

SANTEE SCHOOL DISTRICT PROP R PROGRAM PERFORMANCE REVIEW

Fiscal Year 2007/2008

EXECUTIVE SUMMARY

AF Consultants (AFC) was retained by the Santee School District to review the overall performance of the Proposition R Bond Program and to make recommendations for improvement. Our review was not intended to be a detailed financial or performance audit. The purpose was to provide an independent third party view of the Prop R program with comments on current policies and procedures being used by the District. The report is limited in its findings due to this being the first review of the program and the minimal amount of construction that has actually taken place since the bonds were approved by the voters in November 2006. Numerous other areas can be reviewed as the program unfolds.

We began our assessment by first meeting with the Independent Citizen's Oversight Committee (ICOC) in December 2007 to describe the areas we normally inspect during our reviews. Following that introductory meeting we prepared a checklist of specific topics for review and prioritization by the ICOC. The areas of interest were discussed by the ICOC at their meeting of February 6, 2008 and prioritized into the five or six areas of most concern. We then met with the ICOC in March 2008 to finalize the list.

Our report research and engagement began on April 3, 2008. We began by meeting with District staff and collecting supporting documentation from District files. Several follow-up visits were made to the District office to collect data, discuss procedures, and gain further insight into the overall program. We found the ICOC Manual which is being maintained to be a most useful document. We interviewed several key personnel working on the program and found them to be cooperative and helpful. We completed our work on the report in June 2008 and have discussed a draft of our final report with District staff. A presentation to the ICOC is scheduled for July 2008 and a presentation to the Board of Education shortly thereafter.

Overall we reviewed the focus areas as prioritized by the ICOC. The six focus areas included in this report generally follows the priorities and areas of interest of the ICOC. The following summary highlights these six areas and gives corresponding recommendations based on our findings. Included in this report are:

Section 1: Overall Program and Progress to Date

- *The District has hired a Director of the Facilities Modernization program who is capable of meeting the challenges of executing the program.*
- *The District has taken a proactive stance with regard to securing additional State and other revenue sources which has been successful.*
- *The program has developed the transparency necessary with the public, stakeholders, and the ICOC is actively involved with program review.*
- *While the program and District are small relative to others we have reviewed, we believe the Santee School District has selected the appropriate method, Lease Leaseback, for constructing the program.*
- *The Board of Education is well informed and actively involved in decisions regarding the program and conducts timely workshops devoted to the capital improvement program.*

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- *The District staff present agenda items to the Board for discussion in a timely and well organized manner and share those items with community stakeholders through the ICOC.*
- *The program, thus far, is functioning well and should achieve success.*

Recommendation 1.1: *We recommend that cash flow projections be revised at least quarterly, and display revenues and expenses anticipated on the same quarterly basis.*

Section 2: Constructability Review and Value Engineering

Recommendation 2.1: *On future projects the District should insure that value engineering is conducted at each phase in a timely manner. They may wish to consider having the Architect prepare an independent detailed cost estimate as well as the Builder/Contractor so that these sessions are effective.*

Recommendation 2.2: *We recommend that the District consider not proceeding to bid until all back check comments from DSA and others have been fully incorporated and coordinated based on a constructability review.*

Recommendation 2.3: *We recommend that the District consider maintaining the provisions in the Architect's Contract concerning a separate constructability review to be done by the Architect or an independent consultant even though Barnhart conducts its own constructability review as the Builder.*

Recommendation 2.4: *Since the program envisions plans to reuse several of the recently bid Library/Tech Buildings and 10-classroom additions, we recommend that detailed records of changes, plan corrections, and omissions be kept for incorporation into the bid sets for those future projects.*

Section 3: Construction Management Services

Recommendation: *None*

Section 4: Financial Management Review

Recommendation 4.1: *Before abandoning the Colbi software system, the District should investigate financial management tools used by other school districts. If a superior system is found, the District should consider its adoption.*

Recommendation 4.2: *The District should develop a routing form for signatures and approvals of all invoices from vendors.*

Recommendation 4.3: *The District should develop a contract log to track time of payment on all project invoices. Such a log should contain the date the invoice was received, the date it was approved by the Director, and the date the warrant was released by accounting to the vendor.*

Recommendation 4.4: *If payment to any vendor is withheld, we recommend formal communication with the vendor be made explaining the reason for withholding approval of the invoice.*

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Section 5: Operational Procedures and Controls

Recommendation 5.1: *For future bond issues, the District should consider the preparation of a Program Policy and Procedures Manual defining roles and responsibilities of all participants. This will set forth an improved project communication tool and create a more transparent process with stakeholders.*

Recommendation 5.2: *AFC recommends that the District review the specifications for the current projects awarded, attempt to achieve standardization, and prepare a design manual for all future projects.*

Section 6: Design Team and Other Consultant Costs

Recommendation 6.1: *Scope, budget, and schedule are critical components of architectural agreements, therefore AFC recommends that in the future, the District consider adopting an architectural contract agreement format that clearly defines those elements and contains the following:*

- *A scope of work developed by the District for each school which defines the modernization, new construction, and site adaptations clearly.*
- *A statement of the anticipated budget in each category for each school indexed to the California Construction Cost Index (CCCI) or other standard cost index.*
- *Language in the contract which establishes the point in time that the budget has been established and method for adjustment of the architect's fee.*
- *A section containing definitions of the deliverables required from the architect at each phase of the work (schematics, preliminaries, and working drawings) and specific timelines for those deliverables.*

Recommendation 6.2: *Now that the parameters for construction are known, the District should calculate the architect's fee for each of the project sites taking into consideration reductions for site adaptation, modernization, and new construction. The District should then issue a clarification letter to the Contract based on those findings seeking agreement on fees and services from the Architect.*

Recommendation 6.3: *The District should maintain a spreadsheet of fee calculations for each project site with the fees broken down by phase per the progress payment schedule in Article IV of the Contract. District Accounting should insure that each invoice from the Architect matches the proportion of fee allocated to each phase, and that it does not exceed the contractual maximum.*

Recommendation 6.4: *We recommend that the District consider amending the Contract to define the budget and basis for remuneration to the Architect at the point of final DSA approval or the budget at time of bid. This should include contractor general conditions and fee (10%).*

Recommendation 6.5: *AFC recommends that the District, in consultation with legal counsel, review the Contract and amend and/or renegotiate the provisions of the Architect's Agreement. As of this writing we understand that the District has begun that process.*

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Recommendation 6.6: *The District should maintain a change order log throughout construction for each project. The change order log should list the following by type of change:*

1. Errors and Omissions from the Contract Documents
2. Unforeseen Job Conditions
3. Scope Changes Originated by the District
4. Backcharges to the Contractor
5. Changes Caused by Agency Review or Inspection

Recommendation 6.7: *AFC recommends that the provisions of the contract be enforced and that the District proceed to closure on those outstanding extra service items.*

Recommendation 6.8: *We recommend that the District financially monitor expenditures of the inspector of record, materials testing, and geotechnical firms to insure that there are no causes for additional services to be requested. These expenditures can be measured against the percentage of construction work completed. If extra services are warranted, amendments should be issued prior to expiration of funds in the originally approved Contract.*

In summary, we collected significant data during our review and were able to reconstruct several significant past events, make observations, and pose issues that face the District in the future. From an overall perspective, the bond program has been well managed.

We hope the recommendations enclosed in this report will allow the District to continue to make improvements as the program matures.

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SECTION 1: OVERALL PROGRAM AND PROGRESS TO DATE

AF Consultants (AFC) was retained by the Santee School District in March 2008 to review the overall performance of the District's bond program, focusing on 2007/08 Fiscal Year activities. The purpose of this section of the assessment is to address the progress made towards the completion of the program within the stated schedule and with the available funds. In addition, since the overall program was a combination of bond and state matching funds, AFC addressed the District's ability to maximize those, and other funding sources, for the overall program.

During the preparation of our report, we discuss and compare any variances from the original scope, budget, schedule, and projected progress to date. Year-to-year comparisons are made and discussion is incorporated which compare original cash flow projections and Critical Path Method (CPM) schedules. This measures progress made toward meeting the overall goals, plans to mitigate shortfalls, and reasons for variances, if any.

Being the initial year of review, we felt it necessary to provide a brief background and history of the Proposition R Bond program since its inception in November 2006, and to document any significant changes that have occurred since that time.

This section of the report should provide the transparency necessary to document successes and failures thus far and make recommendations to current administration for the future management of The Bond program with suggestions for any proposed actions to consider within the District.

AFC reviewed the following documents:

- *Proposition R Independent Citizens' Oversight Committee (ICOC) Manual containing the following:*
 1. *Definitions of Purpose and Function of the ICOC*
 2. *Brown Act requirements*
 3. *ICOC – Organization and Procedures*
 4. *Conflict of Interest requirements*
 5. *Meeting Schedules, Bond Language, and sample press releases*
 6. *ICOC Meeting of June 2007 – Agenda and handouts*
 7. *ICOC Meeting of September 2007 – Agenda and handouts*
 8. *ICOC Meeting of December 2007 – Agenda and handouts*
 9. *ICOC Meeting of February 2008 – Agenda and handouts*
 10. *ICOC Meeting of March 2008 – Agenda and handouts*
- *Santee School's Facilities Committee Annual Report 2005 to 2007*
- *Capital Projects Financial Summary, dated February 2, 2008*
- *Santee School District web site: www.santee.k12.ca.us*
- *ICOC talking points for presentation to the Board, April 1, 2008*
- *Cash Flow Projections for Santee School District Phase 1, 2, & 3 Modernizations prepared by Capitol Public Finance Group, LLC, dated February 1, 2008*

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Original Bond Program Plan: 2005 thru 2007

In June 2005, the Santee School District Board of Education formed a Facilities Steering Committee to review proposals and make recommendations regarding the District's Facilities Modernization Implementation Plan. This five-member committee discussed and reviewed the State Modernization Application process, status of the District's application, architect selection process, design guideline and standards, and contracting. The Santee School District facilities had not been modernized for many years with the average age of the original nine schools exceeding 40 years. A report entitled, Santee School District, Facilities Review 2005 was prepared by the Facilities Maintenance & Operations Department to guide future consultants.

