

HERMOSA BEACH CITY SCHOOL DISTRICT

BOND MEASURE J

CITIZENS' OVERSIGHT COMMITTEE

FINAL REPORT

SEPTEMBER 30, 2009

Hermosa Beach City School District
Bond Measure J
Citizens' Oversight Committee – Final Report - 9/30/09

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Background

On November 5, 2002, the voters of Hermosa Beach, CA approved Bond Measure J (see Attachment A) which authorizes the Hermosa Beach City School District (HBCSD) to issue \$13,600,000 in general revenue bonds.

As required by California Education Code Sections 15278 – 15282, and in conjunction with California Constitution Article XIII-A (Proposition 39), the establishment of an independent Citizens' Oversight Committee (COC) is required within 60 days of HBCSD's entering the election results in its minutes.

The election results were entered into the HBCSD's minutes on January 15, 2003 and the COC was established, simultaneously. The COC was selected on February 6, 2003, in full compliance with the required statutes. The COC held its first meeting on April 30, 2003.

Purpose

The purpose of the Citizens' Oversight Committee (COC) shall be to inform the public concerning the expenditure of bond revenues to be received from the sale of bonds under Measure J authorized by voters on November 5, 2002.

The COC shall actively review and report on the proper expenditure of taxpayers' money for school construction. The California Constitution Article XIII A states the revenues may be used for construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property. Expressly excluded from the bond expenditures are teacher and administrator salaries and other school operating expenses.

Section 15264 of the Education Code mandates that members of the COC shall promptly alert the public to any waste or improper expenditure of school construction bond money.

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Membership

Education Code Section 15282 requires the COC to consist of at least seven (7) members to serve for a term of two (2) years without compensation and for no more than two (2) consecutive terms. Also required, the COC shall be comprised of the following members:

- one member shall be active in a business organization
- one member shall be active in a senior citizens' organization
- one member shall be active in a bona fide taxpayers' organization
- one member shall be the parent or guardian of a child enrolled in the district
- one member shall be both a parent or guardian of a child enrolled in the district and active in a parent-teacher organization

Members must abide by all Conflict of Interest statutes.

The Hermosa Beach City School District Citizens' Oversight Committee final membership included the following individuals:

Gary Wayland (Vice Chair) – Business Organization Member
Sam Abrams (Chair) – Senior Citizen Member
Jim Caldwell – Taxpayers' Organization Member
Jim Hausle – Parent Member
Cindy Smet – Parent Teacher Organization and Parent Member
Lisa Arnett – School Facilities Committee Representative
Kelly Kinnon – Member At Large

The late Eleanor Lynn was a member of the original COC as Senior Citizen Member until her resignation in March 2005, due to illness.

The COC fully complies with California Education Code requirements.

Note: The original COC (excluding Kelly Kinnon) was appointed by the Board on April 30, 2003 for a two-year term; then as permitted by statute, was re-appointed for a second two-year term that ended April 30, 2007. The Board requested the California Department of Education for a two-term limit waiver. The waiver was granted on May 14, 2007 permitting the COC to serve until April 30, 2008. See attachment F.

In April, 2008, the Board requested the California Department of Education for a second term-limit waiver for an additional two years for the COC. The waiver was granted on July 11, 2008 permitting the COC to serve until April 29, 2010. See attachment G.

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COC Activities

The California Education Code Section 15278 authorizes the COC to engage in the following activities:

1. Receiving and reviewing copies of the annual, independent performance audit conducted to ensure that the bond revenues have been expended on the specific projects listed in Measure J.
2. Receiving and reviewing copies of the annual, independent financial audit of the proceeds from the sale of the bonds approved by Measure J until all of those proceeds have been expended for the school facilities projects.
3. Inspecting school facilities and grounds to ensure that the 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 HBCSD.
5. Reviewing efforts by HBCSD 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 cost of site preparation.
 - c. Recommendations regarding the joint use of core facilities.
 - d. Mechanisms designed to reduce costs of incorporating efficiencies in schoolsite design.
 - e. Recommendations regarding the use of cost-effective and efficient reusable facility plans.
6. Conduct open meetings which comply with the requirements of The Brown Act, including notice provisions which are the same as those followed by the Governing Board of HBCSD.
7. Issue regular reports on the results of its activities, and issue a report at least once a year.
8. Make all documents and reports available to the public via the internet website of the HBCSD.
9. Members of the COC shall abide by all Conflict of Interest Codes.
10. Receive technical and administrative assistance from the HBCSD, without expending bond funds.

