



Measure L Citizens' Bond Oversight Committee Meeting

COMMITTEE MEMBER PACKET

December 12, 2018

6:30 pm – 7:30 pm

LOCATION:

BUSD District Office – Board Room
1376 Piedmont Rd., San Jose CA 95132

AGENDA

Measure L Citizens' Oversight Committee Meeting

Berryessa Union School District

Date: December 12, 2018, Wednesday @ 6:30 PM – 7:30 PM

Location: BUSD District Office –Board Room

1376 Piedmont Rd., San Jose, CA 95132

Agenda

- 1- Call to order
 - a. Roll call
Marty Michaels – Chair
Amy Chen – Vice Chair
Adrienne O'Leary
Frank Cancilla
Susan Fowle
Marty
 - b. Adoption of agenda
Marty
 - c. Approve CBOC September 19, 2018 meeting minutes
Marty
- 2- Public comments
- 3- Reports
 - a. Measure L project update and financial report
Tony
 - b. Summary of Energy Savings
Tony
- 4- Old business
 - a. Committee membership - extension
Tony
 - b. Future committee meeting dates
Marty
- 5- New business
Marty
- 6- Adjournment
Marty

FUTURE MEETINGS

March 20, 2019

June 19, 2019

MEETING MINUTES

UNADOPTED

**Berryessa Union School District
1376 Piedmont Road
San Jose, CA 95132**

Measure L Citizens' Oversight Committee Meeting
Majestic Way Elementary School – FIS Room
September 19, 2018
6:30 p.m. – 7:30 p.m.

REGULAR MEETING MINUTES

Members Present: Marty Michaels, Chair
Amy Chen, Vice Chair
Adrienne O'Leary
Susan Fowle

District Staff Present: Tony Kanastab, Director of Bond Facilities and
Modernization
Pam Lee, Budget Bond Accountant

1. Call to Order

Minutes

Mr. Marty Michaels called the meeting to order at 6:33 p.m.

a. Roll Call -

Minutes

All present except for Mr. Cancilla.

b. Adoption of Agenda

Minutes

Motion to approve by Ms. O'Leary, 2nd by Ms. Fowle.

c. Approval of the June 21, 2018 CBOC Meeting Minutes

Minutes

Motion to approve by Mr. Fowle, 2nd by Ms. O'Leary.

2. Public Comments

Minutes

3. Reports

a. Measure L Project Update

Minutes

Mr. Kanastab presented the updated report to the committee, starting with the picture of Morrill's new fence. He added that these gates have panic hardware which is more expensive than regular gates.

- Vinci Park ES FIS – Mr. Kanastab stated that Phase I - Interior Work is complete. The two stolen TVs have been replaced. In addition, Phase II- Exterior Work is in progress which consists of FIS fencing & installation of exterior sink.
- Ruskin Elementary School
 - **Modernization** - Mr. Kanastab stated that the following items have been completed over the summer as part of the modernization: ADA parking upgrades concrete replacement between buildings D and E/F, ADA path of travel adjacent to FIS, Minor ADA upgrades to student restrooms near Kitchen, ADA drinking fountain replacement, replacement of main building entrance doors and frames (aluminum doors), and ADA upgrades to restroom at Nurse's office. The fencing work at the campus will be completed in October.
 - **FIS** - Mr. Kanastab said that this project is scheduled to be completed in October 2018.

Mr. Kanastab then presented a couple pictures of Ruskin FIS

- 1st Photo – Ruskin FIS taken 2 weeks ago showing the drywall is done
- 2nd Photo – Ruskin FIS showing 3 different ceiling heights.

Mr. Michaels asked if the District usually use the same general contractors, and Mr. Kanastab answered that it's generally the same pool of contractors that bid the projects. The general contractor for Ruskin and Piedmont is the same contractor that just completed Laneview and Majestic Way for the District. He also mentioned that Morrill and Brooktree have the same general contractor, but Toyon & Cherrywood have different ones.

- **Piedmont Middle School**
 - **Modernization** - Mr. Kanastab stated that the following items have been completed over the summer as part of the modernization: minor ADA parking upgrades, provide path of travel to exterior students restrooms at building H, ADA upgrades to student restrooms, staff restrooms repairs, ADA drinking fountain replacement, and water bottle filling station. He added that replacement of gates with panic hardware is in progress to be completed in October.
 - **FIS** - Mr. Kanastab said this project is also scheduled to be done in October 2018.
 - **Parking Lot Project** - Will be rebid later this fall.

Mr. Kanastab also showed a couple pictures of Piedmont FIS

- 1st Photo – Piedmont FIS showing the “giant dome” in the middle of the FIS
- 2nd Photo – Piedmont FIS work in progress

- **Brooktree Elementary School**
 - **Modernization** – Mr. Kanastab stated that the following items have been completed over the summer as part of the modernization: provide path of travel to exterior student restrooms at playground, ADA upgrades to exterior student restrooms, ADA drinking fountain replacement, ADA upgrades to staff restrooms, interior painting, entry window glass replacement, and flooring.
 - **FIS** – Mr. Kanastab mentioned that this has the same space as the FIS at Majestic Elementary School. He added that the theme for this FIS space is “California”, which will have a mural of the ocean, park, and mountain range. In addition, the ceiling will be the sky with stars.

