

# **CARPINTERIA VALLEY WATER DISTRICT**

## **Is Improved Direction Needed?**

### **SUMMARY**

The Carpinteria Valley Water District (CVWD) has delivered an essential product but has experienced the need for an exceptional amount of facility maintenance and upgrades. This has resulted in outstanding loans of \$33.8 million against a total operating budget of less than \$5 million per year. Coupled with the expense of a State Water option which it does not need and uses little, the district is strapped with non-operational yearly expenses which exceed \$5 million. Total annual expenses therefore exceed \$10 million, giving rise to high water rates. A serious imbalance in monthly service charges between small and large meters puts costs on the small user which are 2 ½ times the going rate in the general area. Recommendations by the Grand Jury include restructuring charges and selling State Water options which may reduce water charges to residential users.

### **INTRODUCTION**

The Grand Jury investigated CVWD operations as a result of a formal complaint. Does the district provide adequate water services for all its customers at a reasonable charge? Questions arose after the 1991 voter-approved purchase of 2000 acre feet (AF)<sup>1</sup> of State Water during a serious drought period. There were additional community complaints as water rates began to escalate.

The Grand Jury investigated the water district operating procedures, specifically looking at monthly service charges and the water rates and how they are utilized to pay district costs. The Grand Jury researched available records, read newspaper articles, attended meetings and interviewed district officials and members of the community.

### **OBSERVATIONS AND ANALYSIS**

#### **District Overview**

The CVWD is the water purveyor for over 19,000 residents. The district provides water to 4168 service connections encompassing 17 square miles, including the City of Carpinteria.

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<sup>1</sup> An acre foot is defined by the volume of water necessary to cover one acre of surface area to a depth of one foot.

CVWD was established in 1941 as a special district. The district is governed by a five-member board of directors elected by the registered voters within the district. Public protest over high water bills began to increase when “meter equivalency” fees were implemented. More protests occurred over construction of a large water storage tank and related truck route. Notwithstanding the board’s controversial and unpopular decisions, three board members ran unopposed in the November 2006 election.

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The rules and regulations of the CVWD, adopted by the board in 1997 and periodically updated, determine specific conditions of water service between the customer and the district. The rules cover everything including application for service, water rates and disputed bills.

The general manager is the administrative head of the district responsible for policy implementation as well as the day-to-day functioning of the district. Three supervising managers report directly to him: (a) the business manager is responsible for finance and accounting activities for the district including debt, investment and risk management; (b) the district engineer is in charge of evaluating, designing and implementing operational and capital improvements as well as oversight of consultants; and (c) the operations and maintenance manager is responsible for overseeing operations, repair and maintenance of the wells, pumps, reservoirs, pipelines along with fleet services and building and ground maintenance.

The district is run by an experienced staff of 18. This number has not grown in 12 years although numerous new state and federal regulations and staff time consumed by complaints, general operating expenses and maintenance have increased substantially.

### **Water Sources**

There are three sources of water available to the CVWD: (1) ground water pumped from local wells, (2) Lake Cachuma Water and (3) water options from the State Water Project (SWP).

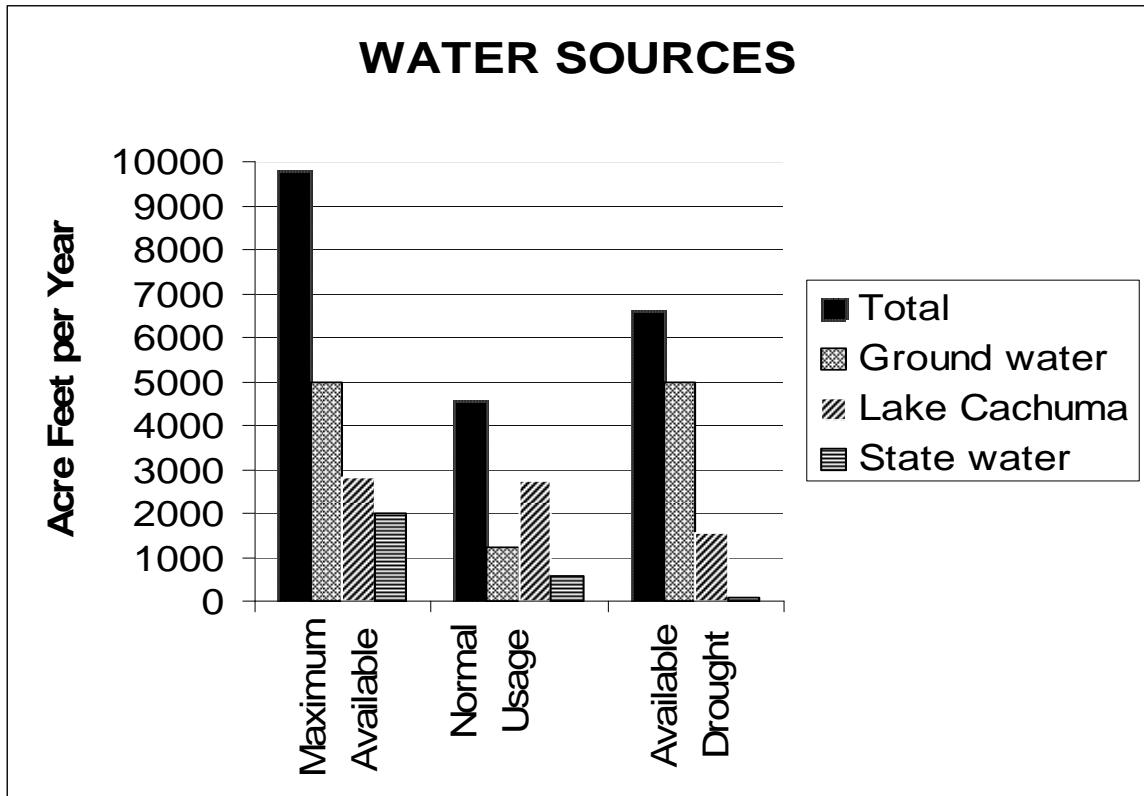
Groundwater is pumped from five wells in the Carpinteria Valley Groundwater Basin and provides 50% of the district’s water. All estimates of available ground water exceed 5000 AF per year.

The remaining half of the district’s water is surface water which comes from Lake Cachuma and the SWP routed through Lake Cachuma. Lake Cachuma water is treated at the City of Santa Barbara Cater Treatment Plant. It flows toward the Carpinteria Valley through a federally owned distribution system which includes the South Coast conduit, the Ortega Reservoir and the Carpinteria Reservoir. Both reservoirs are essential for distribution and storage in the Carpinteria Valley.

The allocation of Lake Cachuma water is currently 2800 acre-feet per year but is reduced to 1540 acre-feet in a drought year. State water is contracted by the CVWD at 2000 acre-feet per year. Projected deliveries of this State Water can vary between a

possible 94% of the contracted water down to 4% in a drought year. Typically, droughts in northern and southern California do not coincide. In fiscal year (FY) 2006 the district was allocated 60% of its SWP water option.

The current demands for water are substantially below the maximum available supplies. The chart below illustrates various water sources in FY 2004—maximum available, normal usage and availability during a drought.



Usage is below maximum available water and is below water available in a drought. Note that the availability of State Water in a California drought is very small. In a local drought, groundwater can be used even if State Water is only partially available.

Data indicate that 5000 acre-feet of water is a safe yield for the Carpinteria Valley Water Basin. Additionally, private pumping of groundwater extracts 3000 acre-feet annually. Carpinteria Basin groundwater is important mainly because it contains almost none of the organic materials that are found in Cachuma Lake water. A district board member indicated that an earthquake could disrupt groundwater, making the SWP a backup. An earthquake could affect the pipeline from Lake Cachuma to Santa Barbara, disrupting both Lake Cachuma water and State Water.