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Summary of Findings

The summary of the COC's findings follows:

- 1) The HBCSD has been compliant with all requirements of the California Constitution and Education Code as of the June 30, 2009, Independent Auditors' Report, as well as all previous reports.
- 2) All Prop J Bond funds and accrued interest have been spent in compliance with Bond measure requirements.
- 3) **The final amount spent for all work completed is \$19.5 million, which is \$0.7M more than the original bond proceeds plus additional funds generated by the bond-sale premium, interest, and additional State funds. The School Board has utilized other available funds to pay for this work.**
- 4) The litigation brought by the Committee for Responsible School Expansion (CRSE), that stalled the new construction bid process, was ultimately decided in September 2006, by the California State Appellate Court, which ruled that the case had "no merit". In late September 2006, the CRSE submitted a Petition for Rehearing of the Appeal; that appeal was denied. An appeal by the CRSE to the California Supreme Court was also denied.
- 5) **The litigation-caused delay to new construction forced the District to re-bid all of the new construction contracts resulting in an increase in construction costs of \$1.7 million. The total out-of-pocket costs (primarily legal fees) to the district to date in connection with this lawsuit are in excess of \$148,000. The District paid these litigation costs out of the general fund; no Measure J funds were used.**
- 6) All construction is complete with all State and City approvals received.
- 7) No bond funds were used for administrative or operating expenses.
- 8) Cost-saving ideas, planning and re-planning efforts, and careful attention to available revenue/budget have maximized the use of bond revenue in a period of rapidly rising costs and delays.
- 9) Full cooperation between the HBSCD, its staff, and the COC has greatly aided the COC in completing its responsibilities.

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Discussion

The COC held its first meeting on April 30, 2003, and since has held twenty-six (26) more regular meetings for a total of twenty (27) meetings. Also, the COC has met eight (8) times with the Hermosa Beach City School District Board – once to receive information on the entire Bond, Facilities, and Oversight process, twice to review the plans and budgeting of facilities projects, and five times to receive the financial and performance audits from the independent auditors.

The final years have been spent reviewing the facilities projects' completions, final expenditures by the HBCSD using Bond Measure J funds, overall project expenditures, and the construction approvals from the State and City.

Detailed discussions of this year's COC activities follow:

Receiving and reviewing copies of the annual, independent performance audit:

On August 26, 2009, the COC received the final Performance Report (called "Accountants' Report on Applying Agreed-Upon Procedures") dated June 30, 2009 from Vavrinek, Trine, Day & Co., LLP, Certified Public Accountants.

The results of the Procedures audit stated:

- 1) The general obligation bond fund expenditures were accounted for separately in the building fund of the District.
- 2) The interest earned on the remaining cash balance of the general obligation bonds was deposited into the appropriate accounts within the building fund.
- 3) Our (the auditors') review of the expenditures for the period ending June 30, 2009, did not reveal any items that were paid from the general obligation bond funds that did not comply with the purpose of the Bonds that were approved by the registered voters of the District on November 5, 2002.

All seven (7) Auditors' Reports (6/30/03 – 6/30/09) have certified that HBCSD procedures have been compliant with Prop J requirements.

In their June 30, 2009 Annual Financial Report, the Auditors also certified that the District's internal controls were adequate to ensure proper allocation of and reporting of expenditures.

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Detail Discussion (continued)-

Receiving and reviewing copies of the annual, independent financial audit:

On August 26, 2009, the COC received the Annual Financial Report dated June 30, 2009 from Varied, Trine, Day & Co., LLP, Certified Public Accountants.

The Auditors' Report states that all Prop J funds (\$15,772,736) have been expended in compliance with Bond requirements.

All seven (7) Auditors' Reports (6/30/03 – 6/30/09) have certified that HBCSD expenditures have been compliant with Prop J requirements

The COC is satisfied that all Prop J funds have been expended as required.