Mr. Kanastab also showed pictures of Brooktree Modernization

- 1st Photo – Brooktree MPR
- 2nd Photo – Brooktree Work Room – Before
- 3rd Photo – Brooktree Work Room – After
- 4th Photo – Brooktree FIS work in progress
- 5th Photo – Brooktree FIS work in progress

- **Cherrywood Elementary School**
 - **Modernization** – Mr. Kanastab also stated that the following items have been completed over the summer as part of the modernization: interior painting, flooring, removal of existing casework at main space in MPR, tackable wall panels in the main space (MPR), and classroom whiteboard.
 - **FIS** – Mr. Kanastab that DSA has approved a limited use elevator for access to the FIS. The maintenance agreement for the elevator is about 1/6 of a standard elevator. Mr. Kanastab continued to present that they are scheduled to receive bids in early January, recommendation of awards will be on January 15, 2019, and construction is scheduled to start in April 2019.

Ms. O’Leary asked how will the District pay for the maintenance of the elevator, and Mr. Kanastab responded that it will be under General Fund. Mr. Michaels asked also how to differentiate between the 2 funds. Mr. Kanastab answered that Bond cannot fund for ongoing events such as maintenance. Mr. Michaels further inquired about the lighting Fixtures. Mr. Kanastab stated that the District received funding from Prop 39 for energy conservation, but Prop 39 only allows for replacement of existing and not the installation of new/additional fixtures.

Mr. Kanastab also showed pictures of Cherrywood Modernization

- 1st Photo – Cherrywood - Classroom
- 2nd Photo – Cherrywood MPR – Before
- 3rd Photo – Cherrywood MPR – After

- **Toyon Elementary School**
 - **Modernization** – Mr. Kanastab also stated that the following items have been completed over the summer as part of the modernization: interior/exterior painting, flooring, exterior door replacement, stage partition repair, sink repair at Classroom 1, and toilet repair/replacement in TK restrooms. Ms. O’Leary however said that the tinted window did not look good from inside the classroom and added that it made the classrooms darker. Mr. Kanastab said that they might put a white film to improve it.
 - **FIS** – Mr. Kanastab stated that the FIS’s drawings where submitted to the DSA on August 6th. He added that the District will receive bids on October 30th, with recommendation of award at the November 13 board meeting. He said that the construction

is scheduled to start in November and completed in February 2019. Ms. O’Leary asked if the District can put lights in the field for school functions and or to change the current lights to LED. Mr. Kanastab stated the District has received Prop 39 funds (a state grant for energy savings) that will be used for lighting upgrades at Toyon. The project is being designed currently and Mr. Kanastab will report back on the scope of the project once the design is complete.

Mr. Kanastab also showed pictures of Toyon Modernization

- 1st Photo – Toyon - Exterior
- 2nd Photo – Toyon Kindergarten – Before
- 3rd Photo – Toyon Kindergarten – After

- **Morrill Middle School**

- **Modernization**– Mr. Kanastab also stated that the following items have been completed over the summer as part of the modernization: site concrete replacement at the Administration entrance, site concrete replacement at northwest stairs, site concrete replacement between B&C, provide path of travel/ramp to blacktop area, upgrade ADA parking, minor ADA upgrades to student & staff restrooms, concrete slab repair at buildings B, C, D, E, interior painting, reconfigure of Library space, and flooring. He also added that fencing is 80% complete and the contractors are working to set-up the gate this week.
- **FIS** – Mr. Kanastab stated that the FIS is scheduled to be completed in late October. He added that the theme for the FIS is “college coffee shop” which includes roman columns and clouds in the ceiling.

Mr. Kanastab also showed pictures of Morrill Modernization and FIS

- 1st Photo – Morrill - Administration
- 2nd Photo – Morrill – Art Classroom
- 3rd Photo – Morrill – Science Classroom
- 4th Photo – Morrill – FIS work in progress
- 5th Photo – Morrill – FIS work in progress

Mr. Michaels, asked what will the District do with roughly \$3 M that is in contingency. Mr. Kanastab stated that they will be presenting a priority list to the Board, which will include cafeteria tables, HVAC project, library shelving units, and driveway gates, etc. Mr. Michaels also suggested a line on the report for “Miscellaneous”. Ms. O’Leary asked since Toyon already has new

cafeteria tables, would they get additional funding, and Mr. Kanastab said, unfortunately no.

Ms. Chen also inquire about the “State Matching Funds,” and Mr. Kanastab answered that the District is eligible for approximately \$3.5 M funds, however, he also said that we are not sure when this funding will be available. Ms. Chen also asked if we have a plan for this fund, and Mr. Kanastab said that the funds will go towards upgrading classrooms.

b. Measure L Financial Report

Minutes

Mr. Kanastab presented the Measure L Quarter Report from 07/01/2017-06/30/2018 showing that as of fiscal year 2017/2018, the District has spent about \$11.3 M of the budget, which leaves the District about \$25 M balance.

Mr. Kanastab also showed the committee the budget and expenses per school, adding that any savings are moved to the Contingency account.

4. Old Business

a. Committee membership

Minutes

Mr. Kanastab told the committee that he has reached out to the Leadership regarding the committee’s current vacancies. Mr. Michaels asked if the vacancies were posted to the newspaper, and Ms. Lee responded that per Ms. Sandoval of Business Administration, it was advertised on San Jose Post and to the District Facebook page and website.

b. Future committee meeting dates

Minutes

Mr. Michaels reviewed with the committee the future dates which were December 12, March 20, & June 19, 2019.

