes the acquisition of land and facilities, the payment of the costs of preparation of all facility planning, facility assessment reviews, environmental studies and construction documentation, and temporary housing of dislocated District activities caused by bond projects. The allocation of bond proceeds will be affected by the District's receipt of State matching funds and the final costs of each project. In the absence of State matching funds, which the District will aggressively pursue to reduce the District's share of the costs of the projects, the District may not be able to complete some of the projects listed above. Certain projects may be undertaken as joint use projects in cooperation with other local public agencies. The budget for each project is an estimate and may be affected by factors beyond the District's control. The final cost of each project will be determined as plans are finalized, construction bids 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, redirecting fire access, and acquiring any necessary easements, licenses, or rights of way to the property. 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 Government Code § 53410.

FISCAL ACCOUNTABILITY. IN ACCORDANCE WITH EDUCATION CODE SECTION 15272, THE BOARD OF TRUSTEES WILL APPOINT A CITIZENS' OVERSIGHT COMMITTEE AND CONDUCT ANNUAL INDEPENDENT AUDITS TO ASSURE THAT FUNDS ARE SPENT ONLY ON DISTRICT PROJECTS AND FOR NO OTHER PURPOSE. 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.

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 AND SCHOOL ADMINISTRATOR SALARIES AND OTHER OPERATING EXPENSES.

APPENDIX B

**THE STATE OF CALIFORNIA
ATTORNEY GENERAL'S LEGAL OPINION
No. 04 - 110,
NOVEMBER 9, 2004**

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

BILL LOCKYER
Attorney General

OPINION

of

BILL LOCKYER
Attorney General

DANIEL G. STONE
Deputy Attorney General

No. 04-110

November 9, 2004

THE HONORABLE MANNY DIAZ, MEMBER OF THE STATE ASSEMBLY, has requested an opinion on the following question:

May a school district use Proposition 39 school bond proceeds to pay the salaries of district employees who perform administrative oversight work on construction projects authorized by a voter approved bond measure?

CONCLUSION

A school district may use Proposition 39 school bond proceeds to pay the salaries of district employees to the extent they perform administrative oversight work on construction projects authorized by a voter approved bond measure.

ANALYSIS

On November 8, 2000, California voters approved Proposition 39, which amended the Constitution to allow the issuance of bonds for the construction of school facilities if approved by 55 percent of a school district's voters and if specified conditions are met.¹ Among other things, subdivision (b)(3) was added to section 1 of article XIII A of the Constitution, providing that the one percent property tax limitation does not apply to:

"Bonded indebtedness incurred by a school district, community college district, or county office 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, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

"(A) A requirement that the proceeds from the sale of the bonds 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.

"(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

"(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

"(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects." (Italics added.)

¹ Normally, approval of a school district's bonded indebtedness would require a two-thirds approval vote of a district's voters. (See Cal. Const., art. XIII A, § 1, subd. (b)(2), art. XVI, § 18, subd. (a).)

We are asked to determine whether the prohibition against using Proposition 39 school bond proceeds for "teacher and administrator salaries and other school operating expenses" (Cal. Const., art. XIII A, § 1, subd. (b)(3)(A)) applies to the payment of salaries of school district employees who perform administrative oversight work on construction projects authorized by a voter approved bond measure. We conclude that the prohibition is inapplicable to such salary expenses.

Preliminarily, we note that Proposition 39 also amended section 18 of article XVI of the Constitution in several respects, including the addition of subdivision (b), as follows:

" . . . [O]n or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds 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, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A."

In addition, to implement the provisions of Proposition 39, the Legislature has enacted "The Strict Accountability in Local School Construction Bonds Act of 2000" (Ed. Code, §§ 15264-15288; "Act"),² targeting "unauthorized expenditures" of Proposition 39 school bond proceeds. Section 15264 thus provides:

"It is the intent of the Legislature that all of the following are realized:

"(a) Vigorous efforts are undertaken to ensure that the expenditure of bond measures, including those authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, are in strict conformity with the law.