Final cost tabulation of the entire Modernization, New Construction, and Technology Projects:

Total Sources of Funding: (in \$ millions)

Bond Measure J Proceeds	13.6
State Matching Funds	2.0
State Joint Use Matching Funds	1.5
Bond Sale Premium (less 1 st sale costs \$0.1)	0.8
Interest Earned @6/30/09	<u>0.9</u>
Total Funding	<u>18.8</u>

**The following amounts were expended by the HBCSD:
as of September 30, 2009 (in \$ millions)**

	<u>Soft Costs</u>	<u>Construction Costs</u>	<u>Total Costs</u>
Pre-Construction Costs	0.1	-0-	0.1
View School Modernization	0.7	1.7	2.4
Valley School Modernization	1.0	4.2	5.2
Valley School New Construction	2.8	8.2	11.0
Technology Infrastructure	<u>0.8</u>	-0-	<u>0.8</u>
Total Funds Spent	<u>5.4</u>	<u>14.1</u>	<u>19.5</u>

Thus, the **total spent for all work is \$19.5 million, which is \$0.7 million more than the available \$18.8 million bond and other funding; the District paid the \$0.7 million from other available funds.**

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Detail Discussion (continued)-

In order to address the difference between funds available and the amounts spent, the District reduced the scope of the project and identified additional funds. Use of Developer Fees and Special Reserve Funds has covered the difference of \$0.7 million.

The litigation brought by the Committee for Responsible School Expansion (CRSE) that stalled the new construction bid process was decided in November, 2005, at which time the Superior Court ruled against the CSRE on all counts, denying all claims and denying a stop-work order. The CSRE's appeal of that ruling was heard on August 18, 2006 by the California State Appellate Court. The Appellate Court ruled in September, 2006, that the appeal had "no merit". In mid-September 2006, the CRSE submitted a Petition for Rehearing of the Appeal to the 2nd Appellate District that was denied. Their appeal to the California Supreme Court was denied, also. No further appeals are possible.

The litigation-caused delay forced the District to re-bid all of the new construction contracts resulting in an increase of \$1.7 million for the work due to increases in costs for materials and labor, as well as the implementation of new construction requirements by the state during the pendency of the lawsuit that added additional costs.

The total out-of-pocket costs (primarily legal fees) to the district in connection with this lawsuit are in excess of \$148,000. No Measure J funds were used for these costs.

The COC has found no unauthorized financial activity throughout the project.

The District has been very prudent in trying to make its facility plans fit into its funding budget, even in this time of rapidly rising construction costs.

Delays, redesigns, litigation, and re-bidding have caused the estimated costs to exceed the bond funds available. However, the District has been able to find additional sources of funds to avoid having to reduce the scope of the project any further.

Inspecting school facilities and grounds:

All construction has been completed. Final approvals have been received from the State of California and the City of Hermosa Beach.

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Detail Discussion (continued)-

Reviewing efforts by HBCSD to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all of the following:

The HBCSD and its Facilities Committee have had to make many decisions in a time of rising prices, scarcity of materials, a very busy contractor community, and litigation to fit the scope of its construction and modernization plans into the budget available.

Partial foundations for 3 new classrooms were laid on the east side of the Gymnasium, thus saving the District a significant cost if the classrooms are built in the future.

Conduct open meetings:

The COC has held all of its meeting in full compliance with the Ralph M. Brown Act.

All meetings were open to the public. Agendas were posted ahead of time to inform the public of upcoming meeting's date, time, and location.

Each agenda had an item for public input.

Most meetings had members of the public in attendance.

Issue regular reports on the results of its activities, and issue a report at least once a year:

Three (3) Newsletters have been sent to District parents.

A summary of the COC's 3rd Annual Report was sent to District parents in November 2006.

A summary of COC activity was presented at the November 2007 Grand Opening of the new construction facilities.

Four (4) Annual Reports and this Final Report have been published and distributed around the City.

All five (5) reports have been presented to the School Board.

The *Easy Reader* has published sixteen (16) articles.

The *Beach Reporter* has published seven (7) articles.

The COC Chair appeared on Adelphia Cable's *Inside the Beach Cities* program.

All Annual Reports and this Final Report were provided as part of the COC's effort to keep the public informed about the expenditure of Bond Measure J Funds.