5. New Business

Minutes

Ms. Chen inquired regarding the FIS Allocation/Technology budget, and Mr. Kanastab stated that these funds are in the discretion of the school principals for used in the FIS.

6. Adjournment

Minutes

Motion to adjourn by Mr. Michaels at 7.39 pm, 2nd by Ms. O'Leary, Ms. Fowle, & Ms. Chen.

PROJECT UPDATE

Citizens Bond Oversight Committee

December 12, 2018



Measure L – Overview

- Project Updates
- Program Schedule Review

Measure L – Project Updates

- **Vinci Park Elementary School - FIS**
 - Phase 2 – Exterior Work – Punch List
- **Piedmont Middle School - FIS**
 - Flexible Instructional Space – Punch list
- **Piedmont Middle School - Parking**
 - Schedule to receive bids in December 6, 2018
 - Recommendation of award at the January 15, 2019 Board Meeting
 - Construction is scheduled to start June 2019

Measure L – Project Updates

- **Ruskin Elementary School - FIS**
 - Flexible Instructional Space – Punch List
- **Brooktree Elementary School - FIS**
 - Flexible Instructional Space - Punch List
- **Cherrywood Elementary School - FIS**
 - Receive bids November 29, received 3 bids and all bids were over budget
 - Recommendation of award at the January 15, 2019 Board Meeting

Measure L – Project Updates

- **Toyon Elementary School - FIS**

- Receive bids October 31, received 7 bids and are within budget
- Recommendation of award at the November 13, 2018 meeting
- Start construction December 2018
- Completion FIS - March 2019

- **Morrill Middle School**

- In Progress:
 - Flexible Instructional Space - Punch List

Measure L – Project Updates

- **Northwood Elementary School - Portable Relocation**

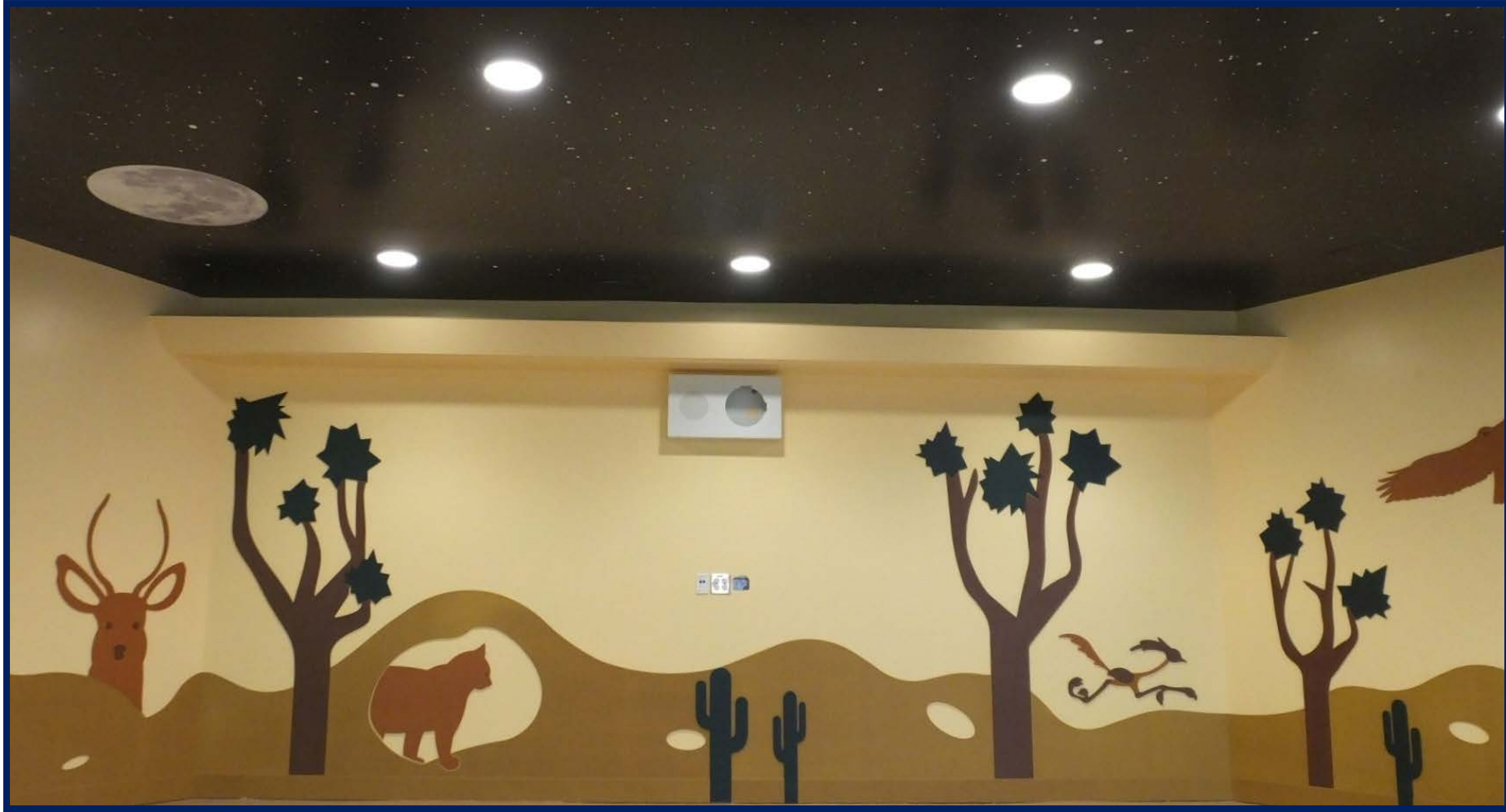
- DSA approval requires the District to add a driveway approach and vehicle gate at the southwest corner of the site
- The Architect is working with the City of San Jose on the required permits
- Work is anticipated to be completed by the January

