

San Ysidro School District Governing Board

AGENDA

Thursday
January 27, 2022
5:00 p.m.

WELCOME

Welcome to the meeting of the San Ysidro School District Governing Board. As a courtesy to others, we ask that you turn the volume off on your cell phones and put them on vibrate during the Board meeting. Your cooperation is appreciated.

**Vista Del Mar Middle School
Auditorium
4885 Del Sol Blvd
San Diego, CA 92154**

GENERAL ADMINISTRATION

SAN YSIDRO SCHOOL DISTRICT
4350 Otay Mesa Road San Ysidro, CA 92173
Phone Number: (619) 428-4476 Fax Number: (619) 428-1505

ORGANIZATIONAL MEETING OF THE GOVERNING BOARD
FRIDAY, DECEMBER 10, 2021
5:00 p.m.

Pursuant to Government Code Section 54954 and 54954.2 and Education Code Section 35143, the Organizational Meeting of the Governing Board was held on Friday, December 10, 2021, at 5:00 p.m. and conducted its business meeting at the **San Ysidro Middle School - Multicultural Complex, 4345 Otay Mesa Road, San Ysidro, CA 92173**. Any meeting participant who engages in disorderly conduct which disturbs the peace and good order of the meeting, or refuses to comply with the lawful orders of the Board may be ordered removed from the meeting, and may be guilty of a misdemeanor (Cal. Penal Code Sec. 403). Closed Session was conducted in accordance with applicable sections of California Law.

MINUTES

1. **CALL TO ORDER** Who: President Martinez Time: 5:00 p.m.
2. **FLAG SALUTE** by Antonio Martinez, Board President
3. **ROLL CALL** by Gina A. Potter, Ed.D., Superintendent & Secretary to the Board
Board Members Present:
Mr. Antonio Martinez, Board President
Mr. Rudy Lopez, Board Vice President
Mrs. Rosaleah Pallasigie, Board Clerk
Mr. Humberto Gurmilan, Member
Mrs. Irene Lopez, Member

4. **PUBLIC COMMENT/COMMUNICATIONS ON BOARD ORGANIZATION**

PLEASE SUBMIT PUBLIC COMMENT FORMS PRIOR TO START OF MEETING

Per Board Policy #9323, three (3) minutes may be allotted to each speaker and five (5) minutes for organizations to address **all of their items**. If translation services are required, please state that, and an additional one (1) minute will be allotted. **Approach the lectern and give your name.**

The public has the opportunity to address the Board on any item appearing on the agenda or not on the agenda. Persons wishing to address the Board are asked to fill out a **Public Comment Form** located at the sign-in area, and submit the completed form to the administrative assistant prior to start of meeting.

Those who have a group concern are encouraged to select a spokesperson to address the Board. A copy of the full agenda is available for view at the Superintendent's Office located at 4350 Otay Mesa Road, San Ysidro, California. Also, at the district website: www.sysdschools.org.

There were no public comments.

The Governing Board temporarily relinquished chairmanship of the meeting to the Superintendent until the Board elected its President.

5. **ANNUAL BOARD ORGANIZATION**

- A. The Board elected Rodolfo Lopez, Board President.

Motion: Gurmilan Second: Pallasigue Vote: 5-0

B. The Board elected Rosaleah Pallasigue, Board Vice President.

Motion: Martinez Second: Gurmilan Vote: 5-0

C. The Board elected Irene Lopez, Board Clerk.

Motion: Martinez Second: Pallasigue Vote: 5-0

D. The Board appointed Dr. Gina A. Potter, Board Secretary.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

6. RECOGNITION OF FORMER BOARD PRESIDENT - The Board recognized Antonio Martinez.

7. AGENDA

The Board approved the agenda.

Motion: Gurmilan Second: I. Lopez Vote: 5-0

8. PUBLIC COMMENT/COMMUNICATIONS ON CLOSED SESSION ITEMS

Please submit public comment forms prior to start of meeting at 5:00 p.m. Per Board Policy #9323, three (3) minutes may be allotted to each speaker and five (5) minutes for organizations to address Closed Session Items Only. (Closed Session Items may be continued to the end of meeting if necessary.)

There were no public comments.

Board Clerk Irene Lopez made a motion to recess to Closed Session, seconded by Board Member Martinez. The vote was 5-0.

9. GOVERNING BOARD – RECESSED TO CLOSED SESSION at 5:16 p.m. in accordance with section 54954.5 regarding:

9.1 PURSUANT TO GOVERNMENT CODE §54957

Public Employee Employment
Title: Principal

9.2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Potter)

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9:
No. of cases: 1

9.3 GOVERNMENT CODE SECTION 54957 (Heath/González)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE/REASSIGNMENT

9.4 GOVERNMENT CODE SECTION 54957.6 (Heath/González)

CONFERENCE WITH LABOR NEGOTIATORS

Agency Negotiators: Glenn Heath, Sub Executive Director of Human Resources

Employee Organizations:

San Ysidro Education Association/CTA

California School Employees Association, Chapter 154

Unrepresented:

Administrators, Classified Management, Confidential/Supervisory

RECONVENED into OPEN SESSION at 6:30 p.m. to take action on items discussed in closed session, or to make disclosures of action taken in closed session, if any, as required by Government Code section 54957.7 and section 54957.1.

There was nothing to report from Closed Session.

10. CALL TO ORDER Who: President R. Lopez Time: 6:30 p.m.

11. ROLL CALL by Gina A. Potter, Ed.D., Superintendent & Secretary to the Board

- Board Members Present:
- Mr. Antonio Martinez, Board Member
- Mr. Rudy Lopez, Board President
- Mrs. Rosaleah Pallasigie, Vice President
- Mr. Humberto Gurmilan, Board Member
- Mrs. Irene Lopez, Board Clerk

12. BOARD RECOGNITION/DISTINGUISHED CHAMPIONS Time: 6:30 p.m. (Adrianzen)

12.1 San Ysidro Middle School School Site Council Student Representatives

- Andrea Loza
- Yuliana Garcia Avina
- Eduardo Perez Lopez

13. PUBLIC COMMENT/COMMUNICATIONS ON OPEN SESSION ITEMS

PLEASE SUBMIT PUBLIC COMMENT FORMS PRIOR TO START OF MEETING

Per Board Policy #9323, three (3) minutes may be allotted to each speaker and five (5) minutes for organizations to address **all of their items**. If translation services are required, please state that, and an additional one (1) minute will be allotted. **Approach the lectern and give your name.**

The public has the opportunity to address the Board on any item appearing on the agenda or not on the agenda. Persons wishing to address the Board are asked to fill out a **Public Comment Form** located at the sign-in area, and submit the completed form to the administrative assistant prior to start of the meeting. Those who have a group concern are encouraged to select a spokesperson to address the Board. A copy of the full agenda is available for view at the Superintendent’s Office located at 4350 Otay Mesa Road, San Ysidro, California. Also, at the district website: www.sysdschools.org.

Juan Morales, Parent, Commented: 1) The board is doing a good job. 2) The Teddy Bear event was awesome. Student motivation for the holidays has increased. 3) Asked that he make the decisions when it comes to his children. 4) Shared concerns about student safety and offered to help.

14. ITEMS FROM THE BOARD & SUPERINTENDENT

Board Member Martinez, Commented: 1) Wished everyone a Happy Holiday Season! 2) He agrees with Mr. Morales that safety is the priority. 3) Thanked Principal Bojorquez for hosting the board meeting.

Board Member Gurmilan, Commented: 1) Thanked Principal Bojorquez for hosting the board meeting. 2) It’s been an honor and a privilege to serve the San Ysidro School District. 3) It’s been a challenging year. We are moving in the right direction. 4) Thanked Mr. Morales for coming and sharing. 5) Wished everyone Happy Holidays!

Board Clerk I. Lopez, Commented: 1) Thanked Principal Bojorquez and Assistant Principal Preciado for hosting the board meeting. 2) Our kids need sports. She would like to see the sports program grow. 3) Thanked Mr. Morales for sharing with the board. Safety is the priority. 4) Our students need help. Let’s invest in full time services for our students. 5) The board will work together to bring services for

our students. 6) Wished everyone safe and Happy Holidays!

Board Vice President Pallasigue, Commented: 1) We need to revisit policies on handling bullying incidents. 2) Parents always need to know and be informed. 3) Students need support services. 4) We all need sensitivity training on how to properly address what’s going on in the current climate. 5) We need to give our staff the proper tools to support our students. 6) Our schools are getting crowded. We need to look into temporary classrooms. 7) Wished everyone a safe and Happy Holiday Season!

President R. Lopez, Commented: 1) Thanked San Ysidro Middle School for hosting the board meeting. 2) Thanked Mr. Morales for attending the meeting and mentioning the board conference. 3) Board members attended the California School Boards Association conference. He attended sessions that focused on advocacy, special education and long term english learners. 4) He and Board Clerk Irene Lopez participated in a great special education class visit. 5) Wished everyone Happy Holidays!

Superintendent Potter, Commented: 1) Thanked Principal Bojorquez and Asst. Principal Preciado for hosting the board meeting. 2) It was an amazing Teddy Bear event. The San Ysidro Women’s Club has been hosting this event for about twenty years. Over one thousand bears were distributed. Thanked staff that helped. 3) Wished everyone Happy Holidays!

15. CONFERENCE SESSION

Reports/Presentations

- 15.1 2021-22 First Interim Financial Report - Chief Business Official, Marilyn Adrianzen
- 15.2 School Plan for Student Achievement (SPSA) 2021-22 - Executive Director of Educational Services, Cynthia Monreal González

16. GENERAL ADMINISTRATION

16.1 MINUTES

The Board approved the minutes of the Regular Board Meeting of November 18, 2021 and the minutes of the Special Board Meeting of November 29, 2021.

Motion: Martinez Second: Pallasigue Vote: 4-1 (Board Clerk Irene Lopez absent from vote)

16.2 DATE, TIME AND PLACE OF GOVERNING BOARD MEETINGS (Potter)

The Board approved the regular Governing Board meetings from January through December 2022 at 5:00 p.m., at the District Office and at each school at least once a year.

Motion: Martinez Second: Pallasigue Vote: 4-1 (Board Clerk Irene Lopez absent from vote)

16.3 RESOLUTION NO. 21/22-0021 - CONTINUING GOVERNING BOARD AUTHORITY TO HOLD VIRTUAL MEETINGS PURSUANT TO AB 361 (Potter)

The Board approved Resolution No. 21/22-0021 - Continuing Governing Board Authority to hold Virtual Meetings Pursuant to AB 361.

Motion: Gurmilan Second: Pallasigue Vote: 4-1 (Board Clerk Irene Lopez absent from vote)

16.4 2022 CSBA DELEGATE ASSEMBLY NOMINATIONS (Potter)

The Board nominated, in accordance with CSBA Bylaws, the following Board members in Region 17 as candidates for election to the CSBA Delegate Assembly 2022-2024: Humberto Gurmilan (San Ysidro School District), Maria Betancourt-Castaneda (National SD), Eleanor Evans (Oceanside USD), Claudine Jones (Carlsbad USD), Michael McQuary (San Diego USD), Gee Wah Mok (Del Mar Union SD),

Tamara

Otero (Cajon Valley Union SD), Elva Salinas (Grossmont Union HSD), Nicholas Segura (Sweetwater Union HSD),* Marla Stritch (Encinitas Union ESD) and Cipriano Vargas (Vista USD).

Board Member Gurmilan supports the nominations and serves on the Delegate Assembly with them.

Motion: Gurmilan Second: Pallasigue Vote: 4-1 (Board Clerk Irene Lopez absent from vote)

16.5 RESOLUTION NO. 21/22-0020 ANNUAL & FIVE YEAR REPORTABLE FEES REPORT

(Adrianzen)

The Board approved Resolution No. 21/22-0020 for the 2020-21 Annual & Five Year Reportable Fees Report in compliance with Government Code Sections 66006 and 66001. *California Financial Services KeyAnalytics representatives were available to answer questions.*

Motion: Pallasigue Second: Martinez Vote: 4-1 (Board Clerk Irene Lopez absent from vote)

16.6 FIRST INTERIM FINANCIAL REPORT 2021-22 (Adrianzen)

The Board approved the 2021-22 First Interim Financial Report.

Motion: Gurmilan Second: Martinez Vote: 5-0

16.7 AB1200 AND COLLECTIVE BARGAINING MEMORANDUM OF UNDERSTANDING WITH THE CLASSIFIED SCHOOL EMPLOYEES ASSOCIATION (Adrianzen/Heath)

The Board approved/ratified the submittal of AB1200 to the San Diego County Office of Education and approval of the Collective Bargaining Agreement with the Classified School Employees Association (CSEA) to provide compensation for COVID-19 related leaves during 2021-22.

Motion: Martinez Second: Pallasigue Vote: 5-0

16.8 AB1200 FOR CERTIFICATED/CLASSIFIED MANAGEMENT AND CLASSIFIED CONFIDENTIAL STAFF (Adrianzen)

The Board approved/ratified the submittal of AB1200 to the San Diego County Office of Education for certificated/classified management and classified confidential staff for the period of October 1, 2021 through June 30, 2022 to provide compensation for COVID-19 related leaves during 2021-22.

Motion: I. Lopez Second: Pallasigue Vote: 5-0

16.9 REVISED CLASSIFIED HOURLY SALARY SCHEDULE (Adrianzen)

The Board approved the revised Classified Hourly Salary Schedule to be in compliance with California Senate Bill 3 related to the new minimum wage effective January 1, 2022.

Motion: Martinez Second: Gurmilan Vote: 5-0

16.10 GRANT AGREEMENT WITH THE OFFICE OF PUBLIC SCHOOL CONSTRUCTION RELEASE OF FUNDING RELATED TO LA MIRADA AND SMYTHE SCHOOLS MODERNIZATION PROJECTS (Adrianzen)

The Board approved/ratified the Grant Agreement with the Office of Public School Construction related to the La Mirada and Smythe Elementary Schools Modernization Projects and accepted grant funds in the amount of \$6,248,244.00.

Motion: I. Lopez Second: Gurmilan Vote: 5-0

16.11 OPEN PUBLIC HEARING - REGARDING THE PROPOSED EDUCATOR EFFECTIVENESS BLOCK GRANT EXPENDITURE PLAN (González)

The Board opened the Public Hearing regarding the Proposed Educator Effectiveness Block Expenditure Plan for the 2021-2022 fiscal year.

There were no public comments.

Motion: Gurmilan Second: Martinez Vote: 5-0

16.12 CLOSE PUBLIC HEARING - REGARDING THE PROPOSED EDUCATOR EFFECTIVENESS GRANT EXPENDITURE PLAN (González)

The Board closed the Public Hearing regarding the Proposed Educator Effectiveness Block Expenditure Plan for the 2021-2022 fiscal year.

Motion: Gurmilan Second: Martinez Vote: 5-0

16.13 PROPOSED EDUCATOR EFFECTIVENESS BLOCK GRANT EXPENDITURE PLAN (González)

The Board approved the Proposed Educator Effectiveness Block Expenditure Plan.

Motion: Martinez Second: Pallasigue Vote: 5-0

16.14 APPOINT MEMBERS TO THE CITIZENS BOND OVERSIGHT COMMITTEE - 2ND TERM (Adrianzen)

The Board approved/ratified the appointment of members to the Citizens’ Bond Oversight Committee to serve a 2nd term (September 2021-2023) and post for any vacant positions that may become available.

Motion: Pallasigue Second: Gurmilan Vote: 4-1 Abstention (Board Clerk Irene Lopez)

17. CONSENT CALENDAR

The Board approved the Consent Calendar.

Motion: Martinez Second: I. Lopez Vote: 5-0

17A. PERSONNEL – CLASSIFIED

EMPLOYMENT (Heath/González)

The Board approved/ratified the employment for the following as recommended by staff:

- 17A.1 Campus Security
- 17A.2 Instructional Aides
- 17A.3 Instructional Aides Special Education
- 17A.4 School Administrative Assistant
- 17A.5 Substitute Clerk
- 17A.6 Substitute Instructional Aide

RESIGNATION (Heath/González)

The Board approved/ratified the resignation for the following as recommended by staff:

- 17A.7 Campus Aide
- 17A.8 Instructional Aide

17B. PERSONNEL – CERTIFICATED

EMPLOYMENT (Heath/González)

The Board approved/ratified the employment for the following as recommended by staff:

- 17B.1 Classroom Teacher K-6
- 17B.2 Temporary Social Worker
- 17B.3 Temporary Virtual Learning Academy Teacher
- 17B.4 Substitute Teachers

RESIGNATION (Heath/González)

The Board approved/ratified the resignation for the following as recommended by staff:

17B.5 Substitute Counselor

17C. CURRICULUM & INSTRUCTION

17C.1 SCHOOL PLANS FOR STUDENT ACHIEVEMENT (SPSA) FOR THE 2021-2022 SCHOOL YEAR (González)

The Board approved the 2021-2022 School Plans for Student Achievement for La Mirada, Ocean View Hills, Smythe, Sunset, Willow, Vista Del Mar Middle and San Ysidro Middle Schools.

17C.2 APPROVAL OF THE REVISED SYSD INSTRUCTIONAL MATERIALS LIST FOR THE 2021-2022 SCHOOL YEAR (González)

The Board approved the revised San Ysidro School District Instructional Materials/Textbook List for the 2021-2022 school year.

17C.3 EDUCATIONAL FIELD TRIPS FOR SCHOOL YEAR 2021-2022 - REVISED (González)

The Board approved the revised educational field trips to different destinations for students in grades Transitional Kindergarten to Eighth from all schools for the 2021-2022 school year. Student fees and transportation services will be covered from Fundraising, Donations, Museum Grants and the Supplemental and Concentration Fund as needed.

17C.4 PROFESSIONAL DEVELOPMENTS - DECEMBER (González)

The Board approved/ratified the attendance and participation of District staff to the different professional developments as attached.

17D. BUSINESS

17D.1 PURCHASING REPORT (Adrianzen)

The Board approved/ratified the following purchase orders incurred by the District during the period November 5, 2021 through November 30, 2021. This includes all agreements along with those with cost implications that fall within the authorized delegation of authority limits of up to \$15,000 for public project contracts and up to \$30,000 for all other contracts from the various funding sources.

17D.2 EXPENDITURE REPORT (Adrianzen)

The Board approved/ratified the expenditures incurred by the District during the period of November 1, 2021 through November 30, 2021 for a total expenditure of \$779,997.55. This includes all agreements along with those with cost implications that fall within the authorized delegation of authority limits of up to \$15,000 for public project contracts and up to \$30,000 for all other contracts from the various funding sources.

17D.3 ACCEPTANCE OF DONATIONS (Adrianzen)

The Board accepted donations valued at \$3,977.16 to help support and enrich our educational programs.

17D.4 APPROVE/RATIFY AGREEMENTS WITHIN DELEGATION OF AUTHORITY LIMITS (Adrianzen)

The Board approved/ratified the agreements on the attached list with cost implications that fall within the authorized delegation of authority limits of up to \$15,000 for public project contracts and up to \$30,000 for all other contracts from the various funding sources or at no cost to the district.

17D.5 GRANT AWARD AND AGREEMENT WITH GIRLS ON THE RUN SAN DIEGO (González/Little)

The Board approved the agreement with Girls On The Run San Diego and accept the grant award in the amount of \$4,500.00 for Smythe School students to participate in the Girls On The Run 5K event.

17D.6 AGREEMENT WITH AMERICAN FIDELITY (Adrianzen)

The Board approved/ratified the agreement with American Fidelity to provide the Section 125 Flexible Benefit Plan.

17D.7 AGREEMENT WITH KEYANALYTICS (Adrianzen)

The Board approved the agreement with KeyAnalytics to provide consulting and analytical services at an estimated cost of up to \$100,000.00 from the Building fund, Capital Projects fund and/or the General fund.

17D.8 DISPOSAL OF OBSOLETE, DAMAGED AND OUTDATED TECHNOLOGY EQUIPMENT (Adrianzen/González/Lewis)

The Board approved the disposal of technology equipment that is obsolete, damaged, outdated and/or beyond economic repair.

17D.9 CALIFORNIA HYBRID AND ZERO-EMISSION TRUCK AND BUS VOUCHER INCENTIVE PROJECT (HVIP) (Adrianzen/Farkas/Azevedo)

The Board approved and accept the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP) agreement and accept the grant award in the amount of \$338,250.00 to assist with the replacement of school buses with new zero-emission buses. The district will move forward if matching funds are available.

Board Member Gurmilan made a motion to adjourn, seconded by Board Member Martinez. The vote was 5-0.

18. ADJOURNMENT Time: 7:31 p.m.

Respectfully Submitted,

Gina A. Potter, Ed.D., Secretary
Governing Board

SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA

TO: Governing Board
VIA: Gina A. Potter, Ed.D.
Superintendent

BOARD MEETING DATE: January 27, 2022
FROM:
Administration Informational
Gina A. Potter, Ed.D., Superintendent Action

AGENDA ITEM: RESOLUTION NO. 21/22-0022 - CONTINUING GOVERNING BOARD AUTHORITY TO HOLD VIRTUAL MEETINGS PURSUANT TO AB 361

BACKGROUND INFORMATION:

Executive Order N-29-20 expired Sept. 30, 2021. Legislative bodies will be required to hold public meetings in full compliance with the Brown Act, particularly Brown Act teleconferencing requirements that have been waived throughout the pandemic.

With the enactment of AB 361 signed on Sept. 16, 2021, Government Code section 54953 has been amended to provide additional flexibility for legislative bodies to meet remotely. Effective October 1, 2021, in order for a legislative body to consider the option of meeting remotely and waiving the traditional teleconference requirements found in the Brown Act, the legislative body must first determine whether an active state of emergency exists that makes meeting in-person unsafe. If a state of emergency of this nature exists, then the legislative body may hold a remote meeting if any of the following circumstances are true:

- State or local officials have imposed or recommended measures to promote social distancing; or
- The legislative body is holding a meeting to determine, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- Any meeting thereafter the legislative body has determined, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

In order for a legislative body to continue holding meetings remotely, after October 1, 2021, the state of emergency must remain active, or state or local officials continue to impose or recommend measures to promote social distancing. Furthermore, the legislative body must meet no later than 30 days following its first remote meeting held pursuant to AB 361, and no later than every 30 days thereafter, to reconsider the circumstances of the emergency and confirm, by majority vote, that either of the following circumstances exist:

- The state of emergency continues to directly impact the ability of members to meet safely in person; or
- State or local officials continue to impose or recommend social distancing measures.

A legislative body is required to place an item on their meeting agenda once every 30 days to make findings and vote on the circumstances of the emergency and/or other state or local health and safety measures to continue waiving the traditional Brown Act teleconferencing requirements.

The legislature’s intent behind passing AB 361, as described in the bill itself, is “to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.”

AB 361 will expire January 1, 2024.

The following Resolutions have been approved Continuing Governing Board Authority to Hold Virtual Meetings Pursuant to AB 361:

October 21, 2021 - Resolution No. 21/22-0017	November 18, 2021 - Resolution 21/22-0018	December 10, 2021 - Resolution No. 21-22-0021
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Resolution No. 21/22-0022 extends and continues giving the Governing Board Authority to Hold Virtual Meetings Pursuant to AB 361 as it is required to be board approved on a monthly basis.

RECOMMENDATION:

Approve Resolution No. 21/22-0022 - Continuing Governing Board Authority to hold Virtual Meetings Pursuant to AB 361.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

(Amount)
(Name of funding source and/or location)

Recommended for: Approval Denial

Certification Requested Yes No

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD**

RESOLUTION NO. 21/22-0022

**Resolution Continuing Governing Board Authority to
Hold Virtual Meetings Pursuant to AB 361**

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a statewide emergency arising from the coronavirus (COVID-19); and

WHEREAS, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Brown Act pertaining to teleconferenced meetings; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 which indicated that Executive Order N-29-20's authorization for holding virtual meetings would expire on September 30, 2021; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 (Rivas) as urgency legislation effective immediately, which provides that legislative bodies may continue to meet remotely during a declared State of Emergency subject to certain conditions; and

WHEREAS, AB 361 amends the Brown Act (Government Code section 54953) to add the following provision:

(e)(1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, AB 361 amends the Brown Act (Government Code section 54953) to add the following provision:

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

THEREFORE, BE IT RESOLVED that the Governing Board of San Ysidro School District finds that the Governor's March 4, 2020 declaration of a state of emergency due to the COVID-19 pandemic remains active.

RESOLUTION NO. 21/22-0022

BE IT FURTHER RESOLVED, the Governing Board of San Ysidro School District finds that due to the state of emergency, meeting in person at Board meetings any and at all district committees that conduct meetings pursuant to the Brown Act, would present imminent risks to the health or safety of attendees and/or the state of emergency continues to directly impact the ability of the members to meet safely in person due to the prevalence of the Delta variant of the COVID-19 virus, the indoor setting of meeting facilities, the potential presence of unvaccinated individuals attending meetings, the potential for noncompliance with mask wearing requirements, and desire to protect the health of immuno-compromised trustee(s), staff and the public.

PASSED AND ADOPTED by the following vote of the Governing Board of the San Ysidro School District, County of San Diego, State of California on January 27, 2022.

AYES:

NOES:

ABSENT:

ABSTENTIONS:

SAN YSIDRO SCHOOL DISTRICT GOVERNING BOARD:

Board President, Rudy Lopez

Board Vice-President, Rosaleah Pallasigue

Board Clerk, Irene Lopez

Member, Humberto Gurmilan

Member, Antonio Martinez

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM: Maintenance, Operations, Transportation & Facilities Informational
Paulo Azevedo, Director Action

AGENDA ITEM: AWARD RFP NO. 21-22-003 AND APPROVE THE LETTER OF INTENT WITH B.R. BUILDING RESOURCES COMPANY FOR THE CALSHAPE GRANT APPLICATIONS AND ENERGY PROGRAM DEVELOPMENT ASSISTANCE

BACKGROUND INFORMATION:

A Request for Qualifications (RFQ #21-22-003 CalSHAPE Grant Application and Energy Program Implementation Services) was published in the Daily Transcript on November 17 & 24, 2021 (attached for reference). Four qualified companies responded to the RFQ. After careful review of the qualifications and interviewing of each of the respondents, the district selected B.R. Building Resources Company to submit the grant applications for the CalSHAPE Grant Program, identify energy programs that will not intrude on the General fund and provide Energy Program Implementation Services.

This is a two part agreement: 1) Letter of Intent is for the preparation and submittal of the CalSHAPE Grant Applications in the amount of \$43,000.00, and 2) Master Service Agreement (MSA) for the Energy Program Implementation Services. The MSA will be submitted at a later date for Board approval. Both documents were reviewed by the district's legal counsel (BBK).

RECOMMENDATION:

Award RFP No. 21-22-003 and approve the Letter of Intent with B.R. Building Resources to assist with the submission of the CalSHAPE grant applications and energy program development assistance.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

LETTER OF INTENT ONLY

\$43,000.00

(Amount)

CalSHAPE Grant & other funding resources

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

CalSHAPE Grant Application and Energy Program Development Assistance

LETTER OF INTENT

This LETTER OF INTENT, dated _____, 2021 is by and between _____, an eligible Local Education Agency (the “LEA”) and B.R. Building Resources Company (“Building Resources”), collectively the “Parties.” This Letter of Intent constitutes an expression of the parties’ interest.

The LEA intends to submit a CalSHAPE Ventilation Program Application and a CalSHAPE Plumbing Program Application to the California Energy Commission (CEC). Building Resources intends to assist the LEA in completing the applications and developing the required contractor budgets to comply with both the CalSHAPE Ventilation Program Guidelines and the CalSHAPE Plumbing Program Guidelines. While onsite gathering information for the CalSHAPE grant applications, Building Resources also intends to develop an Energy Assessment Report that will identify facility improvement measures (FIMs) that: reduce operating and utility costs, enhance security and safety, and improve the reliability of the facility infrastructure. Specifically, the following opportunities will be analyzed for potential inclusion in the Energy Assessment Report:

- LED lighting and advanced wirelessly networked controls
- HVAC repair, replacement and/or upgrades
- HVAC system controls
- Hot water system upgrades
- Solar and battery storage
- Building envelope improvements such as high efficiency windows and cool roofs
- Additional water conservation measures not included in the CalSHAPE program

In order for Building Resources to complete the CalSHAPE Applications and the Energy Assessment Report, the LEA shall provide Building Resources the following data: three-year history of utility bills (electric and gas); maintenance and operational costs for addressed systems; access to record drawings; and an assigned authorized representative of the LEA (“LEA’s Agent”).

The CalSHAPE Plumbing Application will be submitted by the Round 1 deadline of 12/31/2022. The CalSHAPE Ventilation Application will be submitted by the Round 1 deadline of 1/31/2022. Within this period, Building Resources will also develop a list of FIMs for review and approval by LEA’s Agent. The list of FIMs will contain a description, estimated cost, estimated savings, estimated utility incentives, savings-to investment-ratio (SIR) and funding opportunities for each recommended measure. LEA’s Agent will prioritize the FIMs to be included in the final Energy Assessment Report. The final Energy Assessment Report will document the Parties mutually agreed upon list of projects to be included in the Energy Program.

If Building Resources develops an Energy Program that pays for itself from energy savings, and requires no contribution from the LEA’s general fund, LEA agrees to move forward with the Energy Program, and Building Resources Project Development Fee will be carried forward into the final contract for the Energy Program and become reimbursable by the energy savings identified under the terms of that contract. The Project Development Fee shall not exceed \$ **43,000.00** and shall be for Building Resources services rendered in developing the Energy Assessment Report and assisting with the CalSHAPE grant applications.

The Parties hereto execute this Letter of Intent with a mutual understanding of the terms and conditions thereby set forth:

LEA:

B.R. Building Resources Company:

Signed: _____

Signed: _____

Print:

Print:

_____ Date:

_____ Date:

_____, 2022

_____, 2022



San Ysidro
School District **EST - 1887**
QUALITY EDUCATION AND OPPORTUNITY FOR ALL STUDENTS TO SUCCEED

REQUEST FOR STATEMENTS OF QUALIFICATIONS

RFQ #21-22-003

FOR

**CalSHAPE Grant Application and Energy Program
Implementation Services**

STATEMENT OF QUALIFICATIONS SUBMITTAL DEADLINE

December 3rd, 2021 at 2:00 P.M. (PST)

SUBMIT TO

SAN YSIDRO SCHOOL DISTRICT
4350 OTAY MESA RD, SAN YSIDRO CA 92173
619-428-4476
Attention: **Paulo Azevedo**

**NOTICE CALLING FOR REQUEST FOR STATEMENTS OF QUALIFICATIONS
RFQ FOR CalSHAPE GRANT APPLICATION AND ENERGY PROGRAM
IMPLEMENTATION SERVICES**

NOTICE IS HEREBY GIVEN that the **San Ysidro School District**, pursuant to *Government Code 4217* and acting by and through its Governing Board, hereinafter referred to as “District” will receive up to, but no later than, the below-stated proposal deadline, sealed proposals at the identified above for the award of a contract for RFQ # 21/22-003 CalSHAPE Grant Application and Energy Program Implementation Services.

Proposal Deadline: December 3rd, 2021 at 2:00PM (PST)
Place of Proposal Receipt: San Ysidro School District
Attn: Paulo Azevedo, Director of MOTF
4350 Otay Mesa Road
San Ysidro, CA 92173
Paulo.azevedo@sysdschools.org

Any proposals received after the above date and time will not be accepted and will be returned unopened. Each proposal must conform and be responsive to the requirements set forth in this RFQ.

The District reserves the right to waive any informalities or irregularities in received proposals. Further, the District reserves the right to reject any and all proposals and to negotiate contract terms with one or more respondent firms for one or more of the items identified within the RFQ scope. The District retains the sole discretion to determine issues of compliance and to determine whether a respondent’s proposal is responsive.

If you have any questions regarding this RFQ, please contact Paulo Azevedo via email at paulo.azevedo@sysdschools.org before 2:00 P.M. on November 29, 2021.

Name of Paper: San Diego Daily Transcript
Published Dates: November 17, 2021 and November 24, 2021

NOTICE IS HEREBY GIVEN that the **San Ysidro School District**, pursuant to *Government Code 4217* and acting by and through its Governing Board, is soliciting and issuing this Request for Statements of Qualifications (RFQ) to provide comprehensive engineering and implementation services related to the development and administration of CalSHAPE Ventilation and Plumbing and other energy efficiency, water conservation, and renewable energy projects. District intends to use a competitive “Best Value” process to select a qualified firm, judged by both qualitative and technical criteria, to provide comprehensive safety-related, and energy-related and water-related capital improvement services.

This solicitation is intended to establish a pool of qualified third parties with whom District will enter into a Master Service Agreement. The selected firms(s) will develop and implement projects for District’s facilities and *shall be free from conflicts of interest arising from relationships with potential suppliers, financiers, or products.*

The **San Ysidro School District** is a public-school district located in **San Diego** County, California. **SYSD** serves **4200** students at **7** schools.

- San Ysidro Middle School
- Willow Elementary
- Sunset Elementary
- La Mirada Elementary
- Smythe Elementary
- Smythe Child Development Center
- Vista Del Mar Middle School
- Ocean view Hills Elementary

The sum of approximate building square footage relevant to the project scope is 584,929.

Section 1: DISTRICT GOALS AND OBJECTIVES

The School Energy Efficiency Stimulus (SEES) Program, established by Assembly Bill (AB) 841 (Ting, Chapter 372, Statutes of 2020) provides grants to local educational agencies (LEAs) to, among other things, assess, maintain, adjust, repair, or upgrade heating, ventilation, and air conditioning (HVAC) systems in schools. The SEES Program also provides grants to LEAs and California state agencies to replace noncompliant plumbing fixtures and appliances. The SEES Program consists of the School Reopening Ventilation and Energy Efficiency Verification and Repair (SRVEVR) Program and the School Noncompliant Plumbing Fixture and Appliance (SNPFA) Program. To administer these the programs, the California Energy Commission (CEC), refers to the SRVEVR Program as the California Schools Healthy Air, Plumbing, and Efficiency (CalSHAPE) Ventilation Program and the SNPFA Program as the CalSHAPE Plumbing Program. Collectively, the CalSHAPE Program is established as part of each of the utilities' energy efficiency portfolios.

The District's goal is to leverage the School Energy Efficiency Stimulus program by applying for grants available through the CalSHAPE Ventilation and Plumbing programs to improve the energy efficiency and performance of school ventilation systems and support the safety of schools and replace non-compliant plumbing fixtures with water-conserving plumbing fixtures and appliances. In addition, the District intends to leverage additional funding sources to perform additional facility upgrades that reduce operating expenses, enhance the educational environment and promote student learning.

Respondents shall support the district's goal by providing the full suite of professional, technical and construction services required to develop, implement, commission, and monitor a successful comprehensive energy program that:

- Adheres to the CEC CalSHAPE Ventilation and Plumbing guidelines
- Supports and enhances occupant safety
- Achieves persistent long-term expense reduction through reduced energy usage
- Upgrades old and/or inefficient systems
- Maintains consistent and reasonable levels of occupant comfort
- Leverages previous building investments while integrating the latest technology
- Builds into the system architecture the maximum change tolerance for future technologies
- ***Has no negative impact on the District's general fund***
- Provides staff training for use, maintenance, and repair of new equipment and controls

Section 2: QUALIFICATIONS

Firms submitting qualifications must have demonstrated expertise and experience in HVAC system assessments and maintenance, energy auditing, construction project design, construction mobilization, subcontractor on-boarding and management, project scheduling, cost-benefit analysis, and general management and administration of a construction project.

- Three K-12 or community college references for which the team has provided similar services.
- Successful experience in working with the California Energy Commission (CEC) regarding energy project grant and other funding source approvals similar to the CalSHAPE grant program.
- Extensive experience in the successful analysis and development of energy efficiency measures; including auditing, savings calculations, project costing, strategic planning, design specification, construction, commissioning, maintenance, and energy management
- Successful experience working with school districts or county education offices regarding energy program development and implementation.
- Successful experience in working with the California Division of State Architect (DSA).
- Experience securing all available rebates, incentives, and financing available through federal, state, local, and utility programs.
- Knowledge and understanding of applicable California building and electrical codes; including current Title 24 Energy Code, CAL Green, Title S, and Field Act.
- Knowledge and understanding of the California Department of Industrial Relations (DIR) requirements for public works.
- Ability to effectively communicate with the school board, administration, staff, and community.
- Project team must consist of all licensed engineers, contractors, and certified technicians necessary to carry out the tasks outlined in the CalSHAPE Program Guidelines.

Section 3: SCOPE OF WORK

The district is seeking firms to provide the full suite of professional and technical services required to manage the CalSHAPE Plumbing and Ventilation grant application process and implement a comprehensive energy upgrade program, including, but not limited to:

CalSHAPE Grant Application Assistance

- Determine applicable grant application pathway for all of the District's HVAC units
- Complete all required HVAC Assessments per CEC Guidelines using qualified personnel as outlined in the guidelines
- Determine contractor budgets for any required filter, CO2 sensor or other general maintenance work as determined by the HVAC Assessments

Comprehensive Energy Audit

- Perform Utility Analysis and Benchmarking
- Perform on-site facility audits and compile a list of potential energy measures
- Work with the district to outline a project plan
- Identify utility incentives
- Deliver Investment Grade Energy Audit (IGA) with guaranteed energy savings
- Apply for and secure additional funding for upgrade projects beyond the 20% O

Implementation

- Install CO2 sensors and filters, if required
- Perform HVAC system maintenance, as required
- Collaborate with the district on schematic design and project scope-of-work iterations
- Submit for and secure utility incentives
- Develop individual project budgets to be approved by the district
- Coordinate trade schedules with the district
- Manage construction implementation including providing onsite supervision
- Provide regular project meetings with project stakeholders
- Provide for commissioning of newly installed equipment by qualified personnel
- Provide staff training on new systems

Post-Implementation Services

- Complete HVAC verification report for each site included in CalSHAPE grant application
- Assist district and rectify ongoing warranty issues
- Reconcile actual energy project performance against initial projections
- O&M recommendations and training

Section 4: RFQ PROCESS AND SUBMITTAL REQUIREMENTS

Responses must be typewritten, tailored to the requirements of this RFQ, and clearly demonstrate the firm’s ability to meet the needs of the district. The response shall be no more than 30 pages single sided or 15 pages double sided, inclusive of all attachments, appendices, resumes, and supporting documents. The response must also follow the content structure outlined in section 5, with each subsection tabulated.

Respondents shall deliver three (3) spiral bound, 8 ½” x 11”, and copies of the SOQ in no less than 12 point font, as well as a digital copy on an external thumb drive, no later than December 3rd, 2021 at 2:00PM (PST) to the following address: 4350 Otay Mesa Rd San Ysidro CA 92173

Responses received after the date and time specified will not be opened or considered valid. Emailed or faxed responses will not be accepted.

The District intends to use the responses that it receives to assist in the possible selection of one or more firms for CalSHAPE grant application assistance and energy program implementation. The District will evaluate each firm based on the information contained in their Statement of Qualifications (SOQ) pursuant to the scoring criteria in section 6.

The District, at its sole discretion, may select one, multiple, or none of the respondents to this request. The district may also request that one or more firms participate in an interview process.

This RFQ is solely a solicitation for responses. Neither this RFQ, nor any Response to this RFQ shall be deemed or construed to: (i) create any contractual relationship between District and any Firm; (ii) create any obligation for District to enter into a contract with any Firm or other party; or (iii) serve as the basis for a claim for reimbursement for costs associated with submittal of any Response.

If the District selects a Firm for District’s potential energy projects, the District shall have the right to negotiate any or all of the final terms and conditions of any agreement with the Firm and nothing in this RFQ or any Response shall be deemed or construed as a limitation of such rights.

Timeline

The District reserves the right, at its sole discretion and at any time prior to entering into an agreement for a District energy project, to alter its anticipated schedule as related to this RFQ or any project.

<u>Event</u>	<u>Anticipated Date</u>	
RFQ Published	Nov. 17 and Nov 24, 2021	
Deadline for Requests for Information (RFI)	Nov. 29, 2021 @ 2:00PM	
Responses to RFIs published	Dec. 1st, 2021	
Responses Due	Dec. 3rd, 2021	
Firm Presentations	Dec. 7 th , 2021	12.3
Recommendation to the Board	Dec. 14, 2021	Page 9 of 12

Section 5: CONTENT OF RESPONSES

In order for SOQ's to be considered, said SOQ must be clear, concise, complete, well organized and demonstrate both respondent's qualifications and its ability to follow instructions. The quality of answers, not length of responses or visual exhibits is what is important in the SOQ.

Submittal Letter (one page maximum)

Include the SOQ's title and submittal due date, the name, address, and telephone number of the responding firm (or firms if there is a joint venture or association). If the firm is proposing to co-respond with another principal firm, the cover letter must specify the type of services to be provided by each firm and the proposed percentage allocated to that phase or function for the correspondent. The submittal letter will **NOT** be considered part of the thirty (30) page limit.

Table of Contents

Include complete and clear listings of headings and pages to allow easy reference to key information. The table of contents will **NOT** be considered part of the thirty (30) page limit.

Tab One: Firm Information:

- Legal name and address of Firm, principal place of business, legal form of entity
- Company History
- Engagement Model
- Fee structure and rate table

Tab Two: Project Team:

- Roles and responsibilities of team members to be dedicated to the district's project, including an organization chart
- A description of each person in the organization chart's experience as relevant to the District's proposed CalSHAPE grant applications and energy projects
- Any subcontractors the firm intends to partner with, including a brief description of their services, capabilities and credentials
- Describe each circumstance in which the Firm ever had a contract terminated for cause or convenience and include the reasons for termination

Tab Three: Project Approach

The intent of the project approach section is to judge the strength of the responding firms project process, including familiarity with the CalSHAPE program guidelines. For each sub-section describe in detail your firm’s methodologies and practices. Include the member of the project team identified in “Proposed Firm Team” who will be responsible for completing the task.

- HVAC Assessment – Qualified TAB Technician
- HVAC Assessment – Licensed Engineer
- Benchmarking/Utility Analysis
- Facility Audits
- Solution Identification and Selection
- Leveraging Additional Funding
- Design and Permitting
- Construction
- Project Management
- Commissioning
- Closeout
- Training
- Service and Warranty

Tab Four: Project References:

- List three K-12 or Community College project references, including for each:
 - Location of project
 - Customer name and contact information
 - Exact role performed by the project team members
 - The energy measures involved for each of the projects
 - Project cost

Tab Five: Additional Benefits and Value Added Elements

Describe any additional benefits that may result from the District working with the respondent and the respondent’s added value elements in providing products/services for energy projects.

Tab Six: Contracts and Forms

Provide sample contract for the preliminary planning study. Also include description of contracting process for design, implementation, commissioning, closeout, and final reporting.

Section 6: PROPOSAL EVALUATION CRITERIA

The District will evaluate qualifications based on the scoring criteria outlined in this section.

The district shall be the sole judge of the qualifications and services to be offered and its decision shall be final. Discussions may be conducted with respondents who submit qualifications determined to be reasonably acceptable of being selected for award.

Scoring Matrix

Section	Weight	Respondent's Score
Firm Information	15	
Project Team	30	
Project Approach	25	
Project References	15	
Additional Benefits and Value Added Elements	10	
Contracts and Forms	5	
Total	100	

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Maintenance, Operations, Transportation & Facilities
Paulo Azevedo, Director

Informational
 Action

AGENDA ITEM: RESOLUTION NO. 21/22-0023 CALSHAPE PROGRAM GRANT
ACCEPTANCE AND AGREEMENT WITH CALIFORNIA ENERGY
COMMISSION

BACKGROUND INFORMATION:

The grant agreement with the California Energy Commission (CEC) is funded by the School Energy Efficiency Stimulus Program, established by Assembly Bill 841 which provides grants to assess, maintain, adjust, repair or upgrade heating, ventilation and air conditioning systems. This grant program is referred to as the California Schools Healthy Air, Plumbing and Efficiency (CalSHAPE) Program.

The District is being awarded \$464,742.00 which will allow for corrections to the following five district schools that qualified: Willow, Sunset, La Mirada, Smythe, and San Ysidro Middle School.

Agreement term ends 24 months after the effective date (approval signature date by the CEC).

RECOMMENDATION:

Adopt Resolution No. 21/22-0023 and approve the agreement with the California Energy Commission for the California Schools Healthy Air, Plumbing and Efficiency (CalSHAPE) Program grant award acceptance of \$464,742.00.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

GRANT AWARD

\$464,742.00

(Amount)

CalSHAPE Grant

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

**California Schools Healthy Air, Plumbing, and Efficiency Program
Governing Body Resolution**

RESOLUTION NO. 21/22-0023

Resolution of

San Ysidro School District
Name of Local Educational Agency

WHEREAS, the California Energy Commission's California Schools Healthy Air, Plumbing, and Efficiency (CalSHAPE) Program provides grants to local educational agencies (LEA), that includes school districts, charter schools, and regional occupational programs, to fund the assessment, maintenance, and repair of ventilation systems, installation of carbon dioxide monitors, and replacement of noncompliant plumbing fixtures and appliances;

NOW THEREFORE, BE IT RESOLVED, that the Board of Education
Governing Body

authorizes San Ysidro School District
LEA Name to apply for a

grant from the California Energy Commission to implement a CalSHAPE Program project.

BE IT ALSO RESOLVED, that in compliance with the California Environmental Quality Act (CEQA), the Board of Education
Governing Body

the grant is (Please select one)

not a project because _____

OR

a project that is exempt under _____ because

OR

a project and _____ document was prepared.

BE IT ALSO RESOLVED, that if recommended for funding by the California Energy Commission, the Board of Education
Governing Body authorizes San Ysidro School District
LEA Name

to accept a grant up to \$ 464,742.00
Grant Amount Requested and accept all grant agreement terms and conditions.

BE IT FURTHER RESOLVED, that Gina A. Potter, Ed.D.,

Name of Designated LEA Official or Staff

Marilyn Adrianzen, and -----,

Name of Designated LEA Official or Staff *Name of Designated LEA Official or Staff*

are hereby authorized and empowered to execute in the name of

San Ysidro School District all necessary documents to implement and

LEA Name

carry out the purpose of this resolution, and to undertake all actions necessary to undertake and complete the energy efficiency projects.

Passed, Approved and Adopted this _____ day of _____, 2022.

Month

Year

Governing Body Representatives:

Rodolfo Lopez, President _____

Rosaleah Pallasique, Vice President _____

Irene Lopez, Clerk _____

Humberto Gurmilan, Member _____

Antonio Martinez, Member _____



RECIPIENT San Ysidro Elementary	AGREEMENT NUMBER 21R1VA0908
ADDRESS Paulo Azevedo 4350 Otay Mesa Road San Ysidro , CA 92173	AGREEMENT TERM Ends 24 months after Effective Date The effective date of this Agreement is either the start date or the approval signature date by the California Energy Commission representative below, whichever is later. The California Energy Commission shall be the last party to sign. No work is authorized, nor shall any work begin, until on or after the effective date.

PROJECT DESCRIPTION
 The parties agree to comply with the terms and conditions of the following Exhibits which are by this reference made a part of the agreement.

- Exhibit A** – Scope of Work
- Exhibit B** – Budget
- Exhibit C** – Agreement Contacts
- Exhibit D** – Terms and Conditions

EIMBURSABLE AMOUNT \$464,742.00
Total of REIMBURSABLE AMOUNT \$464,742.00

The undersigned parties have read the attachments to this agreement and will comply with the standards and requirements contained therein.

CALIFORNIA ENERGY COMMISSION		RECIPIENT	
AUTHORIZED SIGNATURE	DATE	AUTHORIZED SIGNATURE	DATE
NAME Adrienne Winuk		NAME Marilyn Adrianzen	
TITLE Contracts, Grants, and Loans Office Manager		TITLE Chief Business Official	
CALIFORNIA ENERGY COMMISSION ADDRESS 1516 9th Street, MS 18, Sacramento, CA 95814			

**EXHIBIT A
Scope of Work**

San Ysidro Elementary 3768379000000

Total Number of Sites 5

Site Name

CDS Code

Willow Elementary

37683790123000

Smythe Elementary

37683796085146

La Mirada Elementary

37683796089007

Sunset Elementary

37683796093264

San Ysidro Middle

37683796098453

Willow Elementary

Category

Unit Count

Assessment & Maintenance

62

Filter

235

Monitor

43

Smythe Elementary

Category

Unit Count

Assessment & Maintenance

23

Filter

74

Monitor

36

La Mirada Elementary

Category

Unit Count

Assessment & Maintenance

11

Filter

46

Monitor

24

Sunset Elementary

Category

Unit Count

Assessment & Maintenance

41

Filter

110

Monitor

32

San Ysidro Middle

Category

Unit Count

Assessment & Maintenance

54

Filter

165

Monitor

42

**EXHIBIT B
Budget**

San Ysidro Elementary 37683790000000

**Total Requested Amount
\$464,742.00**

Site Name

Requested Amount

Willow Elementary	\$135,708.00
Smythe Elementary	\$70,976.40
La Mirada Elementary	\$46,221.60
Sunset Elementary	\$92,334.00
San Ysidro Middle	\$119,502.00

Willow Elementary

Category

Requested Amount

Assessment & Maintenance	\$70,350.00
Filter	\$17,155.00
Monitor	\$25,585.00
Contingency	\$22,618.00

Smythe Elementary

Category

Requested Amount

Assessment & Maintenance	\$32,325.00
Filter	\$5,402.00
Monitor	\$21,420.00
Contingency	\$11,829.40

La Mirada Elementary

Category

Requested Amount

Assessment & Maintenance	\$20,880.00
Filter	\$3,358.00
Monitor	\$14,280.00
Contingency	\$7,703.60

Sunset Elementary

Category

Requested Amount

Assessment & Maintenance	\$49,875.00
Filter	\$8,030.00
Monitor	\$19,040.00
Contingency	\$15,389.00

San Ysidro Middle

Category

Requested Amount

Assessment & Maintenance	\$62,550.00
Filter	\$12,045.00
Monitor	\$24,990.00

Contingency \$19,917.00

Total Grant Award \$464,742.00

Initial Payment \$232,371.00

Final Payment \$232,371.00

EXHIBIT C Contacts

CalSHAPE Program Staff

California Energy Commission
715 P Street
Sacramento, CA 95814
E-mail: CalSHAPE@energy.ca.gov

Confidential Deliverables/Products

Adrienne Winuk, Manager
California Energy Commission
Contracts, Grants and Loans Office
715 P Street, MS - 18
Sacramento, CA 95814
E-mail: Adrienne.Winuk@energy.ca.gov

Invoices, Progress Reports and Non-Confidential Deliverables to

Mary Hung
California Energy Commission
Accounting Office
714 P Street MS - 2
Sacramento, CA 95813
E-mail: Mary.Hung@energy.ca.gov

EXHIBIT C Contacts

LEA Contact (Primary)

Name Paulo Azevedo
Address 4350 Otay Mesa Road
City, State, Zip San Ysidro, CA 92173
E-mail paulo.azevedo@sysdschools.org

LEA Contact (Alternate)

Name Marilyn Adrianzen, CBO
Address 4350 Otay Mesa Road
City, State, Zip San Ysidro, CA 92173
E-mail marilyn.adrianzen@sysdschools.org

LEA Contact (Alternate)

Name enter name
Address enter address line
City, State, Zip enter city, state, zipcode
E-mail enter email

EXHIBIT D

**CALIFORNIA SCHOOLS HEALTHY AIR, PLUMBING, AND EFFICIENCY
(CALSHAPE) STANDARD GRANT TERMS AND CONDITIONS**

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1. **Introduction**

This grant agreement (Agreement) between the California Energy Commission (Energy Commission, or Commission) and the Recipient is funded by the School Energy Efficiency Stimulus Program, established by Assembly Bill 841 (Ting, Chapter 372, Statutes of 2020), which in part provides grants to assess, maintain, adjust, repair, or upgrade heating, ventilation, and air conditioning systems. This grant program is referred to as the California Schools Healthy Air, Plumbing, and Efficiency (CalSHAPE) Ventilation Program.

This Agreement includes: (1) the Agreement signature page (**form CEC-146**); (2) the scope of work (**Exhibit A**); (3) the budget (**Exhibit B**); (4) a contacts list (**Exhibit C**); (5) these terms and conditions, which are standard requirements for CalSHAPE ventilation program grant awards (**Exhibit D**); (6) any special terms and conditions that the Energy Commission may impose to address the unique circumstances of the funded project, which take precedence in the event of a conflict with any provision of these terms and conditions (**Exhibit E**); (7) all attachments; and (8) all documents incorporated by reference.

All work and expenditure of Commission-reimbursed funds must occur prior to the Agreement term end date specified on the CEC-146 form.

2. **Documents Incorporated by Reference**

The documents below are incorporated by reference into this Agreement. These terms and conditions will govern in the event of a conflict with the documents below, with the exception of the documents in subsections (f) and (g) below. Where this Agreement or California laws and regulations are silent or do not apply, the Energy Commission will use the federal cost principles and acquisition regulations listed below as guidance in determining whether reimbursement of claimed costs is allowable. Documents incorporated by reference include:

Funding Documents

- a. The notice of funding availability for the project supported by this Agreement
- b. The Recipient's application submitted in response to the notice of funding availability

Program Guidelines

- c. CalSHAPE Ventilation Program Commission Guidelines, available at <https://www.energy.ca.gov/programs-and-topics/programs/california-schools-healthy-air-plumbing-and-efficiency-program>

Federal Cost Principles (*applicable to state and local governments, Indian tribes, institutions of higher education, and nonprofit organizations*)

- d. 2 Code of Federal Regulations (CFR) Part 200, Subpart E (Sections 200.400 et seq.)

Federal Acquisition Regulations (*applicable to commercial organizations*)

- e. 48 CFR, Ch.1, Subchapter E, Part 31, Subpart 31.2: Contracts with Commercial Organizations (supplemented by 48 CFR, Ch. 9, Subchapter E, Part 931, Subpart 931.2 for Department of Energy grants)

Nondiscrimination

- f. 2 California Code of Regulations, Section 11099 et seq.: Contractor Nondiscrimination and Compliance

General Laws

- g. Any federal, state, or local laws or regulations applicable to the project that are not expressly listed in this Agreement

3. Standard of Performance

In performing work under the Agreement, the Recipient, its subcontractors, and their employees are responsible for exercising the degree of skill and care required by customarily accepted good professional practices and procedures for the type of work performed.

4. Due Diligence

- a. The Recipient must take timely actions that, taken collectively, move this project to completion.
- b. Energy Commission staff will periodically evaluate the project schedule for completion of Scope of Work tasks. This evaluation may include but not be limited to random checks of project progress at periodic intervals set by the Energy Commission. Recipients subject to a project check must complete a progress report using a template prepared by the Energy Commission to provide information on the project status and expected completion date.
- c. If Energy Commission staff determines that: (1) the Recipient is not diligently completing the tasks in the Scope of Work; or (2) the time remaining in this Agreement is insufficient to complete all project tasks by the Agreement end date, Energy Commission staff may recommend that this Agreement be terminated, and the Commission may terminate this Agreement without prejudice to any of its other remedies.

5. Products

- a. **“Products”** are any tangible item specified for delivery to the Energy Commission in the Scope of Work, such as reports and summaries. The Recipient will submit all products identified in the Scope of Work to Energy Commission staff, in the manner and form specified in the Scope of Work.

If Energy Commission staff determines that a product is substandard given its description and intended use as described in this Agreement, Energy Commission staff, without prejudice to any of the Commission’s other remedies, may refuse to authorize payment for the product and any subsequent products that rely on or are based upon the product under this Agreement.

- b. **Failure to Submit Products**

Failure to submit a product required in the Scope of Work may be considered material noncompliance with the Agreement terms. Without prejudice to any other remedies, noncompliance may result in actions such as the withholding of future payments or awards, or the suspension or termination of the Agreement.

- c. **Legal Statements on Products**

All documents that result from work funded by this Agreement and are released to the public must include the following statement to ensure no Commission endorsement of documents:

LEGAL NOTICE

This document was prepared as a result of work sponsored by the California Energy Commission. It does not necessarily represent the views of the Energy Commission, its employees, or the State of California. Neither the Commission, the State of California, nor the Commission's employees, contractors, or subcontractors makes any warranty, express or implied, or assumes any legal liability for the information in this document; nor does any party represent that the use of this information will not infringe upon privately owned rights. This document has not been approved or disapproved by the Commission, nor has the Commission passed upon the accuracy of the information in this document.

6. Amendments

a. Procedure for Requesting Extensions

The Recipient must submit a written request to the CalSHAPE Program for a one-time only extension to the Agreement, not to exceed six-months nor the final program reporting deadline date of June 1, 2026. The request must include:

- A brief summary of the proposed extension; and
- A brief summary of the reason(s) for the extension

b. Approval of Changes

No amendment or variation of this Agreement shall be valid unless made in writing and signed by both of the parties except for the Commission's unilateral termination rights in Section 16 of these terms. No oral understanding or agreement is binding on any of the parties.

7. Contracting and Procurement Procedures

This section provides general requirements for agreements entered into between the Recipient and subcontractors for the performance of this Agreement.

a. Contractor's Obligations to Subcontractors

- 1) The Recipient is responsible for handling all contractual and administrative issues arising out of or related to any subcontracts it enters into for the performance of this Agreement.
- 2) Nothing contained in this Agreement or otherwise creates any contractual relation between the Commission and any subcontractors, and no subcontract may relieve the Recipient of its responsibilities under this Agreement. The Recipient agrees to be as fully responsible to the Commission for the acts and omissions of its subcontractors or persons directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Recipient.

The Recipient's obligation to pay its subcontractors is an independent obligation from the Commission's obligation to make payments to the Recipient. As a result, the Commission has no obligation to pay or enforce the payment of any funds to any subcontractor.

- 3) The Recipient is responsible for establishing and maintaining contractual agreements with and reimbursing each subcontractor for work performed in accordance with the terms of this Agreement.

b. Flow-Down Provisions

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Subcontracts funded in whole or in part by this Agreement must include language conforming to the provisions below, unless the subcontracts are entered into by the University of California (UC) or the U.S. Department of Energy (DOE) national laboratories. UC may use the terms and conditions negotiated by the Energy Commission with UC for its subcontracts. DOE national laboratories may use the terms and conditions negotiated with DOE (please contact the Commission Grants Officer for these terms).

- Standard of Performance (Section 3)
- Legal Statements on Products (included in Section 5, "Products")
- Prevailing Wage (Section 10)
- Recordkeeping, Cost Accounting, and Auditing (Section 11)
- Equipment (Section 14)
- Indemnification (Section 17)
- Intellectual Property (Section 20)
- Access to Sites and Records (included in Section 22, "General Provisions")
- Nondiscrimination (included in Section 23, "Certifications and Compliance")
- Survival of the following sections:
 - Equipment (Section 14)
 - Recordkeeping, Cost Accounting, and Auditing (Section 11)
 - Intellectual Property (Section 20)
 - Access to Sites and Records (included in Section 22, "General Provisions")

Subcontracts funded in whole or in part by this Agreement must also include the following:

- A clear and accurate description of the material, products, or services to be procured.
- A detailed budget and timeline.
- Provisions that allow for administrative, contractual, or legal remedies in instances where subcontractors breach contract terms, in addition to sanctions and penalties as may be appropriate.
- Provisions for termination by the Recipient, including termination procedures and the basis for settlement.
- A statement that further assignments will not be made to any third or subsequent tier subcontractor without additional advance written consent of the Commission.

c. Audits

All subcontracts entered into for the performance of this Agreement are subject to examination and audit by the Energy Commission, Bureau of State Audits, or the California Public Utilities Commission for a period of three (3) years after payment of the Recipient's final invoice under this Agreement.

d. Copies of Subcontracts

The Recipient must provide a copy of its subcontracts upon request by the Energy Commission.

e. Conflicting Subcontract Terms

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Prior to the execution of this Agreement, the Recipient will notify the CalSHAPE Program of any known or reasonably foreseeable conflicts between this Agreement and its agreements with any subcontractors (e.g., conflicting intellectual property or payment terms). If the Recipient discovers any such conflicts after the execution of this Agreement, it will notify the CalSHAPE Program of the conflict within fifteen (15) days of discovery. The Energy Commission may, without prejudice to its other remedies, terminate this Agreement if any conflict impairs or diminishes its value.

f. Penalties for Noncompliance

Without limiting the Commission's other remedies, failure to comply with the above requirements may result in the termination of this Agreement.

8. Payment of Funds

a. Timing of Payment

See Chapter 3, Section G, Timing of Payment, of the CalSHAPE Ventilation Commission Guidelines.

Final payment will only be made after the Energy Commission: (1) receives and approves the Recipient's final reporting; and (2) receives and accepts all other required documentation necessary for the Energy Commission to determine the total final amount due to the Recipient, based on actual and allowable Incurred Costs and Paid Costs under this Agreement, up to the total grant award amount.

Without limiting any other rights and remedies available to the Energy Commission, Recipient must return funds to the Energy Commission received under this Agreement if, for example, the Recipient was overpaid in the first payment, did not complete the project, or did not meet other program requirements.

b. Reimbursable Cost Requirements

In addition to any other requirements in this Agreement, the Energy Commission is only obligated to reimburse the Recipient for Incurred and Paid Costs that are (1) incurred during the Agreement Term; (2) invoiced within the required timeframes of this Agreement; (3) made in accordance with the Agreement's Budget; and (4) actual and allowable expenses under this Agreement.

ALL of the items in the Budget are capped amounts (i.e., maximums), and the Recipient can only bill its ACTUAL amount up to capped amounts listed in the Budget. For example, if the Budget includes an employee's hourly rate of \$50/hour but the employee is only paid \$40/hour, the Recipient can only bill for \$40/hour. Under the same example, if the employee earned \$70/hour but the Budget only lists \$50/hour, the Recipient can only bill for \$50. If the actual rates exceed the approved rates in the Budget, the difference may be charged to the agreement as a match share expenditure.

c. Payment Requests

Recipient agrees and acknowledges that time is of the essence in submitting the final payment request. The Commission has a limited period of time, set by law, in which it can reimburse funds under this Agreement. Without prejudice to the Commission's other rights, the Recipient risks not receiving any funds, and relieves the Commission of any duty and liability whatsoever to pay, for any payment requests received after the end of the Agreement.

d. Invoice Approval and Disputes:

Payment is subject to Energy Commission staff's approval. Payments will be made to the Recipient for undisputed invoices. An undisputed invoice is an invoice submitted by the Recipient for work performed, for which project expenditures and products meet all Agreement conditions, and for which additional evidence is not required to determine its validity.

The invoice will be disputed if all products due for the billing period have not been received and approved, if the invoice is inaccurate, or if it does not comply with the terms of this Agreement. If the invoice is disputed, the Recipient will be notified by the CEC.

e. Multiple Non-Energy Commission Funding Sources:

No payment will be made for costs identified in recipient invoices that have been or will be reimbursed by another source, including but not limited to an agreement with another government entity.

"Government Entity" means: (1) a state governmental agency; (2) a state college or university; (3) a local government entity or agency, including those created as a Joint Powers Authority; (4) an auxiliary organization of the California State University or a California community college; (5) the federal government; (6) a foundation organized to support the Board of Governors of the California Community Colleges; and (7) an auxiliary organization of the Student Aid Commission established under California Education Code Section 69522.

f. Reduced funding:

If the Energy Commission does not receive sufficient funds under the Budget Act or from the investor-owned utility administrators of the CalSHAPE program to fully fund the work identified in Exhibit A (Scope of Work), the following will occur:

- 1) If the Energy Commission has received a reduced amount of funds for the work, it may: (1) offer an Agreement amendment to the Recipient to reflect the reduced amount; or (2) cancel this Agreement (with no liability occurring to the State).
- 2) If the Energy Commission has received no funds for the work identified in Exhibit A: (1) this Agreement will be of no force and effect; (2) the State will have no obligation to pay any funds to the Recipient; and (3) the Recipient will have no obligation to perform any work under this Agreement.

g. Allowability of Costs

- 1) Allowable Costs

The costs for which the Recipient will be reimbursed under this Agreement include all costs, direct and indirect, incurred in the performance of the work identified in the Scope of Work. Costs must be incurred within the Agreement term. Factors to be considered in determining whether an individual item of cost is allowable include: (i) reasonableness of the item, including necessity of the item for the work; (ii) applicable federal cost principles or acquisition regulations incorporated by reference in Section 2 of this Agreement; and (iii) the terms and conditions of this Agreement.

2) Unallowable Costs

See Chapter 3, Section I, Ineligible Costs, of the CalSHAPE Ventilation Program Commission Guidelines.

3) Except as provided for in this Agreement or applicable California law or regulations, the Recipient will use the federal cost principles and/or acquisition regulations incorporated by reference in Section 2 of this Agreement when determining allowable and unallowable costs. In the event of a conflict, this Agreement takes precedence over the federal cost principles and/or acquisition regulations.

h. Final Invoice for Remaining Funds

See Chapter 4, Section C, Final Documentation and Invoice for Remaining Funds, of the CalSHAPE Ventilation Program Commission Guidelines. The Recipient must submit all invoices electronically by uploading them to the CalSHAPE Online System, which is found at <https://calshape.energy.ca.gov/>.

i. If the Recipient has not otherwise provided to the Commission documentation showing the Recipient's payment of Incurred Costs, the Recipient shall provide such documentation as soon as possible and not later than three working days from a request from Commission personnel.

j. Certification

The following certification will be included on each payment request form and signed by the Recipient's authorized officer:

The documents included in this request for payment are true and correct to the best of my knowledge and I have authority to submit this request. I certify that reimbursement for these costs has not and will not be received from any other sources, including but not limited to a government entity contract, subcontract, or other procurement method. For projects considered to be a public work, prevailing wages were paid to eligible workers who provided labor for the work covered by this invoice; the Recipient and all subcontractors have complied with prevailing wage laws.

9. Reserved

10. Prevailing Wage

a. Requirement

Projects funded by the Energy Commission often involve construction, alteration, demolition, installation, repair, or maintenance work over \$1,000. Such projects might be considered “public works” under the California Labor Code (See California Labor Code Section 1720 et seq. and Title 8 California Code of Regulations, Section 16000 et seq.). Public works projects require the payment of prevailing wages. Prevailing wage rates can be significantly higher than non-prevailing wage rates.

b. Determination of Project’s Status

Only the California Department of Industrial Relations (DIR) and courts of competent jurisdiction may issue legally binding determinations that a particular project is or is not a public work. If the Recipient is unsure whether the project funded by the Agreement is a “public work” as defined in the California Labor Code, it may wish to seek a timely determination from DIR or an appropriate court. As such processes can be time consuming, it may not be possible to obtain a timely determination before the date for performance of the Agreement.

By accepting this grant, the Recipient is fully responsible for complying with all California public works requirements, including but not limited to payment of prevailing wage. As a material term of this grant, the Recipient must either:

- 1) Timely obtain a legally binding determination from DIR or a court of competent jurisdiction before work begins on the project that the proposed project is not a public work; or
- 2) Assume that the project is a public work and ensure that:
 - Prevailing wages are paid unless and until DIR or a court of competent jurisdiction determines that the project is not a public work;
 - The project budget for labor reflects these prevailing wage requirements; and
 - The project complies with all other requirements of prevailing wage law, including but not limited to keeping accurate payroll records and complying with all working hour requirements and apprenticeship obligations.

California Prevailing Wage law provides for substantial damages and financial penalties for failure to pay prevailing wages when such payment is required.

c. Subcontractors and Flow-down Requirements

The Recipient will ensure that its subcontractors also comply with the public works/prevailing wage requirements above. The Recipient will ensure that all agreements with its subcontractors to perform work related to this Project contain the above terms regarding payment of prevailing wages on public works projects. The Recipient is responsible for any failure of its subcontractors to comply with California prevailing wage and public works laws.

d. Indemnification and Breach

Any failure of the Recipient or its subcontractors to comply with the above requirements will constitute breach of this Agreement which excuses the Commission's performance of this Agreement at the Commission's option, and will be at the Recipient's sole risk. In such a case, the Commission will refuse payment to the Recipient of any amount under this award and the Commission will be released, at its option, from any further performance of this Agreement or any portion thereof. The Recipient will indemnify the Energy Commission and hold it harmless for any and all financial consequences arising out of or resulting from the failure of the Recipient and/or any of its subcontractors to pay prevailing wages or to otherwise comply with the requirements of prevailing wage law.

e. Budget

The Recipient's budget on public works projects must indicate which job classifications are subject to prevailing wage. For detailed information about prevailing wage and the process to determine if the proposed project is a public work, the Recipient may wish to contact DIR or a qualified labor attorney for guidance.

f. Covered Trades

For public works projects, the Recipient may contact DIR for a list of covered trades and the applicable prevailing wage.

g. Questions

If the Recipient has any questions about this contractual requirement or the wage, record keeping, apprenticeship, or other significant requirements of California prevailing wage law, the Recipient should consult DIR and/or a qualified labor attorney before entering into this Agreement.

h. Certification

The Recipient will certify to the Energy Commission on each payment request form either that: (a) prevailing wages were paid to eligible workers who provided labor for work covered by the payment request and the Recipient and all contractors and subcontractors otherwise complied with all California prevailing wage laws; or (b) the project is not a public work requiring the payment of prevailing wages. In the latter case, the Recipient will provide competent proof of a DIR or court determination that the project is not a public work requiring the payment of prevailing wages.

Prior to the release of any retained funds under this Agreement, the Recipient will submit to the Energy Commission the above-described certificate signed by the Recipient and all contractors and subcontractors performing public works activities on the project. Absent this certificate, the Recipient will have no right to any funds under this Agreement, and Commission will be relieved of any obligation to pay any funds.

11. Recordkeeping, Cost Accounting, and Auditing

a. Cost Accounting

The Recipient will keep separate, complete, and correct accounting of the costs involved in completing the project and any match-funded portion of the project. The Commission or its agent will have the right to examine the Recipient's books of accounts at all reasonable times, to the extent necessary to verify the accuracy of the Recipient's reports.

b. Accounting Procedures

The Recipient's costs will be determined on the basis of its accounting system procedures and practices employed as of the effective date of this Agreement, provided that the Recipient uses generally accepted accounting principles and cost reimbursement practices. The Recipient's cost accounting practices used in accumulating and reporting costs during the performance of this Agreement will be consistent with the practices used in estimating costs for any proposal to which this Agreement relates; provided that such practices are consistent with the other terms of this Agreement and that such costs may be accumulated and reported in greater detail during performance of this Agreement.