By November 2005 the District had engaged the Sprotte + Watson architectural firm to prepare design concepts and estimates for the school modernizations. These design concepts and renderings identified modernization items, science classrooms, middle school buildings, conversion of round buildings to Tech/Libraries, ADA modernizations, and other code upgrades. In December 2005, \$20.0 million in state modernization funding became available and the Board directed administration to develop a capital improvement program including the possibility of a future bond issue.

In January 2006, a prioritized list of projects was presented to the Board at their Facility Workshop. It included a safety and deferred maintenance project list programmed for the next five years at an estimated cost of \$3,733,512 as well as priorities for modernization and improvements at each of the District's nine schools.

By February 2006 the repair/replacement and modernization list had expanded to \$58,619,124. After several visits to schools in the Cajon Valley School District that had undertaken modernization programs, planning estimates were prioritized and were revised to include all costs. By March 2006 estimates for the entire program reached \$273,846,000.

The Board then directed the Facility Committee to proceed with these recommendations and by June 2006 a final prioritized list was provided to the Board for review.

Subsequently, in August 2006 the Board approved a resolution to establish a School Bond Election to occur in November 2006 in the amount of \$60.0 million. The voters in the Santee School District area approved the General Obligation Bond on November 7, 2006 as Proposition R. The bond language divided improvements at each of the nine District schools into priorities #1 thru #3 and was reasonably flexible about committing the District to guarantee completion of all projects in a particular order. It was also clear that the proposed projects could not be completed without additional state matching funds and/or a local share from developer fees, sale of surplus property, or joint use and internal borrowing. A revised project list encompassing \$136,455,000 of construction became the basis for moving forward with the program, with an anticipated total program cost of \$165.0 million.

As required by the Bond Measure's language, the District was also required to conduct annual performance and financial audits and put in place a Citizen's Bond Oversight Committee to oversee all expenditures by the District. On November 21, 2006 the District began the formation of the Independent Citizens' Oversight Committee (ICOC) by adopting a resolution governing the policies

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and regulations relative to the ICOC. The original ICOC was put in place in March 2007 by the District and met for the first time in May 2007. The ICOC members were to be volunteers from the community with expertise in finance and construction, members of the business community, students' parents, and members of taxpayers' organizations. They were charged with reviewing all performance and financial audits, commenting on all bond measure financial plans, inspecting school facilities and grounds, communicating with the citizens at large, and preparing an annual report. During the 2006/07 FY the ICOC met several times. From a review of the ICOC meeting minutes, we found they spent the first several meetings discussing and reviewing bylaws and protocol. The majority of the work conducted during this first year was related to deferred maintenance and the presentation of the initial school projects. A web site was established for the ICOC and a Spring 2007 newsletter became the first communication released. The ICOC has been assisted by District staff and has kept a Prop R ICOC manual to track all communications reviewed, meeting agendas, and project data.

By December 2006, the decision to move forward with the selection of a developer under a Lease Leaseback arrangement began with the issuance of an RFQ. In January 2007 eight firms submitted qualifications and three were selected by the committee for interview: Barnhart, Sundt, and Erickson-Hall. By April 2007 Barnhart had been chosen as the Lease Leaseback Construction Manager and began working with the District Architect under a pre-construction Agreement. Meanwhile, in March 2007 the District hired a Director of the Facilities Modernization Program who was designated as chair of the Facilities Committee and charged with managing the entire program.

In May 2007, the first \$18.0 M of bonds were sold to fund initial planning and improvement activities for the program's first year with a cost of issuance of \$343,317. Sprotte + Watson continued the initial planning and design for the modernizations which were broken down into two groups. Group #1 would include: Cajon Park, Carlton Oaks, Pepper Drive, Rio Seco, and Sycamore Canyon to be modernized during 2008. Group #2 would include: Carlton Hills, Chet F. Harritt, Prospect Avenue, and Hill Creek to be modernized in 2009. The Board of Education discussed design options at a May 12, 2007 presentation. As recommended by staff, they also approved the use of the Colbi financial accounting software to manage the reporting of expenditures.

In June of 2007 a pre-construction Agreement with Barnhart and a geotechnical contract with Ninyo & Moore were approved. Design work continued with several alternatives discussed, including: the renovation of a standardized Library/Tech Center at 5 schools, the addition of a 10-classroom complex at 3 school sites, and a 20-classroom addition at Cajon Park. Three schools were designated for a 5-classroom addition however the Board suggested that if funding were available, the preference was to construct 10-classroom additions.

The overall budget remained at \$165.0 million for the program with several alternatives made available should funding materialize.

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Bond Program Activities 2007/2008:

In the spring of 2007, architectural design work continued and attempts were made to secure additional state funding. The newly hired Director of Facilities recalculated the state funding entitlements at each school and was able to re-apply for additional state modernization funding. This action secured an additional modernization grant from the State School Facilities Fund of approximately \$6.0 million raising the proposed funding total from \$20.0 million to \$26.0 million. In addition, she was able to secure grants for each school totaling \$2.7 million for Teacher Training/Tech labs, and other joint use grants totaling approximately \$9.0 million. As of the end of June 2008 the state and federal share had been increased to \$36.9 million through the aggressive efforts of District staff.

In July 2007 the Board approved an Agreement with Chevron, an Energy Service Company (ESCO), to provide future energy savings of \$12.0 million. ESCO became involved with design as Barnhart and Sprotte+ Watson continued jointly developing plans, schedules, and preparing estimates. Contracts for legal services and Hazmat surveys were approved by the Board on July 31, 2007 and plans were reviewed for the projects scheduled for construction in summer 2008.

In August 2007 the approval of the Cajon Park Kindergarten Expansion was approved at considerable savings to the District (\$2.9 million). Discussion continued on projects scheduled as "quick starts". The School Board reviewed and discussed design prototypes for the Library/Tech Additions and Library/Tech reuse buildings. Value engineering savings of over \$5.0 million were realized in the process.

At the September 2007 Board meeting, a \$7.8 million joint use grant was announced and the expenditure of DSA fees was approved. The overall budget as of September 1, 2007 was \$127,262,161 with \$33.0 million from state sources and \$94.0 million from the local share. By October 2007 these figures had been revised to \$128,768,694 with the refinement of estimates for the Cajon Park 20-classroom addition adding approximately \$3.0 million to construction costs. Value engineering savings to date were discussed and reviewed. Expenditure reports distributed on October 19, 2007 showed that the District had committed \$9.7 million and expensed \$1.2 million to the program to date, mostly for program design services. It was anticipated that Series "B" bonds of \$22.0 million would be sold in June 2008 once the projects had been bid.

In November 2007 the overall scope of the "quick starts" was reviewed. They included parking at Pepper Drive, shade structures at 5 schools, door locks at all nine schools, playground equipment, and relocation of the cooling tower at Cajon Park. In December 2007 the entire program timelines and schedules were reviewed by the Board. These schedules showed a sequence of events for each school beginning in March 2008 until the completion of the program in May 2009. On December 2, 2007, the District submitted an application and received a grant for \$3.6 million for new construction and increased classroom space at Pepper Drive.

By February 2008, estimates and value engineering had identified appropriate targets for construction costs for each school. While estimates exceeded revenue at that time, bid alternates were proposed and value engineering accepted to achieve a balanced budget of \$128.0 million. At that time the budget for phase 1 schools was approximately \$85.7 million and phase 2, \$34.0 million,

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with an added target of \$24.8 million to reach the full program scope of \$165.0 million. Several alternatives were proposed for phase 2 schools and the increased costs for the 10-classroom buildings at Chet F. Harriett, Hill Creek, and Pepper Drive. If savings materialized on the phase 1 bids, or additional funding became available, these projects would be implemented.

In March and April 2008 the plans and schedules for Phase 1 had been finalized and DSA approval secured. The first project bid was the Cajon Park 20-classroom addition followed by the modernizations at the other Phase 1 schools. The Cajon Park bid was approximately \$1.0 million under budget. Concurrently, the Lease Leaseback Agreement with Barnhart was finalized and approved by the Board on April 1, 2008. With its approval, was a revised Guaranteed Maximum Price (GMP) of \$10,132,317, including a 5% Owner's contingency which was issued as an amendment to the original Lease Leaseback Agreement executed in February 2008. A Notice to Proceed was issued March 11, 2008 with completion scheduled for December 31, 2008. Succeeding projects were to be amended to the original Agreement once finalized. At the time of this draft report, the entire phase 1 project costs had not been finalized.

The ICOC continued to meet on a regular schedule throughout 2007/08 and had become active in project review. Virtually all documents that were presented to the Board also went to the ICOC for discussion and review. The newsletter continued to be an effective tool in disseminating information to the public.