Four hundred acre-feet of state water have been sold to Plains Exploration and Production in Lompoc, in the form of an option, where \$300,000 per year is paid whether the water is used or not. If the option were executed, a total of \$600,000 would be paid per year. The \$300,000 currently amounts to approximately 10% of the

total annual cost of State Water, and if exercised, would reduce the maximum available State Water to CVWD to 1600 acre-feet.

**How does the CVWD establish the price of water?**

During a process that begins with the budget preparation, the staff and Board of Directors determine the requisite water charges. This process has been complicated by Proposition 218, passed in 1996. The law allows 45 days for property owners to protest the rate increase in the form of a letter. If more than 50% of the property owners submit valid signatures opposing an increase, the rates cannot be increased. If the board proposes to raise water rates, citizens have the option of utilizing this “opt-out initiative.” In 2006, the State Supreme Court upheld the application of Proposition 218 for water districts, mandating that only property owners can sign the letter.

**Water Charges**

Water charges have two components, monthly service charge (meter size) and water rate (water usage). Both components appear on the water bill, and each has a different structure. All users pay both charges. The monthly service charge is made up of the following categories: basic charge, State Water Project option and Capital Improvement Program (CIP) charges.

**Table 1  
Current CVWD Monthly Service Charges**

<b>METER SIZE IN INCHES</b>	<b>BASIC SERVICE CHARGE</b>	<b>STATE WATER PROJECT CHARGE</b>	<b>CAPITAL IMPROVEMENT PROGRAM</b>	<b>TOTAL SERVICE CHARGE</b>
3/4	\$ 3.41	\$ 24.84	\$21.40	\$ 49.65
1	5.68	41.40	21.40	68.48
1 ½	11.35	82.80	21.40	115.55
2	18.16	132.48	21.40	172.04
3	36.32	264.96	21.40	322.68
4	56.75	414.00	21.40	492.15
6	113.50	828.00	21.40	962.90
8	261.05	1904.04	21.40	2186.85

Multiple residents on a single meter are each charged an equivalent monthly service charge as if they had an individual meter. Residences located on agricultural property are charged a residential offset fee, the same as the meter equivalent charge. In 2004, this equivalency service charge began and resulted in large increases in residential water bills. The charge was applied by multiplying the number of users by the single meter lowest service charge. Table 1 details these monthly service charges.

Residential users pay the major part of the total service charge but use less than half the water. In contrast, agricultural users pay only 15% of the total monthly service charge but use 47% of the water. The question then arises as to why the agricultural

customers are not paying a more significant portion of the service charges. The answer lies in the rate structure. Larger diameter meters, used by agricultural customers, are not charged proportionately to their meter capacity.

The published capacity rate for a 4-inch meter is 700 gallons per minute (gpm) as compared to 30 gpm for a ¾ inch meter. The monthly service charge for a ¾ inch meter is \$49.65. If multiplied by 700/30, the monthly service charge for a 4-inch meter would be \$1158.50 instead of \$492.15

Another service charge disparity is the Capital Improvement program (CIP) charge. The monthly service charge of \$21.40 for CIP is the same for all meter sizes. Therefore, larger meter users pay no more for capital improvements than smaller meter users.

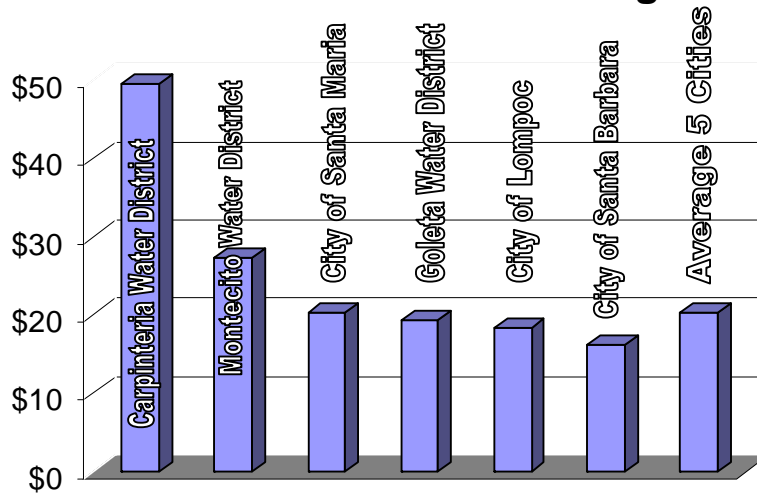
**Table 2**

**Monthly Service Charge for a ¾ inch Meter**

Carpinteria Valley WD	\$49.65
Montecito Water District	\$27.30
City of Santa Maria	\$20.31
City of Lompoc	\$19.26
Goleta Water District	\$18.42
City of Santa Barbara	\$16.19
Average of above	\$20.30

During the writing of this report, a notice of an increased monthly service charge was announced. Charges are proposed to increase 10% for residential, 11% for commercial and 5% for agriculture. Multiple users on one meter (equivalency rate customers) may have an increase of 6%.

### 3/4 inch Meter Service Charge



Water rates vary with type of user and quantity of usage. Residential, commercial, public entities, industrial and agriculture users have different water rates. Agricultural users have the lowest user rate of all user types. In addition, increased land elevations (such as Shepard’s Mesa) have higher monthly service charges due to costlier pumping. The monthly service charge in CVWD is more than two times the average of other districts. See Table 6 at the end of this report for more information.

#### How are the funds used?

The district’s water charges also include the water supply, pumping, water treatment, transportation, distribution and a portion of the operating expenses at Lake Cachuma. District operating costs also include administrative expenses. Moreover, the monthly service charge pays all debts including the State Water Project, capital improvements such as Ortega and Carpinteria Reservoir covers, a new well and filtration plant, the 3.5 million gallon storage tank and miscellaneous capital projects (labor costs, contractors, insurance, energy, office supplies, etc.). The headquarters well was replaced and other wells are “on hold” as replacement funding is not available.

By using fixed rates to pay these costs, the district can predict the amount that will be collected. This enables the district to collect the money it needs for major fixed cost and debt obligations regardless of customer water usage. In addition to the obvious accounting advantages, this allows the district to maintain a AAA bond rating.

A large number of facilities still require repair to maintain water delivery. Water valves need to be replaced due to aging. The El Carro Well was repaired and a new headquarters well was installed. The Cater Water Filtration Plant in Santa Barbara must be maintained and CVWD must pay its fair share of the cost. Additional debt has resulted from covering the Ortega and Carpinteria Reservoirs. The \$15 million price tag exceeded the previous estimate.

### **Rancho Monte Alegre (RMA) water tank**

In 2004, CVWD annexed 2300 acres of Rancho Monte Alegre (RMA) land. Additionally, lands of about 3000 acres are set aside as a conservation easement. The district stated that the annexation was necessary to prevent the ranch from drilling wells or diverting creek waters. RMA plans to build 24 homes on the 40 buildable acres. Residential and agricultural users on the RMA site are projected to use about 500 AF with high connection fees. Plans for housing construction will be submitted in the future to the County Planning Department for development approvals.

Flooding occurred in 2005 when the outlet portion of the detention basin overflowed onto adjacent neighbors' property. Concerns over appropriate engineering techniques arose. CVWD hired and approved consultant work, but due to district autonomy, did not coordinate with county engineering. It is not clear that such collaboration would have prevented the flooding.

As a result of construction of a \$9 million 3.5 million gallon water storage tank on the RMA property, issues arose regarding the tank, access road and catch basin, including necessity of the project, the approval process and construction difficulties. The tank and access road were constructed on ten acres of RMA in 2006. The road was paid for by the owners of RMA, giving access to CVWD. As the land is owned by RMA, a memorandum of understanding established a permanent CVWD easement for access to the tank and road.

