

Attorneys for Petitioner,
COMMITTEE FOR RESPONSIBLE SCHOOL EXPANSION

I. INTRODUCTION

The Respondent Hermosa Beach City School District ("School District") approved a plan for development of a \$5.87 million (Administrative Record, Volume 2, page 1029, hereinafter "A.R.") gymnasium ("Gymnasium") on the site of the Hermosa Valley School in violation of Constitutional and statutory requirements. The Gymnasium would be funded from Measure J, a \$13.6 million bond measure that listed certain projects for which the bond funds would be used. (Declaration of Douglas P. Carstens in Support of Preliminary Injunction filed June 29, 2005 ("Carstens Decl."), Exh. F; 1:89.) However, the School District did not ensure the Gymnasium was listed on the ballot or in ballot materials sent to voters, in violation the state constitution, which requires that voters be *given* a list of specific projects to be funded. (Carstens Decl., Exh. B [Proposition 39 Historical notes] and Exh. I, p. 2.) This violation was all the more egregious because the Gymnasium will consume *approximately 43%* of Measure J funds as the single largest component of Measure J expenditures, and evidence shows the School District knew the public did not view the Gymnasium as important enough to spend scarce funds upon when new classrooms were needed more.

The voters of Hermosa Beach have a long history of preserving open space, as demonstrated by the Open Space Initiative which zoned school properties open space and mandated that the Municipal Code governing school sites could only be changed by another vote of the people. The School District included a provision to "acquire land" in the ballot question for the bond measure to assure the voters that open space would be preserved and increased on the already over-crowded Valley School campus. However, no land has been or will be acquired with Measure J funds if the Gymnasium is built. The School District did *not* include the Gymnasium or joint venture with the Beach Cities Health District ("Health District") because they were shown to be unpopular with voters in a voter survey conducted prior to writing the bond measure. Immediately following passage of the bond measure the architect for the Gymnasium project was instructed to design the Gymnasium on the existing site, indicating that there was never any intention to acquire property. The School District's Facilities Master Plan required for a bond measure under Proposition 39 includes the need for *eight* new classrooms and replacement of four portable classrooms. (4:1873.) However, the School District voted to build a high school regulation size Gymnasium on an elementary/middle school site for the Gymnasium's money-making capabilities

1 at the expense of building new classrooms as promised in the bond measure.

2 Petitioner¹ filed this lawsuit because the School Board (1) misled the voters to gain passage of
3 the bond measure; (2) violated the Municipal Code's Open Space vote requirement; (3) violated
4 provisions of the State Constitution added by Proposition 39; (4) violated the Education Code by
5 entering into an unfunded joint use agreement with the Health District without the required notice to
6 voters; and (5) failed to provide mitigation measures for the negative impacts of this Gymnasium in its
7 proposed location. The School District's approval of the use of Measure J funds for the Gymnasium and
8 approval of a joint use agreement with the Health District must be set aside.

9 **II. STATEMENT OF FACTS**

10 **A. Description of the Gymnasium and the Site**

11 The Gymnasium project site is located near central Hermosa Beach and is bounded by single-
12 family and multi-family residential development, with a single commercial building to the south.
13 (3:1099.) The school site was designated Open Space in the City's General Plan by a vote of the people,
14 not by City Council action, and codified in the Municipal Code. (3:1176.)

15 **B. Gymnasium Construction Proposal Process**

16 In 2002, the electorate of the City of Hermosa Beach voted to approve Measure J, a bond measure
17 that provided for upgrading school facilities. However, Measure J did not specifically designate use of
18 the funds for construction of the Gymnasium, as the ballot stated it was

19 To improve the quality of education . . . finance classroom modernization; upgrade
20 electrical systems. . . make health, safety, and security improvements; upgrade plumbing,
21 heating, ventilation, and air conditioning systems; construct classrooms and science labs
[and] acquire property ...

22 (Carstens Decl., Exh. F.)

23 In 2003, the School District examined plans for the proposed Gymnasium. It voted in favor of
24 proceeding with the Gymnasium, subject to subsequent environmental review. In December 2004, a

25
26 ¹ Some of Petitioner's members send their children to Valley School, some members volunteer
27 time with the school's programs, and some members live near the school and all are concerned about
28 existing and future impacts of school growth and building sufficient classroom space for students rather
than facilities for community use.