The Recipient's accounting system will distinguish between direct and indirect costs. All costs incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to costs incurred under this Agreement.

c. **Inspections, Assessment, and Studies**

If selected, the Recipient must cooperate with and participate in the following:

- 1) An assessment of a funded project's greenhouse gas reductions and energy savings. This may include, but is not limited to, requests from Energy Commission staff or its delegate for data, project and equipment information, and reasonable access to the project site to assist with determining greenhouse gas reductions and energy savings attributable to the funded project. Costs associated with any activities associated with such an assessment will not be funded by a CalSHAPE Program grant.
- 2) A site inspection and verification of installation and operation of new fixtures and appliances. This may include, but is not limited to, providing Energy Commission staff or its delegates reasonable access to the funded project site to inspect and verify installation and operation. Recipient understands that any such inspection and verification by Energy Commission staff or its delegates is not a safety inspection.
- 3) A measurement and evaluation study that will be used to analyze current program performance and improve future program designs. This may include but is not limited to providing Energy Commission staff or its delegates data, project and equipment information, and reasonable access to the funded project site.

d. **Audit Rights**

The Recipient will maintain books, records, documents, and other evidence, based on the procedures set forth above, sufficient to reflect properly all costs claimed to have been incurred in the performance of this Agreement. The Energy Commission, another state agency, and/or a public accounting firm designated by the Energy Commission may audit the Recipient's accounting records at all reasonable times, with prior notice by the Energy Commission.

It is the intent of the parties that the audits will ordinarily be performed not more frequently than once every twelve (12) months during the performance of the work and once at any time within three (3) years after payment by the Energy Commission of the Recipient's final invoice. However, performance of any such interim audits by the Energy Commission does not preclude further audit. The Energy Commission may audit books, records, documents, and other evidence relevant to the Recipient's royalty payment obligations (see Section 21) for a period of ten (10) years after payment of the Recipient's final invoice.

The Recipient will allow the auditor(s) to access such records during normal business hours, and will allow interviews of any employees who might reasonably have information related to such records. The Recipient will include a similar right of the state to audit records and interview staff in any subcontract related to the performance of this Agreement.

e. Refund to the Energy Commission

If the Energy Commission determines that any invoiced and paid amounts exceed the actual allowable incurred costs, the Recipient will repay the amounts to the Energy Commission within thirty (30) days of request or as otherwise agreed by the Energy Commission and the Recipient. If the Energy Commission does not receive such repayments, it will be entitled to take any actions enforce any remedies available to it, such as withholding further payments to the Recipient and seeking repayment from the Recipient.

f. Audit Cost

The Recipient will bear its cost of participating in any audit (e.g., mailing or travel expenses). The Energy Commission will bear the cost of conducting the audit unless the audit reveals an error detrimental to the Energy Commission that exceeds more than ten percent (10%) or \$5,000 (whichever is greater) of the amount audited. The Recipient will pay the refund as specified in subsection (d), and will reimburse the Energy Commission for reasonable costs and expenses incurred by the Commission in conducting the audit.

g. Match or Cost Share

If the budget includes a match share requirement, the Recipient's commitment of resources, as described in this Agreement, is a required expenditure for receipt of Energy Commission funds. The funds will be released only if the required match percentages are expended. The Recipient must maintain accounting records detailing the expenditure of the match (actual cash and in-kind, non-cash services), and report on match share expenditures on its request for payment.

12. Workers' Compensation Insurance

a. The Recipient warrants that it carries Worker's Compensation Insurance for all of its employees who will be engaged in the performance of this Agreement, and agrees to furnish to the CalSHAPE Program satisfactory evidence of this insurance upon the CalSHAPE Program's request.

b. If the Recipient is self-insured for worker's compensation, it warrants that the self-insurance is permissible under the laws of the State of California and agrees to furnish to the CalSHAPE Program satisfactory evidence of the insurance upon the CalSHAPE Program's request.

13. Permits and Clearances

The Recipient is responsible for ensuring that all necessary permits and environmental documents are prepared and that clearances are obtained from the appropriate agencies.

14. Equipment

Title to equipment acquired by the Recipient with grant funds will vest in the Recipient. The Recipient may use the equipment in the project or program for which it was acquired as long as needed, regardless of whether the project or program continues to be supported by grant funds. However, the Recipient may not sell, lease, or encumber the property (i.e., place a legal burden on the property such as a lien) during the Agreement term without Energy Commission Staff's prior written approval.

The Recipient may refer to the applicable federal regulations incorporated by reference in this Agreement for guidance regarding additional equipment requirements.

15. Stop Work

Energy Commission staff may, at any time by written notice to the Recipient, require the Recipient to stop all or any part of the work tasks in this Agreement. Stop work orders may be issued for reasons such as a project exceeding budget, noncompliance with the standard of performance, out of scope work, project delays, and misrepresentations.

- a. Compliance. Upon receipt of a stop work order, the Recipient must immediately take all necessary steps to comply with the order and to stop the incurrence of costs allocable to the Energy Commission.
- b. Canceling a Stop Work Order. The Recipient may resume the work only upon receipt of written instructions from Energy Commission staff.

16. Termination

a. Purpose

Because the Energy Commission is a state entity and provides funding on behalf of all California ratepayers, it must be able to terminate the Agreement upon the default of the Recipient and to proceed with the work required under the Agreement in any manner it deems proper. The Recipient agrees that upon any of the events triggering the termination of the Agreement by the Energy Commission, the Energy Commission has the right to terminate the Agreement, and it would constitute bad faith of the Recipient to interfere with the immediate termination of the Agreement by the Energy Commission.

b. With Cause

The Energy Commission may, for cause, terminate this Agreement upon giving five (5) calendar days advance written notice to the Recipient. In this event, the Recipient will use all reasonable efforts to mitigate its expenses and obligations. The Recipient will relinquish possession of equipment purchased for this Agreement with Energy Commission funds to the Commission, or the Recipient may purchase the equipment as provided by the terms of this Agreement, with approval of the Energy Commission.

The term "for cause" includes but is not limited to the following:

- Partial or complete loss of match funds;
- Reorganization to a business entity unsatisfactory to the Energy Commission;
- Retention or hiring of subcontractors, or replacement or addition of personnel, that fail to perform to the standards and requirements of this Agreement;
- The Recipient's inability to pay its debts as they become due and/or the Recipient's default of an obligation that impacts its ability to perform under this Agreement; or
- Significant change in state or Energy Commission policy such that the work or product being funded would not be supported by the Commission.

c. Without Cause

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The Energy Commission may terminate this Agreement without cause upon giving thirty (30) days advance written notice to the Recipient. In this event, the Recipient will use all reasonable efforts to mitigate its expenses and obligations.

17. Indemnification

To the extent allowed under California law, the Recipient will indemnify, defend, and hold harmless the state (including the Energy Commission) and state officers, agents, and employees from any and all claims and losses in connection with the performance of this Agreement.

18. Reserved

19. Reserved

20. Intellectual Property

a. The Energy Commission makes no claim to intellectual property developed under this Agreement that is not specified for delivery, except as expressly provided herein.

“Intellectual property” means: (a) inventions, technologies, designs, drawings, data, software, formulas, compositions, processes, techniques, works of authorship, trademarks, service marks, and logos that are created, conceived, discovered, made, developed, altered, or reduced to practice with Agreement or match funds during or after the Agreement term; (b) any associated proprietary rights to these items, such as patent and copyright; and (c) any upgrades or revisions to these items.

“Works of authorship” does not include written products created for Agreement reporting and management purposes, such as reports, summaries, lists, letters, agendas, schedules, and invoices.

b. The Energy Commission owns all products identified in the Scope of Work, with the exception of products that fall within the definition of “intellectual property.”

“Product” means any tangible item specified for delivery to the Energy Commission in the Scope of Work.

c. Both the Energy Commission and the California Public Utilities Commission have a no-cost, non-exclusive, transferable, irrevocable, royalty-free, worldwide, perpetual license to use, publish, translate, modify, and reproduce intellectual property for governmental purposes, including but not limited to providing data and reports to the California Public Utilities Commission, State legislature, and Utilities and using data for the development of future programs.

d. Intellectual Property Indemnity

The Recipient may not, in supplying work under this Agreement, knowingly infringe or misappropriate any intellectual property right of a third party, and will take reasonable actions to avoid infringement.

To the extent allowed under California law, the Recipient will defend and indemnify the Energy Commission and the California Public Utilities Commission from and against any claim, lawsuit, or other proceeding, loss, cost, liability, or expense (including court costs and reasonable fees of attorneys and other professionals) to the extent arising out of: (i) any third party claim that a product infringes any patent, copyright, trade secret, or other intellectual property right of any third party; or (ii) any third party claim arising out of the negligent or other tortious acts or omissions by the Recipient or its employees, subcontractors, or agents in connection with or related to the products or the Recipient's performance under this Agreement.

21. Reserved

22. General Provisions

a. Governing Law

This Agreement is governed by the laws of the State of California as to interpretation and performance.

b. Independent Capacity

In the performance of this Agreement, the Recipient and its agents, subcontractors, and employees will act in an independent capacity and not as officers, employees, or agents of the State of California.

c. Assignment

This Agreement is not assignable or transferable by the Recipient either in whole or in part without the consent of the Energy Commission in the form of an amendment.

d. Timeliness

Time is of the essence in this Agreement.

e. Severability

If any provision of this Agreement is unenforceable or held to be unenforceable, all other provisions of this Agreement will remain in full force and effect.

f. Waiver

No waiver of any breach of this Agreement constitutes waiver of any other breach. All remedies in this Agreement will be taken and construed as cumulative, meaning in addition to every other remedy provided in the Agreement or by law.

g. Assurances

The Commission reserves the right to seek further written assurances from the Recipient and its team that the work under this Agreement will be performed in accordance with the terms of the Agreement.

h. Change in Business

- 1) The Recipient will promptly notify the Energy Commission of the occurrence of any of the following:
 - a) A change of address.
 - b) A change in business name or ownership.
 - c) The existence of any litigation or other legal proceeding affecting the project or Agreement.

- d) The occurrence of any casualty or other loss to project personnel, equipment, or third parties.
 - e) Receipt of notice of any claim or potential claim against the Recipient for patent, copyright, trademark, service mark, and/or trade secret infringement that could affect the Energy Commission's rights.
- 2) The Recipient must provide the CalSHAPE Program with written notice of a planned change or reorganization of the type of business entity under which it does business. A change of business entity or name change requires an amendment assigning or novating the Agreement to the changed entity. If the Energy Commission does not seek to amend this Agreement or enter into a new agreement with the changed or new entity for any reason (including that the Commission is not satisfied that the new entity can perform in the same manner as the Recipient), it may terminate this Agreement as provided in the "Termination" section.
- i. Access to Sites and Records
Energy Commission and California Public Utilities Commission staff and representatives will have reasonable access to all project sites and to all records related to this Agreement.
 - j. Prior Dealings, Custom, or Trade Usage
These terms and conditions may not be modified or supplemented by prior dealings, custom, or trade usage.
 - k. Survival of Terms
Certain provisions will survive the completion or termination date of this Agreement for any reason. The provisions include but are not limited to:
 - Legal Statements on Products (included in Section 5, "Products")
 - Payment of Funds (Section 8)
 - Recordkeeping, Cost Accounting, and Auditing (Section 11)
 - Equipment (Section 14)
 - Termination (Section 16)
 - Indemnification (Section 17)
 - Intellectual Property (Section 20)
 - Change in Business (see this section)
 - Access to Sites and Records (see this section)

23. *Certifications and Compliance*

- a. Federal, State, and Local Laws

The Recipient must obtain all required permits and shall comply with all applicable federal, state and local laws, codes, rules, and regulations for all work performed under the Agreement.

b. Nondiscrimination Statement of Compliance

During the performance of this Agreement, the Recipient and its subcontractors will not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, age, marital status, or denial of family care leave. The Recipient and its subcontractors will ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

The Recipient and its subcontractors will comply with the provisions of the Fair Employment and Housing Act (Government Code Sections 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4.1 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part of it as if set forth in full. The Recipient and its subcontractors will give written notice of their obligations under this section to labor organizations with which they have a collective bargaining or other Agreement.

The Recipient will include the nondiscrimination and compliance provisions of this section in all subcontracts to perform work under this Agreement.

c. Drug-Free Workplace Certification

By signing this Agreement, the Recipient certifies under penalty of perjury under the laws of the State of California that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- 1) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations as required by Government Code Section 8355(a).
- 2) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
 - The dangers of drug abuse in the workplace;
 - The person's or organization's policy of maintaining a drug-free workplace;
 - Any available counseling, rehabilitation, and employee assistance programs; and
 - Penalties that may be imposed upon employees for drug abuse violations.
- 3) Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed project:
 - Will receive a copy of the company's drug-free policy statement; and
 - Will agree to abide by the terms of the company's statement as a condition of employment on the project.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both, and the Recipient may be ineligible for any future state awards if the Commission determines that any of the following has occurred: (1) the Recipient has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

d. National Labor Relations Board Certification (Not applicable to public entities)

The Recipient, by signing this Agreement, swears under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Recipient within the immediately preceding two year period because of the Recipient's failure to comply with an order of a federal court that orders the Recipient to comply with an order of the National Labor Relations Board.

e. Child Support Compliance Act (Applicable to California Employers)

For any agreement in excess of \$100,000, the Recipient acknowledges that:

- 1) It recognizes the importance of child and family support obligations and will fully comply with all applicable state and federal laws relating to child and family support enforcement, including but not limited to disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- 2) To the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

f. Air or Water Pollution Violation

Under state laws, the Recipient will not be:

- 1) In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
- 2) Subject to a cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or
- 3) Finally determined to be in violation of provisions of federal law relating to air or water pollution.

g. Americans With Disabilities Act

By signing this Agreement, the Recipient assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. Section 12101, et seq.), which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA.

24. Reserved

25. Commission Remedies for Recipient's Non-Compliance

Without limiting any of its other remedies, the Commission may, for Recipient's noncompliance of any Agreement requirement, withhold future payments, demand and be entitled to repayment of past reimbursements, or suspend or terminate this Agreement. The tasks in the Scope of Work are non-severable, and completion of all of them is material to this Agreement. Thus, the Commission, without limiting its other remedies, is entitled to repayment of all funds paid to Recipient if the Recipient does not timely complete all tasks in the Scope of Work.

26. Definitions

- **Agreement Term** means the length of this Agreement, as specified on the Agreement signature page (form CEC-146).
- **Data** means any recorded information that relates to the project funded by the Agreement, whether created or collected before or after the Agreement's effective date.
- **Effective Date** means the date on which this Agreement is signed by the last party required to sign, provided that signature occurs after the Agreement has been approved by the Energy Commission at a business meeting or by the Executive Director or his/her designee.
- **Equipment** means products, objects, machinery, apparatus, implements, or tools that are purchased or constructed with Energy Commission funds for the project, and that have a useful life of at least one year and an acquisition unit cost of at least \$5,000. "Equipment" includes products, objects, machinery, apparatus, implements, or tools that are composed by over thirty percent (30%) of materials purchased for the project. For purposes of determining depreciated value of equipment used in the Agreement, the project will terminate at the end of the normal useful life of the equipment purchased and/or developed with Energy Commission funds. The Energy Commission may determine the normal useful life of the equipment.
- **Intellectual Property** means: (a) inventions, technologies, designs, drawings, data, software, formulas, compositions, processes, techniques, works of authorship, trademarks, service marks, and logos that are created, conceived, discovered, made, developed, altered, or reduced to practice with Agreement or match funds during or after the Agreement term; (b) any associated proprietary rights to these items, such as patent and copyright; and (c) any upgrades or revisions to these items.

"Works of authorship" does not include written products created for Agreement reporting and management purposes, such as reports, summaries, lists, letters, agendas, schedules, and invoices.
- **Invention** means intellectual property that is patentable.
- **Match Funds** means cash or in-kind (i.e., non-cash) contributions provided by the Recipient or a third party for a project funded by the Energy Commission. If this Agreement resulted from a solicitation, refer to the solicitation's discussion of match funding for guidelines specific to the project.

12.4

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- **Materials** means the substances used to construct, or as part of, a finished object, commodity, device, article, or product and that does not meet the definition of Equipment.
- **Ownership** means exclusive possession of all rights to property, including the right to use and transfer property.
- **Product** means any tangible item specified for delivery to the Energy Commission in the Scope of Work.
- **Project** means the entire effort undertaken and planned by the Recipient and consisting of the work funded by the Energy Commission. The project may coincide with or extend beyond the Agreement term.
- **State** means the state of California and all California state agencies within it, including but not limited to commissions, boards, offices, and departments.

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

Informational
 Action

AGENDA ITEM: APPOINTMENT OF MEMBER TO THE CITIZENS BOND OVERSIGHT COMMITTEE

BACKGROUND INFORMATION:

The Bond Oversight Committee (BOC) shall consist of seven (7) members subject to the provisions stated in the amended and restated ByLaws and any vacancies which may occur. The Oversight Committee may not include any employee or official or any vendor, contractor or consultant of the District.

- (a) One (1) member who is active in a business organization representing the business community located within the District;
- (b) One (1) member who is active in a senior citizen's organization;
- (c) One (1) member who is active in a bona fide taxpayer association;
- (d) One (1) members shall be the parent or guardian of a child enrolled in the District; **Vacant**
- (e) 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 Parent Teacher Association or school site council. **Vacant**
- (f) Two (2) members shall be Community Members at Large. **Filled**

One application was received for the Community Members at Large representative. The applicant served in the Committee previously representing the parent group and is knowledgeable of the Committee's bylaws and goals of the district.

RECOMMENDATION:

Approve the appointment of Mr. Kenneth Johnson to the Citizens' Bond Oversight Committee to serve from January 28, 2022 to 2024 representing the Community Member at Large group.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

N/A
(Amount)

N/A
(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

Informational
 Action

AGENDA ITEM: LONG TERM MANAGEMENT PLAN FOR THE VISTA DEL MAR VERNAL POOL AND ENDOWMENT TO THE CITY OF SAN DIEGO

BACKGROUND INFORMATION:

The construction of the Vista Del Mar Elementary School and Del Sol Boulevard resulted in impacts to 0.02 acre of vernal pools and federally listed environmentally sensitive species; the sensitive areas included vernal pools, fairy shrimp habitat, gnat catcher habitat and burrowing owls. The District agreed to mitigate these impacts by participating in an approved Vernal Pool restoration program and paying its long-term maintenance.

The District agreed to relocate the sensitive habitat to an existing offsite parcel which was suitable for restoration. The vernal pool restoration site is located within a 1.05-acre parcel located south of San Ysidro High School, and very close to the SDG&E property off Saltaire Place. This site was approved by the U.S. Fish and Wildlife Service (USFWS) and U.S. Army Corps of Engineers (Corps) on February 2, 2011. As part of the agreement, the District pledged to pay a one-time endowment into an environmental trust so that the property will be maintained in perpetuity.

The Long Term Management Plan for the Vernal Pool Preserve: 1) describes the status of the restoration site, 2) sets forth the maintenance plan which is necessary to continue the viability of the vernal pool preserve, and 3) establishes the appropriate amount of the endowment which will be given to the City of San Diego, Parks & Recreation Department so that it can continue the maintenance of the preserve. Once this endowment is made, the District's obligation for the Vernal Pool impacts will be complete.

The amount of the endowment is \$365,115.58. The following components are included in this amount:

- A) \$43,234.95 Payment of first 3 years
- B) \$309,500.61 Ongoing maintenance of the property and accounting for interest income needed to self-fund the effort.
- C) \$12,380.02 Emergency & Legal Fund (4% of Endowment)

RECOMMENDATION:

Approve the Long Term Management Plan for the Vista Del Mar Vernal Pool and approve the payment of the endowment to the City of San Diego in the amount of \$365,115.58.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

\$365,115.58

(Amount)

Vernal Pool Reserve

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

Long Term Management Plan

for the Vista del Mar Vernal Pool Preserve

Prepared for:
San Ysidro School District
and
City of San Diego
Park and Recreation Department



December 2021



schaefer ecological solutions
regenerating nature

FINAL

**Long Term Management Plan
for the Vernal Pool Preserve
Vista Del Mar Elementary School**

**Prepared for
San Ysidro School District**

**Prepared by
Schaefer Ecological Solutions
Christina Schaefer, Principal Biologist**

December 7, 2021



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1.0 INTRODUCTION

This Long Term Management Plan (LTMP) has been prepared to provide long-term management for the City of San Diego Vista Del Mar (VDM) Vernal Pool Preserve (Preserve), formerly known as the VDM Offsite Mitigation Area. The Preserve was originally conserved as a mitigation site for a development project by The Environmental Trust (TET). After discontinuing their services after dissolution during bankruptcy proceedings, TET deeded the site with a Conservation Easement (CE) to the City of San Diego. The CE required that the City manages the Preserve pursuant to conditions of the CE, but it was acknowledged that the remaining TET funds would not suffice to uphold the requirements of the CE. Subsequently, the San Ysidro School District (SYSD) restored the site to mitigate for vernal pool impacts associated with the Vista Del Mar Elementary School Project.

The total impact to vernal pools from the construction of Vista Del Mar Elementary School included the removal of 10 existing vernal pool basins, three of which supported the federally endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*). Impacts to federally¹ regulated wetlands (vernal pools) and federally and state-listed species required the issuance of federal and state regulatory permits which require the development of an LTMP and the funding of management in perpetuity. The U.S. Fish and Wildlife Service (USFWS), which regulates impacts to federally listed species, issued a Biological Opinion (BO) in response to impacts to the San Diego fairy shrimp (Appendix A). A Section 404 permit (Appendix A) was issued by the U.S. Army Corps of Engineers (USACE) that allowed filling these vernal pools for the purpose of construction of the Vista Del Mar Elementary School and also required mitigation. The Regional Water Quality Control Board (RWQCB) issued a Section 401 Water Quality Certification consistent with the USACE's mitigation requirements. The regulatory permits required the restoration of vernal pools at a 5:1 ratio with at least 16 of 18 restored (created) pools supporting San Diego fairy shrimp (*Branchinecta sandiegonensis*).

The SYSD is the permit holder and responsible party for long-term management as identified in the LTMP. The City-owned VDM Vernal Pool Preserve will be managed in perpetuity by the City of San Diego Park and Recreation Department Open Space Division pursuant to the City of San Diego Vernal Pool Habitat Conservation Plan (VPHCP, City of San Diego 2017). The VPHCP was approved by the City of San Diego in 2018, after the issuance of the BO for the Vista Del Mar Elementary School, and includes conservation and management of seven covered vernal pool species, including the San Diego fairy shrimp. Management funding will be provided by SYSD. A copy of the final LTMP will be submitted by the SYSD to City of San Diego and the Wildlife Agencies (USFWS, USACE, RWQCB and the California Department of Fish and Wildlife (CDFW)) for approval. The LTMP details the management measures necessary to comply with the federal and state Endangered Species Acts (ESAs), the Natural Communities Conservation Planning Act (NCCP), permits and agreements with the USFWS (Biological Opinion FWS-SDG-09B0258-11F0076), USACE (SPL-2009-00028-LLC), CDFW, and RWQCB, and the Vista Del Mar Final Subsequent Environmental Impact Report (FEIR; The Planning Center [TPC] 2009).

Because the VDM Vernal Pool Preserve is included within the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan preserve system (City 1997a and 1997b), the Multi Habitat Planning Area (MHPA), and also identified as conserved in the City's VPHCP, this LTMP was prepared consistent with the City's Land Development Code Biology Guidelines (City 2018), and the City VPHCP.

¹ As of June 22, 2020, the USACE no longer regulates isolated or ephemeral waters such as vernal pools.

1.1 Purpose and Goals

The purpose of this LTMP is to identify the methods, schedule, and means necessary to maintain in perpetuity and enhance the habitat values of the VDM Vernal Pool Preserve, specifically those beneficial to the San Diego fairy shrimp, by providing a framework for long-term management pursuant to the MSCP Subarea Plan and VPHCP. The ultimate goal of this LTMP is to preserve and improve the long-term viability and function of vernal pool habitat along with the listed and sensitive species they support, specifically the federally endangered San Diego fairy shrimp, as identified in the above referenced regulatory permits (Appendix A) and the VPHCP.

As the Preserve was restored, it is assumed that it meets Level 1 management standards as identified in the VPHCP. In order to maintain a functioning vernal pool ecosystem to management Level 1, additional VPHCP-covered plants present on the mitigation site will be managed as required by the CE, including the federally and state-endangered Otay mesa mint (*Pogogyne nudiuscula*) and San Diego button-celery (*Eryngium aristulatum parishii*). For the purpose of being also state endangered, these plant species continue to be covered under the original City of San Diego MSCP Subarea Plan. The California Native Plant Society (CNPS) S2 List 3.1 species little mouseling (*Myosurus minimus* ssp. *apus*) was present prior to and following restoration and also requires management pursuant to City MSCP Subarea Plan requirements. The restoration project included the installation of artificial burrows for the state species of special concern western burrowing owl (BUOW, *Athene cunicularia*), which will also require management. The LTMP provides measurable management targets and tasks to meeting the goals and objectives, including to

- Guide management of vegetation communities and habitats, plant and animal species to protect and enhance biological resources
- Contribute to the recovery of the VPHCP covered species and ensure continued persistence of the covered vernal pool species populations (City 2017)
- Establish a baseline from which stressors and threats will be assessed, adaptive management will be determined and success will be measured
- Provide a description of management, monitoring, maintenance, and requirements to implement management goals and objectives
- Provide the foundation for management budget planning.

1.2 Preserve Location

The 1.05-acre VDM Vernal Pool Preserve (Assessor's Parcel Number 645-061-01-00) is located within the Otay Mesa West Preserve on Parcel B (Figure 1), approximately 2,700 feet south of the Vista Del Mar School site on a mesa top owned by the City (Figure 2). Moody Canyon runs to the south and the San Diego Gas and Electric (SDG&E) substation on Old Otay Mesa Road to the north. The Vernal Pool Preserve is surrounded by open space lands owned by the City and County of San Diego, County of San Diego and Caltrans. Several vernal pool complexes have been restored adjacent to the western boundary of the Preserve, including the San Ysidro High School vernal pool mitigation site and the Caltrans Anderprise vernal pool mitigation site, both located on Otay Mesa Parcel A. Both mitigation projects are currently (Year 2021) in the process of being deeded to the City of San Diego by Caltrans.



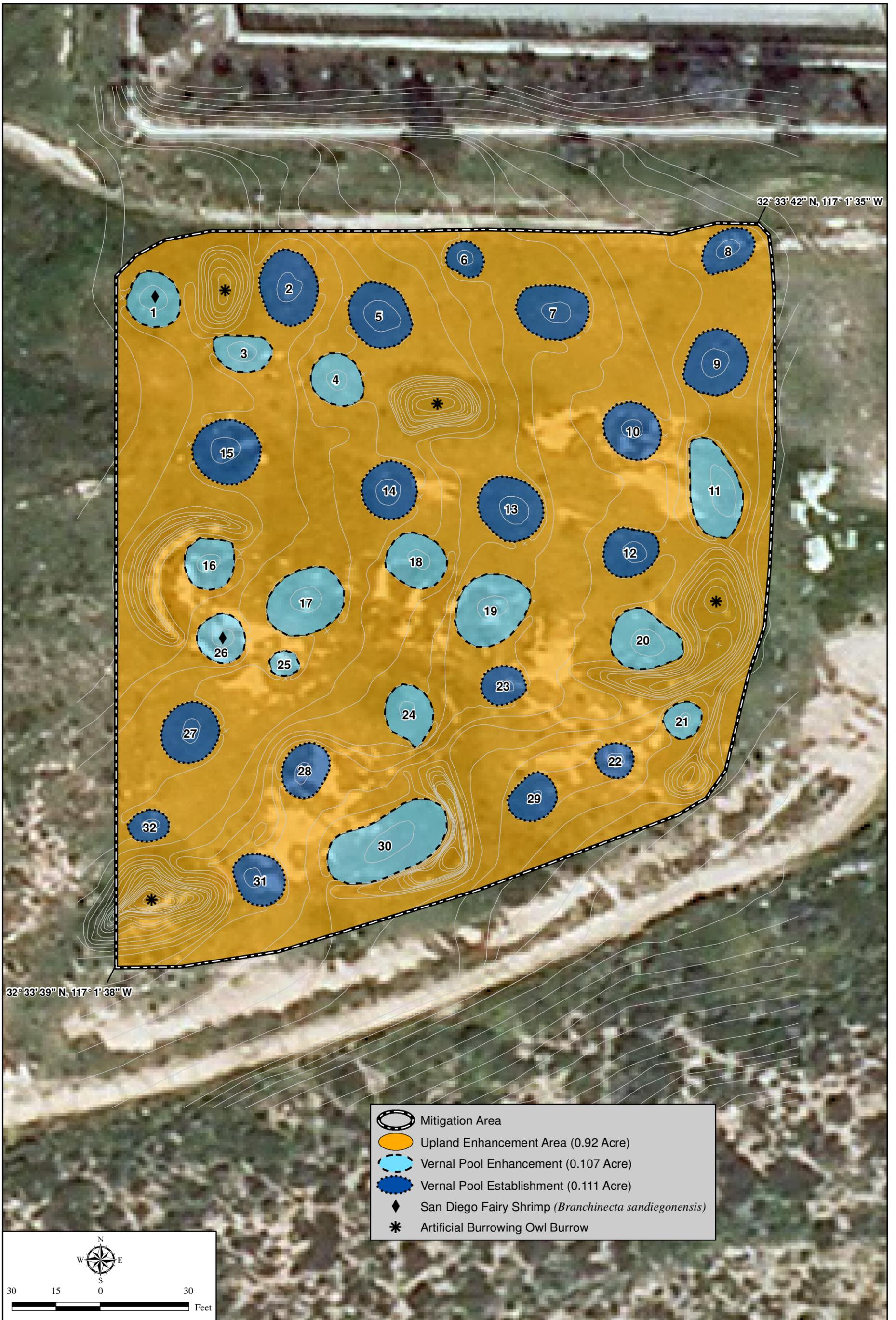
SOURCE: Landiscor, 2010; ESRI

Vista Del Mar Vernal Pool HMP

Figure 1

Regional Location





SOURCE: ESRI 2014; RBF 2012; Helix 2009



Vista Del Mar Vernal Pool HMP
Figure 2
 VDM Vernal Pool Preserve

The Preserve is located adjacent to the City of San Diego's Multiple Habitat Planning Area (MHPA), which delineates the MSCP Preserve and identifies specific conservation criteria and management goals. The City's VPHCP preserve boundary (e.g. expanded MHPA) includes the entire vernal pool habitats on the mesa top surrounding the VDP Preserve. The VDM Preserve is flanked by dirt roads to the north and south, utility access easements, and a San Diego and Electric (SDG&E) power generator to the north. During the vernal pool restoration project, a new residential neighborhood was built immediately to the north-east of the preserve.

1.3 Responsible Parties

1.3.1 Project Proponent - San Ysidro School District

As the project proponent and permit holder, the SYSD is responsible for the long-term management of the Preserve. As the property owner, the City of San Diego Park and Recreation Department/Open Space Division has accepted responsibility for the implementation of the long-term management. All funding shall be secured prior to implementation of the LTMP, as reviewed and authorized by the City of San Diego and the Wildlife Agencies.

1.3.2 Owner and Manager - City of San Diego

The Otay Mesa West Parcel B VDM Preserve is owned by the City of San Diego and is managed by the City's Park and Recreation Department as dedicated open space pursuant to the CE deeded to the City by TET. The City will maintain ownership and management responsibilities of this preserve. The City's management responsibility for the VDM mitigation will commence with the receipt of management funds from the SYSD. Management funds shall be available to the City following successful completion of the vernal pool restoration and five-year monitoring, and written sign-off by the USACE with additional approval provided by the USFWS, CDFW, and RWQCB per permit requirements. This occurred on May 31, 2017. The City will be responsible for implementation of this LTMP, and carrying out the LTMP's goals and objectives. The primary responsibility of the City will be to maintain the integrity of all preserved and restored habitats pursuant to the City's VPHCP reporting program and VPHCP Management and Monitoring Plan. In addition, the City will:

- Be familiar with this LTMP, its appendices, and supporting documentation.
- Be responsible for implementing the requirements outlined in the CE that has been placed over the preserve and any approved amendments to this easement.
- Maintain all documents transferred by the SYSD and Wildlife Agencies.
- Coordinate with the manager(s) of adjacent preserves on management practices and tasks related to preservation and maintenance of the subregional open space system consistent with the SDMMP Management Strategic Plan (MSP) (SDMMP 2013), and relative to invasive species identification and removal.

While the City of San Diego is responsible for the long-term management of the VDM Vernal Pool Preserve, the City may manage the preserve using their own resources or retain a habitat manager or management entity.

1.4 Site Protection Mechanism

The site protection instrument is established through a CE originally deeded by TET to CDFW, and transferred to the City of San Diego after TET was dissolved. The CE identifies the specific management

targets, including San Diego fairy shrimp, San Diego button-celery, San Diego mesa mint, and spreading navarretia. The CE is in the process of being amended to include the VDM vernal pool restoration and associated management obligations. The City of San Diego is named as the Grantor of the amended CE. The CDFW is the Grantee, and the USACE is listed as the Third Party Beneficiary of the amended CE. The CE is attached in Appendix B.

1.5 Financial Assurances

The SYSD is responsible for funding the implementation of this LTMP in perpetuity. The site will be managed in perpetuity by the City of San Diego using the endowment established by the SYSD. A non-wasting endowment will be established and managed by the City of San Diego, and interest earned will fund the annual costs associated with long-term management. The principal will not be used to fund management activities. The endowment shall be invested such that upon maturation of the endowment fund, the fund generates an annual dividend sufficient for the management pursuant to the LTMP. The endowment will be calculated using a Property Analysis Record (PAR)-equivalent cost analysis (attached in Appendix C). The endowment is composed by a one-time baseline management fund, the annual on-going costs, and contingency and emergency funds to address repairs after catastrophic unexpected events.

By acceptance of this LTMP and associated PAR, the City will be authorized by the Wildlife Agencies to draw funds from the endowment to use for long-term management and monitoring activities on the preserve. Stipulations will be associated with this account to ensure that the funds are not used for any other purpose.

2.0 BACKGROUND AND HISTORY

2.1 Preserve History

The VDM Vernal Pool Preserve parcel was originally owned by TET, a land management trust that was dissolved through bankruptcy proceedings. The VDM Preserve property and conservation easement managed by TET were transferred to the City of San Diego. The TET VDM property included deteriorated vernal pools that had been manipulated by TET to provide credit for a development project. Prior to habitat restoration, invasive species dominated the preserve and the vernal pools were deteriorated and disturbed by road ruts and artificial impoundments. Off-road vehicle use had destroyed most of the extant vernal pools. The VDM Vernal Pool Preserve is occupied by two disturbed sensitive vegetation communities: vernal pool and maritime succulent scrub/Diegan coastal sage scrub mix. The Preserve was restored in the year 2011 and monitored for five years (ESA 2016). The restoration project was accepted as successful by the Wildlife Agencies in 2017 (Appendix A).

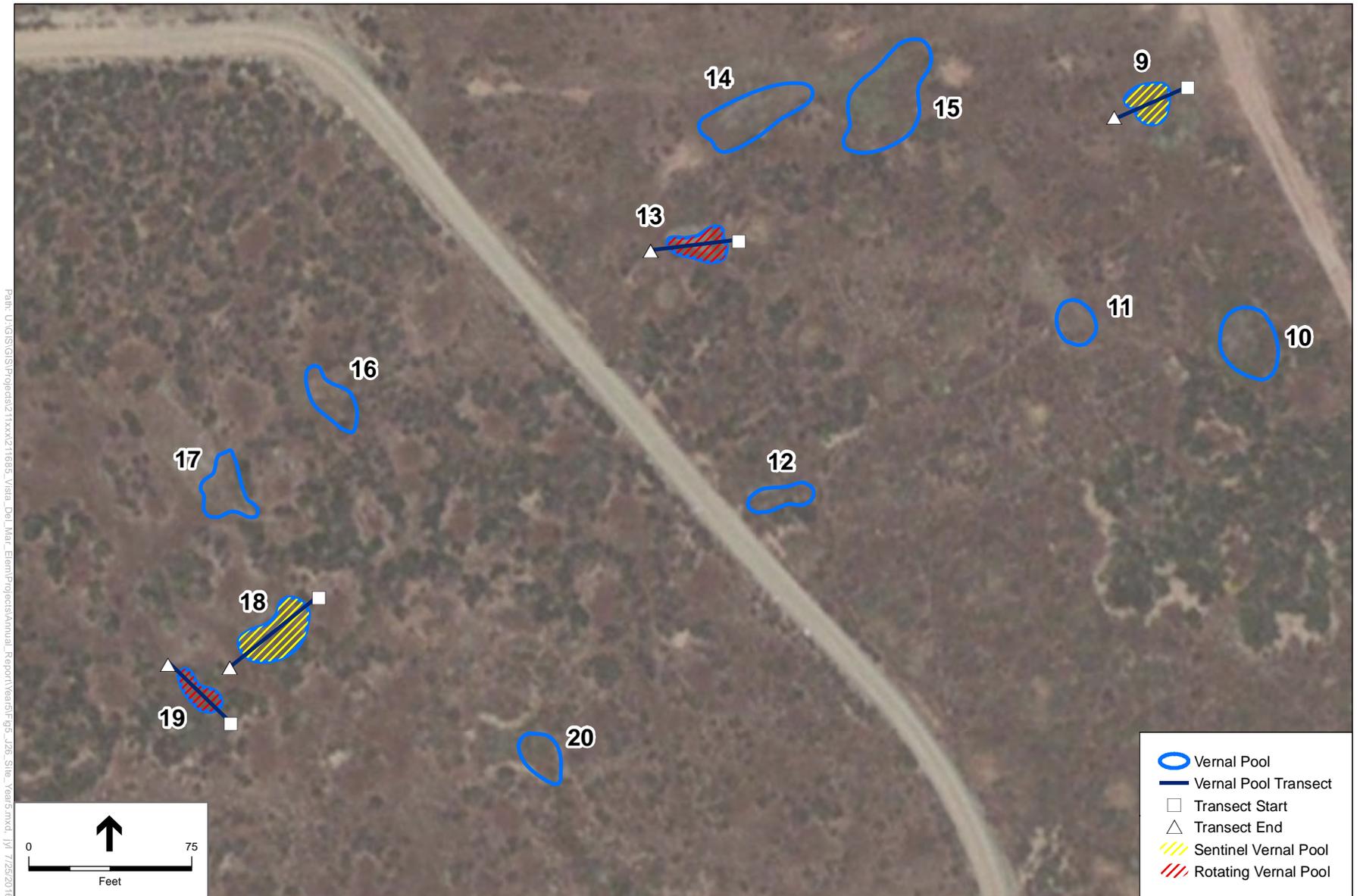
2.2 Vernal Pool Restoration and Monitoring

Prior to implementation of this LTMP, the SYSD implemented a vernal pool restoration plan to mitigate for impacts to vernal pools from construction of the Vista Del Mar Elementary School. The vernal pool restoration plan included vernal pool and maritime succulent scrub/Diegan coastal sage scrub mix habitat creation and enhancement. In addition, four artificial burrows for BUOWs were installed pursuant to the habitat restoration plan (mitigation for BUOW was not a project requirement). The VDM Vernal Pool Preserve supports a total 0.22 acre of vernal pool habitat on the 1.05-acre site of which 0.10 acre were used to offset project impacts.

The mitigation effort included the restoration of 14 degraded pools and establishment of 18 pools. Restoration consisted of inoculum² and plant material collection, grading, invasive species control, inoculation with salvaged soil and plant material, installation of salvaged plants and seeds, and installation of four artificial BUOW burrows, brush piles, herpetological cover-boards, and bee blocks. Vernal pool seeds and plant material were salvaged from the impact areas and the restoration site, and inoculum was collected from both the San Ysidro High School (SYHS) vernal pool site (adjacent to the west side of the restoration site and within the Otay Mesa West Preserve) and a road rut adjacent to the restoration site.

A vernal pool monitoring protocol was developed to guide the programmatic monitoring process established for the efficient and biologically sound monitoring of the VDM Project in association with other vernal pool restoration projects in progress or planned on Otay Mesa. Vernal pool monitoring generally requires frequent access to vernal pool complexes for the purpose of data collection. Vernal pool ecosystems are sensitive to disturbance; therefore, limited access to monitoring and control pools is desirable. In accordance with the programmatic BO developed for State Route 11, Otay Mesa East Port of Entry, Otay Crossing Commerce Park and Otay Business Park, the USFWS recommended that a common reference pool complex be chosen for many, if not all, vernal pool restoration projects on the Otay Mesa. The J26 complex reference site (Figure 3) was identified as one of the last remaining naturally functioning vernal pool complexes on the mesa that is reasonably accessible and would provide acceptable baseline vernal pool functions to be used as a reference for most restoration projects on the mesa. Monitoring data will be housed within the SDMMP South Coast Multi Taxa database.

² Inoculum refers to vernal pool soils that contain seeds and eggs/cysts of vernal pool flora and fauna.



SOURCE: ESRI 2014; RBF 2012; ESA 2016



Qualitative monitoring was conducted on the restoration site to assess survivorship and restoration success. During the site visits, the overall health and vigor of plants, signs of natural recruitment, survivorship of container plantings, and presence or signs of wildlife were evaluated within the vernal pool basins and surrounding upland habitat. Potential threats were also noted, including presence of trash, signs of trespass or vandalism, presence of non-native species, erosion problems, and signs of herbivory. Qualitative monitoring efforts were conducted during all monitoring and maintenance visits throughout the five-year post-restoration monitoring period.

Quantitative monitoring efforts were conducted at the restoration site and two reference sites (i.e., SYHS and the programmatic J26 reference site) once per year during the five-year post-restoration monitoring period. The J26 vernal pool complex is an unaltered natural complex of vernal pools on the eastern Otay Mesa that provides a reference to pools that have not been managed or maintained; the SYHS vernal pools are located adjacent to the Vista Del Mar restoration site and, therefore, provided a better spatial reference; however, the pools were successfully restored and therefore do not provide an non-manipulated reference to which the restored pools were compared. Quantitative surveys measured the achievement of success criteria, including presence and size of San Diego fairy shrimp populations, vernal pool plant cover and diversity, and levels of inundation. Quantitative upland monitoring evaluated the percent cover and diversity of the coastal sage scrub habitat that surrounds the vernal pools.

The vernal pool restoration project was monitored for five years until the year 2015 (ESA 2016), and was signed off by the USACE, USFWS, RWQCB, and CDFW on May 31, 2017 (Appendix A). The final five-year monitoring report (ESA 2016) describes the baseline conditions of the Preserve that serves as the starting point for the long-term management as identified in this LTMP. The following section summarizes the conditions reported in the final monitoring report. Because this baseline is several years old, a new baseline condition will need to be conducted as part of the long-term management effort.

3.0 BIOLOGICAL CONDITIONS

Biological data were collected throughout the five-year post-restoration monitoring period. The final conditions data were collected in the Year 2016 and area described in the final restoration plan (ESA 2016) as summarized below.

3.1 Vernal Pool Hydrology

Despite El Niño climate conditions, the 2015/2016 wet season was dryer than normal. Between October 2015 and May 2016, a total of 7.86 inches of rain fell in the San Diego area (based on rainfall data from Lindbergh Field; NOAA 2016), as compared to an average of 11.07 inches for that time period. Drought conditions had prevailed throughout the entire five-year restoration monitoring period. However, the vernal pool basins held water and all 32 pools inundated for a sufficient duration to support fairy shrimp. Ponding duration varied from a minimum of 14 days to a maximum of 140 days. Maximum pool depth ranged from 7.5 to 29.7 cm. Within the adjacent San Ysidro High School (SYHS) reference site, only 6 of the 8 sampled pools inundated during the rainy season, but none of them held water long enough to support fairy shrimp. Maximum pool depth ranged from 2 to 7 cm.

3.2 Vernal Pool Fauna

All of the restored vernal pools were occupied by San Diego fairy shrimp in Year 5 post-restoration, and all but two of the pools supported a population of thousands; the other two pools supported hundreds (VP 23 and VP 26). The federally endangered San Diego fairy shrimp and the more common versatile fairy shrimp (*Branchinecta lindahli*) are closely related species that are known to hybridize; such hybridization is an increasing concern due to the expanding presence of versatile fairy shrimp from human disturbance. Co-occurrence of these species happens more frequently in disturbed pools and restored/created basins, and creates the potential for hybridization. Though genetic analysis would be required to fully assess genetic purity, no versatile fairy shrimp markers have been observed in San Diego fairy shrimp samples from the VDM Vernal Pool Preserve.

Several individuals of the State Species of Special Concern western spadefoot toad (*Spea hammondi*) were observed in pools 22 and 29. The neighboring Caltrans restoration site also contains spadefoot and the species has been reported from elsewhere on the mesa, including the adjacent Anderprise vernal pool mitigation area, and the San Diego County Furby North Preserve.

3.3 Vernal Pool Flora

Vernal pool plant indicator species (USACE 1997) occurred in one or more pools post-restoration, including wooly marbles (*Psilocarphus brevissimus*), dwarf plantain (*Plantago elongata*), little mousetail, and adobe popcorn flower (*Plagiobothrys acanthocarpa*). In addition, the restoration site supported pygmy weed (*Crassula aquatica*), Otay Mesa mint, and flowering quillwort (*Lilaea scilloides*) post-restoration. Little mousetail is not state or federally listed but considered sensitive by CNPS. No other sensitive plant species were observed on the VDM Preserve. VPHCP-Covered species for the VDM Vernal Pool Preserve were identified in the Vernal Pool Preserve Restoration Plan for Vista Del Mar Elementary School (Helix Environmental Planning 2011, as amended by TAIC) and include the aforementioned species as well as San Diego button-celery, and spreading navarretia (*Navarretia fossalis*). These species were absent on the mitigation site in 2016, but occur within an adjacent vernal pool restoration site. The average estimated cover of vernal pool indicator species was 3.4 percent in the restoration site. Percent cover of invasive non-

native species ranked by the California Invasive Plant Council (Cal-IPC) as moderate to high risk was 0.1 in the restoration site at the last monitoring visit (2016). The estimated cover of other non-native species (i.e., those not listed as moderate or high risk) was 0.5 percent cover in the restoration site. Species richness of vernal pool indicator species (i.e., total number of vernal pool indicator species) within a given pool varied from 4 to 5, and total species richness per site was 6 in the restoration site.

3.4 Vernal Pool CRAM

The overall California Rapid Assessment Method (CRAM) score for the restoration site during Year 5 was fairly high at 80 (out of 100; see ESA 2016). Individual attribute scores varied between 68 and 100. The Buffer and Landscape Connectivity attribute score was 68; the Hydrology attribute score was the highest possible at 100; the Physical Structure score was 83; and the Biotic Structure attribute score 67.

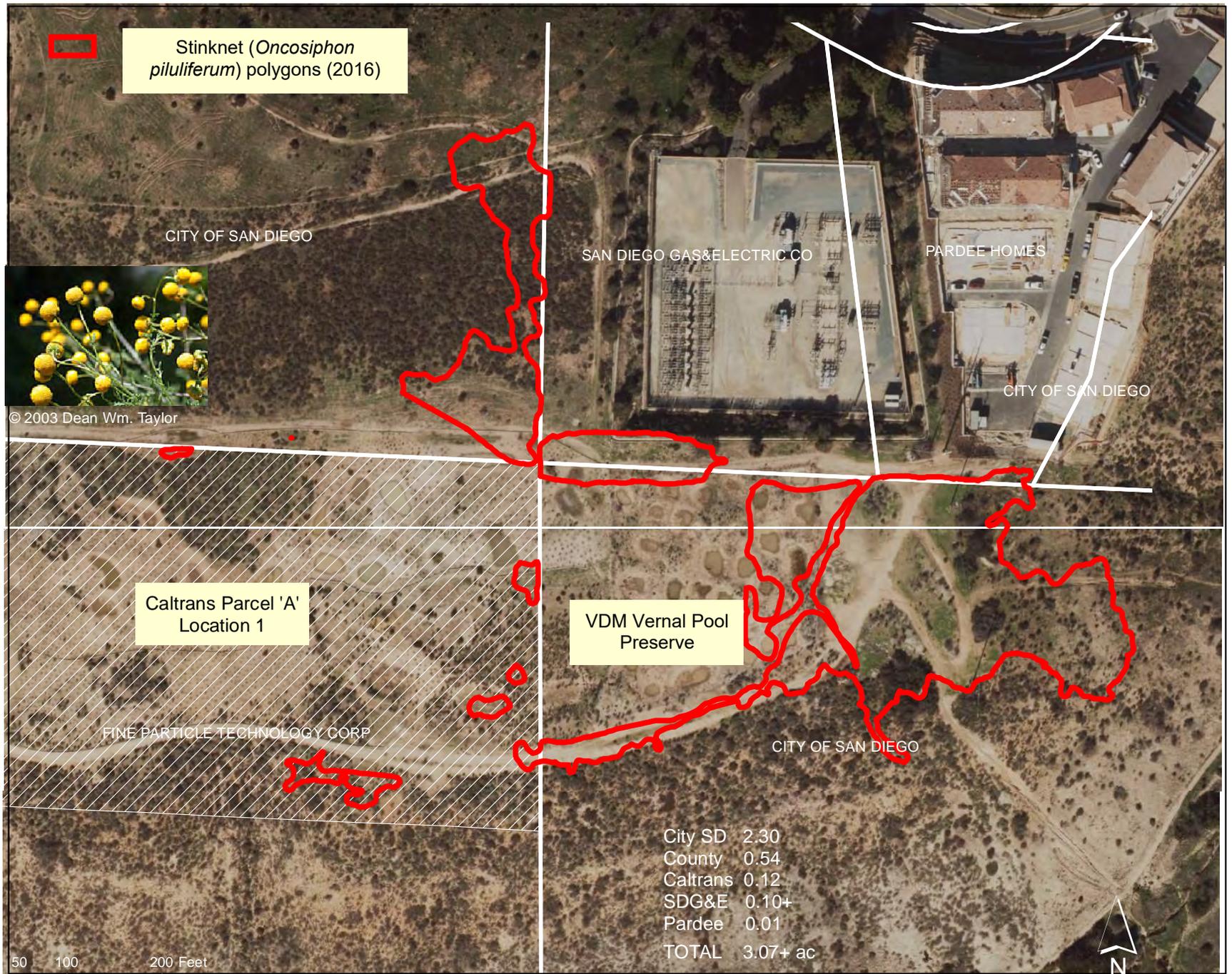
3.5 Upland Habitat and Species

The upland habitat surrounding the vernal pool basins consists of coastal sage scrub vegetation community. Overall, the presence of non-native plant species in the upland restoration area was low, and all seedlings were actively removed by maintenance staff. The following target weed species were removed to a level below 0.5 percent: Australian saltbush (*Atriplex semibaccata*), black mustard (*Brassica nigra*), tocalote (*Centaurea melitensis*), garland daisy (*Glebionis coronaria*), fennel (*Foeniculum vulgare*), short-pod mustard (*Hirschfeldia incana*), Italian ryegrass (*Lolium perenne*), and crystalline iceplant (*Mesembryanthemum crystallinum*). Other non-native species occur at about 5 percent; native cover exceeded 50 percent.

The aggressively invasive non-native stinknet (*Oncosiphon piluliferum*) had been present on the Preserve and surrounding area, and increasing in severity each year despite invasive species removal on the Preserve and the neighboring vernal pool restoration site. The outbreak was most dense along the San Diego Gas & Electric (SDG&E) easements and power station and also occurred south of the residential development on City property adjacent to the Preserve (Figure 4).

Observations of wildlife within and in the immediate vicinity of the Preserve included red-tailed hawk (*Buteo jamaicensis*), common raven (*Corvus corax*), greater roadrunner (*Geococcyx californianus*), desert cottontail (*Sylvilagus audubonii*), orange-throated whiptail (*Asipdoscelis hyperythra beldingi*), and southern pacific rattlesnake (*Crotalus oreganus helleri*), which occupied a BUOW burrow. The federally threatened California gnatcatcher (CAGN, *Poliophtila californica*) was observed by the City of San Diego in May 2018. Four artificial burrows for the BUOW were constructed as part of the vernal pool restoration effort to enhance the species on Otay Mesa. Burrow construction occurred prior to the currently accepted methods developed by the San Diego Zoo Wildlife Alliance (ICR 2017). Otay Mesa is one of the last remaining active breeding nodes in San Diego County. One BUOW was observed in February 2018 at the burrow entrance near vernal pool VP14. The observation was likely a migrating individual bird. No BUOW breeding has been detected on the Vernal Pool Preserve to date.

No problems with vandalism or trespass were noted; however, during the stakeholder site visit conducted in November 2016, signs of erosion from a recent storm were evident near pools 22 and 23. This area was repaired in January 2017, and additional erosion control measures were installed.



SOURCE: Robert James, Caltrans, 2016



4.0 MANAGEMENT GOALS AND OBJECTIVES

This section discusses the goals and objectives of this LTMP, and establishes a framework for adaptive management pursuant to the VDM regulatory permits, and guidelines provided in the MSCP (implemented by the San Diego Management and Monitoring Program, SDMMP), and the VPHCP. The VPHCP uses a tier-level approach to adaptive monitoring and management that is applied to individual vernal pool complexes. The VPHCP uses the following management tiers:

Level 1 – maintain existing habitat conditions and covered species populations within conserved complexes. This level is considered Stewardship.

Level 2 – stabilize covered species population status by enhancing habitat conditions to a level that can support existing populations to achieve the VPHCP habitat and species-specific objectives.

Level 3 – restore habitat conditions to a level that can increase covered species populations identified in the species-specific objectives.

The VDM Preserve belongs to the J32 Complex “West Otay B,” which is classified as Management Level 1 reserved for those complexes that are functioning and for which functions should be maintained. Since the Preserve was restored and maintained over five years post-restoration, habitat functions should be considered high and compatible with Level 1 management (although the site is located in an area with stinknet infestations, stinknet had been removed during maintenance of the Preserve from 2017 through 2019). The following sections list the management goals and objectives as identified in the VPHCP for West Otay B. These management goals and objectives directly drive the type of adaptive management elements and tasks described in Chapter 5 below.

4.1 Adaptive Management

Management will be implemented using a strategic approach to Adaptive Management (Atkinson et al. 2004) within the endowment funds allocated to the Preserve. Any additional adaptive management would be funded by grants, emergency funds, or other funding that might be available to conduct research and implement experimental design and pilot projects.

Adaptive management is a systematic process for managing in the face of uncertainty (i.e., when best management practices are lacking) and continually improving management policies and practices by learning from the outcomes of operational procedures. Adaptive management is applied constantly and consistently as part of the overall management approach. If operational procedures are not meeting management goals, methods are adjusted until they are achieved. Adaptive management consists of the following key elements:

- Establishment of management goals, objectives and targets
- Identification of specific threats
- Assessment and selecting of techniques
- Implementation of management actions
- Monitoring/assessment of management action effects
- Periodic review of management goals and restoration methods.

4.2 Management Goals and Objectives

The management goal of West Otay Mesa B, as determined by the VPHCP, is to maintain the habitat conditions and focal species population status consistent with the site-specific Management Plan (this LTMP) by conducting all Management Level 1 recommended activities. The specific management goals and objectives identified for the VDM Vernal Pool Preserve were developed using the SMART method for adaptive management: Specific, Measurable, Achievable, Result-oriented, and Time-fixed (Adamcik et al. 2004) and are as follows:

- Maintain the ecological functions and values of vernal pools, and associated species.
- Maintain existing habitat conditions, covered species populations, and functions and values of biological resources of the Preserve (at the conclusion of habitat restoration) to a level equal to or better than functions and values being impacted by the Project; for vernal pools, this equals to maintenance at or able Level 1 pursuant to the City’s VPHCP.
- Maintain and enhance overall biological diversity of the Preserve.
- Protect and enhance the long-term viability of San Diego button-celery, San Diego fairy shrimp.
- Prevent impacts to habitat or species from invasive species, artificial hydrological changes, and anthropogenic threats and stressors.
- Support the goal and management guidelines of the City of San Diego VPHCP, and the City’s MSCP for the Otay Mesa area, which is to create “a network of open and relatively undisturbed canyons containing a full ensemble of native species and providing functional wildlife habitat and movement capability.”

4.3 Threats and Stressors

Threats (direct impacts) and stressors/pressures (indirect impacts) occur from edge effects and habitat modifications (City of San Diego 2017). Edge effects include anthropogenic and natural threats, such as international border security, trash dumping, trampling, and other mechanic disturbance. Stressors (pressures) include altered hydrology, exposure to pesticides, invasion by nonnative plant and animal species, habitat fragmentation, water and air pollution, and fire. While the Preserve are not directly subject to urbanization, edges exist at the northern boundary and access easements surrounding the mitigation site. The identification of threats and stressors shall be conducted at least once annually during a qualitative monitoring visit. The following stressors and threats have been identified in the VPHCP for the Otay Mesa B Complex.

Edge Effects: The restoration site is adjacent to an SDG&E substation, SDG&E access easements, dirt roads, and a multi-family residential development, which may result in some edge effects (specifically with respect to the invasion or stinknet). The area is connected to conserved open space, including additional vernal pool sites, which minimizes impacts from isolation and provides pollinator connectivity.

Erosion/Soils: Intact soils, specifically with respect to the clay layer underlying vernal pools and providing vernal pool function, are fundamental to the sustained function of vernal pool ecosystems. Damage to the vernal pool substrate, erosion and siltation would significantly impact vernal pool function.

Altered Hydrology: Like vernal pool soils, vernal pool hydrology provides the foundation for vernal pool ecosystem function. Fairy shrimp and vernal pool plant indicator species rely on proper vernal pool

hydrology and the functionality of the micro-watershed for each vernal pool basin. Topographic alterations through trespassing, Border Patrol use, off-road vehicle use or storm events may significantly alter these functions.

Litter: The site may be impacted by wind-blown debris, litter, illegal dumping and illegal encampments.

Trespass: Barbless wire fencing was installed upon restoration of the property. Neighbors, school children, and unauthorized migrants may trespass, along with potential impacts from vehicles along the dirt roads, maintenance vehicles for the SD&E Substation, and Border Patrol.

Fire and Fire Suppression: The Otay B vernal pools are located adjacent to the SDG&E Substation and a multi-family residential development. The site may be impacted as a result of emergency fire suppression activities in the event of fire.

Invasive Species: Nonnative invasive species (both animals and plants) occur in both uplands and vernal pools. Restoration areas on Otay Mesa Parcel A and B have been and are currently being managed, but such invasive species as stinknet are problematic in the area.

Pests and Diseases: Regional infestations may have the potential to affect the conserved sensitive species on the Preserve, including mosquito-borne diseases (e.g., West Nile Virus).

4.4 Climate Change

San Diego County is one of the biodiversity hot spots in the world because of its ecosystem diversity (from coast to mountains to desert) with the second largest biodiversity in the nation. However, due to its highly variable climate, it is also most vulnerable to climate change. Specifically vernal pools, which rely on consistent rainfall patterns for persistence of the unique and endemic flora and fauna, are highly susceptible to the effects of climate change. Prolonged drought and changes in rainfall patterns, storm frequency, and shifting storm seasonality may significantly impact the sustainability of vernal pools ecosystems by causing changes in vernal pool inundation patterns and frequency. Effects of climate change might include a change in pollinators, phenological mismatches in pollinators and blooming periods, increased predatory pressures on branchiopod populations, increased weed infestations and resulting fires, erosion from the effects of stochastic storm events, changed breeding opportunities, and drying pools resulting in species loss and potential extinctions of endemic vernal pool species.

Adaptive management in the light of climate change is based on the principles of Resistance (climate smart planning; landscape/watershed-scale planning), Accommodation (e.g., resilient landscape buffers, refugia, habitat connectivity, fire management), and Transformation (climate resilient habitat restoration, micro climate creation, changes in plant palettes to accommodate drought and changes in blooming periods, etc.). Adaptive management might include scenario planning and modeling to prioritize management actions for climate change, and would be implemented on a regional basis rather than preserve-specific.

Long-term monitoring and management of vernal pool ecosystems in light of climate change should include a strong adaptive management program with feedback loops to report changed conditions, including soil moisture/holding capacity, changes in spring blooming period, and hydrologic regime. Management costs should consider adaptive management, including functional monitoring (e.g., using CRAM) and pilot projects to test experimental design (e.g., changing plant palettes and species composition to include drought avoiders (deeply rooted plants that are more sustainable during prolonged

droughts), testing pollinator and host plant phenology, and planning for climate resilient erosion control and habitat restoration). Climate change management would be based on SMART goals, and would be conducted pursuant to Section 9.2.6 of the VPHCP by implementing the following preventative measures:

- **Drought:** the City, across their preserves, will collect plant seed and fairy shrimp cysts for storage and possible future reintroduction; remediation and restoration may potentially mitigate altered hydrology effects from prolonged droughts;
- **Fire:** as fire frequencies may increase due to climate change, the City will implement fire management protocols as identified in this LTMP and the VPHCP;
- **Invasive Species:** as the frequency and type of invasive species may increase due to climate change, the City will implement invasive species management protocols as identified in this LTMP and the VPHCP.

4.5 Management Targets

While the City is held to manage the property per the conditions of the TET CE for all VPHCP covered vernal pool species that occur on the VDM Preserve, the VDM Project specifically requires mitigation for San Diego fairy shrimp, pursuant to the regulatory permits (Appendix A).

San Diego fairy shrimp (*Branchinecta sandiegonensis*)

Listing: Federally Endangered; MSCP and VPHCP-Covered

Distribution: Southern California, centered in San Diego County

Habitat: Seasonal pools that occur in tectonic swales or earth slump basins and other areas of shallow and standing water, often in patches of grassland and agriculture interspersed in coastal sage scrub and chaparral

Status onsite: Present in all vernal pools.

Threats and Conservation Needs: The loss and modification of vernal pool habitat continues to be a significant threat to the San Diego fairy shrimp specifically in urbanized areas (Bauder 1986). Although conservation easements, land acquisition, and vernal pool restoration have resulted in the preservation of vernal pool habitat for the species, the trend of habitat loss, fragmentation, and degradation continues, particularly on private lands and specifically in Otay Mesa. San Diego fairy shrimp habitat is threatened by invasion of non-native plants, off-highway vehicle use (e.g., by Border Patrol), trespassing, development, runoff, dumping of trash and litter, water and air pollution, hybridization with versatile fairy shrimp (Fugate 1998), changes in rainfall patterns and prolonged drought (i.e. effects of climate change).

Vernal pool habitat is naturally fragmented; however, complexes have historically occurred in proximity close enough to facilitate genetic exchange, pollination, and other ecological processes necessary to sustain habitat functions for San Diego fairy shrimp. Continued fragmentation as a result of development significantly disrupts the population dynamics of the species. Conservation, preservation, and habitat and species management are necessary to ensure the long-term sustainability and persistence of the species throughout its range (USFWS 2008).

The San Diego VPHCP requires that all vernal pool complexes eventually reach Management Level 1. This LTMP addresses the management of VPHCP-covered species that occur on the VDM Preserve in addition to San Diego fairy shrimp, per the requirement of the CE.

5.0 MANAGEMENT AND MONITORING

The following section details the management and monitoring tasks pursuant to the City's VPHCP. It is assumed that the Preserve would be managed at the VPHCP Level 1 management level. All tasks are identified in Table 1 at the end of this report to illustrate the work plan and management schedules for the management and monitoring efforts.

5.1 *Baseline Biological Surveys*

Baseline biological surveys will provide the Habitat Manager with documentation of the baseline condition of the Preserve. Baseline survey results will serve as a reference to which future monitoring can be compared, which can then be used to establish management triggers (City 2017 and Section 5.5) and inform future adaptive management needs. The purpose of the baseline surveys is to confirm the conditions reported in the final post-restoration monitoring and maintenance report, specifically as several years have passed since the last monitoring visit was conducted in 2016.

***Objective:** Conduct biological surveys within the first year of long-term management to document the baseline conditions of non-restored areas of the Preserve to monitor ecological and functional trends.*

Task: invasive species mapping. During the first year of long-term management, the Habitat Manager shall map invasive species and qualitatively estimate the percent cover to establish a baseline. The baseline mapping shall be used to compare long-term conditions of the Preserve. Mapping may be accomplished through use of available technologies, such as GIS and aerial photography.

Task: biological resources survey. During the first year of long-term management, the Habitat Manager shall conduct a rare plant survey (including San Diego button-celery) and a general biological resources survey at the Preserve to confirm baseline conditions. The surveys shall be conducted in the spring to capture potential occurrence of CAGN and BUOW; the rare plant survey should be conducted in May (or time of month depending on plant phenology or weather) to capture the blooming window for Otay tarplant and other native plant species, and to increase detectability per climate conditions and plant phenology. The survey may be conducted concurrently with the invasive species mapping.

Task: species-specific surveys. During the first year of long-term management, the Habitat Manager shall conduct a full wet-and dry-season fairy shrimp sampling protocol in the restored vernal pools to confirm baseline conditions. These surveys shall use the most recent USFWS guidelines for sampling guidelines for listed large branchiopods (USFWS 2015).

Task: baseline hydrological surveys. Prior to the onset of management, the Habitat Manager shall confirm the presence and integrity of jurisdictional boundaries and the presence of hydrology in the vernal pools. A baseline hydrological survey per the City's VPHCP requirements shall be conducted. This would include measurements of the maximum pool depth, pool inlet and outlet, and geomorphic setting for each vernal pool basin. Hydrological baseline surveys will follow methods identified in the HGM Guidebook (Bauder et al. 2009), or equivalent, and will serve as a benchmark from which to evaluate potential topographic or hydrologic disturbances, and to aid in management decisions should repairs become necessary (e.g., if monitoring reveals that hydrological integrity is affected by siltation or other disturbances). Depth markers were installed during restoration and shall be used to identify ponding levels. This task shall be conducted concurrently with wet season fairy shrimp sampling.

5.2 General Stewardship Management and Monitoring

This section discusses the general management and monitoring directives (tasks) that apply to the general long-term stewardship and management of the Preserve. Qualitative site visits (patrols) shall be conducted quarterly to assess the overall conditions, as described below. Maintenance and management activities shall be conducted as informed by the quarterly site visits and patrols of the Preserve, and by habitat and species-specific monitoring data. Such maintenance and management include the removal of trash, debris, encampments, invasive species, and the repair of fences, signage, gates, and habitat components such as BUOW burrows, debris piles, and bee blocks.

5.2.1 General Conditions (Qualitative) Monitoring

Qualitative monitoring will be conducted on a regular basis to assess threats, identify adaptive management or remediation measures, and provide regular stewardship on the Preserve. Qualitative monitoring does not follow strict protocols but must be conducted regularly by visiting the site to conduct patrols and inspections.

***Objective:** Conduct regularly scheduled site assessments to identify potential management issues.*

Task: qualitative site visits. Quarterly site visits shall be conducted to assess the overall condition of the Preserve and to identify threats and stressors (e.g., signage, fencing, trash, unauthorized access/vandalism, habitat degradation/erosion, invasive species, erosion, ponding, edge effects, etc.), as detailed below. During these visits, incidental observations of sensitive plants and animals shall be mapped and recorded, and any anecdotal evidence of BUOW shall be noted and included in the annual reports. A log shall be kept during each visit describing the observations, actions taken, and recommended future actions. The City will continue to participate with neighboring preserves and Habitat Managers regarding the invasion of non-native species (e.g., stinknet) and coordinated control of invasive species.

Task: general habitat maintenance. Conduct invasive species control, vegetation trimming as needed, trash pick-up, erosion repairs (including vernal pool topography, restoration of unauthorized trails, restoration of trespass or accident recovery, etc.), and access control. As-needed schedule is controlled by quarterly qualitative site visits. Results of the general condition and habitat monitoring visits will be documented through field notes, photographs, and mapping as necessary to document data for the purpose of annual monitoring reports. Documentation will also include incidental observations of native plant and animal species. It will be up to the discretion of the Habitat Manager to determine if and when a particular threat requires remediation.

5.2.2 Unauthorized Uses and Access Control

The Preserve shall not be open to the public. The Preserve is intended to serve as a habitat preserve conserved for the purpose of mitigation pursuant to permits issued by the resources agencies. As such, the Preserve is not compatible with certain uses as identified in the VDM BO, including:

- Off-road vehicle use
- Hunting
- Grazing (unless determined appropriate for vegetation management)
- Dumping

- Construction activities and staging
- Unauthorized recreational use or dwelling (encampments)
- Unauthorized vegetation clearing or mowing
- Removal of natural resources.

Illegal occupancy, encampments, and trespassing are a common problem in open space areas within San Diego County and have been documented at and adjacent to this site, including unauthorized access by off-road vehicles and motorcycles. Removal of any plants, animals, rocks, minerals, or other natural resources will be prohibited within the preserve. Anyone found removing natural resources would be informed, in a non-confrontational manner, that these activities are illegal.

The Habitat Manager shall control access to the Preserve to prevent off-road vehicle use, prohibit any unauthorized access. Vehicular access shall be limited to uses for the purposes the Border Patrol or other law enforcement, preserve management, or emergencies. Exceptions to these prohibitions include specific activities related to habitat restoration and biological resources monitoring and management pursuant to this LTMP.

Research and educational programs may be allowed on the Preserve as deemed appropriate by the City and Wildlife Agencies, but are not specifically funded or a part of this LTMP. Educational use and use for scientific study shall be limited to passive activities, and shall require a Right of Entry Permit and any other authorization from the City and Habitat Manager. The City may, at its discretion, allow seed collection and plant cuttings to be used for revegetation efforts within or outside of the Preserves. Any such activities will take place under the direct supervision of the management entity, and the amount of collected plant materials will be limited to ensure protection of on-site resources.

Objective: *Monitor and maintain controlled access to the Preserve to prevent potential impacts from unauthorized uses.*

Objective: *Prohibit recreational use on the Preserve by the general public to ensure protection of the biological resources, but promote use of the Preserve for scientific study as long as it does not impact biological resources.*

Objective: *Repair vandalized structures, and rectify trespass impacts. Work with City enforcement to remove homeless camps.*

Task: vehicle access control. No vehicle access shall remain at the Preserve after successful restoration. Access for the purpose of monitoring and management shall be limited to pedestrian access. Should vehicle access be necessary to maintain the Preserve, access should be temporary, not impact any of the sensitive resources for which the Preserve were restored, and be restored to pre-existing conditions as necessary. Coordinate access for education and scientific study with City of San Diego and obtain a Right of Entry Permit from the City as determined necessary by the City.