The water tank is designed to provide water to allow for the blending of ground and surface water and to provide emergency water. Blending occurs when groundwater, which is high quality and requires only small amounts of disinfectant, is mixed with treated surface water.

Community opposition to the project amplified in June 2006 when Foothill Road residents heard that there would be a construction truck route through their neighborhood, on roads which they say are narrow, winding and dangerous. Semi-trucks were needed to haul debris associated with excavation necessary for the undergrounding of the tank. In the end, the RMA owners determined that they could use the large rocks on site, thus reducing hauling. For a brief period the district employed a "public relations" expert, in part to handle complaints.

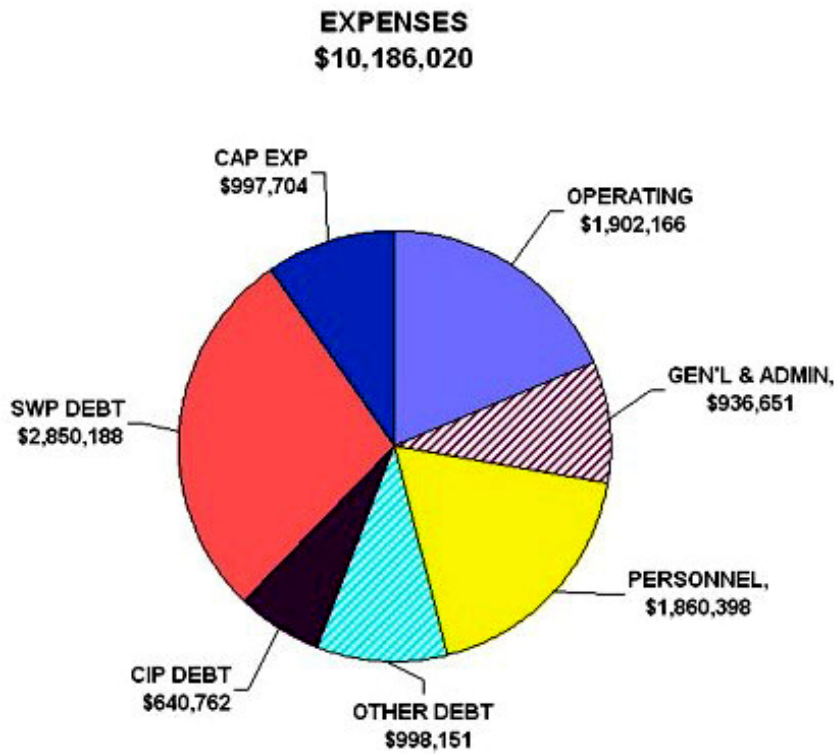
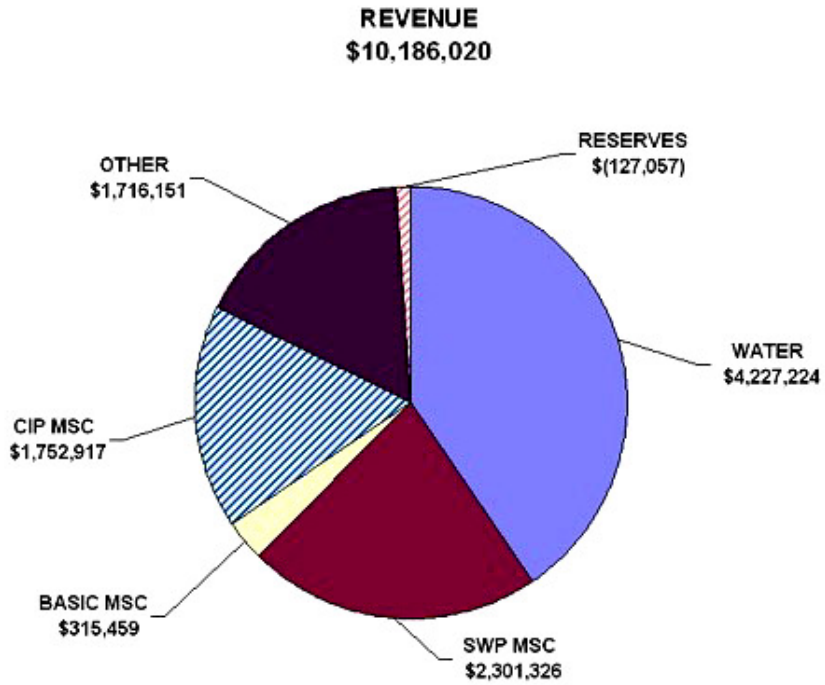
### **The Budget**

The published FY 2006-2007 expense budget is \$10,186,020. This budget includes debt service, yearly capital expenses and State Water fixed charges totaling \$5,486,805. At the same time, the total personnel and operating costs are \$4,699,215.

**Table 3**

<b>FY 2006-7 Expense Budget</b>	
<b>(Rounded to nearest thousand)</b>	
Personnel	\$1,860,000
General and Administration	\$937,000
Operation costs	\$1,902,000
<b>Total Operations</b>	<b>\$4,699,000</b>
State water fixed charges	\$2,850,000
Debt service	\$1,639,000
Capital projects	<u>\$998,000</u>
<b>Total non-operations</b>	<b>\$5,487,000</b>
<b>TOTAL</b>	<b>\$10,186,000</b>

Carpinteria Valley Water District: Is Improved Direction Needed?



**TABLE 4  
LOANS AND STATE WATER DEBT**

Project	Loan Type	Loan Principal	2006-2007 Debt Service
Cater Water Filtration Plant in Santa Barbara	Cachuma Project Authority Bonds Dept. of Water Resources	\$1,885,000	\$38,200
Ortega Reservoir Cover	Joint Loan w/Montecito	\$9,950,000	\$208,000
Carpinteria Reservoir Cover and Headquarter Well	Dept. of Water Resources Loan	\$8,183,543	\$523,102
Cater Water Filtration Plant in Santa Barbara	Dept. of Water Resources Loan w/Santa Barbara	\$3,840,000	\$228,849
Previous COP and El Carro Well	Certificate of Participation (COP)	\$9,995,000	\$640,762
<b>Totals</b>		<b>\$33,853,543</b>	<b>\$1,638,913</b>

**Adding the fixed charges for State Water:**

SWP Fixed Charges through FY 2035	~\$80,000,000	\$2,850,188
<b>Totals with State Water</b>	<b>~\$113,000,000</b>	<b>\$4,489,101</b>

**The Bottom Line**

The cost of capital improvements has resulted in the highest water service charges in the county. The amount of capital costs exceeds operating costs as shown in Table 3. Therefore, if additional capital improvements are necessary, expenses can be covered only by reducing operating costs or raising water charges.

Including the additional cost for the pipeline to Lake Cachuma, the cost of the State Water option is \$1500 per AF in South County as compared to \$1000 per AF in North County. This makes it difficult to sell the State Water option to North County in order to recover the original SWP option cost. One solution would be to sell the option. If the entire option were sold at \$1000 per AF, it would reduce the annual expenses by \$2,000,000, or 20% of the total CVWD expense budget.

The other solution is to raise water charges. If service charges were increased for users with large meters, the charges could be more equitable and would help pay for capital improvements and the debt service.

## **FINDINGS**

### **Finding 1**

The dedicated Carpinteria Valley Water District staff must respond to costly requirements and simultaneously deal with customer concerns about increasing rates.

### **Finding 2**

Debt service for capital projects and the State Water Project amount to 54% of the total budget.

### **Finding 3**

Carpinteria Valley Water District monthly service charges are more than twice those for other local water districts. This is partly due to the disparate charges between agriculture and residential users.