² All references hereafter to the Education Code are by section number only.

"(b) Taxpayers directly participate in the oversight of bond expenditures.

"(c) The members of the oversight committees appointed pursuant to this chapter promptly alert the public to any waste or improper expenditure of school construction bond money.

"(d) That unauthorized expenditures of school construction bond revenues are vigorously investigated, prosecuted, and that the courts act swiftly to restrain any improper expenditures."

Section 15278 requires the establishment of a citizens' oversight committee with the following duties:

"The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues. The citizens' oversight committee shall actively review and report on the proper expenditure of taxpayers' money for school construction. The citizens' oversight committee shall advise the public as to whether a school district or community college district is in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution. The citizens' oversight committee shall convene to provide oversight for, but not be limited to, both of the following:

"(1) Ensuring that bond revenues are expended only for the purposes described in paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

"(2) Ensuring that, as prohibited by subparagraph (A) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, no funds are used for any teacher or administrative salaries or other school operating expenses." (§ 15278, subd. (b).)

Oversight committees are expressly permitted to engage in a number of review and inspection activities, including review of school districts' efforts "to maximize bond revenues by implementing cost-saving measures," specifically including "[m]echanisms designed to reduce the costs of professional fees." (§ 15278, subd. (c)(5)(A).)

Finally, section 15284 provides for the filing of expedited civil actions, known as "School Bond Waste Prevention Actions," by persons residing in the school district when, among other things, it appears that bond proceeds are being spent "for purposes other than those specified in paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution." (§ 15284, subd. (a)(1).)

With these constitutional and statutory provisions in mind, we return to the language of section 1, subdivision (b)(3)(A), of article XIII A of the Constitution. School bond proceeds may be expended only for "the construction, reconstruction, rehabilitation, or replacement of school facilities" and *not* "for any other purpose, including teacher and administrator salaries and other school operating expenses." In which of these categories are the salaries of district employees whose work involves oversight of the construction projects authorized by a voter approved bond measure?

We believe that the phrase "the construction, reconstruction, rehabilitation, or replacement of school facilities" embraces project administrative costs, such as monitoring contracts and project funding, overseeing construction progress, and performing overall project management and accounting that facilitates timely completion of the construction project. A construction project generates not only the costs of materials and equipment, architectural and engineering design work, and construction worker salaries, but also costs of project administration -- work that the school district would not be required to undertake or to fund *but for* the existence of the construction project. This administrative work is performed, whether by private consultants under contract with the school district or by school district employees with expertise in project management, to ensure that all aspects of the construction project are properly coordinated; that each step satisfies the specifications; that invoices are reviewed, revised where appropriate, and paid in a timely manner; that costs do not exceed the project's budget; and that the project is completed on schedule. (See 78 Ops. Cal. Atty. Gen. 48 (1995).)³

Some of these administrative tasks -- specifically, conducting an annual independent performance audit and an annual independent financial audit during the life of the construction project -- are expressly required by Proposition 39 itself, as a condition of qualifying for the 55 percent voter approval requirement. (See Cal. Const., art. XIII A, § 1, subds. (b)(3)(C), (b)(3)(D).) We view these kinds of project administration costs, because they relate directly to the bond projects and are an integral part of the construction process,

³ We distinguish these "management costs" from actual construction labor that district employees might contribute to the project -- such as electrical work, carpentry, painting, or plumbing. The use of district employees for construction labor is subject to separate legal restrictions. (See, e.g., Pub. Contract Code, § 20114; cf. Pub. Contract Code, § 22032.) However, the question posed here concerns only those administrative duties required for oversight of the construction project.

as coming within “the purposes specified in Article XIII A, Section 1(b) (3).” (Cal. Const., art. XIII A, § 1, subd. (b)(3)(A); see § 15278, subd. (b).)⁴