Task: fencing and signage. Fencing and signage was installed during the restoration effort. The Preserve shall remain fenced as required in the mitigation plans. Fences, gates, and signage shall be maintained in perpetuity. It is assumed that sections of the fence will need to be replaced every two years and the gate every twenty years.

Task: emergency access. Emergency access (e.g., for the purpose of accident recovery, Border Patrol pursuits, or fire suppression) shall be granted to all Preserve, and shall be coordinated with the Habitat Manager as feasible. The Preserve shall be restored to pre-existing conditions should emergency access cause disturbance to the Preserve.

Task: coordination with Border Patrol. The Habitat Manager shall coordinate with Border Patrol as appropriate. Border Patrol shall not regularly access the Preserve or create access roads. Border Patrol access shall be based on emergencies only and access routes shall be restored to pre-existing conditions.

Task: removal of encampments. The City will regularly patrol the site for encampments and remove or report them to City Code Enforcement and applicable law enforcement agencies, as appropriate. Illegal encampments and trash associated with the encampments will be removed by the City.

Task: prohibit poaching/collecting. Removal of any plants, animals, rocks, minerals, or other natural resources will be prohibited within the preserve. The management entity should maintain a log of all incidences of illegal poaching and collecting within the preserve. City staff will educate the public per S.D.M.C Section 63.0102(4).

5.2.3 Litter, Trash, and Dumping

Litter, trash (including wind-blown trash) and dumping and other unauthorized uses are potential threats to the biological resources throughout the Preserve.

Objective: Monitor sources of trash and trespass on a regular basis.

Task: monitoring. During each site visit the Habitat Manager shall record occurrences of trash and/or trespass, including the type and location. For problems that cannot be remedied during the site visit, the Habitat Manager shall plan and implement future remediation and coordinate with neighboring land owners to reduce these threats and stressors.

Task: trash removal. The Habitat Manager shall collect and remove industrial waste, trash, or other debris encountered within the restoration areas, including encampments. All materials shall be disposed of in a legal manner. Concrete blocks and other materials that serve as BUOW habitat features shall be maintained.

5.2.4 Fire Management Coordination

Fire is an important element in the ecology of southern California, but may cause damage to native habitat and species if it burns too hot or too frequently. The VDM Preserve did not burn in any of the recent regional fires. If the Preserve is affected by fire or fire suppression efforts, there are general expectations for recovery, but also the likelihood for invasion by weeds.

A residential development occurs immediately north-east of the Preserve and manages the required brush management zone, which does not encroach on the Preserve.

Objective: Maintain the site as required for fire control while limiting impacts to biological values.

Task: fire management. Any damage resulting from fire suppression (fencing damage, vehicle damage, contamination from fire suppressant chemicals, etc.) will be addressed immediately. Evidence of fire or

disturbance from fire suppression shall be evaluated for impacts to the site (loss of native habitat, weed invasion, erosion, etc.). Based on quantitative data, appropriate adaptive management measures such as repairs and restoration will be undertaken. Fire management would be funded from the emergency fund as this is not an anticipated re-occurring management event and is, therefore, not included in the PAR.

Task: coordination. In the event of a fire, all necessary measures to protect lives and property will be utilized by the San Diego Fire Department. The City will coordinate with City fire staff to discuss appropriate access locations and measures to minimize impacts to sensitive biological resources in the event of a wildfire on site. Evidence of fire or disturbance from fire suppression shall be evaluated for impacts to the site (loss of native habitat, weed invasion, erosion, etc.). Following a fire, the habitat is allowed to recover naturally unless quantitative data identify short- and long-term impacts, the remediation of which should employ adaptive management methods such as habitat restoration.

5.3 Habitat Management and Monitoring

Habitat management and maintenance tasks include management actions targeted towards remediation of threats to native habitats and species. General habitat management and will be performed for the purpose of maintaining habitat functions for vernal pools, and should incorporate any new scientific findings, including new information on BUOW to encourage additional breeding habitat on Otay Mesa.

5.3.1 Vegetation Mapping

Improving and maintaining the health and diversity of habitat contained within the Preserve is the basis for successful management. The City will monitor and document habitat types and conditions as described below. Vegetation communities and boundaries may change over time due to natural processes, and continued enhancement of vegetation at the VDM Preserve is expected following habitat restoration.

Although the Preserve is surrounded by open space, it experiences edge effect from development to the north-east, and power generation and transmission facilities; these facilities have been the source of invasive species, such as stinknet. This and other effects (e.g., climate change, site disturbances, etc.) may cause a change in the vegetation types and composition of the vegetation communities on the Preserve. Vegetation mapping will assist in the monitoring of vegetation trends and inform the Habitat Manager of any adaptive management tasks that might be necessary to maintain the desired vegetation communities to benefit the vernal pool floral and faunal communities for which the site were restored and preserved.

Objective: *Maintain or increase the value of the native vegetation communities, including species diversity and density to provide habitat for vernal pools, vernal pool-associated uplands and sensitive species.*

Task: vegetation community mapping. Every five years, the vegetation communities of the Preserve shall reviewed and updated to identify any changes. Mapping will be conducted on foot with the aid of a current vegetation map, aerial photograph, and GPS unit with sub-meter accuracy. The survey method will consist of surveying meandering transects on foot throughout the site to classify vegetation communities. In addition, all observations of plant and animal species will be recorded. The location of sensitive species observed on site and in the vernal pool basins will be recorded with a global positioning (GPS) unit with sub-meter accuracy. The Habitat Manager shall use the Vegetation Classification Manual for Western San Diego County (SANDAG 2011) and crosswalk to Holland (1986) / Oberbauer (2008), unless otherwise directed by the City or Wildlife Agencies. The revised maps will be submitted to the Wildlife Agencies. A revised map will be included in the annual report.

5.3.2 Invasive Species Identification and Monitoring

Due to the proximity of the restoration site to disturbed habitat associated with access roads and easements, invasive and non-native species control should continue in perpetuity. Special attention should be given to stinknet and any other non-native species that threaten to take over the site. The extent of stinknet and control of exotic plant species should be coordinated with landowners of adjacent preserves and Habitat Managers region-wide (e.g., through SDMMP). The intent of such interaction will be to provide information/education to local landowners and the public regarding exotic plant species as well as to increase the efficiency of exotic plant control programs in adjacent areas.

Objective: *Identify and monitor invasive species with the following goal: the Preserve shall be mostly (95%) free of invasive and non-native species as defined by Cal-IPC or other regional guidance; this includes newly introduced species that may not have been listed by Cal-IPC. Cover of invasive species shall not exceed 5 percent greater than the baseline condition established during the first year of long-term monitoring. Zero-Tolerance species shall be no greater than 0 percent in perpetuity.*

Task: annual invasive species mapping. The Habitat Manager shall identify and monitor invasive species in the upland habitat and vernal pools basins concurrently with the invasive species removal effort. The upland habitats shall be visited twice per year and the vernal pool basins four times per year to target specific problem areas, including stinknet infestations, and collect an invasive species inventory; these visit may concur with the general conditions monitoring. The Habitat Manager shall qualitatively assess the Preserve at each scheduled site visit for signs of exotic species invasion and identify potential problem areas.

The following identification criteria shall be used:

- Zero percent cover for weed species categorized as High or Moderate in the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory, and relative cover of all other weed species is no more than 5 percent coverage for other nonnative invasive weed species for all 5 years of the 5-year monitoring period. Zero Tolerance species include species ranked as High Risk in the California Invasive Plant Council (Cal-IPC) 2006 Invasive Plant Inventory, as well as other species deemed by the Habitat Manager to be highly invasive, including stinknet. Species that receive a high ranking by Cal-IPC: "have severe ecological impacts on physical processes, plant and animal communities, and vegetation structure. Their reproductive biology and other attributes are conducive to moderate to high rates of dispersal and establishment. Most are widely distributed ecologically." (Cal-IPC 2006).
- No more than five percent cover of Moderate Tolerance species (e.g., species ranked as Moderate Risk by Cal-IPC), which include species that: "have substantial and apparent – but generally not severe – ecological impacts on physical processes, plant and animal communities, and vegetation structure. Their reproductive biology and other attributes are conducive to moderate to high rates of dispersal, though establishment is generally dependent upon ecological disturbance. Ecological amplitude and distribution may range from limited to widespread"(Cal-IPC 2006).

In addition, the Habitat Manager shall assess previously treated areas for one to three years after removal to ensure that invasive species have not re-emerged or been replaced by new invasive species.

5.3.4 Invasive Species Control and Removal

Invasive species threaten the diversity and abundance of native species through competition for resources, predation, and parasitism, interbreeding with native populations, transmitting diseases, or causing physical or chemical changes to the invaded habitat. “Invasive species” are those identified as moderate or high risk by the California Invasive Plant Council (Cal-IPC 2006) or other species determined to be locally invasive; Zero-Tolerance species are those identified as high risk, as described above.

Invasive species removal shall occur at four times per year in the spring, or as needed, and as directed through invasive species mapping (Task 5.3.2) and qualitative site visits. All workers conducting invasive plant removal activities shall be able to distinguish between native and non-native species, with special attention to rare, endangered, and vernal pool plant species. All invasive plant treatment within the vernal pools shall be performed manually using hand tools; invasive species removal shall be conducted by personnel holding valid pesticide application licenses. Invasive species control in vernal pool basins requires the presence of a vernal pool biologist to avoid impact to sensitive vernal pool species.

Objective: *Control invasive species that diminish the sensitive biological resources for which the Preserve was established.*

Objective: *Maintain or improve native species diversity and cover. Control invasive species at least four times annually in vernal pools with VPHCP-covered species.*

Task: general invasive species control. If an invasive species is determined to be a threat, appropriate control methods shall be employed, including hand removal, the use of mechanical equipment (e.g., weed whackers and mowers), application of an appropriate herbicide, or alternative non-invasive methods. Invasive species removal may occur multiple times per year and should be conducted prior to the seed set of the invasive species to eliminate the invasive species seed bank over time.

Control of exotic plant species will include three principal steps:

- Removal of Existing Exotic Plants – In general, exotic plant (weed) removal will be accomplished by hand or mechanical means. The use of gas-powered line trimmers and herbicide in the Preserves will be restricted to site-specific applications that receive prior approval by the Habitat Manager.
- Prevention/Reduction of Invasive Plant Introduction – Because the restoration site is located within the City’s Otay Mesa West Parcel B Vernal Pool Preserve, the City will continue to enforce prohibitions against the use of invasive species for landscaping and restoration efforts within surrounding adjacent properties.
- Removal of Introduced Invasive Plants –Zero Tolerance species (including stinknet) will be removed within two weeks after an individual or population is observed, prior to seed set. Moderate Tolerance species will be removed once the overall cover in a given area is more than five percent greater than the baseline condition. Invasive species will be removed to the maximum extent practicable.
- Focused weeding shall be conducted twice annually within the entire Preserve before weeds set seed and based on the phenology of the plants, and four times per year in vernal pools, based on the invasive species present and as determined by the Habitat Manager. The Habitat Manager may modify this schedule as necessary to accommodate annual fluctuations in rainfall and weed growth.

Spot-spraying with herbicides approved for use in California shall be conducted only by a licensed pesticide applicator and all label instructions shall be followed. Environmentally friendly approved herbicides are preferred (i.e. “Polaris”). Invasive species removal should be conducted before seed-set at the appropriate time of year based on the biology of a given species and potential impacts to sensitive plants and breeding birds.

Herbicide applications shall avoid vernal pool basins and at least five feet around each basin and should be conducted during the aquatic phase when vernal pools are inundated with water. Within vernal pools, extra care shall be taken to prevent removing vernal pool plant species or causing soil disturbance. Invasive species within vernal pool basins shall be removed manually when the pools are dry or platforms (e.g., plywood, rocks) should be used to prevent soil disturbance in moist pools. All invasive species material will be carefully removed from the site and legally disposed of at an appropriate facility. If an extensive treatment is needed, a detailed invasive species control plan shall be prepared and discussed with the Wildlife Agencies.

Newly discovered invasive species should be targeted and removed as research prescribes; for example, stinknet has invaded vernal pools on Otay Mesa from neighboring developments or easements, and shall be removed on a regularly basis until the species is no longer present. In addition to non-native and invasive species, native fascicled tarplant (*Deinandra fasciculata*) tends to grow in dense stands within many of the vernal pool basins. While this native plant commonly occurs on Otay Mesa often in dense stands, it might severely alter vernal pool hydrology if left unmanaged. It is recommended that the Habitat Manager monitor the density of this species within the vernal pool basins and consider hand removal if it begins to overtake the vernal pools. Restoration seed mixes shall not include this species.

5.3.5 Habitat and Artificial Burrow Maintenance

The Preserve will require the maintenance of the four artificial BUOW burrows and brush piles and bee blocks. Wood rats (*Neotoma* sp.) on Otay Mesa have been observed to use cholla cactus to block artificial burrow entrances. In addition, artificial burrows on the Preserve are being used by other species such as rattlesnakes (*Crotalus* sp.).

Objective: *Maintain or repair habitat components, cover, and refugia to encourage the use by burrowing owl and native pollinators.*

Task: artificial burrow cleaning. Burrow maintenance shall be conducted annually twice per year (post-breeding season from September through November, and prior to the breeding season in January). Burrow entrances should be freed of litter and blockages and nest chambers cleaned out.

Task: maintain brush piles and bee blocks. The Habitat Manager shall maintain and replace brush piles to attract ground squirrels for the purpose of burrow owl habitat creation, and bee blocks by replacing damaged or deteriorated materials. Management or replacement shall be as needed based on general condition monitoring and regular patrols.

5.3.6 Habitat Restoration and Repair

Habitat restoration might be needed to repair damage from Border Patrol use (e.g., tire ruts and compacted tails), trespassing, vandalism or stochastic events such as fires, floods or prolonged drought. Habitat restoration could be performed in the form of vernal pool basin and mima mound recontouring, and

replanting/reseeding of the portions or the entirety of the Preserve. Habitat repairs and restoration would be covered by the emergency fund identified in the long-term management endowment.

Objective: *Remediate and repair damaged habitat to contribute to the overall function of the Preserve.*

Task: perform habitat remediation and restoration. Habitat restoration shall be performed as needed. Should the need for habitat restoration arise, a qualified restoration ecologist shall prepare a habitat restoration plan. The restoration plan shall establish or enhance the populations of covered plant species, branchiopods and upland watershed (mima mound) habitat consistent with the City's VPHCP. Vernal pool restoration must be performed by a qualified restoration ecologist and restoration contractor with experience in vernal pool restoration and approved by the Wildlife Agencies. Vernal pool basin grading and inoculum collection shall occur during the dormant summer months. Planting shall occur in the rainy season between the months of December and February. Seed mixes shall be absent of fascicled tarplant when restoring vernal pool habitat and upland watershed. Habitat restoration would be funded through the emergency fund or additional funding sources not identified in this LTMP.

5.4 Species Specific Monitoring

Species-specific (quantitative monitoring) requires data collection over time using generally accepted metrics and statistical analysis. The purpose of quantitative monitoring is to identify trends over time to assess the functionality of the Preserve, and to identify stressors and threats, formulate feedback loops, and inform adaptive management measures. Data collection and analysis should use measurable protocols and be reliable, repeatable and accessible. Quantitative monitoring may also assist in the detection of stressors and threats relative to climate change. Data shall be compiled, analyzed and provided to inform adaptive management, including experimental design and pilot studies as funding allows.

Species-specific monitoring and management is required to maintain VPHCP-covered species in perpetuity. This LTMP assumes that the restored vernal pools function at management Level I per the City's VPHCP; if the pools are not at Level 1 management condition, Level 2 or 3 management shall be implemented, which may require the selection of reference sites³. Vernal pool monitoring shall be conducted by an ecologist and a botanist with documented vernal pool restoration experience, and a USFWS-certified branchiopod biologist.

5.4.1 Fairy Shrimp Monitoring

San Diego fairy shrimp shall be monitored using presence/absence confirmation during the wet season and population density estimates during the dry season. Annual wet season survey will indicate presence/absence, and an average estimated quantity of occupancy to the species level, and to observe hatched cysts and gravid females. Dry season surveys (every five years) provide an estimate of density for each branchiopod species, calculated as the number of cysts per volume of soil. The change in density can be tracked over time as a trend indicator of the population size of the pool. If the average cyst density is stable or increases across the occupied pools in a complex, it can be inferred that the population is stable or increasing at that complex. Data shall be collected, analyzed, and incorporated into the annual report.

Objective: *Maintain or increase San Diego fairy shrimp population size from baseline conditions. If the population size decreases over three successive monitoring events, management and remedial actions shall be evaluated.*

³ Currently, the reference pools for Otay Mesa are part of the J-26 complex off Alta Road; however, these pools are in decline and a new set of programmatic reference pools may need to be identified.

Task: monitor population density (every five years). Population density shall be measured every five years through dry branchiopod sampling (USFWS 2015; Bohonak and Simovich 2011) in the Preserve pools to account for population variability over time due to natural variables such as climate. The dry season surveys shall be conducted on a stratified sample size as described for the quantitative floral surveys pursuant to USFWS protocol (USFWS 2015; Bohonak and Simovich 2011) and the following guidelines from the VPHCP. Five core samples (2-inches in diameter and depth) shall be taken along two perpendicular transects that go through the deepest and second deepest points in each sampling basin, as follows:

- Samples should be collected within 1.0 meter from each pool's lowest point where shrimp cyst densities are the highest.
- Set up two perpendicular transects so that they intersect in each pool's deepest spot, and one transect should pass over the pool's second deepest point.
- Five core samples (2 inches in diameter and 2 inches deep) should be collected per pool as follows: one in the pool center, and one radiating out 1.0 meter in each of the four transect line directions, for a total of five samples per pool. The five samples shall be combined to determine the average density in the pool.
- The core samples should be taken when each pool's sediments are completely dry at the surface and subsurface.
- Core samples should be processed in the laboratory using standard washing protocol and cysts should be removed from the damp soil by trained personnel under a dissecting microscope.

Task: visual observance of presence absence/occurrence (annually). It is assumed that versatile fairy shrimp would be absent post-restoration of the vernal pools. However, since the species occurs on Otay Mesa, visual observations should be conducted in all pools annually during the wet season to determine presence of San Diego and versatile fairy shrimp, and evaluate habitat management triggers (per City of San Diego VPHCP, Table 7-5 and Section 5.5 in this LTMP). Visual observations shall be conducted in the sample pools on the Preserve throughout the wet season beginning when the pools hold 1.5 inches of water. Gravid fairy shrimp females shall be noted and the quantity estimates per pool (in the hundreds). The presence of other faunal species occupying the pools also shall be noted during the surveys. Visual observation shall occur concurrently with qualitative site visits and ponding observations.

5.4.2 Altered Topography/Ponding Verification

Modifications of vernal pools is a significant threat to VPHCP-covered species (Bauder 1986). Use of the area by Border Patrol and other unauthorized off-road vehicles, trespass, vandalism, and severe storm events may alter the hydrology and topography at the VDM Vernal Pool Preserve. Topographic and hydrologic integrity is paramount to sustainable vernal pool function. Tire tracks and ruts, runoff, footprints during the rainy season, and other land altering damage shall be evaluated, mapped, and repaired.

***Objective:** The vernal pools shall have high hydrological function. Vernal pool shall hold sufficient water long enough during the wet season to sustain a healthy population of San Diego fairy shrimp.*

Task: qualitative topography assessment: A qualitative assessment will be conducted during general conditions monitoring event evaluating the following criteria:

- Pool integrity and hydrologic function

- Shape and size of the disturbance at each pool or mima mound location
- Depth of ponding at the time of observation
- Need for repairs and repair equipment (manual versus mechanical)
- Any other observed disturbances shall be noted
- Need for micro-topographic restoration plans and watershed analysis relative to the potential effect to adjacent vernal pool conservation areas.

Task: ponding verification. Qualitative ponding verification shall occur annually and should be conducted concurrent with qualitative site visits. The Habitat Manager shall visually inspect the ponding or wet conditions of the vernal pool basins relative to the rulers installed in the deepest part of the pool (as part of the restoration process), and track ponding conditions annually.

5.4.4 Vernal Pool Flora

Quantitative monitoring of vernal pool target plant species has two purposes: (1) to identify short-term threats to species persistence; and (2) to identify longer-term trends that may suggest that a population is in decline. Adaptive management measures may be required to intervene when either natural or man-made disturbances or effects appear to be adversely influencing a sensitive species or when threats are determined for which no management measures are known.

***Objective:** The vernal pools and associated uplands shall have similar species composition, frequency and species richness of plant species in high functioning vernal pools.*

Task: conduct annual covered plant surveys. VPHCP-covered plant species monitoring (quantitative monitoring) shall be performed annually for 10 percent of the vernal pools containing covered plant species annually in spring, depending on phenology, temperatures, and rainfall (April/May is typically ideal). Methods shall follow those identified in the VPHC (see below). Photo-documentation shall be conducted annually at permanent stations previously established for restoration monitoring. Photos shall be taken each year from the same location, vantage point, and angle (e.g., by using a photo-equipped GPS unit) and compared to the previous year's photo documentation in the annual monitoring report.

Monitoring shall include cover estimates within the pool basins using a modification of cover classes taken from the California Native Plant Society's (CNPS) plant cover methodology using point-intercept transects (see Figure 5 for transects monitored during the five-year post-restoration period). The methods are described in the California Native Plant Society's Field Sampling Protocol (CNPS 2007, Sawyer et al. 2009, and online CNPS manual), modified by San Diego State University (Deutschman and Strahm 2009). Stratified sampling methods should employ a sampling design that quantifies overall quality, floral species composition, richness, and species distribution in the vernal pools. Stationary and rotating sampling locations shall be analyzed to determine trends, as described as follows. Some cover classes have been combined (the cover classes <1%, 1–5%, 5–10% are combined into one cover class <10%, and cover classes of 50–75% and 75%+ are combined into one cover class of 50%+) because the resolution of the cover classes below 10% and above 50% are not necessary to inform management decisions (e.g., need for weed control or remedial seeding) in vernal pool ecosystems. Therefore, estimated absolute percent cover of each covered plant species in a pool is grouped in the following classes to track changes in cover over time to inform management decisions: <10%, 10–25%, 25–50%, 50%+. Use of this modified class system allows for valuable data collection without the time required for other types of vegetation assessments

(transects, plot-frames, etc.). In addition to the covered plant species, other native and nonnative vegetative cover can be estimated with this modified CNPS class system. Non-native species shall be assigned their own cover class to allow for monitoring and targeted removal (pursuant to VPHCP Level 1 management guidelines).

A subset of the pools that are representative of all pools on site will be visually monitored and a species list created. The list will note the presence of exotic species and estimate cover for each species present. Using the CNPS cover class system described above, 10% of the vernal pools (four pool basins, alternating every year) with covered plant species shall be assessed quantitatively. Nonnative plant species shall be aggregated into one cover class estimate for comparison to the triggers (see below). Pools in a given complex with more than one covered species shall be preferentially chosen to reduce the total number of pools required for sampling. These intentionally chosen pools are considered sentinel pools. Each sentinel pool shall be surveyed every year. The remaining pools shall be chosen randomly to meet the 10% criterion. The randomly chosen pools shall be surveyed at a rotating schedule (different pools each year eventually rotating through all vernal pool basins) (Figure 5). Monitoring data shall be summarized to determine cover, species richness and frequency and included in the annual report. All vernal pool plant indicator species shall be identified, and all special-status plant occurrences shall be mapped. Inventories shall be summarized and, along with any maps of special-status species, shall be included in the annual reports.

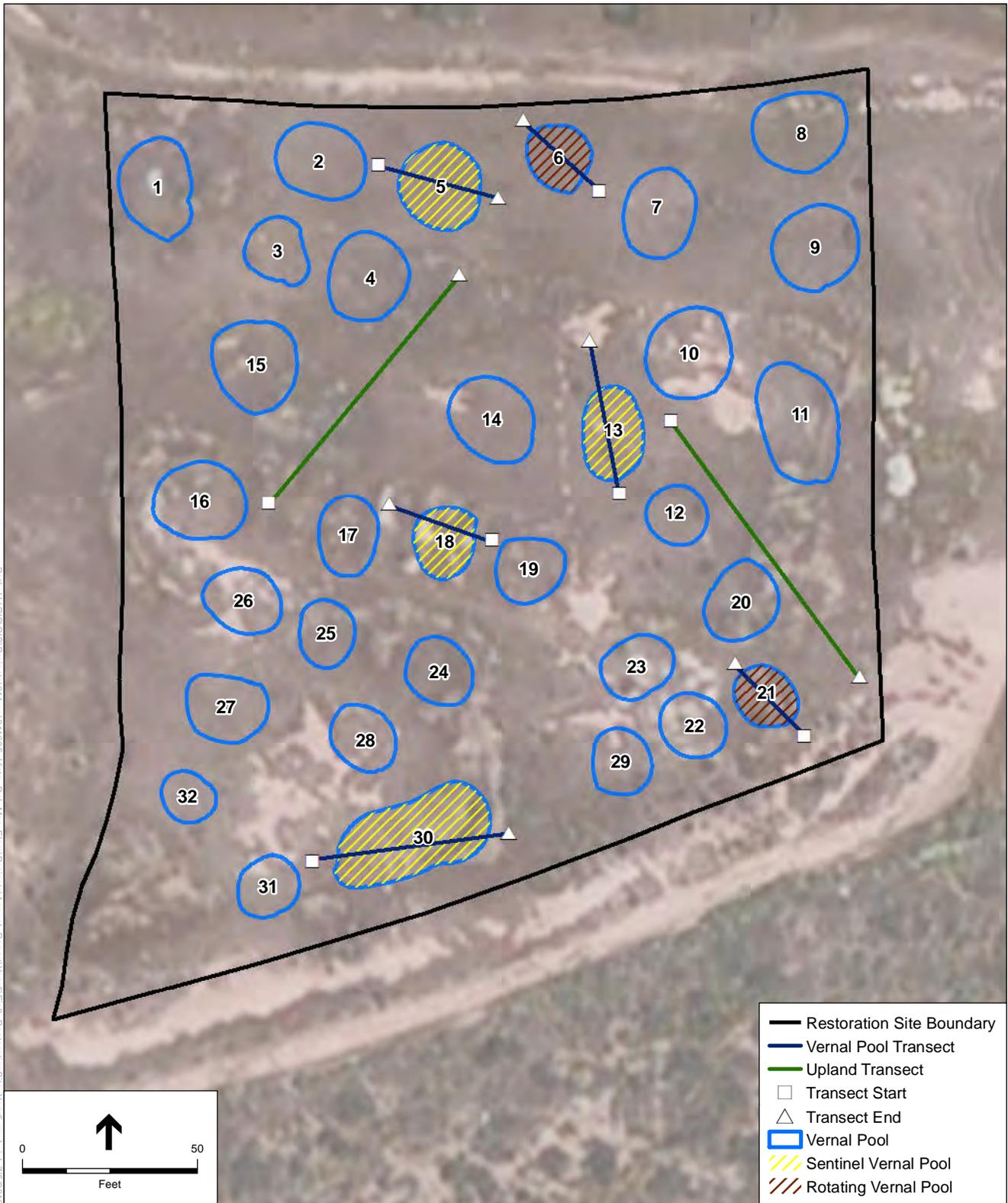
Permanent photo points shall be marked using sub-meter accuracy GPS units. Photographs shall be taken at the same time each year from the same locations, angle, and vantage point to monitor change over time. Direction, height and angle of photographs shall be recorded to assure that the same vantage point is used repeatedly over the monitoring period. Photos shall be compared between each sampling event to document changes and trends.

5.5 Species-Specific Management Triggers

Species-specific monitoring associated with Level 1 management of the VDM Preserve will inform the general health of the preserve. Should conditions deteriorate, management triggers pursuant to table 7-5 of the VPHCP would identify the need to implement Level 2 or Level 3 management. Adaptive management should occur as soon as a management trigger criterion has been reached (over three years of monitoring), as indicated by the monitoring data. Table 7-4 in the VPHCP illustrates the decision making process for the implementation of management based on triggers. Management Triggers from Level 1 to Level 2, or from Level 1 to Level 3 are indicated below.

Fairy Shrimp

- Level 1 to Level 2: a 20% decline in species density in the covered shrimp species present in the pools assessed over 3 years.
- Level 1 to Level 3: a 40% decline in species density in the covered shrimp species present in the pools assessed over 3 years.
- Additionally, if a complex has remained at Management Level 2 for 3 years with at least 55% of average rainfall, the complex would be elevated to Management Level 3 monitoring and management.



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SOURCE: ESRI 2014; RBF 2012; ESA 2016



Vista Del Mar Vernal Pool HMP
Figure 5
 Restoration Site Monitoring

Vernal Pool Hydrology

- Level 1 to 2: A change in the vernal pool hydrological network (i.e., inlet and outlet features) and water storage function such that the maximum depth of ponding is changed (increased or decreased) by more than +/-10% but less than +/-20% from the baseline recorded for the basin.
- Level 1 to 3: A change in the vernal pool hydrological network (i.e., inlet and outlet features) and water storage function such that the maximum depth of ponding is changed (increased or decreased) by +/-20% or more from the baseline recorded for the basin.

Covered Vernal Pool Flora

- Level 1 to 2 Management:
 - an average decline of one cover class for any covered plant species present in the pools assessed over 3 years with adequate rainfall, OR
 - an average increase of one cover class in combined nonnative cover in the vernal pools over 3 years, regardless of rainfall (only for pools with at least 10% total nonnative cover).
- Level 1 to 3:
 - an average decline of two cover classes for any covered plant species present in the pools assessed over 3 years with adequate rainfall, OR
 - an average increase of two cover classes in combined nonnative cover in the vernal pools over 3 years, regardless of rainfall (only for pools with at least 10% total nonnative cover).

6.0 REPORTING AND OUTREACH

6.1 Annual Reports

An annual report summarizing the status of the Preserve, the previous year's results of monitoring surveys, and all management and maintenance actions taken since the last assessment will be provided to the Wildlife Agencies (USACE, CDFW and USFWS) by December 31, pursuant to requirements in the VPHCP. The report will provide a summary of methods, identify new management issues, and address the success or failure of previous management approaches. All adaptive management resulting from previous monitoring results will be provided in a feedback loop and discussed.

This annual report will include: (1) information on the extent and overall health of the various habitats present within the preserve; (2) any changes to the health or distribution of sensitive plant and animal species observed, including vernal pools (provided on a map); (3) any observed changes resulting from natural or man-made causes; (4) summary of any management issues/tasks addressed during the previous year; and (5) tasks or recommendations for changes in management identified for the upcoming year. In addition, the annual report will include: (A) results of floral and faunal surveys, (B) photo documentation from fixed photo points and comparison with the previous year's photos, (C) summary of the Maintenance Account disbursements, (D) funds generated, expenses incurred in performing preserve management, and year-end balance, (E) locations of sensitive species plotted on a site map, and (F) site maps providing information on the cumulative areas of exotic species, trespass, dumping, and other concerns. This report also will compare the most recent data with those collected in previous years, and will outline appropriate remedial measures for habitat or sensitive species impacts. Statistical trends shall be identified as feasible and monitoring results shall be discussed in the context of future management actions, changes in monitoring and management methods, as needed, and the overall trajectory of the Preserve toward climax functions and overall health.

The annual monitoring and management report shall also include feedback loops to inform any changes in management and monitoring methods as a response to stressors and threats, and to remediate and mitigate the effects of climate changes (e.g., prolonged drought, changes in rainfall patterns, fires, etc.). If feasible, the monitoring data shall be submitted to the SDMMMP multi-taxa database to allow for regional tracking across the MSCP management area as part of the MSCP-driven Habitat Managers' collaborative efforts.

6.2 Public Outreach and Coordination

Acceptance of the City's Otay Mesa West Parcel B Vernal Pool Preserve as a valuable amenity by the community is an important consideration for the long-term viability of associated open space resources. To that end, steps will be taken to encourage participation by local residents and community members in the stewardship of the Preserves. Public outreach relative to the VDM Vernal Pool Preserve shall be undertaken by the City in association with outreach for the VPHCP. However, specific outreach may be conducted as described below. It is also a goal of this plan that community members take pride in the maintenance and protection of the Preserves, and function as stewards of the Preserve in coordination and consultation with the City of San Diego. The City will provide education to the neighboring community and the public regarding the sensitivity of vernal pool habitats and conserved open space such as the VDM Preserve. The City may also outreach to landowners of surrounding properties to inform them about edge effect management, such as access controls, trespass, littering, and invasive species invasion concerns.

Coordination with vernal pool monitoring on adjacent or nearby properties should occur to inform the regional MSCP and VPHCP monitoring efforts to evaluate the health of vernal pools and to develop adaptive management measures to remediate and mitigate effects of anthropogenic use and climate change. Coordination shall occur locally and regionally with adjacent land owners, Border Patrol, Habitat Managers, the Wildlife Agencies, and the SDMMP.

Table 1. Summary and Schedule of Management and Monitoring Tasks

TASK	PURPOSE	LOCATION	FREQUENCY
Qualitative habitat monitoring; general conditions assessment for	Assess overall condition of preserve (e.g., fencing, trash, trespassing, invasive species, habitat degradation, vernal pool ponding, topography, etc.) and map incidental observations of sensitive native species and BUOW occurrence. Evaluate threats and stressors and adaptive management responses.	Entire Preserve	Quarterly
Vegetation mapping	Map vegetation communities to track changes in boundaries and composition over time.	Entire Preserve	Once every five years
Invasive species monitoring - uplands	Monitor infestations of invasive species	Entire Preserve	Twice per year in spring
Invasive species monitoring – vernal pools	Monitor infestations of invasive species and estimate percent cover of non-native species	Vernal pools	Up to four times per year in winter/spring
Quantitative vernal pool covered plant surveys (floral monitoring)	Quantitatively (transects and photo points) monitor 10 percent of the vernal pools to assess changes in species richness, abundance, distribution, and cover.	10 percent of vernal pools (alternating) and parts of uplands	Annually
Qualitative ponding verification	Qualitatively observed vernal pool ponding conditions	All vernal pools	Annually
Visual Observations of San Diego fairy shrimp	Qualitatively assess the status and trend of San Diego fairy shrimp by visually observing occupancy with fairy shrimp in vernal pools	All vernal pools	Wet season: annually
San Diego fairy shrimp population density monitoring	Assess population viability and density; conduct dry season branchiopod sampling (certified biologist)	10 percent of vernal pool (alternating)	Dry season: every five years
Stewardship Management and Maintenance	Remove invasive species (general), thatch, and trash, maintain access protection and signs, fix	As needed (informed by monitoring data)	Quarterly or as needed (informed by quarterly qualitative site visits)

TASK	PURPOSE	LOCATION	FREQUENCY
	erosion problems, coordinate fire management and border patrol access, etc.		
Invasive species control and removal	Control and remove invasive species; invasive species removal in vernal pool basins requires the presence of a vernal pool biologist	Entire Preserve	Twice per year in spring and at least four times per year in vernal pools and watershed.
Burrowing owl artificial burrow management	Maintain and clean artificial burrows from debris; maintain entrances, nest boxes and reconstruct any burrow failures	Artificial burrows	Twice per year in November and January
Brush pile and bee box management	Manage the integrity of brush piles and bee boxes, and rebuild brush piles as needed	Entire Preserve	As needed
Annual reports	Prepare annual report summarizing all management and monitoring activities, continued threats, and other pertinent information for submittal to the City and Wildlife Agencies.	Vernal Pools, ephemeral channel, BUOW habitat	Annually, submitted to resource agencies and City of San Diego on or before December 31

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Appendix A.
Regulatory Permits and Approvals



DEPARTMENT OF THE ARMY

Los Angeles District, Corps of Engineers
Regulatory Division, South Coast Branch
6010 Hidden Valley Road, Suite 105
Carlsbad, CA 92011

April 29, 2011

REPLY TO ATTENTION OF

Office of the Chief
Regulatory Division

San Ysidro School District
Attn: Dena Whittington
4350 Otay Mesa Road
San Ysidro, California 91723

Dear Ms. Whittington:

Reference is made to your application for a Department of the Army Permit Application, dated March 3, 2009 (SPL-2009-00028-LLC). Enclosed are two copies of the permit authorizing you to discharge fill into waters of the United States (U.S.), in association with the San Ysidro School Vista Del Mar Elementary School (VDMES). The proposed work would take place approximately one mile east of Interstate 805 (I-805) and immediately north of State Route 905 (SR-905) within the southwest portion of the California Terraces Precise Plan (CTTP) area in the City and County of San Diego, California.

THIS PERMIT WILL NOT BECOME VALID UNTIL ALL OF THE FOLLOWING STEPS HAVE BEEN COMPLETED:

- 1. The owner or authorized responsible official must sign and date both copies of the permit indicating that he/she agrees to the work as described and agrees to comply with all conditions stated in the permit.**
- 2. The signer's name and title (if any) must be typed or printed below the signature.**
- 3. Both signed copies of the permit must be returned to the Corps of Engineers at the above address (Attention: CESPL-RG). Upon receipt of the signed copies, the Corps of Engineers will sign and forward one of the copies back to you.**

Furthermore, you are hereby advised that the Corps of Engineers has established an Administrative Appeal Process which is fully described in 33 CFR Part 331. The complete appeal process is diagrammed in the enclosed Appendix B. If you object to the terms or special conditions of this permit, you may submit the attached appeal form stating your objections and describing your proposed modifications to the permit terms and special conditions to:

Colonel R. Mark Toy, Commander and District Engineer
Los Angeles District, Corps of Engineers
P.O. Box 532711
Los Angeles, California 90053-2325
Telephone (213) 452-3961 Fax (213) 452-4214
electronic-mail: Richard.M.Toy@usace.army.mil

The District Engineer would then evaluate your objections and determine whether it is appropriate to change some, all, or none of the terms and special conditions of the permit. The permit would then be provided to you a second time, at which point you could accept the permit, appeal the permit conditions to the Corps South Pacific Division office, or withdraw your permit request.

If we do not receive the signed copies of the permit by June 29, 2011 your request for the proposed work will be withdrawn. It is not necessary to submit an appeal form unless you object to the conditions of the permit.

Attached to your permit are two notifications/certifications for you to notify this office regarding the dates for beginning and completing the authorized activity. If you have questions, please contact Lanika Cervantes at 760.602-.4838 or via e-mail at Lanika.L.Cervantes@usace.army.mil.

Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at:
<http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Therese O. Bradford
Chief, South Coast Branch
Regulatory Division

Enclosure(s)

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Tom Silva, San Ysidro School District		File Number: SPL-2009-00028-LLC	Date: 04/29/2011
Attached is:			See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

DISTRICT ENGINEER
Los Angeles District, Corps of Engineers
ATTN: Chief, Regulatory Division
P.O. Box 532711
Los Angeles, CA 90053-2325
Tel. (213) 452-3425

If you only have questions regarding the appeal process you may also contact:

DIVISION ENGINEER
South Pacific Division, Corps of Engineers
Attn: Tom Cavanaugh
Administrative Appeal Review Officer
South Pacific Division, CESP-D-PDS-O, 2052B
1455 Market Street, San Francisco, California 94103-1399
Phone: (415) 503-6574 Fax: (415) 503-6646
Email: thomas.j.cavanaugh@usace.army.mil

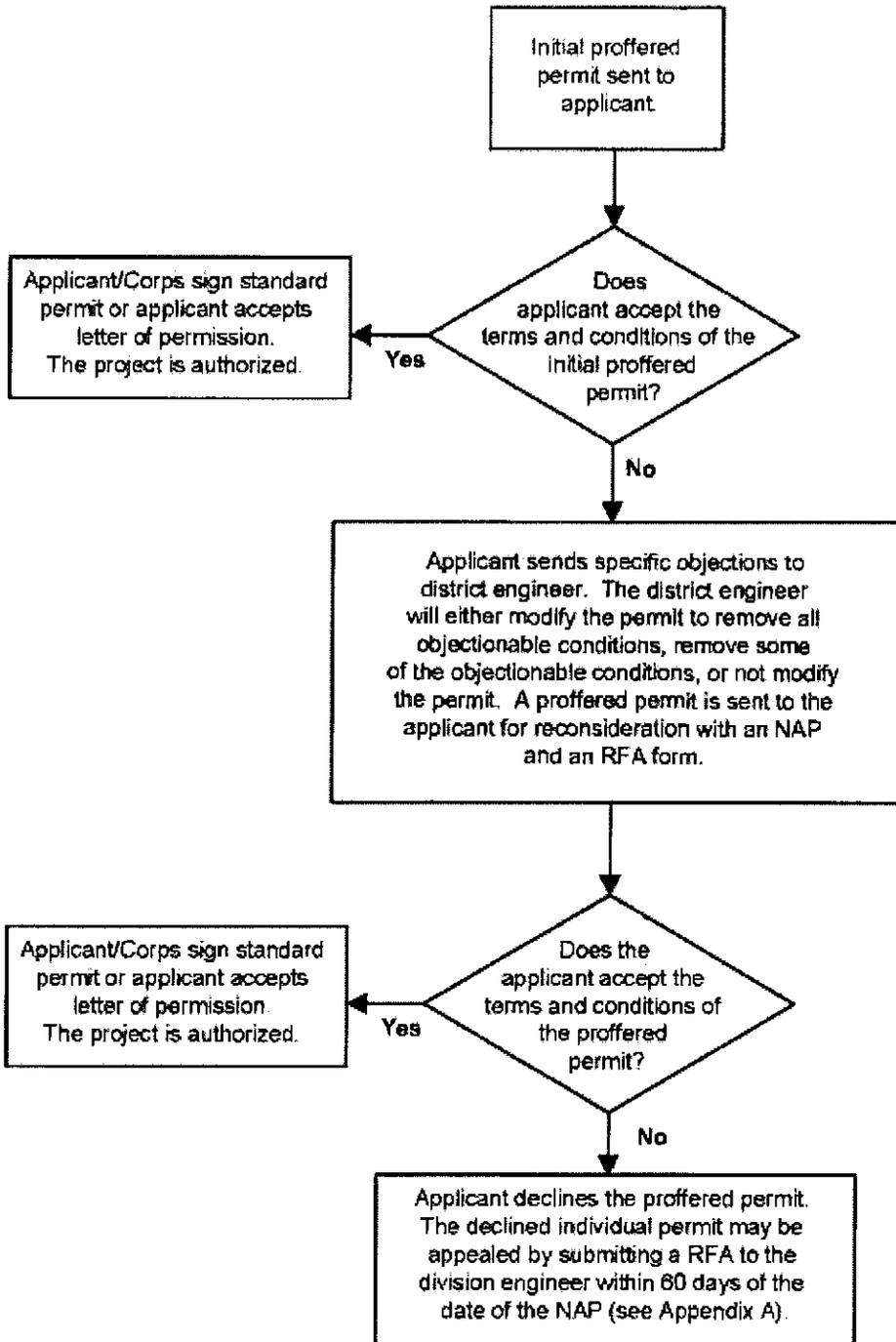
RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

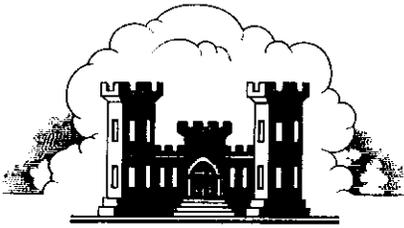
Date:

Telephone number:

Applicant Options with Initial Proffered Permit



Appendix B



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY PERMIT

Permittee: San Ysidro School District; Dena Whittington

Permit Number: SPL-2009-00028-LLC

Issuing Office: South Coast Branch, Los Angeles District

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The project consists of two components: 1) construction of a new K-6 elementary school, Vista Del Mar, and related infrastructure on the southernmost 10.08 acres of the Project site and 2) expansion of Del Sol Boulevard from its current terminus near Surf Crest Drive to the western property line of the Project site encompassing 5.47 acres (Figure 1 and 2). The entire construction footprint for both components of the proposed Project is approximately 15.55 acres.

Specifically, you are authorized for the following activities:

1. Permanently discharge fill material into 10 jurisdictional vernal pools that have a combined area of 891 square feet (0.02 acre) for the purpose of constructing a K-6 school and related infrastructure.
2. Temporarily impact a total of 14 existing vernal pools that have a combined area of 2,101 square feet (0.048 acre) on the West Otay Mesa Parcel B Mitigation site. Temporary impacts are authorized to enhance existing pools and increase their footprint to a total combined area of 4,473 square feet (0.10 acre).

Project Location: The Project site is in the southwest portion of the California Terraces Precise Plan (CTTP) area, and is part of the CTPP development in the City of San Diego, California. The Project site covers approximately 20.11 acres of vacant land, approximately one mile east of Interstate 805 (I-805) and immediately north of State Route 905 (SR-905). The intersection of Del Sol Boulevard and Surf Crest Drive is approximately 200 feet northeast of the project site. Access to the site would be via Del Sol Boulevard, which currently ends at the northeast corner of the proposed project site. The site is on the U.S.G.S. 7.5 minute Imperial Beach Quadrangle in Section 30, Township 18 South, and Range 1 West (Figure 1 and 2).

Permit Conditions:

General Conditions:

1. The time limit for completing the authorized activity ends on April 29, 2016. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. A conditioned water quality certification has been issued for your project dated February 7, 2011, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Special Conditions:

Pre-construction:

1. Prior to initiation of grading and project construction the Permittee shall provide written notification to the Corps. The notification shall include the following:
 - a. Corps File Number (SPL-2009-00028-LLC);
 - b. Name of company performing the work and onsite point of contact;
 - c. Size and type of equipment that shall be performing the work; and
 - d. Schedule for beginning and ending the project.

2. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

3. The Permittee shall provide all on-site contractors, subcontractors, and forepersons a copy of this permit with General Conditions and Special Conditions. The Permittee shall ensure that all of the above personnel read, understand, agree to, and comply with all terms and conditions of the authorization. A copy of this authorization, with the General and Special Conditions, and enclosures shall be included in all bid packages for the project and shall be available at the work site at all times during periods of work and must be presented upon request by any Corps personnel. The Permittee shall provide the Corps written confirmation of this special condition prior to construction, including names phone numbers, and addresses of all of the above personnel, including signatures indicating agreement with all General and Special Conditions of this authorization. Through construction of the project, the Permittee must ensure that all new personnel also comply with this condition.

4. The Permittee shall preserve, protect, and maintain in perpetuity the **5.03-acre on-site preservation area** (as shown in attached Figure 3). Prior to initiation of work in waters of the U.S., the Permittee shall record a Conservation Easement (CE), in a form approved by the Corps Regulatory Division, over the 5.03-acre on-site preservation area. Further, the Permittee shall receive written approval of the CE from the Corps' Regulatory Division prior to it being executed and recorded. The CE shall be held by a qualified third-party pursuant to California Civil Code section 815.3 and Government Code section 65965. The Permittee must provide monies in the form of an endowment (endowment amount to be determined by Property Analysis Record or similar methodology) for the purposes of fulfilling the third-party easement holder's responsibilities under the CE. The endowment holder must be approved by the Corps. The CE shall preclude establishment of fuel modification zones, paved public trails, drainage facilities, walls, maintenance access roads and/or future easements. Further, to the extent practicable, any such facilities outside the CE shall be sited to minimize indirect impacts on the preservation area.

5. Prior to initiation of work in waters of the U.S., the Permittee shall ensure a CE, in a form approved by the Corps Regulatory Division, is recorded over the **1.05-acre offsite mitigation area** (Figure 4 and 5) for the purpose of preserving, protecting, and maintaining

such mitigation area in perpetuity. Further, the Permittee shall receive written approval of the CE from the Corps' Regulatory Division prior to it being executed and recorded. The CE shall be held by a qualified third party pursuant to California Civil Code section 815.3 and Government Code section 65965. The Permittee must provide monies in the form of an endowment(s) (endowment(s) amount to be determined by Property Analysis Record or similar methodology) for the purposes of funding the long-term maintenance activities and fulfilling the third-party easement holder's responsibilities under the CE. The endowment holder must be approved by the Corps. The CE shall preclude establishment of fuel modification zones, paved public trails, drainage facilities, walls, maintenance access roads and/or future easements.

6. Prior to initiation of work in waters of the U.S., the Permittee shall post financial assurance in an amount and form approved by the Corps' Regulatory Division to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with applicable performance standards. The financial assurance may be in the form of a performance bond, escrow account, letter of credit, or other appropriate instrument, subject to the approval of the Corps. Our preferred form of financial assurance is a letter of credit. For letters of credit, the credit must be issued by a federally insured financial institution rated investment grade or higher. For performance bonds, the corporate surety must appear on the Department of Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies. For a current list of Treasury-authorized companies, write or call the Surety Bond Branch, Financial Management Services, Department of the Treasury, Washington DC 20227; (202) 874-6850 or at the following website: <http://www.fms.treas.gov/c570/c570.html>. The financial assurance shall only be released when the compensatory mitigation project has been determined by the Corps' Regulatory Division to be successful in accordance with its performance standards.

Construction:

7. No debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the U.S. Therefore, the Permittee shall employ all Best Management Practices (per the Water Quality Technical Report dated January 10, 2009) necessary to ensure that toxic materials, silt, debris, or excessive erosion do not enter waters of the U.S. during project construction. Upon completion of the activities authorized by this permit, any excess material or debris shall be removed from the work area and disposed of in an appropriate upland site.

8. The Permittee shall staff a qualified biologist on site during project grading and construction in the vicinity of waters of the U.S. to ensure compliance with all requirements of this permit. The qualified biologist shall document compliance with the General and Special Conditions. The Permittee shall submit the biologist's name, address, telephone number, email address (if available), and work schedule on the project to the Corps a minimum of fifteen (5) days prior to the planned date of initiating impacts to waters of the U.S. authorized by this permit. The biologist/Permittee shall report any violation to Lanika Cervantes at the Corps San Diego field office (760-602-4838) within one day of its occurrence.

Post-Construction:

9. Within 60 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memo indicating the date authorized impacts to waters of the U.S. ceased and the following information:

- a. As-built construction drawings with an overlay of waters of the U.S. that were impacted;
- b. Dated and labeled photographs of waters of the U.S. that were permanently and temporarily impacted (including latitude and longitude coordinates);
- c. A summary of all project activities which document that authorized aquatic impacts to waters of the U.S. were not exceeded, and demonstrated compliance with all permit general and special conditions; and
- d. A completed Certification of Compliance Form.

10. All correspondence and submittals shall reference the Corps project name and File Number (SPL-2009-00028-LLC), conspicuously on any transmittal letter and/or the first page/paragraph of the text, and on any graphics or photographs. All plans and photographs shall be labeled and dated. Failure to provide this information may cause the Corps to determine that the submittals are incomplete, not submitted by the due date, or non-existent, and therefore, not compliant with permit conditions.

Mitigation:

11. The Permittee has proposed to mitigate for permanent impacts to 0.02 acre (891 square feet) of vernal pool habitat, through re-establishment and enhancement of 0.218 acre of vernal pool habitat (a total of 32 vernal pools) within a 1.05 acre parcel as described in the final approved HMMP: "*Vista Del Mar Elementary School: Vernal Pool Preserve Restoration Plan*" (dated April 29, 2011, and prepared by HELIX Environmental Planning). The Permittee shall complete site preparation and planting and initiate monitoring as described in the final approved mitigation plan **concurrently** with impacts to waters of the U.S. According to the final approved HMMP, responsible parties would be as follows: a) Implementation: San Ysidro School District; b) Performance: San Ysidro School District; c) Long-term management: City of San Diego Park and Recreation Department. The Permittee retains ultimate legal responsibility for meeting the requirements of the final approved HMMP. Detailed mitigation objectives, performance standards, and monitoring requirements are described in the above final approved mitigation plan, as well as in special condition 16. Any requirements for financial assurances and/or long-term management provisions are also described in the above final approved mitigation plan, as well as in special conditions 5 and 6.

12. 30 days prior to implementation of the mitigation within the West Otay Mesa Parcel B, the Permittee shall submit the following:

- a. Specifications and topography-based grading and planting design (with 0.5-foot contours) within the mitigation site for approval by the Corps; and
- b. The Permittee shall contact the Corps for verification of proper grading of the mitigation site a minimum of 15 days prior to the planned date of initiating planting. All planting shall be installed in such a manner that mimics natural plant distribution (e.g., random distribution rather than uniform rows).

13. Prior to initiation of work in waters of the U.S., the Permittee shall prepare and submit a draft detailed long-term management, maintenance and monitoring plan for the vernal pool mitigation site on the West Otay Mesa B parcel. The District will submit the final Long-term Management Plan to the Corps and transfer the funds for the non-wasting endowment to the City, within **60 days** of receiving approval of the draft plan. The Long-term Management Plan should include, but is not limited to, the following:

- a. Long-term management needs;
- b. Monitoring schedule;
- c. Measures to prevent human and alien species encroachment;
- d. Annual cost estimates;
- e. Funding mechanism (endowment amount established by a PAR analysis); and
- f. Contingency measures should problems occur.

14. Within **60** calendar days of complete installation of all mitigation under the HMMP, the Permittee shall submit to the Corps Regulatory Division two copies of a memo indicating the following:

- a. Date(s) all mitigation was installed and monitoring was initiated;
- b. Schedule for future mitigation monitoring, implementation and reporting pursuant to final Corps-approved HMMP;
- c. Summary of compliance status with each special condition of this permit (including any noncompliance previously occurred or currently occurring and corrective actions taken to achieve compliance);
- d. Color photographs taken at the project site before and after construction for those aspects directly associated with impacts to waters of the U.S.; and
- e. One copy of "as built" drawings for the entire project, including all mitigation sites (all sheets must be signed, dated, to-scale, and no larger than 11 x 17 inches).

15. The Permittee shall submit annual mitigation monitoring reports to the Corps by **August 31st** of each year. The monitoring shall include all monitoring measures outlined in the approved HMMP AND the following:

- a. All figures in accordance with the Corps Final Map and Drawing Standards for the Los Angeles District Regulatory Division dated September 15, 2010;
- b. Results of monitoring program compared to the success criteria outlined in the HMMP;
- c. Identifying and mapping of any potential problem areas (i.e. areas not meeting success criteria) within the proposed mitigation site;
- d. All maintenance and/or remedial activities taken such as additional plantings, etc; all data sheets and field notes for all Qualitative and CRAM measurements taken (per the HMMP) and reported in the Monitoring reports must be included as a appendix; and
- e. A copy of the Individual permit must be included as an appendix (no need to add the **general** conditions).

16. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition 11 will not be considered fulfilled until you have demonstrated compensatory mitigation project success (listed below) and have received written verification of that success from the Corps Regulatory Division. Detailed mitigation objectives,

performance standards, and monitoring requirements are described in the approved HMMP with key Year 5 success criteria outlined below.

- a. A minimum of 5-years of maintenance and monitoring for the mitigation site has been completed;
- b. All water supplies shall be shut off for a minimum of 2 years prior to sign off;
- c. A minimum of 16 restored pools, totaling a minimum of 0.10 acre AND a minimum of 4455 square feet, of the 18 restored pools proposed within the mitigation site shall support San Diego fairy shrimp;
- d. At the end of the 5-year monitoring period, the monitored pools shall demonstrate hydrologic patterns similar to those of the control pools. The monitoring period will be extended if a drought period prevents the pools from demonstrating the desired hydrologic patterns. The vernal pools within the mitigation site must pond for sufficient time (estimated to be 30 days) to support SDFS during 2 winters in a 5-year monitoring period or 3 winters in a 10-year monitoring period in order to be deemed successful; AND
- e. The mitigation site must also meet all the vernal pool and Diegan coastal sage scrub (upland buffer) success criteria outlined in Table 1 and 2 in order to be deemed successful.

**Table 1
VERNAL POOL SUCCESS CRITERIA**

Year	Number of Indicator Species Relative to Control Pools (Species richness; percent)	Minimum # of Indicator Species Present in each pool (Species Richness)	Cover of Indicator Species Relative to Control Pools (percent)	Cover limits for Non-native species in vernal pools	CRAM scores Minimum score for each pool/Average across pools
1	35	1	25	--	--
2	50	1	35	--	--
3	65	2	50	<10% total	56/58
4	80	3	70	<5% Cal-IPC, <10% total	--
5	100	3	90	<1% Cal-IPC, <5% total	62/64

Table 2
DIEGAN COASTAL SAGE SCRUB
RESTORATION SUCCESS CRITERIA

YEAR*	SPECIES RICHNESS**	NATIVE COVER**	NON-NATIVE COVER†	TARGET WEEDS†
3	≥ 30	≥40	<5	<1
4	≥50	≥50	<5	<1
5	≥75	≥70	<5	<1

*No success criteria for Years 1 and 2

** Percent of richness relative to control transects.

Greater than or equal to amount shown.

† total cover - not relative to reference

Endangered Species Act:

17. This permit does not authorize you to take any threatened or endangered species, in particular the federally listed as endangered San Diego fairy shrimp (SDFS; *Branchinecta sandiegonensis*) and the federally listed as threatened coastal California gnatcatcher (*Polioptila californica californica*) or adversely modify its designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The FWS BO (FWS-SDG-09B0258-11F0076) contains conservation measures to be implemented as part of the project and terms and conditions that are associated with "incidental take" that is also specified in the BO for the SDFS, as well as Avoidance and Minimization Measures for the gnatcatcher. Your authorization under this permit is conditional upon your compliance with all of the conservation measures and terms and conditions associated with incidental take provided in the BO, which conservation measures are incorporated by reference in this permit. Failure to comply with the conservation measures and terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit and non-compliance with the MSCP.

- a. If project construction (other than clearing and grubbing of sensitive habitats) is necessary adjacent to preserved on and offsite habitat during the gnatcatcher breeding season (March 1 to August 15, or sooner if a qualified biologist demonstrates to the satisfaction of the Agencies that all nesting is complete), a qualified biologist will conduct preconstruction surveys in the adjacent habitat to determine the location of any active gnatcatcher nests in the area. The biologist must be knowledgeable of gnatcatcher biology and ecology and have a minimum 3 years of experience. The survey should begin not more than **3 days prior** to the beginning of construction activities. The Agencies will be notified if any nesting gnatcatchers are found. During construction, no activity will occur within 500 feet of active gnatcatcher nest, unless measures are implemented to minimize the noise and disturbance to those adjacent birds. Exceptions to this measure includes cases where surveys confirm that adjacent habitat is not occupied or where noise studies confirm that construction noise levels are below 60 dBA hourly Leq along the edge of adjacent habitat. If construction activities are not completed prior to the breeding

season and noise levels exceed this threshold, noise barriers will be erected to reduce noise impacts to occupied habitat to below 60 dBA hourly Leq and/or the culpable activities will be suspended.

Cultural Resources:

18. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify both Lanika Cervantes and the Corps' Archeology Staff within 24 hours (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

Further Information:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

- () Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).
- (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
- () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

- d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Dena Whittington
Dena Whittington
San Ysidro School District

4/29/11
DATE

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Therese O. Bradford
Therese O. Bradford
Chief, South Coast Branch
Regulatory Division

4/29/11
DATE

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

TRANSFeree

DATE

LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

**NOTIFICATION OF COMMENCEMENT OF WORK
FOR
DEPARTMENT OF THE ARMY PERMIT**

Permit Number: SPL-2009-00028-LLC
Name of Permittee: San Ysidro School District; Dena Whittington
Date of Issuance: April 29, 2011

Date work in waters of the U.S. will commence: _____
Estimated construction period (in weeks): _____
Name & phone of contractor (if any): _____

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that I, and the contractor (if applicable), have read and agree to comply with the terms and conditions of the above referenced permit.

Signature of Permittee

Date

At least ten (10) days prior to the commencement of the activity authorized by this permit, sign this certification and return it using any ONE of the following three (3) methods:

(1) E-MAIL a statement including all the above information to:

Lanika.L.Cervantes@usace.army.mil

OR

(2) FAX this certification, after signing, to: [760-602-4848]

OR

(3) MAIL to the following address:

U.S. Army Corps of Engineers
Regulatory Division
ATTN: CESPL-RG-SPL-2009-00028-LLC
6010 Hidden Valley Road, Suite 105
Carlsbad, CA 92011

LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

**NOTIFICATION OF COMPLETION OF WORK AND
CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY PERMIT**

Permit Number: SPL-2009-00028-LLC
Name of Permittee: San Ysidro School District; Dena Whittington
Date of Issuance: April 29, 2011

Date work in waters of the U.S. completed: _____
Construction period (in weeks): _____
Name & phone of contractor (if any): _____

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit.

Signature of Permittee

Date

Upon completion of the activity authorized by this permit, sign this certification and return it using any ONE of the following three (3) methods:

(1) E-MAIL a statement including all the above information to:
Lanika.L.Cervantes@usace.army.mil

OR

(2) FAX this certification, after signing, to: [760-602-4848]

OR

(3) MAIL to the following address:

U.S. Army Corps of Engineers
Regulatory Division
ATTN: CESPL-RG-SPL-2009-00028-LLC
6010 Hidden Valley Road, Suite 105
Carlsbad, CA 92011



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
5900 LA PLACE COURT, SUITE 100
CARLSBAD, CA 92008

May 31, 2017

Victor Guzman
San Ysidro School District
4350 Otay Mesa Rd
San Diego, CA 92154

Dear Mr. Guzman:

I am responding to your Department of the Army (DA) permit (File No. SPL-2009-00028-RJV), dated April 29, 2011 and amended June 13, 2011, to discharge dredged and/or fill material into waters of the U.S. in association with the Vista del Mar Elementary School project. The proposed work took place on approximately 20 acres of vacant land located approximately one mile east of Interstate 805, immediately north of State Route 905, and immediately west of the intersection of Del Sol Boulevard and Surf Crest Drive, within the City of San Diego, San Diego County, California.

Pursuant to Special Condition No. 11 of your DA permit, you were required to mitigate impacts to 0.002 acres (891 square feet) of vernal pools through re-establishment and enhancement of 0.218 acres of vernal pool habitat (a total of 32 vernal pools) within a 1.05 acre parcel at the City of San Diego West Otay Mesa Vernal Pool Preserve, as outlined in the approved habitat mitigation and monitoring plan (HMMP) titled, "Vista del Mar Elementary School: Vernal Pool Preserve Restoration Plan", dated April 29, 2011, and prepared by Helix Environmental Planning.

Based on the information contained in the most recent monitoring report, dated July 22, 2016, and our site inspection conducted on April 5, 2017, I have determined the required compensatory mitigation project has met all performance standards listed on pages 23-34 of the above HMMP and in Special Condition 16 of your DA permit. However, because the new/amended conservation easement (CE) has not yet been recorded and a long-term habitat manager has not yet been finalized, you must continue to maintain the site in its current condition, meeting all performance standards.

In addition, this letter does not relieve you, as the Permittee, of any requirements associated with the long-term management of the compensatory mitigation project once the performance standards have been achieved, including the financing of long-term management activities, regardless of the designated party responsible for implementing the long-term management. As the Permittee, you remain responsible for ensuring the long-term sustainability of the aquatic resource(s).

Similarly, this letter does not relieve you, as the Permittee, of any requirements associated with the long-term site protection requirements stipulated in Special Condition 5 for the off-site mitigation area or Special Condition 4 for the on-site preservation area.

Thank you for participating in our Regulatory Program. If you have any questions, please contact me at (760) 602-4837 or via e-mail at Richard.J.Vansant@usace.army.mil. Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

Richard J. Van Sant III
Senior Project Manager
South Coast Branch
Regulatory Division



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011



In Reply Refer To:
FWS-SDG-09B0258- 11F0076

FEB 04 2011

Colonel R. Mark Toy
District Commander
U.S. Army Corps of Engineers, Los Angeles District
Regulatory Branch – San Diego Field Office
6010 Hidden Valley Road, Suite 105
Carlsbad, California 92011

Attention: Lanika Cervantes, San Diego Field Office

Subject: Formal Section 7 Consultation on the San Ysidro School District's Vista Del Mar Elementary School Project (Corps File No. SPL-2009-0028-LLC), San Diego County, California

Dear Colonel Toy:

This document transmits the U.S. Fish and Wildlife Service's (Service) biological opinion on the effects of the San Ysidro School District's (District) Vista Del Mar Elementary School Project located in San Diego County, California, on the federally endangered San Diego fairy shrimp (*Branchinecta sandiegonensis*), in accordance with section 7(a)(2) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). Your April 20, 2010, request for formal consultation was received on the same date and included a "may affect" determination by your agency for the federally threatened coastal California gnatcatcher (*Polioptila californica californica*, "gnatcatcher").

The Multiple Species Conservation Program (MSCP) establishes a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with specific activities covered by the program. The MSCP encompasses a 900-square mile (mi) [2,331-square kilometer (km)] area in southwestern San Diego County and includes the City of San Diego (City), 10 additional city jurisdictions, and unincorporated portions of the County of San Diego. On July 18, 1997, the Service issued a section 10(a)(1)(B) permit ("incidental take permit") to the City for their Subarea Plan under the broader MSCP. The proposed project is located within the City's Subarea Plan boundary.

The gnatcatcher is a covered species under the City's Subarea Plan, and the City's incidental take permit authorizes take of gnatcatcher for projects consistent with their Subarea Plan. The Service concurs with your agency's determination that the proposed project may affect gnatcatcher. We have also determined that the project, including the proposed conservation measures (enclosed), is consistent for impacts to gnatcatcher with the City's Subarea Plan and its

associated implementation agreement and permit. Therefore, upon receipt by the District of development approval from the City for the project, take of gnatcatcher by the Vista Del Mar Elementary School project will be authorized through the City's incidental take permit.

The status of the gnatcatcher and the effects of implementing the City's Subarea Plan under the MSCP were previously addressed in our biological opinion for the City's Subarea Plan dated June 6, 1997. In this biological opinion, we concluded that the level of anticipated take in the City's Subarea Plan area boundary was not likely to result in jeopardy to the gnatcatcher. Given that the proposed project is consistent with the City's Subarea Plan, we do not anticipate any adverse effects to the gnatcatcher that were not previously evaluated in our biological opinion for the Subarea Plan. No incidental take of gnatcatcher beyond that anticipated in the biological opinion for the City's Subarea Plan will occur. Therefore, it is our conclusion that implementation of the proposed project will not result in jeopardy to the gnatcatcher.

By this consultation, we are extending to the U.S. Army Corps of Engineers (Corps) the take coverage for gnatcatcher (incorporated herein by reference) already provided to the City through their incidental take permit for their Subarea Plan. Extension of take coverage to the Corps under the City's Subarea Plan is limited to the proposed project as described in this biological opinion and as provided in the incidental take statement of our biological opinion for the City's Subarea Plan dated June 6, 1997. Thus, the Corps' consultation obligations under the Act for gnatcatcher have been met.

This biological opinion is based on information provided in the: *Wetland Delineation for the 18.6-acre San Ysidro School Site* (Glenn Lukos Associates 2008); *U.S. Fish and Wildlife Service Dry Season Protocol Level Survey Report for San Diego and Riverside Fairy Shrimp (*Branchinecta sandiegonensis* and *Streptocephalus woottoni*)*, *San Ysidro Elementary School 8* (Helix 2008); *Results of Wet Season Fairy Shrimp Surveys on the San Ysidro Elementary School 8 Site for 2007–2008* (Mariposa Biology 2008); *Final Vista Del Mar Elementary School Subsequent Environmental Impact Report* [The Planning Center (TPC) 2009a]; *Vista Del Mar Elementary School Vernal Pool Preserve Restoration Plan* (Helix 2010); field site visits; and other sources of information available in our files. The complete project file for this consultation is maintained at the Carlsbad Fish and Wildlife Office (CFWO).

CONSULTATION HISTORY

Our knowledge of this project began in April 2009 when we received a Draft Subsequent Environmental Impact Report (DSEIR) submitted under the requirements of the California Environmental Quality Act. We provided comments on the DSEIR in May 2009. On February 16, 2010, we met with the Corps and District to discuss the project and proposed locations to offset vernal pool impacts.

On April 20, 2010, we received a request for formal consultation from your agency. After initiation of consultation, the Corps worked with the District regarding alternatives to minimize impacts to waters of the U.S.

On July 22, 2010, we met on the project site to discuss alternatives to minimize vernal pool impacts and measures to offset unavoidable impacts. At the meeting, we recommended the District pursue vernal pool restoration, enhancement and management on the West Otay Mesa B parcel to offset project impacts. On October 5, 2010, we received the *Vista Del Mar Elementary School Vernal Pool Restoration Plan* (Helix 2010) for the West Otay Mesa B parcel.