### **Finding 4**

Santa Barbara County government has no direct authority over Carpinteria Valley Water District operations.

### **Finding 5**

Barring very unlikely conditions, Carpinteria Valley Water District does not need the State Water option.

### **Finding 6**

Public relations relating to the storage tank at Rancho Monte Alegre were poorly handled but the tank is a necessary capital improvement for the district.

## **RECOMMENDATIONS**

### **Recommendation 1**

The Carpinteria Valley Water District should not take on additional capital improvements that are not mandated by law or required to protect a reliable water supply.

### **Recommendation 2**

The Carpinteria Valley Water District should consider restructuring water service charges to more equitably balance charges between residential and agricultural users.

### **Recommendation 3**

The Carpinteria Valley Water District should solicit review and comment from the County of Santa Barbara and the City of Carpinteria prior to initiation of all future major development projects.

**Recommendation 4**

The Carpinteria Valley Water Board should sell state water to reduce water charges to the district or show cause to the community as to why the option should be maintained.

**REQUEST FOR RESPONSE**

In accordance with Section 933(c) of the California Penal Code, each agency and government body affected by or named in this report is requested to respond in writing to the findings and recommendations in a timely manner. The following are the affected agencies for this report, with the mandated response period for each:

**Carpinteria Valley Water District Board of Directors – 90 days**

Findings	All
Recommendations	All

**Santa Barbara County Board of Supervisors – 60 days**

Finding	4
Recommendation	3

**City of Carpinteria – 90 days**

Finding	4
Recommendation	3

**REFERENCES**

1. Interviews with Carpinteria Valley Water District board members, Carpinteria Valley Water District staff, citizens of the district and county staff

2. "Water Supply and Demand Analysis Final Report," Carpinteria Valley Water District, dated 2/16/06
3. Carpinteria Valley Water District - Certificate of Participation, dated 5/17/06
4. Carpinteria Valley Water District - 2006-2007 Budget
5. Carpinteria Valley District Frequently Asked Questions - 10/5/06
6. Carpinteria Valley Water District and other websites
7. Dozens of newspaper articles, letters to the editor, public meetings

**Table 5  
Water Charges  
2006-2007 Budget**

	<b>Residential</b>	<b>Fire</b>	<b>Industrial</b>	<b>Public Agency</b>	<b>Commercial</b>	<b>Agriculture</b>	<b>Totals</b>
<b>Basic Service Charge</b>	\$167,199	\$23,147	\$14,478	\$9,929	\$20,730	\$79,977	\$315,460
<b>SWP Service Charge</b>	\$1,219,743	\$168,862	\$105,620	\$72,433	\$151,226	\$583,442	\$2,301,326
<b>CIP Service Charge</b>	\$1,556,722	\$1,284	\$17,205	\$14,381	\$65,484	\$97,584	\$1,752,660
<b>Basic Meter Equivalent Charge</b>	\$89,211						\$89,211
<b>SWP Meter Equivalent Charge</b>	\$650,808						\$650,808
<b>Service Charge, Total</b>	\$3,683,683	\$193,293	\$137,303	\$96,743	\$237,440	\$761,003	\$5,109,464
<b>Water</b>	\$1,977,159	\$0	\$178,264	\$152,079	\$545,874	\$1,373,848	\$4,227,224
<b>Ag Residential Offset<sup>1</sup></b>						\$84,132	\$84,132
<b>Total Charges</b>	\$5,660,842	\$193,293	\$315,567	\$248,822	\$783,314	\$2,218,983	\$9,420,820
<b>Acre Feet, usage</b>	1570		126	127	383	1971	4177

<sup>1</sup>Ag Residential Offset is a "Meter Equivalent" which is a monthly service charge.

**TABLE 6  
WATER RATES  
IN SANTA BARBARA COUNTY**

		Carpinteria Water District	City of Santa Barbara	City of Lompoc	Montecito Water District	Goleta Water District	City of Santa Maria	
<b>Service Charge</b>	Flow Rate Gallons/min							
	5/8 inch	\$49.65	\$10.78	\$19.26	\$27.30	\$18.42		
	3/4 inch	\$49.65	\$16.19	\$19.26	\$27.30	\$18.42	\$20.31	
	1 inch	\$68.48	\$26.97	\$32.67	\$45.49	\$24.96	\$31.86	
	2 inch	\$172.04	\$86.30	\$101.96	\$145.57	\$58.09	\$69.64	
	3 inch	\$322.68	\$172.60	\$202.86	\$427.54	\$97.04	\$151.12	
	4 inch	\$492.15	\$269.68	\$321.25	\$545.90	\$144.57	\$251.89	
	6 inch	\$962.90	\$539.36	\$1,025.32	\$909.83	\$269.23	\$629.81	
<b>Water Rates</b>								
	per HCH							
	Residential							
		7HCF	\$2.51 <sup>1</sup>	\$2.56	\$2.30	\$3.47	\$3.71	\$2.214
		8HCF	\$3.11 <sup>1</sup>	\$4.29				\$2.626
		>15HCF	\$3.51 <sup>1</sup>	\$4.52				\$3.494
	Commercial	\$3.27	\$4.29		\$3.71	\$3.71		
	Agriculture	\$1.60	\$1.46		\$1.56	\$1.00		
	Reclaimed		\$1.62	\$4.01		\$2.17		

1. Higher rates at 350 and 650 foot pumping levels  
HCF: Hundred cubic feet

## **CERTIFICATES OF PARTICIPATION IN PUBLIC FINANCING Is More Public Scrutiny Needed?**

### **SUMMARY**

The financing of public projects through the use of Certificates of Participation (COPs) has grown considerably in Santa Barbara County and is likely to grow even more in the future. At the end of Fiscal Year (FY) 2006 there was an outstanding debt of \$296,737,428 associated with COPs issued in Santa Barbara County. There is no specific rule of law, or direct voter approval, authorizing COPs and this leaves open the concern that they are an expedient method for funding projects which might not otherwise be supported by the public. This financial approach carries some risk for county taxpayers, and consequently it is appropriate that they should be made aware of those risks through a public review and approval process. This process should include mandatory public notice and a variety of new regulations governing the issuance of COPs.

### **INTRODUCTION**

This inquiry was initiated after review of the *Santa Barbara County Operating Plan-Proposed Budget for Fiscal Year 2006-2007* and after briefings from Officers of the County. A report by a private law firm and a consultation with the County Counsel's Office established an understanding of the legal issues and methods for implementing COPs. The Audit and Finance Committee of the Grand Jury inquired into the use of COPs within Santa Barbara County by sending a questionnaire to all districts and government agencies within Santa Barbara County. This survey involved nine questions intended to reveal the financial practices associated with the use of COPs throughout the County. A major consideration in preparing this report was a perceived need to inform the public that major financial obligations are being incurred by government without explicit public approval and assurances needed to manage risk.

### **OBSERVATIONS AND ANALYSIS**

The historical base model for financing public projects is tax-exempt General Obligation (GO) Bonds. In recent times, as alternatives to the tax-exempt general obligation debt, governments have developed new financial methods, which have been motivated by many considerations, such as the following:

## 2006-2007 Santa Barbara County Civil Grand Jury

- Stiff requirements for voter approval (typically a two-thirds majority) prior to issuance of general obligation debt
- Constitutional or statutory limits on the issuance of general obligation debt
- General growth in amount of government facilities and infrastructure
- Increased competition for the use of public funds
- Increased legal, political, and economic constraints on government budgets

Each state has different laws and so different alternatives to GO Bonds are emphasized across the country, but the two principal options are Revenue Bonds (RBs) and Certificates of Participation (COPs) both of which generally offer tax exempt status to the investors. COPs are the most recent “innovation” and they are the preferred approach in California, where the restrictions on general obligation debt are possibly the most severe in the country. There is no specific rule of law which authorizes each project funded by COPs and so they are a politically expedient method of funding projects without explicit support by the public. In order to contrast and compare the different approaches, consider the following brief summary of each financial option mentioned above:

*General Obligation Bonds:* Being explicitly voter approved, these are normally backed by the “full faith and credit” of the government authorizing issuance of the bonds. There is usually a “general obligation” on the part of the government to collect taxes, without limitation on the rate or amount, for payment of all principal and interest. Because of the full faith and credit of the state or municipality authorizing the bonds, the debt markets rate GO Bonds among the most secure investments, resulting in a preferred low interest rate.

