MONTEREY PENINSULA
COLLEGE

MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT

Citizens' Bond Oversight Committee

Monday, June 8, 2009
2:00 PM – Committee Tour of College Facilities Projects
3:00 PM – Regular Meeting
Sam Karas Room, Library and Technology Center
Monterey Peninsula College
980 Fremont Street
Monterey, California

MEETING AGENDA

1. **Call to Order**

2. **Public Comment**
Members of the audience wishing to address the Citizens' Bond Oversight Committee may do so during the public comment period. Under provisions of the Brown Act, the Committee is prohibited from discussing or taking action on oral requests that are not part of the agenda. Comments are limited to three minutes per person or as determined by the committee.

3. **Issuance of Cash-Out Refunding Bonds** — INFORMATION
The district's bond counsel, David Casnocha, will report on a recent Attorney General's opinion concerning the issuance of cash-out refunding bonds.

4. **Approval of March 2, 2009 Minutes** — ACTION

5. **Accept Bills and Warrants Report** — ACTION
The list of payments from bond funds expended through March 31, 2009 will be reviewed for acceptance by the committee.

6. **Bond Expenditure Status Report** — INFORMATION
The March 31, 2009 bond expenditure status report will be reviewed with the committee. The May 2009 cost control report will also be presented.

7. **Update on Facilities Projects, Timelines, and Schedules** INFORMATION
A status report will be provided on all projects. The timelines and schedules for current facility projects will be reviewed.

8. **Monterey County Treasurer's Investment Report** INFORMATION
Series B and C bonds were issued by the district in 2008 and invested with the Monterey County Treasurer's office. The Treasurer's Report of Investments for the quarter ending March 31, 2009 provides the status of these investments.

9. **Meeting Schedule**
Future meetings are scheduled for:
   Monday, August 17, 2009 – Tour of Seaside Public Safety renovation project on Colonel Durham Road and meeting at the Marina Education Center (Please note change in date)
   Monday, November 2, 2009 (Annual Organizational Meeting)

10. **Suggestions for Future Agenda Topics and Announcements**
Update on Investment of Series B and C Bonds

11. **Adjournment**

Public records provided to the Committee for the items listed on this agenda may be viewed online at the College's website http://www.mpc.edu/mpcbond/CitizensBondOversight/Pages/CBOCAgendas.aspx , at the Superintendent/President's office, Monterey Peninsula College, 980 Fremont Street, Monterey, California during normal business hours, or at the Committee meeting.

Posted: June 2, 2009

STRADLING YOCCA CARLSON & RAUTH
Attorneys at Law

"CASH-OUT REFUNDINGS" UPDATE

On January 9, 2009, the Attorney General issued his advisory opinion concerning cash-out refundings. While different bond counsel firms used alternative approaches to cash-out refundings -- direct issuance (our approach) versus issuance by a joint powers authority -- each approach was addressed by the Attorney General and determined to violate the California Constitution for two reasons: 1) when cash-out refunding proceeds are not used to retire the designated outstanding bonds, they "result in the creation of new indebtedness for purposes of the constitutional debt limit, and therefore require new voter approvals before they may be issued," and 2) a "district would lack the authority to levy taxes to support this additional debt without further voter approval."

It is important to recognize that this opinion did not examine any specific bond issuance, but rather addressed a hypothetical set of bond issuance assumptions. We suspect that many bond lawyers remain puzzled by some aspects of the Attorney General's legal analysis.

We note that to our knowledge, at least seven of the top bond counsel firms in California have issued approving opinions on cash-out refundings, that over one year ago many of those law firms submitted to the Attorney General written comments regarding the validity of such financings, and that in releasing Opinion No. 06-1102 the Attorney General was not persuaded by the views of the bond counsel community. However, because Attorney General opinions, while they are non-binding and do not have the force of law, are considered by courts to be "persuasive," we are advising our school and community college district clients to not use cash-out refundings to finance bond projects until the concerns raised by the Attorney General are addressed by the courts or the Legislature.

As to districts which have issued cash-out refunding bonds and have concerns regarding the validity of their bonds and expenditures, it is important to stress that the Attorney General's opinion also concludes that cash-out refunding bonds approved by districts more than 60 days ago (which we suspect includes all previous financings of all districts) are valid and immune from successful challenge because the 60-day statute of limitations to challenge the validity of bonds and bond expenditures has long since elapsed. The Attorney General notes that the primary remedy to prevent the expenditure of cash-out refunding proceeds is an action to invalidate the bond issuance under Education Code section 15110 and Code of Civil Procedure section 860 *et seq.* The Attorney General notes, however, that such a challenge "is available only if the challenge is filed within 60 days after the bonds were authorized to be issued." Consequently, all of the cash-out refunding bonds are valid, the tax levy that secured the bonds are valid, and the expenditure of the "cash" on voter-approved projects is valid.

The Attorney General further notes that a legal action may be brought under Education Code section 15284 to restrain or prevent expenditures of bond proceeds in excess of the authority given by the voters in approving the issuance of the bonds. However, this "remedy may also be available only if the action is filed within 60 days after the bonds were authorized."

A third remedy described by the Attorney General is an action under Code of Civil Procedure section 526a to enjoin any illegal expenditure or waste of district funds. Based on the Attorney General's citation to the decision in *McLeod v. Vista Unified School Dist.* (2008) 158 Cal.App.4th 1156, 1164-1170, such a lawsuit would have the same 60-day statute of limitation as an action to invalidate the bond issuance or enjoin unauthorized bonds proceeds under Education Code section 15284. Thus, a taxpayer's lawsuit for waste is barred.

Finally, the Attorney General notes that he has broad power to bring an action to enforce state law. We believe, however, that any action filed by the Attorney General on behalf of an interested person, including the State, would likewise be subject to the validation statute and the 60-day statute of limitation to challenge the validity of cash-out refundings or unauthorized expenditures.

In conclusion, due to the Attorney General's underscoring of the limited remedies available against completed cash-out refundings, his recognition that bond transactions done to date have been validated, the Attorney General's opinion appears to reflect a going-forward policy statement with his warning that refundings which do not account for his policy preferences might be subject to Attorney General intervention.

For further information concerning cash-out refundings and the Attorney General opinion, please contact David G. Casnocha at dcasnocha@sycr.com or at (415) 283-2240.

TO BE PUBLISHED IN THE OFFICIAL REPORTS

OFFICE OF THE ATTORNEY GENERAL
State of California

EDMUND G. BROWN JR.
Attorney General

OPINION	:	No. 06-1102
of	:	January 9, 2009
EDMUND G. BROWN JR. Attorney General	:	
CONSTANCE L. LeLOUIS Supervising Deputy Attorney General	:	
DANIEL G. STONE Deputy Attorney General	:	

THE HONORABLE S. JOSEPH SIMITIAN, MEMBER OF THE STATE SENATE, has requested an opinion on the following questions:

1. When a school district has outstanding voter-approved general obligation bonds, may the district issue refunding general obligation bonds without further voter approval at a price or an interest rate that will generate proceeds in excess of the amount needed to retire the outstanding bonds?

2. May a school district that has issued refunding general obligation bonds without a vote of the electorate spend proceeds from that bond sale to supplement funding for the original voter-authorized projects; to fund additional capital projects; or for other purposes unrelated to paying off the outstanding bonded indebtedness?

3. May a school district issue refunding general obligation bonds to refund previously issued bonds without obtaining voter approval if doing so will result in: (a) an increase in the district's ad valorem property tax rates; or (b) a maintaining of the district's ad valorem property tax rates at their previous levels when a reduced rate would suffice to refund the original voter-approved bonds?

4. If a school district applies the proceeds from the sale of refunding general obligation bonds to purposes not authorized by law, what are the possible consequences to the district?

5. May a school district, acting without voter approval, sell refunding general obligation bonds to a joint powers authority at par value but with an above-market interest rate in exchange for the joint powers authority's agreement to issue its own revenue bonds and to use the resulting proceeds both to purchase the school district's refunding bonds and to fund the construction of additional school facilities?

CONCLUSIONS

1. Absent specific approval from the district's electors, a school district may not issue refunding general obligation bonds at a price or an interest rate that will generate proceeds in excess of the amount needed to retire the designated outstanding bonds.

2. Without voter approval, a district may not use proceeds from a refunding general obligation bond to provide supplemental funding for unfinished projects, even if the projects were previously approved by the electorate, or for any other purpose except to pay off the designated outstanding bonds.

3. Because a school district lacking voter approval may not issue refunding general obligation bonds to generate more proceeds than are necessary to refinance the district's targeted debt, the district is likewise prohibited from setting or maintaining ad valorem property tax rates at a level higher than necessary to refinance that targeted debt.

4. A school district's application of proceeds from the sale of refunding general obligation bonds to purposes not authorized by law may result in litigation to invalidate the bond issue or to restrain unauthorized expenditures, if timely filed; taxpayer lawsuits; or actions by the Attorney General.

5. Because the proposed arrangement between a school district and a joint powers authority would result in a refunding bond issuance in excess of that needed to merely refund the district's designated outstanding bonded indebtedness, both the refunding bond issuance

and the higher tax required to support it are constitutionally impermissible without specific voter approval.

ANALYSIS

The most common means by which California school districts finance new school construction is the issuance of "general obligation bonds."[1] These serve much the same function as home loans obtained by homeowners to finance the purchase, construction, or improvement of their homes. Bond buyers supply the issuing school district with immediate funds to apply to construction projects, and the district then repays the bonds over time, with interest, "by an annual levy of an *ad valorem* tax on real (and certain personal) property located within the area of the district."[2] *Ad valorem* taxes are based on the appraised value of the property.[3]

School district bonds are subject to a number of constitutional and statutory conditions and restrictions, the foremost of which is the constitutional requirement of voter approval. Traditionally, school construction bonds have required approval by two-thirds of the district's voters.[4] Under a 2000 amendment to the state constitution, however, approval by 55 percent of the voters suffices if specified conditions are met.[5]

The questions presented here pertain to a school district's issuing, without voter approval, "refunding general obligation bonds" (also referred to here as refunding bonds)

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[1] *San Lorenzo Valley Community Advocates for Responsible Educ. v. San Lorenzo Valley Unified Sch. Dist.*, 139 Cal. App. 4th 1356, 1395 (2006) (citing 62 Ops.Cal.Atty.Gen. 209, 210 (1979)).

Black's Law Dictionary 191 (8th ed. 2004), defines "general obligation bond" as a "municipal bond payable from general revenue rather than from a special fund. . . . Such a bond has no collateral to back it other than the issuer's taxing power."

[2] *San Lorenzo Valley Community Advocates*, 139 Cal. App. 4th at 1395.

[3] See *Black's Law Dictionary* 1496 ("Tax. *Ad valorem tax*").

[4] Cal. Const. art. XIII A, § 1(b)(2); art. XVI, § 18(a).

[5] Cal. Const. art. XIII A, § 1(b)(3); art. XVI, § 18(b); *see Committee for Responsible Sch. Expansion*, 142 Cal. App. 4th 1178, 1184-1185 (2006); 87 Ops.Cal.Atty.Gen. 157, 157-159 (2004).

which, generally speaking, refinance designated existing general obligation bonds by either immediately retiring those outstanding bonds or, if the terms of the bonds do not permit immediate retirement, by setting up an escrow account to retire them when appropriate.[6] More specifically, the questions require us to explore what we view as a distinctly different process, often referred to as "cash-out refunding" or "refunding plus," by which a district—again, without voter approval—not only obtains proceeds sufficient to retire existing valid outstanding bonds, but generates *additional* proceeds, or premium, for other purposes. Before addressing the specific questions posed, we provide an overview of the context in which refunding bonds arise, beginning with issuance of the district's original, or "new money," bonds.

"New-Money" Construction Bonds

It is well established that school districts have broad authority to conduct their affairs as they see fit.[7] But a school district's power is not unlimited. "[W]hile the powers of a school district are broad, they may not be exercised in a manner that is in conflict [with], inconsistent [with], or preempted by state law."[8] For example, a school district's discretion with respect to a certain activity may be superseded by a comprehensive statutory plan governing that activity.[9]

School districts seeking to fund new construction are ordinarily subject to constraints found in two provisions of the California Constitution. Article XVI, section 18, requires either two-thirds or 55-percent voter approval before a school district may issue general obligation bonds.[10] Under this provision, commonly known as the state's "constitutional debt

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[6] *See* Govt. Code §§ 53551, 53555, 53558, 53580(c).

[7] *See* Cal. Const., art. IX, § 14; Educ. Code §§ 35160, 35160.1.

[8] Educ. Code § 35160; *see Hartzell v. Connell*, 35 Cal. 3d 899, 915 (1984).

[9] *See Cumero v. Pub. Empl. Rel. Bd.*, 49 Cal. 3d 575, 591 (1989) (detailed Education Code provisions governing employment matters supersede district control over many terms of teachers' employment).

[10] Article XVI, section 18(a) provides, in pertinent part:

> No . . . school district . . . shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters . . .; nor unless before or at the time of incurring such indebtedness provision shall be

limit" for local government,[11] a school district wishing to issue bonds must either obtain the requisite voter approval or qualify under some recognized exception to the debt-limit restriction.[12] The purpose of the constitutional debt limit is to make local agencies' long-term expenditures subject to taxpayers' oversight and approval.[13]

At the same time, article XIII A, section 1, functions as a tax cap, setting a one-percent ceiling on the *ad valorem* property tax rate that a local district may levy, with some exceptions. One exception, found in subdivisions (b)(2) and (b)(3) of article XIII A, section 1, authorizes the levying of additional *ad valorem* taxes on real property to pay the principal and interest on those voter-approved bonds satisfying the conditions of article XVI, section 18.

Thus, article XIII A, section 1, and article XVI, section 18, work in tandem. A school district may not levy *ad valorem* property taxes in excess of one percent except to support debt that existed prior to July 1, 1978[14] or debt resulting from voter-approved bonds

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> made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and to provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the indebtedness.

Section 18(b) then provides in pertinent part that, for school districts,

> . . . 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 . . . if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

[11] *State ex rel. Pen. Oblig. Bond Comm. v. All Persons Interested in Matter of Validity of Cal. Pen. Oblig. Bonds to Be Issued*, 152 Cal. App. 4th 1386, 1398 (2007) (hereafter "*All Persons Interested*").

[12] *See, e.g.*, *City of Long Beach v. Lisenby*, 180 Cal. 52 (1919) (voter approval not required where bond pays debt imposed by adverse court judgment).

[13] *In re Co. of Orange*, 31 F. Supp. 2d 768, 776-777 (1998).

[14] Cal. Const. art XIII A, §1(b)(1).

satisfying article XVI, section 18.[15] Accordingly, the school district needs voter approval for both pieces of the construction-bond process—i.e., both to issue the bonds and to levy the tax to repay them.

Proposition 39, adopted in the 2000 statewide general election, lowered the voter-approval threshold to 55 percent for school districts, community college districts, and county offices of education when certain conditions are met.[16] This change was intended to make it easier to pass school bonds.[17] Under Proposition 39, once a school district obtains 55 percent voter approval and satisfies all other applicable conditions, it may incur "bonded indebtedness . . . 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 . . . ."[18] Proceeds from the sale of such bonds may not be used for any other purpose, including salaries or other operating expenses.[19]

In addition to these constitutional limitations, a school district must comply with applicable statutory conditions governing issuance of general obligation bonds.[20] The primary statutes controlling these matters are found in Education Code sections 15000 through 15425. These provisions contain detailed requirements relating to the bonds themselves and to the elections by which voter approval is to be sought.[21] Voters authorize

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[15] Cal. Const. art. XIII A, §§1(b)(2) and (3).

[16] Prop. 39, § 4, Gen. Elec. (Nov. 7, 2000); Cal. Const. art. XVI, § 18(b). *See* Cal. Const. art. XIII A, § 1(b)(3); *Foothill-De Anza Community College Dist. v. Emerich*, 158 Cal. App. 4th 11, 23 (2007).

[17] *Foothill-De Anza*, 158 Cal. App. 4th at 23.

[18] Cal. Const. art. XIII A, § 1(b)(3).

[19] Cal. Const. art. XIII A, § 1(b)(3)(A). *See also San Lorenzo Valley Community Advocates*, 139 Cal. App. 4th at 1403 (costs of bond issuance, as itemized in Educ. Code § 15145(a), may be paid from bond proceeds); 87 Ops.Cal.Atty.Gen.157, 161-163 (2004) (employee salaries may be paid from bond proceeds only to extent that employees perform work on approved bond projects).

[20] *Sutro v. Petit*, 74 Cal. 332, 336-337 (1887).

[21] *See* 66 Ops.Cal.Atty.Gen. 321, 323-324 (1983).

a maximum principal amount for bonds,[22] approve the purposes for which bond proceeds may be spent,[23] and ratify the projects to which bond proceeds may be applied.[24] Voter materials must specify a maximum interest rate and a maximum duration for each bond.[25] These parameters have been likened to terms of a contract between the district and the voters.[26]

Bonds may be sold by negotiated sale or by competitive bidding.[27] This means that a district may either negotiate a purchase price with a purchaser or underwriter, or put the bonds out to public bid. In either event, however, the sales are subject to statutory and other legal protections intended to ensure that bond sales are made on the best terms available to the district and its voters.[28]

Refunding Bonds and "Cash-Out" Refunding

Interest rates in the bond market fluctuate over time, often declining significantly. Consequently, many currently outstanding bonds may have issued at a time when interest rates were substantially higher than current rates. When those bonds permit early redemption, some school districts consider issuing another set of bonds to refinance the earlier bonds at a lower interest rate—much as a homeowner might refinance a mortgage to obtain more favorable terms when interest rates have dropped. Such bonds issued for the

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[22] Educ. Code § 15122.