Measure L – Project Updates



Ruskin - FIS

Measure L – Project Updates



Ruskin - FIS

Measure L – Project Updates



Piedmont - FIS

Measure L – Project Updates



Piedmont - FIS

Measure L – Project Updates



Brooktree – FIS

Measure L – Project Updates



Brooktree – FIS

Measure L – Project Updates



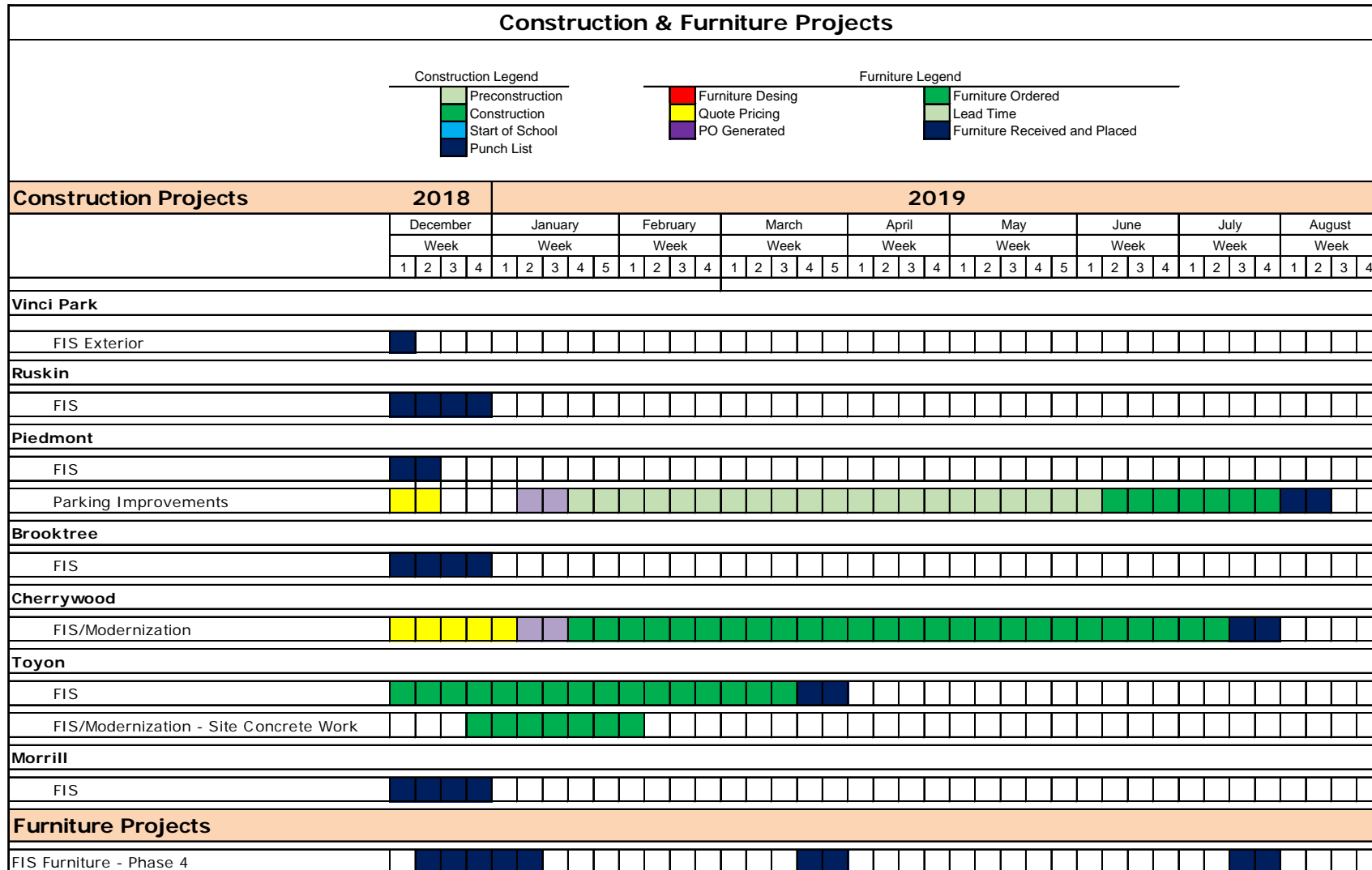
Morrill - FIS

Measure L – Project Updates



Morrill - FIS

Measure L – Program Schedule



Thank You



FINANCIAL REPORT

Project Budget
BERRYESSA UNION SCHOOL DISTRICT
MEASURE L BOND
2018-2019 1st Quarter Report
07/01/2017-09/30/2018
Cost Control Summary