Findings:

Based on a review of the activities conducted during 2005-2007 leading up to the passage of the Bond issue, the District and the Facilities Committee thoroughly investigated deficiencies with each of its schools and proposed an aggressive program to correct those deficiencies. The Committee, however, took a conservative view of voter interest in supporting an all encompassing bond measure ultimately settling on a balanced program of General Obligation Bonds (\$60.0 M), State facility funds (\$20.0M), Developer fees and Mitigation fees (\$35.0M), Joint Use and internal borrowing (\$20.0M), and the sale of surplus property (\$30.0M) comprising a total program of \$165.0M.

Key to the program thus far had been the prioritization of projects at each school and the disclosure of the sequence of events for those projects, insuring the public that modernization would be accomplished at each of the schools within the District's means and resources. Within these parameters, and without committing to a guarantee and schedule, the bond language commitments could easily be met.

The Board of Education was fully informed of the program activities during the fiscal year and actively participated in program development at each school. They continue to meet in regularly scheduled workshops with the primary purpose of reviewing the capital improvement program.

Activities conducted during the 2007/08 year indicate that the Board was actively involved in decisions regarding the scope, budget, and schedule for projects. They continue to advocate for the entire \$165.0 million program but have cautiously avoided overextending the District beyond the available funding of \$128.0 million. We find this measure commendable and urge continued involvement with the program as it unfolds.

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The activities of the ICOC are well documented and they receive information regularly. This indicates that there is an active interest in the community concerning the program and the degree of transparency necessary to achieve success. The District staff is doing an excellent job of sharing data, schedules, and budgets with the members of the committee. The ICOC has also communicated its interest in meeting more often, meeting with the Board quarterly, conducting open forums, and attending Board workshops.

Cash Flow Projections:

AFC had the opportunity to review the cash flow projections for the entire program prepared by Capitol Public Finance Group, LLC for the District. In all cases we look to see that cash flow projections are conservative, yet forecast with reasonable accuracy, the amount of cash needed for projected expenditures.

The program began with the sale of \$18.0 million in bonds in May 2007 to fund design and planning services and a modest amount of construction. The cash flow projections currently show total revenues of \$41,206,667 available in 2008 with expenditures estimated at \$33,201,723 leaving a reserve of \$8,004,944. This should be sufficient to fund the on-going design and construction anticipated for the Phase 1 projects and some design of Phases 2 and 3. The second series of bonds are scheduled for sale in early 2009 and are to be coupled with the bulk of State funding to launch the Phase 2 projects. In 2010, Bridge Financing of \$23.0 million is proposed which will postpone the necessity of selling the balance of bonds until the 2011 and 2013, years at which time the bridge financing will be repaid.

Findings:

Now that the Phase 1 projects have been bid and more certain cash flow projections can be made by "rolling up" expenditures to date and forecasting expenses for 2008/09, a more accurate picture can be realized within the next several months. Also, the forecasted cash flow requirements we reviewed are displayed on an annual basis. Since construction expenditures are easily broadcast as a function of the construction schedules, and design and other planning costs are more certainly known, we believe it prudent to prepare and update cash flow projections on at least a quarterly basis and to display expenditures and revenues on the same quarterly cycle.

At this point in the program's development we believe the District has taken a conservative approach to projecting the cash flow requirements which is reasonable and balanced.

Recommendation 1.1:

We recommend that cash flow projections be revised at least quarterly, and display revenues and expenses anticipated on the same quarterly basis.

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Variance to Schedules:

Based on a review of the original proposed schedules and the current schedules for project development the District appears to be on target to complete the projects in a timely manner and on the schedules as originally proposed.

Variance to Scope & Budget:

While the District initially took an aggressive view of the amount of local development which would generate revenue to support a \$165.0 million program of renovation, they have since only committed expenditures of \$128.0 million for the program. Several projects await the outcome of bid results on phase 1 projects. The reduction in the overall budget has caused some re-scoping and redesign of projects, value engineering, and bid alternates to keep the program on target. The District has been extremely successful in capturing additional state resources exceeding the amount of funds the original program anticipated.

Overall Assessment:

Our overall assessment of the Santee School District's program is that it is well run and can be administered by the District staff successfully. We found the following:

- *The District has hired a Director of the Facilities Modernization program who is capable of meeting the challenges of executing the program.*
- *The District has taken a proactive stance with regard to securing additional State and other revenue sources which has been successful.*
- *The program has developed the transparency necessary with the public, stakeholders, and the ICOC is actively involved with program review.*
- *While the program and District are small relative to others we have reviewed we believe the Santee School District has selected the appropriate method, Lease Leaseback, for constructing the program.*
- *The Board of Education is well informed and actively involved in decisions regarding the program and conducts timely workshops devoted to the capital improvement program.*
- *The District staff present agenda items to the Board for discussion in a timely and well organized manner and share those items with community stakeholders through the ICOC.*
- *The program, thus far, is functioning well and should achieve success.*

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SECTION 2: CONSTRUCTABILITY REVIEW AND VALUE ENGINEERING

As part of the annual review, we were asked to address the existence of a systematic process for constructability review and value engineering (V/E) to maximize the quality of the final product for the minimum cost and to investigate whether there was evidence of both on all major projects. Because the District had recently bid the Cajon Park 20-classroom addition, we back-tracked the constructability and value engineering sessions for that project in particular.

As part of our research we reviewed the following documents:

- *Cajon Park preliminary and bid documents, 20-classroom Addition*
- *Cajon Park Constructability Review, prepared by Barnhart, Inc., dated March 20, 2008*
- *Sycamore Canyon Constructability Review, prepared by Barnhart, Inc., dated March 20, 2008*
- *Value Engineering and Alternates Log, Cajon Park, prepared by Barnhart, dated January 15, 2008*
- *Post DSA Value Engineering Log, Cajon Park, prepared by Barnhart, dated January 4, 2008*
- *Sprotte + Watson letter regarding project concerns, dated December 10, 2007*
- *Value Engineering Log, Cajon Park, prepared by Barnhart, dated October 11, 2007*
- *Possible Cost Savings letter, Cajon Park, prepared by Baker Electric, dated September 24, 2007*
- *Value Engineering Estimates Summary, Cajon Park, prepared by Barnhart, dated September 12, 2007*
- *Sprotte + Watson letter regarding lack of cost estimates, dated August 30, 2007*
- *Construction Documents Review Comments, Cajon Park, prepared by Barnhart, dated August 16, 2007*
- *Value Engineering Log, Cajon Park, prepared by Barnhart, dated August 2, 2007*

We are often concerned about efforts made by hired Architects to incorporate value engineering and constructability items into the final bid documents. Architects, in an effort to meet bid deadlines, often fail to address all of the plan corrections and hence the value of a constructability review is lost. We therefore reviewed the bid documents to further test the success of these programs and discussed these reviews with the Architect.

Value Engineering Reviews:

Typically value engineering reviews are conducted at schematic, preliminary, and the working drawing/pre-bid phases of a project. Once detailed estimates are prepared at each phase, value engineering can be a tool to keep projects on budget or to make necessary corrections. Value engineering should identify a list of items which meet the District program standards, exceed those standards, or are beyond program requested needs. Those items which exceed the program requirements become candidates for deletion at subsequent phases and directions to redesign or delete those items are given to the Architect. Value engineering is an interactive process wherein all items are subject to consideration for revision or elimination at subsequent phases. All consultants, including the District and contractor are involved in the process.

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Findings:

Sprotte + Watson began the design of all projects in early 2007. At the schematic stage they provided unit cost estimates for the initial program but were without the benefit of detailed estimates prepared by the Builder/Contractor. During the design process, the District was making scope and budget reductions to the program without capitalizing on the benefits of the Construction Management firm's cost estimates and expertise. Barnhart was eventually engaged in August 2007, too late to provide essential feedback on some projects which were well into design development or working drawing phases. By the time Barnhart got on board many of the projects had been submitted to DSA for approval and their initial estimates were done on a unit cost basis. The disconnect in the schedule prevented the timely utilization of "true" value engineering at each phase of construction.

While we only reviewed the Cajon Park projects to ascertain the extent to which value engineering sessions were done, the documentation shows evidence that value engineering reviews were eventually conducted systematically and followed up once Barnhart was engaged, insuring that items were incorporated in the project. Without the guidance of early detailed Builder/Contractor estimates, there should have been estimates prepared by the Architect to guide the value engineering process since they were initially charged by contract with preparing estimates at each phase. The Architect's letter we reviewed suggested they were hindered by the lack of a detailed estimate from Barnhart.

Beginning in August 2007 we found analyses that were done by Barnhart to insure that items to be deleted were evaluated appropriately. In the case of the Cajon Park, 20-Classroom Addition, V/E logs were kept and estimates were made on over 30 items. Once accepted, they were incorporated into the drawings by the Architect. The V/E logs show over \$1.2 million of V/E savings projected on September 12, 2007. The Cajon Park Modernization was treated in the same manner with over \$1.8 million realized by the January 15, 2008 review. However, both of these projects required extensive redesign by the architect to achieve those savings.

We found evidence of continual monitoring through comparative cost estimates at later phases that show Barnhart and the District diligently pursued value engineering. Since the V/E sessions were part of Barnhart's pre-construction contract, we were pleased to see that documentation was prepared systematically and tracked prior to bid, however since most projects were well into design, it was difficult to effectively take advantage of value engineering.