[23] *Id.*

[24] Cal. Const. art. XIII A, § 1(b)(3)(B); Educ. Code § 15122; *Comm. for Responsible Sch. Expansion,* 142 Cal. App. 4th at 1185-1191.

[25] Educ. Code §§ 15122, 15140(a), 15143, 15144.

[26] *See, e.g., Comm. for Responsible Sch. Expansion,* 142 Cal. App. 4th at 1191 (courts have "alternately described the relationship between the public entity and the electorate arising out of a bond election as either strictly contractual or analogous to a contract"); *Metro. Water Dist. v. Dorff,* 138 Cal. App. 3d 388, 398 (1982) (citing *Peery v. City of Los Angeles,* 187 Cal. 753, 769 (1922)).

[27] Educ. Code § 15146(a).

[28] Educ. Code § 15146; *see, e.g., Golden Gate Bridge v. Filmer,* 217 Cal. 754, 760-761 (1933) (public officials issuing bonds on behalf of local agency are presumed to act in good faith and to sell bonds on best terms obtainable).

purpose of refinancing a district's outstanding bonded indebtedness are called refunding bonds.[29]

The refunding process may also be seen as an opportunity for a school district to generate supplemental funds, in the form of a premium. This can occur if, for example, the district issues the refunding bonds at an interest rate which, while still below the rate of the original bonds, is pegged above the current market rate. Purchasers of such above-market-rate bonds are willing to pay more than the face amount for these refunding bonds at the outset—a difference referred to as the premium—because, for the life of the refunding bonds, the district will pay the purchasers a higher interest rate than would be paid on the purchase of contemporaneously issued bonds sold at their face amount. Refunding bonds issued for the dual purpose of providing new funding as well as refinancing a district's outstanding bonded indebtedness are sometimes called "cash-out refunding bonds."

It is our opinion that some, but not all, kinds of refunding bonds may be constitutionally issued without voter approval. In general, we believe that refunding bonds issued *only* for the purpose of refunding valid existing general obligation bonds do not create new indebtedness within the meaning of the constitutional debt limit and do not, therefore, require voter approval, and we believe that a court, if presented with this question, would agree. This view is consistent with the Legislature's apparent understanding and intent in enacting various statutes that authorize local agencies to issue refunding bonds without voter approval so long as the proceeds are used only for purposes of refunding the original bonds.[30] This view is also consistent with case law in other jurisdictions having similar constitutional or statutory voter-approval requirements for new bonded indebtedness.[31]

[29] For purposes of this analysis, we assume that the duration of refunding bonds would not exceed the maximum period permitted by law. Cal. Const. art XVI, § 18. *See, e.g.,* Govt. Code § 53553(e).

[30] Govt. Code §§ 53580 (defining refunding bonds as bonds issued to refund bonds), 53555 (requiring refunding bond proceeds to be deposited in escrow to refund original bonds), 53582 (prohibiting local agency from requiring escrow deposit of more funds than necessary to refund original bonds); *see also* Govt. Code § 53587 (permitting use of refunding bond proceeds for ancillary costs of refunding transaction).

[31] *See City of Anadarko v. Kerr*, 285 P. 975 (Okla. 1930); *Com. ex rel. Keller v. Cannon*, 162 A. 277 (Pa. 1932). The Florida constitution expressly provides that voter approval is not required for bonds issued for the *exclusive* purpose of refunding bonds or interest thereon. Fla. const. art. 9, § 6; *see City of Miami v. State*, 190 So. 774 (Fla. 1939); *Sullivan v. City of Tampa*, 134 So. 211 (Fla. 1931).

But we see a clear distinction between (1) bonds that are issued solely for the purpose of refunding original debt, and (2) bonds that are issued to raise funds in excess of the amount needed to pay off the old debt—what we are calling cash-out refunding bonds.[32] Bonds of this latter kind, we believe, categorically result in the creation of new indebtedness for purposes of the constitutional debt limit, and therefore require new voter approvals before they may be issued. The analogy is simple and straightforward: When a homeowner refinances a mortgage both to refinance the existing debt and to take out additional equity (cash) to make home improvements, the homeowner is plainly incurring additional debt beyond that required merely to refinance the existing debt. The same must be said of a cash-out refunding situation, in which the district unquestionably incurs new debt to support the excess amount of proceeds it derives beyond what is needed to refinance the existing bonds. However, as we have explained above, California's constitution requires voter approval before a district may lawfully incur any new general obligation bond debt. Furthermore, because article XIII A, section 1, subsections (b)(2) and (3), prohibit the levying of taxes except to support *voter-approved* debt, the district would lack authority to levy taxes to support this additional debt without further voter approval.

To summarize, it is our opinion that pure refunding bonds—that is, bonds issued solely for the purpose of refunding existing debt—do not require additional voter approval under the constitutional debt limit, but that refunding bonds designed to generate additional proceeds for a purpose other than refunding the district's existing debt are subject to voter approval as a precondition to their issuance.[33]

Conclusion to Question 1: *Absent specific approval from the district's electors, a school district may not issue refunding general obligation bonds at a price or an interest rate that*

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[32] Other jurisdictions also recognize this distinction. *See Lawrence County v. Jewell*, 100 F. 905 (8th Cir. 1900) (under federal statute applicable to territorial bond refundings, refunding bonds could be issued for sole purpose of retiring existing debt, and proceeds could not be used for ulterior purpose.); *City of Concord v. All Owners of Taxable Property Within the City of Concord*, 410 S.E.2d 482 (N.C. 1991) (refunding bonds may be issued without voter approval, but only if funds are used exclusively to retire existing debt); *Bolich v. City of Winston-Salem*, 164 S.E. 361 (N.C. 1932) (same); *Altafer v. Nelson*, 9 Ohio C.D. 599 (1898) (bonds issued to pay redemption premium that was not originally contracted for are not refunding bonds under refunding statute).

[33] This opinion does not address the question whether proceeds from the sale of refunding bonds may properly be applied to the costs associated with their issuance, and nothing in this opinion should be read as concluding that such an expenditure would be illegal.

will generate proceeds in excess of the amount needed to retire the designated outstanding bonds.

We are informed that some school districts, without voter approval, currently issue cash-out refunding bonds as a means not only to retire outstanding bonds, but also to raise additional funding that may be applied, for example, to uncompleted voter-approved capital projects. Rather than conducting new elections and obtaining voter approval for such cash-out refunding bonds, as provided by statute,[34] these school districts simply issue the bonds upon a resolution of their governing bodies—a process described in other statutory provisions.[35] They argue that such unilateral action is permitted under a purported exception to the constitutional debt limit established by judicial precedent. The debt-limit provision itself, article XVI, section 18, contains no mention of such an exception.

The case most often cited as establishing the exception is *City of Los Angeles v. Teed*, decided by the Supreme Court of California in 1896.[36] There, the Court made the following observation: "A bond is not an indebtedness or liability—it is only the evidence or representative of an indebtedness; and a mere change in the form of the evidence of indebtedness is not the creation of a new indebtedness within the meaning of the constitution."[37] Despite the seemingly broad sweep of the Court's language, we do not believe that *Teed* supports the conduct in question here.

In *Teed*, a city council had enacted an ordinance authorizing the issuance of bonds to raise money for the limited purpose of refunding existing bonds, some of which were soon coming due.[38] A city election was conducted, in which a large majority of the voters—"much more than two-thirds of the qualified electors"—approved the proposed refunding bonds.[39] The bonds were never issued, however, because the president of the city

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[34] *See* Educ. Code § 15100, final paragraph. *See* also Govt. Code § 53506(a) (district may issue refunding bonds only as "authorized in accordance with the Constitution," which may be understood to incorporate the voter-approval requirement of Article XVI, section 18).

[35] *See, e.g.,* Educ. Code § 53552.

[36] 112 Cal. 319. *Teed* was recently discussed and distinguished by the court of appeal in *All Persons Interested,*152 Cal. App. 4th at 1406-1407.

[37] *Id.* at 326-327.

[38] *Teed*, 112 Cal. at 324.

[39] *Id.*

council believed that the election was invalid due to inadequate notice to voters beforehand.[40] The city then sued the president of the city council in the Supreme Court to compel him to sign the bonds, and the president demurred.[41]

The Court sustained Teed's demurrer to the city's petition, and the city's bonds were held to be unconstitutional, as was the ordinance under which they were issued. But that decision did not turn on whether a refunding bond constitutes new debt requiring voter approval. Rather, the Supreme Court sustained Teed's demurrer on the sole basis that the bonds and the underlying city ordinance unconstitutionally provided for payment in New York.[42]

Because Teed's constitutional objection was resolved on grounds unrelated to the Court's characterization of refunding bonds as a "mere change in the form of the evidence of indebtedness,"[43] that statement must be viewed as mere dictum having no precedential value. There is also a second, independent reason why the *Teed* Court's comments about possible avoidance of voter approval must be read as mere dictum: namely, that the refunding bonds in *Teed* received more than sufficient prior voter authorization. The Court found that the city *had* conducted a valid election for the refunding bonds in question in *Teed* (rejecting a claim of insufficient notice), and that the resulting voter approval had easily satisfied the constitutional debt limit provision then in effect.[44] Although *Teed* has been cited in some secondary sources, and by some courts in other states, for the proposition that an agency refunding an existing debt incurs no new indebtedness within the meaning of the constitutional prohibition,[45] no reported California decision has ever relied on *Teed* to

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[40] *Id.* at 325.

[41] *Id.* at 323.

[42] *Teed,* 112 Cal. at 329-330.

[43] *Id*. at 327.

[44] *Id.* at 325.

[45] *See, e.g.*, Eugene McQuillin, *The Law of Municipal Corporations* vol. 15, § 41.35, 526-528 and n. 2 (3d rev. ed., Thomson/West 2005); 45 pt. 2 Cal. Jur. 3d *Municipalities* § 534 (1999); 52A Cal. Jur. 3d *Public Securities and Obligations* § 59 (2001).

Another case sometimes cited as establishing a refunding exception is *City of Long Beach v. Lisenby*, 180 Cal. 52 (1919). *See* McQuillin, *The Law of Municipal Corporations*, at 525 n. 1. In *Lisenby*, the court held that the issuance of refunding bonds was permitted exempt refunding bonds from the Constitution's voter-approval requirement. And, for the reasons stated above, we believe that this interpretation of *Teed* is overstated. Furthermore, as the court of appeal observed in *All Persons Interested*,[46] the *Teed* Court's characterization of refunding bonds as not creating a new indebtedness was restricted to the refunding of "debt that already existed in the form of bonds issued *before* enactment of the constitutional debt limit"—that is, debt incurred prior to January 1, 1880.[47] Obviously, no such pre-debt-limit bonds are involved in the questions posed here.

In any case, *Teed's* rationale, even if read broadly, could not reasonably be extended beyond refunding bonds that generate only enough proceeds to retire the old.[48] The Court did not consider refunding schemes in which a city would acquire any *supplemental* proceeds or premiums, but specifically limited its discussion to bonds which "merely . . . fund or refund an existing debt."[49] We therefore conclude that any *"Teed* exception" would have no application whatsoever to cash-out refunding bonds, which have as a chief purpose the generation of proceeds *in excess* of the amount required to retire targeted bonded indebtedness. As we explained in the introduction, we see a clear distinction between bonds that merely refinance existing debt and cash-out refunding bonds.

Accordingly, to the extent that a district's proposed refunding bonds would generate proceeds beyond the amount needed to refund its outstanding bonds, we believe that the refunding bonds would constitute a new bonded indebtedness within the meaning of article XVI, section 18, and would therefore require specific voter approval. Likewise, article XIII A, section 1, would prohibit the levying of taxes to support such new debt without voter approval.

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to pay a tort judgment. Involuntary indebtedness was clearly the focus of the opinion, and we are not inclined to read it more expansively than that. *Cf. All Persons Interested*,152 Cal. App. 4th at 1406-1407 ("In *Lisenby* . . . the original obligation had not been *voluntarily* incurred. Issuance of bonds was merely conversion of this involuntary debt from one form to another.")

[46] 152 Cal. App. 4th at 1407.

[47] *See also Teed*, 112 Cal. at 326-327.

[48] *Id.* at 327.

[49] *Id.* at 327. *See People v. Scheid*, 16 Cal. 4th 1, 17 (1997) ("[A]n opinion is not authority for a proposition not therein considered.")

We acknowledge that some cash-out scenarios may not necessarily increase the *principal* amount owed by the district beyond that of the existing debt. However, this is a distinction without a constitutional difference. In such cash-out scenarios, the excess proceeds beyond those needed to merely refinance existing debt would result from an artificial increase in the refunding bonds' interest rate. And the constitution's prohibitions apply to "bonded indebtedness"—a term that includes *both* the principal and the interest associated with a bond sale.[50] Hence, the district's debt would nonetheless exceed what is necessary to retire the original obligation, thereby triggering the voter-approval requirement.

Similarly, it is irrelevant that the cash-out refunding bond may be issued without increasing the debt service that would have supported the original debt; the fact remains that the cash-out process would generate new debt, beyond that needed to merely refund the existing debt. As we understand the debt limit, it is this latter measure that is the standard—the constitutional ceiling—for a district's permissible refunding without voter approval. And it is self-evident that, as a result of the artificially increased interest rate, a district issuing a cash-out refunding bond would need to maintain *ad valorem* taxes at a level higher than necessary to retire the original debt. This means that the district would be depriving its taxpayers of the full benefits of refinancing; instead, the taxpayers would be taxed, without voter approval, to support this new debt—a result that is not permitted under either the constitutional debt limit or the constitutional cap on taxes.

Some districts may argue that their cash-out refunding practices are authorized by statute, and we are aware of several statutory provisions which expressly authorize local agencies to issue refunding bonds without voter approval under certain circumstances.[51]

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[50] The term "bonded indebtedness" first appeared in article XIII A in 2000, in the amendments added by Proposition 39. Prop. 39, § 4, Gen. Elec. (Nov. 7, 2000). Although this term is not defined in article XIII A or elsewhere in the state's constitution, courts have defined "bonded indebtedness" as describing "those more formal transactions of both municipal and private corporations which require such prerequisites as elections or express approval of the stockholders in order for their creation and which, when issued, take the express form of bonds." *Shasta County v. Trinity County*, 106 Cal. App. 3d 30, 39 (1980) (citing *Hammond Lumber Co. v. Adams*, 7 Cal. 2d 24, 27 (1936)). "Bonded indebtedness" is incurred once an approved bond has issued. *Faulkner v. California Toll Bridge Authority*, 40 Cal. 2d 317, 325 (1953); *Clark v. City of Los Angeles*, 160 Cal. 30, 44-45 (1911).

[51] *See, e.g.*, 53550-53569, 53580-53589.5. Article 9 (commencing with section 53550) of the Government Code, permits the governing body of a local agency to issue refunding bonds "for the purpose of refunding any of the indebtedness of the local agency evidenced by bonds." (*Id*. at § 53551.) It is unclear whether sections 53580 through 53589.5

However, in light of the constitutional constraints discussed above, we do not believe that the relevant statutory schemes governing school district bond issuances may reasonably be read to authorize issuance of *cash-out* refunding bonds without voter approval. Manifestly, the Legislature cannot override constitutional limitations by statute,[52] and we are constrained to interpret statutes authorizing the issuance of refunding bonds in a manner that is consistent with the state constitution.[53] Statutory authority may not be read to "clash with the constitutional provision which required popular approval of the bonds in the first place, or, as in this case, the constitutional authority for the bond issue."[54] In our view, each of these cited statutory provisions must be interpreted as requiring voter approval whenever the proceeds of refunding bonds, or their associated supporting taxes, exceed the amounts required to retire the district's existing debt.

Additionally, some districts argue that cash-out refunding bonds satisfy the constitution's voter-approval requirement as long as the particular *projects* to which the cash-out funds are applied were among funding targets previously identified and "approved" in conjunction with voter endorsement of a prior general obligation bond. We reject this theory, however, because it both misses and defies the central point and purpose of the debt limit: namely, to require voter approval whenever new "*indebtedness*" is incurred.[55] Thus, in our view, any approval by voters of prior bond proposals would authorize only the amounts associated with those earlier bonds, regardless of the number or size of the construction projects that were identified on the earlier ballot as possible objectives for that funding. We think it unreasonable to construe a positive vote on those previously requested bond amounts as constituting an open-ended voter endorsement of future funding schemes

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(Article 11), apply to the general obligation refunding bonds under discussion here or concern only "revenue bonds." (*See* § 53583(a) ["any local agency may issue bonds pursuant to [Article 11] . . . for the purpose of refunding *any revenue bonds* of the local agency"]; emphasis added. *Cf.* § 53581 ["notwithstanding the provisions of any other law, the provisions of [Article 11] apply to all refunding bonds of any local agency"].) General obligation bonds are plainly not the same as revenue bonds. (*See, e.g.*, *City of Redondo Beach v. Taxpayers, Property Owners, Citizens and Electors of City of Redondo Beach,* 54 Cal.2d 126, 131-133 (1960) [clear distinction between the two].)

[52] *See, e.g.*, *In re Marriage Cases*, 43 Cal. 4th 757, 852 (2008).

[53] *See City of Palm Springs v. Ringwald*, 52 Cal. 2d 620, 623 (1959).

[54] *Metro. Water Dist. v. Dorff*, 138 Cal. App. 3d 388, 398 (1982) (citing *Eastern Mun. Water Dist. v. Scott*,1 Cal. App. 3d 129, 135 (1969)).