BIOLOGICAL OPINION

DESCRIPTION OF THE PROPOSED ACTION

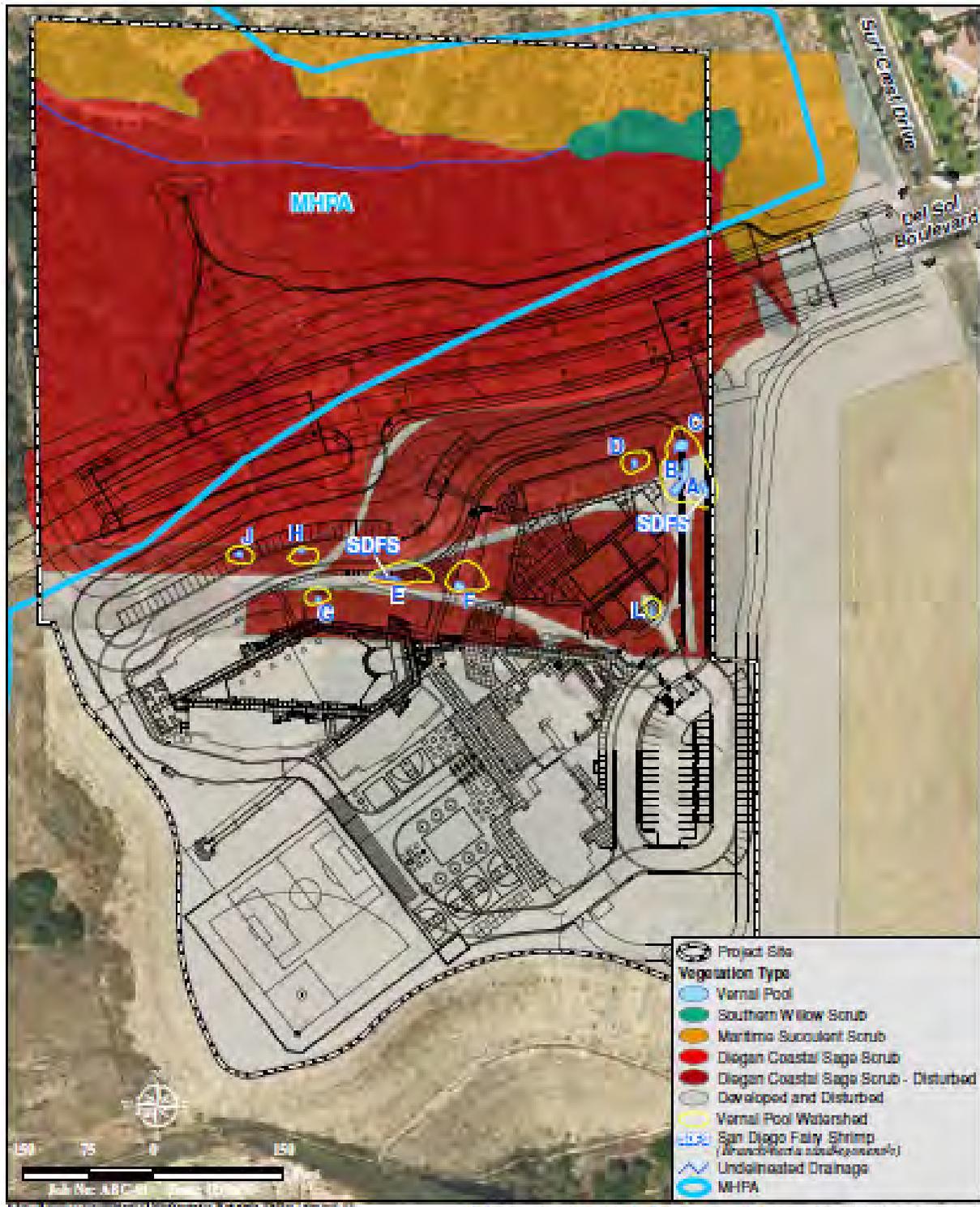
The proposed action is the issuance of a permit by the Corps to the District under section 404 of the Clean Water Act (CWA) to impact 0.02 acre (ac) [0.008 hectare (ha)] of waters of the U.S. to facilitate development of the proposed Vista Del Mar Elementary School. The project site covers 20.11 ac (8.1 ha) of vacant land and includes 19.2 ac (7.77 ha) of District-owned property and approximately 0.91 ac (0.37 ha) of private property. The project is located on Otay Mesa in the city of San Diego, approximately 1 mi (1.61 km) east of Interstate 805 (I-805) and immediately north of State Route 905 (SR-905) (Figure 1). Approximately 7.35 ac (2.97 ha) of the northwestern portion of the project site occurs within the Multi-Habitat Planning Area (MHPA), which is the City's preserve established under the MSCP. Access to the site will be via Del Sol Boulevard, which currently ends at the northeast border of the proposed project site.

The project consists of two components; 1) construction and operation of the Vista Del Mar Elementary School, and 2) extension of Del Sol Boulevard (Figure 2). The school will be constructed on 10.08 ac (4.08 ha) of the project site. The extension will begin at the existing terminus of Del Sol Boulevard and extend to the western boundary of the District-owned property and will encompass 5.47 ac (2.21 ha). Although the District will construct the extension of Del Sol Boulevard, the road extension will be funded by the City through reimbursement of fees to the District and/or through a mutual agreement between the City and District. Approximately 4.74 ac (1.92 ha) of the project site that is not directly impacted by the project will be conserved as part of the MHPA (Figure 2).

The project site includes 10 vernal pools that have a combined area of 0.02 ac (0.008 ha) (Table 1) (Figure 2), contain the vernal pool indicator plant species plantago (*Plantago elongata*), adobe popcornflower (*Plagiobothrys acanthocarpus*), and wooly marbles (*Psilocarphus brevissimus*), and support San Diego fairy shrimp. All of the vernal pools occur in disturbed coastal sage scrub on the mesa in the center of the project site.



Figure 1: Project Location Map



Vegetation Map and Project Impacts

VISTA DEL MAR ELEMENTARY

Figure 2: Vegetation, San Diego Fairy Shrimp and Project Impacts Map

Table 1. San Ysidro School District Vernal Pool and Watershed Area (square feet/ac)		
Basin	Pool Area	Watershed Area
A	121 (0.003 ac)	4,027* (0.09 ac)
B	303 (0.007 ac)	
C	157 (0.004 ac)	
D	45 (0.001 ac)	623 (0.01 ac)
E	47 (0.001 ac)	1,324 (0.03 ac)
F	74 (0.002 ac)	1,244 (0.03 ac)
G	43 (0.001 ac)	435 (0.01 ac)
H	26 (0.001 ac)	498 (0.01 ac)
J	45 (0.001 ac)	493 (0.01 ac)
L	29 (0.001 ac)	339 (0.01 ac)
Total	891 (0.02 ac)	8,983 (0.20 ac)

*pools A, B, and C share a single watershed area

The project will impact all 10 vernal pools on site. To offset these impacts, the project proposes to restore and enhance a total of 32 vernal pools with a basin area of 0.218 ac (0.09 ha) on the 1.05-ac (0.42-ha) West Otay Mesa B parcel, which is owned by the City and is in the City's MHPA (Figure 3). All restored pools and enhanced pools, as appropriate, will be planted with vernal pool indicator plant species and inoculated with San Diego fairy shrimp. However, based on the impacts to pools areas, to meet success criteria only 0.10 ac (0.04 ha) of the restored pools will be required to support reproducing San Diego fairy shrimp populations. In addition, the pool watersheds and surrounding uplands will be restored with maritime succulent scrub on the entire parcel. The District will also provide for long-term management of the West Otay Mesa B parcel.

According to 50 CFR § 402.02 pursuant to section 7 of the Act, the "action area" includes all areas to be affected directly or indirectly by the Federal action. Areas directly impacted include all areas within the project footprint, including construction vehicle access routes, staging areas, and grading areas. Habitat immediately adjacent to the project footprint may be indirectly impacted or degraded by construction activities or later in time due to the developed nature of the road. Thus, we have defined the action area for the proposed project to be the 20.11 ac (8.1-ha) project site and the 1.05 ac (0.42 ha) West Otay Mesa B parcel. Subsequent analyses of the environmental baseline, effects of the action, and levels of incidental take are based upon the action area.

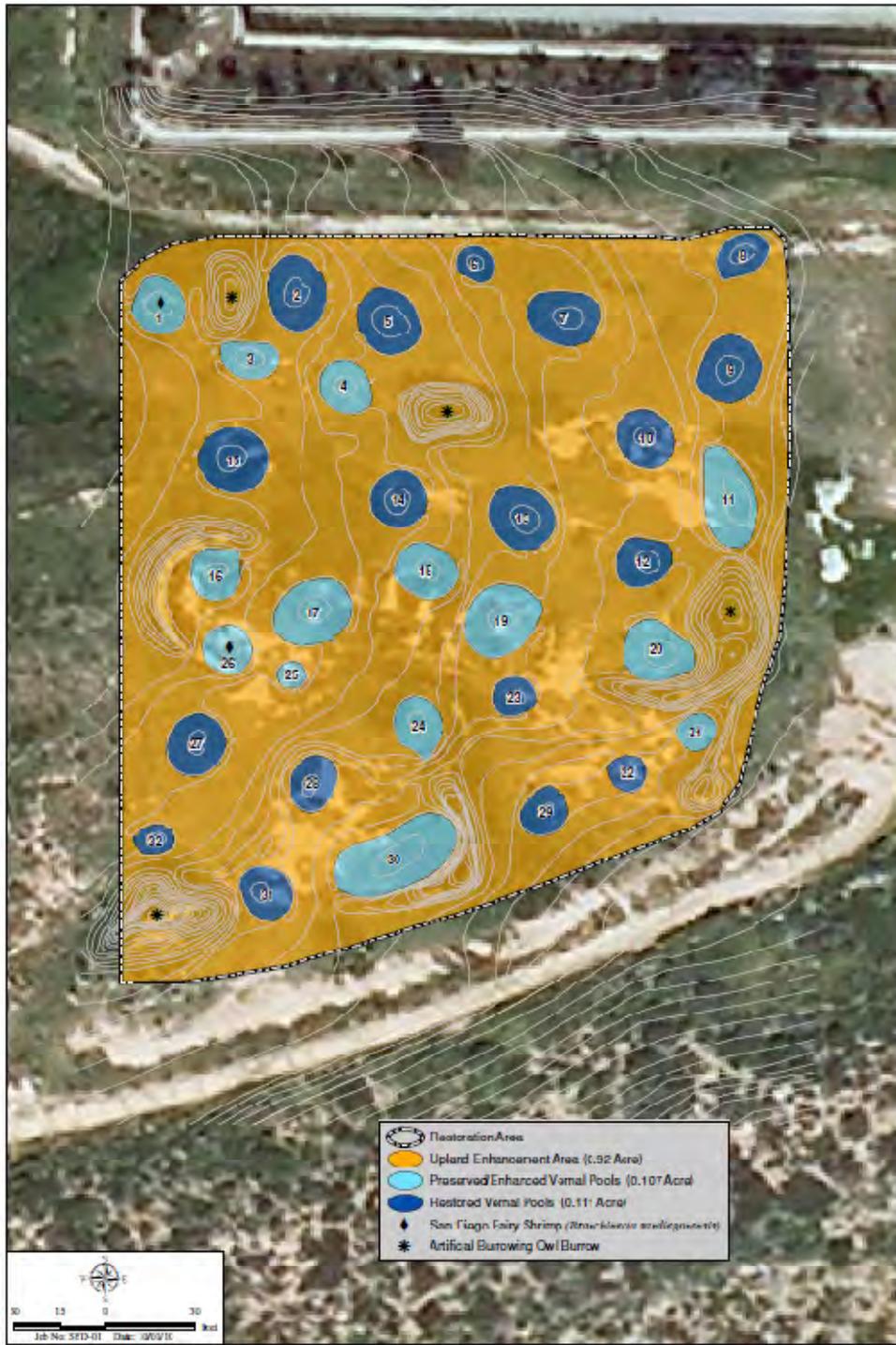


Figure 3: West Otay Mesa B Parcel Vernal Pool Restoration/Enhancement.

Conservation Measures

The following conservation measures will be implemented as part of the project to avoid, minimize, and offset adverse effects to San Diego fairy shrimp:

1. Impacts to 10 vernal pools [0.02 ac (0.008 ha)] will be offset through restoration of 15 vernal pools [0.10 ac (0.04 ha)] at the West Otay Mesa B parcel. In addition to this restoration, the existing 14 vernal pools on the site will be enhanced/expanded and 3 additional pools (i.e., pool 23, 31, and 32) will be restored for a combined total of 0.118 ac (0.047 ha) of surplus restored/enhanced vernal pool surface area. The surplus surface area is intended to provide a contingency surplus in the event that some of the restored pools are not successful. Upon completion, the site will support a total 0.218 ac (0.09 ha) of vernal pool habitat of which 0.10 ac (0.04ha) will offset project impacts. The remainder will be available to the City to offset future project impacts.
2. The District will submit a final vernal pool restoration/enhancement plan to the Corps and Service (Agencies) for approval at least 60 days prior to initiating project impacts. Project impacts will not occur until the Agencies have approved the final plan. The final plan will be based on the *Vista Del Mar Elementary School Vernal Pool Preserve Restoration Plan* (Helix 2010). In addition to the measures proposed in the draft plan, the final plan will include the following information:
 - a) Implementation of the final plan will be conducted under the direction of a qualified biologist (vernal pool restoration specialist) with at least 3 years of vernal pool restoration experience; the biologist will be approved by the Agencies;
 - b) The restoration area contains extant vernal pools. To avoid impacts to extant vernal pools, all measures required in Conservation Measure 4 will be implemented at the restoration site and thus specified in the restoration plan;
 - c) All restoration/enhancement activities will commence the first summer-fall season prior to or concurrently with the start of construction of the project;
 - d) All final specifications and topographic-based grading, planting and watering plans will have 0.5-foot (ft) [0.15-meter (m)] contours and show typical cross-sections for the vernal pools, watersheds and surrounding uplands (including adjacent mima mounds) at the restoration/enhancement sites. The basis for this fine-scale resolution is the shallow depth (i.e., several inches) of the vernal pools that will be restored/enhanced. The grading plans will also show overflow pathways that hydrologically connect the restored pools in a way that mimics natural vernal pool complex topography/hydrology;
 - e) A fine-scale, detailed hydraulic analysis that shows each proposed restored vernal pool and its watershed, and hydrologic connection between the pools, as well as the

watershed of the extant vernal pools to be enhanced. The watersheds of the restored pools will not extend into the watersheds of the extant vernal pools to be enhanced;

- f) Discussion and a table on the exact activities that will occur at each restored or enhanced vernal pool. The discussion and table will also include the initial conditions of the pools and the as-built conditions including basin size, average depth, ponding duration, existing native and nonnative cover and presence of listed species;
- g) All enhancement activities in the pools occupied by San Diego fairy shrimp that require soil manipulation (e.g., removal/recontouring of tire ruts or road fills, recontouring of pool slopes) will be done by hand to reduce impacts to the existing pool resources. Soil manipulation will be limited to areas adjacent to the existing pool and will be the minimum area necessary to accomplish pool enhancement. Topsoil will only be salvaged from the portions of the pools subject to soil movement. The areas of existing habitat, which are to remain unaffected by enhancement activities, will be specified and protected by temporary barriers prior to implementation;
- h) A map depicting the locations of the control pools within each reference site and a table detailing basin size, average depth, ponding duration, native cover, nonnative cover and presence of listed species for each pool;
- i) As a last resort and after approval by the Agencies, additional inoculum from donor vernal pools in the Otay Mesa area may be used to supplement the inoculum collected at the project impact site and West Otay Mesa B parcel. The final plan will identify any proposed donor pools and include documentation that they are free of versatile fairy shrimp (*Branchinecta lindahli*). No more than 10 percent of the basin area of any donor pool will be used for collection of inoculum. Collection of inoculum from Agency-approved donor pools will be consistent with Conservation Measure 4;
- j) Inoculum and planting will not be installed until the Agencies approve the habitat restoration site grading. All planting will be installed in a way that mimics natural plant distribution and not in rows. Inoculum will not be introduced into the restored or enhanced pools until after they have been demonstrated to retain water for the appropriate amount of time to support San Diego fairy shrimp [i.e., at least 30 days (Hathaway and Simovich 1996, Ripley et al. 2004)] and have been surveyed for versatile fairy shrimp to the satisfaction of the Agencies. If versatile fairy shrimp are detected in the restored or enhanced pools, inoculum will not be introduced until measures approved by the Agencies are implemented in attempt to remove the versatile fairy shrimp from the pools. Inoculum will be placed in a manner that preserves, to the maximum extent possible, the orientation of the San Diego fairy shrimp cysts within the surface layer of soil (e.g., collected inoculum will be shallowly distributed within the pond so that cysts have the potential to be brought into solution upon inundation);

- k) Plant palettes (species, size and number/acre) and seed mix (species and pounds/acre) will be included in the restoration/enhancement plan. The plant palette will include native species specifically associated with the onsite habitat type(s). If native plant species (no cultivars) cannot be obtained within Otay Mesa, an alternate site will be used only upon approval by the Agencies. The source and proof of local origin of all plant material and seed will be provided to the Agencies;
- l) Native plants and animals will be established within the restored/enhanced pools, their watersheds and surrounding uplands. This establishment can be accomplished by redistributing topsoil containing seeds, spores, bulbs, eggs, and other propagules from affected pools and adjacent vernal pool and upland habitats; by the translocation of propagules of individual species from offsite habitats; and by the use of commercially available native plant species and/or any vernal pool inoculum or plant material from an offsite source approved by the Agencies. Topsoil and plant materials from the native habitats to be affected on site will be applied to the watersheds of the enhanced and restored pools to the maximum extent practicable. Nonnative invasive weed control will be implemented within the restoration areas to protect and enhance habitat remaining on site;
- m) Any artificial watering of the restored/enhanced pool watersheds will be done in a manner that prevents water from entering into the pools. Any water to be used will be identified and documented to be free of contaminants that could affect the water quality of the pools and harm San Diego fairy shrimp;
- n) All weeding within and immediately adjacent to the restored/enhanced pools will be performed by hand. No herbicide will be used within the restored/enhanced pools. Herbicide may be used in the uplands adjacent to pools only as approved by the Agencies (e.g., using the "glove" method). All workers conducting weed removal activities will be educated to distinguish between native and nonnative species so that local native plants are not inadvertently killed by weed removal activities;
- o) A final implementation schedule that indicates when all vernal pool impacts and vernal pool restoration/enhancement grading and planting will begin and end. Any temporal loss of vernal pools caused by delays in restoration will be offset by additional habitat preservation and/or restoration as determined in coordination with the Agencies, unless the delays were caused by unforeseeable circumstances or were beyond the reasonable control of the project proponent;
- p) A minimum commitment to 5 years of monitoring of vernal pool and upland habitat restoration/enhancement areas. The final success criteria methodology will include quantitative hydrological, vegetation transects, viable cyst, hatched San Diego fairy shrimp, and gravid female measurements; complete flora and fauna inventories; and photographic documentation. To minimize impacts to the soil surface of the vernal

pool during restoration, enhancement and monitoring activities, cobbles will be oriented within the restored vernal pools to serve as stepping stones;

- q) In addition to the extant occupied vernal pools, 0.10 ac (0.04 ha) of the restored vernal pools will support San Diego fairy shrimp. Restoration success, as determined by the final success criteria, for San Diego fairy shrimp will be determined by measuring the ponding of water and density of viable cysts, hatched San Diego fairy shrimp, and gravid females within the restored pools. Water measurements will be taken in the restored pools to determine the depth, duration and quality (e.g., pH, temperature, total dissolved solids, salinity) of ponding. Dry samples will be taken in the restored pools to determine the density of viable cysts in the soils. Wet samples will also be taken in the restored pools to determine the density of hatched San Diego fairy shrimp and gravid females. Final success criteria will be set such that the pools must pond for a period of time similarly to reference vernal pools during an average rainfall year and at an appropriate depth and quality to support San Diego fairy shrimp. The average viable cyst, hatched fairy shrimp, and gravid female density of the restored pools must not differ significantly ($p < 0.05$) from reference pools for, at least, 3 wet seasons before a determination of success can be made. Vernal pools selected as reference or control pools for evaluating restoration success will be identified and described in the restoration plan as per Conservation Measure 2(h). Alternate methods of determining success will only be used if approved by the Agencies;
- r) Monitoring and success criteria for vernal pool and upland restoration/enhancement areas will include; species richness and cover criteria for all 5 years of monitoring, zero percent cover for weed species categorized as High or Moderate in the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory, and relative cover of all other weed species is no more than 5 percent coverage for other nonnative invasive weed species for all 5 years of the 5-year monitoring period. Container plant survival will be 80 percent of the initial plantings for the first 5 years. At the first and second anniversary of plant installation, all dead plants will be replaced unless their function has been replaced by natural recruitment. The method used for monitoring will be described and a map of proposed sampling locations will be included. Photo points will be used for qualitative monitoring and stratified-random sampling will be used for all quantitative surveys;
- s) A commitment by the District agreeing that restoration/enhancement of the vernal pools and uplands will be deemed complete once the final success criteria are met and only after written sign-off by the Agencies. Specifically, if a performance criterion is not met for any of the restored/enhanced vernal pools or upland habitat in any year, or if the final success criteria are not met, the project proponent will prepare an analysis of the cause(s) of failure and, if deemed necessary by the Agencies, propose remedial actions for approval. If any of the restored/enhanced vernal pools or upland habitat have not met a performance criterion during the initial 5-year period, the District's maintenance and monitoring obligations will continue until the Agencies deem the restoration/

enhancement successful, or contingency measures are implemented. Restoration/enhancement will not be deemed successful until at least 2 years after any contingency measures are implemented, as determined by the Agencies; and

- t) Annual reports will be submitted to the Agencies by January 31 of each year. Those reports will assess both the attainment of yearly success criteria and progress toward the final success criteria. The reports will also summarize the project's compliance with the conservation measures committed to as part of the Vista Del Mar Project, terms and conditions included in the biological opinion, and Corps permit conditions.
3. Prior to project construction, topsoil will be salvaged from the vernal pools to be impacted on site. Vernal pool soil (inoculum) will be collected when dry to avoid damaging or destroying San Diego fairy shrimp cysts. Hand tools (i.e., shovels and trowels) will be used to remove the top 2 inches (in) [5.1 centimeters (cm)] of soil from the pools. Whenever possible, the trowel will be used to pry up intact chunks of soil, rather than loosening the soil by raking and shoveling, which can damage the cysts. The soil from each pool will be stored individually in labeled boxes that are adequately ventilated and kept out of direct sunlight to prevent the occurrence of fungus or excessive heating of the soil and stored off site at an appropriate facility for vernal pool inoculum. Inoculum from different source pools will not be mixed for translocation to any restored/enhanced pools. The collected soils will be spread out and raked into the bottoms of the restored/enhanced pools. Topsoil and plant materials salvaged from the upland habitat areas to be impacted will be transplanted to, and/or used as a seed/cutting source for, the upland habitat restoration/enhancement areas to the maximum extent practicable as approved by the Agencies.
 4. Restoration grading activities at the West Otay Mesa B parcel will be timed to avoid wet weather to minimize potential impacts (e.g., siltation) to the extant vernal pools unless the area to be graded is at an elevation below the pools. To achieve this goal, grading will comply with the following:
 - a) Grading will occur only when the soil is dry to the touch at the surface and 1 in (2.5 cm) below. A visual check for color differences (i.e., darker soil indicating moisture) in the soil between the surface and 1 in (2.5 cm) below indicates the soil is dry;
 - b) After a rain of greater than 0.2 in (0.5 cm), grading will occur only after the soil surface has dried sufficiently as described above, and no sooner than 2 days (48 hours) after the rain event ends;
 - c) Grading will commence only when no rain is forecast during the anticipated grading period;
 - d) To prevent erosion and siltation from storm water runoff due to unexpected rains, Best Management Practices (i.e., silt fences) will be implemented as needed during grading;

- e) If rain occurs during grading, work will stop and resume only after soils are dry, as described above; and
 - f) Grading will be done in a manner to prevent run-off from entering extant vernal pools.
5. The District will post a performance bond or letter of credit with the Corps for grading, planting, and 5 years of maintenance and monitoring of the vernal pool and upland restoration/enhancement areas (including a 20 percent contingency to be added to the total cost). This financial assurance is to guarantee the successful implementation of the vernal pool/upland restoration/enhancement. The District will submit a draft financial assurance instrument with an itemized cost list to the Agencies for approval at least 60 days prior to initiating project impacts. The District will submit the final bond or letter of credit for the amount approved by the Agencies within 30 days of receiving Agency approval of the draft financial insurance instrument.
 6. The District will prepare and fund a perpetual long-term management, maintenance and monitoring plan (e.g., HMP) for the restored vernal pools used to offset impacts to San Diego fairy shrimp on the West Otay Mesa B parcel. The HMP should include, but not be limited to, the following: monitoring schedule, measures to prevent human and alien species encroachment, funding mechanism, and contingency measures should problems occur. The District will also establish a non-wasting endowment in an amount approved by the Agencies based on a Property Analysis Record (PAR; Center for Natural Lands Management ©1998) or similar cost estimation method to secure the ongoing funding for the perpetual long-term management, maintenance and monitoring of the biological conservation easement area by an agency, non-profit organization, or other entity approved by the Agencies. The District will submit a draft HMP including a description of perpetual management, maintenance and monitoring actions and the PAR or other cost estimation results for the non-wasting endowment to the Agencies for approval at least 90 days prior to initiating project impacts. The District will submit the final HMP to the Agencies and transfer the funds for the non-wasting endowment to a non-profit conservation entity, within 60 days of receiving approval of the draft plan. The District will not initiate project impacts until the HMP is approved and a funding mechanism acceptable to the Agencies is in place.

STATUS OF THE SPECIES

The status of the San Diego fairy shrimp is described in detail in the *San Diego fairy shrimp (Branchinecta sandiegonensis) 5-year review: Summary and Evaluation* (“5-year review for San Diego fairy shrimp”) (Service 2008a). Additional information for this species can be found in the *Recovery Plan for Vernal Pools of Southern California* (“vernal pool recovery plan”) (Service 1998). Please refer to these documents for detailed information on the San Diego fairy shrimp’s listing status, life history requirements of this species, threats to the species, and conservation needs of the species.

Summary of Species' Distribution and Numbers Rangewide

The vernal pool recovery plan reported 155 complexes (series of vernal pool groups that are hydrologically connected with similar species compositions) occupied by San Diego fairy shrimp within the species range from southern Orange County to northern Baja California, Mexico (Service 1998). Based on information gained about San Diego fairy shrimp occurrences since listing and issuance of the vernal pool recovery plan, we revised this estimate in the 5-year review for San Diego fairy shrimp to approximately 137 vernal pool complexes (Service 2008a). The 5-year review estimated that approximately 24 of these vernal pool complexes occur specifically on Otay Mesa, but considered one complex (i.e., J1) as extirpated (Service 2008a). The vernal pools on the project site are either a previously unknown remnant of the J1 complex or a complex not identified in the recovery plan or 5-year review. The vernal pools on the West Otay Mesa B parcel were also not identified in the recovery plan or 5-year review.

ENVIRONMENTAL BASELINE

Regulations implementing the Act (50 CFR § 402.02) define the environmental baseline as the past and present impacts of all Federal, State, or private actions and other human activities in the action area. Also included in the environmental baseline are the anticipated impacts of all proposed Federal projects in the action area that have undergone section 7 consultation and the impacts of State and private actions that are contemporaneous with the consultation in progress.

San Diego fairy shrimp historically occurred in vernal pool complexes throughout the Otay Mesa ecosystem, which is part of the San Diego Southern Coastal Mesa Management Area identified in the vernal pool recovery plan (Service 1998). Many of these vernal pool complexes have been developed, converted to agriculture, and/or degraded by off-highway vehicle (OHV) use.

The project site supports six plant communities: developed/disturbed, coastal sage scrub (CSS), disturbed CSS, maritime succulent scrub, southern willow scrub, and vernal pools¹ (Table 2). Much of the project site was previously graded and is devoid of any vegetation, and the vernal pools occur on the only native mesa top remaining on the project site. Soils on the mesa top consist of Olivenhain cobbly loam (Glen Lukos Associates 2008), which typically support vernal pools when they occur in flat areas like Otay Mesa. The mesa top has debris from human use and many OHV roads and lacks distinct mima mound features typically associated with vernal pool habitat on Otay Mesa. Ten vernal pools occur on the mesa top with a combined area of 0.02 ac (0.008 ha). All 10 of the vernal pools occur in or near the OHV roads and are relatively disturbed.

¹ "Vernal pools" technically do not constitute a plant community, but rather are a complex ecological system of unique plants, insects, and crustaceans associated with a seasonally wet habitat (Sawyer et al. 2009). Historically vernal pools were differentiated by edaphic (e.g., basalt flow, hardpan) or geographic/topographic (e.g., San Diego mesa, San Jacinto Valley) characteristics. Beginning in the 1990s and still ongoing (especially in southern California), a new classification based on ecological and floristic relationships between individual stands of plants (not individual pools or pool complexes) eventually will form the nomenclatural foundation for understanding vernal pool vegetation (Sawyer et al. 2009). Until this effort is completed, we will use the term "vernal pools" in the sense of a plant community.

Table 2
Plant Communities on Project Site
(ac)

<i>Plant Community</i>	<i>Inside MHPA</i>		<i>Outside MHPA</i>		<i>Total Project Area</i>
	<i>On Site</i>	<i>Off Site</i>	<i>On Site</i>	<i>Off Site</i>	
Developed/disturbed	0.02	0.00	7.54	0.53	8.09
Coastal sage scrub	5.74	0.04	1.56	0.11	7.45
Disturbed coastal sage scrub	0.06	0.00	2.60	0.10	2.76
Maritime succulent scrub	1.36	0.01	0.14	0.12	1.63
Southern willow scrub	0.16	0.00	0.00	0.00	0.16
Vernal pools	0.00	0.00	0.02	0.00	0.02
Total	7.35	0.04	11.86	0.86	20.11

Service protocol wet-season surveys for fairy shrimp were conducted on the project site from December through March 2008 (Mariposa Biology 2008). No fairy shrimp were detected in the 10 pools during the wet season surveys. However, these results may be due to the lack of sufficient ponding for fairy shrimp to hatch (Mariposa Biology 2008).

Dry season protocol surveys for fairy shrimp were performed on the project site in April 2008 (Helix 2008). Fairy shrimp cysts, identified as San Diego fairy shrimp after hydration, were found in pools A and E (Figure 2). No other fairy shrimp species cysts were found in any of the depressions (Helix 2008). However, based on habitat conditions, San Diego fairy shrimp have the potential to occur in all 10 pools. Rather than conduct additional, updated surveys to determine presence or absence of San Diego fairy shrimp within each pool, the District agreed with our determination that for the purposes of assessing project impacts to consider all 10 pools as occupied.

San Diego fairy shrimp were detected in two pools on the West Otay Mesa B parcel in 1997 (KEA Environmental 1998) (Figure 3). San Diego fairy shrimp also have the potential to occur in all 14 pools on this site. Rather than conduct additional, updated surveys to determine presence or absence of San Diego fairy shrimp within each pool, all 14 pools are also considered occupied on the West Otay Mesa B parcel.

EFFECTS OF THE ACTION

Effects of the action refer to the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated and interdependent with that action, which will be added to the environmental baseline. Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration. Indirect effects are those that are caused by the proposed action and are later in time, but are still reasonably certain to occur.

Direct Effects

Implementation of the Vista Del Mar Elementary School Project will directly impact (i.e., grade and fill) all 10 pools on the project site occupied by the San Diego fairy shrimp with a combined surface area of 0.02 ac (0.01 ha). These impacts will be offset through restoration, preservation and management of 15 new vernal pools [0.10 ac (0.04 ha)] occupied by the San Diego fairy shrimp at the West Otay Mesa B parcel. In addition to this restoration, 3 additional pools will be restored and the 14 extant vernal pools will be enhanced for a combined total of 0.118 ac (0.047 ha) of surplus restored/enhanced vernal pool basin area at the West Otay Mesa B parcel. Vernal pool restoration will occur around the extant pools on the West Otay Mesa B parcel, but will not impact the watersheds of extant pools. Enhancement will include pool re-contouring, expansion, and removing invasive species, trash and debris, as appropriate. While not required, surplus restored and enhanced pools may support San Diego fairy shrimp as well. Vernal pool restoration and enhancement will also include planting of vernal pool indicator plant species within the pools and maritime succulent scrub in the pool watersheds and surrounding uplands.

The long-term goal of the restoration and enhancement is to develop and preserve native habitats greater in area and superior in function to that presently on impact site, and to improve the potential for sustaining San Diego fairy shrimp in the vernal pool complex on the West Otay Mesa B parcel over the long-term. Upon project completion, the restored and enhanced pools will be within a 1.05 ac (0.42-ha) preserve that is connected to the MHPA in a configuration that maintains habitat functions and species viability.

Prior to initiation of impacts, soil containing San Diego fairy shrimp cysts will be salvaged from the pools to be graded and filled for use as inoculum in the vernal pools to be restored and enhanced on the West Otay Mesa B parcel. Additional inoculum with San Diego fairy shrimp cysts may be collected from donor vernal pools on the West Otay Mesa B parcel, or elsewhere on Otay Mesa, to supplement the inoculum collected at the project site. Inoculum will be collected when dry to avoid damaging or destroying San Diego fairy shrimp cysts, and no more than 10 percent of the basin area of any donor pool will be used for collection of inoculum. Hand tools (i.e., shovels and trowels) will be used to remove the first 2 in (5.1 cm) of soil from the pools. Whenever possible, the trowel will be used to pry up intact chunks of soil, rather than loosening the soil by raking and shoveling, which can damage the cysts. The soil from each pool will be stored individually in labeled boxes that are adequately ventilated and kept out of direct sunlight to prevent the occurrence of fungus or excessive heating of the soil, and stored off site at an appropriate facility for vernal pool inoculum.

The restored pools, and enhanced pools as appropriate, will be inoculated with cysts salvaged from the impacted pools and other pools on Otay Mesa approved by the Service. Inoculum will not be introduced into the restored/enhanced pools until after the pools have been demonstrated to retain water for the appropriate amount of time to support San Diego fairy shrimp [i.e., at least 30 days (Hathaway and Simovich 1996, Ripley et al. 2004)] and have been surveyed for versatile fairy shrimp to the satisfaction of the Agencies. If versatile fairy shrimp are detected in the restored/enhanced pools, inoculum will not be introduced until measures approved by the

Agencies are implemented in attempt to remove the versatile fairy shrimp from the pools. Inoculum will be placed in a manner that preserves, to the maximum extent possible, the orientation of the San Diego fairy shrimp cysts within the surface layer of soil (e.g., collected inoculum will be shallowly distributed within the pond so that cysts have the potential to be brought into solution upon inundation).

With the above measures, we expect that the majority of the cysts will be salvaged out of the pools to be graded and filled, and that while some may be crushed or otherwise destroyed, most will survive the salvage/inoculum collection and transplant process. Any cysts remaining in the pools after the salvage/inoculum collection efforts are completed will then be destroyed by grading and filling of the pools.

Restoration and enhancement activities, such as re-contouring of ponds, soil replacement, removal of nonnative invasive plant species, and monitoring activities, are expected to kill or destroy a small number of San Diego fairy shrimp cysts in each of the affected pools. Cysts are expected to be killed or destroyed as a result of being crushed by personnel conducting restoration and enhancement activities; being covered by soil as the pools are re-contoured; and by changes in micro-climate associated with re-contouring the soil. However, because the majority of cysts will be salvaged prior to the re-contouring efforts and reintroduced to suitable habitat within the enhanced basins, we expect the great majority of cysts to remain viable. Overall, the benefits to San Diego fairy shrimp associated with the restoration and enhancement are anticipated to be substantially greater than the destruction of some cysts during restoration, enhancement, and monitoring activities. The primary benefit of the enhancement activities will be to ensure that the hydrology of the vernal pool is enhanced by removing obstacles to water flow within the pool and replacing soil displaced from the tire tracks. In addition, the San Diego fairy shrimp will benefit from the removal of nonnative invasive plant species during vernal pool restoration and enhancement.

We anticipate that the restoration and enhancement protocols and associated adaptive management procedures will ensure that negative impacts to San Diego fairy shrimp are minimal. For example, disturbance will be limited to the area that is being enhanced; soil within areas that are being re-contoured will be salvaged and reintroduced to the pool where they were collected following re-contouring; cobbles will be oriented within the enhanced or restored vernal pools to serve as stepping stones; and restoration and enhancement activities will be overseen by a biological monitor familiar with vernal pool species and their habitats.

The District will also implement several other conservation measures to minimize impacts to San Diego fairy shrimp and to help ensure the success of vernal pool restoration, enhancement, and preservation efforts. Those efforts include: commencing restoration/enhancement activities the first summer-fall season prior to or concurrently with the start of construction of the project; posting a financial assurance approved by the Agencies to ensure successful implementation of vernal pool restoration and enhancement, upland restoration and maintenance, and overall monitoring; and funding a perpetual management, maintenance and monitoring plan. Implementation of these and the other proposed conservation measures discussed above will

minimize and offset the direct effects of the project on individual San Diego fairy shrimp and their habitats and are expected to ensure the long-term viability of San Diego fairy shrimp populations in the project area.

The vernal pools on the project site are highly degraded and subject to ongoing threats due to lack of management. While the vernal pools within the project footprint will be permanently impacted, the identified vernal pool restoration, enhancement and management is expected to result in a net increase in the acreage and quality of the vernal pools occupied by the San Diego fairy shrimp on Otay Mesa and range-wide. Therefore, the proposed project is not expected to result in an appreciable reduction in the numbers, reproduction, or distribution of the San Diego fairy shrimp.

Impact on Recovery

As stated above, the Service's 5-year review for San Diego fairy shrimp estimated that there are approximately 137 complexes occupied by San Diego fairy shrimp throughout the species range (Service 2008a). We also recommended in the 5-year review that the vernal pool recovery plan be updated to determine which of the known occurrences of San Diego fairy shrimp are needed for recovery of this species (Service 2008a). This evaluation has not been accomplished for the San Diego fairy shrimp.

Therefore, we are evaluating potential impacts to vernal pool complexes occupied by San Diego fairy shrimp on a project-specific basis to determine the impact of the project on the recovery of these species. For complexes that are not identified specifically in the vernal pool recovery plan, such as the complex at the Vista Del Mar Elementary School project site, we have supported a conservation strategy² that allows impacts to disturbed, unmanaged vernal pools in exchange for preservation, restoration, and management of vernal pools in a biologically defensible configuration (e.g., substantial connection to biological open space, minimizes edge effects) that helps ensure their long-term viability and supports recovery of the species. Because the onsite habitat at the Vista Del Mar Elementary School project site is highly disturbed with no management actions in existence or planned, we determined that following this same conservation approach would not preclude recovery of the San Diego fairy shrimp.

The proposed restoration and enhancement will be consistent with vernal pool recovery plan Task 2 (i.e., to reestablish vernal pool habitat to historic structure and composition) and Task 3 (i.e., to rehabilitate and enhance secured vernal pool habitats and their constituent species). The vernal pool recovery plan also emphasizes the need to manage and monitor protected habitat (see Recovery Tasks 4 and 5). Consistent with these tasks, the restoration and enhancement areas will be managed in perpetuity by a natural lands manager after the initial installation and 5-year monitoring period. The project is expected to result in a net increase in the acreage and quality of vernal pool habitat occupied by the San Diego fairy shrimp on Otay Mesa. Thus, the

² For other projects using this approach, please refer to the Robinhood Ridge biological opinion 1-6-97-F-57 (Service 1997); Caltreras biological opinion 1-6-95-F-35 (Service 1995), Sweetwater High School District biological opinion 1-6-99-F-77 (Service 1999), and Candlelight Villas biological opinion FWS-SDG-08B0715-08F0817 (Service 2008b).

breeding, feeding, and sheltering functions of the onsite habitat to San Diego fairy shrimp lost to project construction will be replaced and improved, and the overall project will be consistent with the habitat reestablishment and management goals outlined in the vernal pool recovery plan for the San Diego fairy shrimp.

CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, Tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act. We have not identified any State, Tribal, local, or private actions within the action area that should be considered in this biological opinion.

CONCLUSION

After reviewing the current status of the San Diego fairy shrimp, the environmental baseline for the action area, the effects of the action, and the cumulative effects, it is the Service's biological opinion that development of the Vista Del Mar Elementary School, as proposed, is not likely to jeopardize the continued existence of the San Diego fairy shrimp.

The Service reached this conclusion for the following reasons:

1. Impacts from the Vista Del Mar Elementary School project will affect only 1 of the approximately 137 (less than 1 percent) vernal pool complexes known to support San Diego fairy shrimp within its U.S. range.
2. All of the individual pools to be impacted are highly degraded and subject to ongoing threats due to lack of management.
3. The loss of 0.02 ac (0.01 ha) (10 pools) supporting San Diego fairy shrimp will be offset through restoration and perpetual management of a minimum of 15 [0.10 ac (0.04 ha)] vernal pools at the West Otay Mesa B parcel that will support San Diego fairy shrimp. This action is expected to result in at least five times the amount of San Diego fairy shrimp vernal pool habitat that will be lost on site.
4. The restoration actions proposed likely will be successful because the restoration will be implemented in an area that likely supported vernal pools historically (soil types necessary to sustain vernal pool habitat are present) and the methods proposed for this restoration effort have been successful on other Otay Mesa sites.
5. The project supports recovery of the San Diego fairy shrimp because it is consistent with the overall habitat reestablishment and management goals outlined for the species in the vernal pool recovery plan (Service 1998); specifically, the project is expected to result in a

net increase in the acreage and quality of the vernal pools occupied by the San Diego fairy shrimp on Otay Mesa through the restoration and management of at least 15 [0.10 ac (0.04 ha)] vernal pools on the West Otay Mesa B parcel in a configuration that maintains habitat function and species viability.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary and must be implemented by the Corps and/or the Applicant (i.e., project proponent) in order for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity that is covered by this incidental take statement. If the Corps and/or Applicant (1) fails to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, and/or (2) fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of section 7(o)(2) may lapse.

To monitor the impact of incidental take, the Corps and/or the Applicant must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement [50 CFR §402.14(i)(3)].

AMOUNT OR EXTENT OF TAKE

The Service anticipates that it will be difficult to quantify the exact number of San Diego fairy shrimp cysts that could be affected by the proposed action because the exact population size of fairy shrimp species is difficult to estimate due to the dynamic conditions associated with their habitat. The reproductive success of fairy shrimp is dependent on seasonal fluctuations in their habitat, such as presence or absence of water during specific times of the year, duration of inundation, and other environmental factors that likely include specific salinity, conductivity, dissolved solids, and pH levels. Therefore, the population of fairy shrimp in any given pool varies dramatically.

Because the precise number of individual San Diego fairy shrimp cysts that will be taken cannot be determined, we have established take thresholds based on the number and area of pools impacted. If any take threshold is exceeded, it will trigger reinitiation of consultation.

Take of San Diego fairy shrimp cysts is authorized as follows:

- Collection of San Diego fairy shrimp cysts from pool basins within the project footprint of the proposed Vista Del Mar Elementary School for subsequent translocation into restored and/or enhanced pools on the West Otay Mesa B parcel; and death and injury of San Diego fairy shrimp cysts as a result of these collection and translocation efforts. The take threshold will be met if San Diego fairy shrimp cysts are identified and collected from more than 10 pools or 0.02 ac (0.01 ha) of vernal pool habitat within the project site's development footprint.
- Following collection and salvage actions, death and injury of, or harm to, San Diego fairy shrimp cysts remaining within the 10 pools identified for grading and filling within the project site's development footprint. The take threshold will be met if more than 10 pools or 0.02 ac (0.01 ha) of vernal pool habitat within the project site, development footprint are identified and impacted.
- Collection of San Diego fairy shrimp cysts from the West Otay Mesa B parcel and/or other offsite donor vernal pools identified and approved by the Agencies on Otay Mesa for subsequent translocation into restored and/or enhanced pools on the West Otay Mesa B parcel; and death and injury of San Diego fairy shrimp cysts as a result of these collection and translocation efforts. The take threshold will be met if more than 10 percent of the basin area of any donor pool is impacted.
- Death and injury of, or harm to, San Diego fairy shrimp cysts within the 32 pools identified for restoration and/or enhancement at the West Otay Mesa B parcel by crushing, burying with sediment, or changes to habitat characteristics associated with the proposed restoration/enhancement. The take threshold will be met if more than 32 pools are identified for restoration and are subsequently impacted without notifying the CFWO.

EFFECT OF THE TAKE

In the accompanying biological opinion, we determined that this level of take is not likely to result in jeopardy to San Diego.

REASONABLE AND PRUDENT MEASURE

The project proponent is implementing significant conservation measures to offset the incidental take of San Diego fairy shrimp during construction and implementation of the Vista Del Mar Elementary School project. We have not identified any other measures that would further minimize this incidental take of these species. We believe the following reasonable and prudent

measure is necessary and appropriate to monitor the incidental take of San Diego fairy shrimp and to provide a trigger for reinitiation of consultation, if necessary.

1. The Corps and/or project Applicant will monitor and report on compliance with the established take thresholds for San Diego fairy shrimp prior to and following construction impacting occupied pools at the Vista Del Mar Elementary School project site.

TERMS AND CONDITION

To be exempt from the prohibitions of section 9 of the Act, the Corps and/or Applicant must comply with the following term and condition, which implements the reasonable and prudent measure described above. This term and condition is non-discretionary.

- 1.1 The Corps and/or Applicant will notify the CFWO in writing within 30 days of collecting the San Diego fairy shrimp cysts from the 10 vernal pools at the Vista Del Mar Elementary School project site;
- 1.2 The Corps and/or Applicant will provide a report to the CFWO within 60 days of completing project construction documenting that no more than 10 pools or 0.02 ac (0.01 ha) of vernal pool habitat were impacted at the Vista Del Mar Elementary School project site;
- 1.3 The Corps and/or Applicant will notify the CFWO if more than 32 pools occupied by San Diego fairy shrimp are identified for restoration or enhancement at the West Otay Mesa B parcel
- 1.4 Consistent with the vernal pool restoration/enhancement plan, the Corps and/or Applicant will provide annual reports for each of the years in which restoration and enhancement activities take place (minimum of 5 years) at the West Otay Mesa B parcel. The annual reports will include a summary of actions at each of the 32 restoration or enhancement pools that may have resulted in impacts to San Diego fairy shrimp; and identify all San Diego fairy shrimp cyst donor pools and confirm that no more than 10 percent of the basin area of any donor pool was impacted by cyst collection.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans or to develop information.

1. Wherever possible, for all projects involving vernal pools, the Corps should work with project applicants to establish a minimum 100-ft (30.5-m) wide habitat buffer to be preserved around vernal pools and their watersheds to limit the more immediate indirect edge effects caused by surrounding development and to ensure natural hydrological regimes are maintained.

REINITIATION NOTICE

This concludes formal consultation on the development of the Vista Del Mar Elementary School Project, as outlined in the request for initiation. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

If you have any questions or concerns about this biological opinion, please contact Patrick Gower of my staff at (760) 431-9440.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim A. Bartel', with a stylized flourish at the end.

Jim A. Bartel
Field Supervisor

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ENCLOSURE**Measures to avoid and minimize potential adverse effects to the coastal California gnatcatcher (*Polioptila californica californica*) from the Vista Del Mar Elementary School Project**

The Vista Del Mar Elementary School project includes the following conservation measures that the San Ysidro School District has committed to implement to avoid and minimize potential adverse effects to the gnatcatcher and to support a determination by the U.S. Fish and Wildlife Service (Service) that the project is consistent with the City of San Diego's Subarea Plan and its associated implementation agreement and Endangered Species Act (Act) section 10(a)(1)(B) permit.

1. Project activities will occur between August 15 and March 1 to avoid the gnatcatcher nesting season;
2. To offset the loss of 0.13 ac (0.052 ha) of maritime succulent scrub and 6.83 ac (2.76 ha) of Diegan coastal sage scrub, the remaining 4.74 ac (1.92 ha) of habitat on site will be preserved. This preserved land will be deeded over to the City of San Diego (City) for conservation in perpetuity as a component of the City's Multi-Habitat Planning Area (MHPA). The City will accept long-term management responsibility for the onsite preserved land. An additional 2.10 ac (0.85 ha) of coastal sage scrub credit will be purchased in the City of San Diego's Marron Valley Cornerstone Mitigation Bank. The District will provide proof of credit purchase to the Agencies prior to initiating project impacts;
3. Prior to project construction, the District will temporarily fence (with silt barriers) the limits of project impacts (including construction staging areas and access routes) to prevent additional habitat impacts and prevent the spread of silt from the construction zone into avoided adjacent areas. The entire impact limits will be fenced with silt fencing and/or orange construction fencing that will be maintained throughout the construction period to preclude human entry into the MHPA. Fencing will be installed in a manner that does not impact avoided habitats. No construction activities, materials, or equipment will be permitted outside the fenced project footprint. The District will submit to the Service and U.S. Army Corps of Engineers (Corps) (hereafter referred to collectively as the Agencies) for approval, at least 7 days prior to initiating project construction for each phase, final construction plans that include photographs of the fenced limits of impact and all areas to be impacted or avoided. If work occurs beyond the fenced limits of impact, all work will cease until the problem has been remedied to the satisfaction of the Agencies. Any impacts to riparian/wetland, upland habitat, and habitat for gnatcatcher or other federally listed species that occur beyond the approved fenced area will be offset as approved by the Agencies. Temporary construction fencing will be removed upon project completion;
4. Drainage from the construction area, new and proposed parking lots and developed areas in and adjacent to the preserve will not drain directly into the MHPA. The use of structural

and non-structural Best Management Practices, Best Available Technology, the restriction of grading and paving activity during a significant rain event, and the use of sediment catchment devices downstream of construction and paving activities will reduce potential impacts associated with construction. The project design will comply with the Standard Urban Stormwater Management Plan and Municipal Stormwater Permit criteria of the State Water Resources Control Board and the Clean Water Act section 401 Water Quality Certification issued by the Regional Water Quality Control Board for the Project.;

5. All lighting, including night lighting for project construction, installed in the vicinity of the MHPA, native vegetation communities, and other open space will be directed away or shielded to prevent light overspill. Streetlights will be low-intensity and shielded to minimize illumination of the adjacent MHPA. Night lighting of construction areas will be of the lowest illumination necessary for human safety, selectively placed, shielded and directed away from natural habitats;
6. Uses in or adjacent to the MHPA should be designed to minimize noise impacts. Berms or walls should be constructed adjacent to commercial areas, recreational areas, and any other use that may introduce noises that could impact or interfere with wildlife use of the MHPA. Excessively noisy uses or activities adjacent to breeding areas must incorporate noise reduction measures and be curtailed during the breeding season of sensitive species. Adequate noise reduction measures should also be incorporated for the remainder of the year;
7. If project construction (other than clearing and grubbing of sensitive habitats) is necessary adjacent to preserved on and offsite habitat during the gnatcatcher breeding season (March 1 to August 15, or sooner if a qualified biologist demonstrates to the satisfaction of the Agencies that all nesting is complete), a qualified biologist will conduct pre-construction surveys in the adjacent habitat to determine the location of any active gnatcatcher nests in the area. The biologist must be knowledgeable of gnatcatcher biology and ecology and have a minimum 3 years of experience. The survey should begin not more than 3 days prior to the beginning of construction activities. The Agencies will be notified if any nesting gnatcatchers are found. During construction, no activity will occur within 500 feet of active gnatcatcher nest, unless measures are implemented to minimize the noise and disturbance to those adjacent birds. Exceptions to this measure includes cases where surveys confirm that adjacent habitat is not occupied or where noise studies confirm that construction noise levels are below 60 dBA hourly L_{eq} along the edge of adjacent habitat. If construction activities are not completed prior to the breeding season and noise levels exceed this threshold, noise barriers will be erected to reduce noise impacts to occupied habitat to below 60 dBA hourly L_{eq} and/or the culpable activities will be suspended;
8. Storage and staging areas will be placed as far from sensitive areas as possible and kept free from trash and other waste. Staging areas for construction work will be located within previously disturbed sites and not adjacent to or within sensitive habitat. All construction-related debris will be removed off site to an approved upland disposal facility (not waters of the U.S., including Corps jurisdictional wetlands);

9. The changing of oil, refueling, and other actions that could result in a release of a hazardous substance will be restricted to designated areas that are a minimum of 100 ft (30.5 m) from any drainages. Such designated areas will be surrounded with berms, sandbags, or other barriers to further prevent the accidental spill of fuel, oil, or chemicals. Any accidental spills will be immediately contained, cleaned up, and properly disposed;
10. Impacts from fugitive dust will be avoided and minimized through watering and other appropriate measures;
11. The District will install permanent protective fencing along any interface with developed area, and/or use other measures approved by the Agencies, to deter human incursion into the biological conservation easement areas. Fencing will have no gates (except to allow access for maintenance and monitoring of the biological conservation easement areas) and be designed to prevent intrusion by pets, especially cats. Signage for the biological conservation easement areas will be posted and maintained at conspicuous locations. Plans for fencing and/or other preventative measures will be submitted to the Agencies for approval at least 60 days prior to initiating project impacts. Fencing, as approved by the Agencies, will be installed within 60 days of execution of the conservation easement;
12. The District will ensure that development landscaping adjacent to the biological conservation easement area(s) does not include nonnative plant species that may be invasive to native habitats. Nonnative plant species not to be used include any species listed on the California Invasive Plant Council's (Cal-IPC) "Invasive Plant Inventory" List. This list includes such species as pepper tree, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree-of-heaven, periwinkle, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. A copy of the complete list can be obtained from Cal-IPC's web site at <http://www.cal-ipc.org>. Plants that require intensive irrigation, fertilizers, or pesticides should not be used in landscaping adjacent to preserve areas and water runoff from landscaped areas should be directed away from the biological conservation easement areas and contained and/or treated within the development footprint. The District will submit a draft list of species to be included in the landscaping to the Agencies for approval at least 30 days prior to initiating project impacts. The District will submit to the Service the final list of species to be included in the landscaping within 30 days of receiving approval of the draft list of species. The District will not initiate project impacts until the list of species to be included in the landscaping is approved by the Agencies;
13. Any planting stock to be brought onto the project site for landscape or habitat creation/restoration/enhancement will be first inspected by a qualified pest inspector to ensure it is free of pest species that could invade natural areas, including but not limited to, Argentine ants (*Iridomyrmex humil*), fire ants (*Solenopsis invicta*), and other insect pests. Any planting stock found to be infested with such pests will not be allowed on the project site or within 300 ft (91.4 m) of natural habitats unless documentation is provided to the Agencies that these pests already occur in natural areas around the project site. The stock will be quarantined, treated, or disposed of according to best management principles by qualified

experts in a manner that precludes invasions into natural habitats. The District will ensure that all temporary irrigation will be for the shortest duration possible, and that no permanent irrigation will be used, for landscape or habitat creation/restoration/enhancement;

14. The District will provide a qualified project biologist for each phase of project construction who will be responsible for overseeing compliance with protective measures for the gnatcatcher and will be approved by the Agencies. The project biologist must be knowledgeable of gnatcatcher biology and ecology and have a minimum 3 years of experience. The District will submit the project biologist's name, address, telephone number, and work schedule on the project to the Agencies at least 30 days prior to initiating project impacts. The project biologist will perform the following duties:
 - a. Be on site during work and/or grading adjacent to areas to be preserved to ensure compliance with all conservation measures;
 - b. Oversee installation of and inspect the fencing and erosion control measures within the preservation areas a minimum of once per week and daily during all rain events to ensure that any breaks in the fence or erosion control measures are repaired immediately;
 - c. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust;
 - d. Train all contractors and construction personnel on the biological resources associated with this project and ensure that training is implemented by construction personnel. At a minimum, training will include: 1) the purpose for resource protection; 2) a description of the gnatcatcher and its/their habitat(s); 3) the conservation measures given in the biological opinion that should be implemented during project construction to avoid and/or minimize impacts to the gnatcatcher, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); 4) the protocol to resolve conflicts that may arise at any time during the construction process; 5) the general provisions of the Act, the need to adhere to the provisions of the Act, and the penalties associated with violating the Act;
 - e. Halt work, if necessary, for any project activities that are not in compliance with the conservation measures committed to as part of the project and specified in this biological opinion and conditions of the Corps permit. The biologist will report any non-compliance issues to the Agencies within 24 hours of its occurrence and confer with the Agencies to ensure the proper implementation of species and habitat protection measures; and

- f. Submit a final report to the Agencies within 60 days of project completion that includes: as-built construction drawings with an overlay of habitats that were impacted or preserved, photographs of the minimization and avoidance measures, and other relevant information documenting that authorized impacts were not exceeded and that general compliance with the project as described in this biological opinion, including the conservation measures, was achieved.
15. The Construction Manager will keep the project biologist up-to-date with current plans for each phase. A pre-construction meeting will be conducted with the project biologist, the vernal pool restoration biologist, and construction supervisors prior to all earthwork. The Agencies will be invited to the pre-construction meeting with 14 days advance notice. The contractors will be informed that the fenced areas are “no-entry” areas for the duration of construction. Each employee (including temporary, contractors, and subcontractors) will participate in a training/awareness program that will be presented by the project biologist(s), prior to working on the proposed project. At a minimum, the program will include the following topics:
- a) The purpose for resource protection;
 - b) A description of the gnatcatcher and its habitats;
 - c) The conditions of the Corps permit and the conservation measures described in the Service’s biological opinion and the that should be implemented during project construction to conserve sensitive habitats, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing);
 - d) Project features designed to reduce impacts to these species and promote their persistence/survival within the project area;
 - e) Employees will strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint;
 - f) To avoid attracting avian predators, the project site will be kept as clean of debris as possible. All food related trash items will be enclosed in sealed containers and regularly removed from the site;
 - g) Pets of project personnel will not be allowed on the project site;
 - h) Disposal or temporary placement of excess fill, brush or other debris will not be allowed in avoided waters of the U.S., as identified by flagging and/or fencing;
 - i) The protocol to resolve conflicts that may arise at any time during the construction process;

- j) The general provisions of the Act, the need to adhere to the provisions of the Act, and the penalties associated with violating the Act; and
 - k) A fact sheet that includes color photographs of the listed species, which will be shown to the employees. Following the education program, the fact sheet will be posted in the contractor and Resident Engineer's office, where they will remain through the duration of the Project. The District and the biologist(s) will be responsible for ensuring that employees are aware of the listed species.
16. The District will execute and record a perpetual biological conservation easement over the onsite preserve. This easement will be in favor of an entity approved by the Agencies. The Service will be named as third party beneficiary in the conservation easement and the terms of the easement will be approved by the Agencies prior to its execution. This easement will state that no other easements or activities (e.g., fuel modification zones, public trails, drainage facilities, walls, maintenance access roads) that would result in soil disturbance and/or vegetation removal will be allowed within the biological conservation easement area. The District will submit a draft conservation easement agreement to the Agencies for review and approval at least 90 days prior to initiating project impacts and will not initiate project impacts until the easement is approved by the Agencies. The District will submit the final easement and evidence of its recordation to the Agencies within 90 days of recordation of the final map;
17. The District will implement a perpetual long-term management, maintenance and monitoring plan (e.g., HMP) for the biological conservation easement areas. The HMP should include, but not be limited to, the following: method of protecting the resources in perpetuity (e.g., conservation easement); monitoring schedule; measures to prevent human and alien species encroachment; funding mechanism; and contingency measures should problems occur. The easement holder will designate a qualified organization or individual with suitable natural resource management experience and approved by the Agencies to manage the site. The District will also establish a non-wasting endowment in an amount approved by the Agencies based on a Property Analysis Record (PAR; Center for Natural Lands Management ©1998) or similar cost estimation method to secure the ongoing funding for the perpetual long-term management, maintenance and monitoring of the biological conservation easement area by an agency, non-profit organization, or other entity approved by the Agencies. The District will submit a draft HMP including a description of perpetual management, maintenance and monitoring actions and the PAR or other cost estimation results for the non-wasting endowment to the Agencies for approval at least 90 days prior to initiating project impacts. The District will submit the final HMP to the Agencies and transfer the funds for the non-wasting endowment to a non-profit conservation entity, within 60 days of receiving approval of the draft plan. The District will not initiate project impacts until the HMP is approved and a funding mechanism acceptable to the Agencies is in place.



California Regional Water Quality Control Board

San Diego Region



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Linda S. Adams
Acting Secretary for
Environmental Protection

Edmund G. Brown, Jr.
Governor

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[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

February 7, 2011

In reply refer to:
734568:jebsen

San Ysidro School District
Attention: Tom Silva
4350 Otay Mesa Road
San Ysidro, CA 92173

Dear Mr. Silva:

SUBJECT: Action on Request for Clean Water Act Section 401 Water Quality Certification for Vista Del Mar Elementary School, 09C-017

Enclosed find Clean Water Act Section 401 Water Quality Certification (Certification) with acknowledgment of enrollment under State Water Resources Control Board Order No. 2003-017 DWQ for Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have received State Water Quality Certification for the Vista Del Mar Elementary School project. A description of the project can be found in the project information sheet and on location and site maps compiled by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), which are included as Attachments 1 through 6.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that you have accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the San Diego Water Board including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability, referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

In the subject line of any response, please include the requested **"In reply refer to:"** information located in the heading of this letter. If you have any questions regarding this notification, please contact Ms. Jody Ebsen directly at 858-636-3146 or by email via jebsen@waterboards.ca.gov.

Respectfully,



DAVID W. GIBSON
Executive Officer

DWG:esb:jme

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. 09C-017 Vista Del Mar Elementary School, with 6 attachments

cc: Refer to Attachment 2 of Certification for Distribution List.

Tech Staff Info & Use	
File No.	09C-017
WDID	9000001990
Reg. Measure ID	362029
Place ID	734568
Party ID	43210
Person ID	484997



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Action on Request for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Discharge of Dredged and/or Fill Materials

PROJECT: Vista Del Mar Elementary School, Certification
Number 09C-017, WDID: 9 00001990

APPLICANT: Tom Silva
San Ysidro School District
4350 Otay Mesa Road
San Ysidro, CA 92173

CIWQS:	
Reg. Measure	362029
Place	734568
Party	43210

ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004 DWQ

PROJECT DESCRIPTION:

The San Ysidro School District proposes to build an elementary school, the related infrastructure and extend the eastern section of Del Sol Boulevard to the western edge of project boundary. Currently Del Sol Boulevard terminates on the east side of the project site and extension of the road is necessary to provide access to the school. The site is located on the southwest corner of Surf Crest Drive and Del Sol Boulevard in the City of San Diego and within the San Ysidro hydrologic sub-area (911.11). Storm water flows exiting the project site will discharge to unnamed tributaries of the Tijuana River located north of Del Sol Boulevard and south of the elementary school site. The proposed project will impact 0.02 acres (891 square feet) of vernal pools.



STANDARD CONDITIONS:

The following three standard conditions apply to all Certification actions, except as noted under Condition 3 for denials (Action 3).

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial Certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADDITIONAL CONDITIONS:

In addition to the three standard conditions, San Ysidro School District must satisfy the following:

A. GENERAL CONDITIONS:

1. Water Quality Certification No. 09C-017 (Certification) is only valid if the project begins no later than 5 (five) years from the date of issuance. If the project has not begun within 5 years from the date of issuance, then this Certification expires.
2. San Ysidro School District must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), to support this Certification and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must supersede conflicting provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the San Diego Water Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.

3. During construction, San Ysidro School District must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.
4. San Ysidro School District must permit the San Diego Water Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Certification.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 - d. Sampling of any discharge or surface water covered by this Order.
5. San Ysidro School District must notify the San Diego Water Board within **24 hours** of any unauthorized discharge, including hazardous or toxic materials, to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional best management practices (BMPs) or other measures that will be implemented to prevent future discharges.
6. San Ysidro School District must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
7. This Certification is not transferable in its entirety or in part to any person except after notice to the Executive Officer of the San Diego Water Board in accordance with the following terms.
 - a. **Transfer of Property Ownership:** San Ysidro School District must notify the San Diego Water Board of any change in ownership of the project area. Notification of change in ownership must include, but not be limited to, a statement that San Ysidro School District has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the Executive Officer of the San Diego Water Board within **10 days** of the transfer of ownership.
 - b. **Transfer of Mitigation Responsibility:** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in this Certification and as described in *Vista Del Mar Elementary School*

Vernal Pool Reserve Restoration Plan, February 2, 2011, Helix Environmental Planning, Inc., must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board within **10 days** of the transfer date.

- c. Transfer of Post-Construction BMP Maintenance Responsibility: San Ysidro School District assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred San Ysidro School District must submit to the San Diego Water Board within **10 days** of the transfer date a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications.

Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to San Ysidro School District will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not automatically relieve San Ysidro School District of this Certification in the event that a transferee fails to comply.

8. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
9. In response to a suspected violation of any condition of this Certification, the San Diego Water Board may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the San Diego Water Board deems appropriate, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

10. In response to any violation of the conditions of this Certification, the San Diego Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.
11. San Ysidro School District and successor owners must submit annual progress reports describing status of compliance with all requirements of this Certification to the San Diego Water Board prior to **August 1** of each year following the issuance of this Certification until the project has reached completion.

B. PROJECT CONDITIONS:

1. Prior to the start of the project, and annually thereafter, San Ysidro School District must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and BMP implementation and maintenance.
2. San Ysidro School District must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for discharges of dredged or fill material that have received State Water Quality Certification. These General Waste Discharge Requirements are accessible at:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/general_orders/go_wdr401regulated_projects.pdf
3. San Ysidro School District must notify the San Diego Water Board in writing at least **5 days** prior to the actual commencement of dredge, fill, and discharge activities.
4. San Ysidro School District must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ (for construction started on or after July 1, 2010), the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.
5. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the San Diego Water Board pursuant to CWC § 13260.
6. At all times San Ysidro School District is prohibited from allowing discharges of concentrated flow during and after construction or discharges resulting from project completion that cause offsite downstream erosion or damage to properties or stream habitat.
7. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the U.S. and/or the State or placed in locations that may be subjected to storm flows.

8. During construction all rough graded desilting basins must be designed, constructed and maintained, until all development on the project site is completed, according to the most recent California Stormwater Quality Association guidance for sediment basins.
9. All surface waters, including ponded waters, must be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
10. All areas that will be left in a rough graded state must be stabilized no later than one week after completion of grading. San Ysidro School District and subsequent owners, are responsible for implementing and maintaining BMPs to prevent erosion of the rough-graded areas to prevent flow from this area from causing negative impacts to beneficial uses. After completion of grading, all areas must be revegetated with native species appropriate for the area. The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at <http://www.cal-ipc.org/ip/inventory/weedlist.php>.
11. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, are prohibited from being discharged and must be prevented from contaminating the soil and/or entering waters of the U.S. and/or State, except as authorized by the Certification. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.
12. To protect rare, threatened, or endangered species the San Ysidro School District must implement all Conservation Measures included in the U.S. Fish and Wildlife Service Section 7 Consultation. The San Ysidro School District must provide a copy of the final Section 7 Consultation letter to the San Diego Water Board **prior to initiation of construction activities.**

C. POST CONSTRUCTION STORM WATER MANAGEMENT

1. San Ysidro School District is prohibited from allowing post-construction discharges to cause onsite or offsite downstream erosion, damage to properties or damage to stream habitats in the unnamed tributaries north and south of the future school and Del Sol Boulevard that will receive post-construction discharges from project site.

2. All post-construction best management practices (BMPs) must attenuate all storm water flows exiting the site to at or below pre-development conditions for storm events.
3. All storm drain inlet structures within the project boundaries must be stamped and/or stenciled (or equivalent) with appropriate language prohibiting non-storm water discharges.
4. Prior to project construction, San Ysidro School District must submit to the San Diego Water Board a letter accepting full responsibility for the inspection and maintenance of all BMPs installed on all roads that are required to be improved as part of the project, including, but not limited to, Del Sol Boulevard Street Improvement. Alternatively, San Ysidro School District may submit a letter documenting that the City of San Diego accepts full responsibility for the inspection and maintenance of all BMPs installed on all roads that are required to be improved as part of the project, including, but not limited to, Del Sol Boulevard Street Improvement.
5. All post-construction BMPs must be installed and functional prior to occupancy and/or planned use of development areas.
6. All post-construction BMPs as described in the application and supplemental documents including those outlined in: *CEQA Drainage Report Vista Del Mar, San Ysidro School District*, February 2009; RBF Consulting; *Water Quality Technical Report (WQTR) Del Sol Boulevard Street Improvements Phase 1, San Ysidro School District*, April 14, 2008, October 21, 2008, May 12, 2009 RBF Consulting; *Water Quality Technical Report (WQTR) Vista Del Mar, San Ysidro School District*, February 10, 2009 RBF Consulting; must be sized to comply with the following numeric sizing criteria and treat 100 percent of the new impervious surfaces associated with the project:
 - a. Volume
Volume-based BMPs must be designed to mitigate (infiltrate, filter, or treat) either:
 - i. The volume of runoff produced from a 24-hour 85th percentile storm event, as determined from the local historical rainfall record (0.6 inch approximate average for the San Diego County area); or
 - ii. The volume of runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile 24-hour runoff event; or
 - b. Flow
Flow-based BMPs must be designed to mitigate (infiltrate, filter, or treat) either:
 - i. The maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour; or

- ii. The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity, as determined from the local historical rainfall record, multiplied by a factor of two; or
 - iii. The maximum flow rate of runoff, as determined from the same reduction in pollutant loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two.
7. All post-construction structural BMPs, including, but not limited to, Clearwater Solutions filtration units (or equivalent that will remove hydrocarbons, soluble metals such as copper, lead, & zinc, phosphorus, pathogens such as e-coli, and sediment) as described in *CEQA Drainage Report Vista Del Mar, San Ysidro School District*, February 2009; RBF Consulting; *Water Quality Technical Report (WQTR) Del Sol Boulevard Street Improvements Phase 1, San Ysidro School District*, April 14, 2008, October 21, 2008, May 12, 2009 RBF Consulting; *Water Quality Technical Report (WQTR) Vista Del Mar, San Ysidro School District*, February 10, 2009 RBF Consulting; and storm water discharge points must:
 - a. be regularly inspected and maintained for the life of the school and road per manufacturers' specifications,
 - b. be assessed for performance of the systems to protect receiving waters and identify any necessary corrective measures,
 - c. have preventive and corrective maintenance performed,
 - d. be inspected prior to the commencement of the rainy season (October 1) and after every storm event exceeding 0.5 inches of precipitation,
 - e. maintain a log documenting all inspection and maintenance activities.
8. **Before occupancy**, San Ysidro School District, their designated party or the successor owners of the Vista Del Mar Elementary School, must submit a letter to the San Diego Water Board and the City of San Diego describing where the post-construction inspection and maintenance log will be kept. This log must be made available to the resource agencies upon request. Failure to maintain a post-construction inspection and maintenance log will be a violation of this Certification.
9. The extended detention basin must be designed and constructed in accordance with the most recent California Stormwater Quality Association guidance for extended detention basins. The basin outlets must be placed to maximize the flowpath through the facility. The ratio of flowpath length to width from the inlet to the outlet must be at least 1.5:1. The flowpath length is defined as the mean width of the basin.
10. San Ysidro School District must maintain the extended detention basin in perpetuity according to the most recent California Stormwater Quality Association guidance for extended detention basins. Typical activities include, but are not limited to:

- a. Semiannual inspection for the beginning and end of the wet season for standing water, slope stability, sediment accumulation, trash and debris, and presence of burrows;
- b. Removal of accumulated trash and debris in the basin as needed to ensure proper functioning of the basin; and
- c. Yearly inspection of accumulated sediment volume. Accumulated sediment should be removed and the basin re-graded when the accumulated sediment volume exceeds 10 percent of the basin volume.