SUMMARY				
Description	Adopted Budget 1/21/2015 (1)	2018-2019 Operating Budget 9/30/2018	Total Expended to Date 9/30/2018	Balance
HARD CONSTRUCTION COSTS				
Construction	50,671,230	11,958,622	1,677,964	10,280,658
Construction Contingency	4,839,623	1,563,191	-	1,563,191
Sub-Total Hard Costs	55,510,853	13,521,813	1,677,964	11,843,849
Furniture, Fixtures & Equipment		1,652,818	-	1,652,818
Total Hard Costs	55,510,853	15,174,631	1,677,964	13,496,667
SOFT CONSTRUCTION COSTS				
Architectural & Engineering				
Architectural & Engineering	4,886,579	750,842	125,480	625,362
Architectural & Engineering Reimbursable	222,090	97,594	102	97,492
Specialty Consultants				
Engineering Studies / Surveys	65,000	750	-	750
Kitchen Consultant (Included in Aes)	50,000			-
Geotechnical Study/Inspection/Report	52,000		-	-
Hazardous Material Consulting	-			-
CEQA (Included in Testing)	31,000			-
Energy Consultant	-			-
Technology Consultant	80,000			-
Construction Management				
Construction Management	2,873,822	515,143	32,284	482,859
Reimbursable	131,237	53,601		53,601
Plan Check & Permit Fees				
Assessment Fees (DSA Included)	393,496	49,325	11,636	37,689
CDE Fee	-			-
Other Permit & Plan Check Fees	50,000	3,782		3,782
Utilities Fee	150,000			-
Document Reproduction				
Plan Document Reproduction & Printing	80,000	10,131	-	10,131
Advertisement	12,000	3,416	-	3,416
Testing & Inspection				
DSA Project Inspector (IOR)	830,195	204,538	73,525	131,013
Material Testing & Inspection (CEQA Included)	166,469	10,979	2,284	8,695
Geotechnical Inspection	70,750	-	4,082	(4,082)
Hazardous Material Inspection/Abatement	-	5,615	26,215	(20,600)
Other Expenses				
State Funding Consultant	-			-
Community Relations Consultant	-			-
Planning	-	15,764		15,764
Miscellaneous	50,000	6,000		6,000
Soft Cost Contingency	319,046	230,204		230,204
Solar Contingency				-
Kitchen Contingency				-
Sub-Total Softs Costs	10,513,684	1,957,684	275,608	1,682,076
OTHER PROJECT COSTS				
District Staff Costs	-	-		-
Interim Housing	-			-
Moving (Pack/Unpacking/Movers,Storage)	1,060,000	159,392	122,620	36,772
Furniture, Fixtures & Equipment	5,684,000			-
Equipment and Non-Capital Equipment(Technology)	-	1,824,539	152,170	1,672,369
Other Costs Planning	27,500			-
Other Operating/Misc Expense	-	-	-	-
Sub-Total Other Project Costs	6,771,500	1,983,931	274,790	1,709,141

Project Budget
BERRYESSA UNION SCHOOL DISTRICT
MEASURE L BOND
2018-2019 1st Quarter Report
07/01/2017-09/30/2018
Cost Control Summary

SUMMARY				
Description	Adopted Budget	2018-2019 Operating Budget	Total Expended to Date	Balance
PROGRAM COSTS				
Administration				
District Staff Cost/Program Management Costs	1,375,000	629,423	61,795	567,628
Legal Fees	125,000	35,000	-	35,000
Special Consultants				-
Mater Plan Costs	150,000			-
Hazardous Material Consulting	40,000			-
Geotechnical Report	50,000			-
Roofing Consultant	-			-
Design Guidelines, Standard Specifications	30,000			-
Program Support Costs				-
Printing, Supplies & Reimbursables	65,000	16,380	177	16,203
Office Equipment/Equip Maintenance	25,000	6,780	-	6,780
Interim Housing	125,000			-
Seminars/Training	10,000	2,985	-	2,985
Audit Expense	5,000	8,250	-	8,250
Public Relations and Contractor Outreach				-
Public Relations/Communications	75,000			-
Public Bid Advertising	15,000			-
Bond Costs				-
Bond Counsel Advisor	170,000			-
Bond Underwriter	470,000			-
Other Issuance Costs	30,000			-
Disclosure Counsel	40,000			-
Financial Advisor	90,000			-
Election Costs	60,000	-		-
Other Operating Expenses	-			-
Program Contingency				-
Program Cost Contingency	88,500	734,856		734,856
Total Program Costs	3,038,500	1,433,674	61,972	1,371,702
Overall Bond Reserve	1,165,463	3,966,851		3,966,851
	77,000,000	24,516,771	2,290,334	22,226,437