[55] Cal. Const. art. XVI, §§ 18(a) and 18(b).

and of subsequent indebtedness not then proposed. If the proceeds from issuance of those prior bonds prove insufficient to complete some or all of the previously listed projects—because the district's cost estimates were too low, for example, or its project lists too ambitious—then, under the debt limit's requirements, it is incumbent upon the district to obtain new voter approval for new bonds if it wishes to further advance the projects.

We conclude that, absent express approval by the voters, a school district may not issue refunding general obligation bonds at a price or interest rate that will generate proceeds in excess of the amount needed to refund the targeted outstanding bonds.

Conclusion to Question 2: *Without voter approval, a district may not use proceeds from a refunding general obligation bond to provide supplemental funding for unfinished projects, even if the projects were previously approved by the electorate, or for any other purpose except to pay off the designated outstanding bonds.*

The second question is partially answered by our conclusion to Question 1: Refunding bonds may not be issued without voter approval if the proceeds (including premium) would exceed the amounts required for refunding purposes. However, the second question also encompasses the circumstance wherein a district issues general obligation refunding bonds with premium and without voter approval, but where the total amount of the proceeds, including premium, does not exceed the amount needed to pay off the outstanding indebtedness. In such a circumstance, are there any restrictions on the district's deposit, use, or other disposition of the proceeds? We conclude that the use of proceeds derived from such refunding bond sales, including premium, is restricted to paying off the district's outstanding bonded indebtedness.

There is both a constitutional and a statutory dimension to our analysis of this question. The constitutional answer is a corollary to the conclusion we reached in analyzing Question 1. That is to say, given that the only constitutionally permissible purpose for refunding general obligation bonds issued without voter approval is to merely refund the district's outstanding bonds, and given that the amount of proceeds that may be derived from such refunding bonds is limited to the bare amount required to refinance and retire that outstanding bonded indebtedness, it follows that the debt limit prohibits application of those proceeds to any project or purpose except paying off the district's outstanding bonds. Were it otherwise, the net effect to the voters would be the addition of new, non-refunding debt, evidenced by the proceeds of the ostensible refunding issuance that were diverted to other purposes. Accordingly, as a constitutional matter, we conclude that a district is prohibited from using the proceeds of even a non-cash-out refunding issuance to supplement funding for ongoing construction projects, to fund new projects, or for any purpose other than refunding the district's targeted indebtedness.

As for the statutory dimension of the question, we are informed that most districts issuing cash-out refunding bonds claim to be doing so under the authority of Article 9.[56] As a threshold matter, it is an open question whether premiums are permitted under California law if the statutes authorizing the bonds are silent on that point, as Article 9 is. We know of no case addressing whether bond issuers may manipulate sale terms to obtain a premium without express statutory authorization. However, our state Supreme Court has determined that bonds may be issued at a *discount* if the statute is silent on that question, provided that the bonds are sold on the most favorable market terms available to the agency and thus protect the interests of the taxpayers.[57] By analogy, therefore, we believe that a court would, or reasonably could, deem it permissible to sell refunding bonds at prices *above par* so long as the taxpayers' interests are protected.[58] And, as we earlier observed, Article 9's authorization for issuance of refunding bonds without voter approval[59] cannot be read consistently with the constitution to encompass *cash-out* refunding bonds.[60]

Assuming that a premium is permitted with Article 9-refunding bonds, even in the non-cash-out circumstance contemplated, *i.e.*, where total proceeds (including premium) would not exceed the amounts required to pay off the existing bonded indebtedness, Article 9 would clearly limit the use of the refunding bond proceeds when the issuance does not have voter approval. First, Article 9's authority is itself expressly restricted to bonds issued "for the purpose of refunding any of the indebtedness of the local agency evidenced by bonds."[61] And second, Government Code section 53555, within Article 9, specifically

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[56] See note 51 *ante.*

[57] *Golden Gate Bridge v. Filmer*, 217 Cal. at 760-762.

[58] If a district artificially raised a bond's interest rate for the purpose of generating a premium, the district might thereby *increase* the taxpayers' burden (unless, for example, the principal amount of the bonds or some other variable were reduced to offset the premium), because taxpayers would thereafter be paying more debt service on the refunding bonds than would have been required under market conditions at the time the bonds were sold. Under those circumstances, the district would be acting inconsistently with the rule stated in *Golden Gate Bridge,* and at cross purposes with the announced legislative purpose of Article 9 refunding bonds to "permit the *lowering* of property tax rates . . . ." 1972 Cal. Stats. ch. 531, § 17.

[59] § 53552.

[60] *See* discussion page 14 *ante*.

[61] § 53551.

requires that all proceeds received from the sale of refunding bonds be deposited in the local agency's treasury "for the purpose of refunding the bonds to be refunded."

Some districts might assert that a premium is distinct from the "proceeds" of a bond, and that, therefore, a premium escapes the reach of the debt limit and of section 53555. But we disagree. In our view, any premium generated by the sale of a refunding bond is simply one component of the total proceeds of the bond;[62] hence section 53555's clear limitation on districts' use of proceeds applies to any premium.

We are aware that section 29303, if it governed in these circumstances, would apply premium to different purposes than the remaining proceeds.[63] But, by its terms, section 29303 has no application if "it is expressly provided by law that [premiums] be deposited in some other fund." In our view, section 53555, which expressly provides that Article 9 refunding-bond proceeds may be used *only* to pay off districts' targeted outstanding indebtedness, takes those proceeds, including any premium, outside the scope of section

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[62] *See* Franklin and Prendergast, *Glossary of Public Finance Terminology* 32 (3rd ed., 1992) (defining "proceeds" as "[t]he money the issuer receives upon initial delivery of an issue, being par value, plus premium or less discount, and plus accrued interest"). *See also, e.g.*, *City of Oakland v. Williams*, 107 Cal. App. 340, 341 (1930) (it "would not seem to be open to dispute" that "when bonds are sold for more than their par value the entire purchase price, including the premium, constitutes the proceeds of the bonds").

[63] Government Code section 29303 states in part:

> Whenever any bonds issued by . . . any school . . . district in any county, whose accounts are required by law to be kept by the county auditor and treasurer, are sold at a premium or with accrued interest, or both, *the amounts received for the premiums* and accrued interest shall be deposited in the debt service fund of the county or district unless it is expressly provided by law that they be deposited in some other fund.

Black's Law Dictionary at 434 defines "debt service" as: "**1.** The funds needed to meet a long-term debt's annual interest expenses, principal payments, and sinking-fund contributions. **2.** Payments due on a debt, including interest and principal." *Cf.* Cal. Const. art. XIII B, § 8(g). In section 29303, the referenced "debt service fund" would thus be applied to payments on the bonds that generated the premium.

29303.[64]

Thus, even where a district's refunding-bond issuance contains no cash-out premium and generates only enough proceeds to retire outstanding bonds, the district's use of those proceeds is strictly limited. California law permits only one application of proceeds—including any premium—from a district's general obligation refunding bonds issued without voter approval, and that is to retire the district's targeted existing outstanding bonded indebtedness.[65]

Conclusion to Question 3: *Because a school district lacking voter approval may not issue refunding general obligation bonds to generate more proceeds than are necessary to refinance the district's targeted debt, the district is likewise prohibited from setting or maintaining ad valorem property tax rates at a level higher than necessary to refinance that targeted debt.*

In Question 3, we are asked whether a district may issue refunding general obligation bonds that result in either an increase in the district's *ad valorem* property tax rate or maintenance of property taxes at a rate higher than would otherwise be necessary to refund the original voter-approved bonds. Again, we conclude that a district may not do so, unless the district's voters have given their consent to such refunding bonds as required under article XVI, section 18, of the California Constitution.

Article XIII A, section 1, imposes a one-percent property tax cap on local agencies, with the exception that *ad valorem* taxes may be levied to pay principal and interest on voter-approved bonds permitted under article XVI, section 18. Thus, the constitution prohibits increases or continuations of taxes, without voter approval, at a rate higher than necessary to refund the original voter-approved bonds, and therefore would forbid the imposition or maintaining of an *ad valorem* tax to support cash-out refunding bonds as proposed.[66]

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[64] In any event, even if section 29303 did govern Article 9 premiums, school districts would not be permitted to apply those funds to construction projects or other purposes; rather, the premium would be deposited in the district's debt service fund.

[65] But see footnote 33, *ante*, leaving open the question whether, under the debt limit, proceeds from refunding bonds issued without voter approval may be applied to costs of issuance. *Cf*. § 53556 (permitting costs of issuance to be paid from proceeds of bond sales).

[66] Furthermore, such an increase in tax rates or an unnecessary perpetuation of an inflated rate would likely conflict with a district's duties to obtain the best terms available and to lower the burden on district taxpayers when possible, as explained previously.

Conclusion to Question 4: *A school district's application of proceeds from the sale of refunding general obligation bonds to purposes not authorized by law may result in litigation to invalidate the bond issue or to restrain unauthorized expenditures, if timely filed; taxpayer lawsuits; or actions by the Attorney General.*

Question 4 asks about consequences that could befall a school district if it applied proceeds from a refunding general obligation bond to purposes not authorized by law. We conclude that the most significant potential penalty for such a misuse of bond proceeds would be invalidation of the bond issue. Bonds issued without authority may be invalidated,[67] as may school district bonds issued for an unauthorized purpose,[68] as well as bonds failing to satisfy the constitutional debt limit or to qualify as an exception thereto.[69]

In Education Code section 15110, the Legislature has provided a vehicle for challenging the validity of bonds:

> An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.[70]

One remedy available in such an action, if the court determines that a school district has issued refunding bonds for unauthorized purposes, is invalidation of the bond issues.[71]

However, interested persons must act promptly to make use of this remedy. It is available only if the challenge is filed within 60 days after the bonds were authorized to be issued.[72]

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[67] *Sutro*, 74 Cal. 332, 337.

[68] *Bd. of Supervisors of Merced Co. v. Cothran*, 84 Cal. App. 2d 679, 681 (1948).

[69] *All Persons Interested*, 152 Cal. App. 4th 1386, 1406-7.

[70] *See also* Govt. Code §§ 53511, 53589.5.

[71] *Plan. & Conserv. League v. Dept. of Water Resources*, 83 Cal. App. 4th 892, 922 (2000).

[72] Code Civ. Proc. §§ 863, 864, 869.

> [A]n agency may indirectly but effectively "validate" its action *by doing nothing to validate it*; unless an "interested person" brings an action of his own under [Code Civ. Proc.] section 863 within the 60-day period, the agency's action will become immune from attack whether it is legally valid or not.[73]

Additionally, if a district exceeds the authority granted by the voters, the Legislature has provided a separate remedy in Education Code section 15284.[74] Specifically, section 15284 provides that a School Bond Waste Prevention Action may be brought to restrain or prevent certain unauthorized expenditures. However, this remedy may also be available only if the action is filed within 60 days after the bonds were authorized.[75]

Apart from invalidation of the bond issue, other remedies may be available pursuant to a taxpayer's suit under Code of Civil Procedure section 526a[76] or actions by the Attorney General.[77]

Conclusion to Question 5: *Because the proposed arrangement between a school district and a joint powers authority would result in a refunding bond issuance in excess of that needed to merely refund the district's designated outstanding bonded indebtedness, both the refunding bond issuance and the higher tax required to support it are constitutionally impermissible without specific voter approval.*

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[73] *Cal. Commerce Casino, Inc. v. Schwarzenegger*, 146 Cal. App. 4th 1406, 1420 (2007) (quoting *City of Ontario v. Super. Ct. of San Bernardino Co.*, 2 Cal. 3d 335, 341-342 (1970) (emphasis in original)).

[74] *Comm. for Responsible Sch. Expansion*, 142 Cal. App. 4th at 1186; *Foothill-De Anza*, 158 Cal. App. 4th at 24.

[75] *McLeod v. Vista Unified Sch. Dist.*, 158 Cal. App. 4th 1156, 1171 (2008) (60-day statute of limitations applies when challenged matter pertains to validity of bonds).

[76] *See Sundance v. Mun. Ct.*, 42 Cal. 3d 1101, 1138-1139 (1986) ; *McKinny v. Bd. of Trustees*, 31 Cal. 3d 79, 91 (1982) ; *McLeod v. Vista Unified Sch. Dist.*, 118 Cal. App. 4th at 1165-1170; *TRIM, Inc. v. Co. of Monterey*, 86 Cal. App. 3d 539, 542 (1978) (taxpayers have standing to challenge illegal expenditures by county officials under section 526a, and may also enjoin wasteful expenditures).

[77] *See, e.g., Pierce v. Super. Ct.,*1 Cal. 2d 759, 761-762 (1934); 81 Ops.Cal.Atty.Gen. 281, 291-292 (1998).

The final question concerns a school district's hypothetical arrangement with a joint powers authority (JPA), through which a district would sell its refunding bonds to the JPA at par value but at an above-market interest rate, in exchange for which the JPA would issue its own revenue bonds and devote some of the proceeds to school construction projects in the district. In this way, the district's refunding bonds would result in supplemental funds to be applied to capital projects, but the funds would be generated and delivered in a more circuitous fashion.[78] In this scenario, the district would take advantage of declining interest rates over a period of time to, in effect, fund the construction of new school facilities pursuant to an agreement negotiated with a JPA under the Joint Exercise of Powers Act.[79]

On its face, the proposed transaction might appear to be legitimate.[80] The Joint Exercise of Powers Act authorizes two or more public entities to enter into an agreement to exercise jointly any power common to them,[81] and this agreement may provide "for the creation of an agency or entity that is separate from the parties to the agreement."[82] Some

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[78] An example might go as follows. Suppose the district sells the JPA $90 million of the district's refunding bonds at par value (i.e., without a premium) but bearing an above-market interest rate. The JPA then sells $100 million in revenue bonds, at the market interest rate, to investors. Because of the above-market interest rate on the district's bonds, the debt service on the district's bonds—paid to the bond holder JPA—is designed to be sufficient to pay the debt service on the JPA's revenue bonds. Meanwhile, after selling its $100 million in bonds and purchasing the district's $90 million in bonds, the JPA would have $10 million remaining for expenditure on local capital improvements or public buildings (see Govt. Code § 6546(c)), such as additional school facilities. Assuming that there had been a sufficient decline in market interest rates for bonds over a period of years, the school district's issuance of its refunding bonds in this example could theoretically reduce the district's overall debt service, yet the construction of additional school facilities would be funded by the JPA's revenue bond proceeds. In such a market, however, the district's debt service could be even further reduced in the absence of the proposed JPA arrangement.

[79] Joint Exercise of Powers Act, Govt. Code §§ 6500-6599.3

[80] We have not been asked to examine the powers of a JPA or the validity of the JPA actions described in this hypothetical transaction, and we express no views on that subject. We limit our analysis and opinion to the proposed conduct of a school district.

[81] Govt. Code § 6502; 83 Ops.Cal.Atty.Gen. 82, 83 (2000).

[82] Govt. Code § 6503.5; *see Rider v. City of San Diego,* 18 Cal. 4th 1035, 1055 (1998).

of the Act's provisions[83] were enacted expressly "to assist local agencies in financing public capital improvements."[84] The Act specifically authorizes the JPA created by a joint powers agreement to purchase bonds issued by public agencies.[85]

Although the district would appear to have statutory power to enter into such an arrangement as a general proposition, collateral consequences of the arrangement would necessarily render it unconstitutional. This arrangement violates the constitutional debt limit because it results in a refunding bond issuance in excess of what is required merely to refund the district's outstanding bonds (the excess being represented not by cash this time, but by a bargained-for set of capital improvements to be delivered by the JPA). Qualitatively, the JPA scheme is the same as a cash-out with premium in which the excess cash received at closing (acquired in exchange for above-market interest rates) would be expended by the district on capital projects. Here, although the bonds are nominally sold to the JPA "without premium," the district will repay them at an above-market interest rate—a rate selected to obtain the JPA's promised financing for other projects. We have already explained, in our response to Question 1, that, absent voter approval, the constitution's debt limit permits only those refunding bonds that are limited to refinancing existing debt.

Further, the artificially increased interest rate on the district's refunding bonds would result in higher property taxes than would otherwise be necessary to retire the district's original bonds. Hence, the arrangement would also violate article XIII A, section 1, of the California Constitution. As we explained in our response to Question 3, a school district may not issue refunding general obligation bonds without voter approval if to do so would result in an increase in *ad valorem* property tax rates to, or a perpetuation of those rates at, a level higher than would otherwise be necessary to retire the original voter-approved bonds. Hence, the proposed arrangement between a district and a JPA would be barred by these constitutional provisions.

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[83] *Id.* at §§ 6584-6599.3.

[84] *Id.* at § 6586.

[85] *Id.* at § 6589

MONTEREY PENINSULA COMMUNITY COLLEGE DISTRICT

CITIZEN'S BOND OVERSIGHT COMMITTEE

Monday, March 2, 2009
3:00 PM – Regular Meeting
Sam Karas Room, Library and Technology Center
Monterey Peninsula College
980 Fremont Street

Meeting Minutes

MEMBERS PRESENT:	Mr. Peter Baird Mr. Scott Coté Mr. Steve Emerson Ms. Daphne Hodgson Ms. Mary Ann Kane Ms. Elinor Laiolo Ms. Eleanor Morrice Mr. Ron Pasquinelli Mr. Gary Ray
ABSENT:	Ms. Sondra Rees
STAFF PRESENT:	Ms. Rosemary Barrios, Controller Mr. Joe Bissell, Vice President for Administrative Services Dr. Douglas Garrison, Superintendent/President Mr. Jeff McCart, Athletic Trainer Mr. Steve Morgan, Director, Facilities Ms. Vicki Nakamura, Assistant to the President
OTHERS PRESENT:	Mr. Joe Demko, Kitchell Dr. Jim Tunney, Trustee

1. **Call to Order**
   The regular meeting of the Citizen's Bond Oversight Committee of Monterey Peninsula College was called to order at 3:03 PM by Chair Baird.