Such project management costs may therefore be funded by Proposition 39 school bond proceeds unless the expenditures are specifically prohibited under the phrase “teacher and administrator salaries and other school operating expenses.” The “teacher and administrator salaries” in question are limited to those that qualify as “school operating expenses” because of the word “other” contained in the phrase.⁵ We believe that “school operating expenses” are those regular, ongoing, day-to-day costs associated with maintaining and operating a school. Among such expenses would be (1) the cost of managing the educational services provided, including the salaries of school administrators, and (2) the cost of providing instruction to students, including the salaries of teachers. (See 22 Ops.Cal.Atty.Gen. 105, 108 (1953) [school district’s normal operating expenses include purchase of supplies and payment of salaries of school administrators, teachers, and janitors].)⁶

We distinguish between routine, everyday school operating expenses and the narrow category of costs and salaries of concern here -- costs that arise only in connection with, and are incurred only for the duration of, construction projects authorized by a voter approved school bond measure. The latter expenses are not incurred in the school’s ordinary ongoing operation, but are instead an integral part of the construction process and “in the nature of an investment for the future.” As the court explained in *Marin U. Junior College Dist. v. Gwinn* (1930) 106 Cal.App. 12:

“For years the legislature has recognized the well-established economic

⁴ To the extent the management services consist of onsite assessment of technical matters involving, for example, design, materials, building standards, or workmanship, a project manager may be required to be licensed and have experience in the particular subject area. (Cf. Gov. Code, §§ 4525-4529.5; 78 Ops.Cal.Atty.Gen. 48, *supra*; 57 Ops.Cal.Atty.Gen. 421 (1974).)

⁵ In interpreting the constitutional language added by Proposition 39, “our paramount task is to ascertain the intent of those who enacted it. [Citation.]” (*Thompson v. Department of Corrections* (2001) 25 Cal.4th 117, 122.) In determining that intent, we “look first to the language of the constitutional text, giving the words their ordinary meaning.” (*Leone v. Medical Board* (2000) 22 Cal.4th 660, 665.) “A constitutional amendment should be construed in accordance with the natural and ordinary meaning of its words. [Citation.]” (*Hi-Voltage Wire Works, Inc. v. City of San Jose* (2000) 24 Cal.4th 537, 559.)

⁶ We read Proposition 39’s use of the term “teacher . . . salaries” as meaning salaries for teaching, thus corresponding with “salaries of classroom teachers” as defined for school accounting purposes in section 41011. Appropriate definitions of “teacher” and “administrative employee” are contained in section 41401.

distinction between cost of capital expenditures and cost of maintenance. Throughout the school law this distinction has appeared in the special provisions for taxation (or for the issue of bonds) for the purchase of school lands and erection of school buildings and in the special provisions for maintenance. It is further illustrated by the numerous statutes calling for the creation of special building funds as distinct from the general, or maintenance, funds. It is based upon the sound economic principle that a capital expenditure is in the nature of an investment for the future, whereas the cost of maintenance is a definite present expense." (*Id.* at pp. 13-14.)

Accordingly, we believe that Proposition 39's prohibition against the use of school bond proceeds for "school operating expenses" does not bar use of the proceeds for the payment of salaries of school district employees performing oversight work on construction projects authorized by a voter approved bond measure.

Our interpretation of the language of Proposition 39 allows school districts, where feasible, to implement "cost-saving measures" and "reduce the costs of professional fees" on voter approved construction projects -- objectives promoted by the Legislature in implementing Proposition 39. (See § 15278, subd. (c)(5)(A).) School district employees with the requisite expertise may be able to perform project management work at less cost to the district than if the work were performed by private consultants.

It is also consistent with other legislative schemes dealing with similar types of costs. (See, e.g., Gov. Code, § 16727, subd. (a) ["costs of construction or acquisition of capital assets" for which bond proceeds may be expended "include costs incidentally but directly related to construction or acquisition"]; Pub. Resources Code, § 5096.674 [bond proceeds for site acquisition and development of parks and recreation areas may be applied to "costs incurred in connection with administering" bond programs]; Wat. Code, § 13959, subd. (f) [defining "construction" of bond-funded water treatment facilities to include "legal, fiscal, or economic investigations or studies, surveys, designs, plans, . . . or the inspection or supervision of any of the foregoing items"].) Administrative oversight work is an integral part of the construction process.