Berryessa Union School District Bond Measure L – 2014 through September 30, 2018

2018-2019 1st Quarter Report

07/01/2017-09/30/2018

3. Percentage of Total

Description	Proposed Budget	Current Budget	Budget Variances	Expenses as of 09/30/2018	Balance	Percentage of Total Cost
Brooktree Elementary School	\$ 2,775,715	\$ 2,581,532	\$ (194,183)	\$ 1,534,163	\$ 1,047,369	3.38%
Cherrywood Elementary School	\$ 2,641,308	\$ 2,567,486	\$ (73,822)	\$ 899,782	\$ 1,667,704	3.37%
Laneview Elementary School	\$ 2,625,057	\$ 2,256,988	\$ (368,069)	\$ 2,117,920	\$ 139,068	2.96%
Majestic Way Elementary	\$ 2,576,170	\$ 2,184,332	\$ (391,838)	\$ 2,088,251	\$ 96,081	2.86%
Noble Elementary School	\$ 2,739,415	\$ 2,276,759	\$ (462,656)	\$ 2,248,307	\$ 28,452	2.98%
Northwood Elementary School	\$ 3,016,300	\$ 2,474,245	\$ (542,055)	\$ 2,453,765	\$ 20,480	3.24%
Ruskin Elementary School	\$ 2,697,784	\$ 2,494,745	\$ (203,039)	\$ 1,390,524	\$ 1,104,221	3.27%
Summerdale Elementary School	\$ 2,976,998	\$ 2,906,651	\$ (70,347)	\$ 2,906,651	\$ (0)	3.81%
Toyon Elementary School	\$ 2,731,914	\$ 2,376,929	\$ (354,985)	\$ 1,027,538	\$ 1,349,391	3.12%
Vinci Park Elementary School	\$ 2,801,993	\$ 2,792,430	\$ (9,563)	\$ 2,527,229	\$ 265,201	3.66%
Morrill Middle School	\$ 4,849,363	\$ 4,559,218	\$ (290,145)	\$ 2,878,231	\$ 1,680,987	5.98%
Piedmont Middle School	\$ 4,214,915	\$ 4,451,600	\$ 236,685	\$ 1,559,283	\$ 2,892,317	5.84%
Sierramont Middle School	\$ 5,949,291	\$ 5,430,310	\$ (518,981)	\$ 5,406,061	\$ 24,249	7.12%
Energy Conservation Project	\$ 10,836,279	\$ 10,836,279	\$ -	\$ 9,652,759	\$ 1,183,520	14.21%
Central Kitchen	\$ 5,971,020	\$ 5,947,250	\$ (23,770)	\$ 5,947,250	\$ 0	7.80%
District Office- Main	\$ 2,154,423	\$ 2,148,664	\$ (5,759)	\$ 139,251	\$ 2,009,413	2.82%
Technology - Wireless/Infrastructure	\$ 2,349,611	\$ 3,028,987	\$ 679,376	\$ 3,012,118	\$ 16,869	3.97%
Technology - Classroom	\$ 3,191,980	\$ 2,989,776	\$ (202,204)	\$ 1,316,805	\$ 1,672,971	3.92%
District - Wide	\$ 5,696,500	\$ 6,000,194	\$ 303,694	\$ 4,310,602	\$ 1,689,592	7.87%
Program	\$ 3,038,500	\$ 3,045,030	\$ 6,530	\$ 1,673,331	\$ 1,371,699	3.99%
Bond Contingency	\$ 1,165,464	\$ 2,924,936	\$ 1,759,472	\$ -	\$ 2,924,936	3.83%
Total Program Cost	\$ 77,000,000	\$ 76,274,341	\$ (725,659)	\$ 55,089,820	\$ 21,184,521	100%
Interest***		\$ 1,041,916	\$ 1,041,916		\$ 1,041,916	
Total Program Cost with Interest	\$ 77,000,000	\$ 77,316,257	\$ 316,257	\$ 55,089,820	\$ 22,226,437	

Total Bond Contingency as of September 30, 2018

\$ 3,966,851

*** 1st QTR Budget is based on 17/18 Estimated Actuals - which was understated by \$725,659.00. This amount will be corrected on the 1st Interim Budget expected to be completed at the end of December 2018.

BYLAWS

**BERRYESSA UNION SCHOOL DISTRICT
INDEPENDENT CITIZENS' BOND OVERSIGHT COMMITTEE
BYLAWS**

Section 1. Committee Established. The Berryessa Union School District (the "District") was successful at the election conducted on November 4, 2014 (the "Election") in obtaining authorization from the District's voters to issue up to \$77,000,000 aggregate principal amount of the District's school facilities bond ("Measure L"). The Election was conducted under Proposition 39, being chaptered as the Strict Accountability in Local School Construction Bonds Act of 2000, at Section 15264 *et seq.* of the Education Code of the State ("Prop 39"). Pursuant to Section 15278 of the Education Code, the District is now obligated to establish an Independent Citizens' Bond Oversight Committee in order to satisfy the accountability requirements of Prop 39. The Board of Trustees of the Berryessa Union School District (the "Board") hereby establishes the Independent Citizens' Bond Oversight Committee (the "Committee") which shall have the duties and rights set forth in these Bylaws. The Committee does not have legal capacity independent from the District.

Section 2. Purposes. The purposes of the Committee are set forth in Prop 39, and these Bylaws are specifically made subject to the applicable provisions of Prop 39 as to the duties and rights of the Committee. The Committee shall be deemed to be subject to the *Ralph M. Brown Public Meetings Act* of the State of California and shall conduct its meetings in accordance with the provisions thereof. The District shall provide necessary administrative support to the Committee as shall be consistent with the Committee's purposes, as set forth in Prop 39.