*Revenue Bonds:* These are sometimes characterized as “limited obligation” or “special obligation” bonds because they are secured solely by a limited stream of revenues and not by the general taxing power of the government authorizing them. Unlike GO Bonds, the debt from RBs is not counted against the government’s debt limit, and consequently they offer added flexibility in states where there are strict limits on government debt. RBs are implemented through a government corporation, authority or other entity authorized by specific statute and established for a specific purpose. They are classified higher risk than GO Bonds, resulting in a higher interest rate, because they are secured by a limited revenue stream.

## 2006-2007 Santa Barbara County Civil Grand Jury

*Certificates of Participation:* These are similar to RBs insofar as they are secured by a limited revenue stream but, in contrast, the projects they support are not authorized by specific legislation. The government entity authorizing the COPs is typically obligated to make payments under an applicable lease-sublease (or very similar) structure. For example, the government leases property it owns (for a nominal fee) to a third party called the “financing agent,” which may be a government corporation or authority or a not-for-profit corporation created specifically for the proposed project. The property is then subleased (by the financing agent) back to the government under an agreement which requires the government to make rental payments. The financing agent then assigns its interest, which are the sublease payments from the government, to a trust which sells to investors “certificates of participation” each of which provides a proportionate interest in the sublease agreement, including the lease rentals. Upon payment of all the lease rentals, the financing agent’s leasehold interest ends and the government retakes possession of the property from the financing agent. Again, because the debt is secured solely by a stream of revenues generated by a narrowly defined project, the debt is relatively higher risk than that for GO Bonds and consequently COPs are burdened with a higher interest rate.

### **Financial Status of Outstanding COPs in Santa Barbara County**

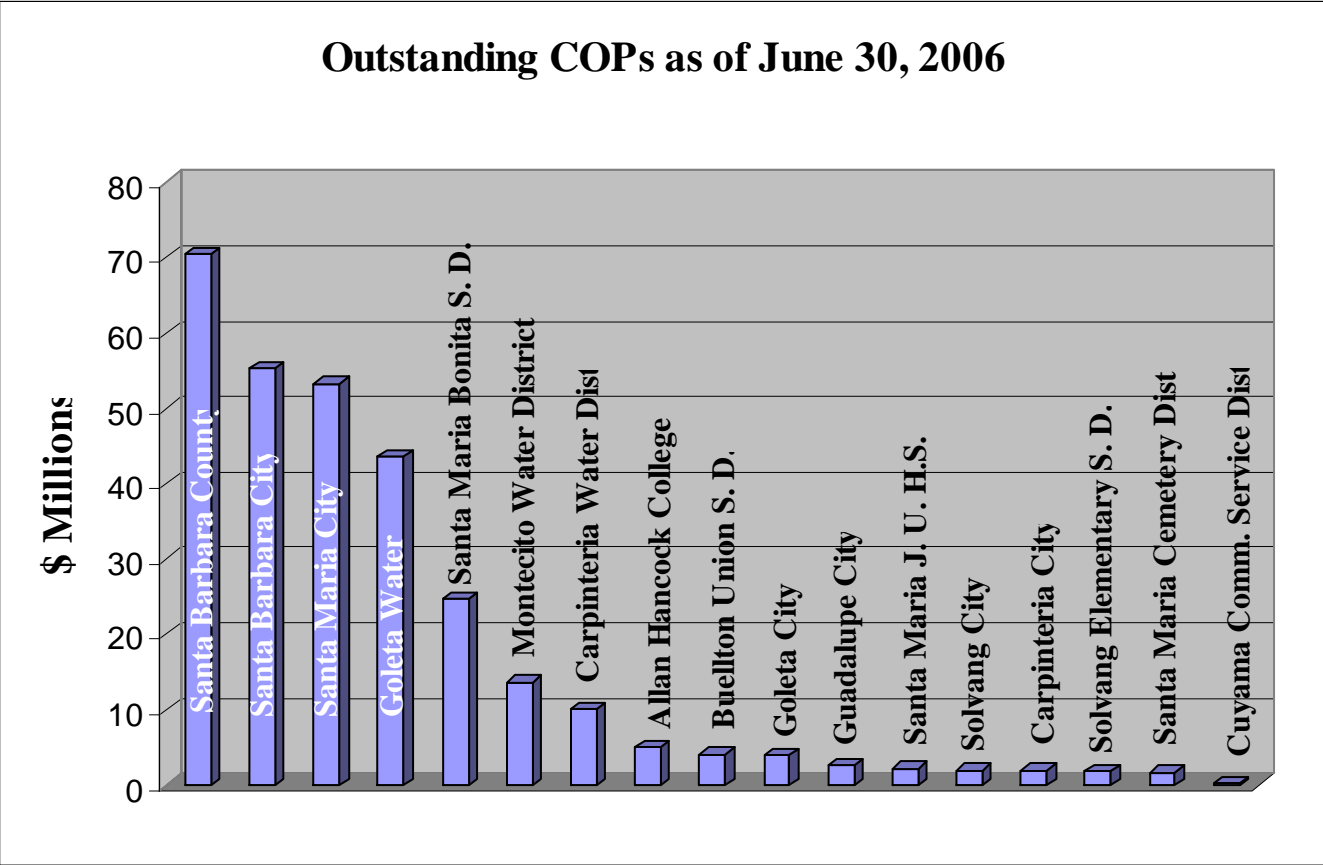
The Audit and Finance Committee sent an inquiry letter to all special districts, school districts, city and county governments which might be using COPs to finance a project. Each organization was asked the following nine questions:

1. Please list each outstanding COP in your agency by issue date and dollar amount. If your agency has no COPs please indicate that fact and ignore the following questions.
2. What is the payoff date of each COP?
3. For what purpose(s) will the COP funds be used?
4. What is being leased to support each COP?
5. What is the repayment plan, including funding source and schedule?
6. What is the lease-sublease structure for each COP?
7. What private organizations were involved in developing the COP structure and, in particular, what organization functioned as the financing agent?

# 2006-2007 Santa Barbara County Civil Grand Jury

- 8. Was there any public notification prior to initiating the COP? If so, how was it done?
- 9. Is any COP failing to perform according to plan? If so, please give a brief explanation.

All organizations responded to the request in a timely manner, but each organization had a different level of understanding of its own COPS. For example, the City of Goleta could not answer at least half of the questions regarding the Santa Barbara Shores project acquired from the County. Seventeen organizations, out of a total of 66 surveyed, currently have outstanding COPs and are charted below. See the Appendix for a complete listing of the COPs reported.



## 2006-2007 Santa Barbara County Civil Grand Jury

A synopsis of the answers to the nine questions is presented in a table in the Appendix to this report. One immediate conclusion is that financial practice in the issuance of COPs does not follow a consistent pattern throughout the County. Inconsistency in financial practice does not necessarily create a problem, but it creates some concern. For example, a special district can establish its own financing corporation to approve and manage the issuance of COPs for that district and thereby effectively approve its own financial practices without any outside oversight. In other words, the district can act as its own auditor.