2. **Public Comment**
   Dr. Jim Tunney, Chair of the Governing Board, speaking on behalf of the trustees, offered thanks to the committee for their work.

3. **Approval of November 17, 2008 Minutes**
   Motion to approve the minutes of the November 17, 2008 meeting was made by Mr. Ray and seconded by Mr. Pasquinelli. Vice Chair Emerson commented on the completeness and quality of the minutes. Motion carried unanimously.

Dr. Garrison noted at the November meeting, the committee approved the annual report for presentation to the Governing Board. He referred to the handout, an excerpt from the Governing Board minutes for the December 9, 2008 meeting, which showed Chair Baird attending and presenting the report to the trustees. The Board was pleased to receive the report as well as Mr. Baird's comments.

7. **Education Center at Marina Design Presentation (**Item taken out of order)
Ken Scates, architect for the first phase development of the Education Center at Marina, was invited to make his presentation earlier than scheduled in the agenda. Mr. Scates began with an aerial view of the site and noted the Highway 1 intersection with Imjin Parkway was located ½ mile away.

He then reviewed the site drawings. Phase one consists of five separate structures housing eight standard 35 seat classrooms, one larger classroom, a multipurpose room, and utility service functions. The structures are oriented around a central courtyard. Future phases will repeat the use of the courtyard as an organizing feature.

Mr. Scates explained the courtyard is semi-enclosed, with the building structures and walls providing a buffer against the wind, an environmental factor specifically considered in the design. The structures are contemporary in nature and make use of concrete walls, glass, and wood. A special feature is a tower element that has been added to provide a visual monument that can be seen from some distance. Mr. Scates said a wind generator is being proposed for the tower element.

He indicated parking lots are provided along 12th Street. Landscaping will consist of native vegetation. Additional trees will also be planted. Future build-out will be to the south of the phase one development.

Mr. Scates also shared two watercolor renderings of the proposed structures, one showing the entry from Third Avenue and the other depicting the interior courtyard.

Mr. Coté asked if bicycle racks were included and Mr. Scates confirmed racks would be installed in the parking area. Mr. Coté followed with a second question about the project meeting LEED certification. Mr. Scates indicated the structures had not been designed for certification, but "green" features were incorporated in the project.

Chair Baird asked about the amount of power that could be produced by the wind generator. Mr. Scates responded his research showed the turbine will produce enough energy to operate a building. He was uncertain if there would be any payback, but he was confident that the wind generator would perform well as the City of Marina experiences significant sustained wind.

Ms. Morrice inquired about the use of moisture collectors. Mr. Scates said currently cisterns cannot be used, but he added the landscaping would not require a large amount of irrigation.

Dr. Garrison asked if project construction would begin July 31. Mr. Scates replied the drawings will be submitted to the Division of the State Architect for review. He did not know how long the review process would take.

Vice Chair Emerson commented that as a Marina resident, he was enthused about the project. He added the Marina Planning Commission was also very positive.

4. Accept Bills and Warrants Report

Mr. Bissell asked for questions or comments regarding the report.

Ms. Morrice noted a duplicate entry for replacement of a cracked waste line on page 4 of the report. Mr. Bissell replied the descriptions were similar, but represented different portions of the project. He will confirm and report back.

Chair Baird inquired about two similar entries on page 4 for new gym flooring. Ms. Barrios, Controller, said these entries were for separate expenses. Mr. Bissell surmised one entry was for the initial payment and the other represented installment payments. He said he would verify and report back.

Chair Baird asked for clarification regarding two entries on page 6 for the purchase of 52 computer chairs for the language lab and 32 for the Marina Education Center. He asked if the styles of the chairs were different because there appeared to be a cost differential between the two orders. Mr. Bissell said standardization of furniture is a goal, but the Education Center may have required a different style. He will check into and report back at the next meeting.

Ms. Hodgson requested a definition of "commissioning services" listed on page 2. Mr. Demko explained these services are provided by a third party specialist who ensures the operating systems are working. Mr. Morgan, Director, Facilities, added the heating, ventilation, and air conditioning (HVAC) systems are highly technical and commissioning verifies the systems are functioning as the engineer intended. In addition to HVAC, commissioning is also performed on electrical and information technology systems. Mr. Bissell noted commissioning was not done on the Library and Technology Center and as a result, the building environment is not always comfortable to users. Mr. Coté asked if "verification services" on page 12 had the same meaning. The answer was yes; Mr. Coté recommended using the same terminology on future reports.

Ms. Hodgson continued with questions on several entries. She referred to an entry for Alfa Tech for HVAC services on page 5 and asked if the item was an operating expense (which would be an illegal bond expenditure). Mr. Bissell verified the expense was for design services only. Ms. Hodgson asked about "server room migration expenses" on page 6 of the report. Mr. Bissell explained the current server room is located in the Business building and will be moved to the new Administration Building along with Fiscal Services and Information Technology offices. She then noted there were repeat entries on page 10 for project management services for July and August, but the amounts differed. Mr. Bissell said he would check into.

Mr. Pasquinelli questioned whether storm drain repairs to the baseball field listed on page 14 were a maintenance item rather than a bond project expense. Mr. Bissell responded the repairs resulted when a new backstop was needed to keep stray baseballs away from the new Child Development Center. In reviewing the plans for the backstop, the Division of the State Architect required installation of an ADA-accessible sidewalk which created a drainage problem on the baseball field.

Motion to accept the bills and warrants report was made by Mr. Emerson and seconded by Ms. Hodgson. Motion carried unanimously.

5. Bond Expenditure Status Report

Mr. Bissell reminded the committee a new report format had been developed and shared at the November meeting. He stated the new report ensures the figures tie into the bills and warrants report and shows the status of project budgets. The current report shows that $60 million has been spent to date.

Mr. Bissell also noted at the November meeting, Lou Solton reported that $30 million of the County investments were involved in the Washington Mutual and Lehman Brothers bankruptcies and a portion of the college's bond funds would be affected. Mr. Bissell said the actual loss is still unknown; bonds are still selling at 25¢ on the dollar. Until there is a final settlement, the loss will not be known. Given the bankruptcy situation, Mr. Coté asked if the college was prevented from accessing these funds until the loss is recognized. Mr. Bissell did not know, but he speculated the County probably would not allow the college to withdraw the full amount.

Vice Chair Emerson observed the County also had investments in J.P. Morgan and General Electric (GE). He said the GE bond is showing similarities with Washington Mutual and Lehman Brothers and asked if there were discussions to move funds. Mr. Bissell stated he had discussed with Mr. Solton whether funds should be moved to other investments; however, LAIF is currently earning 1.7%. Mr. Bissell stated it was a tough market. Funds could be withdrawn, but there would be inflation impacts. He said if funds were withdrawn today, the loss would also have to be recognized.

Mr. Emerson reiterated his concern with the GE bond. He noted the college's investments in GE were not pooled; thus, the college would take the entire loss if there was a failure. Mr. Bissell said the college does not anticipate using those funds for 7-8 years as they were part of the taxable bonds issued.

Chair Baird had several questions regarding the new report format. He referred to the column labeled "Bond Budget less Total Payments and Purchase Orders," noting the figures actually reflect only the total bond budget minus total payments. Mr. Bissell responded purchase orders should be included in the calculation, so the formulas will be checked. Mr. Baird stated the percentages reflected under cost and schedule in the "Project % Completed" column also appeared to be incorrect. He cited as examples the new administration building, listed at 65% complete in cost and which should have been 32.8%, the Lecture Forum at 121%, and the social science renovation at 75%. Mr. Demko explained the budgets include non-bond funds and state payments are difficult to track. Mr. Bissell said the budget would be rechecked.

Chair Baird referred to the Infrastructure – Parking/Phase II project and noted the schedule is 100% complete and the cost is 112% or 12% over budget. He stated this figure is reasonable, but there is $288,886 in outstanding purchase orders not included in the cost. If included, the project would be 42% over budget. Mr. Demko said the purchase orders may have been over-estimated. Mr. Baird advised that any project over 100% in cost becomes more noticeable than may be warranted.

Chair Baird concluded he was pleased with the new report format; he said just a few more adjustments are needed. Mr. Bissell responded he would re-evaluate the format and make necessary corrections for the next meeting.

Ms. Hodgson asked about the total prior year expense figures reflected in the third column. She said the total showed $50 million on the current expenditure report, a $2 million difference from the prior report. She noted a difference from the bills and warrants report. Mr. Bissell indicated he would review the figures.

Dr. Garrison announced that Joe had been asked to participate on the County's investment committee. Mr. Bissell indicated that the other committee members represent agencies who have investments with the County. The first meeting was held in February and the meeting schedule will be quarterly.

6. Bond Auditors' Reports for 2007-08

Mr. Bissell related that last year the committee questioned why the auditor did not provide an opinion on the bond financial statements. To address this concern, he asked the district's auditing firm to do two reports. The first report is an audit of the general financial statements. Mr. Bissell referred the committee to the last paragraph of the report providing an unqualified opinion from the auditor. He said if there were any problems, the auditor would have identified them. Mr. Bissell also stated the auditor agrees with all expenses and revenues.

The second report is a performance report in which specific procedures are identified to undergo a review for compliance with Proposition 39 bond requirements, including a test of 25% of expenditures. Mr. Bissell said in the case of the district's audit, 1% of 50,000 transactions were checked. In the bond audit, 32% of expenditures were tested for compliance. He reviewed page 2 of the performance report and said no exceptions found. The auditor made one adjustment to the district's financial records in the amount of $22,042. Mr. Bissell complimented Rosemary Barrios and Fiscal Services staff for keeping accurate track of the bond expenditures.

Ms Hodgson referred to page 3 of the financial statements audit report and asked for an explanation of the "other uses" item for $1,898,813. Mr. Bissell thought the amount reflected a combination of numbers. Since it was a negative amount, he concluded it was a transfer of funds, but he will check with the auditor.

8. Update on Facilities Projects, Timelines and Schedules

Mr. Demko, the college's bond program manager, began his report with a review of the status of current facility projects.

PE Fitness Building

The elevator will be completed this summer.

Public Safety Training Center at Seaside

Mr. Demko said work was going well on the renovation. The asphalt in the parking lot was installed.

MPC Education Center at Marina

The additional temporary modular building is in operation. Mr. Demko reported the drawings are ready to submit to the Division of the State Architect (DSA).

Infrastructure
Mr. Demko indicated work was proceeding on the parking lots.

Old Library
Mr. Demko reported the college would take beneficial occupancy this week. He noted the deck construction was behind due to the rains. In two weeks, furniture will be installed. The computer network equipment will be housed in a special, air-conditioned room and the switchover in the network system is scheduled to occur during the spring recess.

New Student Services Building
Mr. Demko said the college hopes to go out to bid this month on the project. He expects there to be several bidders due to the slow economy.

PE Gym
The project is completed and over budget due to the seismic work required.

Auto Technology Building
Mr. Demko said the architect is working on the drawings for the classroom addition.

Baseball Backstop
The college is still waiting for DSA to finish its review.

Swing Space
The swing space plan is being developed. The old Administration Building will be converted to provide six classrooms.

Facilities Committee
Mr. Bissell reported the committee is discussing how to address delays due to the lack of a state bond measure in 2008. The committee is considering changes to projects. For example, the college currently has a state-approved project proposal for a renovation of the Business, Life Science and Physical Science Buildings. The committee is considering renovating the Business building with bond money only and submitting a proposal for state funding to renovate the other two buildings.

Dr. Garrison noted the complexity of issues facing the Facilities Committee. The committee must consider the impacts of projects on the college's capacity load, the changes in state construction funding, the delay of the state bond measure, more competition for state funding due to 14 other districts successfully passing Proposition 39 bonds, and the changing bid climate. He said the end result is a need for a revised strategy.

9. Meeting Schedule

The meeting schedule for the remainder of the year was reviewed by the committee:
Monday, June 8, 2009
Monday, August 3, 2009
Monday, November 2, 2009 (Annual Organizational Meeting)

10. Suggestions for Future Agenda Topics and Announcements
Included from last time is a status report on bond investments.

A tour of facilities was proposed for the committee at the June and August meetings. In June, the committee will tour the new Administration Building and other projects on the Monterey campus. In August, a tour of the Seaside Public Safety renovation project on Col. Durham Road will take place, followed by the meeting there or at the Education Center in Marina.

11. Adjournment
The meeting was adjourned at 4:37 p.m.

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	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
Physical Education Facility	*Total Expense at December 31, 2008*	*$1,486,614.29*
HGHB	Professional services for the period of November 2008.	$1,680.00
	To Date Expense through March 31, 2009	**$1,488,294.29**
New Student Services Building	*Total Expense at December 31, 2008*	*$795,989.92*
Kleinfelder Inc.	Geotechnical services for the period of November 2008.	$515.87
Hammel, Green & Abrahamson	Schematic design services for the period of September 2008.	$2,287.50
Hammel, Green & Abrahamson	Working drawings for furniture plan.	$4,500.00
Hammel, Green & Abrahamson	Design phase services for the period ending January 2009.	$1,725.00
	To Date Expense through March 31, 2009	**$805,018.29**
Automotive Technology Building Renovation		
	Total Expense at December 31, 2008	*$16,579.75*
Kleinfelder Inc.	Administrative services and graphic design services for the period ending December 2008.	$2,825.00
HGHB	Working drawings services for the period of October 2008.	$9,722.69
HGHB	Working drawings services for the period of November 2008.	$13,574.45
HGHB	Professional services for the period August 1, 2008 - September 30, 2008.	$17,842.50
Kleinfelder Inc.	Administrative services for the period ending January 25, 2009.	$123.00
Kleinfelder Inc.	Administrative services for the period ending January 4, 2009.	$3,953.96
HGHB	Design phase services for the period ending December 2008.	$3,998.35
HGHB	Professional services for the period January 31, 2009.	$5,687.50
HGHB	Balance owed for design phase services for the period ending December 2008. Different purchase order used to pay balance.	$30,000.00
	To Date Expense through March 31, 2009	**$104,307.20**
College Center Renovation	*Total Expense at December 31, 2008*	*$17,228.41*
HGHB	Design phase services for the period ending September 30, 2008.	$6,380.00
	To Date Expense through March 31, 2009	**$23,608.41**

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
Family and Consumer Science Renovation		
	Total Expense at December 31, 2008	*$1,945.03*
Cable Express	Purchase refurbished IP phone and wall mount kit.	$148.99
San Jose Blue	Document printing and delivery.	$17.71
Network Cabling Solutions	Labor and material to install 13 data drops in the building.	$3,401.93
Gavilian Pest Control	Removal and off-site relocation of 4 raccoons from the crawl space.	$375.00
DRP Builders	Furnish all labor, material, equipment and other services to remodel the building.	$44,657.00
Cardinale Moving and Storage Co.	Remove and replace furniture while the remodel work in the building is being completed.	$1,094.60
Wasson's	Post construction cleaning to include: kitchen, bathroom, sinks, cleaning of interior and exterior windows, vacuum and mop floors.	$917.50
Wilco Supply	Provide primus cores for all exterior doors.	$772.86
American Lock & Key	Install locks on building.	$78.10
DRP Builders	Additional work on building, including: gutter work, painting, and caulking.	$11,233.69
KI INC.	Purchase of 5 pedestal based chairs with hard floor casters.	$1,078.17
	To Date Expense through March 31, 2009	**$65,720.58**
Public Safety Training Center Renovation		
	Total Expense at December 31, 2008	*$1,907,610.53*
William Scotsman	Rent mobile office for the period 12/14/08-1/13/09.	$504.99
William Scotsman	Rent mobile office for the period 11/14/08-12/13/08.	$504.99
Pacific Valley Bank	Retention for the Public Safety Training Center.	$21,818.05
San Jose Blue	Upload plans for the public safety training center.	$194.33
M3 Environmental Consulting LLC	Lead paint abatement oversight services for October 2008.	$1,909.34
Knox Company	Install 2 surface mount knox boxes for the storage of master key for each building for the use of the fire department in case of emergency.	$555.55
PARC Environmental	Remove lead painted strips, prep underside of deck where peeling lead occurred.	$3,634.50
Dilbeck & Sons Inc.	Payment application #5 for construction of building.	$361,447.39
Pacific Valley Bank	Retention payment for payment application #5.	$40,160.82
Office Depot	Purchase of miscellaneous office supplies.	$86.87
Office Depot	Purchase of folding table and chair.	$153.22