Recommendation 2.1:

On future projects the District should insure that value engineering is conducted at each phase in a timely manner. They may wish to consider having the Architect prepare an independent detailed cost estimate as well as the Builder/Contractor so that these sessions are effective.

Constructability Reviews:

Constructability reviews are most often conducted at the completion of working drawings and prior to bid. These reviews ensure that the bid documents are fully coordinated and clarified such that errors and omissions are minimized and bidders have limited claims during construction. Change orders due to design conflicts and discrepancies are costly and cause disputes, construction delays, and disrupt

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the construction process. Quality assurance through the use of a "RediCheck" system is commonly used by Architects.

In the case of Cajon Park, Barnhart conducted its own constructability check and review of the construction documents and prepared a list of comments which were transmitted to the Architect. We found that both projects we reviewed used a systematic approach and check list for each project. While the Architect's contract suggested that the Architect would conduct their own constructability review, we found no evidence that they did so. The Architect, however stated that they did their own in-house constructability check prior to bid. In the case of the Cajon Park bid documents, we found that addenda were issued during the bid process to correct issues found by DSA during their review. This would suggest that not all comments were incorporated prior to bid because of the urgency of the bidding and construction schedule.

Constructability reviews are also commonly conducted by a Construction Manager at Risk (CM @ Risk) prior to bid. Some owners require that the Construction Manager at Risk validate the completeness of the documents prior to bid and that there be no errors and omissions, and if there are, that the CM @ Risk be responsible for any and all errors and omissions. While Barnhart is not acting as a CM@ Risk but is a Lease Leaseback Builder, the relationship is similar, in that they are guaranteeing the maximum bid price. In the case of the Cajon Park project, we found evidence that Barnhart conducted a 100% constructability review as part of their pre-construction services prior to bid, however we found no contractual evidence that they would be held responsible for errors and omissions. Additionally, in our review of the Architect's Contract we found language suggesting that the District establish a contingency fund to cover the Architect's errors and omissions. Apparently no one is held responsible for errors and omissions under either contract.

Findings:

AFC is concerned that due diligence be done with constructability reviews such that errors and omissions be eliminated. We have commented in Section 6 on the need to revise the Architect's Contract and limit the provision for errors and omissions. Likewise we believe that bid documents should be fully coordinated prior to bid and that all Value Engineering suggestions be reviewed and coordinated to match District design standards. Incorporating constructability comments prior to bid will also lead to the elimination of claims during the construction process.

Recommendation 2.2:

We recommend that the District consider not proceeding to bid until all back check comments from DSA and others have been fully incorporated and coordinated based on a constructability review.

Recommendation 2.3:

We recommend that the District consider maintaining the provisions in the Architect's Contract concerning a separate constructability review to be done by the Architect or an independent consultant, even though Barnhart conducts its own constructability review as the Builder.

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Recommendation 2.4:

Since the program envisions plans to reuse several of the recently bid Library/Tech Buildings and 10-classroom additions, we recommend that detailed records of changes, plan corrections, and omissions be kept for incorporation into the bid sets for those future projects.

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SECTION 3: CONSTRUCTION MANAGEMENT SERVICES

AFC was asked to address construction management fees and assess whether they were reasonable. Since the District chose to construct the program using a Lease Leaseback construction delivery process we felt it necessary to discuss the methodology and appropriateness for the scope of the program.

As part of our research we reviewed the following documents:

- *Board of Education Agenda Item E.2.3, Report on Contractor Selection Process, dated April 18, 2006*
- *RFP issued to Contractors for Lease Leaseback proposals, dated April, 2006*
- *Board of Education Agenda Item F.2.4, dated June 19, 2007*
- *Pre-Construction Services Agreement between the District and Douglas E. Barnhart, dated June 19, 2007*
- *Board of Education Resolution authorizing execution of all documents related to Lease Leaseback with Barnhart, dated October 23, 2007*
- *Lease Leaseback Agreement Between the District and Douglas E. Barnhart, dated October 23, 2007, draft*
- *Site Lease Agreement between the District and Douglas E. Barnhart, dated October 23, 2007, draft*
- *Sub-lease Agreement, dated October 23, 2007, draft*
- *Construction Services Agreement for Lease Leaseback between the District and Douglas E. Barnhart, dated January 25, 2008*
- *Invoices for Preconstruction Services submitted by Barnhart from July 2007 through March 2008*

Construction Delivery Methodology:

There are numerous construction delivery methodologies utilized by K-12 school districts and community colleges throughout the State of California. All delivery methods are rooted in enacted legislation and governed by the CA Education Code. We feel that it is important to select the methodology which best fits the scope and scale of the program, aligns the District staff and workload to the program complexity, and achieves the best financial result for the District.

A brief discussion of the available construction delivery methods follows:

Design-Bid-Build (Low Bid): This method relies on the Owner to engage an Architect as his agent to design a project of particular scope at an estimated budget. The project is then publicly bid to Contractors who propose a cost or "low bid". A contract is then entered into with the Contractor to deliver the project on time and on budget. This methodology provides the most control for the Owner but usually produces the most change orders and requires the most administrative staff time. Changes in scope are particularly problematic. We feel that this process is the most time consuming and least likely to guarantee overall program success and recommend using it only on smaller "quick starts" or projects in which the scope is well known. Likely, the District will utilize this method for a portion of the program work.

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Construction Manager as Agent (CMA): This method relies on the Owner to select a Construction or Program Manager to guide the program design development and the construction bid process, or to have sufficient in-house staff to execute the program. Instead of having one "prime" contractor responsible for the project, individual bids are procured from various "trade" bidders by the Owner with his CMA taking responsibility for the schedule and management of those trade contractors. In effect, there could be 10-20 "multiple prime contractors" working on each project. This methodology requires the Owner to hire a CMA at fees ranging from 6-10% of program costs and to spend additional internal administrative staff time during the bid and capital improvement process. The advantages of this methodology are that overall general conditions costs are traditionally less, hence savings, and there is potentially more control over the trade bidders. We recommend this process for large complex programs wherein significant savings can be made, where there is sufficient in-house staff, and where a broader Contractor outreach program may be warranted.

Lease Leaseback: This method requires the Owner to lease their property to a leasing entity, the Contractor, for as little as one dollar per year or for an agreed upon sum. The Contractor in turn constructs the program/project and then leases the completed project back to the Owner. At the end of the lease term the property reverts to the Owner with the improvements in place. The Owner maintains ownership of the property throughout the lease term. This methodology allows the Owner to rely on the Contractor to deliver the program at a Guaranteed Maximum Price (GMP) for a fee, and for the Contractor to by-pass the complexities of the public bid process and manage the entire program including providing pre-construction services. A minimum amount of administrative support is required from the Owner other than to insure that the terms of the lease are fulfilled and the program stays on budget by working in partnership with the Contractor. We recommend this process for smaller programs wherein staff expertise and administrative time is limited. There is limited risk to the Owner under this methodology.

Findings:

We believe that the District has chosen the correct methodology for constructing the Santee program. While there are drawbacks with each of the methodologies, the Lease Leaseback procurement method best fits this particular program's needs.

Because there are only nine schools involved in the Santee modernization program and construction will occur over a limited period of time, the program is moderately complex and does not warrant hiring an outside Program Manager or employing a Construction Manager as Agent. Several other programs we have reviewed, for instance, have upward of 15-20 schools and a bond program in the range of \$400.0 million. Each of these schools has adopted a CMA methodology and has sufficient internal staff resources to manage the program.

Additionally, the available administrative staff at the Santee School District is limited to the recently hired Program Director, a part-time administrative assistant and part-time accounting staff. Most staff at the District serve dual roles and the Lease Leaseback delivery method fits well with the scope of the program and available staff.

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Selection Process – Leasing Entity:

On April 18, 2006 the Board of Education authorized staff to issue an RFP for the selection of a Lease Leaseback contractor. Over forty (40) firms were solicited and the District received eight (8) proposals. Three (3) firms were selected to proceed to the interview stage: Douglas E. Barnhart, Sundt Construction, and Erickson-Hall Construction. Interviews with each were held on January 24, 2007. In order to understand the capabilities of each, site visits to completed projects were conducted, reference checks were completed, and presentations were made to the District Facilities Committee on March 28, 2007. The firms were then ranked and the Board authorized staff to enter into contract negotiations with Douglas E. Barnhart, the recommended proposer, regarding final price and terms in April, 2007. Those negotiations continued until March 2008 with the final approval of the Lease Leaseback Agreement.

Findings:

Based on a review of the selection process documents and procedures utilized during the Contractor selection process we find that the District conducted a fair, thorough, and open competitive selection process for the leasing entity. There was good participation and interest from the construction community.

Pre-construction Agreement:

As the first step in contract negotiations between the District and Barnhart, it was necessary to establish a pre-construction services Agreement to assist the architect with cost estimating, value engineering, a scheduling and phasing plan, and constructability reviews. Normally, pre-construction services range between 0.75% and 1.0% of construction cost. At the time of discussions concerning the pre-construction fee the program was anticipated to be \$165.0 million, with construction costs to be approximately \$136.5 million of the overall program costs. The maximum fee therefore should have ranged between \$1.1 million and \$1.4 million.