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Detail Discussion (continued)-

Make all documents and reports available to the public via the Internet website of the HBCSD:

All COC agendas, minutes, Newsletters, and Annual Reports are available on the HBCSD website: www.hbcd.org.

Members of the COC shall abide by all Conflict of Interest Codes:

No violations have been noted.

Receive technical and administrative assistance from the HBCSD, without expending bond funds:

The COC has continued to receive outstanding support from the HBCSD. All financial and planning documents have been made readily available to the COC. The District has provided the COC with the same documents it uses for tracking and control to prevent the appearance of "two sets of books".

All administrative duties have been handled in an efficient and professional manner. Publication and posting of agendas, minutes, meeting packages, and meeting logistics have been handled without incident, and without the use of Bond proceeds.

A special thank you to Dr. Sharon McClain, Dr. Bruce Newlin, Ms. Angela Jones, and Ms. Michelle Meraz for their help and support.

Hermosa Beach City School District
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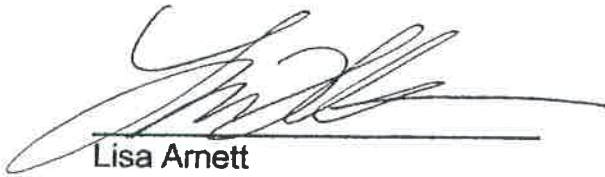
Approval Signatures



Sam Abrams, Chair



Gary Wayland, Vice Chair



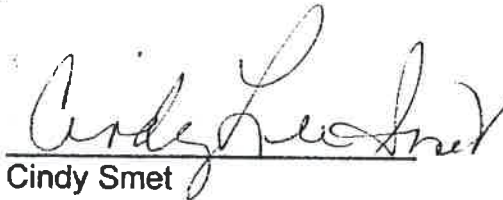
Lisa Arnett



Jim Caldwell



Jim Hausle



Cindy Smet



Kelly Kinnon

2/4/10

Date

Hermosa Beach City School District
Bond Measure J
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Attachments:

- A. Bond Proposition Measure J
- B. COC Policy & Regulations
- C. COC Responsibilities
- D. COC Protocols
- E. COC Rules of Procedure
- F. State Board of Education COC-1st Term Waiver
- G. State Board of Education COC-2nd Term Waiver

EXHIBIT A

"To improve the quality of education, shall the Hermosa Beach City School District be authorized to finance classroom modernization; upgrade electrical systems to improve access to technology; make health, safety, and security improvements; upgrade plumbing, heating, ventilation, and air conditioning systems; construct classrooms and science labs; acquire land, and qualify for State funds up to \$1,700,000, by issuing \$13,600,000 in bonds, within maximum legal interest rates, with annual audits, a citizens' oversight committee and no money for administrators' salaries?"

Bonds – Yes

Bonds – No

EXHIBIT B

FULL TEXT BALLOT PROPOSITION

OF THE HERMOSA BEACH CITY SCHOOL DISTRICT BOND MEASURE ELECTION NOVEMBER 5, 2002

The following is the full proposition presented to the voters by the Hermosa Beach City School District.

"To improve the quality of education, shall the Hermosa Beach City School District be authorized to finance classroom modernization; upgrade electrical systems to improve access to technology; make health, safety, and security improvements; upgrade plumbing, heating, ventilation, and air conditioning systems; construct classrooms and science labs; acquire land, and qualify for State funds up to \$1,700,000, by issuing \$13,600,000 in bonds, within maximum legal interest rates, with annual audits, a citizens' oversight committee and no money for administrators' salaries?"

The Board of Trustees of the Hermosa Beach City School District has evaluated safety, class size reduction, and information technology needs in developing the scope of facility projects to be funded. The Board will appoint a citizen's oversight committee and conduct annual independent audits to assure that bond funds are spent only on the following school and classroom improvements and for no other purpose:

Hermosa View School - Built 1953

- Make technology improvements such as upgrading computer labs and providing new computers and technology systems
- Upgrade electrical systems to accommodate classroom computers and modern technology
- Construct new, permanent classrooms
- Replace outdated windows and heating, ventilation, and air conditioning systems to improve energy efficiency and lower operating costs
- Make ADA improvements (handicapped access) as required by law
- Make health, safety, and security improvements including lighting, fire alarms, communication systems, asbestos abatement, and fencing
- Construct additional restrooms and upgrade existing plumbing, gas and sewer systems
- Modernize classrooms and student support facilities including flooring, walls, casework, windows, and doors