The proceeds of general obligation bonds issued pursuant to the Election are hereinafter referred to as "bond proceeds." The Committee shall confine itself specifically to bond proceeds generated under Measure L. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee's review.

Section 3. Duties. To carry out its stated purposes, the Committee shall perform only the duties set forth in Sections 3.1, 3.2, and 3.3 hereof, and shall refrain from those activities set forth in Sections 3.4 and 3.5.

3.1 **Inform the Public.** The Committee shall inform the public concerning the District's expenditure of bond proceeds. In fulfilling this duty, all official communications to either the Board or the public shall come from the Chair acting on behalf of the Committee. The Chair shall only release information that reflects the majority view of the Committee.

3.2 **Review Expenditures.** The Committee shall review expenditure reports produced by the District to ensure that (a) bond proceeds were expended only for the purposes set forth in Measure L; and (b) no bond proceeds were used for teacher or administrative salaries or other operating expenses in compliance with Attorney General Opinion 04-110, issued on November 9, 2004.

3.3 **Annual Report.** The Committee shall present to the Board, in public session, an annual written report which shall include the following:

- (a) A statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and

(b) A summary of the Committee's proceedings and activities for the preceding year.

3.4 Duties of the Board/Superintendent. Either the Board or the Superintendent, as the Board shall determine, shall have the following powers reserved to it, and the Committee shall have no jurisdiction over the following types of activities:

- (i) Review and approval of contracts,
- (ii) Review and approval of change orders,
- (iii) Expenditures of bond funds,
- (iv) Handling of all legal matters,
- (v) Approval of project plans and schedules,
- (vi) Approval of all deferred maintenance plans, and
- (vii) Approval of the sale of bonds.

3.5 Measure L Projects Only. In recognition of the fact that the Committee is charged with reviewing the expenditure of bond proceeds, the Board has not charged the Committee with responsibility for:

(a) Projects financed through the State of California, developer fees, redevelopment tax increment, certificates of participation, lease/revenue bonds, the general fund or the sale of surplus property without bond proceeds shall be outside the authority of the Committee.

(b) The establishment of priorities and order of construction for the bond projects, which shall be made by the Board in its sole discretion.

(c) The selection of architects, engineers, soils engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the project based on District criteria established by the Board in its sole discretion.

(d) The approval of the design for each project including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent) which shall be determined by the Board in its sole discretion.

(e) The selection of independent audit firm(s), performance audit consultants and such other consultants as are necessary to support the activities of the Committee.

(f) The approval of an annual budget for the Committee that is sufficient to carry out the activities set forth in Prop 39 and included herein.

(g) The appointment or reappointment of qualified applicants to serve on the Committee, subject to legal limitations, and based on criteria adopted in the Board's sole discretion as part of carrying out its function under Prop 39.

Section 4. Authorized Activities.

4.1 In order to perform the duties set forth in Section 3.0, the Committee may engage in the following authorized activities:

(a) Receive copies of the District's annual, independent performance audit and annual, independent financial audit required by Prop 39 (Article XIII A of the California Constitution) (together, the "Audits") at the same time said Audits are submitted to the District, and review the Audits.

(b) Inspect District facilities and grounds for which bond proceeds have been or will be expended, in accordance with any access procedure established by the District's Superintendent.

(c) Review copies of deferred maintenance plans developed by the District.

(d) Review efforts by the District to maximize bond proceeds by implementing various cost-saving measures.

(e) Receive from the Board, within three months of the District receiving the Audits, responses to any and all findings, recommendations, and concerns addressed in the Audits, and review said responses.

Section 5. Membership.

5.1 Number.

The Committee shall consist of at least seven (7) members appointed by the Board from a list of candidates submitting written applications, and based on criteria established by Prop 39, to wit:

- One (1) member shall be the parent or guardian of a child enrolled in the District.
- One (1) member shall be both a parent or guardian of a child enrolled in the District and active in a parent-teacher organization, such as the P.T.A. or a school site council.
- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizens' organization.
- One (1) member active in a bona-fide taxpayers association.
- Two (2) members of the community at-large.

5.2 Qualification Standards.

- (a) To be a qualified person, he or she must be at least 18 years of age.
- (b) The Committee may not include any employee, official of the District or any vendor, contractor or consultant of the District.

5.3 Ethics: Conflicts of Interest.

(a) Members of the Committee are not subject to the Political Reform Act (Gov. Code §§ 81000 *et seq.*), and are not required to complete Form 700; but each member shall comply with the Committee Ethics Policy attached as “Attachment A” to these Bylaws.

(b) Pursuant to Section 35233 of the Education Code, the prohibitions contained in Article 4 (commencing with Section 1090) of Division 4 of Title 1 of the Government Code (“Article 4”) and Article 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code (“Article 4.7”) are applicable to members of the Committee. Accordingly:

(i) Members of the Committee shall not be financially interested in any contract made by them in their official capacities or by the Committee, nor shall they be purchasers at any sale or vendors at any purchase made by them in their official capacity, all as prohibited by Article 4; and

(ii) Members of the Committee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to duties as a member of the Committee or with the duties, functions, or responsibilities of the Committee or the District. A member of the Committee shall not perform any work, service, or counsel for compensation where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of the District’s Board of Trustees, except as permitted under Article 4.7.