After negotiations with Barnhart the District agreed to a pre-construction lump sum fee for the program of \$700,000 or 0.51% of the anticipated program construction cost. A Board of Education Agenda Item approved the Agreement on June 19, 2007. Based on a review of the contract the duration of services to be performed were from June 1, 2007 to June 30, 2010 and the payments were broken down into three phases with \$420,000, the first year, \$210,000, the second, and \$70,000 the third and final year.

Findings:

Based on a review of the contract and our knowledge of industry standards, the amount of funds set aside and agreed to for pre-construction activities was fair and reasonable. Even though the program has been scaled back to approximately \$130.0 million (\$114.0 million of construction costs), the pre-construction fee still falls within the parameters of industry standards. While it would have been preferred that the entire Lease Leaseback Agreement had been negotiated prior to the execution of these services it is recognized that the need for pre-construction assistance was necessary immediately to keep the program activities on-track. Had the District failed to reach final agreement with Barnhart and been forced to negotiate with the second ranked proposer the program may have

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had two, rather than one, contractors working for the District. Regardless, the District had no reason to believe that a successful outcome of negotiations would not occur based on the favorable pre-construction fees.

We were also able to review in detail the contract and invoices to date and found that the payment schedule of activities had been fairly apportioned over the term of the contract commensurate with the amount of construction to be put in place during each fiscal year. Typically pre-construction activities are heaviest during the initial year of the program and taper off during the last year. The breakdown of the fee follows a fair and logical sequence.

Based on discussions with District staff, Barnhart is delivering pre-construction services as described in the pre-construction Agreement at each phase of project development in a consistent manner. We believe they are providing an excellent service to the District in this regard.

Lease Leaseback Agreement & Associated Documents:

Beginning in July 2007 the District began negotiations with Barnhart on the details of the Lease Leaseback Agreement, site lease, and sub-lease agreement details with the intent of concluding negotiations before the start of construction of the first project in March 2008. A draft agreement dated September 1, 2007 was distributed and reviewed by District staff and the District's legal counsel.

The initial Lease Leaseback Agreement contained sample provisions for liquidated damages, insurance, bonds, shared savings, and the establishment of a Guaranteed Maximum Price (GMP) by the Contractor with the initiation of the first project. The sub-lease Agreement contained provisions for the lease of District property at \$1,000 per month with the sub-lease not to exceed the GMP. Exhibit A of the Lease Leaseback Agreement contained the scope of work for the first project at Cajon Park. It was agreed that each succeeding project would be added as an amendment to the original Agreement.

Negotiations continued through November 2007 and were temporarily suspended until January 2008 during the holiday season. In January 2008 a revised Agreement was issued as the Construction Services Agreement for Lease Leaseback. Because we were in contact with the District prior to this engagement, AFC had the opportunity to review this Agreement and offer comments. In early January we suggested elaboration of the allowable General Conditions costs and made several other structural suggestions to the contract.

The final details of the revised contract became the basis for the final Agreement which contained the following key provisions:

- Shared saving would be split 67%/33% with the majority to the District
- Liquidated damages would be \$500/day per site
- The GMP would include a 10% fee to cover Builders fee, General Conditions, bonds and insurance
- A Builder's contingency of 3.5% would be added to the GMP and Value Engineered savings would go 100% to the Builder
- Exhibit C was added to the Agreement to define the allowable General Conditions costs

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The Agreement and Amendment #1 was approved by the Board of Education on April 1, 2008 with the commencement of the first project at Cajon Park and is now active. Subsequent projects will be amended to the Agreement by Board action.

Findings:

While we were late to enter negotiations and assist the District, we feel the District achieved a reasonable and fair agreement with Barnhart. In order to validate our findings we researched several other local school districts who have utilized the Lease Leaseback delivery methodology either on an entire program or on a single project. The following chart demonstrates our comparable findings:

Comparable Lease-Leaseback Projects

| District | Program Cost | Project Cost | CM Fee | General Conditions | Total Fee + GCs | Shared Savings | Contingency | Lease Cost | LD's * | Pre-Con Costs | Pre-Con Costs % |
|------------|--------------|--------------|--------|--------------------|-----------------|----------------|-------------|-----------------|-------------|---------------|-----------------|
| Santee | 128.0 M | ----- | Incl | Incl | 10.00% | 67%/33% | 3.50% | \$1,000/Month | \$500/Day | 700,000 | 0.55% |
| District A | ----- | 30.0 M | 4.25% | 8.00% | 12.25% | 100% | 2.50% | \$1/Month | \$1,000/Day | N/A | |
| District B | 340.0 M | ----- | 5.00% | 8.00% | 13.00% | Incl | 0% | \$1/Month | \$500/Day | 450,000 | 0.19% |
| District C | 720.0 M | ----- | 4.50% | 8.00% | 12.50% | 67%/33% | 3.00% | \$125,400/Month | N/A | 350,000 | 0.05% |

* Liquidated damages earned should the project not meet the completion schedule

As the above chart indicates, while the District chose to combine the cost of the Contractor's fee and General Conditions, they will receive an excellent value for the work (10%). Other Districts that chose to separate the fee and monitor the General Conditions will pay, on average, 2% higher. Notable, however, is that in order to guarantee a lower fee under the GMP, contractors typically require a larger contingency be set aside. As the chart indicates, the contingency for Santee is at the higher end of the examples given but not out of line with industry practice. In most cases we have observed that the shared savings should largely favor the Owner. AFC favors 100% of the savings returned to the Owner with a GMP contract but it is not unusual to see the split as agreed to by the Santee School District.

Recommendation:

None

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SECTION 4: FINANCIAL MANAGEMENT REVIEW

AFC was asked to address the financial management tools in place to account for expenditures and inspect the invoice and payment process used by the District. Additionally we wanted to track the time to pay contractors, consultants, and other vendors. Because the District has adopted the Colbi accounting system we were asked to comment on its effectiveness as a budgeting and financial management tool.

As part of our review we examined the following documents:

- *Sprotte + Watson Architects, invoices, dated 8/07 through 4/08*
- *Barnhart Invoices for Pre-Construction Services, dated 8/07 through 4/08*
- *Colbi Technologies, Inc. Financial System, website at www.colbitech.com*
- *Colbi Account-Ability reports generated specific to Santee School District*
- *Sprotte + Watson, invoices for reimbursable expenses*

Financial Management & Reporting System:

On May 15, 2007 the Board of Education approved the use of the Colbi software/facilities management system as part of a consortium agreement with the San Diego County Office of Education. As a demonstration project, the first \$10.0 million of warrants would be free with a fee of one tenth of one percent (.001) for future expenses entered through the system. Future costs were estimated at \$20,000 for the 2007/08 FY and up to \$118,000 over the life of the program.

The Colbi Account-Ability software system has the ability to display a detailed accounting of bond fund expenditures, provide project budgeting scenarios, and to provide Office of Public School Construction accounting audit reports. It can display revenue and expense sources throughout the planning and construction cycle, provide annual accounting reports, develop cash flow scenarios, record contracts and transactions, track change orders, and bonds and insurances. It is intended to simplify the reporting requirements to state and other agencies and become a management tool to track projects. Unlike annual expenditures which are closed out at the end of the fiscal year, construction projects have a longer life and must be aged over the entire construction process. This software has the ability to monitor the entire bond program transactions over the life of the program.

We examined various reports produced by this system during the past year and reviewed the effectiveness of the system and its ability to interface with the current Santee School District's Financial Information System (FIS). We found the Colbi reports to be clear and concise and useful for preparing summary reports for the Board and ICOC. We also found the system to be an excellent budgeting tool but, found it difficult to reconstruct original and current budgets such that we could track variances in cost over time. Normally, once the budget is established we like to be able to track changes to the various components (construction costs, design and planning, inspection & testing, etc.) at each phase of the project and report variances and reasons for the change. In discussions with the District staff we also found that there appears to be no interface with the current FIS system, making double entries a requirement and tedious accounting task.

The District has embarked on an exercise to create a better financial reporting tool using in-house accounting personnel and Excel tools. They are also considering abandoning the Colbi system if these

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systems interface better with the FIS. To our knowledge there is no available software product on the market that makes construction tracking interactive with the normal accounting systems.

Recommendation 4.1:

Before abandoning the Colbi software system, the District should investigate financial management tools used by other school districts. If a superior system is found, the District should consider its adoption.

Invoices and Time to Payment:

AFC reviewed consolidated contract summaries prepared with the Colbi software system and invoices paid to Barnhart and Sprotte + Watson. Contracts are listed with date of issue, amount of contract, object codes, and changes within the system. While this information is useful from an accounting standpoint, we are interested in tracking the actual time it takes for the District to process payments to vendors.

Under normal Public Works contracts and according to the California Public Contracts Code, Section 20104.50, the District shall make payment to contractors and vendors within 30 days of receipt or pay an interest penalty. Receipt of a payment request is normally defined by the agency as the date the payment request is received/approved by the accounting office NOT the date the vendor makes application for payment. It is therefore prudent for the District to monitor the time lapse between the receipt of payment requests and final payments to insure they meet the appropriate window and avoid interest payments. This time frame does not apply to payment of final retention, defined as 30 days beyond the filing and recordation of a Notice of Completion.