- Improve and repave hardcourt play areas, parking, and hardscape/softscape to support student support facilities
- Make school site improvements including cafeteria upgrades and providing additional learning space
- Furnish and equip the school to the extent permitted by law

Hermosa Valley School - Built 1950 and 1987

- Upgrade electrical systems to accommodate classroom computers and modern technology
- Make technology improvements such as upgrading computer labs and providing new computers and technology systems
- Construct additional restrooms and upgrade existing plumbing, gas and sewer systems
- Construct new computer and science labs
- Make health, safety, and security improvements including fire alarms, lighting, fencing, and communication systems
- Construct new, permanent classrooms
- Replace outdated heating, ventilation, and air conditioning systems to improve energy efficiency and lower operating costs
- Repair and replace roofs and building exteriors
- Make ADA improvements (handicapped access) as required by law
- Modernize classrooms and student support facilities including flooring, walls, ceilings, casework, windows, and lighting
- Improve and repave hardcourt play areas, parking, and hardscape/softscape to support student support facilities
- Acquire property adjacent to school to expand existing school facilities
- Construct a gymnasium for school and community use
- Make school site improvements, including cafeteria upgrades, providing additional learning space and relocating the maintenance facility offsite
- Expand student play fields
- Furnish and equip the school to the extent permitted by law



CALIFORNIA
DEPARTMENT OF
EDUCATION

1430 N STREET
SACRAMENTO, CA
95814-5901

JACK O'CONNELL

State Superintendent of
Public Instruction

PHONE: (916) 319-0800

May 14, 2007

RECEIVED
MAY 14 2007

Sharon L. McClain
Hermosa Beach City School District
1645 Valley Dr.
Hermosa Beach, CA 90254

MAY 18 2007

HERMOSA BEACH CITY CSD
SUPERINTENDENT OFFICE

Dear Dr. McClain:

This letter serves as the official disposition notice of the waiver request submitted for consideration at the State Board of Education (SBE) meeting on **May 10, 2007**.

Waiver #: 24-3-2007-W-9

Period of Request: 4/30/2007 to 4/30/2008

EC Section: 15282

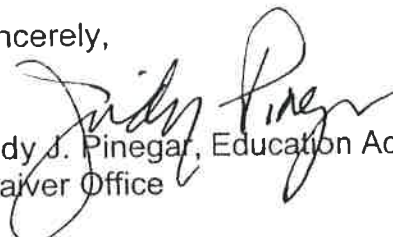
EC Authority: 33050

Title: Request by **Hermosa Beach City School District** to waive portions of *Education Code (EC)* Section 15282, regarding term limits for members of a Citizens' Oversight Committee for all construction bonds in the district.

Disposition: Approved with conditions: That the term for six of the seven members of the Citizens' Oversight Committee (COC) be extended for one year only, terminating April 30, 2008.

If you have any questions about this waiver request or need further assistance with waiver requests to the SBE, please call the California Department of Education (CDE) Waiver Office at (916) 319-0824.

Sincerely,


Judy J. Pinegar, Education Administrator
Waiver Office

cc: Tom Payne



CALIFORNIA
DEPARTMENT OF
EDUCATION

JACK O'CONNELL

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

July 11, 2008

JUL 21 2008

Sharon McClain
Hermosa Beach City Elementary School District
1645 Valley Dr.
Hermosa Beach, CA 90254

Dear Ms. McClain:

This letter serves as the official disposition notice of the waiver request submitted for consideration at the State Board of Education (SBE) meeting on **July 10, 2008**.

Waiver #: 52-4-2008-W-7

Period of Request: 4/30/2008 to 4/29/2010

EC Section: 15282

EC Authority: 33050

Title: Request by **Hermosa Beach City Elementary School District** for a renewal waiver of portions of California *Education Code (EC)* Section 15282, regarding term limits for members of a Citizens' Oversight Committee for all construction bonds in the district.

Disposition: Approved with conditions: That the seven members of the Citizens' Oversight Committee each be allowed to continue for an additional two-year term. The waiver will end on or before April 29, 2010. *Education Code (EC)* Section 33051(c) will not apply.