	Monterey Peninsula College Bills & Warrants Report Through March 31, 2009	
Vendor Name	Description of service or purchase	Amount Paid
Public Safety Training Center Renovation (cont.)		
Kleinfelder Inc.	Professional services including: administration, field geotechnical, structural masonry, structural concrete, and structural steel. Services billed thru December 7, 2008.	$14,019.80
M3 Environmental Consulting LLC	Lead paint abatement oversight services for November 2008.	$4,307.49
William Scotsman	Rent mobile office for the period 1/14/09-2/13/09.	$504.99
HGHB	Construction administration work for the month of January 2009.	$1,920.00
HGHB	Construction administration work for the month of December 2008.	$3,840.00
HGHB	Construction administration work for the month of November 2008.	$8,318.00
HGHB	Architectural work for the month of December 2008.	$16,636.00
Green Line Waste Haulers	Cleaning and video of 800' of 8" sanitary sewer.	$1,361.00
Pacific Gas & Electric	To provide engineering and installation services for the gas service to both buildings.	$7,512.53
Pacific Valley Bank	Retention payment for payment application #3.	$31,938.42
HGHB	Testing services by geotechnical engineer.	$1,923.63
M3 Environmental Consulting LLC	Lead paint abatement oversight services for December 2008.	$1,067.17
David Foord	Inspection services for the month of November 2008.	$9,000.00
David Foord	Inspection services for the month of December 2008.	$9,000.00
Dilbeck & Sons Inc.	Payment application #6 for construction of building.	$287,445.77
William Scotsman	Rent mobile office for the period 2/14/09-3/13/09.	$504.99
Axiom Engineers	Commissioning services for the period December 28, 2008 through January 24, 2009.	$1,880.00
Kleinfelder Inc.	Professional services including: project management, data management, structural management, structural concrete, and structural steel. Services billed thru January 4, 2009.	$8,377.50
The Madden Company	Provide copier maintenance for the period 12/21/08 to 1/21/09.	$27.18
The Madden Company	Provide copier maintenance for the period 1/21/09 to 2/21/09.	$37.33
HGHB	Schematic design services for the month of October 2008.	$16,200.00
HGHB	Schematic design and design development services for the month of November 2008.	$32,400.00
HGHB	Schematic design, design development, and working drawings services for the month of December 2008.	$174,960.00
HGHB	Construction administration for site work, for the month of September 2008.	$960.00
HGHB	Architectural work for the month of September 2008.	$4,159.00
Epico Systems Inc.	Data connection for Kitchell site trailer.	$1,541.00
Kleinfelder Inc.	Professional services including: administration, field geotechnical, structural masonry, structural concrete, and structural steel. Services billed thru February 8, 2009.	$12,453.02
Dilbeck & Sons Inc.	Payment application #7 for construction of building.	$318,666.80

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
Public Safety Training Center Renovation (cont.)		
Pacific Valley Bank	Retention payment for payment application #7.	$35,407.43
Axiom Engineers	Commissioning services for the period January 25, 2009 through February 28, 2009.	$940.00
HGHB	Construction administration services for the month of January 2009.	$1,920.00
HGHB	Administration services for the month of January 2009.	$8,318.00
David Foord	Inspection services for January and February 2009.	$18,000.00
Kitchell, CEM	Professional services for the month of February 2009.	$94,195.50
William Scotsman	Provide site trailer lease, delivery and setup and removal.	$504.99
Environmental Consulting LLC	Lead paint abatement oversight services for January 2009.	$187.50
HGHB	Working drawings services for the month of January 2009.	$70,284.10
	To Date Expense through March 31, 2009	**$3,539,299.72**
Gymnasium Building	*Total Expense at December 31, 2008*	*$638,771.97*
Wasson's	Post construction cleaning to include: cleaning of all windows, dusting ledges, walls and basketball back boards. November 6 - 7, 2008.	$1,380.00
Wasson's	Post construction cleaning to include: cleaning of all windows, dusting ledges, walls and basketball back boards. October 2008.	$296.50
Central Electric	Extra work: wiring power, data to scoreboards, revise light switches, and clean switch panel.	$11,068.58
David Foord	Inspection services for the month of November 2008.	$6,000.00
DMC Construction	Payment application #5.	$140,145.48
Del Monte Glass	Furnish and Install six (6) lights of obscure wire glass.	$3,231.00
American Lock and Key	Re-key the gym.	$543.00
American Lock and Key	Four locks were not included in the first proposal.	$72.00
David Foord	Inspection services for the month of December 2008.	$2,000.00
First National Bank	Retention payment for payment application #5.	$15,571.72
DMC Construction	Payment application #6.	$148,267.33
Kleinfelder	Special inspection services including: bolt torque testing and document preparation.	$1,923.50
First National Bank	Retention payment for payment application #7.	$19,315.83
	To Date Expense through March 31, 2009	**$988,586.91**

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
Lecture Forum Renovation	*Total Expense at December 31, 2008*	*$2,113,297.34*
Wilco Supply	Purchase of lock set materials .	$96.64
Wilco Supply	Purchase of lock set materials .	$2,109.22
Alfa Tech	HVAC replacement.	$800.00
	To Date Expense through March 31, 2009	**$2,116,303.20**
Social Science Renovation	*Total Expense at December 31, 2008*	$863,696.74
	No new expense this period.	$0.00
	To Date Expense through March 31, 2009	**$863,696.74**
New Child Development Center Building		
	Total Expense at December 31, 2008	*$1,023,211.72*
	No new expense this period.	$0.00
	To Date Expense through March 31, 2009	**$1,023,211.72**
New Education Center at Marina	*Total Expense at December 31, 2008*	*$1,722,384.84*
EMC Planning Group Inc.	Professional services for the CEQA services.	$205.67
Kleinfelder Inc.	Geotechnical services. Service thru December 2008.	$6,138.42
Division of the State Architect	Geotechnical, geohazards, and percolation services. Service thru January 2009.	$40,000.00
Kleinfelder Inc.	Provide Geotechnical and Geo-hazard investigation services and limited percolation testing.	$10,023.57
Kleinfelder Inc.	Geotechnical, and geohazards services. Service thru February 12, 2009.	$1,532.71
Marina Coast Water District	Commercial meter application and review fees.	$3,000.00
	To Date Expense through March 31, 2009	**$1,783,285.21**
Furniture/Equipment	*Total Expense at December 31, 2008*	*$389,721.58*
Dell Marketing L.P.	Purchase of 1 minitower base for CSIS instructor.	$962.92
Nationwide Power System	Purchase of generator accessories for the administration building.	$3,794.42
K&L Automotive Service	Purchase of 1 pro-cut on-car brake lathe.	$9,161.30
K-Log Government Div.	Purchase of low-glare marker board for auto shop.	$773.00
	To Date Expense through March 31, 2009	**$404,413.22**

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
Infrastructure/Parking	*Total Expense at December 31, 2008*	*$20,515,662.06*
Collins Electric Co.	Install 2 cell innerduct in two separate CEI conduits through stadium.	$10,036.45
San Jose Blue	Printing and delivery of documents for the mpc education center.	$169.39
Granite Construction CO	Payment application #22 for site utilities infrastructure project.	$26,873.67
Granite Construction	Retention payment for payment application #22.	$2,985.96
D&M Consulting Engineers	Special inspection services for the lecture forum bridge. Service period ending 10/31/08.	$335.00
Alfa Tech	Construction administration services for the lecture forum bridge. Service for November 2008.	$800.00
Alfa Tech	Post construction services for road improvements. Service for November 2008.	$800.00
Alfa Tech	Civil, structural and electrical service for building 24 transformer. Service for November 2008.	$785.00
Alfa Tech	Server room migration and outside plant design services. Service for November 2008.	$5,511.00
Kitchell CEM	Professional services for the mpc infrastructure project. Service for October 2008.	$8,855.28
Kitchell CEM	Professional services for the mpc infrastructure project. Service for November 2008.	$8,855.28
Alfa Tech	Construction administration service for the lecture forum bridge. Service for September 2008.	$3,000.00
Alfa Tech	Construction administration for the lecture forum bridge. Service for August 2008.	$4,000.00
Alfa Tech	Post construction services for road improvements. Service for September 2008.	$2,400.00
Alfa Tech	Construction administration for road improvements. Service for August 2008.	$4,300.00
Alfa Tech	Construction administration for lecture forum bridge. Service for December 2008.	$500.00
Alfa Tech	Post construction services for road repairs. Service for December 2008.	$1,200.00
Alfa Tech	Construction administration for the lecture forum bridge. Service for January 2009.	$750.00
Alfa Tech	Post construction services for road improvements. Service for January 2009.	$1,300.00
Alfa Tech	Server room migration and outside plant design services. Service for December 2008.	$4,133.25
Alfa Tech	Post construction service for parking lot A north, redesign. Service for December 2008.	$1,800.00
Alfa Tech	Post construction service for site utilities project. Service for December 2008.	$500.00
Alfa Tech	Server room migration and outside plant design services. Service for January 2009.	$24,799.50
Alfa Tech	Post construction services for site utilities development. Service for January 2009.	$1,250.00
Alfa Tech	Construction administration for the lecture forum bridge. Service for February 2009.	$1,000.00
Alfa Tech	Post construction services for road improvements. Service for February 2009.	$4,300.00
Granite Construction	Retention payment for south east parking lot improvement.	$167,904.50
EMC Planning Group Inc.	Streambed alteration services for the mpc footbridge. Service for the period July 2008 thru January 2009.	$216.23
Alfa Tech	Civil and architectural services for the site accessibility project. Service for February 2009.	$5,500.00
Alfa Tech	Server room migration and outside plant design services. Service for February 2009.	$20,252.93
Alfa Tech	Provide site utilities engineering services.	$1,500.00
	To Date Expense through March 31, 2009	**$20,832,275.50**

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
New Admin/Old Library	*Total Expense at December 31, 2008*	*$2,546,059.85*
Dilbeck & Sons Inc.	Payment application #10. 81.46% complete.	$447,002.10
David Foord	Inspection services for construction for the month of November 2008.	$7,500.00
San Jose Blue	Printing and delivery of documents.	$54.04
Kitchell CEM	Project management services for November 2008.	$9,801.00
Dilbeck & Sons Inc.	Payment application #11. 91.19% complete.	$504,196.19
Pacific Valley Bank	Retention payment for payment application #10.	$49,666.90
Pacific Valley Bank	Retention payment for payment application #11.	$56,021.81
Pacific Valley Bank	Retention payment for payment application #9.	$64,434.90
D&M Consulting Engineers	Compaction testing, project management, and epoxy installation services. Service for November 2008.	$2,282.00
D&M Consulting Engineers	Compaction testing, project management, concrete placement, concrete lab testing, and administrative services. Service for January 2009.	$794.60
David Foord	Inspection services for construction for the month of December 2008.	$7,500.00
Axiom Engineers	Commissioning services for the period December 28, 2008 thru January 24, 2009.	$925.00
Don Chapin	Retention payment released once project was complete.	$2,412.80
Don Chapin	Provide labor and materials to remove and replace asphalt.	$21,715.20
The Ratcliff Architects	Construction administration services. For the period September 28, 2008 thru December 27, 2008.	$15,165.00
Dilbeck and Sons	Partial of payment application #12.	$20,812.01
Pacific Valley Bank	Retention payment for payment application #12.	$22,958.21
Kitchell CEM	Project management services for December 2008.	$9,801.00
Dilbeck & Sons Inc.	Remaining payment of payment application # 12. Building 96.50% complete.	$185,811.80
PARC Environmental	Pickup and dispose of transite pipe incased in concrete.	$1,520.00
C2G Civil Consultants Group	Partial grading and paving improvements. Service for 10/01 - 12/31/08	$248.75
Kleinfelder	Testing and special inspections for the new paving at lower mechanical area. Billing thru February 8, 2009.	$785.50
D&M Consulting Engineers	High - strength bolt services. Service for period ending January 16, 2009.	$295.20
D&M Consulting Engineers	Concrete placement & sampling, field welding, and administrative services. Service for period ending October 31, 2008.	$775.60
Kitchell CEM	Project management services for January 2009.	$8,911.08
Nationwide Power Systems Inc.	Purchase of 80kW generator and transfer switch.	$34,918.22
	To Date Expense through March 31, 2009	**$4,022,368.76**

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
PE Field/Track	*Total Expense at December 31, 2008*	*$14,848,446.67*
	No new expense this period.	$0.00
	To Date Expense through March 31, 2009	**$14,848,446.67**
Swing Space	*Total Expense at December 31, 2008*	*$1,600,761.37*
Parc Environmental	Removal and disposal of asbestos containing floor tile and mastic located in the main hallways at the social science building.	$7,870.00
HGHB	Professional services for the relocatable #2 at the marina education center. Service for November 2008.	$3,492.50
Cable Express	Purchase 1 cisco IP phone and wall mount for marina education center.	$148.99
Sign Works	Purchase sign reading, "Supportive Services Testing Center."	$80.44
San Jose Blue	Bind plans for marina education center.	$103.50
San Jose Blue	Upload into planwell modular building 2.	$275.30
Bruce Wilder	Purchase speakers for smart classroom at the marina education center.	$137.19
American Lock & Key	Re-key modular at marina education center to match campus standard.	$519.13
MLD Custom Cabinets	Purchase one multi-media console for use in new marina modular classroom.	$1,984.13
Mobile Modular Management Corp.	Rent for 12/6/08 to 1/4/09 for supportive services modular.	$420.00
Mobile Modular Management Corp.	Rent for 11/6/08 to 12/5/08 for supportive services modular.	$420.00
William Scotsman	Partial payment on trailer. Rent for August 2008.	$24.33
William Scotsman	Rent for restroom trailer at marina education center. Rent from 11/29/08-12/28/08.	$637.20
William Scotsman	Rent for restroom trailer at marina education center. Rent from 8/29/08-9/28/08.	$637.20
William Scotsman	Rent for restroom trailer at marina education center. Rent from 12/24/08-1/23/09.	$637.20
Apex Signs & Graphics	Furnish and install signs for classroom at the marina education center. Signs to read : No Food or Drink Allowed in Classroom.	$257.07
Apex Signs & Graphics	Furnish and install aluminum sings and ADA signs at the marina education center.	$391.91
William Scotsman	Rental for modular classroom at marina education center. Rent from 12/3/08-1/2/09.	$417.20
Central Electric	Install six Cat 6 data drops from existing IDF to end building at the marina education center.	$22,688.45
Soundaway	Purchase of 2" thick acoustic foam material for sound control in the supportive services temporary office building.	$341.28
Peter Morgan Stock	Labor to unload, unpack, and assemble 15 classroom tables at marina education center.	$337.50
Cardinale Moving & Storage Co.	Deliver and pickup of storage container.	$247.00
Mobile Modular Management Corp.	Rent for 1/5/09 to 2/3/09 for supportive services modular.	$420.00
William Scotsman	Rent for restroom trailer at marina education center. Rent from 12/29/08-1/28/09.	$637.20

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
Vendor Name	Description of service or purchase	Amount Paid
Swing Space (cont.)		
KI Inc.	Purchase 40 chairs, 20 fixed leg tables for the marina education center.	$10,093.64
William Scotsman	Rent mobile office for marina education center. Rent from 12/29/08-1/28/09.	$1,083.83
Dell Marketing L.P.	Purchase one computer notebook for marina education center smart classroom.	$1,372.38
William Scotsman	Deliver and setup modular classroom at marina education center.	$5,609.33
Central Electric	Installation of new electrical services to new portable building at the marina education center.	$3,867.84
Kleinfelder	Compaction testing and inspection for the marina education center. Invoice thru December 7, 2008.	$292.50
Wasson's	Clean carpet in classroom at the marina education center.	$515.80
Projector People	Purchase of a toshiba projector for the marina education center.	$1,249.00
HGHB	Consulting services for the administrative services building. Service for November 2008.	$11,059.81
HGHB	Consulting services for the administrative services building. Service for September 2008.	$17,243.36
HGHB	Consulting services for the administrative services building. Service for October 2008.	$17,384.35
Troxell Communications Inc.	Purchase 1 pull down screen.	$262.76
Troxell Communications Inc.	Purchase 1 digital presenter.	$2,520.38
Mobile Modular Management Corp.	Rent for 2/4/09 to 3/5/09 for supportive services modular.	$420.00
William Scotsman	Rent for restroom trailer at marina education center. Rent from 1/24/09-2/23/09.	$637.20
William Scotsman	Rent mobile office for marina education center. Rent from 1/29/09-2/28/09.	$1,083.83
DRP Builder	Provide and install 3 white boards with chalk trays at the marina education center.	$1,210.00
William Scotsman	Rent for restroom trailer at marina education center. Rent from 2/24/09-3/23/09.	$637.20
William Scotsman	Rent mobile office for marina education center. Rent from 3/1/09-3/28/09.	$1,083.83
Mobile Modular Management Corp.	Rent for 3/6/09 to 4/4/09 for supportive services modular.	$420.00
	To Date Expense through March 31, 2009	**$1,721,933.13**
General Institutional Bond Mgmt	*Total Expense at December 31, 2008*	*$3,063,549.50*
Wasson's Cleaning	Labor for cleaning of construction trailer including: cleaning and sealing of VCT flooring.	$800.50
Kitchell, CEM	Project management services for September 2008.	$4,696.50
Kitchell, CEM	Project management services for November 2008.	$48,760.50
Office Depot	Purchase of HON desk for management office.	$582.90
San Jose Blue	Plan printing and delivery of parking lot B plans.	$8.58
San Jose Blue	Plan printing and delivery of mpc administration building plans.	$16.65
San Jose Blue	Plan printing and delivery of mpc administration building plans.	$26.13
San Jose Blue	Plan printing and delivery of elevator addition plans.	$57.42
San Jose Blue	Plan printing and delivery of gymnasium plans.	$57.72

