

Solvang Elementary School

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**SUPERINTENDENT/
PRINCIPAL**
Stephen V. Michaud

June 19, 2007

Santa Barbara County Grand Jury
Attention: Foreperson
1100 Anacapa Street
Santa Barbara, CA 93101

Dear Santa Barbara County Grand Jury,

Pursuant to your request, we have reviewed the Grand Jury Report dated March 26, 2007 and offer the following responses to the findings and recommendations regarding the utilization of Certificates of Participation (COPS) to finance projects in Santa Barbara County:

Finding #1: Projects funded by COPs are not subject to a well-regulated, mandatory public notice process, and this deficiency can preclude the general public from either registering opposition or participating as investors.

F1) The Solvang School District partially disagrees with this finding. The Solvang School District used the formal advanced public notice process, and meeting criteria, of a scheduled school board meeting to adopt a resolution to proceed with a Certificate of Participation (COP). Multiple publicly noticed board meetings presented financing options and facilitated discussion along the process. In addition The California Debt Advisory Commission was notified of the impending sales of Certificates and again at the close of the sales. We do agree that there should be a standard public notice process and format in place for all public entities to follow.

Recommendation #1: A consistent, mandatory public notice and approval process should be implemented and sale of COPs should not proceed until completion of that process.

R1) The recommendation has been implemented. Solvang School District used and will continue to use the school district public meeting process. All meetings of the Board relating to the authorization and delivery of the Agreement have been:

- (a)** Held within the geographic boundaries of the Lessee;
- (b)** Open to the public, allowing all people to attend;

- (c) Noticed to the public by posting an agenda, on which the Agreement was an item, at a location that is freely accessible to the public at least 72 hours prior to the meeting and held at places that do not practice discrimination on the basis of race, creed, color, sex, age, national origin or disability;
- (d) In the case of special meetings, noticed to the public by posting an agenda, on which the Agreement was an item, at least 24 hours prior to the meeting; and
- (e) Conducted in accordance with internal procedures of the Board with a quorum of the Board in attendance.

Finding #2: Taxpayers and /or investors may be at risk if standard assurances (e.g. environmental and “escrow”) are not consistently required prior to issuance of COPs.

F2) The Solvang School District partially disagrees with this finding. Taxpayers district-wide would feel no financial impact from the Certificates, as these debt instruments do not provide for any increased taxes, but to the extent that operational funds of the school district have to be used to satisfy either a cash flow short-fall or a required revenue contribution, taxpayers may feel the effect of a reduction in school services. The District is required to adhere to state and federal law relating to “Environmental Regulations” as outlined in the Title Company officially recorded documents signed by the District Superintendent, Board President, Financing Authorities and Notary. Investors should be provided with financial statements showing reasonable projections for long term repayment sources and or reserves. Solvang School District ultimately refinanced this debt and sold land to secure funding shortfalls.

Recommendation #2: All projects funded by COPs should receive the necessary assurances that are demanded of projects funded by General Obligation and Revenue Bonds.

R2) The recommendation will not be implemented because it is not warranted or is not reasonable. Due to the difficulties inherent in obtaining a two-thirds vote for General Obligation Bonds, Special Taxes, and Mello-Roos Bonds, school districts need flexibility to address specific needs such as financing equipment or required facilities. COPs offer a flexible option for financing those needs provided the district is able to fully commit an on-going funding source to the specific purpose of the COP. The outline of the California School Boards Flex Fund 1996J Agreement provided for legal, financial and ethical covenants.

Finding #3: The maturity terms of COPs are often comparable to those (20-30 years) for General Obligation and Revenue Bonds, suggesting that COPs may be an inappropriate substitute for such bonds.

F3) The Solvang School District partially disagrees with this finding. COPs by design accommodate bridge financing for emergency projects, on a short term basis. Cash flow issues can be dealt with while a district is waiting for a state grant or for other long term financing options to clear. The Solvang School District feels the key to success or failure with a COP is the entities ability to repay the debt. The timelines involved with General Obligation and Revenue Bonds would defeat the purpose of the COPs flexibility.

Recommendation #3: The use of COPs should be restricted to short-term projects. Long-term projects should be funded with General Obligation or Revenue Bonds.

R3) The recommendation will not be implemented because it is not warranted or is not reasonable. Certificates of Participation (COPs) are a long-term financing instrument for public improvements and provide the school district with a flexible financing tool to issue debt as school facilities are needed on a long or short term basis. The Solvang School District would like to have the option to choose the term however; we view this source of financing as a good source for short term projects.

Finding #4: The regulations regarding the sales of COPs and the use of the proceeds from those sales are inadequate.

F4) The Solvang School District partially disagrees with the finding. The Solvang School District Lease/Purchase Agreement formally outlined how each 1996J District will use, operate and maintain its property and that it must certify that it will comply with all applicable provisions of the Code, including Sections 103 and 148 and the regulations of the Treasury Department, in order to maintain the excludability from gross income for federal income tax purposes of the interest component of the Rental Payments. The 1996J Districts covenants that it will use the proceed of its 1996J Agreement as soon as practicable, and that no part of the proceeds of that 1996J Agreement will be invested in a manner which would cause that 1996J Agreement or any portion of it to become “arbitrage bonds” within the meaning of Section 103(b)(2) or Section 148 of the Code or the regulations promulgated there under. Each 1996J District also covenants that it will use its Property only for the purpose of performing essential governmental and public functions of that 1996J District, consistent with the permissible scope of its authority. Though school districts need a flexible financing vehicle to finance immediate needs there also needs to be a strong check and balance to assure districts do not commit to short term gain that will ultimately cause long term financial problems.

Recommendation #4: COPs should be sold only as needed to fund the specific project for which they were approved, and the funds should not be used for other projects. In particular, COPs should not be sold for the sole purpose of earning interest on the funds.

R4) The recommendation has been implemented. Solvang School District followed the outline of the California School Boards Association Finance Corporation Flex Fund Program School District Lease/Purchase 1996J Agreement. The Certificates were sold to finance the Multi-Purpose/Gymnasium as outlined. The administration and governing board did, and will continue to, address the specific parameters of the COP, or any future COP, to assure integrity and conformity.

Finding #5: District and government agencies are not required to give notification of the use of COP's to County or city governments which might be affected.

F5) The Solvang School District partially disagrees with the finding. The Solvang School District, Superintendent, was required to, and did, notify The County Superintendent of Schools once the governing board had approved the financing mechanism. Copies of the rental payment schedules and evidence of the District's ability to repay the financing Certificates of Participation (COPs) were provided to both the County Superintendent of School's and the Solvang School District Board of Education.

Recommendation #5: Any district or government agency within the County that is planning to issue any COPs should give notification to the County government and any affected municipal government.

R5) The recommendation has been implemented. The Solvang School District did notify the County Superintendent of Schools once the financing mechanism was chosen. Any future COP will continue to notify the Santa Barbara County Superintendent of Schools and any other government agency deemed appropriate.

I hope this information provides you with the information you needed on Solvang School Districts Certificates of Participation.

Sincerely,

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Enc. Diskette

Pc: Stephen V. Michaud, Superintendent
Solvang School District Board of Education
Judge Rodney S. Melville