We see from the attached table that the total amount of debt associated with outstanding COPs in Santa Barbara County was \$296,737,428 at the end of FY 2006. Since debt associated with COPs is not carried on the books as "public debt," an artificial sense of financial well-being may be transmitted to the community. For example, if a particular project within a water district should fail to perform for any reason, the users of the services provided by that district would be burdened with an assessment, effectively a tax, in order to pay off the COPs involved. Furthermore, if the issuing organization should go out of business for any reason, then all county residents could be obliged to pay off the COPs. Although project failures may not be high risk, county taxpayers are exposed to that risk.

The term of some COPs is 20+ years. It seems to this Grand Jury that such long-term commitments should be funded either by General Obligation or Revenue Bonds, and COPs should be used only for short-term financing. In particular, COPs should be used primarily for short-term projects or to provide a type of "bridge" loan pending the issuance of bonds appropriate for longer-term projects. Longer time horizons for retirement of debt naturally introduce additional risk, simply due to an uncertain future. At least, if COPs are going to be used for long-term obligations, they should receive much closer public scrutiny through a more regulated and extended public notice and approval process. The words "public notice," as used here, should not be equated with such notices as those provided for meetings of city councils or the Board of Supervisors; rather, they are intended to mean a "legal notice" procedure prescribed specifically for COPs.

The absence of a consistent, mandatory public notice process that provides full disclosure raises the concern that COPs are (or could become) a politically expedient method for funding projects not supported by a majority of the public. Not only does this deficiency preclude the general public from registering opposition but it also precludes them from participating as investors. With current practice, it is even possible that COPs could be used to override the will of the electorate. For example, a large project to be funded by a bond issue which failed to pass could, nevertheless, ultimately proceed as a series of smaller projects funded through the use of COPs, effectively creating non-voter approved, long-term public indebtedness.

## 2006-2007 Santa Barbara County Civil Grand Jury

There are apparently no explicit regulations regarding the timely sale of COPs and use of the funds resulting from those sales. For example, COPs may be refinanced when lower market rates become available. Although timely refinancing may reduce long-term costs, it almost always involves the immediate payment of fees to some agent. Also, when new money is raised in the refinancing, there is an overall increase in the imputed (i.e. not carried on the books) public indebtedness. Such financial practices may have merit in most cases, but lack of regulation could lead to abuse. When COPs are sold for one purpose and yet the funds are ultimately used for another purpose, even if a worthy purpose, the switch can plant the seeds of suspicion and ultimately lead to distrust in government. At this time, there does not appear to be any actionable case of this type in Santa Barbara County, but misuse of such funds has led to litigation in Los Angeles County.

Additionally, there is concern that standard assurance procedures (e.g. environmental assessment and title guarantees) may not be in place prior to the sale of COPs. These assurances are particularly important in order to reduce the risk that the associated project might fail to perform and then the debt obligation would become actual (and not just imputed) public debt.

We are concerned with the general approval process for the issuance of COPs. There may be very little (or inadequate) government involvement during the initiation and approval of projects funded by COPs. What concerns us most is the fact that certain segments of the affected communities may not be notified of major projects prior to their initiation. For example, the County government and any city government, whose citizens might be impacted by the implementation of a project, should be consulted and be allowed to comment, at least. If for no other reason, such a notification and concurrence procedure might serve to reassure the citizens of the affected communities.

A report of non-concurrence, if it happened, would not constitute a veto but it would serve to inform the public and the organization proposing the project of any community concerns. For example, suppose a school district located in a city decided to issue COPs in order to build some new school buildings. Since the city and the county would be impacted by such an expansion, they would be given a specified amount of time, during the public notice and approval process, to review the project and express either concurrence or non-concurrence in writing. The school district would thereby be able to take into consideration any community concerns before the project begins. If the concerns were serious enough, the school district might choose to modify the project, but it would not be required to do so beyond any already prevailing legal standards.

## 2006-2007 Santa Barbara County Civil Grand Jury

Finally, the debt associated with COPs in Santa Barbara County is sufficient to merit more public awareness and participation, but that cannot be achieved without an improved notification and approval process.

## 2006-2007 Santa Barbara County Civil Grand Jury

### **FINDINGS**

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.
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.
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.
4. The regulations regarding the sales of COPs and the use of the proceeds from those sales are inadequate.
5. Districts and government agencies are not required to give notification of the use of COPs to County or city governments which might be affected.

### **RECOMMENDATIONS**

1. A consistent, mandatory public notice and approval process should be implemented and sale of COPs should not proceed until completion of that process.
2. All projects funded by COPs should receive the necessary assurances that are demanded of projects funded by General Obligation and Revenue Bonds.
3. The use of COPs should be restricted to short-term projects. Long-term projects should be funded with General Obligation or Revenue Bonds.
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.
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.

# 2006-2007 Santa Barbara County Civil Grand Jury

## REQUEST FOR RESPONSE

In accordance with Section 933(c) of the California Penal Code, each agency and government body affected by or named in this report is requested to respond in writing to the findings and recommendations in a timely manner. The following are the affected agencies for this report, with the mandated response period for each:

### County Board of Supervisors – 60 days

Findings	All
Recommendations	All

### Districts and Government Agencies as listed below – 90 days

Findings	All
Recommendations	All

Carpinteria Valley Water District	Goleta Water District
City of Carpinteria	Montecito Water District
City of Goleta	Santa Maria Cemetery District
City of Guadalupe	Allan Hancock Joint Community College District
City of Santa Barbara	Buellton Union School District
City of Santa Maria	Santa Maria Joint Union High School District
City of Solvang	Santa Maria-Bonita School District
County of Santa Barbara	Solvang School District
Cuyama Community Service District	

### FOR INFORMATION ONLY – NO RESPONSE REQUIRED

#### Districts and Government Agencies as listed below

Cachuma Resource Conservation District	Carpinteria Public Cemetery District
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## 2006-2007 Santa Barbara County Civil Grand Jury

Carpinteria Sanitary District	Orcutt Fire Protection District
Carpinteria-Summerland Fire Protection District	Santa Barbara Chapter, CSDA, Montecito Sanitary District
Casmalia Community District	Santa Barbara Coastal Vector Control District
City of Buellton	Santa Maria Public Airport District
City of Lompoc	Santa Maria Valley Water Conservation District
City of Santa Barbara Airport District	Santa Ynez Community Service District
Cuyama Valley Recreation District	Santa Ynez River Water Conservation District No. 1
Embarcadero Municipal Improvement District	Santa Ynez Water Conservation District
Goleta Cemetery District	Summerland Sanitary District
Goleta Sanitary District	Vandenberg Village Community Services District
Goleta West Sanitary District	Carpinteria Unified School District
Guadalupe Public Cemetery District	Cuyama Joint Unified School District
Isla Vista Recreation and Park District	College School District
Lompoc Cemetery District	Goleta Union School District
Lompoc Healthcare District	Guadalupe Union School District
Los Alamos Community Services District	Hope School District
Mission Hills Community Service District	Lompoc Unified School District
Montecito Fire Protection District	Los Alamos School District
Montecito Sanitary District	Los Olivos School District
Oak Hill Cemetery District	

## 2006-2007 Santa Barbara County Civil Grand Jury

Montecito Union School District

Orcutt Union School District

Santa Barbara Community College  
District

Santa Barbara Elementary School  
District (K-6)

Santa Barbara High School District (7-  
12)