Finally, we note that a contrary conclusion would permit the use of the school bond proceeds for administrative oversight work if performed by private consultants under contract with a school district while forbidding the use of such proceeds for the same work performed, presumably at lower cost, by district employees. Nothing in the November 8, 2000 ballot pamphlet remotely suggests that California voters intended such a result when they adopted Proposition 39.

We conclude that a school district may use Proposition 39 school bond proceeds to pay the salaries of district employees to the extent they perform administrative oversight work on construction projects authorized by a voter approved bond measure.

APPENDIX C
CITIZENS' OVERSIGHT COMMITTEE

CALIFORNIA EDUCATION CODE

SECTION 15278-15282

CITIZENS' OVERSIGHT COMMITTEE

15278. (a) If a bond measure authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution and subdivision (b) of Section 18 of Article XVI of the California Constitution is approved, the governing board of the school district or community college shall establish and appoint members to an independent citizens' oversight committee, pursuant to Section 15282, within 60 days of the date that the governing board enters the election results on its minutes pursuant to Section 15274.

(b) The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues. The citizens' oversight committee shall actively review and report on the proper expenditure of taxpayers' money for school construction. The citizens' oversight committee shall advise the public as to whether a school district or community college district is in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution. The citizens' oversight committee shall convene to provide oversight for, but not be limited to, both of the following:

(1) Ensuring that bond revenues are expended only for the purposes described in paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(2) Ensuring that, as prohibited by subparagraph (A) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, no funds are used for any teacher or administrative salaries or other school operating expenses.

(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.

15280. (a) The governing board of the district shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens' oversight committee.

(b) All 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. The citizens' oversight committee shall issue regular reports on the results of its activities. A report shall be issued at least once a year. 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 website maintained by the governing board.

15282. (a) The citizens' oversight committee shall consist of at least seven members to serve for a term of two years without compensation and for no more than two consecutive terms. While consisting of a minimum of at least seven members, the citizens' oversight committee shall be comprised, as follows:

(1) One member shall be active in a business organization representing the business community located within the district.

(2) One member shall be active in a senior citizens' organization.

(3) One member shall be active in a bona fide taxpayers' organization.

(4) For a school district, one member shall be the parent or guardian of a child enrolled in the district. For a community college district, one member shall be a student who is both currently enrolled in the district and active in a community college group, such as student government. The community college student member may, at the discretion of the board, serve up to six months after his or her graduation.

(5) For a school district, one member shall be both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization, such as the Parent Teacher Association or schoolsite council. For a community college district, one member shall be active in the support and organization of a community college or the community colleges of the district, such as a member of an advisory council or foundation.

(b) No employee or official of the district shall be appointed to the citizens' oversight committee. No vendor, contractor, or consultant of the district shall be appointed to the citizens' oversight committee. Members of the citizens' oversight committee shall, pursuant to Sections 35233 and 72533, abide by the prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code.

APPENDIX D
GLOSSARY OF TERMS AND ACRONYMS

GLOSSARY OF TERMS AND ACRONYMS

ACSA	Association of California School Administrators
AOR	Architect of Record
CASBO	California Association of School Business Officials
CBOC	Citizens' Bond Oversight Committee
CDE	California Department of Education
CEQA	California Environmental Quality Act
CO	Change Order
CSBA	California School Boards Association
CUPCCAA	California Uniform Public Construction Cost Accounting Act
DSA	Division of State Architect
DTSC	Department of Toxic Substances Control
DVBE	Disabled Veteran Business Enterprise
EIR	Environmental Impact Report
GO Bond	General Obligation Bond
HVAC	Heating, Ventilation, AirConditioning
IOR	Inspector of Record
LCP	Labor Compliance Program
NOC	Notice of Completion
OPSC	Office of Public School Construction
PEA	Preliminary Environmental Assessment
RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Qualification

SAB	State Allocation Board
SFP	School Facility Program
TBD	To Be Determined