D. RECEIVING WATER MONITORING

1. San Ysidro School District must develop and implement a five-year Receiving Waters Monitoring Plan in the Tijuana watershed to evaluate potential project impacts from pollutants/stressors to the unnamed tributaries to the Tijuana River that are north and south of the school and road where discharges from the project enter receiving waters. The Receiving Waters Monitoring Plan must be developed and submitted to the San Diego Water Board for approval **prior to construction commencement**. The Receiving Waters Monitoring Plan must assess conditions before, during, and after impacts have occurred by measuring changes in a functional assessment of the health of wetland and riparian habitats in the unnamed tributaries to the Tijuana River. The five year receiving water monitoring will begin prior to the start of project construction, and the data and analysis must be submitted annually by December 1 of each year.
2. San Ysidro School District must annually conduct a quantitative function-based assessment of the health of wetland and riparian habitats in the unnamed tributaries to the Tijuana River that are north and south of the project site using the **California Rapid Assessment Method (CRAM)**¹ along each stream reach beginning immediately down stream of storm water discharges. The results of the CRAM assessment of the receiving waters must be submitted annually by December 1 of each year. The discussion in the annual report must include comparisons to previous CRAM assessments and identify any changes or trends in the data.
3. San Ysidro School District must notify the San Diego Water Board if any degradation is discovered in the receiving waters within 5 days of discovery.
4. In response to a discovery of degradation in the receiving waters San Ysidro School District must submit to the San Diego Water Board a restoration plan and recommendations to prevent further degradation within 30 days of degradation discovery.

¹ Information on CRAM is available at the California Rapid Assessment Method homepage at <http://www.cramwetlands.org/>

5. The San Diego Water Board Executive Officer may make revisions to the Receiving Water monitoring program at any time during the five year monitoring term, and may include a reduction or increase in the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.

E. COMPENSATORY MITIGATION FOR LOSS OF WATERS OF THE U.S./STATE

1. Mitigation for permanent discharges to 0.02 acres (891 square feet) of vernal pool waters of the United States, must be achieved at a 5:1 ratio, with at least 0.02 acres of vernal pool restoration (re-establishment) and 0.08 acres of vernal pool restoration and/or enhancement at the West Otay Mesa Parcel B Preserve and as described in *Vista Del Mar Elementary School, Vernal Pool Preserve Restoration Plan*, February 2, 2011, Helix Environmental Planning, Inc.
2. San Ysidro School District must salvage soil collected from the impacted vernal pools to be used as inoculum at the restoration site.
3. CRAM assessments to be included as part of the vernal pool mitigation monitoring must be done near the end of the rainy season when ponding is evident and most vernal pool species are visible.
4. San Ysidro School District must provide mitigation monitoring for a minimum of 5 years. The monitoring period must include at least 3 winters producing average or above average rain totals for the year. Rain totals and averages for the year will be determined from the closest National Weather Service rain gauge. An on-site rain gage must be placed on the mitigation site. A log of rain measurements from the site must be included in the monitoring report.
5. San Ysidro School District must include in the monitoring report the depth, extent, and duration of ponding in the mitigation and reference vernal pools, identify if the conditions present are adequate to support San Diego fairy shrimp and vernal pool species populations. In years when conditions are adequate include a comparison of population densities of San Diego fairy shrimp in the mitigation pools and the reference pools.
6. If populations of San Diego fairy shrimp or other vernal pool species decline, an evaluation should be done to identify all potential causes for the decline and propose recommendations for any necessary actions.
7. San Ysidro School District must notify the San Diego Water Board in writing at least **5 days** prior to the actual commencement of mitigation installation, and completion of mitigation installation.
8. Prior to the start of construction, San Ysidro School District must provide the San Diego Water Board a preservation mechanism (e.g. deed restriction,

conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. Construction of the site must not be initiated until a completed preservation mechanism is received. The conservation easement, deed restriction, or other legal limitation on the mitigation property must be adequate to demonstrate that the site will be maintained without future development or encroachment on the site which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the U.S. that it supports. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the site. The preservation mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.

9. San Ysidro School District must submit a report (including topography maps and planting locations) to the San Diego Water Board within **90 days** of completion of mitigation site preparation and planting, describing as-built status of the mitigation project. Maps included as part of the report must indicate which mitigation pools received inoculum from the impact site.
10. The construction of proposed mitigation must be concurrent with project grading and completed no later than 9 months following the initial discharge of dredge or fill material into on-site waters. Delays in implementing mitigation must be compensated for by an increased mitigation implementation of 10 percent of the cumulative compensatory mitigation for each month of delay.
11. San Diego Water Board acceptance of the final mitigation plan applies only to the site and plan that mitigates for the Vista Del Mar Elementary School and must not be construed as approval of the mitigation site or plan for use by other current or future projects that are planning to use the West Otay Mesa Parcel B Preserve for mitigation.
12. Any maintenance activities that do not contribute to the success of the mitigation site and enhancement of beneficial uses and ecological functions and services are prohibited. Maintenance activities are limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species and remedial measures deemed necessary for the success of the restoration program.
13. San Ysidro School District is responsible to mitigate and repair any damage to the mitigation site caused by vandalism.

14. If at any time during the implementation and establishment of the mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, San Ysidro School District is responsible for repair and replanting of the damaged area(s).
15. Mitigation monitoring reports must be submitted annually until mitigation has been deemed successful. Annual monitoring reports must be submitted prior to **December 1** of each year. Monitoring reports must include, but not be limited to, the following:
 - a. Names, qualifications, and affiliations of the persons contributing to the report;
 - b. Tables presenting the raw data collected in the field as well as analyses of the physical and biological data, including at a minimum;
 - c. Topographic complexity characteristics at each mitigation site;
 - d. Upstream and downstream habitat and hydrologic connectivity;
 - e. Source of hydrology;
 - f. Width of native vegetation buffer around the entire mitigation site;
 - g. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;
 - h. Photodocumentation from established reference points;
 - i. A Survey report documenting boundaries of mitigation area; and
 - j. Other items specified in the final *Vista Del Mar Elementary School Vernal Pool Preserve Restoration Plan*, February 2, 2011, Helix Environmental Planning, Inc.
16. In the event that the proposed mitigation does not obtain the 5th year success criteria, San Ysidro School District must provide the San Diego Water Board with a technical report detailing the actions that will be taken to bring the mitigation up to the success criteria.
17. For purposes of this Certification, establishment is defined as the creation of vegetated or unvegetated waters of the U.S./State where the resource has never previously existed (e.g. conversion of nonnative grassland to a freshwater marsh). Restoration is divided into two activities, re-establishment and rehabilitation. Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the U.S./State previously existed (e.g., removal of fill material to restore a drainage). Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated or unvegetated waters of the U.S./State (e.g., removal of a heavy infestation or monoculture of exotic plant species from jurisdictional areas and replacing with native species). Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the U.S./State (e.g., removal of small patches of exotic plant species from an area containing predominantly natural plant species).

Preservation is defined as the acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the U.S./State (e.g., conservation easement).

F. PHOTO DOCUMENTATION PROCEDURE

1. San Ysidro School District, and its successors, must conduct photo documentation prior to and after construction of the permanent and temporary impacts to the project site, mitigation areas and receiving water areas beginning from the point of storm water discharges, and of implemented post-construction BMPs.
2. All photo documentation must be conducted in accordance with the State Water Resources Control Board Standard Operating Procedure: Stream Photo Documentation Procedure, included as Attachment Number 6. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced.
3. San Ysidro School District must submit this information in a photo documentation report to the San Diego Water Board with the annual mitigation monitoring reports. The report must include a compact disc that contains digital files of all the photos (jpeg file type or similar).

G. GEOGRAPHIC INFORMATION SYSTEM REPORTING

1. San Ysidro School District must submit Geographic Information System (GIS) shape files of the impact and mitigation areas within first Mitigation and Monitoring Report of mitigation installation. All impact and mitigation areas shapefiles must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.

H. REPORTING:

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the San Diego Water Board for failure to furnish requested information pursuant to CWC section 13268.
2. All reports and information submitted to the San Diego Water Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.
3. San Ysidro School District must submit a final project report to the San Diego Water Board within 90 days of completion of the project. The report should

include as-built drawings no bigger than 11" x 17", location of post-construction BMPs and photos of the completed project.

4. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:
 - a. For a corporation, by a responsible corporate officer of at least the level of vice president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
5. A duly authorized representative of a person designated in Items 4.a. through 4.c. above may sign documents if:
 - a. The authorization is made in writing by a person described in Items 4.a. through 4.c. above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the San Diego Water Board Executive Officer.
6. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."
7. San Ysidro School District must submit reports required under this Certification, or other information required by the San Diego Water Board, to:

California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; Project No. 09C-017
9174 Sky Park Court, Suite 100
San Diego, California 92123

8. Required Reports: The following list summarizes the reports required per the conditions of this Certification to be submitted to the San Diego Water Board.

Report Topic	Certification Condition	Due Date(s)
Unauthorized Discharges	A.4.	Within 24 hours
Transfer of Ownership/Responsibility	A.7	Within 10 days
Annual Progress Report	A11	August 1 of each year until project complete
Impacts to Waters	B.3	5 days prior to commencement of fill activities
Final Section 7 Consultation letter	B.11	Prior to commencement of construction
Letter of Responsibility	C.4	Prior to commencement of construction
Notification of BMP log location	C.9	Prior to occupancy
Receiving Water Monitoring Plan	D.1	Prior to construction
Annual Receiving Water Monitoring	D.2	Annually by December 1 of each year
Notification	D.3	Within 5 days of discovery of degradation to receiving waters, as necessary
Restoration Plan	D.4	Within 30 days of discovery of degradation to receiving waters, as necessary
Commencement of Mitigation Installation	E.7	5 days prior to commencement of activities
Preservation Mechanism	E.8	Prior to commencement of construction
Mitigation Site Completion Report	E.9	Within 90 days of mitigation installation
Mitigation Monitoring	E.15	Annually by December 1 of each year
Photo Documentation	F.3	Annually by December 1 of each year, as necessary
GIS	G.1	With first annual report
Project Completion Report	H.3	Within 90 days of project completion

CEQA FINDINGS:

1. The San Ysidro School District is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)) and filed a Notice of Determination on July 30, 2009, for a Final Subsequent Environmental Impact Report (*Vista Del Mar Elementary School Subsequent Environmental Impact Report SCH No. 2004111054*, The Planning Center, July 2009), under CEQA Guidelines Title 14, California Code of Regulations, (14 CCR § section 15094). The San Ysidro School District has determined the project will have a significant effect on the environment, and mitigation and monitoring measures were made a condition of the project.
2. The San Diego Water Board has reviewed the lead agency's Final Subsequent Environmental Impact Report and finds that the project as proposed is consistent with the Final Subsequent Environmental Impact Report and therefore determines that issuance of this Certification is consistent with the Final Subsequent Environmental Impact Report.

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On March 3, 2009 receipt of the project application was posted on the San Diego Water Board web site to serve as appropriate notification to the public.

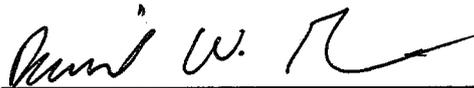
REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Jody Ebsen
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-636-3146
jebesen@waterboards

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from Vista Del Mar Elementary School (Certification No.09C-017) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017 DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Water Quality Control Plan for the San Diego Basin Region (9) (Basin Plan).



DAVID W. GIBSON
Executive Officer
Regional Water Quality Control Board

2-7-2011

Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location Map
 4. BMP Maps, A and B
 5. Mitigation Maps, A, B C, D
 6. Stream Photodocumentation Procedure

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: San Ysidro School District
Attention: Tom Silva
4350 Otay Mesa Road
San Ysidro, CA 92173
Telephone: 619-428-4476
Email: tsilva@sysd.k12.ca.us

**Applicant
Representatives:** Helix Environmental
Attention: Steve Neudecker
7578 El Cajon Blvd., Ste. 200
La Mesa, CA 91941
Telephone: 619-462-1515
Facsimile: 619-462-0552
Email: steven@helixepi.com

Project Name: Vista Del Mar Elementary School

Project Location: Latitude: 32.57145 N Longitude: -117.027192 W

Type of Project: Elementary school and road improvements.

Need for Project: Provide an elementary school for the nearby residential neighborhood and to extend Del Sol Boulevard enough to safely access the school.

Project Description: The San Ysidro School District proposes to build an elementary school, the related infrastructure and extend the eastern section of Del Sol Boulevard to the western edge of project boundary. Currently Del Sol Boulevard terminates on the east side of the project site and extension of the road is necessary to provide access to the school. The site is located on the southwest corner of Surf Crest Drive and Del Sol Boulevard in the City of San Diego and within the San Ysidro hydrologic sub-area (911.11). Storm water flows exiting the project site will discharge to unnamed tributaries of the Tijuana River located north of Del Sol Boulevard and south of the elementary school site. The proposed project will impact 0.02 acres (891 square feet) of vernal pools.

**Federal
Agency/Permit:** U.S. Army Corps of Engineers §404, Individual Permit, Lanika Cervantes.

California Environmental Quality Act (CEQA) Compliance: *Vista Del Mar Elementary School Subsequent Environmental Impact Report SCH No. 2004111054*, The Planning Center, July 2009, San Ysidro School District.

Receiving Water: San Ysidro hydrologic sub-area (911.11).

Affected Waters of the United States: Permanent: 0.02 acres (891 square feet) of vernal pool waters of the United States.

Compensatory Mitigation: 0.02 acres of vernal pool restoration and 0.08 acres of vernal pool restoration and/or enhancement at the West Otay Mesa Parcel B Preserve and as described in *Vista Del Mar Elementary School, Vernal Pool Preserve Restoration Plan*, February 2, 2011, Helix Environmental Planning, Inc.

Best Management Practices (BMPs): Extended detention basin and Clearwater Solutions filtration units (or equivalent that will remove hydrocarbons, soluble metals such as copper, lead, & zinc, phosphorus, pathogens such as e-coli, and sediment) as described in *CEQA Drainage Report Vista Del Mar, San Ysidro School District*, February 2009; RBF Consulting; *Water Quality Technical Report (WQTR) Del Sol Boulevard Street Improvements Phase 1, San Ysidro School District*, April 14, 2008, October 21, 2008, May 12, 2009 RBF Consulting; *Water Quality Technical Report (WQTR) Vista Del Mar, San Ysidro School District*, February 10, 2009 RBF Consulting.

Public Notice: On March 3, 2009 receipt of the project application was posted on the San Diego Water Board web site to serve as appropriate notification to the public.

Fees: Total Due \$640.00
Total Paid: \$640.00 (check No. 26210)

CIWQS: Regulatory Measure ID: 362029
Place ID: 734568
Party ID: 43210

**ATTACHMENT 2
Distribution List**

Cc via email:

Lanika Cervantes
U.S. Army Corps of Engineers, Regulatory Branch
[Lanika L.Cervantes@usace.army.mil](mailto:Lanika.L.Cervantes@usace.army.mil)

State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

U.S. Environmental Protection Agency, Region 9
Wetlands Regulatory Office
R9-WTR8-Mailbox@epa.gov

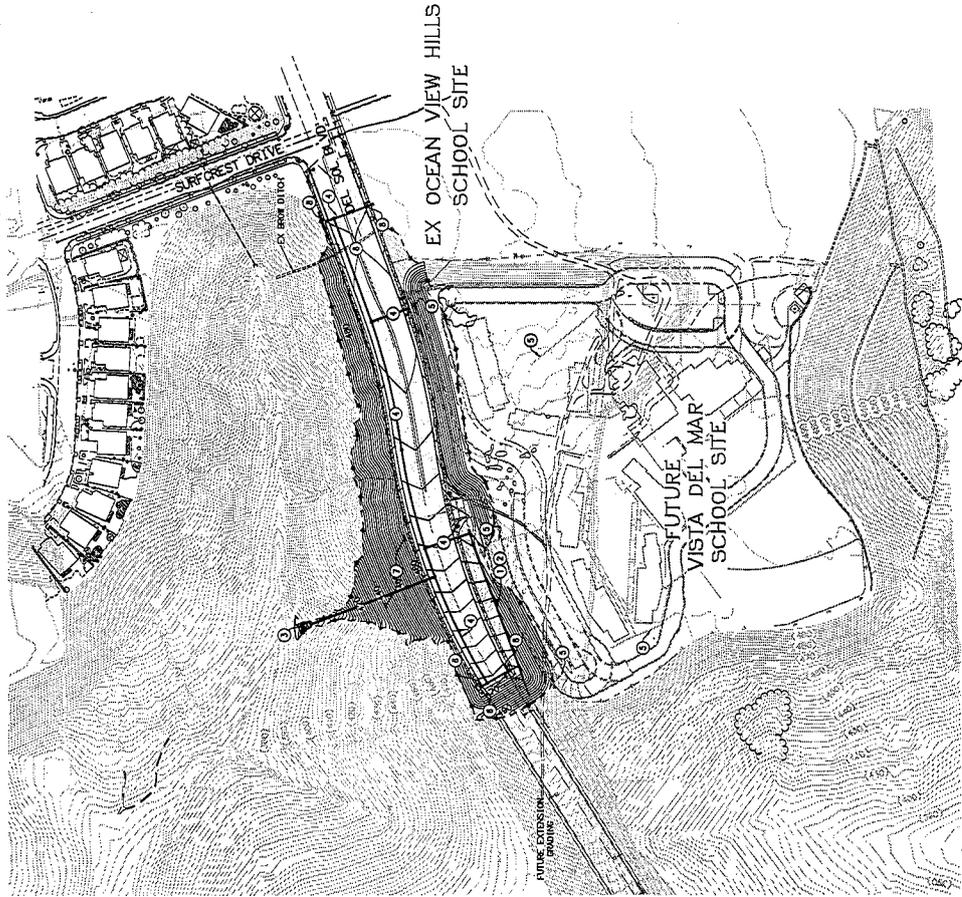
David Zoutendyk
U.S. Department of the Interior
Fish and Wildlife Service
david_zoutendyk@fws.gov

Steve Neudecker
Helix Environmental Planning, Inc.
SteveN@helixepi.com

Attachment 4A BMP Map - School



Attachment 4B BMP Map - Road



LEGEND

PROPOSED IMPROVED PAVEMENT

BMP NOTES

SITE DESIGN

- ① RETAINING WALL
- ② STABILIZED DRAINAGE DITCH
- ③ RIP RAP ENERGY DISSIPATOR (D-1)
- ④ PROPOSED STORM DRAIN
- ⑤ FUTURE STORM DRAIN PER SEPARATE APPLICATION

SOURCE CONTROL

- ⑥ STORM DRAIN INLET STORAGING
- ⑦ EFFICIENT HILLSIDE LANDSCAPE AND IRRIGATION

TREATMENT CONTROL/LID

- ⑧ CLEARWATER FILTRATION UNIT



NOTE: DRAINAGE AREAS CAN BE SEEN ON THE HYDROLOGIC AND POST DEVELOPMENT HYDROLOGIC MAPS IN THE PROJECT DRAINAGE REPORT INCLUDED AS ATTACHMENT F.

RBF CONSULTING
 PLANNING ■ DESIGN ■ CONSTRUCTION
 6800 SAN MARINO AVENUE, SUITE 100
 CULVER CITY, CALIFORNIA 90230
 TEL: 310.251.1111 ■ FAX: 310.251.1112 ■ WWW.RBF.COM

**DEL SOL BOULEVARD
 PHASE 1
 PERMANENT BMP SITE PLAN**

Attachment 5A Impact and Restoration Sites



I:\ArcGIS\SSSFP-01_Schools\MapInfo\VermlPoolRestoration\fig3_ProjectSite.mxd -JP

Restoration Project Site

VERNAL POOL RESTORATION PLAN FOR VISTA DEL MAR ELEMENTARY SCHOOL

HELIX

Figure 3

Attachment 5B
Impacts

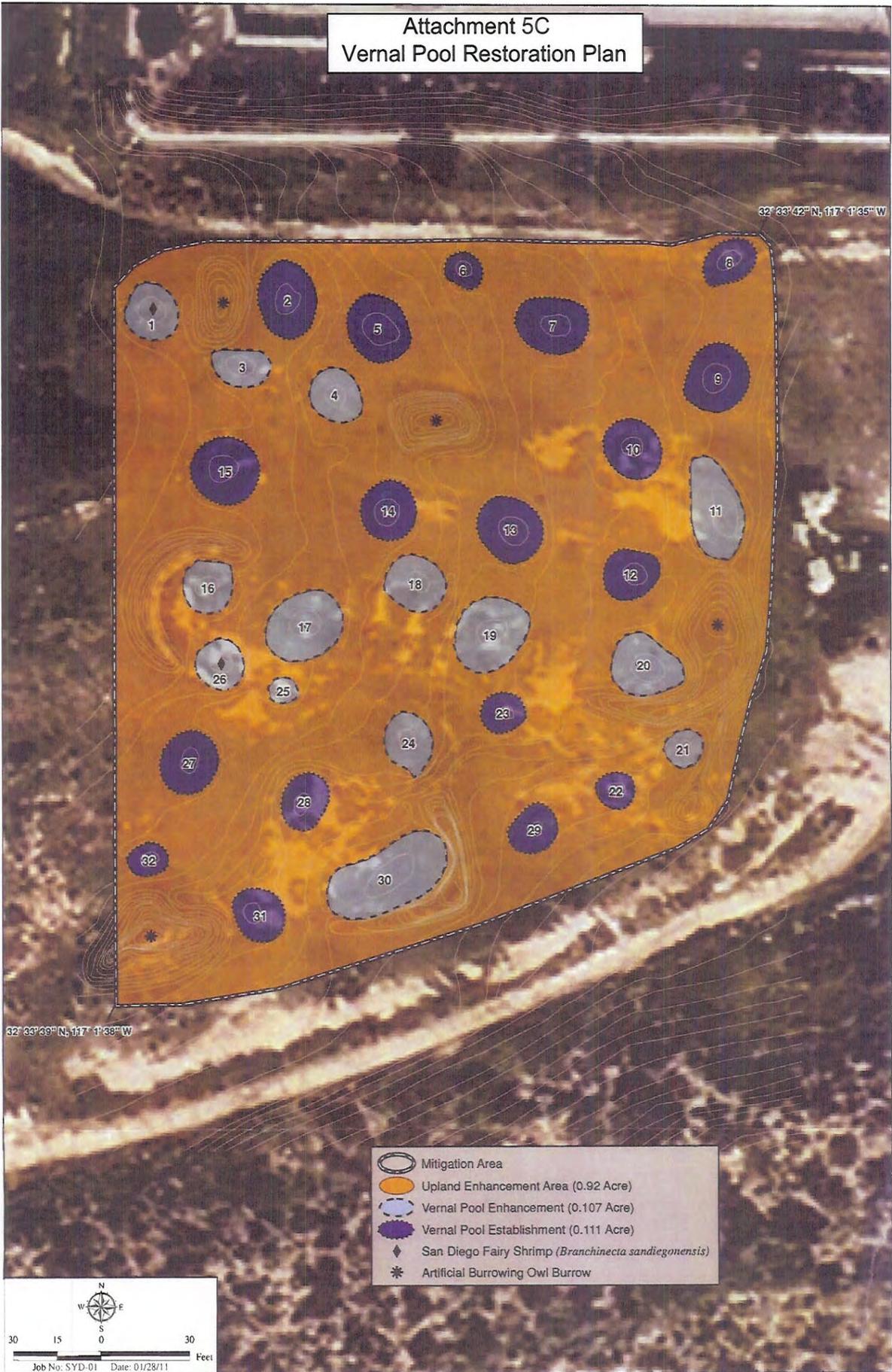


Vista Del Mar Impacts

VERNAL POOL RESTORATION PLAN FOR VISTA DEL MAR ELEMENTARY SCHOOL

Figure 4

Attachment 5C
Vernal Pool Restoration Plan



Vernal Pool Restoration Area

VERNAL POOL RESTORATION PLAN FOR DEL MAR VISTA ELEMENTARY SCHOOL

Figure 5



Attachment 5D
Existing Vernal Pools at Restoration Site



Existing Vernal Pools

VERNAL POOL RESTORATION PLAN FOR DEL MAR VISTA ELEMENTARY SCHOOL

Figure 6

ATTACHMENT 6 STREAM PHOTO DOCUMENTATION PROCEDURES

Standard Operating Procedure (SOP)

Stream Photo Documentation Procedure

(CARCD 2001, Written by TAC Visual Assessments work group)

Introduction:

Photographs provide a qualitative, and potentially semi-quantitative, record of conditions in a watershed or on a water body. Photographs can be used to document general conditions on a reach of a stream during a stream walk, pollution events or other impacts, assess resource conditions over time, or can be used to document temporal progress for restoration efforts or other projects designed to benefit water quality. Photographic technology is available to anyone and it does not require a large degree of training or expensive equipment. Photos can be used in reports, presentations, or uploaded onto a computer website or GIS program. This approach is useful in providing a visual portrait of water resources to those who may never have the opportunity to actually visit a monitoring site.

Equipment:

Use the same camera to the extent possible for each photo throughout the duration of the project. Either 35 mm color or digital color cameras are recommended, accompanied by a telephoto lens. If you must change cameras during the program, replace the original camera with a similar one comparable in terms of media (digital vs. 35 mm) and other characteristics. A complete equipment list is suggested as follows:

Required:

- Camera and backup camera
- Folder with copies of previous photos (do not carry original photos in the field)
- Topographic and/or road map
- Aerial photos if available
- Compass
- Timepiece
- Extra film or digital disk capacity (whichever is applicable)
- Extra batteries for camera (if applicable)
- Photo-log data sheets or, alternatively, a bound notebook dedicated to the project
- Yellow photo sign form and black marker, or, alternatively, a small black board and chalk

Optional:

- GPS unit
- Stadia rod (for scale on landscape shots)
- Ruler (for scale on close up views of streams and vegetation)
- Steel fence posts for dedicating fixed photo points in the absence of available fixed landmarks

How to Access Aerial Photographs:

Aerial Photos can be obtained from the following federal agencies:

USGS Earth Science Information Center
507 National Center
12201 Sunrise Valley Drive
Reston, VA 22092
800-USA-MAPS

USDA Consolidated Farm Service Agencies
Aerial Photography Field Office
222 West 2300 South
P.O. Box 30010
Salt Lake City, UT 84103-0010
801-524-5856

Cartographic and Architectural Branch
National Archives and Records Administration
8601 Adelphi Road
College park, MD 20740-6001
301-713-7040

Roles and Duties of Team:

The team should be comprised of a minimum of two people, and preferably three people for restoration or other water quality improvement projects, as follows:

1. Primary Photographer
2. Subject, target for centering the photo and providing scale
3. Person responsible for determining geographic position and holding the photo sign forms or blackboard.

One of these people is also responsible for taking field notes to describe and record photos and photo points.

Safety Concerns:

Persons involved in photo monitoring should **ALWAYS** put safety first. For safety reasons, always have at least two 2 volunteers for the survey. Make sure that the area(s) you are surveying either are accessible to the public or that you have obtained permission from the landowner prior to the survey.

Some safety concerns that may be encountered during the survey include, but are not limited to:

- Inclement weather
- Flood conditions, fast flowing water, or very cold water
- Poisonous plants (e.g.: poison oak)
- Dangerous insects and animals (e.g.: bees, rattlesnakes, range animals such as cattle, etc.)
- Harmful or hazardous trash (e.g.: broken glass, hypodermic needles, human feces)

We recommend that the volunteer coordinator or leader discuss the potential hazards with all volunteers prior to any fieldwork.

General Instructions:

From the inception of any photo documentation project until it is completed, always take each photo from the same position (photo point), and at the same bearing and vertical angle at that photo point. Photo point positions should be thoroughly documented, including photographs taken of the photo point. Refer to copies of previous photos when arriving at the photo point. Try to maintain a level (horizontal) camera view unless the terrain is sloped. (If the photo can not be horizontal due to the slope, then record the angle for that photo.) When photo points are first being selected, consider the type of project (meadow or stream restoration, vegetation management for fire control, ambient or event monitoring as part of a stream walk, etc.) and refer to the guidance listed on *Suggestions for Photo Points by Type of Project*.

When taking photographs, try to include landscape features that are unlikely to change over several years (buildings, other structures, and landscape features such as peaks, rock outcrops, large trees, etc.) so that repeat photos will be easy to position. Lighting is, of course, a key ingredient so give consideration to the angle of light, cloud cover, background, shadows, and contrasts. Close view photographs taken from the north (i.e., facing south) will minimize shadows. Medium and long view photos are best shot with the sun at the photographer's back. Some artistic expression is encouraged as some photos may be used on websites and in slide shows (early morning and late evening shots may be useful for this purpose). Seasonal changes can be used to advantage as foliage, stream flow, cloud cover, and site access fluctuate. It is often important to

include a ruler, stadia rod, person, farm animal, or automobile in photos to convey the scale of the image. Of particular concern is the angle from which the photo is taken. Oftentimes an overhead or elevated shot from a bridge, cliff, peak, tree, etc. will be instrumental in conveying the full dimensions of the project. Of most importance overall, however, is being aware of the goal(s) of the project and capturing images that clearly demonstrate progress towards achieving those goal(s). Again, reference to *Suggestions for Photo Points by Type of Project* may be helpful.

If possible, try to include a black board or yellow photo sign in the view, marked at a minimum with the location, subject, time and date of the photograph. A blank photo sign form is included in this document.

Recording Information:

Use a systematic method of recording information about each project, photo point, and photo. The following information should be entered on the photo-log forms (blank form included in this document) or in a dedicated notebook:

- Project or group name, and contract number (if applicable, e.g., for funded restoration projects)
- General location (stream, beach, city, etc.), and short narrative description of project's habitat type, goals, etc.
- Photographer and other team members
- Photo number
- Date
- Time (for each photograph)
- Photo point information, including:
 - Name or other unique identifier (abbreviated name and/or ID number)
 - Narrative description of location including proximity to and direction from notable landscape features like roads, fence lines, creeks, rock outcrops, large trees, buildings, previous photo points, etc. – sufficient for future photographers who have never visited the project to locate the photo point
 - Latitude, longitude, and altitude from map or GPS unit
- Magnetic compass bearing from the photo point to the subject
- Specific information about the subject of the photo
- Optional additional information: a true compass bearing (corrected for declination) from photo point to subject, time of sunrise and sunset (check newspaper or almanac), and cloud cover.

For ambient monitoring, the stream and shore walk form should be attached or referenced in the photo-log.

When monitoring the implementation of restoration, fuel reduction, or Best Management Practices (BMP) projects, include or attach to the photo-log a

narrative description of observable progress in achieving the goals of the project. Provide supplementary information along with the photo, such as noticeable changes in habitat, wildlife, and water quality and quantity.

Archive all photos, along with the associated photo-log information, in a protected environment.

The Photo Point: Establishing Position of Photographer:

1. Have available a variety of methods for establishing position: maps, aerial photos, GPS, permanent markers and landmarks, etc. If the primary method fails (e.g., a GPS or lost marker post) then have an alternate method (map, aerial photo, copy of an original photograph of the photo-point, etc).
2. Select an existing structure or landmark (mailbox, telephone pole, benchmark, large rock, etc.), identify its latitude and longitude, and choose (and record for future use) the permanent position of the photographer relative to that landmark. Alternatively, choose the procedure described in *Monitoring California's Annual Rangeland Vegetation* (UC/DANR Leaflet 21486, Dec. 1990). This procedure involves placing a permanently marked steel fence post to establish the position of the photographer.
3. For restoration, fuel reduction, and BMP projects, photograph the photo-points and carry copies of those photographs on subsequent field visits.

Determining the Compass Bearing:

1. Select and record the permanent magnetic bearing of the photo center view. You can also record the true compass bearing (corrected for declination) but do not substitute this for the magnetic bearing. Include a prominent landmark in a set position within the view. If possible, have an assistant stand at a fixed distance from both the photographer and the center of the view, holding a stadia rod if available, within the view of the camera; preferably position the stadia rod on one established, consistent side of the view for each photo (right or left side).
2. Alternatively, use the procedure described in *Monitoring California's Annual Rangeland Vegetation* (UC/DANR Leaflet 21486, Dec. 1990). This procedure involves placing a permanently marked steel fence post to establish the position of the focal point (photo center).
3. When performing ambient or event photo monitoring, and when a compass is not available, then refer to a map and record the approximate bearing as north, south, east or west.

Suggestions for Photo Points by Type of Project:**Ambient or Event Monitoring, Including Photography Associated with Narrative Visual Assessments:**

1. When first beginning an ambient monitoring program take representative long and/or medium view photos of stream reaches and segments of shoreline being monitored. Show the positions of these photos on a map, preferably on the stream/shore walk form. Subjects to be photographed include a representative view of the stream or shore condition at the beginning and ending positions of the segment being monitored, storm drain outfalls, confluence of tributaries, structures (e.g., bridges, dams, pipelines, etc.).
2. If possible, take a close view photograph of the substrate (streambed), algae, or submerged aquatic vegetation.
3. Time series: Photographs of these subjects at the same photo points should be repeated annually during the same season or month if possible.
4. Event monitoring refers to any unusual or sporadic conditions encountered during a stream or shore walk, such as trash dumps, turbidity events, oil spills, etc. Photograph and record information on your photo-log and on your Stream and Shore Walk Visual Assessment form. Report pollution events to the Regional Board. Report trash dumps to local authorities.

All Restoration and Fuel Reduction Projects – Time Series:

Take photos immediately before and after construction, planting, or vegetation removal. Long term monitoring should allow for at least annual photography for a minimum of three years after the project, and thereafter at 5 years and ten years.

Meadow Restoration:

1. Aerial view (satellite or airplane photography) if available.
2. In the absence of an aerial view, a landscape, long view showing an overlapping sequence of photos illustrating a long reach of stream and meadow (satellite photos, or hill close by, fly-over, etc.)
3. Long view up or down the longitudinal dimension of the creek showing riparian vegetation growth bounded on each side by grasses, sedges, or whatever that is lower in height
4. Long view of conversion of sage and other upland species back to meadow vegetation

5. Long view and medium view of streambed changes (straightened back to meandering, sediment back to gravel, etc.)
6. Medium and close views of structures, plantings, etc. intended to induce these changes

Stream Restoration/stabilization:

1. Aerial view (satellite or airplane photography) if available.
2. In the absence of an aerial view, a landscape, long-view showing all or representative sections of the project (bluff, bridge, etc.)
3. Long view up or down the stream (from stream level) showing changes in the stream bank, vegetation, etc.
4. Long view and medium view of streambed changes (thalweg, gravel, meanders, etc.)
5. Medium and close views of structures, plantings, etc. intended to induce these changes.
6. Optional: Use a tape set perpendicular across the stream channel at fixed points and include this tape in your photos described in 3 and 4 above. For specific procedures refer to Harrelson, Cheryl C., C.L. Rawlins, and John P. Potyondy, *Stream Channel Reference Sites: An Illustrated Guide to Field Techniques*, United States Department of Agriculture, Forest Service, Rocky Mountain Forest and Range Experiment Station, General Technical Report RM-245.

Vegetation Management for Fire Prevention (“fuel reduction”):

1. Aerial view (satellite or airplane photography) if available.
2. In the absence of an aerial view, a landscape, long view showing all or representative sections of the project (bluff, bridge, etc.)
3. Long view (wide angle if possible) showing the project area or areas. Preferably these long views should be from an elevated vantage point.
4. Medium view photos showing examples of vegetation changes, and plantings if included in the project. It is recommended that a person (preferably holding a stadia rod) be included in the view for scale
5. To the extent possible include medium and long view photos that include adjacent stream channels.

Stream Sediment Load or Erosion Monitoring:

1. Long views from bridge or other elevated position.
2. Medium views of bars and banks, with a person (preferably holding a stadia rod) in view for scale.
3. Close views of streambed with ruler or other common object in the view for scale.
4. Time series: Photograph during the dry season (low flow) once per year or after a significant flood event when streambed is visible. The flood events may be episodic in the south and seasonal in the north.
5. Optional: Use a tape set perpendicular across the stream channel at fixed points and include this tape in your photos described in 1 and 2 above. For specific procedures refer to Harrelson, Cheryl C., C.L. Rawlins, and John P. Potyondy, *Stream Channel Reference Sites: An Illustrated Guide to Field Techniques*, United States Department of Agriculture, Forest Service, Rocky Mountain Forest and Range Experiment Station, General Technical Report RM-245.

PHOTO SIGN FORM: Print this form on yellow paper. Complete the following information for each photograph. Include in the photographic view so that it will be legible in the finished photo.

Location:

Subject Description:

Date:

Time:

Appendix B.
Conservation Easement

RECORDING REQUESTED BY
STEWART TITLE

DOC # 2009-0696279



RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

State of California
Wildlife Conservation Board
1807 13th Street, Suite 103
Sacramento, CA 95811
Order# 01-0246236

PG
22
NF
DWA

DEC 17, 2009 8:00 AM
OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
DAVID L. BUTLER, COUNTY RECORDER
FEES: 0.00
OC: NA

PAGES: 22



Space Above Line for Recorder's Use Only

CONSERVATION EASEMENT DEED

4711

THIS CONSERVATION EASEMENT DEED is made this 12th day of NOVEMBER, 2009, by The Environmental Trust, Inc., a California nonprofit public benefit corporation ("Grantor"), in favor of THE STATE OF CALIFORNIA ("Grantee"), acting by and through its Department of Fish and Game, a subdivision of the California Resources Agency, with reference to the following facts:

RECITALS

A. Grantor is the sole owner in fee simple of certain real property containing approximately 40 acres, located in the County of San Diego, State of California, designated Assessor's Parcel Number 645-061-02 and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property");

B. The Property possesses wildlife and habitat values (collectively, "conservation values") of great importance to Grantee and the people of the State of California;

C. The Property provides high quality habitat for listed or otherwise sensitive species including coastal California gnatcatcher (*Polioptila californica californica*), northern harrier (*Circus cyaneus*), Cooper's hawk (*Accipiter cooperii*), golden eagle (*Aquila chrysaetos*), burrowing owl (*Athene cunicularia*), rufous-crowned sparrow (*Aimophila ruficeps*), white-tailed kite (*Elanus leucurus*), black-tailed jackrabbit (*Lepus californicus*), western spade-foot toad (*Spea hammondi*), coast barrel cactus (*Verocactus viridescens*), cliff spurge (*Euphorbia misera*), San Diego bur-sage (*Ambrosia chenopodiifolia*), and contains maritime succulent scrub, Diegan coastal sage scrub, coastal sage scrub/chaparral, native grassland, non-native grassland and vernal pool habitats;

However, based on a site visit of the Property by the City of San Diego (City) in October 2009, evidence of illegal dumping and litter was found at the Property. As City is the intended transferee of the Property (see "G" below), Grantor and Grantee agree that: (1) the ground disturbances and illegal dumping and littering at the Property has occurred prior to the City's acceptance of any interest or obligation relating to the property and, therefore (2) upon acceptance of any interest to the Property, the City's maintenance obligations shall be to

"THIS DOCUMENT WAS FILED FOR RECORDING BY STEWART TITLE AS AN ACCOMMODATION ONLY. IT HAS NOT BEEN EXAMINED AS TO ITS EXECUTION OR AS TO ITS EFFECT UPON THE TITLE OR ITS RECORDABILITY."

maintain the Property as set forth in the March 20, 2009, letter from the United States Fish and Wildlife Service and the California Department of Fish and Game see Section "1. Purposes" below;

D. Grantor acquired the Property as mitigation or compensation for certain impacts of the project(s) described in Exhibit "B" attached hereto and incorporated herein by this reference.

E. The Department of Fish and Game ("CDFG") has jurisdiction, pursuant to Fish and Game Code Section 1802, over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of those species, and CDFG is authorized to hold conservation easements for these purposes pursuant to Civil Code Section 815.3, Fish and Game Code Section 1348, and other provisions of California law.

F. This Conservation Easement is a "protective conservation easement" granted pursuant to the Combined Disclosure Statement and Liquidating Plan of Reorganization dated as of December 20, 2005 (the "Plan"), in United States Bankruptcy Court, Southern District of California, Bankruptcy No. 05-12321-LA11, In Re The Environmental Trust, Inc., Debtor.

G. Also pursuant to the Plan, concurrently with this Conservation Easement, Grantor is granting and conveying the Property to the City of San Diego, which will acquire the Property subject to this Conservation Easement. As Section 11 of this Conservation Easement requires, Grantor shall incorporate the terms of this Conservation Easement by reference in the deed(s) or other legal instrument(s) by which Grantor so divests itself of the Property.

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to California law, including Civil Code Section 815, *et seq.*, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property.

1. **Purposes.** The purposes of this Conservation Easement are to ensure the Property will be retained forever in its natural condition and to prevent any use of the Property that will impair or interfere with the conservation values of the Property. Grantor intends that this Conservation Easement will confine the use of the Property to such activities that are consistent with those purposes, including, without limitation, those involving the preservation, restoration and enhancement of native species and their habitats.

However, it is specifically agreed by the parties hereto, that, notwithstanding any conflicting provision of this, or any other Conservation Easement affecting the Property, that the March 20, 2009, letter from the United States Fish and Wildlife Service and the California Department of Fish and Game to the City of San Diego, attached hereto as Exhibit "C", and incorporated by reference herein, shall control over any such conflicting provision within the Conservation Easements and govern the City's responsibilities toward the Property.

2. **Grantee's Rights.** To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee: **4713**

- (a) To preserve and protect the conservation values of the Property;
- (b) To enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Conservation Easement, and for scientific research and interpretive purposes by Grantee or its designees, provided that Grantee shall not unreasonably interfere with Grantor's authorized use and quiet enjoyment of the Property;
- (c) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act, failure to act, or any use that is inconsistent with the purposes of this Conservation Easement;
- (d) All mineral, air and water rights necessary to protect and to sustain the biological resources of the Property; and
- (e) All present and future development rights allocated, implied, reserved or inherent in the Property; such rights are hereby terminated and extinguished, and may not be used on or transferred to any portion of the Property, nor any other property adjacent or otherwise.

3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following uses and activities by Grantor, Grantor's agents, and third parties, are expressly prohibited:

- (a) Unseasonal watering; use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals except as necessary to protect habitat values; weed abatement activities; incompatible fire protection activities; and any and all other activities and uses which may adversely affect the purposes of this Conservation Easement;
- (b) Use of off-road vehicles and use of any other motorized vehicles except on existing roadways;
- (c) Agricultural activity of any kind, except that grazing is permitted if done in accordance with a CDFG-approved grazing or management plan;
- (d) Recreational activities including, but not limited to, horseback riding, biking, hunting or fishing, except as may be specifically permitted under this Conservation Easement or as approved by the Wildlife Agencies.
- (e) Commercial or industrial uses;
- (f) Any legal or de facto division, subdivision or partitioning of the Property;

(g) Construction, reconstruction or placement of any building, billboard or sign, or any other structure or improvement of any kind;

(h) Depositing or accumulation of soil, trash, ashes, refuse, waste, bio-solids or any other materials;

(i) Planting, introduction or dispersal of non-native or exotic plant or animal species;

(j) Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extraction of minerals, loam, soil, sands, gravel, rocks or other material on or below the surface of the Property;

(k) Altering the surface or general topography of the Property, including building of roads;

(l) Removing, destroying, or cutting of native vegetation, except as required by law for (1) fire breaks, (2) maintenance of existing foot trails or roads, or (3) prevention or treatment of disease; and

(m) Manipulating, impounding or altering any natural water course, body of water or water circulation on the Property, and activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or sub-surface waters.

4. Grantor's Duties. Grantor shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the conservation values of the Property. In addition, Grantor shall undertake all necessary actions to perfect Grantee's rights under Section 2 of this Conservation Easement, including but not limited to, Grantee's water rights.

5. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in or to permit or invite others to engage in all uses of the Property that are not expressly prohibited or limited by, and are consistent with the purposes of, this Conservation Easement.

6. Grantee's Remedies. If Grantee determines that a violation of the terms of this Conservation Easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand in writing the cure of such violation. If Grantor fails to cure the violation within fifteen (15) days after receipt of written notice and demand from Grantee, or if the cure reasonably requires more than fifteen (15) days to complete and Grantor fails to begin the cure within the fifteen (15)-day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to recover any damages to which Grantee may be entitled for violation of the terms of this Conservation Easement or for any injury to the conservation values of the Property, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual

damages or the inadequacy of otherwise available legal remedies, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed prior to any such violation or injury. Without limiting Grantor's liability therefor, Grantee may apply any damages recovered to the cost of undertaking any corrective action on the Property.

4715

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the conservation values of the Property, Grantee may pursue its remedies under this Section 6 without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this section apply equally to actual or threatened violations of the terms of this Conservation Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in Civil Code Section 815, *et seq.*, inclusive. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from taking such action at a later time.

If at any time in the future Grantor or any subsequent transferee uses or threatens to use the Property for purposes inconsistent with this Conservation Easement then, notwithstanding Civil Code Section 815.7, the California Attorney General or any entity or individual with a justiciable interest in the preservation of this Conservation Easement has standing as interested parties in any proceeding affecting this Conservation Easement.

6.1. Costs of Enforcement. Any costs incurred by Grantee, where Grantee is the prevailing party, in enforcing the terms of this Conservation Easement against Grantor, including, but not limited to, costs of suit and attorneys' and experts' fees, and any costs of restoration necessitated by Grantor's negligence or breach of this Conservation Easement shall be borne by Grantor.

6.2. Grantee's Discretion. Enforcement of the terms of this Conservation Easement by Grantee shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver.

6.3. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from (i) any natural cause beyond Grantor's control, including, without limitation, fire not caused by Grantor, flood, storm, and earth movement, or any prudent action taken by Grantor under emergency conditions to prevent,

abate, or mitigate significant injury to the Property resulting from such causes; or (ii) acts by Grantee, Grantee's agents or its employees.

6.4. **Department of Fish and Game Right of Enforcement.** All rights and remedies conveyed to Grantee under this Conservation Easement Deed shall extend to and are enforceable by CDFG. These rights are in addition to, and do not limit, the rights of enforcement under any permit or agreement described in Exhibit "B".

7. **Fence Installation and maintenance.** The requirement for fencing will be in accordance with the guidelines identified in the City of San Diego's Multiple Species Conservation Plan (MSCP), Subarea Plan Section 4.1., and will continue for the life of the easement. Fencing will be used to achieve conservation goals, for example, to direct wildlife to appropriate corridor crossings, to direct public access to appropriate locations and to provide added protection of sensitive species or habitats (e.g. vernal pools).

8. **Access.** This Conservation Easement does not convey a general right of access to the public.

9. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property. Grantor agrees that Grantee shall have no duty or responsibility for the operation, upkeep or maintenance of the Property, the monitoring of hazardous conditions thereon, or the protection of Grantor, the public or any third parties from risks relating to conditions on the Property. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use permitted by this Conservation Easement Deed, and any activity or use shall be undertaken in accordance with all applicable federal, state, local and administrative agency statutes, ordinances, rules, regulations, orders and requirements.

9.1. **Taxes; No Liens.** Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantor shall keep the Property free from any liens, including those arising out of any obligations incurred by Grantor for any labor or materials furnished or alleged to have been furnished to or for Grantor at or for use on the Property.

9.2. **Hold Harmless.** Grantor shall hold harmless, protect and indemnify Grantee and its directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each an "Indemnified Party" and, collectively, "Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "Claim" and, collectively, "Claims"), arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any

property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of Grantee or any of its employees; (2) the obligations specified in Sections 4, 9, and 9.1; and (3) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Indemnified Party or reimburse Grantee for all charges incurred for services of the Attorney General in defending the action or proceeding.

9.3. **Extinguishment.** If circumstances arise in the future that render the purposes of this Conservation Easement impossible to accomplish, this Conservation Easement can only be terminated or extinguished, in whole or in part, by judicial proceedings in a court of competent jurisdiction.

9.4. **Condemnation.** This Conservation Easement is a "wildlife conservation easement" acquired by a State agency, the condemnation of which is prohibited except as provided in Fish and Game Code Section 1348.3.

10. **Transfer of Easement.** This Conservation Easement is transferable by Grantee, but Grantee may assign this Conservation Easement only to an entity or organization authorized to acquire and hold conservation easements pursuant to Civil Code Section 815.3 (or any successor provision then applicable) or the laws of the United States and Government Code Section 65965. Grantee shall require the assignee to record the assignment in the county where the Property is located.

11. **Transfer of Property.** Grantor agrees to incorporate the terms of this Conservation Easement by reference in any deed or other legal instrument by which Grantor divests itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the intent to transfer any interest at least thirty (30) days prior to the date of such transfer. Grantee shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Grantor or Grantee to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

12. **Notices.** Any notice, demand, request, consent, approval, or communication **4718** that either party desires or is required to give to the other shall be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Grantor: The Environmental Trust Inc.
P.O. Box 3107
La Mesa, CA 91944-4317
Attn: Brad Thornburgh

With a copy to: The City of San Diego
San Diego Real Estate Assets Department
1200 Third Ave., Ste. 1700
San Diego, CA 92101
Attn: Asset Manager

To Grantee: Department of Fish and Game
South Coast Regional Office
4949 Viewridge Avenue
San Diego, CA 92123
Attn: Regional Manager

With a copy to: Department of Fish and Game
Office of the General Counsel
1416 Ninth Street, 12th Floor
Sacramento, California 95814-2090
Attn: General Counsel

or to such other address as either party shall designate by written notice to the other. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

13. **Amendment.** This Conservation Easement may be amended by Grantor and Grantee only by mutual written agreement. Any such amendment shall be consistent with the purposes of this Conservation Easement and California law governing conservation easements and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of San Diego County, State of California.

14. **General Provisions.**

(a) **Controlling Law.** The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state.

(b) **Liberal Construction.** Despite any general rule of construction to the contrary, this Conservation Easement shall be liberally construed to affect the purposes of this Conservation Easement and the policy and purpose of Civil Code Section 815, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) **Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement Deed, such action shall not affect the remainder of this Conservation Easement Deed. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement Deed to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

(d) **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 13.

(e) **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(f) **Successors.** The covenants, terms, conditions, and restrictions of this Conservation Easement Deed shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Property.

(g) **Termination of Rights and Obligations.** A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

(h) **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

(i) **No Hazardous Materials Liability.** Grantor represents and warrants that it has no knowledge or notice of any Hazardous Materials (defined below) or underground storage tanks existing, generated, treated, stored, used, released, disposed of, deposited or abandoned in, on, under, or from the Property, or transported to or from or affecting the Property. Without limiting the obligations of Grantor under Section 9.2, Grantor hereby releases and agrees to indemnify, protect and hold harmless the Indemnified Parties (defined in Section 9.2) from and against any and all Claims (defined in Section 9.2) arising from or connected with any Hazardous Materials or underground storage tanks present, alleged to be present, or otherwise associated with the Property at

any time, except any Hazardous Materials placed, disposed or released by Grantee, its employees or agents. This release and indemnification includes, without limitation, Claims for (i) injury to or death of any person or physical damage to any property; and (ii) the violation or alleged violation of, or other failure to comply with, any Environmental Laws (defined below). If any action or proceeding is brought against any of the Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Indemnified Party or reimburse Grantee for all charges incurred for services of the Attorney General in defending the action or proceeding.

Despite any contrary provision of this Conservation Easement Deed, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Grantee any of the following:

- (1) The obligations or liability of an "owner" or "operator," as those terms are defined and used in Environmental Laws (defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 *et seq.*; hereinafter, "CERCLA"); or
- (2) The obligations or liabilities of a person described in 42 U.S.C. Section 9607(a)(3) or (4); or
- (3) The obligations of a responsible person under any applicable Environmental Laws; or
- (4) The right to investigate and remediate any Hazardous Materials associated with the Property; or
- (5) Any control over Grantor's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

The term "Hazardous Materials" includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 *et seq.*; hereinafter "RCRA"); the Hazardous Materials Transportation Act (49 U.S.C. Section 6901 *et seq.*; hereinafter "HTA"); the Hazardous Waste Control Law (California Health & Safety Code Section 25100 *et seq.*; hereinafter "HCL"); the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health & Safety Code Section 25300 *et seq.*; hereinafter "HSA"), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable Environmental Laws now in effect or enacted after the date of this Conservation Easement Deed.

The term "Environmental Laws" includes, without limitation, CERCLA, RCRA, HTA, HCL, HSA, and any other federal, state, local or administrative agency statute, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials. Grantor represents, warrants and covenants to Grantee that activities upon and use of the Property by Grantor, its agents, employees, invitees and contractors will comply with all Environmental Laws.

(j) Warranty. Grantor represents and warrants that there are no outstanding mortgages, liens, encumbrances or other interests in the Property (including, without limitation, mineral interests) which have not been expressly subordinated to this Conservation Easement Deed, and that the Property is not subject to any other conservation easement.

(k) Additional Easements. Grantor shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is subordinate to this Conservation Easement Deed), or grant or otherwise abandon or relinquish any water agreement relating to the Property, without first obtaining the written consent of Grantee. Grantee may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or will impair or interfere with the conservation values of the Property. This Section 14(k) shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to this Conservation Easement Deed and complies with Section 11.

(l) Recording. Grantee shall record this Conservation Easement Deed in the Official Records of San Diego County, California, and may re-record it at any time as Grantee deems necessary to preserve its rights in this Conservation Easement.

IN WITNESS WHEREOF Grantor has executed this Conservation Easement Deed the day and year first above written.

The Environmental Trust, Inc., a California nonprofit public benefit corporation

By: Brad T. Thoenberg

Name: BRAD T. THOENBERG

Title: PRESIDENT

Date: NOVEMBER 17, 2009

State of California
Department of Fish and Game

By: _____

Name: _____

Title: _____

Date: _____

City of San Diego

By: James F. Barwick

Name: James F. Barwick

Title: Director, Real Estate Assets

Date: 10/28/09

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

On November 12, 2009, before me, B. Maureen White, a Notary Public, personally appeared Brad T. Thornburgh, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

B. Maureen White (Seal)
Signature



EXHIBIT A

4724

LEGAL DESCRIPTION
WEST OTAY MESA B PARCEL

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO AND IS DESCRIBED AS FOLLOWS:

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 18 SOUTH, RANGE 1 WEST, SAN BERNARDINO BASE & MERIDIAN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF.

THE ABOVE DESCRIBED LAND IS CONVEYED AND ACCEPTED SUBJECT TO THE EXPRESSED CONDITION THAT THE HEREIN DESCRIBED LAND SHALL NOT AT ANY TIME BE USED FOR ANY OTHER PURPOSE OTHER THAN NATURAL, UNDEVELOPED AND UNIMPROVED OPEN SPACE. THIS CONDITION EXPRESSLY PROHIBITS THE GRANTEE, ITS SUCCESSOR AND ASSIGNS FROM ANY EXCAVATION, CHANGING OF THE GRADE, PLACEMENT OR MAINTENANCE OF ANY STRUCTURES, CONSTRUCTION OF ANY ROADS OR PAVING OF ANY EASEMENTS, UNLESS APPROVED AND CONSENTED TO BY THE GRANTOR, ITS SUCCESSORS AND ASSIGNS. IN ADDITION ANY USES OF THE HEREIN DESCRIBED PROPERTY IN VIOLATION OF ANY FEDERAL, STATE OR LOCAL ENVIRONMENTAL LAWS OR STATUTES SHALL BE PROHIBITED. IN THE EVENT OF ANY VIOLATION OF THE ABOVE CONDITIONS, THIS CONVEYANCE SHALL BE NULL AND VOID, AND THE TITLE TO THE PREMISES HEREIN CONVEYED SHALL REVERT TO THE GRANTOR, AND SAID GRANTOR, ITS LEGAL REPRESENTATIVES OR ASSIGNS, SHALL HAVE THE IMMEDIATE RIGHT TO RE-ENTER AND POSSESS SAID PREMISES AND HOLD THE SAME FOREVER.

ALSO EXCEPTING AND RESERVING UNTO THE GRANTOR, ITS SUCCESSORS AND ASSIGNS, ALL OIL, GAS, AND OTHER HYDROCARBON GASES, OR GASEOUS SUBSTANCES, ALL OTHER MINERALS OF WHATEVER NATURE, WITHOUT REGARD TO SIMILARITY TO THE ABOVE MENTIONED SUBSTANCES AND ALL SUBSTANCES THAT MAY BE PRODUCED THEREWITH FROM THE PROPERTY.

ALSO EXCEPTING AND RESERVING UNTO THE GRANTOR, ITS SUCCESSORS AND ASSIGNS ALL OIL GEOTHERMAL RESOURCES, EMBRACING INDIGENOUS STEAM, HOT WATER AND HOT BRINES; STEAM AND OTHER GASES, HOT WATER AND WATER BRINE RESULTING FROM WATER, GAS OR OTHER FLUIDS ARTIFICIALLY INTRODUCED INTO SUBSURFACE FORMATIONS, HEAT OR OTHER ASSOCIATED ENERGY FOUND BENEATH THE SURFACE OF THE EARTH

AND BYPRODUCTS OF ANY OF THE FOREGOING SUCH AS MINERALS (EXCLUSIVE OF OIL OR HYDROCARBON GAS THAT CAN BE SEPARATELY PRODUCED) WHICH ARE FOUND IN SOLUTION OR ASSOCIATION WITH OR DERIVED FROM ANY OF THE FOREGOING.

ALSO EXCEPTING AND RESERVING UNTO THE GRANTOR, ITS SUCCESSORS AND ASSIGNS ALL WATER RIGHTS, AND RIPARIAN RIGHTS, IF ANY, APPURTENANT TO SAID PROPERTY.

ALSO EXCEPTING AND RESERVING UNTO THE GRANTOR, ITS SUCCESSORS AND ASSIGNS THE SOLE AND EXCLUSIVE RIGHT FROM TIME TO TIME TO BORE OR DRILL AND MAINTAIN WELLS AND OTHER WORKS IN, TO, AND THROUGH THE PROPERTY AND ANY ADJOINING STREETS, ROADS AND HIGHWAYS BELOW A DEPTH OF FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR THE PURPOSE OF EXPLORING FOR AND PRODUCING ENERGY RESOURCES; AND THE RIGHT TO PRODUCE, INJECT, STORE AND REMOVE FROM AND THROUGH SAID BORES, WALLS OR WORKS, OIL, GAS, WATER AND OTHER SUBSTANCES OR WHATEVER NATURE; AND THE RIGHT TO PERFORM BELOW SAID DEPTH ANY AND ALL OPERATIONS DEEMED BY GRANTOR NECESSARY OR CONVENIENT FOR THE EXERCISE OF SUCH RIGHTS, WITH INTERFERING IN ANY MANNER WITH THE SURFACE OR SUBSURFACE USAGE OF THE PROPERTY ABOVE A DEPTH OF FIVE HUNDRED (500) FEET AND WITHOUT CAUSING SUBSIDENCE OR REMOVAL OF SUBJACENT OR LATERAL SUPPORT.

PROVIDED, HOWEVER, SAID RESERVATIONS HEREINABOVE BY THE GRANTOR DO NOT INCLUDE AND DO NOT EXCEPT OR RESERVE TO SAID GRANTOR ANY RIGHT OF SAID GRANTOR TO USE THE SURFACE OF SAID PROPERTY OR THE FIRST FIVE HUNDRED (500) FEET BELOW SAID SURFACE OR TO CONDUCT ANY OPERATIONS THEREON OR THEREIN. UNLESS HEREINAFTER SPECIFICALLY EXCEPTED AND RESERVED.

EXHIBIT B

Olympia & Chase LLC industrial development project located in the City of San Diego, County of San Diego, State of California, pursuant to the Mitigated Negative Declaration ("MND") DEP No. 96-7509, certified by the City of San Diego for the Rancho Bernardo Industrial Park Lot 12 project (SCH No. 1997031081), and the Mitigation Plan created thereunder.

Lankford & Associates Inc. scientific research building project located in the City of San Diego, County of San Diego, State of California, pursuant to the Environmental Impact Report ("EIR") LDR No. 96-7765, certified by the City of San Diego for the La Jolla Pines Technology Center Lot 7A project (SCH No. 1990101049), dated March 29, 1990, and the Mitigation Plan created thereunder.

San Dieguito Union High School District new school project located in the City of San Diego, County of San Diego, State of California, pursuant to the Notice of Determination ("NOD"), certified by the City of San Diego for the Carmel Valley Junior High/Middle School project (SCH No. 1998109538), dated February 19, 1998 and the Mitigation Plan created thereunder.

Fenton Western Properties residential, commercial, and recreational development project located in the City of San Diego, County of San Diego, State of California, pursuant to Final EIR, DEP No. 96-9004, certified by the City of San Diego for the Mission City project (SCH No. 1996111039), dated February 6, 1998 and the Mitigation Plan created thereunder.

Kavanagh Associates scientific research building project located in the City of San Diego, County of San Diego, State of California, pursuant to the Draft EIR, LDR 96-7986, certified by the City of San Diego for the Burnham Institute project in the Torrey Pines Science Center (SCH No. 1988062210), and the Mitigation Plan created thereunder.

Southland Corporation convenience market store project located in the City of San Diego, County of San Diego, State of California, pursuant to the MND DEP 96-7731, certified by the City of San Diego for 7-11 store on La Media Road and Otay Mesa Road in the Otay Mesa Community, and the Mitigation Plan created thereunder.

Sorrento Sand Company Inc. single family residence project located in the City of San Diego, County of San Diego, State of California, pursuant to the MND DEP 94-0277, certified by the City of San Diego for the Torrey View Estate residence at 4049 Arroyo Sorrento Road in Carmel Valley (SCH No. 1995121023), dated January 10, 1996, and the Mitigation Plan created thereunder.

Granum Partners industrial park project located in the City of San Diego, County of San Diego, State of California, pursuant to the MND RPO 96-7648, certified by the City of San Diego for the Rancho Bernardo Industrial Park North, Lot 11, project, and the Mitigation Plan created thereunder.

Johnson Communities road construction project located in the City of San Diego, County of San Diego, State of California, pursuant to the Findings to the Master EIR RPO 96-7286,

EXHIBIT B (Page 2 of 2)

certified by the City of San Diego for the Del Mar Mesa Road & Deer Canyon Sewer project in Carmel Valley (SCH No. 1999071127), and the Mitigation Plan created thereunder.

Torrey Pines Homebuilding Company, LLC residential development project located in the City of San Diego, County of San Diego, State of California, pursuant to the Draft EIR LDR No. 96-7573, certified by the City of San Diego as an amendment to the Carmel Valley Neighborhood and Precise Plan (SCH No. 1997111053), and the Mitigation Plan created thereunder.

Silver Oaks Estates LLC residential development project located in the City of San Diego, County of San Diego, State of California, pursuant to the a Master Environmental Impact Report ("MEIR") for the North City Future Urbanizing Area MEIR LDR No. 95-0353, and Findings to the EIR 95-0353 LDR 99-0023, certified by the City of San Diego for the Silver Oaks Estates project (SCH No. 1993071097)), and the Mitigation Plan created thereunder.

Gary and Leslie Schotz single family residence project located in the City of San Diego, County of San Diego, State of California, pursuant to the Findings to the EIR 95-0353, LDR 99-1350, certified by the City of San Diego for the Schotz project (SCH No. 1993071097), and the Mitigation Plan created thereunder.

TMW Real Investments Inc. residential development project located in the City of San Diego, County of San Diego, State of California, pursuant to the MND LDR 99-0125, certified by the City of San Diego for the Clairemont Gardens subdivision project (SCH No. 2000121073), and the Mitigation Plan created thereunder.

University of San Diego parking structure project located in the City of San Diego, County of San Diego, State of California, pursuant to the MND LDR No. 41-0092, certified by the City of San Diego for the University of San Diego campus four storey parking structure project (SCH No. 2001111127), and the Mitigation Plan created thereunder.

Seabreeze Properties, LLC residential development project in the City of San Diego, County of San Diego, State of California, pursuant to the MND LDR No. 42-0211, certified by the City of San Diego for Old El Camino Real project (SCH No. 2002111050), and the Mitigation Plan created thereunder.

EXHIBIT C

March 20, 2009, Letter to City of San Diego from the U. S. Fish and Wildlife Service and the California Department of Fish and Game



U. S. Fish and Wildlife Service
 Carlsbad Fish and Wildlife Office
 6010 Hidden Valley Road, Suite 101
 Carlsbad, California 92011
 (760) 431-9440
 FAX (760) 431-9618



California Department of Fish and Game
 South Coast Region
 4949 Viewridge Avenue
 San Diego, California 92123
 (858) 467-4201
 FAX (858) 467-4299

In Reply Refer To:
 FWS/CDFG-09B0260-09TA0747

Mr. Chris Zirkle
 Deputy Director - Open Space Division
 San Diego Park and Recreation Department
 City of San Diego
 1250 6th Avenue - Mail Station 804A
 San Diego, California 92101

MAR 20 2009

Subject: City of San Diego Acceptance of The Environmental Trust (TET) Properties

Dear Mr. Zirkle:

This joint letter from the California Department of Fish and Game (Department) and the U.S. Fish and Wildlife Service (Service) (herein referred to collectively as the Wildlife Agencies) is in response to the concerns you have raised regarding the degree to which the TET properties must be "managed" if accepted by the City. The City of San Diego has agreed to accept 14 TET parcels in fee title and/or via a conservation easement, with the goal of managing them in accordance with the City's Multiple Species Conservation Program (MSCP) (see enclosed Table 1).

The Wildlife Agencies acknowledge the current bankruptcy plan under which the City would be accepting the properties, concur that the City is not required to fulfill any mitigation obligations on these lands, and accept that some management actions will be deferred until additional funding sources are identified to allow for increased levels of management and/or stewardship. The bankruptcy settlement requires the remaining TET funds to be spent on stewardship/management activities on the subject properties to the extent the funds allow but does not require the new land owner to expend additional funds on the property beyond what is allocated through the bankruptcy settlement. However, the City's MSCP permit does require lands that are included in the preserve to be managed in accordance with the City's adopted MSCP and any area specific management directives (ASMDs) that have been developed for that area. Many of the TET properties to be transferred to the City include lands used to fulfill MSCP conservation obligations (e.g., core resource areas, wildlife corridors, etc.), including vernal pool habitat that supports the federally listed San Diego fairy shrimp (*Branchinecta sandiegonensis*), San Diego button celery (*Eryngium aristulatum* var. *parishii*), San Diego mesa mint (*Pogogyne abramsii*), and spreading navarretia (*Navarretia fossalis*). Therefore, it is important to conserve these lands and manage them consistent with MSCP.

TAKE PRIDE[®]
 IN AMERICA 

Mr. Chris Zirkel (FWS/CDFG-09B0260-09TA0747)

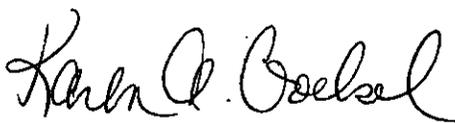
2

Under the TET bankruptcy settlement, limited funds are available for basic stewardship (e.g., fencing, signage, etc.) and management (repairs, surveys, restoration, etc.) on each property. The Wildlife Agencies understand that the remaining funds allocated to specific TET properties are unlikely to be sufficient to bring their stewardship/management to MSCP standards at this time. Thus, any TET properties that cannot be managed with the remaining funds in accordance with the City's MSCP and any applicable ASMDs should not be "counted" towards fulfilling the MSCP conservation obligations or included in the preserve and shown as "conserved" in the City's annual report until they can be managed to MSCP standards.

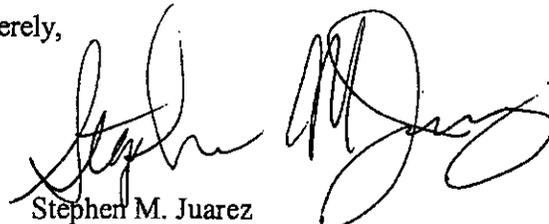
The Wildlife Agencies acknowledge this constraint and recommend that the remaining TET funds be applied to stewardship/management activities on those transferred properties in greatest need, with the balance of funding needed for such activities on all TET transferred lands coming from annual budgeting under the City's MSCP, or through various grant opportunities, until such time as a reliable regional or other funding source is identified. As one example, at present, there may not be sufficient funds to provide fencing around the properties as is currently called for in the property transfer/easement language. Additionally, spending money on fencing may not be prudent relative to other management needs. As always, the Wildlife Agencies are available to assist the City in any prioritization needed to maximize the expenditure of remaining funds for land stewardship/management on the TET transferred properties.

The Wildlife Agencies appreciate the City's efforts and collaboration on resolving the issues surrounding the TET properties and the City's willingness to accept these properties. We also look forward to assisting you in identifying funding opportunities to manage these lands to MSCP standards. If you have any questions regarding this letter, please contact Susan Wynn of the Service at (760) 431-9440 ext 216 or David Mayer at of the Department at (858) 467-4234.

Sincerely,



Karen A. Goebel
Assistant Field Supervisor
U.S. Fish and Wildlife Service



Stephen M. Juarez
Environmental Program Manager
California Department of Fish and Game

Enclosure

Enclosure

TABLE 1: TET PARCELS TRANSFERRED TO CITY OF SAN DIEGO

TET ID	NAME	FEE TITLE TO GO TO	CONSERVATION EASEMENT TO	APNs
2	Black Mountain Vernal Pools North	Friends of Los Peñasquitos	City of San Diego	306-250-15 306-250-16
3	Black Mountain Vernal Pools South	Friends of Los Peñasquitos	City of San Diego	306-250-17 306-250-18 306-250-31
12	Del Mar Mesa	City of San Diego (ptn)	CDFG	306-050-29
20	K-Mart Vernal Pools	City of San Diego	CDFG	645-074-08 645-074-18 645-075-09
25	McMillin Vernal Pools	City of San Diego	CDFG	645-075-08
29	Newport 5	City of San Diego	CDFG	631-041-10
33	Otay 15	City of San Diego	CDFG	667-040-05
41	San Pasqual	City of San Diego	CDFG	276-010-03
47	Spring Canyon	City of San Diego	CDFG	645-102-01 645-102-02 645-102-03 645-102-11
52	Torrey Highlands	Friends of Los Peñasquitos	City of San Diego	306-330-03 306-340-66 306-041-33
55	West Otay Mesa A	Unknown fate	Unknown fate	645-061-01
56	West Otay Mesa B	City of San Diego	CDFG	645-061-02
57	West Otay Mesa C	City of San Diego	CDFG	645-060-07
58	Wruck Canyon	City of San Diego	CDFG	667-050-06 667-050-66 667-050-07
65	Robinhood III	Stays with owner	Unknown	646-111-30
76	East Elliot 13	City of San Diego	Unknown	366-070-37

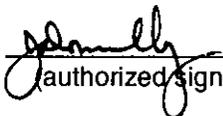
The Environmental Trust Bankruptcy
(West Otay Mesa B project – APN 645-061-02)
San Diego County

CERTIFICATE OF ACCEPTANCE

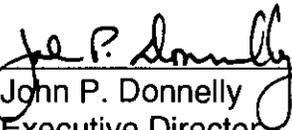
THIS IS TO CERTIFY that the interest in real property conveyed by the conservation easement deed, dated November 12, 2009 from The Environmental Trust to the STATE OF CALIFORNIA, is hereby accepted by the undersigned officer on behalf of the State of California, pursuant to authority conferred by authorization of the Wildlife Conservation Board, Department of Fish and Game, Natural Resources Agency, State of California, adopted on November 20, 2008. and the grantee consents to the recordation thereof by its duly authorized officer.