Santa Ynez Valley Union High School  
District

2006-2007 Santa Barbara County Civil Grand Jury

**APPENDIX**  
**CERTIFICATES OF PARTICIPATION TABLE**  
 TOTAL \$296,737,428 JUNE 30, 2006

AGENCY	ISSUE DATE	PAY-OFF DATE	COP AMOUNT	PURPOSE OF COP	OBJECT LEASED	REPAYMENT PLAN	SUBLEASE STRUCTURE	PRIVATE ORGANIZATION INVOLVED	PUBLIC NOTIFICATION	COP PLAN SUCCESS
<b>Carpinteria Valley Water District</b> Series 2006A	June 2006	June 2033	\$10,025,000	Capital Improvement Program (Refund \$9,015,000 aggregate from 2000)	None	Revenue stream from ratepayers	None. The District has an Installment Purchase Agreement	Established a Financing Corp. Private organizations are as follows: Underwriter: Salomon Smith Barney. Trustee: Union Bank of California.	Public Notification occurred prior to Board authorization through announcements in the local newspaper and the required public posting and distribution of agendas.	Yes
<b>City of Santa Maria</b> Local Water System and Refunding Projects	March 1993	August 2023	\$23,148,848 Principal; Balance Outstanding July 1, 2006 \$15,054,253	16,200 acre ft of State Water (1993) & construction of well.	None	Water Resource Fund Amortized through year 2028	None	Bond Counsel: Jones Hall Hill & White. Underwriter: Smith Barney Harris Upham & Co. Inc. Trustee: First Interstate Bank of California.	Resolution passed; adopted by Council at reg. meeting. Meetings are open to the public & public is given the opportunity to speak concerning items on agenda.	Yes
<b>City of Santa Maria</b> Water and Wastewater Revenue Subordinate COP Series 1997A and 1997B	Oct. 1997	July 2027	\$38,355,000 Principal; Balance Outstanding July 1, 2006 \$38,237,786	Water Facilities & refinance of 1993 COP	None	Water Resource Fund. Amortized through year 2028	None	Bond Counsel: Jones Hall, a Professional Law Corp. Underwriter: George K. Baum & Co. Trustee: BNY Western Trust Co.	Resolution passed; adopted by Council at reg. meeting. Meetings open to the public & public given the opportunity to speak.	Yes

2006-2007 Santa Barbara County Civil Grand Jury

AGENCY	ISSUE DATE	PAY-OFF DATE	COP AMOUNT	PURPOSE OF COP	OBJECT LEASED	REPAYMENT PLAN	SUBLEASE STRUCTURE	PRIVATE ORGANIZATION INVOLVED	PUBLIC NOTIFICATION	COP PLAN SUCCESS
<b>Montecito Water District</b>  Series 1998A	May 28 1998	July 2027	\$13,690,000	Distribution System; State Water Project; Ortega System Upgrade; Bradbury Dam Seismic Repairs	None	Installments through year 2027	Installation Purchase Agreement	Underwriter: Salomon Smith Barney. Trustee: U.S. Trust Company of CA, Los Angeles. Montecito Water District Financing Corp. issued the COPs.	Public Hearing Feb. 24, 1998 and Public meeting on May 11, 1998. Long Range Capital Plan (which included the COPs) was passed on May 12, 1998.	Yes
<b>Santa Maria Cemetery District</b>	April 2001	June 2021	\$1,740,000	Purchase 30 acres of land for cemetery expansion	The District's Administrative Office & ½ acre of land upon which the bldg. is located.	Semi-annual payments 12/1/2001 through 6/1/2021	The Santa Maria Cemetery District as CSDA Finance Corp.	The CSDA Finance Corp. and the Legal Firm: Preger McCarthy & Sealy, LLC.	Via the Public Notice of District Agenda	Yes
<b>Cuyama Community Service District Water Wasteland</b>	Nov. 1999	2039	\$185,600	Issued by US Dept. of Agriculture under Rural Utilities Service. For Wastewater Treatment.	Not Provided	June 2008 \$3,200; June 2009 \$3,200; thereafter \$179,100	None Provided	None	Published Santa Maria Times Sept. 1998; Taft Midway Driller Oct. 1998	Yes
<b>County of Santa Barbara</b>	Nov. 1998	Feb. 2011	Issuance Amount: \$20,930,000; Outstanding at June 2006 \$9,035,000	Public Facilities Improvement	Santa Barbara Administration Bldg.	Funded by Solid Waste Enterprise Fund & IV RDA & Criminal Justice Revenues	Santa Barbara Finance Corp.	Bank of America acted as the Underwriter. Orrick Herrington & Sutcliffe acted in the capacity of bond counsel. US Bank is the Trustee.	Recommended by County Debt Advisory Committee. Done at BOS hearings.	Yes
<b>County of Santa Barbara</b>	Nov. 2001	Dec. 2021	Issuance Amount: \$31,425,000; Amount Outstanding at June 2006: \$28,835,000	Public Facilities Improvement	SB Eng/Pub Works Bldg., SM Betteravia Bldg. C, SB Personnel Bldg. SM Courthouse	Funded by Federal & State Revenues & Criminal Justice	Santa Barbara Finance Corp.	Bank of America acted as the Underwriter. Orrick Herrington & Sutcliffe acted in the capacity of bond counsel. US Bank is the Trustee.	County Debt Advisory Committee. Done at BOS hearings.	Yes

## 2006-2007 Santa Barbara County Civil Grand Jury

AGENCY	ISSUE DATE	PAY-OFF DATE	COP AMOUNT	PURPOSE OF COP	OBJECT LEASED	REPAYMENT PLAN	SUBLEASE STRUCTURE	PRIVATE ORGANIZATION INVOLVED	PUBLIC NOTIFICATION	COP PLAN SUCCESS
<b>County of Santa Barbara</b>	Jan. 2004	March 2011	Issuance Amount: \$21,600,000; Amount Outstanding at June 2006: \$14,725,000	Public Facilities Improvement	SB County Main Jail Complex, SB Sheriff's Adm. Bldg., SB Soc. Serv. Bldg. Calle Real	Funded by Federal & State revenues & Criminal Justice	Santa Barbara Finance Corp.	Bank of America acted as the Underwriter. Orrick Herrington & Sutcliffe acted in the capacity of bond counsel. US Bank is the Trustee.	County Debt Advisory Committee. Done at BOS Hearings.	Yes
<b>County of Santa Barbara</b>	April 2005	March 2025	Issuance Amount: \$18,785,000; Amount Outstanding at 6/30/2006: \$17,940,000	Public Facilities Improvement	SB Public Health/Psych Bldg. 2, SB Public Health D Clinic Bldg. # 4	Funded by Federal & State revenues & Criminal Justice	Santa Barbara Finance Corp.	Bank of America acted as the Underwriter. Orrick Herrington & Sutcliffe acted in the capacity of Bond Counsel. US Bank is the Trustee.	County Debt Advisory Committee. Done at BOS hearings.	Yes
<b>City of Solvang</b> 2002 Wastewater Loan Project	July 2003	July 2010	\$2,015,000	To fund a variety of Road Improvement Projects, Sewer Capital Projects, & Capital Equip. Finance debt as a result of legal action.	Real Property APN 137-270-24-00-7 belonging to the City of Solvang	Sublease Option Agreement	Amortized through July 2010	Hanley, Atty.; Haight, Special Counsel; Municipal Financial Corp., Placement Agent.	Resolution by City Council	Yes
<b>Solvang Elementary School District</b>	Sept. 1999	Sept. 2010 & Sept. 2015	\$3,145,000; balance \$1,787,580	Solvang School Lower Campus	Not Known	Special Reserve Fund & Mello Roos Service District	None provided	Bowie Arneson; Feldman Rolapp; Bank of CA	Publication City Council meeting	Yes
<b>City of Carpinteria</b>	July 1988; Re-financed 1993 and 1998	March 2018	\$2,010,000	Capital Projects	Carpinteria Public Improvement Corp.	Amortized through 2018	None	Peter N. Brown; Hatch & Parent; Jos. Zeronian; Cristin Crosby	Annual public meeting	Yes