Based on a review of the invoices we believe prompt payment has been made to vendors thus far but we could not track evidence of how, when, and under who's signature authority payments were approved and processed. Nor could we tell why some vendor payments were held for longer periods before approval was granted. Invoices from Barnhart, for instance, were submitted several days before the completion of work for the period, approved by the Director of Facilities Modernization within seven days and routed to accounting to pay. Some invoices for succeeding months were held without communication to the vendor. We also noted that invoices from Sprotte+Watson have been held pending the outcome of negotiations regarding modifications to their contract. As more transactions are processed we believe more confusion may ensue. Since the program has had few invoices to process to date we are making the following recommendations:

Recommendation 4.2:

The District should develop a routing form for signatures and approvals of all invoices from vendors.

Recommendation 4.3:

The District should develop a contract log to track time of payment on all project invoices. Such a log should contain the date the invoice was received, the date it was approved by the Director, and the date the warrant was released by accounting to the vendor.

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Recommendation 4.4:

If payment to any vendor is withheld, we recommend formal communication with the vendor be made explaining the reason for withholding approval of the invoice.

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SECTION 5: OPERATIONAL PROCEDURES AND CONTROLS

AFC was asked to address the existence of a well documented operational procedures manual which defined roles and responsibilities, a change order process, and if there were design standards in place. We were also concerned about the District's internal and external organization to handle the bond program and have commented on staffing adequacy and expertise to manage the program. Additionally, we looked to see if maximum accountability was built into the program and if adequate checks and balances were in place.

We reviewed the following documents:

- *The Prop R ICOC Manual*
- *Board of Education Agenda Items from November 2006 to present as posted on the Santee School District website*
- *District Organization chart*

Organizational and Operational Procedures:

During the course of our review of bond programs we often find that many Districts maintain and establish tools to define the roles and responsibilities of the various stakeholders in the bond program. This not only helps the organization understand participant roles, but provides guidance in decision making processes relating to individual bond projects. This is normally accomplished through the preparation of a comprehensive Program Policy and Procedure Manual prepared with the input of District staff, Program/Construction Managers, and other stakeholders. Such a manual might include the following:

- Organization charts, contacts, listing of consultants and job duties and responsibilities of architects, contractors, and District personnel. Of particular concern are the responsibilities of the District Accounting and Purchasing & Contracts staff and their interface with the Contractor and other consultants.
- Sections in the manual which address the design, contractor and consultant selection process including a screening team selection process with a recommendation procedure to the Board of Education. Of particular concern is the creation of a fair and impartial process for consultant or contractor selection and a well documented "point based" or other selection process.
- Sections addressing project cost reporting procedures and performance measures such as time to payment and invoice approval requirements.
- Definition of the levels of authority to be granted to individuals to approve or authorize changes to scope, budget or schedule. Of concern are the delegated levels of authority granted to individuals and the management of risk and future claims. For instance, we are reluctant to suggest that outside firms be given authority over monetary decisions and even suggest that a tiered level of authority be established within the District through to the Board of Education.
- Standard fee schedules and or contracts to be utilized by the District for professional consultants.
- Sections regarding the process for approving payment applications, change orders, requirements for agency approval, and final close-out of the projects.

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A program/project operational manual becomes a "living" document that can be modified annually as the program progresses.

Findings:

In the case of the Santee School District we found that because of the size of the District staff and the efficiency of the Lease Leaseback procurement methodology the need to develop a comprehensive operational policy and procedures manual may not be necessary. However, we suggest that several specific items be assembled, organized, and disseminated thus becoming the basis for an operational manual. Items that should be included are:

- District Organization chart and contact numbers
- Job descriptions with definition of roles and responsibilities of staff
- Contact information for all consultants, contractors, and vendors
- A consultant selection process
- Standard fee schedules, contracts, extra service authorization letters, change order forms, and other executed operational documents
- Change order process and levels of authority
- Process for approving payments, final close out procedures, and mandated agency approval requirements

While a manual would be good business practice, it will be more valuable as a training tool should any of the staff be replaced or leave District employment. It can also be useful to demonstrate to the public that there are adequate checks and balances in place to create transparency.

Recommendation 5.1:

For future bond issues, the District should consider the preparation of a Program Policy and Procedure Manual defining roles and responsibilities of all participants. This will set forth an improved project communication tool and create a more transparent process with stakeholders.

Change Order Process:

In order to manage capital construction effectively it is necessary to have a process in place to make changes to awarded construction contracts in a timely manner. We often find Districts unable to make minor changes without Board of Education approval. Because of the schedule for board meetings, potential delays to construction can occur. Changes may be the result of unforeseen site conditions, code requirements, interpretation of plans and specifications, or scope changes. We recommend that school boards delegate various levels of authority to individuals to make these changes.

Santee School District, at their March 4, 2008 meeting, put in place a resolution to establish those recommended levels of authority. All contract changes will be processed through Business Services by the Director of Facilities Modernization. This Director and the Director of Maintenance & Operations will have authority to approve changes costing less than \$25,000; the Assistant Superintendent,

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Business Services to implement changes up to \$50,000; and the Superintendent to implement changes up to \$75,000. All other changes will be approved by the Board of Education.

AFC found this action to be an important step as the District enters into the construction stage of capital construction.

Design Standards:

Most districts we have reviewed have developed a design standards manual to guide the architects in the preparation of plans and specifications for the all buildings. These standards will set the base line for the performance of products based on life cycle costs, preference for products based on maintenance characteristics, and other standards to be followed on multiple sites. Some of the items considered are: standard hardware and key sets, telephone and data communication systems, mechanical air handlers and equipment, HVAC controls, carpeting, and other proprietary items. With design standards in place, like products at individual schools will be easier to maintain and stock from a centralized warehouse and substitutions during construction will be less likely to occur.

Findings:

In our review of the District we found no manual in use which specified any standards. We understand that some proprietary items have been discussed at Board workshops and some standards have been adopted but they have not been documented.

Recommendation 5.2:

AFC recommends that the District review the specifications for the current projects awarded, attempt to achieve standardization, and prepare a design manual for all future projects.

District Organization & Staff:

Most Districts we review are large multi-schooled districts engaged in capital construction, maintenance, and repair on an on-going basis. In the case of the Santee School District the Prop R bond issue is a large, one time, multi-million dollar endeavor. As such, the District has hired a full-time Director of Facilities Modernization to guide the program who reports to the Assistant Superintendent, Business Services. Both fulfill some of the duties regarding the program development and interaction with the Board and the ICOC. Additional staff serve the administrative, procurement, contracts, and accounting functions. A recent staff addition was made to serve the accounting functions specifically associated with the construction program.

Thus far the staffing level for this program seems adequate. As construction activities accelerate over the next few years additional staff may be required.

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SECTION 6: DESIGN TEAM AND OTHER CONSULTANT COSTS

AFC was asked to address design team costs and assess whether the fees were reasonable. Were the design team costs as a percentage of construction consistent with industry standards? Were design team members responsible for errors and omissions and were they excessive compared to industry standards?

We examined the following documents:

- *RFP for Architectural Services & Board of Education Agenda Item, dated June 21, 2005*
- *Panel Members Interview Evaluation Worksheets, date August 26, 2005*
- *Board of Education Agenda Item F.2.1, Authorization to Select District Architect, dated September 6, 2005*
- *Board of Education Agenda Item F. 2.4, Approval of Short-Term Architectural Agreement for Pre-Schematic Feasibility Study, dated November 15, 2005*
- *Agreement for Architectural Services between the District and Sprotte-Watson, dated November 21, 2006*
- *Sprotte- Watson, Phase 1 Scope of Work, dated March 22, 2007*
- *Board of Education Agenda Item E.2.5, Approval of Qualifies Inspectors of Record, dated December 4, 2007*
- *Agreement for Inspector of Record and Staff Extension Services between the District and Maletic, Blue Coast Consulting, LLC for Carlton Hills Modernization*
- *Agreement for Inspector of Record and Staff Extension Services between the District and Hendrix California School Construction Services for Cajon Park, Rio Seco, and Sycamore Modernization, dated February 21, 2008*
- *Board of Education Agenda Item E.2.10, Approval of Agreement with Ninyo & Moore, dated June 19, 2007*
- *Board of Education Agenda Item D.6.a, Approval of Additional Services from Ninyo & Moore, and Item D.6.b, Environmental Hazmat Sampling Contract with Western Environmental and Safety Technologies, Inc., dated July 31, 2007*
- *Proposal for Soils and Materials Testing from Ninyo & Moore for Cajon Park, Sycamore Canyon, Carlton Oaks, Carlton Hills, and Rio Seco schools, dated February 13, 2008*
- *Contract between the District and Western Environmental and Safety Technologies, Inc.(WEST) for Hazardous Materials removal for all District schools, dated February 2, 2008*
- *Sprotte + Watson letter regarding additional services, dated January 7, 2008*

Architect Selection Process:

In June 2005, the Board of Education authorized staff to proceed with efforts to secure available State modernization funding, with eligibility estimated at \$20.0 million. The Facilities Committee issued an RFP for architects and conducted interviews with six firms on August 26, 2005. The firm of Sprotte + Watson was ultimately selected and presented to the Board in September 2005 for approval. In November 2005, a short term architectural Agreement was entered into to develop studies, design options, and pre-schematics for five focus school sites. The agreement was for a Not to Exceed sum of \$71,000 with a presentation scheduled for the December 6, 2005 Board meeting. Following the presentation, a modernization master plan was to be developed preparing the District

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to move forward with a modernization program. This initial study and selection process became the basis for selecting Sprotte + Watson to continue as the District Architect in November 2006.