I hereby certify that all conditions for exemption have been complied with and this document is exempt from Department of General Services approval.

WILDLIFE CONSERVATION BOARD

By: 
(authorized signatory)

STATE OF CALIFORNIA
Resources Agency
Department of Fish and Game

By: 
John P. Donnelly
Executive Director
Wildlife Conservation Board

Date: 12/1/09

Appendix C.
Property Analysis Record (PAR)

**Property Record Analysis
Habitat Management Endowment Report
For Vernal Pool Preserve
Vista Del Mar Elementary School Project**

Project Information

Preparer:

PAR Preparer: Schaefer Ecological Solutions
Christina Schaefer (certified CNLM PAR Preparer)
Address: 815 Madison Avenue
San Diego, CA 92116
Phone: 619-991-8968
Email: christina@schaeferecology.com
Date: December 7, 2021

Project Owner:

Contact: San Ysidro School District
ATTN: Marilyn Adrianzen
Chief Business Official
Address: 4350 Otay Mesa Road
San Ysidro, CA 92173
Phone: (619) 428-4476, ext. 3004
Email: marilyn.adrianzen@syzschools.org

Property Owner

Contact: City of San Diego Real Estate Assets Department (READ)
ATTN: Director
Address: 1200 Third Avenue, Suite 1700
San Diego, CA 92101
Phone: (619) 236-6145

Land Manager:

Contact: City of San Diego Department of Park and Recreation
ATTN: Mark Berninger
Address: 202 C St.
San Diego, CA 92101
Phone: 619-685-1314
Email: mberninger@sandiego.gov

Property:

Type: Habitat Preserve, Mitigation Areas
APN: Otay Mesa Parcel B: 6450610200 (portion thereof)
Acreage: 1.05 acres

Project Schedule:

Construction (Mass Grading): completed in 2019
Restoration: 2011 through 2012
Post-Restoration Monitoring: 2012 through 2016
Interim Management: 2017 – 2019
Long Term Management: starting in 2022

1.0 Introduction

The purpose of the Vista del Mar Elementary School Vernal Pool Preserve Property Analysis Record (PAR) is to prepare a cost estimate for the long-term management and monitoring of the Offsite Vernal Pool Mitigation Area that has been set aside for conservation in perpetuity. The parcel was originally conserved by the The Environmental Trust (TET), and has been transferred in title ownership to the City of San Diego.

This PAR has been prepared pursuant to the requirements set forth in the Vernal Pool Preserve Long Term Management Plan (LTMP) that was prepared by SES on December 7, 2021, to ensure the long-term protection and preservation of the mitigation areas' natural biological resources as required by the Vista del Mar Elementary School regulatory permits. The LTMP is consistent with the City of San Diego Multiple Species Conservation Program (MSCP) Subarea Plan and the City of San Diego's Vernal Pool Habitat Conservation Plan (VPHCP), and conforms to long term management requirements set forth by the City of San Diego, U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), California Department of Fish and Wildlife (CDFW), and Regional Water Quality Control Board (RWQCB). The cost analysis is based on the assumptions described below. Although the PAR may be used as a stand-alone document, it should be considered in association with the detail provided in the LTMP.

2.0 Preserve Details

1. The PAR was prepared for the San Ysidro School District and the City of San Diego. The City of San Diego's Vernal Pool Preserve shall be managed pursuant to the Vista Del Mar Elementary School Vernal Pool Preserve LTMP and the City's VPHCP.
2. The Vernal Pool Preserve has been conserved by means of the MSCP and VPHCP conservation and implementing agreements, and as mitigation for the Vista del Mar Elementary School Project.
3. The Vernal Pool Preserve is located on Otay Mesa Parcel A, south of Otay Mesa Road and West of Aqua Caliente Road, in the City of San Diego jurisdiction of Otay Mesa, California.
4. The Vernal Pool Preserve is owned by the City of San Diego READ and shall be managed in perpetuity by the City of San Diego consistent with the LTMP and the City's VPHCP. Vernal pools shall be managed to maintain Level 1 management status per the VPHCP.
5. The preservation of the mitigation area shall benefit vernal pools and at the federally endangered and VPHCP-covered species: the San Diego fairy shrimp (*Branchinecta sandiegonensis*).
6. The mitigation area shall have been restored and enhanced at the onset of the long term management schedule. Restoration was accepted by the Wildlife Agencies in May 2017.
7. The installation of gates, fencing, and signage was completed as part of the habitat restoration efforts. Long-term management shall be limited to maintenance (repair, replacement).
8. Because restoration was completed in 2017 and no surveys have been conducted since that time, baseline surveys shall be performed at the beginning of long term management. The PAR assumes separate Initial costs that include the preparation of baseline surveys to confirm current conditions.
9. Table 1 outlines monitoring and management (maintenance) tasks and the frequency of occurrence. The table and the text below form the basis of this fiscal analysis for Initial and Ongoing costs associated with the long-term management of the Vernal Pool Preserve by the City of San Diego pursuant to provisions of the LTMP, MSCP Subarea Plan, and VPHCP.

3.0 Cost Assumptions

The cost assumptions detailed in the PAR are based on the following, and as detailed in this document:

1. The San Ysidro School District is responsible for funding the LTMP requirements. The City of San Diego is responsible for ensuring that monitoring and management are conducted in perpetuity in a manner consistent with the LTMP and project permit requirements.
2. Funding for long-term management shall occur through the endowment identified in this PAR. The City of San Diego shall commence management as soon as funds are available.
3. Costs for maintenance, monitoring and surveys include travel time and mileage, and are based on City of San Diego staff rates and City of San Diego as-needed biological consultant rates (2021).
4. Costs are expected to increase annually due to inflation. The PAR provides an average per year estimated cost over 50 years, assuming a 3% inflation.
5. Certain management actions may occur during the same site visit, as indicated below.
6. The endowment shall be managed by the City of San Diego based on a 4.5% rate of return.

4.0 Personnel

1. Management activities shall be conducted by the City of San Diego's qualified habitat management personnel and/or the City's as-needed consultant. To be "qualified," a habitat manager must have experience managing conserved lands with similar biological resources and be able to identify native plants and animals that occur in vernal pools, native grasslands, and coastal sage scrub, and must be knowledgeable and permitted to conduct San Diego fairy shrimp management. The LTMP and PAR assume that management would be provided by qualified habitat personnel under the auspices of City of San Diego Department of Park and Recreation, either through the City or a City contractor.
2. Certain activities, such as trash removal, vegetation thinning and invasive species removal, may be conducted by maintenance staff or contractors; however, all maintenance activities shall be supervised and managed by the designated preserve manager or biologist to ensure that native species and habitats are not damaged.
3. Habitat and species monitoring shall be conducted by a qualified biologist approved and/or certified by the Wildlife Agencies. Fairy shrimp (branchiopod) surveys require a USFWS 10(a) take permit for branchiopod sampling.

5.0 Initial Costs

Initial costs are one-time costs that shall be incurred at the beginning of the long-term management period only. Initial costs include baseline biological surveys and reporting. Long term management shall commence when the City of San Diego has received endowment funding for the long term management of the Vernal Pool Preserve. PAR-Output: Initial Tasks and Costs.

5.1 Invasive Species Mapping

During the first year of long-term management, the land manager shall map invasive species and

qualitatively estimate the percent cover to establish a baseline. Mapping may be accomplished through use of available technologies, such as GIS and aerial photography. GIS costs are included in the PAR for all activities that require GIS mapping using and ArcGIS Mapping App, data base management, and graphics production.

5.2 General Biological Resources Inventory

During the first year of long-term management, the land manager shall conduct a general biological resources inventory. The biological resources inventory shall also include a rare plants survey and shall be conducted during the most opportune season for detection. The resources inventory may be conducted concurrently with the invasive species mapping (see 5.1) and the costs are calculated accordingly.

5.3 Species-specific Surveys

During the first year of long-term management, the land manager shall conduct USFWS protocol level wet- and dry-season fairy shrimp sampling to confirm baseline conditions.

5.4 Baseline Hydrological Survey

Prior to the onset of management, the land manager shall conduct a baseline hydrological survey per the City's VPHCP requirements. This would include measurements of the maximum pool depth, pool inlet and outlet, and geomorphic setting for each vernal pool basin. The survey shall be conducted concurrently with the fairy shrimp wet season sampling (see 5.3).

6.0 Ongoing Costs

Management shall consist of long-term management and monitoring of the mitigation areas, and shall continue indefinitely as identified in Table 1. Ongoing costs are estimated on an average annual basis. However, actual expenses shall vary from year to year, as specific management and monitoring activities shall occur at different frequencies (as described above), varying from monthly and annually to once every five years. The cost estimate for habitat monitoring and maintenance activities includes travel time, preparation/submittal of monitoring logs, GIS data entry, and analysis. PAR Output: Annual Ongoing Tasks and Costs.

6.1 Biological Resources Monitoring

6.1.1 Stewardship Monitoring

Stewardship monitoring (qualitative monitoring) would be conducted quarterly by a City Ranger to assess the general conditions of the mitigation areas. This would include observations of invasive species, trash and debris, vandalism and trespassing, erosion, fairy shrimp occupancy observations, vernal pool ponding, habitat degradation, vegetation management needs (e.g., trimming), and the integrity of all perimeter controls and access routes. Site visits shall be documented with site visit logs and/or data spreadsheets, and information updated in GIS, as necessary. Specialized site visits as discussed below may occur concurrently.

6.1.2 Habitat Monitoring

Habitat monitoring shall consist of the following:

1. Update Vegetation Map. Every five years, a biologist shall update the vegetation map of to track

changes and edge effects. The costs include GIS mapping every five years.

2. Invasive Species Monitoring. Twice per year invasive species shall be identified in the uplands by a qualified biologist or park ranger familiar with invasive species; invasive species identification shall occur four times per year in vernal pool basins and percent cover shall be estimated. This task may be conducted concurrently with the quarterly qualitative monitoring.
3. Quantitative Vernal Pool Floral Monitoring. Annually, survey a stratified sample of transects and photo points across 10 percent of the vernal pool basins (alternating pools) to assess changes in species richness, abundance, distribution, and percent cover.
4. Ponding Monitoring. Once during the wet season annually, qualitatively estimate vernal pool depth to track inundation levels and habitat functions per methods identified in the LTMP; visually estimate fairy shrimp occupancy. This task may be conducted concurrently with qualitative monitoring.

6.1.3 Species Monitoring

1. San Diego Fairy Shrimp Monitoring. Annually during the wet season, conduct visual observations of fairy shrimp presence in each vernal pool, following the methods identified in the VPHCP. This task may be conducted concurrently with qualitative monitoring.
2. Every five years, conduct one dry season sampling survey of 10 percent of the pools (alternating pools), pursuant to USFWS protocol (2015) to be conducted by a certified branchiopod biologist.

6.2 Biological Resources Management

6.2.1 Stewardship Management

Stewardship management shall consist of long-term management of Vernal Pool Preserve, and shall continue indefinitely as identified in Table 1. Unauthorized activities include: dumping, hiking, off-road vehicle use, erecting of structures, and grazing (other than specific management-related activities described in the LTMP Stewardship management program). Tasks include:

1. Trash and Debris: larger amounts of trash, debris, and illegally dumped material shall be removed Maintenance staff twice a year. To save costs (e.g., equipment and transportation), trash removal should occur during exotic removal activities.
2. Illegal Trespass and Vandalism. Manage trespass and vandalism, including homeless encampments shall be addressed by City Code Enforcement and is not included in this PAR. Other trespass such as off-road use shall be address through access control measures.
3. Access Controls. Public access shall not be allowed on the property. Public access is controlled by locked gates, signage, and fences. If unauthorized access becomes a problem in the future, additional gates, fencing and/or signage may need to be installed. Replacement materials, installation and maintenance are included in this PAR. Perimeter controls shall be managed by the Habitat Manager. It is assumed that all perimeter controls were installed during habitat restoration; the PAR includes the ongoing maintenance, repair, and replacement of perimeter controls as needed.
4. Fire Management. Fire management shall be coordinated pursuant to the City's VPHCP and City Code. Brush management shall not be performed. Per VPHCP, post-fire repairs shall be conducted on an as-needed bases using emergency funds.

6.2.2 Habitat Management

1. Per the LTMP and VPHCP, Zero Tolerance Species shall be removed and/or treated twice per year upon identification, and four times per year in vernal pool areas. These and other invasive species shall be controlled in a seasonally timed manner that shall prevent further invasion of the exotic species (i.e., before any new seed source matures) and allow for coordination of exotic species removal efforts with restoration measures if necessary. Removal of invasive species in vernal pool basins require the presence of a vernal pool biologist.
2. Vernal Pool Habitat Integrity. Annually, manage topographical integrity in and around vernal pools basins, including BUOW mounds and burrows.
3. BUOW Burrow Maintenance. Twice per year (in November and January/February), maintain and clean artificial burrows, including nest boxes, cameras, entrances, and reconstruct failed burrows.
4. Brush Pile Maintenance. Concurrently, maintain BUOW brush piles and/or rebuild brush piles as necessary.

7.0 Planning, Reporting & Administration

This task includes coordination, administration, data analysis and the preparation and submittal of annual reports.

1. Preserve Management, Planning and Coordination. The Preserve Manager shall be responsible for coordination of all management and monitoring activities, including access control and coordination with the Wildlife Agencies.
2. Reporting. An annual report summarizing all management and monitoring activities, continued threats, and other pertinent information for submittal to the City and Wildlife Agencies, per the requirements of the LTMP. The report shall be submitted by the City of San Diego annually by January 31 to the USFWS, USACE, CDFW, and RWQCB.
3. Contingencies and Administration. Contingencies are included in the PAR at 10% over the overall budget and include unforeseen events, such as floods, fire, drought, fallen trees, etc. The administrative expenses consist of the costs for contract administration, project management, etc. and assumes 5% of the overall budget additional funds would need to be allocated.

PAR Summary

As detailed in the attached PAR Output, the one-time baseline surveys would be conducted during the first management year, concurrent (in addition to) first year ongoing management. The initial management cost would amount to **\$11,488.75**.

For the ongoing management years, an *average* annual allocation of approximately **\$15,873.10** shall be required for management and monitoring of the Vernal Pool Preserve. It is understood that some years may require more intensive management than others, specifically relative to invasive species removal and sensitive species surveys. The annual costs are generated by the interest earned from the endowment and may vary depending on market economies. Any remaining management funds for a given year may be rolled over to the next year.

The total endowment needed to manage the Vernal Pool Preserve amounts to **\$309,500.61**. This amount is based on a 4.5 percent rate of return, which varies annually depending on market volatility. The total to be invested is **\$365,115.58**, which includes legal and emergency funding.

Summary of Long-term Monitoring and Management Tasks

TASK	PURPOSE	LOCATION	FREQUENCY
Qualitative habitat monitoring; general conditions assessment for	Assess overall condition of preserve (e.g., fencing, trash, trespassing, invasive species, habitat degradation, vernal pool ponding, topography, etc.) and map incidental observations of sensitive native species and BUOW occurrence. Evaluate threats and stressors and adaptive management responses.	Entire Preserve	Quarterly
Vegetation mapping	Map vegetation communities to track changes in boundaries and composition over time.	Entire Preserve	Once every five years
Invasive species monitoring - uplands	Monitor infestations of invasive species	Entire Preserve	Twice per year in spring
Invasive species monitoring – vernal pools	Monitor infestations of invasive species and estimate percent cover of non-native species	Vernal pools	Up to four times per year in winter/spring
Quantitative vernal pool covered plant surveys (floral monitoring)	Quantitatively (transects and photo points) monitor 10 percent of the vernal pools to assess changes in species richness, abundance, distribution, and cover.	10 percent of vernal pools (alternating) and parts of uplands	Annually
Qualitative ponding verification	Qualitatively observed vernal pool ponding conditions	All vernal pools	Annually
Visual Observations of San Diego fairy shrimp	Qualitatively assess the status and trend of San Diego fairy shrimp by visually observing occupancy with fairy shrimp in vernal pools	All vernal pools	Wet season: annually
San Diego fairy shrimp population density monitoring	Assess population viability and density; conduct dry season branchiopod sampling (certified biologist)	10 percent of vernal pool (alternating)	Dry season: every five years

TASK	PURPOSE	LOCATION	FREQUENCY
Stewardship Management and Maintenance	Remove invasive species (general), thatch, and trash, maintain access protection and signs, fix erosion problems, coordinate fire management and border patrol access, etc.	As needed (informed by monitoring data)	Quarterly or as needed (informed by quarterly qualitative site visits)
Invasive species control and removal	Control and remove invasive species; invasive species removal in vernal pool basins requires the presence of a vernal pool biologist	Entire Preserve	Twice per year in spring and at least four times per year in vernal pools and watershed.
Burrowing owl artificial burrow management	Maintain and clean artificial burrows from debris; maintain entrances, nest boxes and reconstruct any burrow failures	Artificial burrows	Twice per year in November and January
Brush pile and bee box management	Manage the integrity of brush piles and bee boxes, and rebuild brush piles as needed	Entire Preserve	As needed
Annual reports	Prepare annual report summarizing all management and monitoring activities, continued threats, and other pertinent information for submittal to the City and Wildlife Agencies.	Vernal Pools, ephemeral channel, BUOW habitat	Annually, submitted to resource agencies and City of San Diego on or before December 31

PAR OUTPUT

Initial Tasks and Costs

PROPERTY: VDM Vernal Pool Otay Mesa Parcel B LAST UPDATED: 12/6/2021

C%	A%	TASK	ITEM	TITLE	#	UNIT	COST (Item)	COST (Title)	BASE COST	YRS	ANNUAL CONT	ANNUAL ADMIN	ANNUAL COST
Biotic Surveys													
10%	20%	Invasive Species Mapping	Mapping/Survey	Biologist II	2	Hour(s)		\$ 105.00	\$ 210.00	1	\$ 21.00	\$ 42.00	\$ 273.00
10%	20%	Baseline and Rare Plants	Mapping/Survey	Biologist III	2	Hour(s)		\$ 125.00	\$ 250.00	1	\$ 25.00	\$ 50.00	\$ 325.00
10%	20%	Wet Season Fairy Shrimp	Protocol Survey	Biologist IV	24	Hour(s)		\$ 150.00	\$ 3,600.00	1	\$ 360.00	\$ 720.00	\$ 4,680.00
10%	20%	Dry Season Fairy Shrimp (4 pools)	Protocol Survey	Consulting Biologist	4	Item(s)	\$ 860.00		\$ 3,440.00	1	\$ 344.00	\$ 688.00	\$ 4,472.00
10%	20%	Baseline Hydrology	Mapping/Survey	Biologist III	4	Hour(s)		\$ 125.00	\$ 500.00	1	\$ 50.00	\$ 100.00	\$ 650.00
SUBTOTAL											\$ 800.00	\$ 1,600.00	\$ 10,400.00
Reporting													
10%	20%	Coordination and Report Review		Biologist V	2	Hour(s)		\$ 175.00	\$ 175.00	1	\$ 17.50	\$ 35.00	\$ 227.50
10%	20%	Report Preparation		BiologistII	8	Hour(s)		\$ 105.00	\$ 175.00	1	\$ 17.50	\$ 35.00	\$ 227.50
10%	20%	GIS MappingSupport and Graphics		GIS Contractor	4	Hour(s)		\$ 85.00	\$ 340.00	1	\$ 34.00	\$ 68.00	\$ 442.00
SUBTOTAL											\$ 51.50	\$ 103.00	\$ 669.50
Field Equipment													
10%	20%	Mileage	Mileage - Initial Year		250	Mile(s)	\$ 0.59		\$ 147.50	1	\$ 14.75	\$ 29.50	\$ 191.75
SUBTOTAL											\$ 14.75	\$ 29.50	\$ 191.75
Operations													
10%	20%	Project Management - Supervise & Coordinate		Biologist V	1	Hour(s)		\$ 175.00	\$ 175.00	1	\$ 17.50	\$ 35.00	\$ 227.50
SUBTOTAL											\$ 17.50	\$ 35.00	\$ 227.50

TOTAL \$ 11,488.75

Annual Ongoing Tasks and Costs

PROPERTY: Vista Del Mar Vernal Pool Otay Mesa Parcel B

LAST UPDATED: 12/6/2021

C%	A%	TASK	ITEM	TITLE	#	UNIT	COST (Item)	COST (Title)	BASE COST	YRS	ANNUAL CONT	ANNUAL ADMIN	ANNUAL COST	
Biotic Surveys														
1	10%	20%	Quarterly Qualitative/Stewardship Mon	Monitoring	Biologist II	8	Hour(s)		\$ 105.00	\$ 840.00	1	\$ 84.00	\$ 168.00	\$ 1,092.00
2	10%	20%	Baseline Mapping - Vegetation	Mapping/Survey	Biologist III	3	Hour(s)		\$ 125.00	\$ 375.00	5	\$ 7.50	\$ 15.00	\$ 97.50
3	10%	20%	Baseline Mapping - Vegetation	GIS	GIS Contractor	2	Hour(s)		\$ 85.00	\$ 170.00	5	\$ 3.40	\$ 6.80	\$ 44.20
3	10%	20%	Invasive Species Monitoring	Mapping/Survey	Biologist III	2	Hour(s)		\$ 125.00	\$ 250.00	1	\$ 25.00	\$ 50.00	\$ 325.00
4	10%	20%	Quantitative VP Monitoring (4 pools)	Mapping/Survey	Biologist III	3	Hour(s)		\$ 125.00	\$ 375.00	1	\$ 37.50	\$ 75.00	\$ 487.50
4	10%	20%	SF Wet Season Observation	Mapping/Survey	Biologist IV	1	Hour(s)		\$ 150.00	\$ 150.00	1	\$ 15.00	\$ 30.00	\$ 195.00
5	10%	20%	FS Dry Season Sampling (4 pools)	Mapping/Survey	Consulting Biologist	4	Item(s)	\$ 860.00		\$ 3,440.00	5	\$ 68.80	\$ 137.60	\$ 894.40
6	SUBTOTAL										\$ 157.20	\$ 314.40	\$ 2,043.60	
Habitat/Site Maintenance														
##	10%	10%	Invasives	Dethatching	Field Technician	80	Hour(s)		\$ 50.00	\$ 4,000.00	1	\$ 400.00	\$ 400.00	\$ 4,800.00
##	10%	10%	Invasives	Weeding - Manage & Direct	Field Supervisor	16	Hour(s)		\$ 65.00	\$ 1,040.00	1	\$ 104.00	\$ 104.00	\$ 1,248.00
##	10%	10%	Erosion	Topographic Adjustment/Habitat	Field Technician	2	Hour(s)		\$ 50.00	\$ 100.00	1	\$ 10.00	\$ 10.00	\$ 120.00
##	10%	10%	Invasives	Herbicide Concentrate		8	Gallon(s)	\$ 125.00		\$ 1,000.00	1	\$ 100.00	\$ 100.00	\$ 1,200.00
##	10%	10%	Trash	Dump Fee - Non-organic Debris		1	Item(s)	\$ 500.00		\$ 500.00	1	\$ 50.00	\$ 50.00	\$ 600.00
##	10%	10%	Fencing	3-strand Barbless		1	Item(s)	\$ 600.00		\$ 600.00	1	\$ 60.00	\$ 60.00	\$ 720.00
##	10%	10%	Gate	Annual Maintenance		1	Fee	\$ 1,000.00		\$ 1,000.00	20	\$ 5.00	\$ 5.00	\$ 60.00
##	10%	10%	Signs	Basic - 14"x16"		2	Item(s)	\$ 40.00		\$ 80.00	1	\$ 8.00	\$ 8.00	\$ 96.00
##	10%	20%	Maintenance - Artifical Burrows/Brush Piles		Field Technician	2	Hour(s)		\$ 50.00	\$ 100.00	1	\$ 10.00	\$ 20.00	\$ 130.00
##	10%	20%	Management Supervision		Biologist II	8	Hour(s)		\$ 105.00	\$ 840.00	1	\$ 84.00	\$ 168.00	\$ 1,092.00
##	SUBTOTAL										\$ 831.00	\$ 925.00	\$ 10,066.00	
Reporting														
##	10%	20%	Coordination and Report Review		Biologist V	1	Hour(s)		\$ 175.00	\$ 175.00	1	\$ 17.50	\$ 35.00	\$ 227.50
##	10%	20%	GIS Mapping Support		GIS Contractor	2	Hour(s)		\$ 85.00	\$ 170.00	1	\$ 17.00	\$ 34.00	\$ 221.00
##	10%	20%	Annual Report - Preparation		Biologist II	4	Hour(s)		\$ 105.00	\$ 420.00	1	\$ 42.00	\$ 84.00	\$ 546.00
##	10%	20%	Annual Report - Preparation		Biologist III	4	Hour(s)		\$ 125.00	\$ 500.00	1	\$ 50.00	\$ 100.00	\$ 650.00
##	10%	20%	Annual Report - Preparation		GIS Contractor	4	Hour(s)		\$ 85.00	\$ 340.00	1	\$ 34.00	\$ 68.00	\$ 442.00
##	10%	20%	Annual Report - Review		Biologist V	2	Hour(s)		\$ 175.00	\$ 350.00	1	\$ 35.00	\$ 70.00	\$ 455.00
##	SUBTOTAL										\$ 195.50	\$ 391.00	\$ 2,541.50	
Field Equipment														
##	10%	20%	Mileage	Mileage - Annually		1000	Mile(s)	\$ 0.59		\$ 590.00	1	\$ 59.00	\$ 118.00	\$ 767.00
##	SUBTOTAL										\$ 59.00	\$ 118.00	\$ 767.00	
Operations														
##	10%	20%	Project Management - Supervise & Coordinate		Biologist V	2	Hour(s)		\$ 175.00	\$ 350.00	1	\$ 35.00	\$ 70.00	\$ 455.00
##	SUBTOTAL										\$ 35.00	\$ 70.00	\$ 455.00	

TOTAL \$ 15,873.10

Financial Summary

PROPERTY: Vista Del Mar Vernal Pool Otay Mesa Parcel B LAST UPDATED: 12/6/2021

Acreage =	1.00
Contingency Rate =	10%
Administrative Rate (Staff) =	20%
Administrative Rate (Materials) =	10%
Endowment per Acre =	\$ 309,500.61
Endowment per Acre per Year =	\$ 15,873.10

COSTS PER YEAR	TOTAL (\$)
Initial & Capital Costs for Year 1 at 2021 rates	\$ 11,488.75
Annual Ongoing Costs per Year from Year 2 to perpetuity at 2021 rates	\$ 15,873.10
TOTAL INITIAL FINANCIAL REQUIREMENTS	
Initial & Capital Costs for Year 1	\$ 11,488.75
Annual Ongoing Costs for Year 2	\$ 15,873.10
Annual Ongoing Costs for Year 3	\$ 15,873.10
Initial Financial Requirements for Years 1, 2,3	\$ 43,234.95
ENDOWMENT REQUIREMENTS FOR ONGOING STEWARDSHIP	
Endowment to Provide Ongoing Income of \$ 15,873.10 at Cap. Rate of 4.50%	\$ 352,735.56
Less Total Initial Financial Requirements	\$ (43,234.95)
Required Endowment*	\$ 309,500.61
EMERGENCY & LEGAL FUND	
4% of Endowment	\$ 12,380.02
TOTAL CONTRIBUTION	
(Initial Financial Requirements for Years 1,2,3 + Endowment + Emergency & Legal Fund)	\$ 365,115.58

* Assumes the endowment will be paid in 2022 and returns from the endowment will start being used to support stewardship tasks in Year 4 (2026).

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Human Resources
Glenn Heath, Executive Director

Informational
 Action

AGENDA ITEM: REVISED ORGANIZATIONAL CHART

BACKGROUND INFORMATION:

According to Board Policy 4301, the District shall maintain a current District organization chart which designates lines of primary responsibility and the relationships among all District positions. The District proposes the attached Organizational Chart.

RECOMMENDATION:

Approve the revised Organizational Chart.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Goal #1: Student Achievement – 1.5 Staffing

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

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N/A

(Amount)

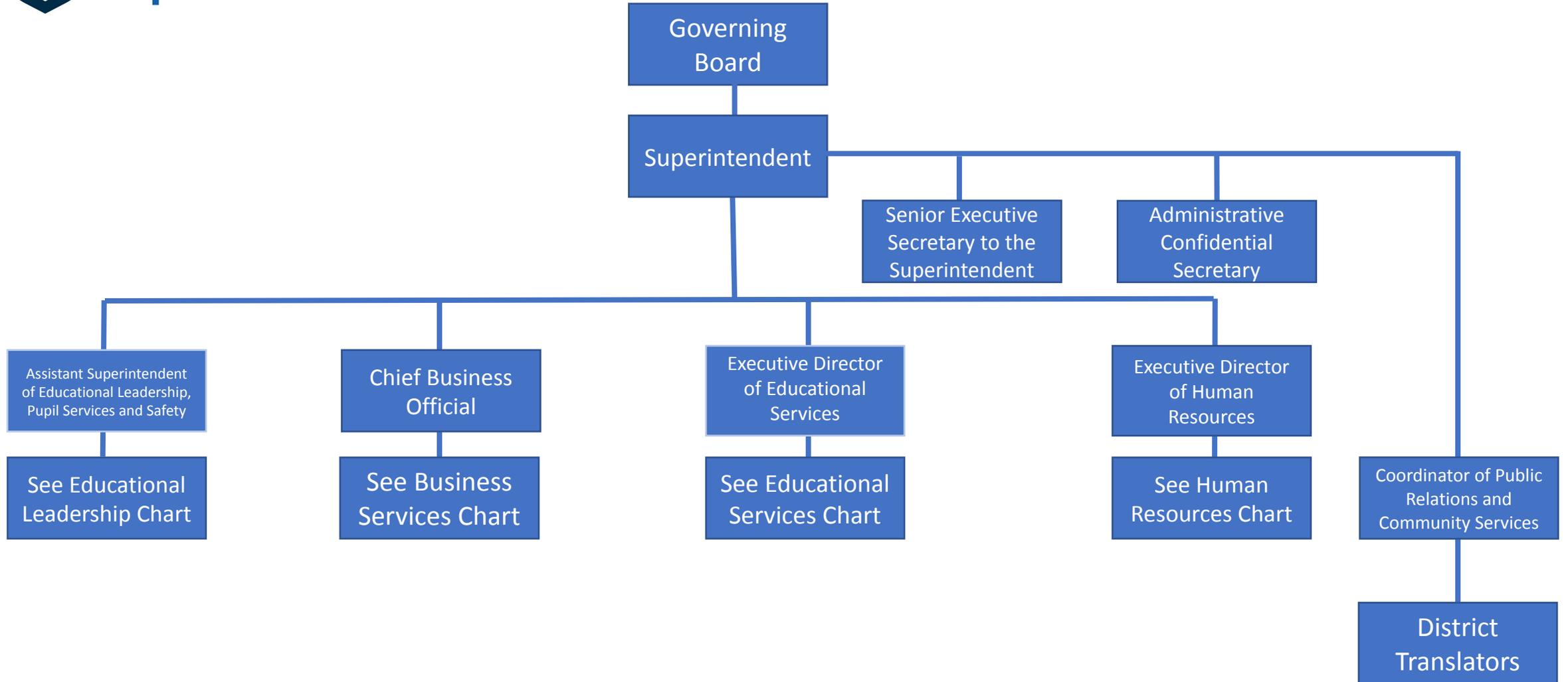
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(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No



2021/2022 Proposed San Ysidro School District
Organization Chart
Governing Board and Superintendent



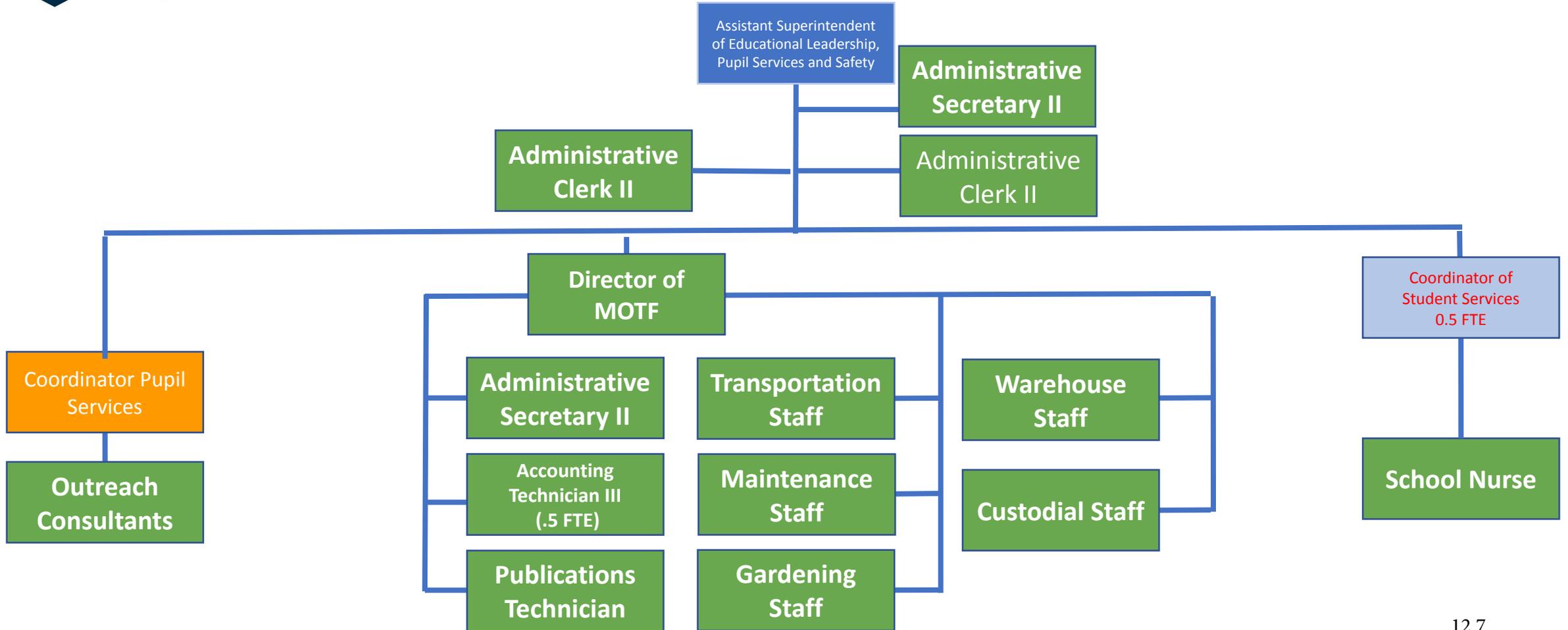
Reclassification

Move position from one department to another

New Position



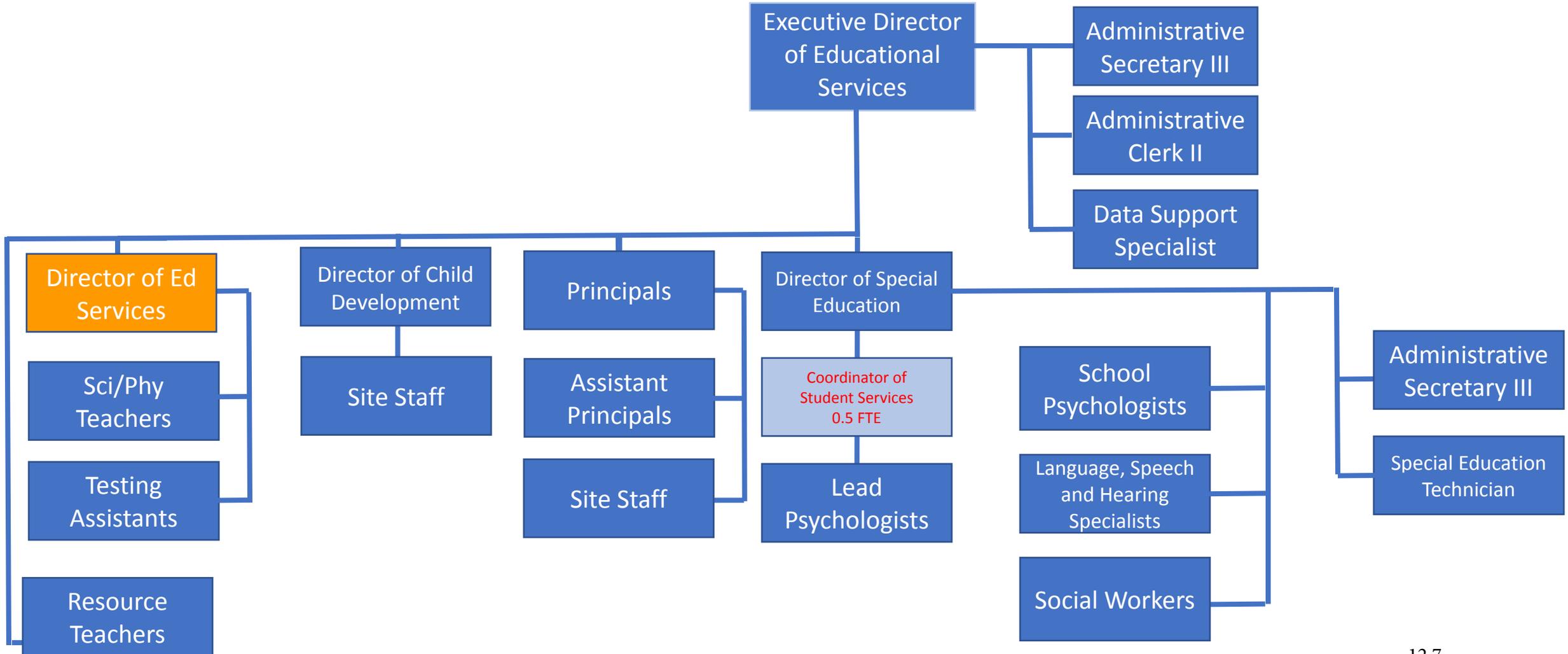
2021/2022 Proposed San Ysidro School District
Organization Chart
Educational Leadership, Pupil Services, and Safety



*Also provides leadership support to the Management team.



2021/2022 Proposed San Ysidro School District Organization Chart Educational Services



Reclassification

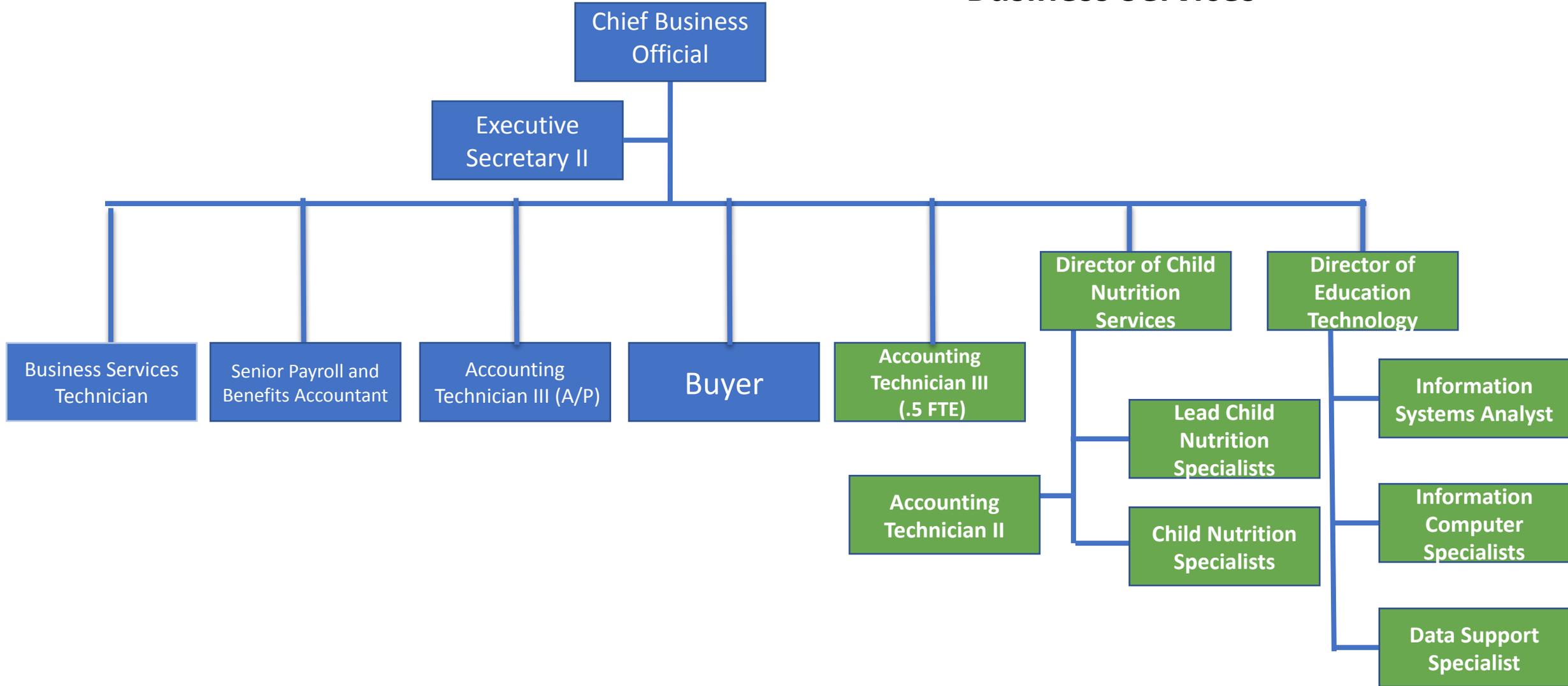
Move position from one department to another

New Position

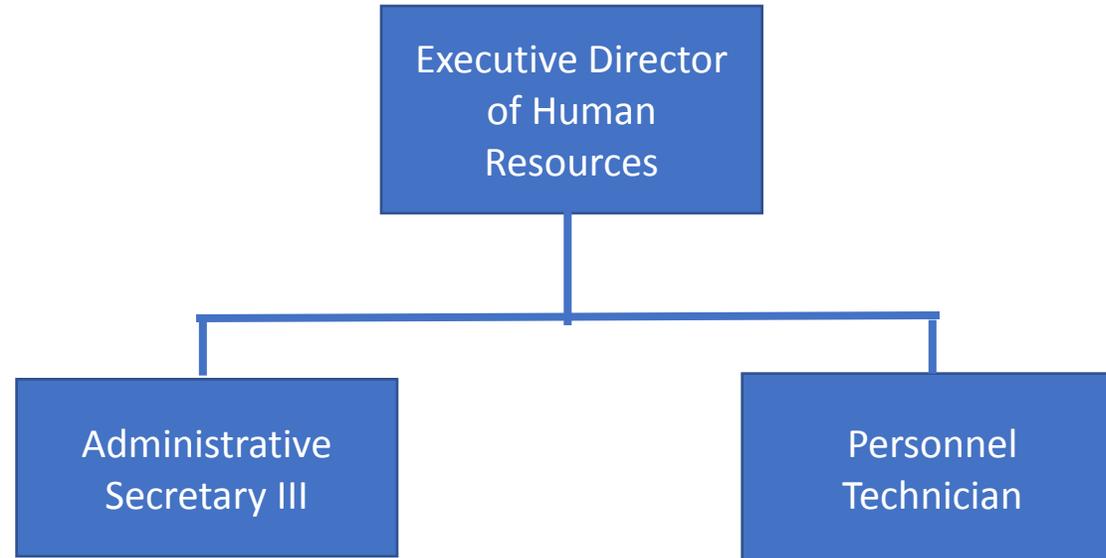


2021/2022 Proposed San Ysidro School District Organization Chart

Business Services



Reclassification
Move position from one department to another
New Position



**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Administration
Gina A. Potter, Ed.D.,
Superintendent

Informational
 Action

AGENDA ITEM: TEMPORARY TEMPORARY DISTRICT-WIDE EXECUTIVE LEADERSHIP
SUPPORT OFFER OF EMPLOYMENT WITH ERNEST ANASTOS

BACKGROUND INFORMATION:

Mr. Ernest Anastos will be contracted to provide Temporary District-wide Executive Leadership Support Services commencing on January 28, 2022, and ending on June 30, 2022.

During the term of this contract the pay shall be \$800.00 per day worked. Total compensation shall not exceed \$30,000 for the term of this agreement. Either party to this contract may, however, terminate this contract by giving ten days' notice to the other party.

Mr. Anastos will arrange, in advance with the Superintendent, the days to be worked on an "as needed" basis during the term of this agreement. As this is a temporary position, there will be no medical benefits provided.

RECOMMENDATION:

Approve the agreement with Ernest Anastos to provide Temporary District-wide Executive Leadership Support Services on an "as needed" basis commencing on January 28, 2022 and ending on June 30, 2022 in an amount not to exceed \$30,000.00 from the General fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

not to exceed
\$30,000.00

(Amount)

General Fund

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

**AGREEMENT BETWEEN THE
SAN YSIDRO SCHOOL DISTRICT
AND
ERNEST ANASTOS**

The following is a contract between the San Ysidro School District, hereinafter referred to as "District," and Ernest Anastos hereinafter referred to as "Anastos".

I. TERM OF CONTRACT

The Governing Board hereby employs Anastos to provide Temporary Districtwide Executive Leadership Support Services commencing on January 28, 2022, and ending on June 30, 2022. Either party to this contract may, however, terminate this contract by giving ten days' written notice to the other party. The contract is subject to the terms and conditions hereinafter set forth.

II. SALARY

During the term of this contract the pay shall be \$800.00 per day worked. Total compensation shall not exceed \$30,000 for the term of this agreement.

Anastos will arrange, in advance with the Superintendent, the days to be worked on an "as needed" basis during the term of this agreement. As this is a temporary position, there will be no medical benefits provided.

III. INDEMNIFICATION

The District agrees to defend, indemnify, save and forever hold Anastos harmless from and against any and all demands, claims, causes of action and/or legal proceedings of any kind, nature or form for acts of omission or commission arising out of his employment as an agent of the District.

IV. GENERAL PROVISIONS

This contract is subject to all applicable laws of the State of California including the provisions of Government Code Sections 53260-53264 and the policies, rules and regulations of the District. Those laws and those policies, rules and regulations are considered as a part of the terms of this contract.

This contract is the full and complete contract between the District and Anastos. This contract may be changed or modified only in writing, signed by all parties or their successors in interest to this agreement.

IN WITNESS WHEREOF, I affix my signature to this contract for the provisions of Temporary Districtwide Executive Leadership Support Services as a full and complete understanding of the relationship between the parties hereto and agree to comply with the conditions thereof.

Ernest Anastos

Gina Potter, Superintendent

Date

Date

This agreement was approved in a public (open) session by the Governing Board of the San Ysidro School District at a regular meeting duly held on _____.

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Human Resources Informational
David Farkas, Assistant Action
Superintendent of Educational
Leadership, Pupil Services, and
Safety

AGENDA ITEM: AMENDMENT TO THE TEMPORARY CERTIFICATED MANAGEMENT CONTRACT WITH GLENN HEATH

BACKGROUND INFORMATION:

The Board of Trustees hereby offers Glenn Heath an extended employment in the management position, Substitute Executive Director of Human Resources, effective August 13, 2021 to cover for the Executive Director of Human Resources' leave of absence. As Substitute Executive Director of Human Resources, Mr. Heath will be responsible for performing the job duties of the Executive Director of Human Resources throughout the duration of leave and as indicated on the employment contract. The term of this Contract will expire on March 31, 2022.

RECOMMENDATION:

Approve the Amendment to the Temporary Certificated Management Contract with Glenn Heath to extend the term of his contract to March 31, 2022.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Goal #1: Student Achievement – 1.5 Staffing

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

\$651.56/day

(Amount)

General Fund

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

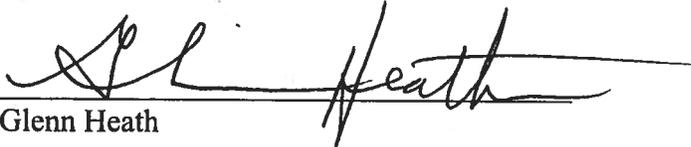
AMENDMENT
TO THE
TEMPORARY CERTIFICATED MANAGEMENT CONTRACT
With
GLENN HEATH

The Temporary Certificated Management Contract between the San Ysidro School District and Glenn Heath executed on August 13, 2021 is hereby amended as follows:

1. The daily rate shall be \$ 651.56
2. Pursuant to Executive Order N-3-22 that was issued on January 11, 2022, the STRS income limitations set forth in paragraph 5 of the contract are suspended through March 31, 2022.
3. The term of this Contract will expire on March 31, 2022.
4. All other terms and conditions of the Contract will remain in full force and effect.

Gina Potter, Superintendent

Date



Glenn Heath

1/20/22

Date

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services and Human Resources Informational
Marilyn Adrianzen, Chief Business Official Action
Glenn Heath, Interim Executive Director

AGENDA ITEM: REVISED TEMPORARY SUBSTITUTE CLASSIFIED SALARY RATES FOR CERTAIN POSITIONS ONLY FOR THE 2021-2022 SCHOOL YEAR

BACKGROUND INFORMATION:

Due to the COVID-19 pandemic related shortage of Substitute Classified Staff, the substitute classified salary schedule will be temporarily increased for the position as indicated below. The temporary and non-retroactive substitute classified rates will take effect from January 28, 2022 to June 30, 2022 only and will return to the regular rates for the 2022-2023 school year.

Position	Temporary Hourly Rate
Substitute Campus Aides	\$15.00

RECOMMENDATION:

Approve the revised Temporary Substitute Classified Salary Rates for certain positions only for the 2021-2022 School Year.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Goal #1: Student Achievement – 1.5 Staffing

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

TBD
(Amount)

ESSER III
(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

CURRICULUM & INSTRUCTION

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services Informational
Cynthia Gonzalez, Executive Director Action

AGENDA ITEM: APPROVAL OF SCHOOL ACCOUNTABILITY REPORT CARDS (SARC)
FOR 2021-2022

BACKGROUND INFORMATION:

In November 1988, California voters passed Proposition 98, also known as *The Classroom Instructional Improvement and Accountability Act*. This ballot initiative provides California's public schools with a stable source of funding. In return, all public schools in California are required annually to prepare the School Accountability Report Cards (SARCs) and disseminate them to the public. SARCs are intended to provide the public with important information about each public school and to communicate a school's progress in achieving its goals.

SARC content requirements: State and Federal laws require specific items to be reported in the following categories: • demographic information, • school safety and climate for learning, • academic data, • school completion, • class size, teacher, and staff information, • curriculum and instruction, • postsecondary preparation and • fiscal and expenditure data, pursuant to *EC* Sections 33126, 33126.1, 35256, and 52052, and Public Law 107-110 Section 1111(h) (2). Also, schools are required to have an annual facility inspection and this information needs to be reflected on the SARC in accordance with *EC* Sections 33126 and 33126.1.

SARCs must be published and submitted to the CDE no later than February 1st of each year.

-SARC reports under separate cover-

RECOMMENDATION:

Approve the publication of the School Accountability Report Cards for our seven schools for the 2021-22 school year.

LCAP GOAL AND ACTION/SERVICE:

Goal #5: Parent Engagement ~ Increase parent engagement, involvement, and satisfaction with the educational process annually.
Action 4 – Improve home-school communication including improving websites, providing information on student academic progress, and notifying parents of district and school events. Including providing access to families with primary language supports and modes for access.

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

N/A

(Amount)

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services Informational
Cynthia Gonzalez, Executive Director Action

AGENDA ITEM: TITLE I, PART A PARENT AND FAMILY ENGAGEMENT DISTRICT
POLICY FOR THE 2021-2022 SCHOOL YEAR

BACKGROUND INFORMATION:

Title I, Part A, of the Elementary and Secondary Education Act (ESEA), as reauthorized by the Every Student Succeeds Act (ESSA), requires that local educational agencies (LEAs), conduct outreach to all parents and family members and implement programs, activities, and procedures for the involvement of parents and family members. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children (ESSA Section 1116[a][1]).

LEAs receiving Title I, Part A funds are required to do the following:

1. The LEA must develop a Parent and Family Engagement Policy as outlined in ESSA Section 1116(a).
2. The LEA must reserve funds to assist schools with Parent and Family Engagement requirements as outlined in ESSA Section 1116(a).
3. The School(s) must develop a Parent and Family Engagement Policy as outlined in ESSA Section 1116(b).
4. The School(s) must adhere to the Parent Involvement Requirements as outlined in ESSA Section 1116(c).
5. The School(s) must develop a shared responsibility for a School-Parent Compact as outlined in ESSA Section 1116(d).
6. The LEA and School(s) must build capacity for involvement as outlined in ESSA Section 1116(e).
7. The LEA and School(s) must provide accessibility to Parents and Family member opportunities to participate as outlined in ESSA Section 1116(f).

To be in compliance with State guidelines pertaining parent engagement, our District needs to annually approve the Parent and Family Engagement Policy.

RECOMMENDATION:

Approve the Title I, Part A Parent and Family Engagement Policy for the 2021-2022 school year.

LCAP GOAL AND ACTION/SERVICE:

Goal #5: Parent Engagement ~ Increase parent engagement, involvement, and satisfaction with the educational process annually.

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

N/A

(Amount)

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

Title I LEA-Level Parent and Family Engagement Policy
San Ysidro School District
2021-2022

- 1.0 The local governing board of each local educational agency (LEA), or agency, receiving Title I, Part A funding shall establish and implement a written parent and family engagement policy and program. (California *Education Code [EC]* sections [§§] 11500-11504, 51101[b]; 20 United States Code [U.S.C.] § 6318[a][1], 6318[a][2])
- 1.1 SAN YSIDRO SCHOOL DISTRICT has developed jointly with, agreed on with, and distributed to, parents and family members of participating children, an LEA-level written parent and family engagement policy. (20 U.S.C. § 6318[a][2].) Input was gathered by parent/guardian surveys, LCAP community Forums and reviewed with district ELAC, DLAC, DPAC, SSC, PTA and other committees. The LEA incorporates the parent and family engagement policy into the LEA level plan. (20 U.S.C. § 6312, 6318[a][2]) *The*

To involve parents and family members in the Title I program at SAN YSIDRO SCHOOL DISTRICT, the following practices have been established:

- a) The SAN YSIDRO SCHOOL DISTRICT involves parents and family members in the joint development of the agency's plan, and in the development of support and improvement plans. (20 U.S.C. § 6318[a][2][A])
By obtaining input from parents, and families.
- b) The SAN YSIDRO SCHOOL DISTRICT provides coordination, technical assistance, and other support necessary to assist and build the capacity of all participating schools within the LEA in planning and implementing effective parent and family involvement activities to improve student academic achievement and school performance. (20 U.S.C. § 6318[a][2][B])
This is supported by SAN YSIDRO SCHOOL DISTRICT, LCAP Goal number three.
- c) The LEA coordinates and integrates Title I, Part A parent and family engagement strategies with parent and family engagement strategies, to the extent feasible and appropriate, with other relevant Federal, State, and local laws and programs. (20 U.S.C. § 6318[a][2][C])
SAN YSIDRO SCHOOL DISTRICT annually conducts community forums and surveys parents and family members to gather feedback about what is working and areas for improvement around LCAP, as well as school goals and actions. Stakeholders meetings feedback is also compiled at a school meeting, district and school advisory committee meetings. The information is gathered and used to revise the districts LCAP, LCAP federal Addendum, and the sites School Plan for Student Achievement (SPSA)
- d) The SAN YSIDRO SCHOOL DISTRICT conducts, with the meaningful involvement of parents and family members, an annual evaluation of the content

and effectiveness of the parent and family engagement policy in improving the academic quality of the schools served under Title I, Part A. (20 U.S.C. § 6318[a][2][D])

District staff work collaboratively with site administrators to plan and implement parent and family engagement activities. Site Principals collaborate together to plan and coordinate activities. Activities include coffee with the Principal, and informational workshops.

The LEA identifies the following:

1. Barriers to greater participation by parents in activities authorized by this section (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background). (20 U.S.C. § 6318[a][2][D][i]) SAN YSIDRO SCHOOL DISTRICT annually conducts community forums and surveys parents and family members to gather information. Barriers are identified and through this process and actions are taken to address the needs of the families and ensure information is provided in a language and format easily understood by families.
 2. The needs of parents and family members to assist with the learning of their children, including engaging with school personnel and teachers. (20 U.S.C. § 6318[a][2][D][ii])
Workshops are offered, and information is provided to families to support them with strategies to engage with school and teachers. Strategies include questions to ask during parent teacher conferences and assistance with completing school forms.
 3. Strategies to support successful school and family interactions. (20 U.S.C. § 6318[a][2][D][iii])
Each school site develops a site parent and family engagement policy designed to meet the needs of the families. The engagement policy describes how families and school staff share the responsibility for improving student achievement and state academic standards.
- e) The LEA uses the findings of such evaluation in section 1.1(d) of the CE program instrument to design evidence-based strategies for more effective parental involvement, and to revise, if necessary, the parent and family engagement policy. (20 U.S.C. § 6318[a][2][E])
The district uses evidence based strategies for more effective parent and family engagement.
- f) The SAN YSIDRO SCHOOL DISTRICT involves parents in activities of schools served under Title I, Part A to adequately represent the needs of the population served by such agency for the purposes of developing, revising, and reviewing the parent and family engagement policy. (20 U.S.C. § 6318[a][2][F])
If it is necessary the policy can be modified to best meet the needs of the families.

1.2 The LEA policy on parent and family engagement for all schools (including Title I and non-Title I) in the LEA shall be consistent with the goals and purposes listed below. (EC §§ 11502, 11504, 11506)

- a) Engage parents and family members positively in their children's education by providing assistance and training on topics such as state academic standards and assessments to develop knowledge and skills to use at home to support their children's academic efforts at school and their children's development as responsible future members of our society. (EC § 11502[a])

All school sites develop a parent and family engagement plans to address the needs of families in their schools. Each school site offers parent and family engagement activities to assist families with supporting learning at home.

- b) Inform parents that they can directly affect the success of their children's learning, by providing parents with techniques and strategies that they may utilize to improve their children's academic success and to assist their children in learning at home. (EC § 11502[b])

Information and resources are provided to parents on strategies to assist their children's learning at home through parent meetings. Parent and family education are provided through social media as well as posted on our district website.

- c) Build consistent and effective two-way communication between family members and the school so that parents and family members may know when and how to assist their children in support of classroom learning activities. (EC § 11502[c])

Each school communicates with families on a regular basis to share resources and information on how to best support their children's education.

- d) Train teachers, school administrators, specialized instructional support personnel, and other staff to communicate effectively with parents as equal partners. (EC § 11502[d])

District leadership trains and provides information to staff, administrators and teachers to effectively communicate with families.

- e) Integrate and coordinate parent and family engagement activities with the local control and accountability plan (LCAP), as applicable, with other programs. (EC § 11502[e])

LCAP meetings are held in different sites and dates in order to involve parent and families.

1.3 Parents and family members of children receiving Title I, Part A services shall be involved in the decisions regarding how funds reserved are allotted for parental involvement activities. (20 U.S.C. Section 6318[a][3][B])

The SAN YSIDRO SCHOOL DISTRICT reserves at least one percent of the Title I, to support district wide family engagement activities. Family engagement activities are included in the districts LCAP, including actions and services for family engagement.

1.4 Funds reserved by an LEA shall be used to carry out activities and strategies consistent with the LEA's parent and family engagement policy, including not less than one of the following: (20 U.S.C. § 6318[a][3][D])

- a) Supporting schools and nonprofit organizations in providing professional development for LEA and school personnel regarding parent and family engagement strategies. (20 U.S.C. § 6318[a][3][D][i])**
- b) Supporting programs that reach parents and family members at home, in the community, and at school. (20 U.S.C. § 6318[a][3][D][ii])**
- c) Disseminating information on best practices focused on parent and family engagement, especially best practices for increasing the engagement of economically disadvantaged parents and family members. (20 U.S.C. § 6318[a][3][D][iii])**
- d) Collaborating, or providing subgrants to schools to enable such schools to collaborate, with community-based or other organizations or employers with a record of success in improving and increasing parent and family engagement. (20 U.S.C. § 6318[a][3][D][iv])**
- e) Engaging in any other activities and strategies that the LEA determines are appropriate and consistent with such agency's parent and family engagement policy. (20 U.S.C. § 6318[a][3][D][v])**

We are addressing 1.4 (e) by using funds reserved by the SAN YSIDRO SCHOOL DISTRICT for family engagement activities are used to support the activities and strategies addressed in the policy. Funds are also used to provide information regarding student education and parent resources and events in both English and Spanish.

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services
Cynthia Gonzalez, Executive Director

Informational
 Action

AGENDA ITEM: TITLE I, PART A PARENT AND FAMILY ENGAGEMENT POLICY FOR ALL SCHOOLS FOR THE 2021-2022 SCHOOL YEAR

BACKGROUND INFORMATION:

Each school served under Title I, Part A shall jointly develop with, and distribute to, parents and family members of participating children a written parent and family engagement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of ESSA Section 1116(c-f). Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school (ESSA Section 1116[b][1]).

Each school served with Title I, Part A funds shall do the following:

1. Convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under Title I, Part A, and to explain the requirements of Title I, Part A, and the right of the parents to be involved.
2. Offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provide und this part, transportation, childcare, or home visits, as such services relate to parental involvement.
3. Involve parents in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under Title I, Part A, including the planning, review, and improvement of the school parent and family engagement policy and the joint development of the schoolwide program plan under Section 1114(b), except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;
4. Provide parents of participating children: • Timely information about programs under Title I, Part A; • A description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the achievement levels of the challenging State academic standards; and • If requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to such suggestions as soon as practicably possible;
5. If the schoolwide program plan under ESSA Section 1114(b) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the LEA (ESSA Section 1116[c]).

To be in compliance with State guidelines pertaining parent engagement, our schools need to annually approve the Parent and Family Engagement Policy.

RECOMMENDATION:

Approve the Title I, Part A Parent and Family Engagement Policy for the 2021-2022 school year for all school sites.

LCAP GOAL AND ACTION/SERVICE:

Goal #5: Parent Engagement ~ Increase parent engagement, involvement, and satisfaction with the educational process annually.

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

(Amount)

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No



**Title I School Parent and Family Engagement Policy
La Mirada Elementary School
2020/2021 School Year**

La Mirada Elementary School, with parents and family members, was jointly developed, mutually agreed upon and distributed to, parents and family members of participating children in Title 1, Part A programs the following requirements as outlined in ESSA sections 1116(b) and (c):

- Parents and family members, of participating children in Title 1, Part A programs are involved in jointly developing, distributing to, a written school parent and family engagement policy mutually agreed upon by such parents for carrying out requirements as outlined in ESSA sections 1116(c) through (f) (ESSA Section 1116[b][1]).
- Parents and family members of participating children in Title 1, Part A programs, may amend the parent and family engagement policy that applies to all parents and family members, if necessary, to meet the requirements (ESSA Section 1116[b][2]).
- The San Ysidro School District has a district level parent level family engagement policy that applies to parents and family member in all schools served by the district, and the San Ysidro School District may amend the policy, if necessary to meet the requirements (ESSA Section 1116[b][3]).
- Parents and family members of children participating in Title 1, Part A, programs, can if they find the plan under ESSA Section 1112 is not satisfactory to the parents and family members, and the San Ysidro School District, shall submit the parent comments with the plan when the LEA submits the plan to the State (ESSA Section 1116[b][4]).
- La Mirada convenes an annual meeting to inform parents of Title I students about Title I requirements and about the right of parents to be involved in the Title I program. This annual meeting is held at the beginning of the school year. All parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation in Title I and to explain the requirements of Title I, and the right of the parents to be involved (ESSA Section 1116[c][1]).
- La Mirada offers parent engagement meetings at various times that are convenient to families, such as the morning and evenings and may provide Title 1, Part A, funds when applicable for transportation, childcare, or home visits, as such services relate to parent involvement (ESSA Section 1116[c][2]).
- La Mirada involves parents of Title I students in an organized, ongoing, and timely way, in the planning, review*, and improvement of the school's Title I programs and the Title I, Part A, including the planning, review and improvement of the school parent and family engagement policy and the joint development of the Single Plan for Student Achievement. This takes place at a Monthly Principal Parent Meeting, ELAC Meetings and SSC Meetings (ESSA Section 1116[c][3]).
- La Mirada provides parents and family members of participating students of Title 1, Part A programs with timely information on the curriculum used at the school, the assessments used to measure student progress,s and the achievement levels of the challenging State academic standards; and if requested by parents of Title I students,

the school provides opportunities for regular meetings to formulate suggestions and to participate, as appropriate, and to respond to any such suggestions as soon as practicably possible in decisions relating to the education of their children. These meetings are held throughout the school year such as, Parent Orientation/Annual Title 1 Parent Meeting, Principal Parent Meetings, Student Study Team, School Site Council Meetings, English Language Advisory Committee, and/or Parent-Teacher Conferences. (ESSA Section 1116[c][4][A-C])

- If the school-wide program is not satisfactory to the parents of participating children, parents may submit any comments on the plan when the school makes the plan available to the local educational agency. (ESSA Section 1116[c][5])

La Mirada Elementary School has developed this written Title I Parent Engagement Policy with input from Title I parents in consultation with school personnel, community members, and parents; it was adopted on January 13, 2022 by the La Mirada Elementary School Site Council.

Due to COVID-19 this policy will be distributed to parents of Title I students through email and made available on the school website: This policy will be provided in a language the parents can understand to the extent possible.

Laura English, La Mirada Principal

Laura English

Signature

January 13, 2022

Date



**Title I School Parent and Family
Engagement Policy
Ocean View Hills School School
Year 2021-2022**

Ocean View Hills School (OVHS), with parents and family members, was jointly developed, mutually agreed upon and distributed to parents and family members of participating children in Title 1, Part A programs the following requirements as outlined in ESSA sections 1116(b) and (c):

- Parents and family members, of participating children in Title 1, Part A programs are involved in jointly developing, distributing to, a written school parent and family engagement policy mutually agreed upon by such parents for carrying out requirements as outlined in ESSA sections 1116(c) through (f) (ESSA Section 1116[b][1]).
- Parents and family members of participating children in Title 1, Part A programs, may amend the parent and family engagement policy that applies to all parents and family members, if necessary, to meet the requirements (ESSA Section 1116[b][2]).
- The San Ysidro School District has a district level parent level family engagement policy that applies to parents and family members in all schools served by the district, and the San Ysidro School District may amend the policy, if necessary to meet the requirements (ESSA Section 1116[b][3]).
- Parents and family members of children participating in Title 1, Part A, programs, can if they find the plan under ESSA Section 1112 is not satisfactory to the parents and family members, and the San Ysidro School District, shall submit the parent comments with the plan when the LEA submits the plan to the State (ESSA Section 1116[b][4]).
- OVHS convenes an annual meeting to inform parents of Title I students about Title I requirements and about the right of parents to be involved in the Title I program. This annual meeting is held at the beginning of the school year. All parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation in Title I and to explain the requirements of Title I, and the right of the parents to be involved (ESSA Section 1116[c][1]).
- OVHS offers parent engagement meetings at various times that are convenient to families, such as the morning and evenings and may provide Title 1, Part A, funds when applicable for transportation, childcare, or home visits, as such services relate to parent involvement (ESSA Section 1116[c][2]).
- OVHS involves parents of Title I students in an organized, ongoing, and timely way, in the planning, review*, and improvement of the school's Title I programs and the Title I, Part A, including the planning, review and improvement of the school parent and family

engagement policy and the joint development of the Single Plan for Student Achievement. This takes place at a Monthly Principal Parent Meeting, ELAC Meetings and SSC Meetings (ESSA Section 1116[c][3]).

- OVHS provides parents and family members of participating students of Title 1, Part A programs with timely information on the curriculum used at the school, the assessments used to measure student progress, and the achievement levels of the challenging State academic standards; and if requested by parents of Title I students, the school provides opportunities for regular meetings to formulate suggestions and to participate, as appropriate, and to respond to any such suggestions as soon as practicably possible in decisions relating to the education of their children. These meetings are held throughout the school year such as, Parent Orientation/Annual Title 1 Parent Meeting, Principal Parent Meetings, Student Study Team, School Site Council Meetings, English Language Advisory Committee, and/or Parent-Teacher Conferences. (ESSA Section 1116[c][4][A-C])
- If the school-wide program is not satisfactory to the parents of participating children, parents may submit any comments on the plan when the school makes the plan available to the local educational agency. (ESSA Section 1116[c][5])

Ocean View Hills School has developed this written Title I Parent Engagement Policy with input from Title I parents in consultation with school personnel, community members, and parents; it was adopted on December 8, 2021 by the Ocean View Hills School Site Council.

Due to COVID-19 this policy will be distributed to parents of Title I students through email and made available on the school website: This policy will be provided in a language the parents can understand to the extent possible.

Manuela Colom , Ocean View Hill School Interim Principal

Signature 

Date 12-08-21

Title I, Part A School Parent and Family Engagement Policy

Smythe Elementary School, with parents and family members, has jointly developed, mutually agreed upon, and distributed to, parents and family members of participating children in Title I, Part A programs the following requirements as outlined in ESSA sections 1116(b) and (c).

Describe how parents and family members of participating children in Title I, Part A programs are involved in jointly developing, distributing to, a written school parent and family engagement policy, agreed upon by such parents for carrying out the requirements in ESSA Section 1116(c) through (f) (ESSA Section 1116[b][1]):

The family engagement policy is the result of a joint collaboration among the PTA, ELAC and School Site Council.

Describe how parents and family members of participating children in Title I, Part A programs, may amend a parent and family engagement school policy that applies to all parents and family members, if necessary, to meet the requirements (ESSA Section 1116[b][2]):

The policy may be amended with the approval of the PTA executive board and the School Site Council.

Describe how the Local Educational Agency (LEA) involved has a school district-level parent and family engagement policy that applies to all parents and family members in all schools served by the LEA, and how the LEA may amend that policy, if necessary to meet the requirements (ESSA Section 1116[b][3]):

The San Ysidro School district has a school district-level family engagement policy and it can be amended according to the norms established by the district parent advisory groups.

Describe how parents and family members of children participating in Title I, Part A programs can, if they find that the plan under ESSA Section 1112 is not satisfactory to the parents and family members, and the LEA shall submit the parent comments with the plan when the LEA submits the plan to the State (ESSA Section 1116[b][4]):

Site level parent advisory groups may inform site administrators of their desire to amend the family engagement policy and submit comments.