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
Vendor Name	Description of service or purchase	Amount Paid
General Institutional Bond Mgmt (cont.)		
San Jose Blue	Plan printing and delivery of Lot B-SW improvement plans.	$86.88
San Jose Blue	Plan printing and delivery of parking lot B plans.	$88.43
San Jose Blue	Plan printing and delivery of mpc administration building plans.	$376.97
Div. of the State Architect	Close of file and certification for the child development center.	$150.00
San Jose Blue	Planwell retrieval for the business and computer science building.	$18.79
San Jose Blue	Upload into planwell retrieval mpc energy conservation project.	$144.14
San Jose Blue	Plan printing and planwell management for: public safety training center, auto tech, infrastructure, marina education center, and new administration building.	$2,566.01
Kitchell, CEM	Project management services for October 2008.	$97,311.00
Kitchell, CEM	Project management services for December 2008.	$40,818.00
Kitchell, CEM	Project management services for January 2009.	$48,243.50
San Jose Blue	Document printing and delivery for Program Management.	$2,553.75
	To Date Expense through March 31, 2009	**$3,310,913.87**
Music / Theater Building	*Total Expense at December 31, 2008*	*$22,732.50*
	No new expense this period	*$0.00*
	To Date Expense through March 31, 2009	**$22,732.50**
Fitness Phase 1B	*Total Expense at December 31, 2008*	*$899,827.93*
	No new expense this period	$0.00
	To Date Expense through March 31, 2009	**$899,827.93**
Infrastructure 2	*Total Expense at December 31, 2008*	*$2,402,653.63*
C2G Civil Consultants Group	Construction phase services for the baseball fields. Service from 11/1-11/30/08.	$370.00
Alfa Tech, Inc.	Construction documents for parking lot A north, redesign. Service from 11/1/08-11/30/08.	$600.00
Central Electric	Install conduit on roof of college center. This is to provide raceway for the new data cabling.	$15,474.00
C2G Civil Consultants Group	Construction phase services for the baseball field walkway. Service from 12/1-12/31/08.	$2,025.00
Granite Construction	Payment application #23 for site utilities infrastructure.	$4,500.00
Alfa Tech, Inc.	Construction documents for parking lot A north, redesign. Service from 12/1/08-12/31/08.	$6,949.90
Granite Construction	Retention to be paid to Granite for deposit to escrow account per agreement.	$500.00
	To Date Expense through March 31, 2009	**$2,433,072.53**

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
Infrastructure - Phase III	*Total Expense at December 31, 2008*	*$217,403.57*
C2G Civil Consultants Group	Construction documents for parking lot "B" expansion and repair project.	$6,075.00
Southern Bleacher Company	Provide 4-3' maverick team bench without back for the MPC baseball field.	$1,368.30
San Jose Blue	Document printing and delivery of mpc elevator addition building 24.	$11.80
San Jose Blue	PlanWell retrieval of mpc data cabling project.	$16.36
San Jose Blue	Upload into PlanWell retrieval the data cabling plans.	$43.24
San Jose Blue	PlanWell retrieval of mpc data cabling project.	$57.40
San Jose Blue	PlanWell retrieval of mpc data cabling project.	$72.24
San Jose Blue	PlanWell retrieval of mpc data cabling project.	$79.04
San Jose Blue	PlanWell retrieval of mpc data cabling project.	$80.24
San Jose Blue	Print and distribute 6 sets of data cabling plans.	$703.14
Silvestri Construction	Additional surveying work at the baseball walkway.	$1,369.00
AT & T	Relocation of MPOE & MUX to the new data center in the administration building.	$43,006.98
Sugimura Finney Architects	Professional services for building #24. Service thru 12/31/09.	$3,240.00
California Visiplex	Purchase 15 wireless voice addressable PA amplifiers, backup battery, and wall mounted speaker. These will be used with the campus emergency alert systems.	$7,602.95
Green Valley Landscape	Labor and repair on landscaping at baseball field.	$2,089.44
California Contract	Invoiced 50% of progress payment for evacuation plan signs. Signs to be placed in the following buildings: Art, Drafting, Life Science, Physical Science and International Center.	$5,908.13
Axiom Engineers	Commissioning services for building 24 elevator project.	$240.00
Kleinfelder	Geotechnical investigation services for mpc parking lots B & C project. Billing thru 12/7/08.	$2,168.00
Granite Construction Co-Watson	Replace boiler hot water lines from gym to college center and theater.	$50,000.00
John Deer Company	Purchase hardware for sprinkler system communication.	$1,408.01
Kleinfelder	Materials testing services at the mpc baseball field. Billing thru 12/7/08.	$607.50
Kleinfelder	Geotechnical investigation services for mpc parking lots B & C project. Billing thru 1/4/09.	$5,262.09
Kleinfelder	Administration and engineer review for mpc building 24 elevator addition. Billing thru 1/4/09.	$182.50
Axiom Engineers	Engineering services for mpc energy conservation project. Service for 12/28/08-1/24/09.	$900.00
C2G Civil Consultants Group	Meetings and coordination with mpc on parking lot "B" expansion and repair project.	$1,125.00
Don Chapin Co.	Retention payment for construction of parking lot "B".	$9,420.00

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
Infrastructure - Phase III (cont.)		
Don Chapin Co.	Payment application #1 for construction services for parking lot "B" southwest improvements.	$84,780.00
California Contract	Balance of payment for evacuation signs.	$5,870.59
William Thayer Construction	Payment application #1 for elevator addition.	$41,049.11
C2G Civil Consultants Group	Provide services for parking lot "B" expansion & repair. Services included: schematic design, and construction documents. Service from 12/1-12/31/08.	$6,350.00
C2G Civil Consultants Group	Provide services for parking lot "C" repair. Service included: schematic design phase and construction documents. Service from 12/1/-12/31/08.	$7,050.00
Monterey County Fence Co.	Dismantle and haul top tier of trellis touching student center building.	$300.00
Monterey County Fence Co.	Install four companion benches at the baseball field.	$370.00
C2G Civil Consultants Group	To provide services for submitting the baseball field walkway design to the department of state architects (DSA).	$560.00
Kleinfelder	Geotechnical investigation services for mpc parking lots B & C. Billing thru 2/8/09.	$1,352.00
C.S. Communications	To install district furnished interior speakers for the campus alarm system.	$12,635.18
Kleinfelder	Geotechnical observation and testing for the southwestern portion of parking lot B. Billing thru 2/8/09.	$4,637.50
C2G Civil Consultants Group	Provide services for parking lot "B" expansion & repair. Services included: schematic design, and construction documents. Service from 1/1-1/31/09.	$3,490.00
C2G Civil Consultants Group	Provide services for parking lot "C" repair. Service included: schematic design phase, and construction documents. Service from 1/1/-1/31/09.	$6,740.00
Direct Line Communications	Installation of new copper and fiber optic "backbone" from the new data center to all other campus buildings. Payment application #1.	$174,877.20
Division of State Architectural	Payment for change orders on the site utilities infrastructure project.	$25,342.75
Kleinfelder	Services provided for elevator project. Including: compaction testing, data management, excavation observe, and administration. Billing thru 2/8/09.	$2,723.00
Don Chapin Co.	Additional work required to remove and haul away unsuitable soils, import of new base rock materials and compaction of same, and added trenching for unforeseen conditions and irrigation piping for the parking lot "B" southwest improvements.	$10,009.86

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
Infrastructure - Phase III (cont.)		
Direct Line Communications	Provide labor and material to cut and re-route an existing 12 MM fiber and 50 pair copper cable. Provide and install 125 feet of a new 12 MM fiber and 50 pair copper, splice and close at each end. Work performed at the gym.	$3,454.26
Parc Environmental	Storage and disposal of transite pipe during site utilities infrastructure project.	$2,375.00
C.S. Communications	Replace speaker controller on life science building #10 that stopped working. Sent unit to visipliex for repair and reconnected unit.	$280.00
C.S. Communications	Replace speaker controller on humanities building that stopped working. Sent unit to visiplex for repair and reconnected unit.	$280.00
Division of State Architectural	Plan check and review fees for parking lots "B"& "C" and auto tech.	$2,000.00
C2G Civil Consultants Group	Parking lots "D" & "E" extension. Service include: DSA closeout. Service for 9/1-12/31/08.	$2,500.00
C2G Civil Consultants Group	Parking lot "F" extension. Service included: meetings and coordination, DSA closeout. Service for 8/1-12/31/08.	$2,560.00
Central Electric	Rewire quad lights and provide isolated switch for astronomy class.	$266.66
HGHB	Schematic design for life science greenhouse. Service for January 2009.	$402.50
HGHB	Schematic design for life science greenhouse. Service for December 2008.	$3,220.00
C2G Civil Consultants Group	Provide services for parking lot "C" repair. Service included: schematic design, and construction documents. Service for 2/1-2/28/09.	$2,785.00
C2G Civil Consultants Group	Provide services for parking lot "B". Services include: schematic design, construction documents. Service for 2/1-2/28/09.	$5,570.00
Direct Line Communications	Installation of new copper and fiber optic "backbone" from the new data center to all other campus buildings. Payment application #2.	$98,530.59
DRP Builders	Install 80 signs for phase I evacuation signage project.	$3,160.00
M3 Environmental Consulting LLC	Prepare hazardous material survey for old lecture forum bridge.	$450.00
California Visiplex	Purchase of 30 interior speakers for the campus alert system. The system includes: wireless voice addressable PA amplifier, backup battery, mounted wall speaker.	$13,034.07
	To Date Expense through March 31, 2009	**$889,445.20**

	Monterey Peninsula College	
	Bills & Warrants Report	
	Through March 31, 2009	
		Amount
Vendor Name	Description of service or purchase	Paid
Closed Projects		
New Admin/Old Library	Renovation.	$21,279.52
Early Start - Walkway/Safety Improvements		$225,630.18
Early Start -Telephone System Upgrades		$599,414.48
Early Start - As Built Drawings		$209,792.00
Early Start - Roof Repairs		$480,255.64
Early Start - HVAC Repairs	Social Science/Computer Science buildings.	$618,538.68
Early Start - Landscaping	Library & Technology Center area.	$438,292.96
Early Start - Vehicles		$187,070.27
Early Start - Master Signage Plan		$53,890.42
Early Start - Auto Technology Bldg	HVAC replacement.	$16,443.00
Drafting Bldg	Furnace replacement.	$13,974.00
Early Start - New Plant Svcs. Bldg	Costs over state funding for new building.	$487,574.35
Early Start - Demolition of Old Plant Svcs. Bldg		$63,521.68
Environmental Impact Report - Campus		$154,162.67
Business & Computer Science Bldg	Seismic design.	$7,981.84
Humanities Bldg	Seismic design.	$16,375.04
International Center Bldg	Blue Prints.	$14.71
Physical Science Bldg	Architectural Services, for potential elevator replacement.	$6,986.44
Life Sciences Blg	Architectural Services, for potential elevator replacement.	$7,793.83
Pool/Tennis Courts	Preliminary architectural services.	$405.00
	To Date Expense through March 31, 2009	**$3,609,396.71**
	Total Payments	**$65,796,158.29**

BOND EXPENDITURE REPORT 3/31/09

Total with Other Funds	Projects	Total Bond Budget	Total Bond Prior Year Expenses	2008-2009 Payments	Total Payments	Purchase Orders Outstanding	Bond Budget Balance	Project % Completed	
								% Bond Cost	% Construction Schedule
	In Process								
$1,000,000	Auto Technology Building	$1,000,000	$10,080	$94,227	$104,307	$27,250	$895,693	10%	0%
$11,000,000	New Ed Center Building at Marina	$11,000,000	$1,719,150	$64,135	$1,783,285	$28,899	$9,216,715	16%	0%
$6,800,000	New Admin / Old Library Renovation	$4,085,000	$495,873	$3,526,495	$4,022,368	$259,788	$62,632	98%	98%
$4,000,000	Furniture & Equipment	$4,000,000	$24,264	$380,149	$404,413	$5,376	$3,595,587	10%	10%
$1,200,000	Gym - floor/seismic/bleachers	$600,000	$132,052	$856,534	$988,586	$170,250	* ($388,586)	* 165%	98%
$9,000,000	Public Safety Training Center Renov.	$9,000,000	$877,128	$2,662,172	$3,539,300	$2,942,917	$5,460,700	39%	58%
$11,000,000	New Student Services Building	$11,000,000	$795,857	$9,161	$805,018	$197,999	$10,194,982	7%	0%
$4,600,000	Swing Space / Interim Housing	$4,600,000	$1,380,627	$341,306	$1,721,933	$509,286	$2,878,067	37%	37%
$2,500,000	Infrastructure - Parking/Phase II (DEF&A)	$2,500,000	$684,646	$1,748,427	$2,433,073	$110,979	$66,927	97%	100%
$3,800,000	Infrastructure - Phase III	$3,800,000	$19,548	$869,897	$889,445	$889,067	$2,910,555	23%	23%
$54,900,000	**Total in Process**	**$51,585,000**	**$6,139,225**	**$10,552,503**	**$16,691,728**	**$5,141,811**	**$34,893,272**		
	Future								
$7,690,000	Human,Bus-Hum,StudntServ	$3,845,000	$0	$0	$0		$3,845,000	0%	0%
$30,906,000	Business/Math/Science	$15,453,000	$0	$0	$0		$15,453,000	0%	0%
$4,700,000	College Center Renovation	$4,700,000	$7,120	$16,488	$23,608		$4,676,392	1%	0%
$500,000	Nursing - replace roof	$500,000	$0	$0	$0		$500,000	0%	0%
$3,000,000	PE Phase II - Gym/Locker Room Renov.	$3,000,000	$0	$0	$0		$3,000,000	0%	0%
$5,000,000	Pool/Tennis Courts Renovation	$5,000,000	$0	$0	$0		$5,000,000	0%	0%
$11,292,000	Art Studio/Art Ceramics/AD/IC/Drafting	$5,646,000	$0	$0	$0		$5,646,000	0%	0%
$12,000,000	PSTC Parker Flats	$6,000,000	$0	$0	$0		$6,000,000	0%	0%
$22,628,000	Music / Theater Building	$11,314,000	$22,732	$0	$22,732		$11,291,268	0%	0%
$97,716,000	**Total Future**	**$55,458,000**	**$29,852**	**$16,488**	**$46,340**	**$0**	**$55,411,660**		
	Completed								
$600,000	Early Start/Completed-Telephone System	$600,000	$599,414	$0	$599,414		$586	100%	100%
$500,000	Early Start/Completed-New Plant Serv Bldg	$500,000	$487,574	$0	$487,574		$12,426	98%	100%
$599,414	Early Start/Completed-HVAC Repairs	$599,414	$618,539	$0	$618,539		($19,125)	103%	100%
$1,871,801	Other Early start / completed	$1,871,801	$1,903,876	$0	$1,903,876		($32,075)	102%	100%
$21,000,000	Infrastructure/Parking - Phase I	$21,000,000	$20,099,984	$732,291	$20,832,275	$703,695	$167,725	99%	100%
$5,447,000	New Child Development Center Bldg	$985,000	$1,016,114	$7,096	$1,023,210		($38,210)	104%	100%
$1,700,000	Lecture Forum Renovation	$1,700,000	$2,048,104	$68,199	$2,116,303	$1,891	($416,303)	124%	100%
$1,200,000	Social Science Renovation (inc. Seismic)	$1,200,000	$850,815	$12,882	$863,697	$221	$336,303	72%	100%
$17,500,000	PE Field Track, Fitness Building	$17,400,000	$17,190,756	$45,811	$17,236,567	$49,347	$163,433	99%	100%
$500,000	Family Consumer Science	$500,000	$0	$65,721	$65,721	$5,044	$434,279	13%	100%
$50,918,215	**Total Completed**	**$46,356,215**	**$44,815,176**	**$932,000**	**$45,747,176**	**$760,198**	**$609,039**		
$203,534,215	**Total All Projects**	** **$153,399,215**	**$50,984,253**	**$11,500,991**	**$62,485,244**	**$5,902,009**	** **$90,913,971**		
	General Institutional-Bond Management		$2,753,527	$557,387	$3,310,914	$91,503			
			$53,737,780	**$12,058,378**	**$65,796,158**	**$5,993,512**			
	Total Bond Funds Spent to Date		**$65,796,158**						

* This deficit will be reduced when scheduled maintenance funding is received from the State.

** Future interest income not yet received.

Cost Control Report

5/14/2009

Public Safety Training Center

	Budget	Current Projection	Variance	Comments
Design Phase	$ 3,669,200	$ 3,669,200	$ -	Design includes Architect, Const. Mgmt., DSA fees, printing, etc.
Constructn bid	$ 4,030,000	$ 4,030,000	$ -	Actual bid amount.
C.O. Contngcy.	$ 851,000	$ 851,000	$ -	
Test & Inspect.	$ 224,800	$ 224,800	$ -	
Equipment	$ 225,000	$ 225,000	$ -	
Total	**$ 9,000,000**	**$ 9,000,000**	**$ -**	

Summary: The project bids were under budget and as a result the project is well within the budget. The District is negotiating an agreement with the Marina Coast Water District for utility connections. Presently, change orders are at $419,881 and projected to be approximately $468,000.

Old Library / New Admin

	Budget	Current Projection	Variance	Comments
Design Phase	$ 1,028,400	$ 1,034,064	$ (5,664)	Design includes Architect, Const. Mgmt., DSA fees, printing, etc.
Constructn bid	$ 4,554,000	$ 4,554,000	$ -	Actual bid amount.
C.O. Contngcy.	$ 580,000	$ 574,336	$ 5,664	Considerable concealed structural repairs, termite damage repair, etc.
Test & Inspect.	$ 171,600	$ 171,600	$ -	
Equipment	$ 466,000	$ 574,000	$ (108,000)	
Total	**$ 6,800,000**	**$ 6,908,000**	**$ (108,000)**	

The bids came in under budget, but there have been significant change orders for unforeseen conditions such as concealed structural rebuilding, roof repairs and termite damage repair. The project is complete, and change orders have been finalized. Although he project is still within budget, the Architect has requested additional fees. That request, along with some civil work and information technology upgrades (including an emergency generator for the Data Center) has put the actual expenditures beyond the budget.

Infrastructure Phase III

	Budget	Current Projection	Variance	Comments
Design Phase	$ 382,000	$ 382,000	$ -	Design includes Architect, Const. Mgmt., DSA fees, printing, etc.
Constructn bid	$ 3,000,000	$ 3,000,000	$ -	Projected.
C.O. Contngcy.	$ 300,000	$ 300,000	$ -	
Test & Inspect.	$ 118,000	$ 118,000	$ -	
Equipment	$ -	$ -	$ -	
Total	**$ 3,800,000**	**$ 3,800,000**	**$ -**	

Summary: Infrastructure Phase III includes the PE Elevator, data cabling, parking lots B & C and other site work (sidewalks & lighting, etc.) The current budget is $3,800,000 but will be augmented with funds remaining from Infrastructure Phase I & II.