Architect Contract Format:

Based on approval of the Bond referendum in November 2006, a Contract for architectural services for the entire program was entered into with Sprotte + Watson. The original Contract for architectural services between Sprotte + Watson and the District, dated November 21, 2006, contained most standard provisions of an architectural agreement. At the time the original Agreement was approved by the Board of Education, the program cost was estimated at approximately \$165.0 million with \$60.0 million to be funded by the General Obligation Bond.

Unique to the Contract was that Sprotte + Watson was assigned responsibility for the design of the entire program. They had been working on the program in a design capacity for approximately one year prior to the agreement with limited compensation. In that limited capacity, they produced design concepts, renderings, and cost estimates in order to assist the District in preparing for the pending bond referendum in November 2006.

The Contract had the customary definitions of the architect's services during the design phases, and duties and responsibilities defined for the District. The Contract defined the method of compensation for the architect, a payment schedule, and standard language for insurances, termination, and ownership of documents. Attached exhibits listed the projects, fee schedule, and hourly rates for the architect and his consultants for authorized extra services. At the time of the Agreement, the process of procuring the contractor was being discussed and a clause in the Contract suggested that once that process was determined, the Agreement would be re-negotiated.

Findings:

Unique to architectural agreements are definitions which fix scope, budget, and schedules for specific projects. Each party to the agreement knows what the budget for each project is at the time the contract is executed, the full scope of project size and complexity, and the schedule for its construction including delivery dates for architectural services. Based on our contract review, key elements were omitted which should have been defined at execution of the Agreement.

We have examined each of those areas (scope, budget, and schedule) and describe the missing elements in the Agreement and potential pitfalls for the Owner as follows:

Scope:

Exhibit "A" of the Agreement lists the schools where work is to be executed. Nowhere in the Agreement is there a specific definition of the scope of work to be executed at each school. Based on a review of the Contract, it is difficult to ascertain whether each school will receive new construction, modernization, or both. However, the Agreement has a fee schedule for each type of work. The quantity and type of work is vague and subject to some interpretation either by the District or the Architect in the future. This ambiguous language could lead to a dispute over fee calculation and scope of work. Based on our document review, the scope was still being defined in March of 2007. This is fundamentally unfair to both the District and the Architect.

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Additionally, Article V (D) loosely defines that the Architect will reduce his/her fee for buildings designed for site adaptation to two or more sites within the District ...“by mutual agreement once the scope has been sufficiently determined.” We find this section of the Contract to be of great advantage to the Architect but not the District. Without a full audit of the time expended on adapting buildings to another site, it will be at the discretion of the architect to determine the exact fee reduction to be applied. We understand that there is discussion on this topic underway between the Architect and the District and that the Architect has offered to reduce their fee by 10% for the site adaptations. Without understanding the total work effort expended it will be difficult to determine the fairness of this reduction.

Budget:

Exhibit “A” of the Agreement lists the schools where the work is to be executed however, a construction budget for the entire program or each school, has been omitted. The original budget for the District program was much higher. At the signing of the Architect’s Agreement, the budget was \$165.0 million, and is now \$128.0 million. Again, without a program or individual project budgets, it is at the discretion of the Architect to determine a construction budget on which to calculate their fee. Without an exact budget, once invoices are submitted, the District is unable to determine if the fee is fair or has been over calculated based on the payment schedule listed in Article VI.

Additionally, since the fee is based on the construction cost at some point in time we found no definition of the “point in time” at which the budget was established and the basis for the fee calculation, or the basis for adjustments to that fee and, if any, are allowed. We normally see budgets fixed to a specific date and phase of work. Thereafter adjustments to the budget are made at each phase of work and the Architect’s fee adjusted accordingly. Conversely, the typical agreement may also fix the compensation of the Architect to a set budget and allow no further adjustment as construction costs increase/decrease and/or minor scope changes are made. Neither methodology was embodied in the current Contract. Again, without a budget defined, potential contractual disputes can arise.

Schedule:

Finally, defining the schedule for execution of the project(s) is important to the Owner for multiple reasons. Both the schedule for the delivery of architectural services and the construction of the project should become part of the Contract. Should the architect fail to deliver the documents at each phase and in a given amount of time, delays to project construction may occur. With the District’s sensitive time frame, delays could affect the performance of the entire program and increase construction costs. Most contracts document and carefully monitor the time frame for execution of architectural services.

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Recommendation 6.1:

Scope, budget, and schedule are critical components of architectural agreements, therefore AFC recommends that in the future, the District consider adopting an architectural contract agreement format that clearly defines those elements and contains the following:

- *A scope of work developed by the District for each school which defines the modernization, new construction, and site adaptations clearly.*
- *A statement of the anticipated budget in each category for each school indexed to the California Construction Cost Index (CCCI) or other standard cost index.*
- *Language in the contract which establishes the point in time that the budget has been established and method for adjustment of the architect's fee.*
- *A section containing definitions of the deliverables required from the architect at each phase of the work (schematics, preliminaries, and working drawings) and specific timelines for those deliverables.*

Architectural Fee Structure:

We reviewed the architectural fee structure adopted by the District as indicated in Exhibit "B" of the Contract. The fee structure follows a maximum fee as recommended by the State Allocation Board (SAB). The design fee schedule adopted by the District is as follows:

| Construction Contract Amount (Cost of Construction) | New Construction Percentage Rate | Modernization Percentage Rate |
|--|---|--|
| First \$500,000 | 9% | 12% |
| Next \$500,000 | 8.50% | 11.50% |
| Next \$1,000,000 | 8% | 11% |
| Next \$4,000,000 | 7% | 10% |
| Next \$4,000,000 | 6% | 9% |
| Excess of \$10,000,000 | 5% | 8% |

Additions to existing buildings are considered modernization construction. Free standing buildings on existing campuses are considered new construction. Percentages shown in the above table apply on a per site/per project basis.

Findings:

Unique to this fee structure are notes suggesting that additions to buildings will be billed as modernization construction, and free standing buildings will be billed as new construction. As stated, percentages in the fee structure apply on a per site/per project basis.

Article V (D) of the Contract states that a reduced fee will apply when new buildings are designed to be site adapted to two or more sites. As stated, the magnitude of this reduction was not known or agreed to when the Contract was signed. According to District design documents, there are six (6) identical new classroom buildings to be built which will be adapted to differing sites and five (5)

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modernizations to existing identical buildings. For each of these, a significant fee reduction should apply.

Since the Architect was charged with designing the entire program for the District we thought it interesting to compare the District's fee schedule with fee scales commonly utilized by other Districts. The following are comparable fee scales:

District A

| | | | |
|---|---------------|---|--------------|
| Design Fee Schedule - new construction | 1,250,000.00 | 9% | 112,500.00 |
| | 2,500,000.00 | 8.5% additional 1,250,000 | 106,250.00 |
| | 5,000,000.00 | 8% additional 2,500,000 | 200,000.00 |
| | 15,000,000.00 | 7% additional 10,000,000 | 700,000.00 |
| | 25,000,000.00 | 6% additional 10,000,000 5% any additional | 600,000.00 |
| Design Fee Schedule - modernization | 1,250,000.00 | 12% | 150,000.00 |
| | 2,500,000.00 | 11.5% additional 1,250,000 | 143,750.00 |
| | 5,000,000.00 | 11% additional 2,500,000 | 275,000.00 |
| | 15,000,000.00 | 10% additional 10,000,000 | 1,000,000.00 |
| | 25,000,000.00 | 9% additional 10,000,000 8% any additional | 900,000.00 |

** Fee remuneration schedule based on Architect's estimate at the time of DSA Approval.

District B

| | Const. Budget | Accumulated | Percentage | Fee | Total Fee |
|-------|----------------------|--------------------|-------------------|------------|------------------|
| First | 500,000 | | 8.50% | 42,500 | 42,500 |
| Next | 500,000 | 1,000,000 | 8.00% | 40,000 | 82,500 |
| Next | 1,000,000 | 2,000,000 | 7.50% | 75,000 | 157,500 |
| Next | 4,000,000 | 6,000,000 | 7.00% | 280,000 | 437,500 |
| Next | 4,000,000 | 10,000,000 | 6.50% | 260,000 | 697,500 |
| Next | 5,000,000 | 15,000,000 | 6.00% | 300,000 | 997,500 |
| Next | 15,000,000 | 30,000,000 | 5.50% | 825,000 | 1,822,500 |

In the first example (District A), fees are based on a sliding scale with different schedules for new and renovation projects. The fee schedule is based on the Architect's estimate at the time of DSA approval. In the second example (District B), fees are calculated based on a sliding scale regardless of type of construction.

While the fee scale utilized by the Santee School District closely models the example in District A, the Contract does not fix the fee to a set estimate or budget. AFC believes that District B's methodology underestimates the effort required by the Architect to produce documents for a renovation project and recommends differentiation by project type.

Overall, we found the program fee scales fair, reasonable, and comparable to those used by other districts for individual projects. We note, however, that the contract for architectural services is for the District's entire program and some economies of scale likely should apply.

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Recommendation 6.2:

Now that the parameters for construction are known, the District should calculate the architect's fee for each of the project sites taking into consideration reductions for site adaptation, modernization, and new construction. The District should then issue a clarification letter to the Contract based on those findings seeking agreement on fees and services from the Architect.