Describe how the school served by Title I, Part A funds holds an annual meeting, at a convenient time, to which all parents and family members of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under Title I, Part A and to explain the requirements and the rights of the parents to be involved (ESSA Section 1116[c][1]):

The Title 1 Meeting is held the second week of school in conjunction with the "Back to School Night".

Describe the steps that the school takes to offer a flexible number of meetings, such as meetings in the morning, afternoon, evening or other ways and may provide, with funds provided under Title I, Part A, for transportation, child care, or home visits, as such services relate to parental involvement (ESSA Section 1116[c][2]):

Smythe strives to provide various options/opportunities for attendance at school meetings and events. The "hybrid" option affords the possibility of participating from home.

Describe how parents and family members of participating children are involved, and in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under Title I, Part A, including the planning, review, and improvement of the school parent and family engagement policy and the joint development of schoolwide program plan under ESSA Section 1114(b), except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children (ESSA Section 1116[c][3]):

Parent input is always requested at Coffee with the Principal/School Site Council/English Language Advisory Committee (ELAC) , School sponsored parent trainings, and PTA

Describe how the school is providing parents and family members of participating children of Title I, Part A programs: timely information about programs under Title I, Part A; a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the achievement levels of the challenging State academic standards; and if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible (ESSA sections 1116[c][4][A-C]):

All parent meetings have a portion set aside to review common assessment results and upcoming Data Review Sessions .

Describe how the schoolwide program plan, ESSA Section 1114(b), is not satisfactory to the parents of participating children in Title I, Part A programs, submitting any parent comments on the plan when the school makes the plan available to the LEA (ESSA Section 1116[c][5]):

Describe response here.Smythe)'s Title I, Part A School Parent and Family Engagement Policy was developed jointly and agreed on with parents and family

members of children participating in Title I, Part A programs on December 2 2021. The School will distribute the policy to all parents and family members of participating Title I, Part A students annually on or before December 17 2021

Signature Page

Russell Little

Name and Title of Authorized Official

Principal

Signature of Authorized Official 12/02/2021

Date

California Department of Education
April 2020



Title I –School-Level Parent and Family Engagement Policy Sunset Elementary School 2021-2022

1.0 Introduction

With approval from the local governing board, Sunset Elementary with has jointly developed with, and distributed to, parents and family members of participating children a written parent and family engagement policy, agreed upon by such parents, and updated periodically to meet the changing needs of parents and the school. (EC Section 11503; 20 United States Code [U.S.C.] Section [§] 6318[b][1-4]) The school involves parents of Title 1 students in an organized, ongoing, and timely way in the planning and reviewing of Parent and Family Engagement Policy through presentation in monthly parent-principal meeting and gaining feedback from parents to revise the policy, as needed. In order to gather adequate representation of parents and family members of children receiving Title I, the policy is presented to ELAC and School Site Council, and approved by the latter. After the San Ysidro School District Board approves the policy, the school distributes the policy by sending it home to parents and family members participating in the Title 1 program.

1.1 Involvement of Parents in the Title I Program

The policy describes the means for carrying out Title I parent and family engagement requirements. (20 U.S.C. § 6318[b][1]) To involve parents and family members in the Title I program at Sunset Elementary School, the following practices have been established:

- a) **Sunset Elementary School convenes an annual meeting, at a convenient time, to which all parents of participating children shall be invited to attend and encouraged to attend, to inform parents and family members of their school's participation in the Title I program and to explain the requirements, and the right of the parents to be involved. (20 U.S.C. § 6318[c][1])**
The school announces to all parents the Title 1 Meeting date and time in the evening to allow parents to make plans to attend, in a timely manner. During school closures, the school continues to hold the annual Title 1 meeting via Zoom to provide parents updates on how to continue their involvement in school decision-making and information regarding distance learning procedures.



- b) The school offers a flexible number of meetings, such as meetings in the morning or evening, and may provide, with Title I funds, transportation, child care, or home visits, as such services relate to parental involvement. (20 U.S.C. § 6318[c][2]) Sunset Elementary school provides opportunities, as practicable, for parents to assist meetings.
- c) The school involves parents in an organized, ongoing, and timely way, in the planning, review, and improvement of the school's Title I program, including the planning, review, and improvement of the school parent and family engagement policy and the joint development of the schoolwide program plan. (20 U.S.C. § 6318[c][3]) Sunset Elementary School parents and families have the opportunity to provide feedback in reviewing the Parent and Family Engagement Policy through presentations in monthly parent-principal meeting and parent advisory meetings.
- d) The school provides parents of participating children with the following:
1. Timely information about the Title I program. (20 U.S.C. § 6318[c][4][A]) Title 1 School Designation, English Language Advisory Committee (ELAC), School Site Council Title 1 oversight and District Advisory Council.
 2. A description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the achievement levels of the challenging state academic standards. (20 U.S.C. § 6318[c][4][B])
Parent-Principal Meetings, Parent Institute (PIQE) and Parent Advisory Meetings
 3. If requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible. (20 U.S.C. § 6318[c][4][C])
All meetings have a designated Open Forum time for parents' questions, comments or concerns. Parents and families are encouraged to participate in the Parent Advisory Meetings (ELAC, SSC, and DPAC)
- e) If the schoolwide program plan is not satisfactory to the parents of participating children, the school submits any parent comments on the plan when the school makes the plan available to the local educational agency. (20 U.S.C. § 6318[c][5]) The school provides the Educational Services Department with



feedback given by parents and families that may have concerns or questions about the policy.

1.2 Building Capacity for Involvement

To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted with Title I, Part A funds establishes the practices listed below. (20 U.S.C. § 6318[e])

- a) The school provides parents with assistance in understanding such topics as the challenging state academic standards, state and local academic assessments, the requirements of Title I, Part A, and how to monitor a child's progress and work with educators to improve the achievement of their children. (20 U.S.C. § 6318[e][1])
To help reach these goals, the school has established the following practices, monthly parent meetings, School Site council meetings, ELAC meetings, New Student/Family Orientation meeting and Parent Institute (PIQE).
- b) The school provides parents with materials and training to help parents work with their children to improve their children's achievement. (20 U.S.C. § 6318[e][2])
This information is shared with parents during Parent-Principal Meetings, Parent Workshops and Parent-Teacher Conferences in a format and language that parents can understand.
- c) Sunset Elementary School educates teachers, specialized instructional support personnel, principals, and other school leaders, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school. (20 U.S.C. § 6318[e][3])
This information is shared with staff members at monthly staff meetings and regular grade level meeting.
- d) The school, to the extent feasible and appropriate, coordinates and integrates parent involvement programs and activities with other federal, state, and local programs, including public preschool programs, and conducts other activities, such as parent resource centers, to encourage and support parents in more fully participating in the education of their children. (20 U.S.C. § 6318[e][4])



Parents are encouraged to attend workshops and take advantage of the resources of the San Ysidro School District Parent Center.

- e) The school ensures that information related to school and parent programs, meetings, and other activities is sent to parents of participating children in a format and, to the extent practicable, in a language the parents can understand. (20 U.S.C. § 6318[e][5])

All communication sent home to families in both in English and in Spanish, since most of our families consider Spanish their language of preference.

- f) Sunset Elementary School provides such other reasonable support for parental involvement activities under this section as parents may request. (20 U.S.C. § 6318[e][14])

Parents are encouraged to actively participate in volunteering in the classroom and other school activities.

1.3 Accessibility

Sunset Elementary School, to the extent practicable, provides opportunities for the informed participation of parents and family members (including parents and family members who have limited English proficiency, parents and family members with disabilities, and parents and family members of migratory children) including providing information and school reports required under section 1111 of the ESEA (20 U.S.C. § 6311), as amended by ESSA, in a format and, to the extent practicable, in a language such parents understand. (20 U.S.C. § 6318[f])

This is done by providing all parents an open discussion forum for questions, comments or concerns in: monthly parent-principal meetings, School Site Council meetings and English Advisory Committee (ELAC) meetings.

1.4 School-Parent Compact

As a component of the school-level parent and family engagement policy, each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the state's high standards. The school-parent compact shall carry out the requirements listed below. (20 U.S.C. § 6318[d])



- a) Describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under Title I, Part A to meet the challenging state academic standards, and the ways in which each parent will be responsible for supporting their children's learning; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time. (20 U.S.C. § 6318[d][1])
 Sunset will provide California state standards instruction to all students using state-adopted curriculum and the District's Gradual Release of Responsibility Instructional Design. The school will communicate with families about the state's academic standards and the school's standing regarding academic testing.
- b) Address the importance of communication between teachers and parents on an ongoing basis through, at a minimum, the requirements listed below. (20 U.S.C. § 6318[d][2])
 - 1. Parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement. (20 U.S.C. § 6318[d][2][A])
 - 2. Frequent reports to parents on their children's progress. (20 U.S.C. § 6318[d][2][B])
 - 3. Reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities. (20 U.S.C. § 6318[d][2][C])
 - 4. Ensuring regular two-way, meaningful communication between family members and school staff, and, to the extent practicable, in a language that family members can understand. (20 U.S.C. § 6318[d][2][D])

Sunset School's Title I, Part A School Parent and Family Engagement Policy was developed jointly and agreed on with parents and family members of children participating in Title I, Part A programs on November 16, 2020. The School will distribute the policy to all parents and family members of participating Title I, Part A students annually on or before December 31, 2021.

Name and Title of Authorized Official

Efrain Burciaga, Sunset Elementary Principal

Signature and Date of Authorized Official

 11-18-2021



Title I School-Level Parent and Family Engagement Policy

Willow School

November 2, 2021

2.0 With approval from the local governing board, Willow School has jointly developed with, and distributed to, parents and family members of participating children a written parent and family engagement policy, agreed upon by such parents, and updated periodically to meet the changing needs of parents and the school. (*EC* Section 11503; 20 United States Code [U.S.C.] Section [§] 6318[b][1-4]) The school involves parents of Title 1 students in an organized, ongoing, and timely way in the planning and reviewing of Parent and Family Engagement Policy through presentation in monthly parent-principal meeting and gaining feedback from parents to revise the policy, as needed. In order to gather adequate representation of parents and family members of children receiving Title I, the policy is presented to ELAC and School Site Council, and approved by the latter. After the San Ysidro School District Board approves the policy, the school distributes the policy by sending it home to parents and family members participating in the Title 1 program.

2.1 Involvement of Parents in the Title I Program

The policy describes the means for carrying out Title I parent and family engagement requirements. (20 U.S.C. § 6318[b][1])

To involve parents and family members in the Title I program at Willow School, the following practices have been established:

- a) Willow School convenes an annual meeting, at a convenient time, to which all parents of participating children shall be invited to attend and encouraged to attend, to inform parents and family members of their school's participation in the Title I program and to explain the requirements, and the right of the parents to be involved. (20 U.S.C. § 6318[c][1])

The school announces to all parents the Title 1 Meeting date and time in the evening to allow parents to make plans to attend, in a timely manner. During school closures, the school continues to hold the annual Title 1 meeting via Zoom to provide parents updates on how to continue their involvement in school decision-making and information regarding distance learning procedures.

- b) The school offers a flexible number of meetings, such as meetings in the morning or evening, and may provide, with Title I funds, transportation, child care, or home visits, as such services relate to parental involvement. (20 U.S.C. § 6318[c][2])

Willow School provides opportunities, as practicable, for parents to assist meetings.

- c) The school involves parents in an organized, ongoing, and timely way, in the planning, review, and improvement of the school's Title I program, including the planning, review, and improvement of the school parent and family engagement policy and the joint development of the schoolwide program plan. (20 U.S.C. § 6318[c][3]) Willow School parents and families have the opportunity to provide feedback in reviewing the Parent and Family Engagement Policy through presentations in monthly parent-principal meeting and parent advisory meetings.
- d) The school provides parents of participating children with the following:
 - 1. Timely information about the Title I program. (20 U.S.C. § 6318[c][4][A]) Title 1 School Designation, English Language Advisory Committee (ELAC), School Site Council Title 1 oversight and District Advisory Council.
 - 2. A description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the achievement levels of the challenging state academic standards. (20 U.S.C. § 6318[c][4][B])

Parent-Principal Meetings, Parent Institute (PIQE) and Parent Advisory Meetings
 - 3. If requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible. (20 U.S.C. § 6318[c][4][C])

All meetings have a designated Open Forum time for parents' questions, comments or concerns. Parents and families are encouraged to get participate in the Parent Advisory Meetings (ELAC, SSC, and DPAC).
- e) If the schoolwide program plan is not satisfactory to the parents of participating children, the school submits any parent comments on the plan when the school makes the plan available to the local educational agency. (20 U.S.C. § 6318[c][5])
The school provides the Educational Services Department with feedback given by parents and families that may have concerns or questions about the policy.

2.2 Building Capacity for Involvement

To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted with Title I, Part A funds establishes the practices listed below. (20 U.S.C. § 6318[e])

- a) The school provides parents with assistance in understanding such topics as the challenging state academic standards, state and local academic assessments, the requirements of Title I, Part A, and how to monitor a child's progress and work with educators to improve the achievement of their children. (20 U.S.C. § 6318[e][1])
To help reach these goals, the school has established the following practices,

monthly parent meetings, School Site council meetings, ELAC meetings, New Student/Family Orientation meeting and Parent Institute (PIQE).

- b) The school provides parents with materials and training to help parents work with their children to improve their children's achievement. (20 U.S.C. § 6318[e][2])
This information is shared with parents during Parent-Principal Meetings, Parent Workshops and Parent-Teacher Conferences in a format and language that parents can understand.
- c) Willow School educates teachers, specialized instructional support personnel, principals, and other school leaders, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school. (20 U.S.C. § 6318[e][3])
This information is shared with staff members at monthly staff meetings and regular grade level meeting.
- d) The school, to the extent feasible and appropriate, coordinates and integrates parent involvement programs and activities with other federal, state, and local programs, including public preschool programs, and conducts other activities, such as parent resource centers, to encourage and support parents in more fully participating in the education of their children. (20 U.S.C. § 6318[e][4])
Parents are encouraged to attend workshops and take advantage of the resources of the San Ysidro School District Parent Center.
- e) The school ensures that information related to school and parent programs, meetings, and other activities is sent to parents of participating children in a format and, to the extent practicable, in a language the parents can understand. (20 U.S.C. § 6318[e][5])
All communication sent home to families in both in English and in Spanish, since most of our families consider Spanish their language of preference.
- f) Willow School provides such other reasonable support for parental involvement activities under this section as parents may request. (20 U.S.C. § 6318[e][14])
Parents are encouraged to actively participate in volunteering in the classroom and other school activities.

2.3 Accessibility

Willow School, to the extent practicable, provides opportunities for the informed participation of parents and family members (including parents and family members who have limited English proficiency, parents and family members with disabilities, and parents and family members of migratory children) including providing information and school reports required under section 1111 of the ESEA (20 U.S.C. § 6311), as amended by ESSA, in a format and, to the extent practicable, in a language such parents understand. (20 U.S.C. § 6318[f])

This is done by providing all parents an open discussion forum for questions, comments or concerns in: monthly parent-principal meetings, School Site Council meetings and English Advisory Committee (ELAC) meetings.

2.4 School-Parent Compact

As a component of the school-level parent and family engagement policy, each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the state's high standards. The school-parent compact shall carry out the requirements listed below. (20 U.S.C. § 6318[d])

- a) Describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under Title I, Part A to meet the challenging state academic standards, and the ways in which each parent will be responsible for supporting their children's learning; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time. (20 U.S.C. § 6318[d][1])
Sunset will provide California state standards instruction to all students using state-adopted curriculum and the District's Gradual Release of Responsibility Instructional Design. The school will communicate with families about the state's academic standards and the school's standing regarding academic testing.
- b) Address the importance of communication between teachers and parents on an ongoing basis through, at a minimum, the requirements listed below. (20 U.S.C. § 6318[d][2])
 1. Parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement. (20 U.S.C. § 6318[d][2][A])
 2. Frequent reports to parents on their children's progress. (20 U.S.C. § 6318[d][2][B])
 3. Reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities. (20 U.S.C. § 6318[d][2][C])
 4. Ensuring regular two-way, meaningful communication between family members and school staff, and, to the extent practicable, in a language that family members can understand. (20 U.S.C. § 6318[d][2][D])



Title I –School-Level Parent and Family Engagement Policy

San Ysidro Middle School

2021-2022

1.0 Introduction

With approval from the local governing board, San Ysidro Middle with has jointly developed with, and distributed to, parents and family members of participating children a written parent and family engagement policy, agreed upon by such parents, and updated periodically to meet the changing needs of parents and the school. (EC Section 11503; 20 United States Code [U.S.C.] Section [§] 6318[b][1-4]) The school involves parents of Title 1 students in an organized, ongoing, and timely way in the planning and reviewing of Parent and Family Engagement Policy through presentation in monthly parent-principal meeting and gaining feedback from parents to revise the policy, as needed. In order to gather adequate representation of parents and family members of children receiving Title I, the policy is presented to ELAC and School Site Council and approved by the latter. After the San Ysidro School District Board approves the policy, the school distributes the policy by sending it home to parents and family members participating in the Title 1 program.

1.1 Involvement of Parents in the Title I Program

The policy describes the means for carrying out Title I parent and family engagement requirements. (20 U.S.C. § 6318[b][1]) To involve parents and family members in the Title I program at San Ysidro Middle School, the following practices have been established:

- a) San Ysidro Middle School convenes an annual meeting, at a convenient time, to which all parents of participating children shall be invited to attend and encouraged to attend, to inform parents and family members of their school's participation in the Title I program and to explain the requirements, and the right of the parents to be involved. (20 U.S.C. § 6318[c][1]) The school announces to all parents the Title 1 Meeting date and time in the evening to allow parents to make plans to attend, in a timely manner. During school closures, the school continues to hold the annual Title 1 meeting via Zoom to provide parents updates on how to continue their involvement in school decision-making and information regarding distance learning procedures.
- b) The school offers a flexible number of meetings, such as meetings in the morning or evening, and may provide, with Title I funds, transportation, childcare, or home visits, as such services relate to parental involvement. (20 U.S.C. § 6318[c][2]) San Ysidro Middle school provides opportunities, as practicable, for parents to assist meetings.
- c) The school involves parents in an organized, ongoing, and timely way, in the planning, review, and improvement of the school's Title I program, including the planning, review, and improvement of the school parent and family engagement policy and the joint development of the schoolwide program plan. (20 U.S.C. § 6318[c][3]) San Ysidro Middle School parents and families have the opportunity to provide feedback in reviewing the Parent and Family Engagement Policy through presentations in monthly parent-principal meetings and parent advisory meetings.



- d) The school provides parents of participating children with the following:
1. Timely information about the Title I program. (20 U.S.C. § 6318[c][4][A])
Title 1 School Designation, English Language Advisory Committee (ELAC), School Site Council Title 1 oversight and District Advisory Council.
 2. A description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the achievement levels of the challenging state academic standards. (20 U.S.C. § 6318[c][4][B])
Parent-Principal Meetings, Parent Institute (PIQE) and Parent Advisory Meetings
 3. If requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible. (20 U.S.C. § 6318[c][4][C])
All meetings have a designated Open Forum time for parents' questions, comments or concerns. Parents and families are encouraged to participate in the Parent Advisory Meetings (ELAC, SSC, and DPAC)
- e) If the schoolwide program plan is not satisfactory to the parents of participating children, the school submits any parent comments on the plan when the school makes the plan available to the local educational agency. (20 U.S.C. § 6318[c][5]) The school provides the Educational Services Department with feedback given by parents and families that may have concerns or questions about the policy.

1.2 Building Capacity for Involvement

To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted with Title I, Part A funds establishing the practices listed below. (20 U.S.C. § 6318[e])

- a) The school provides parents with assistance in understanding such topics as the challenging state academic standards, state and local academic assessments, the requirements of Title I, Part A, and how to monitor a child's progress and work with educators to improve the achievement of their children. (20 U.S.C. § 6318[e][1])
To help reach these goals, the school has established the following practices: monthly parent meetings, School Site council meetings, ELAC meetings, New Student/Family Orientation meeting and Parent Institute (PIQE).
- b) The school provides parents with materials and training to help parents work with their children to improve their children's achievement. (20 U.S.C. § 6318[e][2])
This information is shared with parents during Parent-Principal Meetings, Parent Workshops and Parent-Teacher Conferences in a format and language that parents can understand.
- c) San Ysidro Middle School educates teachers, specialized instructional support personnel, principals, and other school leaders, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school. (20 U.S.C. § 6318[e][3])
This information is shared with staff members at monthly staff meetings and regular grade level meetings.



- d) The school, to the extent feasible and appropriate, coordinates and integrates parent involvement programs and activities with other federal, state, and local programs, including public preschool programs, and conducts other activities, such as parent resource centers, to encourage and support parents in more fully participating in the education of their children. (20 U.S.C. § 6318[e][4]) Parents are encouraged to attend workshops and take advantage of the resources of the San Ysidro School District Parent Center.
- e) The school ensures that information related to school and parent programs, meetings, and other activities is sent to parents of participating children in a format and, to the extent practicable, in a language the parents can understand. (20 U.S.C. § 6318[e][5]) All communication sent home to families in both English and in Spanish, since most of our families consider Spanish their language of preference.
- f) San Ysidro Middle School provides such other reasonable support for parental involvement activities under this section as parents may request. (20 U.S.C. § 6318[e][14]) Parents are encouraged to actively participate in volunteering in the classroom and other school activities.

1.3 Accessibility

San Ysidro Middle School, to the extent practicable, provides opportunities for the informed participation of parents and family members (including parents and family members who have limited English proficiency, parents and family members with disabilities, and parents and family members of migratory children) including providing information and school reports required under section 1111 of the ESEA (20 U.S.C. § 6311), as amended by ESSA, in a format and, to the extent practicable, in a language such parents understand. (20 U.S.C. § 6318[f])

This is done by providing all parents an open discussion forum for questions, comments or concerns in: monthly parent-principal meetings, School Site Council meetings and English Advisory Committee (ELAC) meetings.

1.4 School-Parent Compact

As a component of the school-level parent and family engagement policy, each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the state's high standards. The school-parent compact shall carry out the requirements listed below. (20 U.S.C. § 6318[d])

- a) Describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under Title I, Part A to meet the challenging state academic standards, and the ways in which each parent will be responsible for supporting their children's learning; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time. (20 U.S.C. § 6318[d][1])
San Ysidro Middle will provide California state standards instruction to all students using state-adopted curriculum and the District's Gradual Release of Responsibility Instructional Design. The school will communicate with families about the state's academic standards and the school's standing regarding academic testing.



- b) Address the importance of communication between teachers and parents on an ongoing basis through, at a minimum, the requirements listed below. (20 U.S.C. § 6318[d][2])
 - 1. Parent-teacher conferences in middle schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement. (20 U.S.C. § 6318[d][2][A])
 - 2. Frequent reports to parents on their children's progress. (20 U.S.C. § 6318[d][2][B])
 - 3. Reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities. (20 U.S.C. § 6318[d][2][C])
 - 4. Ensuring regular two-way, meaningful communication between family members and school staff, and, to the extent practicable, in a language that family members can understand. (20 U.S.C. § 6318[d][2][D])

San Ysidro Middle School's Title I, Part A School Parent and Family Engagement Policy was developed jointly and agreed on with parents and family members of children participating in Title I, Part A programs on November 17, 2021. The School will distribute the policy to all parents and family members of participating Title I, Part A students annually on or before December 10, 2021.

Name and Title of Authorized Official

Mr. Manuel Bojorquez, San Ysidro Middle School Principal

Signature and Date of Authorized Official

Manuel Bojórquez, 11-17-2021



**Title I School Parent and Family Engagement Policy
Vista Del Mar Middle School**

2021/2022 School Year

Vista Del Mar Middle School (VDM), with parents and family members, was jointly developed, mutually agreed upon and distributed to, parents and family members of participating children in Title 1, Part A programs the following requirements as outlined in ESSA sections 1116(b) and (c):

- Parents and family members, of participating children in Title 1, Part A programs are involved in jointly developing, distributing to, a written school parent and family engagement policy mutually agreed upon by such parents for carrying out requirements as outlined in ESSA sections 1116(c) through (f) (ESSA Section 1116[b][1]).
- Parents and family members of participating children in Title 1, Part A programs, may amend the parent and family engagement policy that applies to all parents and family members, if necessary, to meet the requirements (ESSA Section 1116[b][2]).
- The San Ysidro School District has a district level parent level family engagement policy that applies to parents and family member in all schools served by the district, and the San Ysidro School District may amend the policy, if necessary to meet the requirements (ESSA Section 1116[b][3]).
- Parents and family members of children participating in Title 1, Part A, programs, can if they find the plan under ESSA Section 1112 is not satisfactory to the parents and family members, and the San Ysidro School District, shall submit the parent comments with the plan when the LEA submits the plan to the State (ESSA Section 1116[b][4]).
- VDM convenes an annual meeting to inform parents of Title I students about Title I requirements and about the right of parents to be involved in the Title I program. This annual meeting is held at the beginning of the school year. All parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation in Title I and to explain the requirements of Title I, and the right of the parents to be involved (ESSA Section 1116[c][1]).
- VDM offers parent engagement meetings at various times that are convenient to families, such as the morning and evenings and may provide Title 1, Part A, funds when applicable for transportation, childcare, or home visits, as such services relate to parent involvement (ESSA Section 1116[c][2]).
- VDM involves parents of Title I students in an organized, ongoing, and timely way, in the planning, review*, and improvement of the school's Title I programs and the Title I, Part A, including the planning, review and improvement of the school parent and family engagement policy and the joint development of the Single Plan for Student Achievement. This takes place at a Monthly Principal Parent Meeting, ELAC Meetings and SSC Meetings (ESSA Section 1116[c][3]).
- VDM provides parents and family members of participating students of Title 1, Part A programs with timely information on the curriculum used at the school, the assessments

used to measure student progress, and the achievement levels of the challenging State academic standards; and if requested by parents of Title I students, the school provides opportunities for regular meetings to formulate suggestions and to participate, as appropriate, and to respond to any such suggestions as soon as practicably possible in decisions relating to the education of their children. These meetings are held throughout the school year such as, Parent Orientation/Annual Title 1 Parent Meeting, Principal Parent Meetings, Student Study Team, School Site Council Meetings, English Language Advisory Committee, and/or Parent-Teacher Conferences. (ESSA Section 1116[c][4][A-C])

- If the school-wide program is not satisfactory to the parents of participating children, parents may submit any comments on the plan when the school makes the plan available to the local educational agency. (ESSA Section 1116[c][5])

Vista Del Mar Middle School has developed this written Title I Parent Engagement Policy with input from Title I parents in consultation with school personnel, community members, and parents; it was adopted on November 10, 2021 by the Vista Del Mar Middle School Site Council.

Due to COVID-19 this policy will be distributed to parents of Title I students through email and made available on the school website: This policy will be provided in a language the parents can understand to the extent possible.

**It may be helpful to include the parental involvement policy review in the annual review of the Single Plan for Student Achievement.*

Irene Herrera-Cevallos, VDM Principal



Signature

11-10-2021

Date

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Special Education Department
Oscar Madera, Director

Informational
 Action

AGENDA ITEM: EXTENDED SCHOOL YEAR 2022 WAIVER

BACKGROUND INFORMATION:

Ed Code or CCR to Waive: 3043 Extended School Year (ESY) services shall be provided for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have disabilities which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible, or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her disability condition. The lack of clear evidence of such factors may not be used to deny an individual an Extended School Year program if the Individualized Education Program (IEP) team determines the need for such a program and includes ESY in the IEP pursuant to subsection (f).

The Special Education Department recommends that the Governing Board approves the request to provide ESY services for fewer than 20 days with the condition that 60 instructional hours or more be provided to the preschool program, and 80 instructional hours or more be provided to the K-Adult program. A minimum of 76 hours of instruction may be provided to K-Adult if a holiday is included. Also, special education and related services offered during the extended year period must be comparable in standards, scope, and quality to the special education program offered during the regular academic year as required by *California Code of Regulations*, Title 5, (5 CCR), Section 3043(d).

RECOMMENDATION:

Approve the Waiver for Extended School Year 2022 to reduce the number of instructional days to 15 extended hour days provided to special education students.

LCAP GOAL AND ACTION/SERVICE:

Goal 1: Academic Achievement ~ Item 1.20: Continue to provide site and/or district based academic intervention programs to serve the districts unduplicated student groups (i.e., English Learners, Socio-Economically Disadvantaged, Students with Disabilities, etc.) and educationally disadvantaged students in Comprehensive Support and Improvements Schools.

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

N/A
(Amount)

N/A
(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
San Ysidro Middle School
Manuel Bojorquez, Principal

Informational
 Action

AGENDA ITEM: FIELD TRIP TO CHICANO PARK FOR STUDENTS FROM SAN YSIDRO MIDDLE SCHOOL

BACKGROUND INFORMATION:

The Principal from San Ysidro Middle is requesting approval for approximately 15 students to participate in a field trip to Chicano Park on February 12, 2022 from 11:00 a.m. to 1:00 p.m.

During this event, students will be chaperoned by our Student and Family Services Manager and will have the opportunity to visit all murals and learn the history behind this historical site in San Diego. Students will also assist painting a mural and will be guided by two artists at the park. Finally, students will have the opportunity to assist in the creation of a mural in San Ysidro.

Cost implication: Transportation service fees, which will be covered from the McKinney Vento fund.

RECOMMENDATION:

Approve the field trip to Chicano Park for students from San Ysidro Middle School to visit the murals and assist painting a mural on February 12, 2022 with the cost of \$358.00 for transportation services to be paid from the McKinney-Vento Fund.

LCAP GOAL AND ACTION/SERVICE:

Goal 1: Academic Achievement, Action 1: The Student and Family Services Manager/McKinney-Vento liaison will support homeless youth and families based on the needs of qualified students which may include tutoring services, transportation assistance, uniforms, and school supplies. Referrals for health and basic living necessities will be made to support homeless families, provide students with a stable environment, and increase opportunities for student achievement and success for students who are socioeconomically disadvantaged and foster youth.

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

\$358.00

(Amount)

McKinney-Vento Fund

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

SAN YSIDRO SCHOOL DISTRICT GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services,
Cynthia Gonzalez, Executive Director

Informational
 Action

AGENDA ITEM: PROFESSIONAL DEVELOPMENTS – JANUARY

BACKGROUND INFORMATION:

In order to stay in compliance with State, Federal and local laws, our staff at the different sites and/or departments will participate in diverse professional developments throughout the year. These trainings/conferences and/or workshops will give our staff the opportunity to be better prepared and will reflect in the academic success of our students.

The following is a list of professional developments up for the January 27, 2022, Board meeting:

- 19th Annual Virtual Early Years Conference 2022 – Social Justice in Early Learning and Care
- CUBE Conference 2022
- California School Public Relation Association (CalSPRA) – 2022 Capitol City Conference
- CALPADS Data and Assignment Monitoring 2021-2022
- Child Welfare Services (CWS) Training
- Convergence 2022, Annual Conference of the California Speech Language Hearing Association Foundation
- Cultivating Emotional Resilience & Mental Fitness in Tough Times
- Designing Inclusive Preschools: Discover. Data. Design. Deliver.
- Eligibility Decisions: Hard of Hearing, Speech and Language Impairment or Both?
- ELRISE! Developing and Strengthening Programs and Services to meet the Needs of Long-Term English Learners
- Federal Compliance: How to Stay out of Trouble Webinar Series
- Finance Training for School and District Leaders
- Grading for Equity Book Study
- Improving Outcomes for English Learners with Disabilities
- MTSS/PBIS Professional Development Series 2021-22, Cohort 4
- Neutral Co-Facilitated IEP Training
- SCR Risk Management Roundtable: Risk Prevention in Athletics
- School Services of California Business Related Workshops - Various
- SDCOE Budget Perspectives Workshop
- Section 504 Training
- Special Education: Both Sides of the Equation Webinar Series

Cost implications might include Registration fees, lodging, parking, meals, mileage, and substitute teacher compensation, as needed.

RECOMMENDATION:

Approve/Ratify the attendance and participation of District staff to the different professional developments, as attached.

LCAP GOAL AND ACTION/SERVICE:

Goal 1: Student Achievement – Actions: 2, 17, 18 and 20 & Goal 2: English Language and Academic Language Development – Actions: 3, 5 and 9

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

APPROXIMATE COST \$16,392.00 (Amount)
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General, Title III, Title I PD, SCPP, Head Start, ESSER & Special Ed. Funds (Name of funding source and/or location)
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Recommended for: Approval Denial Certification Requested Yes No

Professional Development Backup Information – January 27, 2022

PARTICIPANT(S)	EVENT	PLACE	FROM/TO	COST	FUNDING
Lorena Varela-Reed Nancy Serrano ----- Ana Sepulveda Nunez Begonia Hidalgo Belinda Meza Carmen Romero Cecilia Cruz Charleen Lopez Claudia Uribe Erika Lopez Ernestina Lopez Esmeralda Morales Eva Marquez Lario Gladys Lopez Ilzeth Soler Jihan Garcia Lydia Corona Olivia Garcia Ruth Gallegos Sandra Ferguson Yahilyn Segura ----- Claudia Kim Cristina Rivera-Ortiz Cynthia Luna Jazmin Aramburo Martha Gutierrez Matilde Diaz ----- Karla Vazquez	19 th Annual Virtual Early Years Conference 2022 ~ Social Justice in Early Learning and Care	Online	March 11, 2022 ----- March 11, 2022	\$1,260.00 (\$45.00 per person)	CSPP, Head Start and Preschool Sp. Ed. Funds
Rodolfo Lopez, Russell Little	CABE Conference 2022	San Francisco	March 30 – April 2, 2022	\$4,500.00	General and Title III Funds
Francisco Mata	California School Public Relation Association (CalSPRA) – 2022 Capitol City Conference	Sacrament o, CA	March 10-12, 2022	\$1,500.00 (Airfare, lodging, registration & meal reimbursement)	General Fund
Alexis Dircio	CALPADS Data and Assignment	Online	February 8, 2022	\$0	No Cost

PARTICIPANT(S)	EVENT	PLACE	FROM/TO	COST	FUNDING
	Monitoring 2021-2022				
Approximately 100 participants from Special Education Department and YMCA ASES Program	Child Welfare Services (CWS) Training	Online	January 14, 2022	\$0	No Cost
Katarina Fray	Convergence 2022, Annual Conference of the California Speech Language Hearing Association Foundation	Pasadena, CA	March 24-24, 2022	\$649.00	Special Education Fund
Monica Medina, Diana Jackquez	Cultivating Emotional Resilience & Mental Fitness in Tough Times	Online	March 3, 2022	\$100.00 (Teacher Compensation)	Special Education Fund
Lorena Varela Reed, Josefina Villegas, Matilde Diaz, Cynthia Luna, Belinda Meza, Lydia Corona, Carmen Romero, Nancy Serrano	Designing Inclusive Preschools: Discover. Data. Design. Deliver.	Online	December 7, 9, 14 & 16, 2021	\$1,200.00 (Teacher Compensation)	Title I PD Fund
Katarina Fray, Camila Arismendi, Kara Huchinson, Kate Boeh, Katherine Estrella, Bertha Manriquez, Melissa Haley, Ruth Villanueva, Maya Sconiers, Dinah Marrujo	Eligibility Decisions: Hard of Hearing, Speech and Language Impairment or Both?	Online	January 24, 2022	\$0	No Cost
Manuel Bojorquez,	ELRISE! Developing and	Online	January 26, 2022 February 22, 2022	\$0	No Cost

PARTICIPANT(S)	EVENT	PLACE	FROM/TO	COST	FUNDING
Irene Herrera-Cevallos, Luis Ramos	Strengthening Programs and Services to meet the Needs of Long-Term English Learners				
Cynthia Gonzalez, Luis Ramos	Federal Compliance: How to Stay out of Trouble Webinar Series	Online	March 8 & 10, 2022	\$550.00	Title I PD Fund
Cynthia Gonzalez, Oscar Madera	Finance Training for School and District Leaders	Online	January 11, 2022	\$300.00	Title I PD Fund
Carmen Martinez Rivera	Grading for Equity Book Study	Online	February 8, 15, & 22, 2022 March 1, 8 & 15, 2022	\$450.00	Title I PD Fund
Oscar Madera, Rick Quintana, Denise Villezcas, Josefina Villegas, Monica Medina, Martha Murillo, Nohemi Yescas	Improving Outcomes for English Learners with Disabilities	Online	February 24, 2022 March 29, 2022 April 26, 2022 May 31, 2022	\$1,100.00 (Teacher Compensation)	Special Education Fund
Cynthia Gonzalez, Oscar Madera, Denise Villezcas, Luis Ramos, Josefina Villegas, Brianna Minton, Jedzida Herron	MTSS/PBIS Professional Development Series 2021-22, Cohort 4	Online	February 8 & 15, 2020 March 1 & 29, 2022 April 19, 2022 May 17, 2022	\$300.00 (Teacher Compensation)	Special Education Fund
Josefina Villegas, Martha Murillo, Monica Medina, Diana Flores, Melissa McGowan, Silvia Aceves-Flores, Ana Garcia, Marisela Lozano,	Neutral Co-Facilitated IEP Training	Online	January 11 & 25, 2022 February 8, 2022 March 8 & 15, 2022	\$0	No Cost

PARTICIPANT(S)	EVENT	PLACE	FROM/TO	COST	FUNDING
Maricela Cali, Katherine Estrella					
Omar Calleros	SCR Risk Management Roundtable: Risk Prevention in Athletics	Online	December 10, 2021	\$0	No Cost
Marilyn Adrianzen, Amber Elliott, Daniel Chavez	School Services of California Business Related Workshops	Online	January 11, 2022 to May 19, 2022	\$3,025.00	General Fund
Marilyn Adrianzen	SDCOE Budget Perspectives Workshop	Online	January 18, 2022	\$0	No Cost
Rick Quintana, Denise Villezcas	Section 504 Training	Online	February 16, 2022	\$358.00	ESSER Fund
Cynthia Gonzalez, Oscar Madera, Rick Quintana, Denise Villezcas	Special Education: Both Sides of the Equation Webinar Series	Online	March 1 & 3, 2022	\$1,100.00	Title I PD Fund

BUSINESS

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

Informational
 Action

AGENDA ITEM: PURCHASING REPORT

BACKGROUND INFORMATION:

In order for the District to conduct the educational programs, expenditures are necessary. The function of a purchase order is to receive pre-approval for expenditures and set aside funds before services are performed and goods are received. When possible, purchase orders are made estimating the amount to be used over the course of the school year. Purchase orders are created and approved in the Business Services Department in addition to requisitions created by sites and other departments.

Report #6 (November 30, 2021 through January 18, 2022): ▪ General Fund: 0000008136-0000008139, 0000008141-0000008154, 0000008156, 0000008158-0000008210, ▪ Child Development Fund ▪ 0000008155, 0000008157 ▪ Child Nutrition Fund 0000008140.

RECOMMENDATION:

Approve/Ratify the following purchase orders incurred by the District during the period November 30, 2021 through January 18, 2022. This includes all agreements along with those with cost implications that fall within the authorized delegation of authority limits of up to \$15,000 for public project contracts and up to \$30,000 for all other contracts from the various funding sources.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

\$714,567.00

(Amount)

As listed above

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

Purchasing Report (11/30/21-1/18/21)

PO Date	PO No.	Supplier	Supplier	PO Ref	Fund	Resource	Object	Site	Total by Account
11/30/2021	000008136	001339	PITNEY BOWES	OFFICE SUPPLIES	0100	0000000	4300011	071	21.05
11/30/2021	000008137	004420	UNITED PLUMBING HEATING AIR	CONTRACTED SERVICES	0100	8150000	5600005	070	2,850.00
12/1/2021	000008138	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	0980002	4300001	061	176.19
12/1/2021	000008139	004742	ALBERTO CARLOS HERRERA	UNIFORMS	0100	0980002	4300001	061	1,000.00
12/2/2021	000008141	004185	B&H PHOTO,VIDEO	OFFICE SUPPLIES	0100	0000000	4300011	064	635.02
12/3/2021	000008142	001610	FIREHAWK	CONTRACTED SERVICES	0100	8150000	5600005	070	1,409.72
12/3/2021	000008143	000000326	ILLUMINATE EDUCATION INC.	PROFESSIONAL SERVICES	0100	3010000	5800010	061	2,500.00
12/6/2021	000008144	004678	AMAZON.COM, INC.	OFFICE SUPPLIES	0100	0000000	4300001	012	709.13
12/6/2021	000008145	0000000720	LEARNING WITHOUT TEARS	REGISTRATION FEES	0100	3010003	5200003	061	900.00
12/7/2021	000008146	004678	AMAZON.COM, INC.	INSTRUCTIONAL MATERIAL	0100	0000000	4300001	022	572.57
12/7/2021	000008147	0000000493	FACTS EDUCATION SOLUTIONS LLC	CONTRACTED SERVICES	0100	4035000	5800010	014	9,494.00
12/7/2021	000008148	004601	SIR SPEEDY PRINTING 02890	OFFICE MATERIAL	0100	0300020	4300000	020	342.65
12/7/2021	000008149	004678	AMAZON.COM, INC.	INSTRUCTIONAL MATERIAL	0100	0000000	4300001	020	247.80
12/7/2021	000008150	003313	BEST BUY	TECHNOLOGY SUPPLIES	0100	3212000	4300001	067	11,087.37
12/8/2021	000008151	0000000838	FLASHLIGHT LEARNING, LLC	CONTRACTED SERVICES	0100	4203000	5800006	061	17,500.00
12/8/2021	000008152	0000000290	ATLAS ENVIRONMENTAL SEVICES, INC.	CONTRACTED SERVICES	0100	8150000	5600005	068	18,130.00
12/9/2021	000008153	001980	VELOCITY TRUCK CENTERS	CONTRACTED SERVICES	0100	0982000	5600005	074	3,005.54
12/9/2021	000008154	0000000091	AVID CENTER	INSTRUCTIONAL SUPPLIES	0100	3213000	4300000	025	1,318.87
12/9/2021	000008156	0000000839	THE SPEECH PATHOLOGY GROUP, INC	PROFESSIONAL SERVICES	0100	6500000	5800010	054	100,000.00
12/13/2021	000008158	0000000809	LAW OFFICE OF MATTHEW H. STOREY	LEGAL FEES	0100	3213000	5800500	054	8,500.00
12/14/2021	000008159	004822	CALIFORNIA FINANCIAL SERVICES	PROFESSIONAL SERVICES	0100	0000000	5800000	071	3,000.00
12/14/2021	000008160	0000000338	MAXIM HEALTHCARE SERVICES, INC	PROFESSIONAL SERVICES	0100	3213000	5800010	054	100,000.00
12/14/2021	000008161	0000000739	DANIEL RAMIREZ	OFFICE MATERIALS	0100	0000000	4400000	080	33,348.56
12/15/2021	000008162	0000000838	FLASHLIGHT LEARNING, LLC	CONTRACTED SERVICES	0100	3010003	5800010	061	13,500.00
12/15/2021	000008163	000548	NEXT DAY PRINTED TEES	OFFICE MATERIALS	0100	0000000	4300019	061	1,131.00
12/15/2021	000008164	0000000648	THE ED LADDER	CONTRACTED SERVICES	0100	3010000	5800010	014	2,376.00
12/15/2021	000008165	003993	IMAGINE LEARNING INC	CONTRACTED SERVICES	0100	3213000	5800006	061	33,750.00
12/15/2021	000008166	0000000699	EL POLLO GRILL INC	REFRESHMENTS	0100	0000000	5800010	022	1,007.03
12/16/2021	000008167	004420	UNITED PLUMBING HEATING AIR	CONTRACTED SERVICES	0100	8150000	5600005	070	16,498.00
12/17/2021	000008168	003993	IMAGINE LEARNING INC	CONTRACTED SERVICES	0100	3010003	5800010	061	12,750.00
12/17/2021	000008169	0000000171	MY PT SAN DIEGO	PROFESSIONAL SERVICES	0100	6500000	5800010	054	40,000.00
12/20/2021	000008170	003192	WALMART	REFRESHMENTS	0100	0300020	4300015	020	200.00
1/5/2022	000008171	0000000255	KELLY SPICERS STORES	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	024	3,756.60
1/5/2022	000008172	0000000698	WESTED	REGISTRATION FEES	0100	3010003	5200003	061	300.00
1/6/2022	000008173	0000000491	PANERA BREAD COMPANY	REFRESHMENTS	0100	3212000	4300000	010	500.00
1/7/2022	000008174	003377	SOUTHWEST SCHOOL & OFFICE	COVID SUPPLIES	0100	3213000	4300000	080	37,443.13
1/7/2022	000008175	0000000760	CAL PACIFIC TRUCK CENTER ,LLC	CONTRACTED SERVICES	0100	8150000	5600005	070	2,195.48
1/7/2022	000008176	000379	HAWTHORNE MACHINERY	CONTRACTED SERVICES	0100	0982000	5600005	074	6,545.44
1/7/2022	000008177	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	012	151.13
1/7/2022	000008178	000379	HAWTHORNE MACHINERY	CONTRACTED SERVICES	0100	0982000	5600005	074	5,505.00
1/7/2022	000008179	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	025	1,404.38
1/7/2022	000008180	0000000641	DFS FLOORING LP	CONTRACTED SERVICES	0100	8150000	5600005	070	10,339.52
1/10/2022	000008181	001610	FIREHAWK	CONTRACTED SERVICES	0100	8150000	5600005	070	3,593.90
1/10/2022	000008182	004309	BEST BEST & KRIEGER LLP	LEGAL SERVICES	0100	0000000	5800002	063	2,929.00
1/10/2022	000008182	004309	BEST BEST & KRIEGER LLP	LEGAL SERVICES	0100	0000000	5800002	071	1,682.00

Purchasing Report (11/30/21-1/18/21)

PO Date	PO No.	Supplier	Supplier	PO Ref	Fund	Resource	Object	Site	Total by Account
1/10/2022	000008182	004309	BEST BEST & KRIEGER LLP	LEGAL SERVICES	0100	0000000	5800200	062	10,817.00
1/10/2022	000008183	000588	SCHOOL SERVICES OF CALIFORNIA	REGISTRATION FEES	0100	0000000	5200003	071	195.00
1/10/2022	000008183	000588	SCHOOL SERVICES OF CALIFORNIA	REGISTRATION FEES	0100	0000000	5200003	061	195.00
1/10/2022	000008184	000208	SCHOOL HEALTH CORPORATION	CONTRACTED SERVICES	0100	0000000	5600005	010	1,397.54
1/11/2022	000008185	004678	AMAZON.COM, INC.	COVID SUPPLIES	0100	3212000	4300000	010	646.44
1/11/2022	000008186	004678	AMAZON.COM, INC.	OFFICE SUPPLIES	0100	0000000	4300011	020	956.94
1/11/2022	000008187	003377	SOUTHWEST SCHOOL & OFFICE	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	016	840.48
1/11/2022	000008188	001012	CDW GOVERNMENT LLC	TECHNOLOGY SUPPLIES	0100	0000000	4400000	067	1,388.20
1/11/2022	000008189	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	024	1,478.97
1/11/2022	000008190	0000000825	SPARTAN TOOL LLC	MAINTENANCE SUPPLIES	0100	0000000	4400000	069	696.01
1/12/2022	000008191	000588	SCHOOL SERVICES OF CALIFORNIA	REGISTRATION FEES	0100	3010003	5200003	061	1,650.00
1/12/2022	000008192	004678	AMAZON.COM, INC.	MAINTENANCE SUPPLIES	0100	8150000	4300015	070	92.02
1/12/2022	000008193	001012	CDW GOVERNMENT LLC	TECHNOLOGY SUPPLIES	0100	4124000	4400000	014	4,199.02
1/12/2022	000008194	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	3010000	4300001	022	725.19
1/12/2022	000008195	0000000779	TRAFERA, LLC	TECHNOLOGY SUPPLIES	0100	3212000	4300001	067	3,975.98
1/12/2022	000008196	004678	AMAZON.COM, INC.	COVID SUPPLIES	0100	3213000	4300000	010	19,201.05
1/12/2022	000008197	0000000727	GORM, INC.	COVID SUPPLIES	0100	3213000	4300000	010	119,602.50
1/13/2022	000008198	004678	AMAZON.COM, INC.	INSTRUCTIONAL SUPPLIES	0100	0000000	4300000	050	2,137.46
1/13/2022	000008199	003377	SOUTHWEST SCHOOL & OFFICE	INSTRUCTIONAL SUPPLIES	0100	0000000	4300000	050	242.46
1/13/2022	000008200	001178	SAN DIEGO COUNTY	REGISTRATION FEES	0100	3010003	5200003	061	75.00
1/13/2022	000008201	0000000812	CROWN LIFT TRUCKS	MAINTENANCE EQUIPMENT	0100	3212000	4400000	070	4,524.42
1/13/2022	000008202	003377	SOUTHWEST SCHOOL & OFFICE	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	024	682.80
1/13/2022	000008203	0000000255	KELLY SPICERS STORES	PUBLICATION SUPPLIES	0100	0000000	4300050	073	1,878.30
1/14/2022	000008204	002990	ULINE	COVID SUPPLIES	0100	3212000	4300000	010	1,368.20
1/14/2022	000008205	001178	SAN DIEGO COUNTY	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	018	357.09
1/14/2022	000008205	001178	SAN DIEGO COUNTY	INSTRUCTIONAL SUPPLIES	0100	0000000	4300001	024	267.82
1/14/2022	000008206	0000000727	GORM, INC.	COVID SUPPLIES	0100	3212000	4300000	010	5,500.42
1/14/2022	000008207	000809	OFFICE DEPOT	OFFICE SUPPLIES	0100	0000000	4300011	061	640.74
1/14/2022	000008208	002771	SMART & FINAL	COVID SUPPLIES	0100	3212000	4300000	010	1,000.00
1/14/2022	000008209	001531	AUDIOMETRICS	MEDICAL SUPPLIES	0100	0000000	5600005	010	245.00
1/14/2022	000008210	0000000727	GORM, INC.	COVID SUPPLIES	0100	3212000	4300000	010	8,657.72
Total for 0100									709,940.85
12/9/2021	000008155	004678	AMAZON.COM, INC.	OFFICE MATERIALS	1200	6105000	4300010	076	107.71
12/13/2021	000008157	000136	WAXIE SANITARY SUPPLY	CUSTODIAL SUPPLIES	1200	6105000	4300020	076	2,966.87
Total for 1200									3,074.58
12/1/2021	000008140	003313	BEST BUY	CAFETERIA SUPPLIES	1300	5310000	4300000	085	1,551.57
Total for 1300									1,551.57
Grand Total									714,567.00

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

Informational
 Action

AGENDA ITEM: EXPENDITURE REPORT

BACKGROUND INFORMATION:

The District is required to pay for goods and services it uses to conduct the educational and support programs. Prior to payment, supporting documents such as contracts with the appropriate approvals and proof of receipt for the goods or services are collected. Invoices to be paid are submitted to the Business Services Department for payment processing. Warrants are printed at San Diego County Office of Education then returned to the Business Services Department for signature.

The following are expenditures incurred by the District during the period of December 1, 2021 through December 31, 2021 with checks #14-845135 through #14-850710 for a total expenditure of \$868,660.61 from the following sources:

General Fund - \$805,937.12
Child Developer Fund- 6,223.24
Child Nutrition Fund- \$56,500.25

RECOMMENDATION:

Approve/Ratify the expenditures incurred by the District during the period of December 1, 2021 through December 31, 2021 for a total expenditure of \$868,660.61. This includes all agreements along with those with cost implications that fall within the authorized delegation of authority limits of up to \$15,000 for public project contracts and up to \$30,000 for all other contracts from the various funding sources.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Goal No.: Base Services and Safety

2.1 Maintain basic operating services of the district including MOT personnel, transportation, contracted services, and utilities.

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

\$868,660.61

(Amount)

Various (see above)

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

Expenditure Report
12/1/21-12/31/21

Warrant ID	Payee	Date	Warrant Amount	Fund	Description
14843781	SUPERIOR RAIN GUTTERS AND AWNING, INC	12/2/2021	14500.00	0100	CONTRACTED SERVICES
14843782	PRC-SALTILLO	12/2/2021	1096.43	0100	INSTRUCTIONAL MATERIAL
14843783	WEX BANK	12/2/2021	3610.64	0100	OPERATIONAL SERVICES
14843784	NADIA BRAUN	12/2/2021	600.00	0100	PROFESSIONAL SERVICES
14843785	SPARTAN TOOL LLC	12/2/2021	11139.11	0100	MAINTENANCE SUPPLIES
14843786	SAM & ROSE STEIN EDUCATION	12/2/2021	14053.04	0100	PROFESSIONAL SERVICES
14843787	SCHOLASTIC , INC	12/2/2021	5863.01	0100	INSTRUCTIONAL MATERIAL
14843789	REPUBLIC SERVICES	12/2/2021	15473.96	0100	UTILITIES
14843791	CALIFORNIA ELECTRIC SUPPLY	12/2/2021	271.32	0100	MAINTENANCE SUPPLIES
14843792	SMART & FINAL	12/2/2021	266.03	0100	REFRESHMENTS
14843793	VALLEY INDUSTRIAL SPECIALTIES	12/2/2021	59.17	0100	MAINTENANCE SUPPLIES
14843794	OPTIMUM FLOORCARE	12/2/2021	146.40	0100	CONTRACTED SERVICES
14845121	VECTOR USA	12/6/2021	7611.65	0100	PROFESSIONAL SERVICES
14845122	MRC SMART TECHNOLOGY SOLUTIONS	12/6/2021	9907.10	0100	MAINTENANCE AGREEMENT
14845123	CSM CONSULTING INC.	12/6/2021	1500.00	0100	CONTRACTED SERVICES
14845124	NINYO & MOORE	12/6/2021	15417.00	0100	PROFESSIONAL SERVICES
14845125	XEROX FINANCIAL SERVICES	12/6/2021	9274.25	0100	LEASE AGREEMENT
14845126	ILLUMINATE EDUCATION INC.	12/6/2021	2500.00	0100	PROFESSIONAL SERVICES
14845127	AARDVARK ANT & PEST CONTROL INC.	12/6/2021	432.00	0100	CONTRACTED SERVICES
14845128	PARKHOUSE TIRE INC	12/6/2021	598.72	0100	TRANSPORTAION SERVICES
14845129	NADIA BRAUN	12/6/2021	1200.00	0100	PROFESSIONAL SERVICES
14845130	POWERSCHOOL GROUP LLC	12/6/2021	10636.05	0100	CONTRACTED SERVICES
14845131	TRAFERA, LLC	12/6/2021	3200.00	0100	TECHNOLOGY SUPPLIES
14845132	LORD ARCHITECTURE INC.	12/6/2021	5115.00	0100	CONTRACTED SERVICES
14845133	FRANK VILLALVA JR.	12/6/2021	900.00	0100	PROFESSIONAL SERVICES
14845134	DATA RECOGNITION CORPORATION	12/6/2021	3713.60	0100	INSTRUCTIONAL MATERIAL
14845135	RAINBOW RESOURCE CENTER	12/6/2021	52.76	0100	INSTRUCTIONAL SUPPLIES
14845136	FOUNDATION BUILDING MATERIALS LLC	12/6/2021	1000.22	0100	MAINTENANCE SUPPLIES
14845137	ELEVATED CLASSROOMS LLC	12/6/2021	2925.00	0100	PROFESSIONAL SERVICES
14845138	WILKINSON HADLEY KING &	12/6/2021	1825.00	0100	PROFESSIONAL SERVICES
14845140	GRAINGER	12/6/2021	3032.30	0100	MAINTENANCE SUPPLIES
14845141	HAWTHORNE MACHINERY	12/6/2021	2877.00	0100	CONTRACTED SERVICES
14845142	WESTERN PSYCHOLOGICAL SERVICES	12/6/2021	719.46	0100	INSTRUCTIONAL SUPPLIES

Expenditure Report
12/1/21-12/31/21

Warrant ID	Payee	Date	Warrant Amount	Fund	Description
14845143	FIREHAWK	12/6/2021	1409.72	0100	CONTRACTED SERVICES
14845144	ASELTIME SCHOOL	12/6/2021	4519.31	0100	PROFESSIONAL SVRICES
14845145	NAPA AUTO AND TRUCK PARTS	12/6/2021	193.17	0100	MAINTENANCE SUPPLIES
14845146	PRO ED	12/6/2021	718.28	0100	INSTRUCTIONAL SUPPLIES
14845147	YMCA OF SAN DIEGO COUNTY	12/6/2021	111106.87	0100	PROFESSIONAL SERVICES
14845148	WALMART	12/6/2021	180.75	0100	REFRESHMENTS
14845149	ACE COOLING & FREEZING	12/6/2021	1225.00	0100	CONTRACTED SERVICES
14845150	TEAMTALK NETWORK	12/6/2021	397.80	0100	MAINTENANCE AGREEMENT
14845151	BEST BEST & KRIEGER LLP	12/6/2021	14939.00	0100	LEGAL FEES
14845152	GALLAGHER BENEFIT SERVICES, INC	12/6/2021	453.05	0100	PROFESSIONAL SERVICES
14845153	UNITED PLUMBING HEATING AIR	12/6/2021	2850.00	0100	CONTRACTED SERVICES
14845154	TRANE U.S. INC	12/6/2021	935.23	0100	MAINTENACE SUPPLIES
14845155	DASH MEDICAL GLOVE INC.	12/6/2021	181.98	0100	MEDICAL SUPPLIES
14845156	FOLLETT SCHOOL SOLUTIONS,INC	12/6/2021	104.50	0100	LIBRARY SUPPLIES
14845157	SPARKLETTS	12/6/2021	402.73	0100	CONTRACTED SERVICES
14845158	ONE TRIPP TREE SERVICE INC.	12/6/2021	2600.00	0100	CONTRACTED SERVICES
14846389	MAXIM HEALTHCARE SERVICES, INC	12/9/2021	24955.00	0100	PROFESSIONAL SERVICES
14846390	DAILY JOURNAL CORPORATION	12/9/2021	74.80	0100	CONTRACTED SERVICES
14846391	RUSSELL LITTLE	12/9/2021	250.00	0100	REIMBURSEMENT
14846392	KARINA VICTORINO	12/9/2021	113.34	0100	MILEAGE
14846393	WALSH & ASSOCIATES, APC	12/9/2021	7419.58	0100	LEGAL FEES
14846394	LEXICONUSA	12/9/2021	8556.31	0100	REPLACEMENT WARRANT
14846395	SAN DIEGO GAS & ELECTRIC	12/9/2021	106812.60	0100	UTILITIES
14846396	WAXIE SANITARY SUPPLY	12/9/2021	473.88	0100	TRANSPORTATION SUPPLIES
14846397	MICHELLE PATTERSON	12/9/2021	80.07	0100	REIMBURSEMENT
14846398	SPRINT	12/9/2021	3960.41	0100	CONTRACTED SERVICES
14846400	PITNEY BOWES	12/9/2021	382.50	0100	POSTAGE
14846401	FLEETWASH INC	12/9/2021	389.45	0100	CONTRACTED SERVICES
14846402	SAN YSIDRO SCHOOL DISTRICT	12/9/2021	2175.53	0100	PCARD REPLENISH
14846403	RUSSELL SIGLER, INC	12/9/2021	444.71	0100	CONTRACTED SERVICES
14846404	ABA EDUCATION FOUNDATION	12/9/2021	2759.25	0100	PROFESSIONAL SERVICES
14846405	XEROX CORPORATION	12/9/2021	4481.92	0100	MAINTENANCE AGREEMENT
14847845	SUNBELT RENTALS, INC.	12/13/2021	3236.80	0100	RENTAL EQUIPMENT

Expenditure Report
12/1/21-12/31/21

Warrant ID	Payee	Date	Warrant Amount	Fund	Description
14847846	BMR HEALTH SERVICES, INC	12/13/2021	20059.52	0100	PROFESSIONAL SERVICES
14847847	PIONEER HEALTHCARE SERVICES LLC	12/13/2021	9987.84	0100	PROFESSIONAL SERVICES
14847850	ANIXTER INC.	12/13/2021	110.40	0100	MAINTENANCE SUPPLIES
14847851	CSEA	12/13/2021	2400.00	0100	REGISTRATION FEES
14847852	TOM SILVA CONSULTING	12/13/2021	1237.58	0100	PROFESSIONAL SERVICES
14847853	THE STEPPING STONE GROUP	12/13/2021	8394.88	0100	PROFESSIONAL SERVICES
14847854	HEINEMANN	12/13/2021	19453.62	0100	INSTRUCTIONAL SUPPLIES
14847855	WILKINSON HADLEY KING &	12/13/2021	7680.00	0100	PROFESSIONAL SERVICES
14847856	NEXT DAY PRINTED TEES	12/13/2021	173.90	0100	OFFICE SUPPLIES
14847857	VIRCO INC	12/13/2021	309.95	0100	CLASSROOM MATERIAL
14847860	HOME DEPOT	12/13/2021	2455.58	0100	GROUND SUPPLIES
14847861	GOPHER SPORT	12/13/2021	606.24	0100	INSTRUCTIONAL SUPPLIES
14847863	VELOCITY TRUCK CENTERS	12/13/2021	3005.54	0100	CONTRACTED SERVICES
14847864	RENAISSANCE LEARNING INC.	12/13/2021	8100.00	0100	CONTRACTED SERVICES
14847865	CORTES TOWING	12/13/2021	740.00	0100	CONTRACTED SERVICES
14847866	AT&T	12/13/2021	6773.93	0100	UTILITIES
14847867	MIRAMAR BOBCAT INC	12/13/2021	1902.07	0100	MAINTENANCE SUPPLIES
14847869	ALPHA SMOG STATION	12/13/2021	340.00	0100	CONTRACTED SERVICES
14847870	STANLEY CONVERGENT SECURITY	12/13/2021	8832.92	0100	CONTRACTED SERVICES
14847871	UNITED PLUMBING HEATING AIR	12/13/2021	20500.00	0100	CONTRACTED SERVICES
14847872	SIR SPEEDY PRINTING 02890	12/13/2021	1319.77	0100	OFFICE SUPPLIES
14847873	FLYERS ENERGY	12/13/2021	4167.12	0100	CONTRACTED SERVICES
14849346	ALLIANCE ENGINEERING OF CALIFORNIA, INC	12/16/2021	1352.00	0100	PROFESSIONAL SERVICES
14849347	P.I.P.S.	12/16/2021	71370.25	0100	CONTRACTED SERVICES
14849348	OFFICESUPPLY.COM	12/16/2021	503.25	0100	OFFICE SUPPLIES
14849349	MAXIM HEALTHCARE SERVICES, INC	12/16/2021	13104.00	0100	PROFESSIONAL SERVICES
14849351	EFRAIN IVAN MANRIQUEZ	12/16/2021	61.77	0100	MILEAGE
14849352	AARDVARK ANT & PEST CONTROL INC.	12/16/2021	1281.00	0100	CONTRACTED SERVICES
14849353	KARINA VICTORINO	12/16/2021	79.41	0100	MILEAGE
14849354	PAULO AZEVEDO	12/16/2021	32.98	0100	REIMBURSEMENT
14849355	ANTONIO CARLOS RIVERA	12/16/2021	2340.00	0100	PROFESSIONAL SERVICES
14849356	LAW OFFICE OF MATTHEW H. STOREY	12/16/2021	8500.00	0100	LEGAL FEES
14849357	EDTHEORY LLC	12/16/2021	14040.00	0100	PROFESSIONAL SERVICES

Expenditure Report
12/1/21-12/31/21

Warrant ID	Payee	Date	Warrant Amount	Fund	Description
14849358	FLASHLIGHT LEARNING, LLC	12/16/2021	17500.00	0100	CONTRACTED SERVICES
14849359	THE SPEECH PATHOLOGY GROUP, INC	12/16/2021	12800.00	0100	PROFESSIONAL SERVICES
14849360	SAN DIEGO GAS & ELECTRIC	12/16/2021	1329.77	0100	UTILITIES
14849361	WAXIE SANITARY SUPPLY	12/16/2021	28693.81	0100	CUSTODIAL SUPPLIES
14849362	AUDIOMETRICS	12/16/2021	73.81	0100	MEDICAL SUPPLIES
14849363	SPINITAR/PRESENTATION PRODUCTS	12/16/2021	786.51	0100	OFFICE SUPPLIES
14849364	FEDEX	12/16/2021	158.07	0100	POSTAGE
14849365	HD SUPPLY FACILITIES	12/16/2021	251.54	0100	MAINTENANCE SUPPLIES
14849366	SAN DIEGO COUNTY SUPERINTENDEN	12/16/2021	1550.00	0100	REGISTRATION FEES
14849367	SAN YSIDRO SCHOOL DISTRICT	12/16/2021	5460.65	0100	PCARD REPLENISH
14849368	ALBERTO CARLOS HERRERA	12/16/2021	615.52	0100	UNIFORMS
14849369	CALIFORNIA FINANCIAL SERVICES	12/16/2021	3000.00	0100	PROFESSIONAL SERVICES
14850695	CORODATA RECORDS MANAGEMENT, INC.	12/20/2021	158.23	0100	CONTRACTED SERVICES
14850696	VECTOR USA	12/20/2021	7611.65	0100	PROFESSIONAL SERVICES
14850697	MARTA RODRIGUEZ DE TORRES	12/20/2021	19.54	0100	MILEAGE
14850698	MY PT SAN DIEGO	12/20/2021	12955.50	0100	PROFESSIONAL SERVICES
14850699	DAILY JOURNAL CORPORATION	12/20/2021	64.60	0100	CONTRACTED SERVICES
14850700	FACTS EDUCATION SOLUTIONS LLC	12/20/2021	1942.00	0100	CONTRACTED SERVICES
14850701	GINA A. POTTER	12/20/2021	56.00	0100	REIMBURSEMENT
14850702	LEARNING WITHOUT TEARS	12/20/2021	900.00	0100	REGISTRATION FEES
14850703	THE INSTITUTE FOR EFFECTIVE	12/20/2021	7036.27	0100	PROFESSIONAL SERVICES
14850705	GOPHER SPORT	12/20/2021	361.44	0100	INSTRUCTIONAL SUPPLIES
14850706	WILLIAM V. MAC GILL & CO.	12/20/2021	576.38	0100	MEDICAL SUPPLIES
14850707	R&R CONTROLS INC	12/20/2021	325.00	0100	MAINTENANCE SUPPLIES
14850709	NIRVANA BUSTOS	12/20/2021	20.83	0100	MILEAGE
14850710	JOSE HERRERA	12/20/2021	174.72	0100	MILEAGE
Total Fund 01			\$ 805,937.12		
14843788	ORIENTAL TRADING COMPANY, INC.	12/2/2021	836.16	1200	INSTRUCTIONAL SUPPLIES
14843790	LORENA VARELA	12/2/2021	136.20	1200	CUSTODIAN SUPPLIES
14845139	WAXIE SANITARY SUPPLY	12/6/2021	3969.13	1200	CUSTODIAL SUPPLIES
14850704	OFFICE DEPOT	12/20/2021	1281.75	1200	OFFICE SUPPLIES
Total Fund 12			\$ 6,223.24		
14846399	OFFICE DEPOT	12/9/2021	307.28	1300	OFFICE SUPPLIES

Expenditure Report
12/1/21-12/31/21

Warrant ID	Payee	Date	Warrant Amount	Fund	Description
14847848	GOLD STAR FOODS	12/13/2021	25558.94	1300	CAFETERIA FOODS
14847849	INDUSTRIAL ELECTRIC	12/13/2021	1850.16	1300	CONTRACTED SERVICES
14847858	HOLLANDIA DAIRY INC.	12/13/2021	22001.04	1300	CAFETERIA FOOD
14847859	P&R PAPER SUPPLY COMPANY, INC.	12/13/2021	4298.91	1300	CAFETERIA PAPER GOODS
14847862	LLOYD PEST CONTROL CO.	12/13/2021	232.00	1300	CONTRACTED SERVICES
14847868	CALIFORNIA DEPARTMENT OF	12/13/2021	487.35	1300	CONTRACTED SERVICES
14849350	SADEER SAHIB	12/16/2021	65.13	1300	MILEAGE
14850708	AMERICAN PRODUCE DISTRIBUTORS	12/20/2021	1699.44	1300	CAFETERIA FOOD
Total Fund 13			\$ 56,500.25		
Grand total			\$ 868,660.61		

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

Informational
 Action

AGENDA ITEM: APPROVE/RATIFY AGREEMENTS WITHIN DELEGATION OF AUTHORITY LIMITS

BACKGROUND INFORMATION:

Pursuant to Education Code Section 17604 and Resolution No. 21/22-0006, the power to contract on behalf of the Governing Board of the San Ysidro School District was delegated to the Superintendent and the Chief Business Official during the 2021-22 fiscal year, in the maximum amounts of \$15,000 for public project contracts and \$30,000 for all other contracts, respectively; provided that no contract made pursuant to such delegation and authorization shall be valid or constitute an enforceable obligation against the District unless and until same shall have been approved or ratified by the Governing Board, said approval or ratification to be evidenced by a motion duly passed and adopted.

The various departments of the district submitted the agreements on the attached list for Governing Board approval and/or ratification.

RECOMMENDATION:

Approve/Ratify the agreements on the attached list with cost implications that fall within the authorized delegation of authority limits of up to \$15,000 for public project contracts and up to \$30,000 for all other contracts from the various funding sources or at no cost to the district.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

See attached
(Amount)

Various Funding Sources
(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

AGREEMENTS UNDER \$30,000 FOR APPROVAL / RATIFICATION

January 27, 2022

	Vendor	Description	Estimated Amount	Funding Source	Administrator
1	Atlas Tree Services	Provide tree trimming and maintenance services at Sunset School. (2021/22)	\$18,130.00	General-Maintenance	Adrianzen/Farkas Azevedo
2	Laura Fish Therapy, MFT, Inc.	Provide staff training series "Navigating Uncertainty" to Preschool Teachers. (2021/22)	\$10,400.00	American Rescue Plan Act 2021 Stabilization	Gonzalez / Reed
3	SBCS Corporation	In support of the San Ysidro Domestic Violence Prevention Collaborative (Jan 2022 to Dec. 2023)	N/A	N/A	Gonzalez
4	San Diego County Superintendent of Schools (SDCOE)	Support for the History/Social Science pilot and adoption of materials for middle schools. (Feb. 2022 to Jan. 2023)	\$3,875.00	Title I PD Fund	Gonzalez
5	United Plumbing	Repair of main line water leak at Vista Del Mar Middle School. (2021/22)	\$16,498.00	General-Maintenance	Adrianzen/Farkas Azevedo

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Maintenance, Operations, Transportation & Facilities
Paulo Azevedo, Director

Informational
 Action

AGENDA ITEM: AGREEMENT WITH ATLAS TREE SERVICES

BACKGROUND INFORMATION:

Atlas Tree Services provided services to trim and maintain trees at Sunset School due to overgrowth during the COVID pandemic shut down.