5.4 Term. Except as otherwise provided herein, each member shall serve a term of two (2) years, commencing as of the date of appointment by the Board. No member may serve more than three (3) consecutive terms. At the Committee’s first meeting, members will draw lots or otherwise select a minimum of two members to serve for an initial one (1) year term and the remaining members for an initial two (2) year term. Members whose terms have expired may continue to serve on the Committee until a successor has been appointed. Terms commence on the date or number is appointed to the Committee by the Board of Trustees.

5.5 Appointment. Members of the Committee shall be appointed by the Board through the following process: (a) the District will advertise in the local newspapers, on its website, and in other customary forums, as well as solicit appropriate local groups for applications; (b) the Superintendent will review the applications; and (c) the Superintendent will make recommendations to the Board.

5.6 Removal; Vacancy. The Board may remove any Committee member for any reason, including failure to attend two consecutive Committee meetings without reasonable excuse or for

failure to comply with the Committee Ethics Policy. Upon a member's removal, his or her seat shall be declared vacant. The Board, in accordance with the established appointment process shall fill any vacancies on the Committee. The Board shall seek to fill vacancies within 90 days of the date of occurrence of a vacancy.

5.7 Compensation. The Committee members shall not be compensated for their services.

5.8 Authority of Members. (a) Committee members shall not have the authority to direct staff of the District; (b) individual members of the Committee retain the right to address the Board, either on behalf of the Committee or as an individual; (c) the Committee shall not establish sub-committees for any purpose; and (d) the Committee shall have the right to request and receive copies of any public records relating to Measure L funded projects.

Section 6. Meetings of the Committee.

6.1 Regular Meetings. The Committee shall meet at least once a year, but shall not meet more frequently than quarterly.

6.2 Location. All meetings shall be held within the boundaries of the Berryessa Union School District, located in Santa Clara County, California.

6.3 Procedures. All meetings shall be open to the public in accordance with the *Ralph M. Brown Act*, Government Code Section 54950 *et seq.* Meetings shall be conducted according to such additional procedural rules as the Committee may adopt. A majority of the number of Committee members shall constitute a quorum for the transaction of any business of the Committee.

Section 7. District Support.

7.1 The District shall provide to the Committee necessary technical and administrative assistance as follows:

(a) preparation of and posting of public notices as required by the *Brown Act*, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the District Board;

(b) provision of a meeting room, including any necessary audio/visual equipment;

(c) preparation, translation and copies of any documentary meeting materials, such as agendas and reports; and

(d) retention of all Committee records, and providing public access to such records on an Internet website maintained by the District.

7.2 District staff and/or District consultants shall attend Committee proceedings in order to report on the status of projects and the expenditure of bond proceeds.

Section 8. Reports. In addition to the Annual Report required in Section 3.3, the Committee may report to the Board from time to time in order to advise the Board on the activities of the Committee. Such report shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

Section 9. Officers. The Superintendent shall appoint the initial Chair. Thereafter, the Committee shall elect a Chair and a Vice-Chair who shall act as Chair only when the Chair is absent. The Chair and Vice-Chair shall serve in such capacities for a term of one year and may be re-elected by vote of a majority of the members of the Committee.

Section 10. Amendment of Bylaws. Any amendment to these Bylaws shall be approved by a majority vote of the Board.

Section 11. Termination. The Committee shall automatically terminate and disband concurrently with the Committee's submission of the final Annual Report which reflects the final accounting of the expenditure of all Measure L monies.

CITIZENS' BOND OVERSIGHT COMMITTEE ETHICS POLICY STATEMENT

This Ethics Policy Statement provides general guidelines for Committee members in carrying out their responsibilities. Not all ethical issues that Committee members face are covered in this Statement. However, this Statement captures some of the critical areas that help define ethical and professional conduct for Committee members. The provisions of this Statement were developed from existing laws, rules, policies and procedures as well as from concepts that define generally accepted good business practices. Committee members are expected to strictly adhere to the provisions of this Ethics Policy.

POLICY

- **CONFLICT OF INTEREST.** A Committee member shall not make or influence a District decision related to: (1) any contract funded by bond proceeds, or (2) any construction project which will benefit the Committee member's outside employment, business, or a personal finance or benefit an immediate family member, such as a spouse, child or parent.
- **OUTSIDE EMPLOYMENT.** A Committee member shall not use his or her authority over a particular matter to negotiate future employment with any person or organization that relates to: (1) any contract funded by bond proceeds, or (2) any construction project. A Committee member shall not make or influence a District decision related to any construction project involving the interest of a person with whom the member has an agreement concerning current or future employment, or remuneration of any kind. For a period of two (2) years after leaving the Committee, a former Committee member may not represent any person or organization for compensation in connection with any matter pending before the District that, as a Committee member, he or she participated in personally and substantially. Specifically, for a period of two (2) years after leaving the Committee, a former Committee member and the companies and businesses for which the member works shall be prohibited from contracting with the District with respect to: (1) bidding on projects funded by the bond proceeds; and (2) any construction project.
- **COMMITMENT TO UPHOLD LAW.** A Committee member shall uphold the federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the Berryessa Union School District.
- **COMMITMENT TO DISTRICT.** A Committee member shall place the interests of the District above any personal or business interest of the member.

Notes