Recommendation 6.3:

The District should maintain a spreadsheet of fee calculations for each project site with the fees broken down by phase per the progress payment schedule in Article IV of the Contract. District Accounting should insure that each invoice from the Architect matches the proportion of fee allocated to each phase, and that it does not exceed the contractual maximum.

Recommendation 6.4:

We recommend that the District consider amending the Contract to define the budget and basis for remuneration to the Architect at the point of final DSA approval or the budget at time of bid. This should include contractor general conditions and fee (10%).

Other Architectural Contract Provisions:

The current architectural Agreement, while defining basic services of the architect, does not necessarily match the process used by the District to construct the program. Several items included in the Contract are troublesome:

1. Since the District has entered into a Lease Leaseback Agreement with the Builder/Developer, certain tasks normally assigned to the Architect are being fulfilled within the preconstruction Agreement with the Builder/Developer. For instance, the Architectural Contract requires the Architect to prepare estimates and an opinion of probable construction costs at each phase of project development and to seek the District's formal approval of those estimates at each phase. These estimates are normally prepared by a hired cost consultant. We understand that the Architect prepared schematic estimates but that when Barnhart was hired stopped preparing detailed estimates. Additionally, the Architect is charged with conducting an in-house constructability review with a report submitted for District review. This review shall be conducted using the "Redicheck" system commonly utilized by architects. Although the Architect has stated they prepared in-house constructability reviews, we have yet to see evidence that those reviews were being conducted by the Architect. These two elements are redundant scopes included in the Builder/Developer pre-construction Agreement as well as the Architects agreement.
2. According to Article I.B (3) the District has the right to approve the list of consultants selected by the Architect and request modifications if needed. Additionally all consultants shall execute a declaration that they have no financial interest in the sale or use of any materials or equipment required for the project. All consultants are also required to maintain insurance pursuant to Article XII of the Contract. We see no evidence of compliance with these provisions or maintenance of the appropriate files.

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3. Article II.A notes the District Representative as the Director of Maintenance, Operations, & Facilities as the person who will represent the District in all Contract matters. This delegation has changed and warrants a formal contract amendment.
4. Article XIII of the Contract specifically addresses the construction delivery method and the need for contract amendment once the method is chosen. This citation recognizes that the Lease Leaseback delivery method has some economies.

Based on these concerns, we recommend that the District review the Contract in detail and marry the architectural Contract with the methodology selected for delivery of construction.

Recommendation 6.5:

AFC recommends that the District, in consultation with legal counsel, review the Contract and amend and/or renegotiate the provisions of the Architect's Agreement. As of this writing we understand that the District has begun that process.

Architect's Errors and Omissions:

Article I.6 (j) of the Contract discusses the change order process to be used by the Architect. Unique to this Contract are provisions cited for Errors and Omissions by the Architect. The Contract suggests the District will set aside a reserve of four percent (4%) of the actual initial project construction costs stated in the construction Contract as a contingency used to pay for negligent acts by the Architect, with determination of the E&O rate made in consultation with the Architect. The District further agreed to make no claim by way of direct or third party action against the Architect or his/her sub-consultants within the limits of this contingency reserve. Further, costs for change orders necessitated by the Architect's negligent or intentional acts, errors, or omissions totaling less than 4% will be allowable. If the 4% limit is exceeded the District can make claim for the entire amount of the errors or omissions, but the amount of the claim must be determined by a legal judgment.

Findings:

We find this provision to be unusual. Typically, change orders for projects range between 3-10% of construction costs, with the average new project ranging 3-5%, and a renovation or modernization project, 5-10%. If numerous change orders contain errors and omissions caused by the architect, we would be concerned that design document quality was poor. The industry standard is that E&O should not exceed 3% of construction costs. Because the District agreed to a 4% contingency to cover E&O, this provision is generous. We also doubt that the District has set aside additional funds to account for specific errors and omissions but rather has budgeted contingency funds to cover all change orders regardless of type or cause. Since construction projects have recently begun, we do not have sufficient data to track errors and omissions, but recommend that the District do so throughout construction for each project. These should be measured against the total cost of construction.

Recommendation 6.6:

The District should maintain a change order log throughout construction for each project. The change order log should list the following by type of change:

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1. Errors and Omissions from the Contract Documents
2. Unforeseen Job Conditions
3. Scope Changes Originated by the District
4. Backcharges to the Contractor
5. Changes Caused by Agency Review or Inspection

Additional Services:

According to Article V.B of the architectural agreement the Architect will be entitled to additional compensation upon approval of the District for additional work at hourly rates as indicated in Exhibit C.

Findings:

Based on a review of a letter submitted by Sprotte + Watson on January 7, 2008 to the District and discussions with the architect concerning additional services, we found that prior to January 2008 numerous changes to the scope of the projects, reductions to the budgets, and redesign to projects after approval were executed by the Architect with no request for additional services. The above letter documents the architect's understanding of the changes made without prior approval and suggests that a number of items will be billed as additional services without proposing a fee for each task. The architects indicated that they, in many cases, were working at the direction of the Board, District Facilities Director, District Maintenance & Operations Director, or other staff. In an effort to meet schedules they continued to prepare documents without requesting extra services as required by the contract. Neither did they receive approval from the signatory project manager for the District. We believe that some of these extra services may be valid but violate the provisions of the contract.

Recommendation 6.7:

AFC recommends that the provisions of the contract be enforced and that the District proceed to closure on those outstanding extra service items.

Inspection, Materials Testing, Soils, and Other Services:

Since construction has just recently begun, review is limited to proposed fee schedules submitted by sub-consultants for inspector of record services, materials testing, soils investigation, and hazmat removal and abatement work. Based on a review of the proposals we were interested in seeing if the proposed fees were reasonable and appropriate for the work at each site. As an example, we prepared the following chart to reflect anticipated fees for the Cajon Park addition bid in March of 2008:

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| Budget Line Item | Budget as of Feb. 2, 2008 | % of Const | Bid Budget May 9, 2008 | % of Const |
|-------------------------|----------------------------------|-------------------|-------------------------------|-------------------|
| Construction Cost | 15,020,486 | | 15,224,374 | |
| Construction Management | 1,502,490 | 10.0% | 1,522,437 | 10.0% |
| Design & Planning | 1,652,253 | 11.0% | 1,613,238 | 10.6% |
| Materials Testing Soils | 300,410 | 2.0% | 228,366 | 1.5% |
| Inspection | 150,205 | 1.0% | 207,000 | 1.4% |
| Contingency | 1,502,049 | 10.0% | 958,638 | 6.3% |
| | 20,127,893 | | 19,754,053 | |

As the above chart indicates, AFC found the fees to be reasonable and in line with industry standards. The District budgeted sufficient funds in each category to fully fund the proposals for services as discussed below.

Inspector of Record Services:

Inspection services for public works projects are conducted by a qualified Inspector of Record (IOR) approved by the Division of the State Architect (DSA). The construction inspector ensures that all inspections and tests are performed and certifies that the project is completed in compliance with contract documents. The construction inspector should have appropriate credentials: ICBO, OSHPD, DSA or equivalent certifications and be paid prevailing wage rates per Labor Code Section 1720. The normal range for inspection costs as a percentage of construction costs is 1.0 - 2.0%

The inspection firms hired are: Maletic, Blue Coast Consulting, LLC and Hendrix California School Construction Services. Each firm is charging customary rates for this type of work and has appropriate credentials. Maletic has been assigned to work at the Carlton Hills and Carleton Oaks school sites for the duration of the project, expected to conclude by August 2009, a period of 57 weeks. Carlton Hills Modernization is estimated at \$191,000 and Carlton Oaks \$156,000. Hendrix has been assigned to monitor the Cajon Park, Rio Seco, and Sycamore Canyon Modernizations for \$347,000. The Hendrix proposal letter included rates for extending the Contract term beyond May 2009 and several other exclusions, whereas the Maletic proposal is brief and of limited detail. The inspection costs for each project are within typical limits.

Materials Testing & Soils Work:

In general, materials testing services range from 0.75% - 1.5% of construction costs unless unusual circumstances merit additional testing or special inspection. Similar rates are utilized for geotechnical work; however, geotechnical work can be more complex depending on soils and local conditions. Often materials testing firms underestimate the amount of time and number of tests necessary to complete their work. As materials testing is controlled by the IOR, it is usually difficult to ascertain whether testing is excessive. The most significant problem is when the Owner is overburdened by half-day minimum charges, overtime payments and repetitive testing. AFC notes that the Owner occasionally fails to backcharge the contractor when work is clearly the result of the contractor's inconsistencies. Since the project activities have just begun, discussion is limited to the proposal made by Ninyo & Moore and the Contract approved by the District.

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In regards to geotechnical and materials testing, the District has entered into a Contract with Ninyo & Moore for the entire program on the presumption that a reduction in cost will occur with one firm handling all facets of the program. AFC concurs with that assumption. The District has budgeted \$1,897,040 for materials testing and geotechnical work but initially has authorized only the first years Phase 1 program work. Ninyo & Moore have broken down their work by school site and it will be the District's responsibility to monitor expenditures. The rates charged are consistent with the normal costs anticipated for this type of work.

Recommendation 6.8:

We recommend that the District financially monitor expenditures of the inspector of record, materials testing, and geotechnical firms to insure that there are no causes for additional services to be requested. These expenditures can be measured against the percentage of construction work completed. If extra services are warranted, amendments should be issued prior to expiration of funds in the originally approved Contract.