Agenda Item # 7-A

MPC
Active Bond/Facility Projects Update
May 14, 2009

PE Fitness Elevator – Construction on the new elevator is underway and completion is anticipated in fall 2009.

Public Safety Training Center – Work continues on the project. The first building will be completed in June of 2009 and the second in September of 2009. Negotiations continue with MCWD for utility connections.

MPC Education Center (at Marina) Permanent Buildings – The Architect has submitted the drawings to DSA. Bidding is anticipated in the summer of 2009.

Infrastructure –Infrastructure Phase III has begun and includes campus-wide data cabling (recently completed) the PE elevator project, bridge removal and remaining site work (lighting, parking lots, sidewalks). Parking Lots B&C are being upgraded this month.

New Student Services Building –Bidding will take place in June. Construction is expected to start in late June of 2009 with completion in fall of 2010.

Auto Technology Building – The architect has submitted drawings for a classroom addition to the existing structure to DSA. It is anticipated that classroom construction will begin in summer of 2009 and finish in approximately nine months. The architect is also working to design modifications to the existing structure.

Baseball Backstop – Installation of the new backstop is scheduled for June 2009.

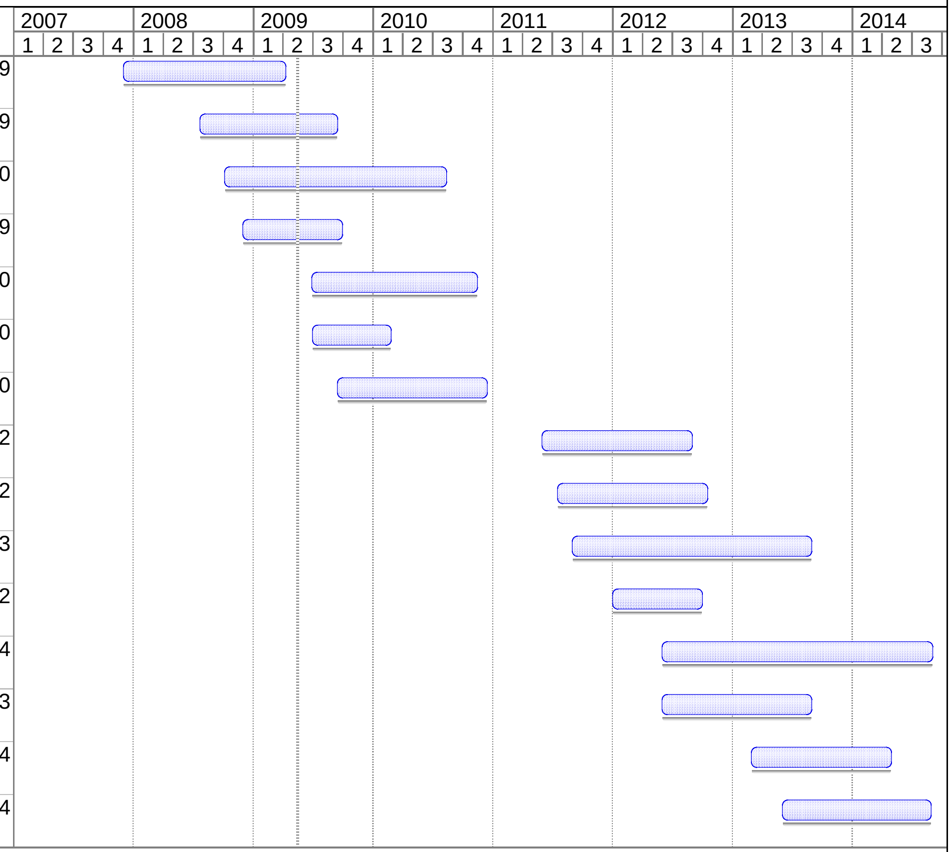
Swing Space – Now that the New Administration Building is complete, the Old Administration Building will be converted to swing space consisting of 6 classrooms. Design drawings for this project have been approved by DSA. Construction will begin in June 2009.

Facilities Committee – The Facilities Committee is currently reviewing MPC capital project budgets and priorities. Given the current uncertainty regarding levels of State funding for capital projects, the Committee is evaluating alternative strategies for utilizing Bond funds to accomplish long term capital goals. In addition, swing space strategy continues to be actively reviewed and updated.

MPC - Master Schedule

(Construction Phase Only)

ID	Task Name	Start	Finish
1	New Admin/Old Library	Mon 12/3/07	Fri 4/10/09
12	Public Safety Training Center Renovation	Wed 7/23/08	Tue 9/15/09
13	Infrastructure Phase III Parking & Sidewalks	Mon 10/6/08	Fri 8/13/10
14	PE Elevator	Mon 12/1/08	Wed 9/30/09
2	New Student Services Building	Mon 6/29/09	Mon 11/15/10
9	Automotive Technology	Wed 7/1/09	Thu 2/25/10
3	New Education Center Building at Marina	Tue 9/15/09	Wed 12/15/10
4	College Center Renovation	Wed 6/1/11	Fri 8/31/12
5	Humanities/Bus-Hum/Student Ser.	Mon 7/18/11	Wed 10/17/12
6	Business, Math & Science Buildings	Thu 9/1/11	Fri 8/30/13
7	PE Phase 2-Locker rooms	Mon 1/2/12	Mon 10/1/12
8	Music/Theater Building	Fri 6/1/12	Wed 9/3/14
10	Arts Complex	Fri 6/1/12	Fri 8/30/13
11	Ft. Ord - Parker Flats	Thu 2/28/13	Wed 4/30/14
15	Pool/Tennis Courts	Mon 6/3/13	Fri 8/29/14



MPC Master Construction Schedule
Date: Thu 5/14/09

Task | Milestone | External Tasks
Split | Summary | External MileTask
Progress | Project Summary | Split

MONTEREY COUNTY BOARD OF SUPERVISORS

MEETING: April 28, 2009	**AGENDA NO:**
SUBJECT: Receive and accept the Treasurer's Report of Investments for the quarter ending March 31, 2009.	
DEPARTMENT: Treasurer-Tax Collector	

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Receive and accept the Treasurer's Report of Investments for the quarter ending March 31, 2009.

SUMMARY:

Government Code Section 53646 (b) requires the Treasurer submit a quarterly report of investments. The attached Exhibit A describes the investment portfolio position by maturity range as of March 31, 2009. Exhibit B provides a narrative portfolio review of economic and market conditions that support the investment activity during the January – March period.

DISCUSSION:

During the third quarter of FY 2008-09, the investment portfolio was subject to continued downward pressure on interest rates. This was due to the global economic crisis where investors sought refuge in U.S. Treasuries which are considered to be the safest liquid asset. The substantial worldwide demand for treasury securities drove yield down to historic lows where one and three month treasury Bills periodically produced negative yields. Moreover, all U.S. Treasuries with maturities up to two years produced yields of less than one percent.

Also, during the January - March period, the enactment of the Troubled Asset Relief Program (TARP) funds resulted in some improvement to liquidity requirements of central banks. Consequently, no central banks suffered a default. It remains to be seen how effective the federal infusion of cash will be within the central banking system.

On March 31, 2009, the Monterey County investment portfolio contained an amortized cost basis of $1,020,696,800 spread among 68 separate securities and funds. The par value of those accounts was $1,017,615,177, and the market value was $995,907,174 or 97.87% of par value. The difference between the par value and the lower market value predominately reflects the defaulted Lehman Brothers and Washington Mutual Bank assets. The portfolio's net earned income yield for the period was 1.23%. The portfolio produced estimated income of $3,208,094 for the quarter which will be distributed proportionally to all agencies participating in the investment pool. The County General Fund will receive approximately $315,000 for the quarter. The investment portfolio had an average maturity of 98.5 days.

The investment portfolio was in compliance with all applicable provisions of state law and the adopted investment policy, and contained sufficient liquidity to meet all projected outflows over the next six months. Market value pricings were obtained through Bloomberg LLP, Union Bank of California and included live-bid pricing of corporate securities.

OTHER AGENCY INVOLVEMENT:

A copy of this report will be distributed to all agencies participating in the County investment pool. The Treasury Oversight Committee will also receive this report.

FINANCING:

General Fund budgeted interest earnings for FY 2008-09 are $1.25 million. Even though yields continue to trend lower, the projected earnings for the year should be in line with the budget. This is due to higher interest rates earlier in the year. At the end of FY 2008-09, the Auditor-Controller will effect a charge to interest earnings for actual investment losses from the Lehman/Washington Mutual defaults. The General Fund portion of those losses is estimated at $2.8 million. If actual investment earnings are $1.25 million, the net loss to the general Fund would be $2.8 million less $1.25 million or $1.55 million.

The County continues aggressive recovery efforts for the $30 million defaulted securities. Progress reports will be presented to the Board, all pool participants, and the Treasury Oversight Committee when more information is available. Any amounts recovered would be credited as unanticipated revenue and would reduce the budgeted loss noted above.

Prepared by:

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Richard N. Smith
Revenue Manager
Treasurer-Tax Collector Department
March 31, 2009

Approved by:

____
Louis G. Solton
Treasurer-Tax Collector
March 31, 2009

cc: County Administrative Office
County Counsel
Auditor-Controller – Internal Audit Section
All depositors
Treasury Oversight Committee

Attachments:

Exhibit A – Investment Portfolio by Maturity Range – 3/31/09
Exhibit B – Investment Portfolio Review

Exhibit A

County of Monterey Treasurer's Investment Pool

as of March 31, 2009

All Pooled Funds -Listing by Maturity

Agenda Item # 8

Investment Number	Description	CUSIP	SP/Fitch**	Fund #	Maturity Date	Purchase Date	Coupon	Yield	Par Value	Amortized Cost Basis	3/31/2009 Valuation	3/31/2009 Market Value
OVERNIGHT LIQUIDITY												
11527	Calif Asset Mgmt Fund CAMP - SLR	NA	AAA	40	04/01/09	12/26/08	1.006	1.006	1,001,836	1,001,836	100.000%	1,001,836.08
11466	Calif Asset Mgmt Fund CAMP-TRAN	NA	AAA	45	04/01/09	07/01/08	1.006	1.006	16,388,073	16,388,073	100.000%	16,388,072.70
11526	Calif Asset Mgt Prog CAMP-SVWP	NA	AAA	44	04/01/09	12/23/08	1.006	1.006	3,036,250	3,036,250	100.000%	3,036,249.80
10379	Calif. Asset Mgmt Fund CAMP	NA	AAA	1	04/01/09	06/26/03	1.006	1.006	97,925,000	97,925,000	100.000%	97,925,000.00
11457	Calif. Asset Mgmt Fund CAMP-MPC	NA	AAA	37	04/01/09	02/21/08	1.006	1.006	689,955	689,955	100.000%	689,954.67
11386	Cantor Fitz Repurchase Agrmt	NA	N/R	1	04/01/09	02/29/08	0.230	0.230	76,626,297	76,626,297	100.000%	76,626,297.35
11528	Federated MMF	NA	N/R	1	04/01/09	12/29/08	1.269	1.269	94,600,000	94,600,000	100.000%	94,600,000.00
11361	State Treasurers Fund LAIF	NA	N/R	1	04/01/09	01/18/08	2.502	2.502	40,000,000	40,000,000	100.000%	40,000,000.00
11422	State Treasurers Fund LAIF-MPC	NA	N/R	37	04/01/09	04/03/08	2.502	2.502	40,000,000	40,000,000	100.000%	40,000,000.00
SUBTOTAL - OVERNIGHT LIQUIDITY		36.4%					*Average Yield =	1.281	370,267,411	370,267,411	100.000%	370,267,411
	* Simple (not weighted) average yield by section											
2 DAYS TO 3 MONTHS												
11470	CalTrust Medium Term Fund	N/A	N/A	1	4/1/2009	8/1/2008	2.589	2.589	35,347,766	35,347,766	100.000%	35,347,766.41
11297	Lehman Bros Medium Term Note***	52517PG21	N/R	1	04/03/09	10/01/07	0.000	0.000	10,000,000	9,890,000	14.000%	1,400,000.00
11467	Union Bank of Calif CD	90531CUC4	A+/A+	1	04/09/09	07/14/08	3.070	3.070	10,000,000	10,000,000	100.123%	10,012,300.00
11521	Fed National Mortage Assn FNMA	31359MK69	AAA/AAA	1	04/15/09	12/15/08	4.875	0.383	10,000,000	10,017,289	100.156%	10,015,600.00
11515	Federal Home Loan Disc Note FHDN	313385EK8	AAA/AAA	1	04/16/09	12/08/08	0.000	0.300	10,000,000	9,998,750	100.000%	10,000,000.00
11516	Freddie Mac Disc Nt FREDN	313397ER8	AAA/AAA	1	04/22/09	12/08/08	0.000	0.360	10,000,000	9,997,900	100.000%	10,000,000.00
11477	US Treasury Note	912828GP9	N/R	1	04/30/09	09/25/08	4.500	1.675	10,000,000	10,022,343	100.344%	10,034,400.00
11258	Washington Mutual Med Term Note***	93933VAZ1	N/R	1	05/01/09	07/12/07	0.000	0.000	20,000,000	19,978,800	24.250%	4,850,000.00
11508	Fed National Mortage Assc FNMA	31359MVE0	AAA/AAA	1	05/15/09	11/26/08	4.250	1.046	10,000,000	10,038,720	100.438%	10,043,800.00
11530	US Treasury Note	912828FE5	N/R	1	05/15/09	01/12/09	0.000	0.090	10,000,000	10,058,130	100.559%	10,055,900.00
11484	Fed Home Loan Mortg Assn FHLMC	3137EAAE9	AAA/AAA	1	05/21/09	10/21/08	5.250	2.954	10,000,000	10,031,021	100.625%	10,062,500.00
11541	US Treasury Bill	912795M24	N/R	1	05/28/09	02/09/09	0.000	0.270	10,000,000	9,995,725	99.972%	9,997,200.00
11503	US Treasury Note	912828GT1	N/R	1	05/31/09	11/25/08	4.875	0.708	10,000,000	10,068,432	100.762%	10,076,200.00
11481	US Treasury Bill	912795Q79	N/R	1	06/04/09	10/21/08	0.000	1.749	10,000,000	9,969,244	99.967%	9,996,700.00
11504	Fed National Mortage Assn FNMA	31359MD67	AAA/AAA	1	06/08/09	12/01/08	4.200	1.461	10,000,000	10,050,802	100.656%	10,065,600.00
11523	Federal Home Loan Bank FHLB	3133XRHH6	AAA/AAA	1	06/10/09	12/19/08	2.625	0.354	10,000,000	10,043,578	100.406%	10,040,600.00
11501	Fed Home Loan Mortg Assn FHLMC	3137EAAT6	AAA/AAA	1	06/11/09	11/21/08	5.000	1.595	10,000,000	10,065,896	100.875%	10,087,500.00
11482	Fed National Mortage Assc FNMA	31359MEV1	AAA/AAA	1	06/15/09	10/22/08	6.375	2.940	10,000,000	10,069,327	101.188%	10,118,800.00
11537	Fed National Mortage Assc FNMA	31359MEV1	AAA/AAA	1	06/15/09	01/23/09	6.375	0.444	10,000,000	10,122,413	101.188%	10,118,800.00
11534	US Treasury Bill	912795M57	N/R	1	06/18/09	01/20/09	0.000	0.210	10,000,000	9,995,450	99.965%	9,996,500.00
11472	Union Bank of Calif CD-SVWP	90531CUX8	A+/A+	44	06/24/09	08/04/08	3.000	3.000	2,000,000	2,000,000	100.310%	2,006,200.00
11539	Freddie Mac Disc Nt FREDN	313397HH7	AAA/AAA	1	06/25/09	02/04/09	0.000	0.441	10,000,000	9,989,611	99.960%	9,996,000.00
11507	US Treasury Note	912828GV6	N/R	1	06/30/09	11/26/08	4.875	0.709	10,000,000	10,102,865	101.145%	10,114,500.00
SUBTOTAL - 2 DAYS TO 3 MONTHS		25.3%					*Average Yield=	1.146	257,347,766	257,854,064	93.343%	234,436,866
	* Simple (not weighted) average yield by section											
3 TO 12 MONTHS												
11525	US Treasury Bill	912795Q87	N/R	1	07/02/09	12/23/08	0.000	0.240	10,000,000	9,993,867	99.946%	9,994,600
11485	Fed Home Loan Mortg Assn FHLMC	3134A4US1	AAA/AAA	1	07/15/09	10/30/08	4.250	2.835	10,000,000	10,039,965	101.094%	10,109,400
11542	US Treasury Bill	912795N23	N/R	1	07/16/09	02/26/09	0.000	0.350	10,000,000	9,989,694	99.940%	9,994,000
11535	Federal Home Loan Disc Note FHDN	313385JN7	AAA/AAA	1	07/24/09	01/20/09	0.000	0.451	10,000,000	9,985,750	99.930%	9,993,000
11497	US Treasury Bill	912795Q95	N/R	1	07/30/09	11/20/08	0.000	0.865	10,000,000	9,971,333	99.917%	9,991,700
11489	US Treasury Note	912828GY0	N/R	1	07/31/09	11/03/08	4.625	1.269	10,000,000	10,110,603	101.445%	10,144,500
11532	Fed Home Loan Bank FHLB	3133XGEQ3	AAA/AAA	1	08/05/09	01/20/09	5.250	0.374	10,000,000	10,168,597	101.625%	10,162,500
11506	Fed National Mtg Assn FNMA	31359MU68	AAA/AAA	1	08/15/09	12/01/08	5.375	1.636	10,000,000	10,138,117	101.813%	10,181,300
11531	US Treasury Note	912828FP0	N/R	1	08/15/09	01/20/09	4.875	0.321	10,000,000	10,170,427	101.707%	10,170,700
11538	US Treasury Note	9128275N8	N/R	1	08/15/09	01/23/09	6.000	0.350	10,000,000	10,211,458	102.117%	10,211,700
11543	US Treasury Bill	912795N72	N/R	1	08/20/09	02/27/09	0.000	0.411	10,000,000	9,983,942	99.893%	9,989,300
11487	US Treasury Note	912828HB9	N/R	1	08/31/09	10/30/08	4.000	1.334	10,000,000	10,109,795	101.492%	10,149,200
11552	US Treasury Bill	912795N98	N/R	1	09/03/09	3/6/2009	0.000	0.401	10,000,000	9,982,778	99.849%	9,984,900
11536	Freddie Mac Disc Nt FREDN	313397LL3	AAA/AAA	1	09/08/09	01/20/09	0.000	0.471	10,000,000	9,979,111	99.860%	9,986,000
11551	Freddie Mac Disc Nt FREDN	313397LS8	AAA/AAA	1	09/14/09	3/5/2009	0.000	0.572	10,000,000	9,973,717	99.860%	9,986,000
11544	Fed National Mortgage Assc FNMA	31359MEY5	AAA/AAA	1	09/15/09	03/02/09	6.625	0.623	10,000,000	10,271,862	102.594%	10,259,400
11533	Fed Home Loan Bank FHLB	3133XGNJ9	AAA/AAA	1	09/18/09	01/20/09	5.000	0.466	10,000,000	10,210,842	101.906%	10,190,600
11494	US Treasury Note	912828HD5	N/R	1	09/30/09	10/31/08	4.000	1.400	10,000,000	10,128,272	101.777%	10,177,700
11511	US Treasury Note	912828HD5	N/R	1	09/30/09	12/04/08	4.000	0.670	10,000,000	10,165,174	101.777%	10,177,700
11545	Fed Home Loan Bank FHLB	3133XQL83	AAA/AAA	1	10/02/09	03/02/09	2.250	0.662	10,000,000	10,079,361	100.625%	10,062,500
11499	US Treasury Bill	912795S44	N/R	1	10/22/09	11/25/08	0.000	0.821	10,000,000	9,953,817	99.739%	9,973,900
11548	Freddie Mac Disc Nt FREDN	313397NH0	AAA/AAA	1	10/23/09	03/02/09	0.000	0.643	10,000,000	9,963,556	99.800%	9,980,000
11550	US Treasury Note	912828HF0	N/R	1	10/31/09	03/03/09	3.625	0.544	10,000,000	10,178,440	101.809%	10,180,900
11513	US Treasury Note	912828DB3	N/R	1	11/15/09	12/04/08	3.500	0.700	10,000,000	10,173,919	101.867%	10,186,700
11517	Fed Home Loan Mortg Assn FHLMC	3128X7ST2	AAA/AAA	1	11/16/09	12/08/08	2.680	1.083	10,000,000	10,099,278	101.059%	10,105,900
11340	Goldman Sachs Medium Term Note	38141GET7	A/A+	1	11/16/09	12/18/07	2.229	3.405	20,000,000	19,899,882	97.250%	19,450,000
11500	US Treasury Bill	912795S51	N/R	1	11/19/09	11/25/08	0.000	0.841	10,000,000	9,946,253	99.678%	9,967,800
11519	Federal Home Loan Bank FHLB	3133XGYT5	AAA/AAA	1	12/11/09	12/12/08	5.000	1.021	11,000,000	11,302,228	102.813%	11,309,397
11100	Student Loan Marketing Assn SLMA	78442FDA3	BBB-/BBB-	1	12/15/09	09/25/06	1.820	2.292	10,000,000	9,992,328	93.000%	9,300,000
11520	Fed Farm Credit Bank - FFCB	31331GHE2	AAA/AAA	1	12/16/09	12/16/08	0.900	0.890	10,000,000	10,000,688	99.969%	9,996,900
11554	US Treasury Bill	912795S69	N/R	1	12/17/09	03/27/09	0.000	0.502	10,000,000	9,963,889	99.624%	9,962,400
11336	Morgan Stanley Medium Term Note	61746SBB4	A/A	1	01/15/10	12/10/07	1.374	3.094	10,000,000	9,936,435	96.500%	9,650,000
11555	Fed Home Loan Mortg Assn FHLMC	3128X6K54	AAA/AAA	1	01/29/10	03/27/09	3.250	0.730	10,000,000	10,206,886	101.608%	10,160,800
11540	Fed Farm Credit Bank - FFCB	31331GLW7	AAA/AAA	1	02/02/10	2/9/2009	0.800	0.901	10,000,000	9,991,596	99.844%	9,984,400
11546	Fed Home Loan Mortg Assn FHLMC	3137EAAP4	AAA/AAA	1	02/09/10	3/2/2009	4.875	1.008	10,000,000	10,327,966	103.344%	10,334,400
11553	Fed Farm Credit Bank - FFCB	31331GQW2	AAA/AAA	1	03/24/10	03/24/09	1.120	1.085	10,000,000	10,003,423	100.031%	10,003,100
SUBTOTAL 3 TO 12 MONTHS		36.5%					*Average Yield=	0.980	371,000,000	373,605,249	100.475%	372,463,297