2006-2007 Santa Barbara County Civil Grand Jury

AGENCY	ISSUE DATE	PAY-OFF DATE	COP AMOUNT	PURPOSE OF COP	OBJECT LEASED	REPAYMENT PLAN	SUBLEASE STRUCTURE	PRIVATE ORGANIZATION INVOLVED	PUBLIC NOTIFICATION	COP PLAN SUCCESS
<b>Buellton Union School District</b>	Nov. 2006	2026	\$4,060,000	Education Facilities Project	Jonata Elementary School	\$125,000 interest only (2006-2010). In 2011 the District will repay \$1.6 million in additional COP debt using GO Bond proceeds. The annual debt service payment will then continue through 2026 at the average rate of \$95,000 using future developer fees and general funds.	Jonata Elementary School	Jones Hall & Bank of NY	At regular Board meeting	Yes
<b>Allan Hancock College</b>	April 1999	Oct. 2009	\$5,000,000	Renovate Student Center on Santa Maria Campus & construct facilities at Lompoc Valley Center	9.8 acres located at 1314 S. College Dr. (AHJCC) District South Campus	Legally defeased through purchase of US Treasury Securities	School Boards Association Finance Corp.	Bond Counsel: Stradling Yocca Carlson & Rauth. Underwriter: Piper Jaffray & Co.	Regularly scheduled and properly noticed of the Board of Trustees on Nov. 17, 1998	Yes
<b>Santa Maria Bonita School District</b>	1991	2016	\$4,980,000; paid down to \$560,000 June 30, 2006	Capital Improvements	District Facilities	Semiannual debt service payments from the funds designated by the Board of Education for Capital Improvements	District/Santa Maria Bonita Capital Facilities	Law Partnership: Bowi Arneson Kadi & Dixon. Underwriter: Stone & Youngberg.	Resolution passed at a Board meeting Feb. 13, 1991	Yes
<b>Santa Maria Bonita School District</b>	1998	2016	\$6,705,000; paid down to \$4,315,000 Jun 30, 2006	Capital Improvements	District Facilities	Semiannual debt service payments from the funds designated by the Board of Education for Capital Improvements	Distirct/Santa Maria Bonita Capital Facilities	Professional Law Corporation: Jones Hall. Underwriter: Stone & Youngberg.	Resolution passed at a Board meeting Apr. 22, 1998	Yes

## 2006-2007 Santa Barbara County Civil Grand Jury

AGENCY	ISSUE DATE	PAY-OFF DATE	COP AMOUNT	PURPOSE OF COP	OBJECT LEASED	REPAY-MENT PLAN	SUBLEASE STRUCTURE	PRIVATE ORGANIZATION INVOLVED	PUBLIC NOTIFICATION	COP PLAN SUCCESS
<b>Santa Maria Bonita School District</b>	2006	2031	\$19,850,000	Capital Improvements	District Facilities	Semiannual debt service payments from the funds designated by the Board of Education for Capital Improvements	District/Santa Maria Bonita Capital Facilities	Attorneys: Orrick, Herrington Sutcliffe and Hayes, LLP. Financial Advisors: Kelling Northcross & Nobriga.	Resolution passed at a Board meeting Feb. 22, 2006	Yes
<b>Santa Maria Joint Union High School</b>	1997	2019	\$27,400,000; paid down to \$2,200,000	Finance the costs of acquiring and renovating an existing manufacturing building to be used for District Adm. Offices (2650 Skyway Dr.)	All of those plots, pieces or parcels of land commonly known as Righetti High School and Santa Maria High School	Existing general fund money, allocating a portion to general fund and a portion to development fees.	Between District and County School System	Legal Counsel: Fullbright & Jaworski. Underwriter: Bank of America Securities LLC, Los Angeles, CA. Trustee & Tender Agent: U.S. Bank National Association of Los Angeles.	Board meeting	Yes
<b>Goleta Water District</b>	Sept. 2003	2022 (Installments from 2004)	\$47,000,000 paid down to \$43,580,209 (1/1/2006)	Upgrades	Does not apply to Goleta Water District	Mandatory payoff by 2024	Does not apply to Goleta Water District	Special Counsel: Stradling Yocca Carlson & Rauth. Underwriter Counsel: Jones Hall, San Francisco. Verification Agent: Causey, Demgen & Moore, Inc. Denver, CO. Trustee: BNY Western Trust Co. Los Angeles, CA.	News-Press March 15, 2003	Yes
<b>City of Guadalupe</b>	2005 & 2000	2035 & 2044	\$1,203,000 & \$1,429,000	Obispo St. Tank Highway 1 Water/ Sewer Reconstruction	No lease	USDA; City of Guadalupe Financing Authority	Public Notice of Open Meeting	USDA; City of Guadalupe Financing Authority	Public meeting	Yes
<b>City of Goleta (Santa Barbara Shores) Acquired from County</b>	March 1994	March 2008	\$4,050,000	Not investigated when acquired from County	Not Investigated when acquired from County	General Fund Semi-annual Interest & Principal, yearly in September	Not Investigated when acquired from county	Not investigated when acquired from County	Not investigated when acquired from County	No awareness if COP is/is not performing

## 2006-2007 Santa Barbara County Civil Grand Jury

AGENCY	ISSUE DATE	PAY-OFF DATE	COP AMOUNT	PURPOSE OF COP	OBJECT LEASED	REPAYMENT PLAN	SUBLEASE STRUCTURE	PRIVATE ORGANIZATION INVOLVED	PUBLIC NOTIFICATION	COP PLAN SUCCESS
<b>City of Santa Barbara Municipal Improvement Program</b>	August 1986; Restructure February 1993 and May 2002	August 2017	\$6,340,000; paid down to \$4,985,000 June 2006	City office bldg., 630 Garden St.; City Yard; Municipal Golf Course	630 Garden St. & Municipal Golf Course	Yearly payments through 2018	Santa Barbara Public Facilities Corp. (created by City pursuant to Non-Profit Benefit Corp., Law of State of CA)	Seidler Fitzgerald with Law Firm of Orrick, Herrington & Sutcliffe (as Bond Counsel); Smith Barney; Morgan Stanley: et al.	City Council meetings 1986	Yes
<b>City of Santa Barbara Water Revenue Funding COP Series 2002</b>	April 1998; March 1992; 2002	Sept. 2026	\$15,535,000; paid down to \$13,825,000 June 2006	Water System; 1992 Refunding; 2002 Refunding	City Water Enterprise Fund	Yearly payments through 2027	Public Facilities	Seidler Fitzgerald with Law Firm of Orrick, Herrington & Sutcliffe (as Bond Counsel); Smith Barney; Morgan Stanley: et al.	City Council meetings 1986	Yes
<b>City of Santa Barbara Waterfront Revenue Refunding</b>	Oct 1984; May 1986; May 1992; 2002	Oct. 2027	\$19,405,000; paid down to \$17,190,000 June 2006	Various projects	City Waterfront Enterprise Fund	Yearly Payments through 2028	Public Facilities	Seidler Fitzgerald with Law Firm of Orrick, Herrington & Sutcliffe (as Bond Counsel); Smith Barney; Morgan Stanley: et al.	City Council meetings 1984, 1986, 1993, 2002	Yes
<b>City of Santa Barbara Sewer Revenue Series 2004</b>	2004	May 15, 2029	\$20,410,000; paid down to \$19,210,000 June 2006	Various projects	City Wastewater Enterprise Fund	Yearly payments through 2029	City Wastewater Enterprise Fund	City Group: Kelling, Northcross & Nobriga; Orrick, Herrington & Sutcliffe (Bond).	Approved by Publicly-noticed City Council meeting June 15, 2004	Yes