If you have any questions about this waiver request or need further assistance with waiver requests to the SBE, please call the California Department of Education (CDE) Waiver Office at (916) 319-0824.

Sincerely,

Judy J. Pinegar
Judy J. Pinegar, Education Administrator
Waiver Office

cc: Shannon Farrell-Hart

Hermosa Beach City School District

Bond Measure J

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Detail Discussion (continued)-

Receiving and reviewing copies of any deferred maintenance proposals or plans:

STATE OF CALIFORNIA
FIVE YEAR PLAN
 DEFERRED MAINTENANCE PROGRAM
 SAB 40-20 (REV 01/05)

STATE ALLOCATION BOARD
 OFFICE OF PUBLIC SCHOOL CONSTRUCTION

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SCHOOL DISTRICT Hermosa Beach city School District	FIVE-DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) 64600
COUNTY Los Angeles	CURRENT FISCAL YEAR 2005-2006

The district:

- ☐ has not previously submitted a Five Year Plan.
☒ is submitting this updated/revised Five Year Plan which supersedes the plan currently on file with SAB.

Part I—Authorized District Representative

The following individual has been designated as a district representative by the school board minutes:

DISTRICT REPRESENTATIVE Angela M. Jones	TITLE Business manager
BUSINESS ADDRESS 1645 Valley Dr. Hermosa Beach, CA 90254	TELEPHONE NUMBER 310-937-5877, ext. 234
E-MAIL ADDRESS ajones@hbcasd.org	FAX NUMBER 310-376-4974

Part II—Estimated Fiscal Year Data

PROJECT CATEGORY	1. NUMBER OF PROJECTS	2. CURRENT FISCAL YEAR	3. SECOND FISCAL YEAR	4. THIRD FISCAL YEAR	5. FOURTH FISCAL YEAR	6. FIFTH FISCAL YEAR	7. TOTAL ESTIMATE COST
Asbestos	0						0.00
Classroom Lighting	1	20,000.00					20,000.00
Electrical	2		6,500.00			5,000.00	11,500.00
Floor Covering	1				10,000.00		10,000.00
HVAC	3		7,000.00	6,500.00		6,500.00	20,000.00
Lead	0						0.00
Painting	2			15,000.00		15,000.00	30,000.00
Paving	3	4,500.00		50,000.00		37,500.00	92,000.00
Plumbing	1					5,500.00	5,500.00
Roofing	2	8,500.00	90,000.00				98,500.00
Underground Tanks	0						0.00
Wall Systems	2	6,400.00	10,000.00				16,400.00
8. Grand Total	17	39,400.00	113,500.00	71,500.00	10,000.00	69,500.00	303,900.00

9. Remarks

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Detail Discussion (continued)-

Receiving and reviewing copies of any deferred maintenance proposals or plans:

STATE OF CALIFORNIA
FIVE YEAR PLAN
DEFERRED MAINTENANCE PROGRAM
SAB 40-20 (REV 01/05)

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

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10. List the school names where deferred maintenance projects are planned in this Five Year Plan:

Hermosa Valley School
Hermosa View School

11. Certifications

I certify as District Representative that:

- this work does not include ineligible items and that all work will be completed in accordance with program requirements, applicable laws and regulations. The district shall maintain proper documentation in the event of an audit; and,
- the district understands that should an audit reveal that these funds were expended for other than eligible deferred maintenance costs, the SAB will require the district to return all inappropriately expended funds; and,
- the plans and proposals for expenditures of funds as outlined in this report were discussed in a public hearing at a regularly scheduled school board meeting on 12/14/05; and the district has complied with all the other requirements of Education Code Sections 17584.1 and 17584.2; and,
- Beginning with the 2005/2006 fiscal year, the district has complied with Education Code Section 17070.75 (e) by establishing a facilities inspection system to ensure that each of its schools is maintained in good repair; and,
- This Form is an exact duplicate (verbatim) of the form provided by the OPSC. In the event a conflict should exist, then the language in the OPSC form will prevail.
- I certify under penalty of perjury under the laws of the State of California that the statements in this application and supporting documents are true and correct.

SIGNATURE OF DISTRICT REPRESENTATIVE

Angela Martin Jones

DATE

12/14/05