* Simple (not weighted) average yield by section

** Ratings as of March 31, 2009

*** Non-performing asset pending recovery effort

Exhibit A

County of Monterey Treasurer's Investment Pool

as of March 31, 2009

All Pooled Funds -Listing by Maturity

Agenda Item # 8

Investment Number	Description	CUSIP	SP/Fitch**	Fund #	Maturity Date	Purchase Date	Coupon	Yield	Par Value	Amortized Cost Basis	9/30/2008 Valuation	9/30/2008 Market Value
1 to 2 YEARS												
11547	Fed Home Loan Mortg Assn FHLMC	3128X8LZ3	AAA/AAA	1	03/09/11	03/09/09	0.000	1.250	10,000,000	10,000,000	100.096%	10,009,600
SUBTOTAL 1 TO 2 YEARS		1.0%					*Average Yield=	1.250	10,000,000	10,000,000	100.096%	10,009,600
	* Simple (not weighted) average yield by section											
2 To 3 Years												
11461	JP Morgan Medium Term Note-MPC	46625HGH7	A+/AA-	37	05/16/11	05/22/08	1.348	2.065	4,000,000	3,955,308	94.250%	3,770,000
11420	Gen Electric Med Term Note-MPC	36962GX82	AA+/AA	37	08/22/11	04/04/08	5.720	5.310	5,000,000	5,014,768	99.200%	4,960,000
SUBTOTAL 2 TO 3 YEARS		0.9%					*Average Yield=	3.687	9,000,000	8,970,076	96.725%	8,730,000
	* Simple (not weighted) average yield by section											
	** Ratings as of March 31, 2009											

TOTAL PORTFOLIO - as of 3/31/09			Par Value	Cost Basis	Market Value
Period Earned Income Yield = 1.23%	Overnight Liquidity	36.4%	370,267,411	370,267,411	370,267,411
Weight Average Market Valuation = 97.87%	2 days - 3 months	25.3%	257,347,766	257,854,064	234,436,866
Weight Average Maturity = 0.27 Years	3 months - 12 months	36.5%	371,000,000	373,605,249	372,463,297
	1 - 2 years	1.0%	10,000,000	10,000,000	10,009,600
	2 - 3 years	0.9%	9,000,000	8,970,076	8,730,000
		100%	1,017,615,177	1,020,696,800	995,907,174

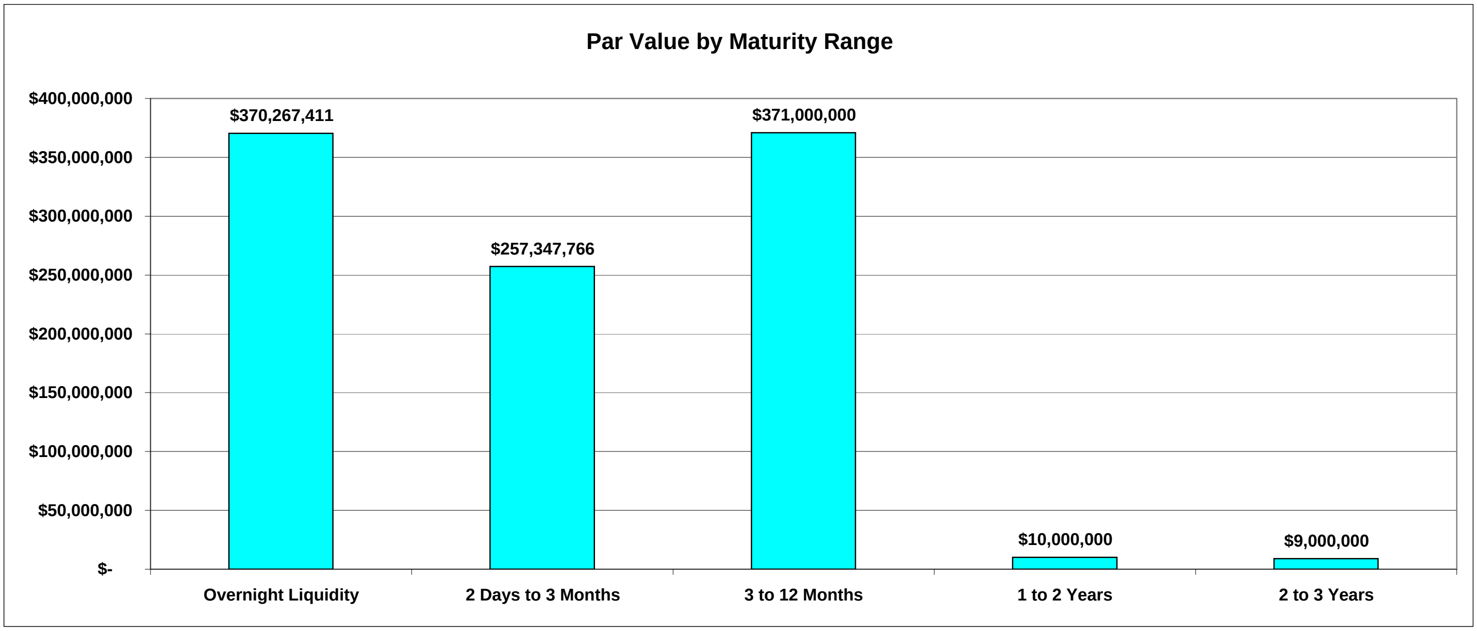


Exhibit B

Investment Portfolio Review
Quarter Ending March 31, 2009

OVERVIEW

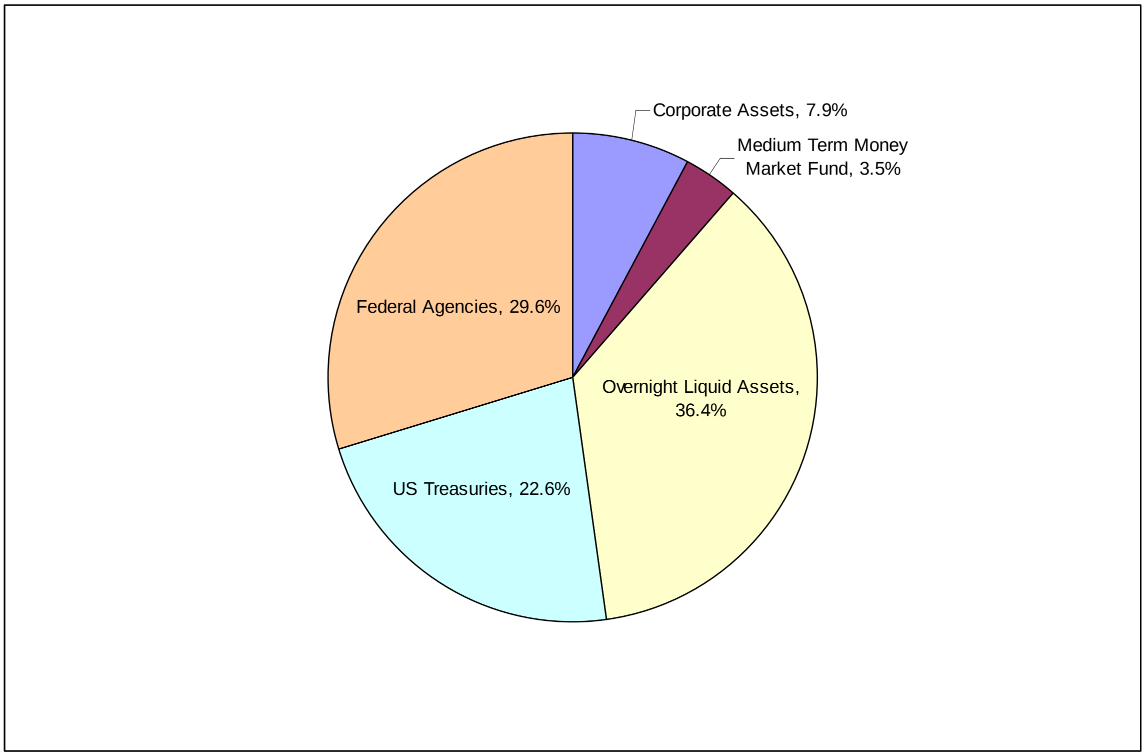
During the January 1 to March 31, 2009 quarter all sectors of the fixed income markets continued to incur substantial economically driven pressure. Banks began attempts at recapitalization, but found difficulty in attracting institutional depositors. Thus, US Treasuries remained the investment of choice with their accompanying abnormally low yields – or, a continuation of the flight to safety. The national and global recession continued during the quarter where the standout indicator was the accelerating rate and number of unemployed. The following indicators reflect key aspects of the County's investments in light of the above noted conditions:

1. Market Access – The availability of debt instruments for purchase continues to be narrow. Traditional corporate debt (bonds) was avoided by most public treasuries as their ongoing viability remained suspect. Only the largest and most capitalized banks appeared to be safe institutions. The contraction of market access has resulted in maintaining a large percentage of County investments in U.S. Treasury and Agency securities, which comprise 52% of the portfolio.

2. Credit Risk – Corporate debt migrated to a more stable credit outlook during the quarter. Modest rating reductions occurred in some areas, but general consensus is most major banks will weather the ongoing economic crisis. One notable credit concern may be the auto industry which may move toward a bankrupt condition. The County treasury has no GMAC or Ford credit debt. The Monterey County investment portfolio contained investment grade ratings on all assets including an "A" or higher rating on all corporate debt. Federal Agency assets such as Freddie Mac and Fannie Mae are "AAA" rated as a result of explicit support from the U.S. Treasury. Sallie Mae (SLMA) continues to hold a BBB- investment grade rating. Investments in Federal Agencies represent 29.6% of the Monterey County investment portfolio's total assets.

3. Liquidity Risk – Liquidity risk, as measured by the ability of the County's treasury to meet withdrawal demands on invested assets, was adequately managed during the January to March quarter. The Treasurer maintained a large percentage of assets in immediately available funds. On March 31, 2009, over 36% of the portfolio was invested in overnight liquid assets. The pending infusion of property tax revenue in April will help to mitigate a slightly declining cash position, through the end of the fiscal year.

4. Diversification – The investment portfolio was diversified but constrained by the above noted impairment to market access during the period. The portfolio was invested in the following categories on March 31, 2009:



PORTFOLIO CHARACTERISTICS

	December 31, 2008	**March 31, 2009**
Total Assets	$1,092,213,791	$1,017,615,177
Market Value	$1,071,111,285	$ 995,907,174
Days to Maturity	135	98.5
Yield	2.03%	1.23%
Estimated Earnings	$ 4,880,000	$ 3,208,000

FUTURE STRATEGY

Many challenges to prudent portfolio management persist. At the time of this report, the State of California continues to incur substantial budget shortfalls. In addition, recent budget resolutions are reliant on a May 19 election and June economic data. Consequently, there may be additional state budget pressure on local governments. In response to the State situation, the Treasurer will continue to ensure an ongoing liquid cash position greater than 30% of invested assets. In addition, the County will engage in issuing short term cash flow notes (TRANS) that will provide ample liquidity to the County treasury.

The Treasurer believes short term yields, particularly in U.S. Treasuries, will remain extremely low for at least the next 3-6 months. Treasuries continue to remain a safe haven for investors worldwide. Consequently, yields on the investment portfolio will continue to decline. As older assets mature, the new market replacement securities (not needed for expenses) will present estimated short term yields at or less than a 1% return.

The continuing heavy borrowing by the U.S. Treasury for announced bailouts and stimulus programs may result in upward inflationary pressure beyond the next six months. This would lead to much higher yields in the future. In order to mitigate the risk of incurring market losses if/when yields begin to increase, the Treasurer will maintain a ladder of rolling asset maturities that ensure the currency of the overall portfolio in any market environment.

Separately, the Treasurer, along with other impacted public agencies, continues an aggressive effort to recover defaulted assets of Lehman Brothers ($10 million) and Washington Mutual Bank ($20 million). With respect to legislation, a consortium of public agencies from across the country plans a presentation before the Senate Banking Committee in late April. The desired outcome could lead to legislation that directs the U.S. Treasury Secretary to purchase defaulted assets at full par value from impacted agencies. In addition, the County has filed suit against Lehman Brothers and Washington Mutual and their accountancy firms. County claims have been filed in bankruptcy court to secure distributed assets from Lehman Brothers and Washington Mutual Bank. Currently, there is no established timeline securing the recovery of the defaulted assets.