RECOMMENDATION:

Approve/Ratify the agreement with Atlas Tree Services to provide tree trimming and maintenance services at Sunset School due to the tree overgrowth during the COVID pandemic shut down at a cost of \$18,130.00 from the Routine Restricted Maintenance fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

\$18,130.00

(Amount)

Routine Restricted Maintenance Fund

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

PUBLIC WORKS CONTRACT FOR SERVICES UNDER \$60,000
NONCOLLUSION DECLARATION TO BE EXECUTED BY PROPOSER AND SUBMITTED WITH PROPOSAL

THIS CONTRACT made and entered into on the last date of signature hereto by and between

Atlas Tree Service, hereinafter called the **CONTRACTOR** and the
San Ysidro School District, hereinafter called the **DISTRICT**.

WITNESSETH; the parties do hereby contract and agree as follows:

1. The **CONTRACTOR** shall furnish labor and materials to the **DISTRICT**, in accordance with the Terms & Conditions set forth in Attachment C hereof and incorporated herein by this reference and any specifications attached for a total contract price of: Eighteen thousand one hundred thirty and 00/100 Dollars (**\$ 18,130.00**) **(MAY NOT EXCEED \$60,000), to be paid in full within thirty (30) days after completion and acceptance.**

NOTE - Payment and Performance Bonds: For Contracts over \$25,000, the awarded contractor will be required to furnish the District with a Payment Bond equal to 100% of the contract amount and may be required to furnish a Performance Bond equal to 100% of the contract amount, prior to execution of the Contract, at no additional charge to the District. All bonds are to be secured from a surety that meets all of the State of California bonding requirements, as defined in Code of Civil Procedure Section 995.120, and is admitted by the State of California with a rating of A++, A+, A, or no less than A-

2. **LICENSE:** Contractor shall be a licensed contractor pursuant to the Business and Professions Code and shall be licensed in the following classification: _____.

3. **CONSTRUCTION PERIOD:** This contract shall commence on _____, with work to be completed within _____ (_____) consecutive days and/or by 12/31/2021.

4. **PREVAILING WAGE:** This PROJECT is a Public Work. Public works are subject to compliance monitoring and enforcement by the Department of Industrial Relations. A contractor or subcontractor cannot submit a proposal or engage in the performance of any contract for public work as defined in Labor Code Chapter 1: Public Works, Labor Code sections 1720 - 1861, unless currently registered and qualified to perform public work pursuant to Sections 1725.5 and 1771.1.

Contractor shall be registered with the Department of Industrial Relations pursuant to Labor Code 1725.5 (Attachment B) when public project exceeds \$25,000 or a maintenance project exceeds \$15,000

5. **SUBMISSION OF PROPOSAL/QUOTE:** By submitting a proposal, contractors warrant that they have made a site examination as they deem necessary as to the condition of the site and certify all measurements, specifications and conditions affecting the work to be performed at the site. Proposals are subject to acceptance by the signing of a contract and issuance of an appropriate purchase order. The District reserves the right to accept or reject any and all quotes and reserves the right to waive any informality in any quote.

6. **SCOPE OF WORK:** CONTRACTOR PROPOSES TO FURNISH LABOR AND MATERIAL IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

NOTE - Order of Precedence: This contract, in conjunction with the terms and conditions in Attachments A, B & C take precedence over any Contractor supplied attachments.

SCOPE OF WORK

Various trimming trees at Sunset School Premises. Please see proposal for additional information

Prevailing Wages Apply

Note: If contract exceeds \$25,000, per Civil Code Section 3247, Contract shall provide a Payment Bond.

**NONCOLLUSION DECLARATION TO BE EXECUTED BY PROPOSER
AND SUBMITTED WITH PROPOSAL**

The undersigned declares: I am the _____ of _____, the party making the foregoing proposal. The proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The proposal is genuine and not collusive or sham. The proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal. The proposer has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or to refrain from proposing. The proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any other proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer. All statements contained in the proposal are true. The proposer has not directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham proposal, and has not paid, and will not pay, any person or entity for such purpose. Any person executing this declaration on behalf of a proposer that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute and does execute, this declaration on behalf of the proposer.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 20____, at _____, California.

By: _____ Print Name: _____

SCHOOL SAFETY ACT – COMMUNICATIONS WITH PUPILS

_____ In accordance with Education Code Section 45125.1, the District has determined that fingerprinting and certification will be required of the employees of the contractor who provide services under this contract (please complete certification form, Attachment A).

_____ In accordance with Education Code Section 45125.2, the District has determined that an exemption exists under requirements of 45125.1, and that workers may have other than limited contact with students. Therefore, the Contractor is required to provide or agree to one or more of the following: (to be determined by District)

_____ Installation of physical barrier at the work site to limit contact with pupils.

_____ Surveillance of employees of the Contractor by school personnel.

_____ Continual supervision and monitoring of all employees of the Contractor by an employee of the Contractor whom the DOJ has ascertained has not been convicted of a violent or serious felony.

Supervisor's Name: _____

Soc. Sec. No. (last 4 digits or full CDL#) _____

_____ In accordance with Education Code Section 45125.1, subdivision c, the District has determined that this contract is not subject to Education Code Section 45125.1 (a), because the contractor's employees, including the employees of any subcontractor, will have only "limited contact" with pupils on the site. Justifications is as follows:

_____ Work will be performed on a day or days when school is not in session (holidays, weekend or non-teaching days – may not include after school hours).

_____ Other, describe _____.

District Signature: _____, Title: Chief Business Official

Date: _____ Signature of District Official responsible for assuring selected conditions are met in accordance with Education Code Section 45125.2, if applicable.

Contractor understands that District department staff may monitor and evaluate adherence to these conditions during the performance of their work.

IN WITNESS WHEREOF, the parties hereunto have subscribed to this Contract, including all Contract Documents as listed below:

- | | |
|---|--|
| _____ Work Specs/Scope of Work Statement | _____ Contractor Certification Form, Attachment A |
| _____ Certificates of Insurance | _____ Contractor DIR Registration Certification Form, Attachment B |
| _____ Workers' Compensation Insurance Certificate | _____ Terms and Conditions, Attachment C |
| _____ Non Collusion Affidavit | _____ Purchase Order No. _____ |

NOTE - Taxpayer Identification: Federal Regulations (26 CFR 1.6041) requires non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security Number, whichever is applicable. The District requires a valid copy of a W-9 to be supplied upon request.

TYPE OF BUSINESS ENTITY

- _____ Individual
- _____ Sole Proprietorship
- _____ Partnership
- _____ Corporation
- _____ Other

TAX IDENTIFICATION

Employer Identification Number

Social Security Number

License No: _____ **Classification:** _____ **Expiration Date:** _____

(District Use Only – Purchasing Dept:)
CSLB License & DIR Reg. verified by _____, Date _____)

I hereby agree to abide by these terms and conditions if awarded the project as described herein. Under penalty of perjury I certify that I am a duly authorized agent/representative of the company providing this proposal. I also certify that none of the individuals identified on Attachment A Certification Form (if applicable) or any individual identified above as been convicted of a felony as defined in Education Code 45122.1

All notices permitted or required under this contract shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose. Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

Contract Execution

CONTRACTOR	
Date:	Accepted by - Print Name and Title
Company Name and Street Address: Atlas Tree Service 9032 Olive Drive Spring Valley, CA 91977	Signature
Phone:	Email:
DISTRICT	
Date:	District Representative – Print Name and Title Marilyn Adrianzen Chief Business Official
District Name and Street Address: San Ysidro School District 4350 Otay Mesa Road San Ysidro, CA 92173	Signature:
Phone: 619-428-4476 x 3004	Email: Marilyn.adrianzen@sysdschools.org

**ATTACHMENT A – CONTRACTOR PUPIL CONTACT CERTIFICATION FORM
CERTIFICATION PURSUANT TO EDUCATION CODE SECTION 45125.1
(Complete only if pertinent)**

The District has determined under Education Code Section 45125.1, subdivision (c) that in performing services to this contract, Contractor’s employees may have contact with pupils. As required under Education Code Section 45125.1, subdivision (a), Contractor shall require their employees, including the employees of any subcontractor, who will provide services pursuant to this contract to submit their fingerprints in a manner authorized by the Department of Justice in order to conduct a criminal background check to determine whether such employees have been convicted of or have charges pending for a felony as defined under Education Code Section 45122.1.

Contractor shall not permit any employee to perform services who may come in contact with pupils under this contract until the Department of Justice has determined that the employee has not been convicted of a felony or has no criminal charges pending for a felony as defined in Section 45122.1.

Contractor shall certify in writing to the District that all of its employees who may come in contact with pupils have not been convicted of or have no criminal charges pending for a felony, as defined in Education Code Section 45122.1.

Contractor shall defend, indemnify, protect and hold the District and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property which arise from or are connected with or are caused or claimed to be caused by Contractor’s failure to comply with all of the requirements contained in Education Code Section 45125.1, including, but not limited to, the requirements prohibiting Contractor for using employees who may have contact with pupils who have been convicted or have charges pending for a felony in Education Code Section 45122.1.

It is understood that by signing this document Contractor agrees that they are familiar with Education Code Section 45122.1. The following individuals are employees of contractor who may come in contact with pupils in the performance of services in this contract.

Name	Social Security No (last 4 digits or full CDL#)

I certify that none of the individuals identified above has been convicted of a felony as defined in Education Code Section 45122.1.

CONTRACTOR	
Date:	Print Name and Title
Company Name	Signature

**ATTACHMENT B
CERTIFICATION OF CONTRACTOR AND
SUBCONTRACTOR DIVISION OF INDUSTRIAL RELATIONS REGISTRATION**

Pursuant to Public Contract Code Section 1725.5, a Contractor or subcontractor must be registered with the Department of Industrial relations to engage in the performance of any defined public work contract.

I _____(Name), _____(Title) certify that

Contractor Representative Print Name:	Title:
Atlas Tree Service 9032 Olive Drive Spring Valley, CA 91977	DIR Registration Number:
	DIR Registration Expiration Date:

is currently registered as a contractor with the Department of Industrial Relations (DIR).

Contractor further acknowledges:

1. Contractor shall maintain DIR registered status for the duration of the project without a gap in registration.
2. Contractor shall ensure that all subcontractors are registered prior to award of contract and maintain registered status for the duration of the project.
3. Contractor is to furnish a DIR Registration Number for all subcontractors prior to contract award.
4. Contractor shall only be able to substitute a subcontractor with a DIR registered contractor if listed subcontractor is unable to perform the work and district approves of the change.

Failure to comply with any of the above may result in immediate termination of contract.

I declare under penalty of perjury under California law that the foregoing is true and correct.

Signature:

Date: _____

ATTACHMENT C
TERMS AND CONDITIONS

ARTICLE 1. PROPOSAL ACCEPTANCE: Proposals are subject to acceptance by the signing of a contract and issuance of an appropriate purchase order at any time within sixty (60) days after the receipt of quotes unless otherwise stipulated. The District reserves the right to accept or reject any and all quotes and reserves the right to waive any informality in any quote.

ARTICLE 2. SITE EXAMINATION: Contractor must examine the site and certify all measurements, specifications and conditions affecting the work to be performed at the site. By submitting their quote a contractor warrants that it has made such site examination as it deems necessary as to the condition of the site, its accessibility for materials, workmen and utilities, and ability to protect existing surface and subsurface improvements. No claim for allowance of time or money will be allowed as to such matters or for any other undiscovered conditions on the site.

ARTICLE 3. EQUIPMENT AND LABOR: The Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein described, the services to be performed at such times and places as directed by and subject to the approval of the authorized district representative indicated in the work specifications attached hereto.

ARTICLE 4. SUBCONTRACTING: Contractor agrees to bind every subcontractor by terms of the contract as far as such terms are applicable to subcontractor's work. If Contractor shall subcontract any part of this contract, Contractor shall be fully responsible to the District for acts and omissions of his subcontractor and of persons either directly or indirectly employed by himself. Nothing contained in the contract documents shall create any contractual relations between any subcontractor and the District.

ARTICLE 5. ASSIGNMENT: Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations under this contract without the prior written consent of District.

ARTICLE 6. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE: The Contractor shall not commence work under this Contract until it has obtained the insurance required under this paragraph and satisfactory proof of such insurance has been submitted to District and said insurance has been approved by the District. Commercial General Liability Insurance (including automobile insurance) which provides limits of not less than \$1,000,000 per occurrence (combined single limit) and \$2,000,000 Project Specific Aggregate (for this Project only). Any general liability policy provided by Contractor hereunder shall contain an endorsement which applies its coverage to District, members of District's Board of Trustees, and the officers, agents, employees and volunteers of District, the State Allocation Board, if applicable, the architect, and the architect's consultants, if applicable, individually and collectively as additional insured.

The limits set forth above shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit contractor's indemnification obligations to District, and shall not preclude the District from taking such other actions available to District under other provisions of the contract documents or law.

Contractor and any subcontractor shall not commence work nor shall Contractor allow any subcontractor to commence work under this contract until all required insurance certificates have been delivered to and approved by District. Except for worker's compensation insurance, the policy shall not be amended or modified and the coverage amounts shall not be reduced without

the District's prior written consent, and, the District shall be named as an additional insured and be furnished thirty (30) days written notice prior to cancellation. The Contractor shall not allow any subcontractor, employee or agent to commence work on this contract or any subcontract until the insurance required of the Contractor, subcontractor, or agent has been obtained.

a) **WORKER'S COMPENSATION INSURANCE:** The Contractor shall procure and shall maintain during the life of this contract Worker's Compensation Insurance on all its employees engaged in work under this contract, or at the site of the Project, and if the work is sublet, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for subcontractor's employees. Any class of employee or employees not covered by subcontractor's insurance shall be covered by the Contractor's insurance. The Contractor shall provide prior to performing the work of the contract, a Certificate regarding workers' Compensation as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of San Ysidro School District.

ARTICLE 7. LABOR CODE COMPLIANCE: A contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work as defined in Labor Code Chapter 1: Public Works, Labor Code sections 1720 - 1861, unless currently registered and qualified to perform public work pursuant to Sections 1725.5 and 1771.1. Public works are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall maintain DIR registered status for the duration of the project without a gap in registration. Contractor shall ensure that all subcontractors are registered and maintain registered status for the duration of the project.

The Contractor hereby stipulates that it shall comply with the applicable provisions of the California Labor Code, Division 2, Part 7, Chapter 1, Articles 1-5 ("Public Works Labor Code Provisions"), including, but not limited to, the payment of the general prevailing rates for public works projects of more than One Thousand Dollars (\$1,000) (§1771), hiring of Apprentices (§ 1777.5) and Working Hours (§ 1813), and Payroll Records (§ 1776). Prevailing rate of per diem wages are on the website of the Division of Labor Statistics and Research of the Department of Industrial Relations at www.dir.ca.gov/OPRL/. Contractor shall be responsible for all reports and obligations respecting such employees, including, but not limited to, social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

Contractor or subcontractor shall, as a penalty to the District, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by Contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Article 3 of the Public Works Labor Code Provisions.

With regard to hiring of apprentices, the responsibility of compliance with Labor Code section 1777.5 shall rest with the Contractor.

Pursuant to the provisions of article 2 (commencing at section 1770), chapter 1, part 7, divisions 2 of the Labor Code of California, the Director of Industrial Relations has ascertained the general prevailing rate of per diem wages in the locality in which this public work is to be performed for each craft, classification or type of worker needed to execute the contract. Said determinations are available to any interested party on the web site (www.dir.ca.gov/).

Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half times the general prevailing rate of per diem wages as determined by the Director of Industrial Relations, unless otherwise specified. Each worker of the Contractor or any of his subcontractors engaged in work on the project shall be paid not less than the general prevailing rate of per diem wages determined by the Director of Industrial Relations, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor and such workers.

Each worker needed to execute the work on the project shall be paid travel and subsistence payments, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed with the Department of Industrial Relations in accordance with Labor Code section 1173.8.

The Contractor shall, as a penalty to the District, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under the contract by him or by any subcontractor under him. Prevailing wage rates shall also be used when determining wages paid for change order items. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of the Contractor's mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor in meeting his prevailing wage obligations, or the Contractor's willful failure to pay the correct rates of prevailing wages. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor, and the Contractor shall be bound by the provisions of Labor Code section 1775.

Any worker employed to perform work on the project, which work is not covered by any classification listed in the general prevailing rate of per diem wages determined by the Director of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to work to be performed. Such minimum wage rate shall be retroactive to the time of initial employment of such person in such classification.

Pursuant to Labor Code section 1773.1, per diem wages are deemed to include employer payments for health and welfare, pension, vacation, travel time, subsistence pay and similar purposes.

Contractor shall post at appropriate conspicuous points on the site of project, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned.

Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him in connection with the public work.

The payroll records required above shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- a) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
- b) A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of

District, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

- c) A certified copy of all payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal office of the Contractor.

Contractor shall file a certified copy of the records required above with the District or entity that requested such records within ten days after receipt of a written request. Any copies of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor shall not be marked or obliterated.

Contractor shall inform the District of the location of the records required above, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

In the event of noncompliance with the requirements of this article regarding maintenance of records, the Contractor shall have ten days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this article. Should noncompliance still be evident after such ten-day period, the Contractor shall, as a penalty by the District, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalty shall be withheld from progress payments then due.

ARTICLE 8. APPRENTICES: Apprentices of any crafts or trades may be employed and, when required by Labor Code section 1777.5, shall be employed provided they are properly indentured to the Contract in full compliance with provisions of the Labor Code. The prime contractor shall bear the responsibility of compliance with Labor Code section 1777.5 for all apprenticeable occupations and agrees that he will comply with said section which reads: "Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works. Every apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he is employed, and shall be employed only at the work of the craft or trade to which he is registered."

Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing with Section 3070), of Division 3, of the Labor Code, are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he or she is training.

When the contractor to whom the contract is awarded by the District, in performing any of the work under the contract or subcontract, employs workers in any apprenticeable craft or trade, the contractor and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work for a certificate approving the contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However,

approval as established by the joint apprenticeship committee or committees shall be subject to approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject contractor or subcontractor, shall arrange for the dispatch of apprentices to the contractor or subcontractor in order to comply with this section. Every contractor and subcontractor shall submit contact award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices to be employed, and the approximate date the apprentices will be employed. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the craft or trade in the area of the site of the public work to ensure equal employment and affirmative action in apprenticeship for women and minorities. Contractors or subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen who shall be employed in the craft or trade on the public work may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen.

Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the job site and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Contractor shall employ apprentices for the number of hours computed as above before the end of the contract. However, the Contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the job site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

The Contractor or subcontractor, if he is covered by this section, upon the issuance of the approval certificate, or if he has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Contractor that he employs apprentices in such craft or trade in the state on all of his contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by a journeyman, or in the land surveyor classification, one apprentice for each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1-to-5 hourly ratio as set forth in the section. This section shall not apply to contracts of general contractors or to contracts of specialty contractors not proposing work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than thirty thousand (\$30,000) or 20 working days. This section shall not use any work performed by a journeyman in excess of eight hours per day or 40 hours per week to calculate the hourly ratio.

"Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to

the approval of the Administrator of Apprenticeship, exempting a contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met: a) Unemployment for the previous three-month period in such area exceeds an average of 15 percent. b) The number of apprentices in training in such area exceeds a ratio of 1-to-5. c) If there is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis, or on a local basis. d) Assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize his life, or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

When exemptions are granted to an organization which represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

A contractor to whom the contract is awarded, or any subcontractor under him who, employs journeymen or apprentices in any apprenticeable craft or trade to perform work under the contract and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any craft or trade in the area of the site of the public work, to which fund or funds other contractors in the area of the site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which he employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as the other contractors do. Where the trust fund administrators are unable to accept the fund, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. This contractor or subcontractor may add the amount of the contributions in computing his proposal for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Labor Code Section 227.

The District awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor. All decisions of the joint apprenticeship committee under this section are subject to Labor Code Section 3081.

ARTICLE 9. WORK HOURS: As provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work.

The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this contract upon the work or upon any part of the work contemplated by this contract is limited and restricted to eight (8) hours during any one-calendar day and forty (40) hours during any one-calendar week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

The Contractor and every subcontractor shall keep accurate record showing the name and actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the work or any part of the work contemplated by this contract. The record shall be kept open at all reasonable hours to the inspection of the District and the Division of Labor Law

Enforcement, Department of Industrial Relations of the State of California.

The Contractor shall pay to the District a penalty of twenty-five dollars (\$25) for each worker employed in the execution of this contract by the Contractor or by any subcontractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code.

Any work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to District

ARTICLE 10. INDEMNIFICATION: District shall not be liable for, and Contractor shall defend, indemnify, and hold harmless the District, its officials, employees, agents and volunteers, against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages or injury, in law or equity to property or persons, including wrongful death, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), which arise out of or are in any way connected to the Project or this contract arising either directly or indirectly from any act, error, omission or negligence of Contractor or its contractors, licensees, agents, servants, volunteers or employees, including, without limitation, Claims caused by the concurrent act, error, omission or negligence of District or its agents or employees. However, Contractor shall have no obligation to defend or indemnify District from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the active negligence, sole negligence, or willful misconduct of District or its agents or employees. Contractor shall reimburse District and its directors, officials, officers, employees, agents and volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

ARTICLE 11. MATERIALS: Contractor warrants good title to all material, supplies and equipment installed or including in the work. Except as otherwise specifically stated in this contract, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this contract within specified time. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality. Materials shall be furnished in ample quantities and at such times as to insure uninterrupted progress of work. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or work under this contract.

ARTICLE 12. PATENTS, ROYALTIES AND INDEMNITIES: The Contractor shall hold and save the District and its officers, agents and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of this contract, including its use by the District, unless otherwise specifically stipulated in the contract documents.

ARTICLE 13. GUARANTEE: Besides guarantees required elsewhere, Contractor shall, and hereby does, guarantee all work for a period of one year after date of acceptance of work by District and shall repair or replace any or all such work, together with any other work, which may be displaced in so doing, that may prove defective in workmanship and/or materials within a one year period from date of acceptance without expense whatsoever to District,

ordinary wear and tear, unusual abuse or neglect excepted. District will give notice of observed defects with reasonable promptness. Contractor shall notify District upon completion of repairs.

This article does not in any way limit the guarantee of any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish District all appropriate guarantee or warranty certificates upon completion of the project.

ARTICLE 14. PROTECTION OF WORK AND PROPERTY: The Contractor shall be responsible for all damages to persons or property that occur as a result of his fault or negligence in connection with the prosecution of this contract and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by the District. All work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as provided by law and contract documents. Contractor shall take all necessary precautions for safety of employees on the work and shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where work is being performed. Contractor shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, barriers, light and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction. Contractor shall designate a responsible member of the organization on the work, whose duty shall be prevention of accidents. Contractor shall report name and position of person so designated to District. In an emergency affecting life and safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from District, is permitted to act at its discretion to prevent the threatened loss or injury. It shall be the responsibility of the Contractor to ascertain from the District the rules and regulations pertaining to safety, security and driving on school grounds, particularly when children are present

ARTICLE 15. DISTRICT'S RIGHT TO TERMINATE CONTRACT: If the Contractor refuses or fails to prosecute the work or any separable part thereof with such diligence as will insure its completion within the time specified or any extension thereof, or fails to complete said work within such time, or if the Contractor should be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency, or if Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials to complete the work in time specified, or should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or instructions of District, or otherwise be guilty of a substantial violation of any provision of the contract, or if Contractor or subcontractors should violate any of the provisions of this contract, then District may, without prejudice to any other right or remedy, serve written notice upon Contractor and surety of its intention to terminate this contract, such notice to contain the reasons for such intention to terminate, and unless within ten days after the service of such notice such condition shall cease or such violation shall cease and satisfactory arrangements for the correction thereof be made, this contract shall upon the expiration of said ten (10) days, cease and terminate. In the event this contract is terminated as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.

ARTICLE 16. COMPLIANCE WITH STORM WATER PERMIT:

Contractor shall be required to comply with all conditions of the State Water Resources Control Board ("State Water Board") National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity ("Permit") – General NPDES Permit No. CAS000004 adopted by the State Water Resources Control Board. Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit and include all costs in the Contract amount. Contractor shall be responsible for procuring, implementing and complying with the provisions, monitoring and reporting requirements as required by the Permit. In addition to compliance with the Permit, Contractor shall comply with the lawful requirements of any applicable municipality, the District, drainage district, and other local agencies regarding discharges of storm water to the storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs. Contractor shall provide copies of all reports and monitoring information to the District Representative.

Storm, surface, nuisance, or other waters may be encountered at various times during construction of the Project. The Contractor, by signing this contract, hereby acknowledges that it has investigated the risk arising from such waters, has prepared its proposal accordingly, and assumes any and all risks and liabilities arising therefrom. Failure to comply with the Permit is in violation of federal and state law. Contractor hereby agrees to indemnify and hold harmless District, its officials, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which District, its officials, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the sole established negligence, willful misconduct or active negligence of the District, its officials, officers, agents, employees or authorized volunteers. District may seek damages from Contractor for fines or delay in completing the Contract in accordance with the Contract Documents, caused by Contractor's failure to comply with the Permit or other regulatory regulations. Contractor shall provide copies of all reports and monitoring information to the District Representative.

ARTICLE 17. CLEAN UP: Contractor at all times shall keep premises free from debris such as waste, rubbish and excess materials and equipment caused by his work; debris shall be removed from premises. Contractor shall not leave debris under, in, or about the premises. Upon completion of work Contractor shall clean interior and exterior of building including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections and any areas where debris has collected so surfaces are free from foreign material or discoloration; Contractor shall clean and polish all glass, plumbing fixtures and finish hardware and similar finish surfaces and equipment and remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from site.

ARTICLE 18. PROVISIONS REQUIRED BY LAW DEEMED INSERTED: Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provisions is not inserted, or is not correctly inserted then upon application of either party the contract shall forthwith be physically amended to make such insertion or correct.

ARTICLE 19. EXCAVATION DEEPER THAN FOUR FEET: If this contract involves digging trenches or other excavations that extend deeper than four feet below the surface, then all of the following apply:

- a. The Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing of any:
(1) Material that the Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law. (2) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to proposers prior to the deadline for submitting proposals. (3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract.
- b. Upon receiving any such notice, the District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in this contract.
- c. In the event that a dispute arises between the District and the Contractor whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by this contract, but shall proceed with all work to be performed under the contract. A contractor shall retain any and all rights provided either by contract or by law, which pertain to the resolution of disputes and protests between the contracting parties.

ARTICLE 20. REMOVAL OR RELOCATION OF MAIN OR TRUNKLINE UTILITY FACILITIES:

The Contractor shall not be assessed for liquidated damages for delay in completion of this project, when such delay was caused by the failure of the awarding authority of this contract or the owner of the utility to provide for removal or relocation of the existing main or trunkline utility facilities; however, when the Contractor is aware that removal or relocation of an existing utility has not been provided for, Contractor shall promptly notify the awarding authority and the utility in writing, so that provision for such removal or relocation may be made to avoid and minimize any delay which might be caused by the failure to remove or relocate the main or trunkline utility facilities, or to provide for its removal or relocation. In accordance with section 4215 of the Government Code, if the Contractor while performing the contract discovers any existing main or trunkline utility facilities not identified by the public agency in the contract plans or specifications, he shall immediately notify the public agency and utility in writing. The public utility, where they are the owners, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price. The Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work.

ARTICLE 21. CHANGES AND CHANGE ORDERS:

Change orders may not cause the total aggregate cost of the project to exceed \$60,000 or the project will become subject to competitive bidding. The District, without invalidating contract, and as provided by law, may order extra work or make changes by altering, adding to, or deducting from work, the contract sum being adjusted accordingly. All such work shall be subject to prevailing wage rates and shall be executed under the conditions of the original contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change. In giving instructions, Contractor agrees that the District shall have authority to make

minor changes in work, not involving change in cost, and not inconsistent with the purposes or approvals of the project. Otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless pursuant to a written order from District, and no claim for an addition to the contract sum shall be valid unless so ordered.

ARTICLE 22. PAYMENTS: The Contractor shall submit to the District an invoice requesting payment for completion of the Work. The District shall review payment request and, as soon as practical, shall: (i) certify that the request is correct in all aspects and should be paid by the District; (ii) reject the request as not proper, stating the reason(s) why rejection is appropriate; or (iii) require that the Contractor provide additional information that the District reasonably determines is necessary to verify the requested payment amount. In the event the District rejects the request for payment, the Contractor may resubmit the request with additional or new information establishing why payment should be made despite the reason(s) set forth in the District's initial rejection. The District shall pay the undisputed amount of the Contractor's request for payment, less any amounts that may be withheld or retained pursuant to this Contract or applicable law, within thirty (30) days of receipt of such request and in accordance with Public Contract Code Section 20104.50.

ARTICLE 23. RESOLUTION OF CONSTRUCTION CLAIMS OF \$375,000 OR LESS: For public work claims of \$375,000 or less between Contractor and District, if District has not elected to resolve disputes by arbitration pursuant to article 7.2 (commencing with section 10240) of chapter 1 of part 2 of the Public Contract Code, the provisions of article 1.5 (commencing with section 20104) of chapter 1 of part 3 of the Public Contract Code apply ("Article 1.5").

For purposes of Article 1.5, "public work" means "public works contract" as defined in Public Contract Code section 1101. "Claim" means a separate demand by Contractor for a time extension, or payment of money or damages for work done by or for Contractor, payment for which is not otherwise expressly provided in the contract or to which Contractor would not otherwise be entitled, or a payment disputed by District.

Each claim shall be submitted in writing before the date of final payment and shall include all necessary substantiating documentation. District shall respond in writing within forty-five (45) days of receipt of the claim if the claim is less than \$50,000 ("50,000 claim") or within sixty (60) days of receipt of the claim, if the claim is over \$50,000 but less than or equal to \$375,000 ("50,000-\$375,000 claim"). In either case, District may request in writing within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the District may have against the claimant. Any additional information shall be requested and provided upon mutual agreement of the District and the claimant. District's written response to the claim shall be submitted to claimant within fifteen (15) days after receipt of the further documentation for \$50,000 claims or within thirty (30) days after receipt of the further documentation for \$50,000-\$375,000 claims or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

Within fifteen (15) days of receipt the District's response, if claimant disputes District's written response or within fifteen (15) days of the District's failure to respond within the time prescribed, the claimant shall provide written notification to District demanding an informal conference to meet and confer ("conference") to be scheduled by the District within thirty (30) days. If the claim or any portion of the claim remains in dispute following the meet and confer ("meet and conference") to be scheduled by the District within 30 days. If the claim or any portion of the claim remains in dispute following the

meet and confer conference, the claimant may file a claim as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the period of time within which a claim must be filed is tolled from the time the claimant submits a written claim until the time the claim is denied, including time utilized as a result of the meet and confer process.

If a civil action is filed to resolve claims within sixty (60) days (but no earlier than thirty (30) days) following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide that both parties select a disinterested third person mediator within fifteen (15) days, shall be commenced within thirty (30) days of the submittal and concluded within fifteen (15) days from the commencement of the mediation unless time is extended upon a good case showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure, notwithstanding section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with section 2060.010) of part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. The court may, upon request by any party, order any witness to participate in the mediation or arbitration process.

Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates not to exceed their customary rate. Such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall state or county funds pay these fees or expenses. Any party who, after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment, shall pay the attorney's fees of the other party arising out of the trial de novo in addition to payment of costs and fees required under chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure. District shall not fail to pay any portion of a claim which is undisputed unless otherwise provided herein and shall pay interest at the legal rate commencing on the date the suit is filed in court on any arbitration award or judgment.

ARTICLE 24. DEFAULT BY CONTRACTOR: When Contractor, or any subcontractor, or vendor shall fail to deliver any article or service or shall deliver any article or service which does not conform to the work specifications, the District may, upon five (5) business days' prior written notice describing the default, at its option, annul and set aside the contract entered into with said Contractor, subcontractor or vendor either in whole or in part, and make and enter into a new contract in such manner as seems to the Board of Education to be to the best advantage of the District. Any failure for furnishing such articles or services by reason of the failure of the Contractor, subcontractor or vendor, as above stated, shall be a liability against the Contractor and his sureties. The Board of Education reserves the right to cancel any articles or services which the Contractor may be unable to furnish because of economic conditions, governmental regulations or other similar causes beyond the control of the Contractor provided satisfactory proof is furnished to the Board of Education, if requested.

ARTICLE 25. WORKERS AND SUPERVISION: Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor whom the District may deem incompetent or unfit shall be dismissed from the job site and shall not again be employed at site without written consent from the District.

ARTICLE 26. SUBSTITUTIONS: No substitutions of materials from those specified in the Work Specifications shall be made without the prior written approval of the District.

ARTICLE 27. ACCESS TO WORK: District representatives shall at all times have access to work wherever it is in preparation or progress. Contractor shall provide safe and proper facilities for such access.

ARTICLE 28. OCCUPANCY: District reserves the right to occupy buildings at any time before formal contract completion and such occupancy shall not constitute final acceptance or approval of any part of the work covered by this contract, nor shall such occupancy extend the date specified for substantial completion of the work.

ARTICLE 29. ASSIGNMENT OF CONTRACT AND PURCHASE ORDER: The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations under this contract without the prior written consent of the District.

ARTICLE 30. FORCE MAJEURE: The parties to this contract shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering, or performing by Act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented to the other party (ies), provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

ARTICLE 31. PERMITS AND LICENSES: The Contractor and all of his employees, agents, and subcontractors shall secure and maintain in force, at Contractor's sole cost and expense, such licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or services herein listed.

ARTICLE 32. CONTRACTOR NOT OFFICER, EMPLOYEE, OR AGENT OF DISTRICT: While engaged in carrying out other terms and conditions of the purchase order, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District.

ARTICLE 33. ASSIGNMENT OF CLAIMS: In submitting a quote on this public works project, or any subcontractor agreeing to supply goods, services, or materials, and entering a contract pursuant thereto, the Contractor and/or subcontractor do offer and agree to assign to the District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act, Chapter 2 (commencing with Section 116700 of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor without further acknowledgment by the parties.

ARTICLE 34. COMPLIANCE WITH LAWS: Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct or work as indicated or specified. If Contractor observes that any of the work required by this contract

is at variance with any such laws, ordinances, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work knowing it to be in violation of such laws, ordinances, rules or regulations, and without first notifying the District of such violation, Contractor shall bear all costs arising therefrom.

ARTICLE 35. TIME IS OF THE ESSENCE: Time is of the essence in the performance of and compliance with each of the provisions and conditions of this contract.

ARTICLE 36. GOVERNING LAW: This contract shall be governed by and construed in accordance with the laws of the State of California.

ARTICLE 37. NO ORAL MODIFICATION: Any waiver, amendment, modification, consent or acquiescence with respect to this contract or any provision of this contract or with respect to any failure to perform in accordance therewith shall be set forth in writing and duly executed by or on behalf of the party to be bound thereby.

ARTICLE 38. ASBESTOS HAZARD EMERGENCY RESPONSE ACT (AHERA): All contract work that is performed for the San Marcos Unified School District by outside contractors or workers must meet all of the regulations that have been set forth in the AHERA rule. This means that all work which could disturb the integrity of any Asbestos Containing Building Material (A.C.B.M.) needs to be approved by the District. This refers to the sawing, grinding, cutting, or drilling of any A.C.B.M. in occupied areas of District buildings.

ARTICLE 39. PROHIBITION AGAINST LEAD-BASED MATERIALS: In accordance with the Lead-Safe Schools Protection Act (Education Code Section 32240 *et seq.*), the Contractor shall not use for purposes of the Work, or incorporate into the Work, any lead-based paint, lead plumbing or solders, or other materials, equipment or other things that, in whole or in part, consist of lead and, therefore, may be a potential source of lead contamination.

ARTICLE 40. DRUG FREE/SMOKE FREE/ALCOHOL FREE POLICY: All District sites are designated drug free/smoke free/alcohol free. The use or abuse of controlled substances, tobacco products and alcohol will not be tolerated.

ARTICLE 41. DVBE PARTICIPATION: This contract will be subject to disabled veterans participation goals and record retention program if State funding is used for the Project. If applicable, in accordance with Education Code section 17076.11, this District will implement its participation goal for disabled veteran business enterprises ("DVBE") of at least 3 percent per year of the overall dollar amount of funds allocated to the District by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization and expended each year by the District. Prior to, and as a condition precedent for final payment under any contract for such project, Contractor shall provide appropriate documentation to the District identifying the amount paid to disabled veteran business enterprises in conjunction with the contract, so that the District can assess its success at meeting this goal.

[Contractor agrees that, for all contracts subject to DVBE participation goals, the State and the District have the right to review, obtain and copy all records pertaining to performance of the contract in accordance with DVBE requirements. Contractor

agrees to provide the State or the District with any relevant information requested and shall permit the State and/or the District access to its premises upon reasonable notice for purposes of interviewing employees and inspecting records. Contractor agrees to maintain such records for a period of three (3) years after final payment under the contract.]

ARTICLE 42. PROJECT-RELATED RECORDS: The Contractor shall maintain all documents, books, papers, accounting records, computer files, and other information related to the Project and performance of the Work ("Project Records"), including, but not limited to, Change Orders, submittals, requests for information, daily reports, correspondence, permits, insurance policies, certificates of insurance, testing and inspection reports, and safety records. The Contractor shall keep such accurate and comprehensive Project Records as are (i) necessary for proper administration and performance of the Work and (ii) required by law or this Contract. All Project Records, as applicable, shall be maintained in accordance with generally-accepted accounting principles. If the Contract Amount, as adjusted pursuant to this Contract, exceeds \$10,000, then, in accordance with Government Code Section 8546.7, the State has the right to examine, review, audit and/or copy the Records of the Work during the three-year period following final payment to the Contractor pursuant to the Contract. In addition, the District hereby has the right to examine, review, audit and/or copy the Records of the Work during the four-year period following final payment to the Contractor pursuant to the Contract. Therefore, the Contractor shall make the Project Records available at its offices at all reasonable times during the performance of the Work and for four (4) years from the Governing Board accepts the Work. However, if any audit is commenced within such four (4) year period, the Contractor shall make the Project Records available at all reasonable times until proceedings related to such audit are complete and all statutes of limitation related thereto have expired. In the event the District notifies the Contractor that federal funds have been used in connection with the Project, the Contractor shall retain and make available the Project Records for such longer period as may be required by federal law.

THIS CONCLUDES THE GENERAL TERMS AND CONDITIONS consisting of Articles 1 through 42

INSERT PAYMENT AND PERFORMANCE BONDS IF OVER \$25,000.

(Balance of page intentionally blank.)

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Preschool & Child Dev. Programs
Lorena Varela-Reed, Director

Informational
 Action

AGENDA ITEM: AGREEMENT WITH LAURA FISH THERAPY, MFT, INC.

BACKGROUND INFORMATION:

During these pandemic times, staff has been dealing with so much stress in both their personal and professional lives. Most adults strive to maintain a sense of safety and security for children by protecting them from the stress of life events, thus the uncertainty of the situation leads to distress for human beings. It is important for the brain to identify and avoid danger and to know where the risk lies and to avoid it. With this, adults may seek to protect both themselves and children from the stress of the unknown by denying, dismissing, distracting, or directing. During the training, the participants will learn how these habitual ways of reacting to uncertainty may do more harm than good to both them and their students.

Laura Fish MS, LMFT will provide a series of three 90 minute virtual trainings via the Zoom platform with designated break out groups to help participants pause to consider their learning. The training will take place on January 25th, February 8th, and February 22nd, 2022. In additons to the training sessions, Ms. Fish will offer a virtual 60 minute small group reflection format (optional) for staff who voluntarily choose to attend.

The cost implications will be funded through the American Rescue Plan Act of 2021 (ARPA) Stabilization Funds as follows:

- Training Series: \$6,800.00
- Group Consultation Fee (Optional): \$1,800.00 per group
- Extra Time Pay for Staff: TBD

RECOMMENDATION:

Approve/Ratify the agreement with Laura Fish Therapy, MFT, Inc. to provide staff training series “Navigating Uncertainty” at an estimated cost of \$10,400 from the American Rescue Plan Act of 2021 (ARPA) Stabilization Funds.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

Contract Estimate
\$10,400.00

American Rescue Plan Act of 2021 (ARPA)
Stabilization Funds

(Amount)

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

PROFESSIONAL SERVICES AGREEMENT

This agreement is made and entered into this 27TH day of January 2022, by and between the San Ysidro School District, hereinafter called the "District", and

Laura Fish Therapy MFT, Inc.
Company/Consultant

(760) 215-2573
Telephone Number

3502 Lone Pine Lane, San Marcos, CA 92078
Address

Website

hereinafter referred to as "Consultant."

1 SCOPE AND TERMS

1.1 SCOPE OF SERVICES

Scope of Services. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the Consultant Services Documentation ("attached documents") attached hereto as **Exhibit "A"** and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the District entering into this Agreement, Consultant represents and warrants that Consultant is a provider of first class work and services and Consultant is experienced in performing the work and services contemplated herein and, in light of such status and experience, Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials shall be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

Compliance with Law. All services rendered hereunder shall be provided in accordance with any and all applicable ordinances, resolutions, statutes, rules, and regulations of the District, City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered. Each and every provision required by law to be included in this Agreement shall be deemed to be included by this reference, and this Agreement shall be read and enforced as though they were included.

Licenses, Permits, Fees and Assessments. Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless District against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against District hereunder.

1.2 TERM

From: January 28, 2022

To: June 30, 2022

The Term of this Agreement as noted, unless earlier terminated as provided herein. The Parties may mutually agree to extend this term only by written amendment. Should the Parties agree to extend the term of this Agreement; the Agreement can only be extended on a year-to-year basis with written approval unless otherwise indicated in writing and in accordance with the law. Agreements are limited to a total of 5 years at which point a new Agreement will be needed.

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

2 FEES AND PAYMENTS

2.1 FEES

District shall pay Consultant for the specified services as reflected on **Exhibit A** during this contract term.

2.2 PAYMENTS

Consultant shall submit to District an itemized invoice which indicates work completed by Consultant. District shall review each invoice and/or receipts submitted to determine that the work performed, and expenses incurred are in compliance with the provisions of this Agreement. District shall pay Consultant within 30-days of receipt of an acceptable invoice from Consultant.

3. ADDITIONAL SERVICES.

District shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work as described herein. No such extra work may be undertaken unless a written order is first given by the District Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval or ratification of the Contract Officer. However, any increase in compensation beyond the Contract Sum, for services beyond what is contemplated in the Contract, must be approved or ratified by the Board of Education in a signed writing prior to any payment. Additionally, any other increases, extensions or renewals must be approved in writing by the Board of Education. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefore unless specifically authorized pursuant to the terms of this section.

4 RESPONSIBILITIES OF CONSULTANT

4.1 ORGANIZATION

Consultant shall assign a Company Contact as Project Manager. The Project manager shall not be removed from the Project or reassigned without the prior written consent of District, which consent shall not be unreasonably withheld. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Agreement.

4.2 COORDINATION OF SERVICES

Consultant agrees to work closely with the District staff in the performance of Services and shall be available to the District staff, consultants and other staff at all reasonable times.

4.3 STANDARD OF CARE:

Consultant shall perform all Services under this Agreement in a skillful, competent and timely manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all of Consultant's employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any of Consultant's employees who are determined by District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any of Consultant's employees who fail or refuse to perform the Services in a manner acceptable to District, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

4.4 INDEPENDENT CONSULTANT & ADDITIONAL PERSONNEL

Consultant is retained as an independent consultant and is not an agent or employee of the District. No employee or agent of Consultant shall by this Agreement become an agent or employee of the District. The work to be performed shall be in accordance with the work described herein, subject to such direction and amendments from District as herein provided. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind District to any obligation whatsoever, except as specifically provided in writing by District. Any additional personnel

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law.

4.5 LAWS AND REGULATIONS

Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Service. Consultant shall be liable for all violations of such laws and regulations in connection with Services.

4.6 MAINTENANCE OF ACCOUNTING RECORDS

Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of the District during normal business hours with reasonable notice to examine, audit and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of five (5) years from the date of final payment under this Agreement.

4.7 INSURANCE – Consultant shall comply with the following insurance provisions, unless one or more paragraphs are specifically waived by the District in writing.

(1) Time for Compliance. Consultant shall not commence Services under this Agreement until it has provided evidence satisfactory to District that it has secured all insurance required under this Section. In addition, Consultant shall not allow any subconsultant or employee to commence work until it has provided evidence satisfactory to the District.

(2) Minimum Requirements and Limits. Consultant shall, at its expense, procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the consultant, its agents, representatives, and employees. Such insurance shall survive after this agreement as permitted by law.

MINIMUM SCOPE OF INSURANCE - Coverage shall be at least as broad as:

- 1. Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, sexual misconduct and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be **\$2,000,000** the required occurrence limit.
- 2. Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Consultant has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage. **NOT APPLICABLE**
- 3. Workers' Compensation (Employer's Insurance if applicable):** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury ~~odisease~~ coverage shall include waiver of subrogation endorsement in favor of San Ysidro School District.
- 4. Professional Liability (Errors and Omissions):** Insurance appropriate to the Consultant's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. *(If applicable – see footnote next page)*
District waives _____
- 5. Improper Sexual Conduct:** \$1,000,000 per occurrence with an aggregate of not less than \$2,000,000 for damages because of bodily injury by reason of negligent hiring and supervision. May be included under General Liability.
District waives _____
- 6. Cyber Security Liability:** Coverage for both electronic and non-electronic data breach of \$2,000,000 per occurrence with an aggregate limit of not less than \$5,000,000 and shall cover all of Consultant's employees, officials and agents. Coverage shall apply to any dishonest, fraudulent, malicious or criminal use of Consultants or computer system or to obtain financial benefit for any party; to steal, take or provide unauthorized access of electronic data, including publicizing confidential electronic data or causing confidential electronic data to be accessible to unauthorized persons; transfer and for Third-Party Liability encompassing judgements or settlement and defense costs arising out of litigation due to a data breach and data breach response costs for customer notification and credit monitoring service fees.
District waives _____

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

If the Consultant maintains higher limits than the minimums shown above, the District requires and shall be entitled to coverage for the higher limits maintained by the Consultant.

Additional Insured Status - Endorsement

The San Ysidro School District, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy and Professional Liability (Errors & Omissions) with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations. The additional insured coverage must be provided in the form of an **Additional Insured Endorsement** to the Consultant's/SubConsultant's/Subcontractors' insurance. If Blanket Endorsement, it must include policy number and insured's name.

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the District, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

The Provider shall file, with the District, Certificates of Insurance indicating a thirty-day (30) cancellation notice. If not stated on the Certificates of Insurance, it is understood that a 30-day cancellation notice will be provided and failure to mail such notice shall impose obligation and liability upon the company/insured, its agents or representative.

Waiver of Subrogation

Consultant/SubConsultant/Subcontractor hereby grants to the San Ysidro School District a waiver of any right to subrogation which any insurer of said Consultant may acquire against the District by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the District has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the District. The District may require the Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to the District.

Claims Made Policies (note – should be applicable only to professional liability, see below)

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior to** the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of work.

Verification of Coverage

Consultant/SubConsultant/Subcontractor shall furnish the District with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. **All certificates and endorsements are to be received and approved by the District before work/services commences.** However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

5 GENERAL PROVISIONS

5.1 DELAYS IN PERFORMANCE

(1) Neither District nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other disturbances; sabotage or judicial restraint.

(2) Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

(3) If any of the Consultant's services are affected due to circumstances described on 1) above or other difficulties beyond the control of the Consultant and/or District, parties can agree to another scheduled date(s) for services that may have been affected with no additional preparatory work for the Consultant.

5.2 SUSPENSION OF SERVICES

The District may, in its sole discretion, suspend all or any part of Services provided hereunder with cost to date of suspension. Consultant may not suspend its services without District's express written consent.

5.3 TERMINATION OF AGREEMENT

(1) Termination. District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by mutual agreement and giving written notice to Consultant of such termination, and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to District to date of the notice of termination and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

(2) Consultant's Termination for Cause. This Agreement may be terminated by the Consultant upon thirty (30) days written notice to the District only when the District has substantially failed to perform its obligations under this Agreement. The written notice shall include a detailed description of the District's failure to perform, status of the work completed as of the date of termination together with a description and a cost estimate of the effort necessary to complete work in progress. In such event, the Consultant shall be compensated for services completed to the date of termination, together with compensation for such approved Additional Services performed after termination which are authorized by the District to conclude the work performed to the date of termination. Upon the District's request and authorization, Consultant shall perform any and all Additional Services necessary to wind up the work performed to the date of termination.

(3) Effect of Termination. If this Agreement is terminated as provided in this Section, District may require Consultant to provide all finished or unfinished documents, data, programming source code, reports or any other items prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

(4) Terminated Services. In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.

5.4 OWNERSHIP OF MATERIALS AND CONFIDENTIALITY

(1) Consultant is the owner of all materials developed, with District receiving full permission to reproduce, but not alter, materials for ongoing use with credit to Consultant.

(2) The District is a California public entity subject to all state and federal laws governing education, including but not limited to California Assembly Bill 1584 (AB 1584), the California Education Code, the Children's Online Privacy and Protection Act (COPPA), the Family Educational Rights and Privacy Act (FERPA), and HIPAA Privacy regulations and any other privacy laws, policies and regulations that may apply such as American Recovery and Reinvestment

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Act of 2009 (“ARRA”) and the Health Information Technology and Economic Clinical Health Act of 2009 (“HITECH”).

AB1584 requires, in part, that any agreement entered into, renewed or amended after January 1, 2015 between a local education agency (LEA) and a third-party service provider must include certain terms; and the LEA and the Service Provider desire to have this Agreement and the services provided comply with AB1584. This includes to all forms of protected health information, including paper, oral, and electronic, etc. Furthermore, only the minimum health information necessary to conduct business is to be used or shared.

- Pupil records obtained by the Consultant/Service Provider from LEA/District continue to be the property of and under the control of the District. The Consultant will obtain information regarding disciplinary and/or behavioral events for the purpose of allowing District personnel to improve and provide services to pupils. The Consultant will not be obtaining pupil-generated content.
- In the event of an unauthorized disclosure of a pupil's records, the Consultant shall report to an affected parent, legal guardian, or eligible pupil pursuant to the following procedure; written communication to the District's Superintendent, Deputy Superintendent and/or designee.
- The Consultant shall not use any information in a pupil record for any purpose other than those required or specifically permitted by this Professional Services Agreement.
- Consultant certifies that a pupil's records shall not be retained or available to the Consultant upon completion of the terms of this Professional Services Agreement.
- District agrees to work with Consultant to ensure compliance with FERPA.
- Consultant shall not use personally identifiable information in pupil records to engage in targeted advertising.
- Pupil records include any information directly related to a pupil that is maintained by the District or acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other District employees. Pupil records does not include/not mean de-identified information (information that cannot be used to identify an individual pupil) used by the third party to (1) improve educational products for adaptive learning purposes and for customized pupil learning; De-identified information, including aggregated de-identified information. (2) Demonstrate the effectiveness of the operator's products in the marketing of those products; or for the development and improvement of educational sites, services, or applications.

5.5 SAFETY

Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

5.6 PROJECT STAFFING

Consultant shall provide adequate staff and resources to facilitate all Consultant activity. Should Consultant fail to adequately staff a project, the District may, at its sole discretion, retain third party consulting services and back charge Consultant for all third-party fees.

5.7 INDEMNIFICATION

Indemnification: To the fullest extent permitted by law, Consultant shall defend (with counsel of District's choosing), indemnify and hold the District, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the District, its officials, officers, employees, agents, or volunteers.

5.8 AMENDMENTS

This Agreement may not be amended except in writing signed by both Parties.

5.9 SEVERABILITY

If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the

SAN YSIDRO SCHOOL DISTRICT

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Parties, is for any reason held invalid or unenforceable, the validity of the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to this Agreement.

5.10 GOVERNING LAW

This Agreement shall be governed by the laws of the State of California. Any action brought to enforce the terms of this Agreement shall be brought in a state or federal court located in the County of San Diego, State of California, but only after dispute resolution as provided herein.

5.11 CONFLICT OF INTEREST

For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

5.12 SCHOOL SAFETY, FINGERPRINTING AND BACKGROUND INVESTIGATION REQUIREMENTS: Consultant agrees with the provisions of Education Code Section 45125.1 regarding the submission of fingerprints to the California Department of Justice. Consultant shall not be permitted to have any contact with District pupils until such time as Consultant has verified in writing to the District that they have complied with Educational Code Section 45125.1. **(Please complete attached School Safety Certification Form.)**

Per Ed Code 49406 and Assembly Bill 1667, the District requires for Tuberculosis (TB) Clearances to be in place by anyone coming in contact with pupils. Please submit TB Clearance to the Business Services Office. This section may be waived if the District determines that the Consultant and/or its employees will have limited contact with District pupils or if Consultant and/or its employees will be supervised at all times by District staff.

District is waiving this requirement _____ .

5.13 DRUG/ALCOHOL/TOBACCO-FREE FACILITIES:

ALL DISTRICT FACILITIES ARE DRUG AND TOBACCO-FREE FACILITIES. ANY DRUG, ALCOHOL AND/OR TOBACCO USE (SMOKED OR SMOKELESS) IS PROHIBITED AT ALL TIMES ON ALL AREAS OF THE DISTRICT FACILITIES.

5.14 NOTICES / CONTACT INFORMATION

All notices or demands to be given under this Agreement by either party to the other shall be in writing and given either by: (a) personal service, (b) email or (c) by U.S. Mail, mailed certified mail with return receipt requested, addressed to the following entities.

CONSULTANT:	Laura Fish Therapy MFT, Inc.	
Name:	Laura Fish MS, LMFT	
Title:		
Address:	3502 Lone Pine Lane	
City/State/Zip Code:	San Marcos, CA 92078	
Telephone:	(760) 215-2573	
Email:		

DISTRICT:	San Ysidro School District	
Name:	Marilyn Adrianzen	Lorena Varela-Reed
Title:	Chief Business Official	Director, Child Development Programs
Address:	4350 Otay Mesa Road	4350 Otay Mesa Road
City/State/Zip code:	San Ysidro, CA 92173	San Ysidro, CA 92173
Telephone:	(619) 428-4476	(619) 428-4476 x3583
Email:	Marilyn.adrianzen@sysdschools.org	lorena.varela-reed@sysdschools.org

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

6 ENTIRE AGREEMENT

This Agreement represents the entire understanding of District and Consultant as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. To the extent that any provision or clause contained in an attachment to this Agreement conflicts with a provision or clause in the Agreement, the provision or clause in this Agreement shall control. This Agreement may not be modified or altered except in writing signed by both parties hereto. This is an integrated Agreement.

7 WARRANTY OF AUTHORITY:

Each of the parties signing this Agreement warrants to the other that he or she has the full authority to enter into agreement on behalf of the Party for which his or her signature is made.//

CONSULTANT

DISTRICT

Laura Fish Therapy MFT, Inc.
Firm Name

San Ysidro School District
Firm Name

Signature of Authorized Agent

Signature

Print Name, Title

Marilyn Adrianzen, Chief Business Official
Print Name, Title

Date:

Date

Board Approved:

Revised 08-01-2020

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

SCHOOL SAFETY CERTIFICATION FORM

CERTIFICATION PURSUANT TO EDUCATION CODE SECTION 45125.1 and
Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c)
Fingerprinting and Criminal Background Investigation Requirements

The San Ysidro School District (District) has determined under Education Code Section 45125.1, subdivision (c) that in performing services under this contract, **Contractor/Consultant's employees and/or Subconsultants/Subcontractors may have contact with pupils.**

_____ (Initial) As required under Education Code Section 45125.1, subdivision (a), Consultant shall require their employees, including the employees of any sub-consultant and/or subcontractor, who will provide services pursuant to this contract to submit their fingerprints in a manner authorized by the Department of Justice in order to conduct a criminal background check to determine whether such employees have been convicted of or have charges pending for a felony as defined under Education Code Section 45122.1.

_____ (Initial) Consultant shall not permit any employee to perform services that may come in contact with pupils under this contract until the Department of Justice has determined that the employee has not been convicted of a felony or has no criminal charges pending for a felony as defined in Education Code Section 45122.1 and in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

_____ (Initial) Consultant certifies that all of its employees who may come in contact with pupils have not been convicted of or have no criminal charges pending for a felony, as defined in Education Code Section 45122.1 and in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

_____ (Initial) Consultant shall defend, indemnify, protect and hold the District and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property which arise from or are connected with or are caused or claimed to be caused by Consultant's failure to comply with all of the requirements contained in Education Code Section 45125.1, including, but not limited to, the requirements prohibiting Consultant from using employees who may have contact with pupils who have been convicted or have charges pending for a felony in Education Code Section 45122.1.

_____ (Initial) Per Ed Code 49406 and Assembly Bill 1667, the District requires for Tuberculosis (TB) Clearances to be in place by anyone coming in contact with pupils.

_____ (Initial) Consultant's individuals/employees and/or Subconsultants/Subcontractors who may come in contact with pupils in the performance of services in this contract agree to provide fingerprint (DOJ/FBI) and TB Clearances (at their own expense) to be in compliance with the above-mentioned Ed Codes before commencement of any services under this contract. The District will provide LiveScan form if necessary.

- I certify to the District's Governing Board that I have read and understand the above terms and conditions and will report any changes that may affect the performance services of this contract.
- I certify to the District's Governing Board that none of the Consultant's employees/individuals and/or Subconsultants/subcontractors performing services under this agreement have been convicted of a felony as defined in Education Code Section 45122.1 and in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).
- I certify to the District's Governing Board that all of the Consultant's and Subconsultant's/Subcontractor's employees-individuals performing services under this agreement are clear of tuberculosis (TB) as defined on Education Code Section 49406 and Assembly Bill 1667.

Company Name: _____

Name/title of authorized representative (Print) _____

Signature _____ Date _____

Professional Development Proposal
San Ysidro School District
Child Development Program
December 2021

Training Series: Navigating Uncertainty

Most adults strive to maintain a sense of safety and security for children by protecting them from the stress of life events. The uncertainty of the situation leads to distress for human beings. It is a biological imperative of the human brain to identify and avoid danger; to know where the risk lies and to avoid it. The unknown may be harmful or fatal, so human beings seek to know, to be certain. With this, adults may seek to protect both themselves and children from the stress of the unknown by denying, dismissing, distracting, or directing. In this session, participants will learn how these habitual ways of reacting to uncertainty may do more harm than good: both for adults and children.

Training One: *an introduction*

- In this training, participants will:
 - Explore the impact of uncertainty on humans' health and well-being: the brain reasons for the thoughts, feelings and behaviors that arise when facing uncertainty
 - Reflect upon how this is an ongoing issue relevant to their lives: the uncertainty of everyday life challenges, major life stressors, and global events such as the pandemic
 - Examine four ways adults typically react to uncertainty (deny, dismiss, distract, or direct), and their associated shortcomings.
 - Be **introduced to** the consultant's framework, ***The Four A's of Navigating Uncertainty***, as a model for how to approach uncertainty across the lifespan in both their personal and professional lives to promote resilience.
 - Receive theory, research, practical strategies, and experiential activities
- Training is a **90-minute virtual** session with one designated break out group to help participants pause to consider their learning.

Training Two: *exploring the framework in practice*

- In this training, participants will:
 - Explore each of the "Four A's": acknowledging, attuning, adopting, and asking
 - Continue with the more of how the brain reacts to uncertainty through the lens of the brain's basic needs, drives, and operating systems
 - Apply this knowledge **to go deeper with** implementing ***The Four A's of Navigating Uncertainty*** framework to prevent lingering effects of stress and promote their capacity to navigate challenges
 - Receive theory, research, practical strategies, and experiential activities
- Training is a **90-minute virtual** session with one designated break out group to help participants pause to consider their learning.

Training Three: *navigating uncertainty with children*

- In this training, participants will:
 - Learn how to identify and understand children’s relationship to uncertainty through the lens of brain development
 - Apply knowledge gained in the series to understand how the adults’ stress response applies to helping children navigate challenges and prevent challenging behavior
 - Reflect upon ways to implement ***The Four A’s of Navigating Uncertainty*** framework with children in the classroom in combination with the Teaching Pyramid
 - Receive theory, research, practical strategies, and experiential activities
- Training is a **90-minute virtual** session with one designated break out group to help participants pause to consider their learning.

Group Reflection:

In addition to the training session, consultant will offer a 60-minute small group reflection format for staff who choose to attend. The intention is to provide targeted reflection that can be individualized to the participants’ needs to go deeper with content exposed to in the training. These sessions will be conducted via the Zoom platform, will be voluntary not mandated, and will include the following opportunities:

- Ongoing exploration of training content to ensure implementation with fidelity
- Reflection on implementation efforts and additional planning: cohort member will bring in situations, questions, or considerations regarding implementation, including peak moments and challenges. The goal is to connect implementation efforts and observed outcomes to the teachers’ understanding and delivery of the content to strengthen implementation efforts.
- Participants **will be required to submit questions, topics of interest, and other content for reflection in advance of session** to allow consultant to prepare for gatherings. Laura will also prepare content for the group based on participant reflections from trainings, observations made during training, and experience.
- To maximize adult learning, the teachers will be divided into groups of no more than five participants. Each group will receive **three 60-minute** coaching sessions. The number of groups is TBD based on staff interest.

Consultant is the owner of all materials developed, with San Ysidro School District receiving full permission to reproduce, but not alter, materials for ongoing use with credit to Laura Fish Therapy.

Payment guarantee: See Contract agreement for plan to reschedule trainings if they are interrupted.

Cost

The consultant will send San Ysidro the participant materials for the session electronically for delivery in advance of the training day. This includes the consultant’s power point and any additional handouts. San Ysidro may reproduce and distribute the materials with credit to the consultant but may not alter them in any way.

Laura Fish MS, LMFT
 laura@laurafishtherapy.com
 (760) 215-2573

Proposed Activity	Cost
<p>Staff Training:</p> <ul style="list-style-type: none"> • Flat fee for training-series: time for development and delivery of training, including creation of content, experiential activities for break out groups, preparation of materials, and organizing delivery of services. • Fee for Group Consultation: \$1,800 per group. Each group will receive three 60-minute coaching sessions. Total fee TBD based on interest and San Ysidro budget. Cost for each group includes consultant’s time to organize each session: collecting questions from staff, preparing content, and facilitating the Zoom meetings. Estimated total time for Consultant is 9 hours per group. 	<p style="text-align: center;">\$6,800</p> <p style="text-align: center;">(\$1,800 per group)</p>
<p>Total Training Cost:</p>	<p style="text-align: center;">\$6,800</p>
<p>Total Group Consultation Cost: (TBD)</p>	<p style="text-align: center;">TBD</p>

For more information, please contact Laura Fish at laura@laurafishtherapy.com or (760) 215-2573.

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services Informational
Cynthia Gonzalez, Executive Director Action

AGENDA ITEM: MEMORANDUM OF UNDERSTANDING WITH SBCS CORPORATION IN SUPPORT OF THE SAN YSIDRO DOMESTIC VIOLENCE PREVENTION COLLABORATIVE (SYDVPC)

BACKGROUND INFORMATION:

SBCS Corporation (SBCS), formerly known as South Bay Community Services will continue to work in collaboration with the San Ysidro School District and other stakeholders to ensure that San Ysidro is a community in which everyone can thrive, free from violence in their home and their intimate personal relationships. The district will participate as part of a multi-sector alliance that brings together providers in the areas of domestic violence, healthcare, affordable housing developers, community and faith-based groups, businesses, schools, law enforcement, governmental entities, artists groups, and victims/survivors to work together to identify and address the complex, interconnected personal, familial, and systemic causes of domestic violence.

San Ysidro School District has partnered with SBCS for the San Ysidro Domestic Violence Prevention Collaborative (SYDVPC) since December 2019 and would like to renew this MOU to continue with the services until December 31, 2023.

RECOMMENDATION:

Approve/Ratify the Memorandum of Understanding with SBCS Corporation in support of the San Ysidro Domestic Violence Prevention Collaborative from January 1, 2022 - December 31, 2023, at no cost to the District.

LCAP GOAL AND ACTION/SERVICE:

Goal 3: School Culture and Student Engagement – Ensure that all students are educated in positive academic environments that are safe, welcoming and drug free. – Action #5 & 10

Renewal **New** **Amendment** **Ratify** **Other**

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

N/A
(Amount)

N/A
(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No



MEMORANDUM OF UNDERSTANDING

In support of the San Ysidro Domestic Violence Prevention Collaborative (SYDVPC), this document represents a collaboration between SBCS Corporation (SBCS) and the San Ysidro School District (SYSD). SBCS will work in collaboration with the San Ysidro School District (SYSD) and other stakeholders to ensure that San Ysidro is a community in which everyone can thrive, free from violence in their home and their intimate personal relationships. The San Ysidro School District (SYSD) will participate as part of a multi-sector alliance that brings together domestic violence providers, healthcare providers, affordable housing developers, community and faith-based groups, businesses, schools, law enforcement, governmental entities, artists groups, and victims/survivors to work together to identify and address the complex, interconnected personal, familial, and systemic causes of domestic violence.

SBCS and SYSD intend to collaborate on the provision of services as described herein.

I. Services to Be Provided

SBCS agrees to:

1. Act as lead agency for the administration of the collaborative project;
2. Guide the collaborative efforts and strategies to achieve the mission and vision;
3. Recruit and convene partners;
4. Coordinate and facilitate meetings;
5. Support communication;
6. Facilitate the development of an advisory group made up of SYDVPC members and partners that represent diverse sectors;
7. Provide an Orientation to the SYDVPC to all new members;
8. Oversee data gathering, progress toward objectives, and reporting; and
9. Facilitate linkages, cross-referrals, and collaboration between existing programs and the project.

SYSD agrees to:

1. Participate in SYDVPC collaborative meetings as scheduled;
2. Help identify common goals and objectives and guide the collaborative in achieving them;
3. Participate in establishing the collaborative structure, governance, and decision-making processes;
4. Participate in smaller work groups as needed that focus on specific sectors or implementing specific prevention strategies, as determined during the planning process;
5. Participate in prevention events and resource fairs as planned and calendared by the collaborative; and
6. Nurture and support prevention strategies for a multi-pronged approach leading to improved health, safety, and overall well-being for all residing in San Ysidro
7. Provide data and statistics regarding domestic violence for the San Ysidro area.



MEMORANDUM OF UNDERSTANDING

II. Duration of the agreement

This agreement is effective from the date it is signed by both parties and is effective during the period commencing 1/1/2022 through 12/31/2023.

III. Termination

This agreement terminates when the funding for the project ends or either party may terminate this agreement by providing written notice of not less than thirty (30) days to the other party.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

SBCS Corporation, a California nonprofit, public benefit corporation
Federal Tax ID Number: 95-2693142

By: _____ Date: _____
Kathryn Lembo
President and Chief Executive Officer
430 F Street Chula Vista, CA 91910

SAN YSIDRO SCHOOL DISTRICT

Signature: _____ Date: _____

Contract Signer's Printed Name: Marilyn Adrianzen

Title: Chief Business Official

Address: 4350 Otay Mesa Road, San Ysidro, CA 92173

Email / Ph. #: marilyn.adrianzen@sysdschools.org // (619) 428-4476

Federal Tax ID Number: 95-6002821

Board approved: _____

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Educational Services Informational
Cynthia Gonzalez, Executive Director Action

AGENDA ITEM: MEMORANDUM OF UNDERSTANDING WITH SAN DIEGO COUNTY SUPERINTENDENT OF SCHOOLS FOR SUPPORT WITH HISTORY/SOCIAL SCIENCE PILOT & ADOPTION

BACKGROUND INFORMATION:

This Memorandum of Understanding (MOU) is entered into by our District and the San Diego Superintendent of Schools, on behalf of its Learning and Leadership Division, hereinafter referred to as County for support with History/Social Science pilot and adoption. The current History/Social Science materials for our middle schools were adopted in 2006. For this reason, it is crucial for our District to begin the pilot process.

SDCOE will facilitate the following:

- One full-day meeting to ground teachers in the History-Social Science framework and standards.
- One full-day meeting to review and narrow instructional materials to pilot.
- Two one-hour check-in meetings during the instructional materials pilot.
- One instructional materials selection meeting of up to 3 hours.
- An instructional materials implementation session – up to 2 full days, or up to 12 hours for partial day meetings.
- Prepare handouts, activities, and slide decks for meetings.

The term of this agreement is from February 1, 2022, through January 31, 2023, at the total cost of \$3,875.00.

RECOMMENDATION:

Approve the Memorandum of Understanding with San Diego County Superintendent of Schools for support with the pilot and adoption of History/Social Science materials for our middle schools at the total cost of \$3,875.00 from the Title I PD Fund.

LCAP GOAL AND ACTION/SERVICE:

Goal 1: Academic Achievement – Improve student achievement for all students and accelerate student learning increases for English Learners and students with disabilities.

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

\$3,875.00

(Amount)

Title I PD Fund

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

SERVICES AGREEMENT

BETWEEN

San Ysidro School District

AND

SAN DIEGO COUNTY SUPERINTENDENT OF SCHOOLS

This agreement is made and entered into by the San Ysidro School District hereinafter referred to as **SYSD** and the San Diego Superintendent of Schools, on behalf of its Learning and Leadership Division, hereinafter referred to as **COUNTY** or **SDCOE**.

I. PURPOSE SCOPE & INTENDED OUTCOME

The purpose of this Agreement is to clearly identify the roles and responsibilities of each party as they relate to:

- The SYSD history-social science instructional materials pilot and adoption

SCOPE OF WORK:

II. SYSD RESPONSIBILITIES

SYSD shall undertake the following activities:

- Provide meeting space.
- Provide logistical support for related meetings including contacting teacher participants.
- Make photocopies of handouts for participants.
- Work directly with instructional materials publishers to arrange presentations and ship and distribute material

III. COUNTY RESPONSIBILITIES

COUNTY agrees to undertake the following activities:

- Facilitate one full-day meeting to ground teachers in the History-Social Science framework and standards
- Facilitate one full-day meeting and to review and narrow instructional materials to pilot.
- Facilitate two one-hour check-in meetings during the instructional materials pilot.
- Facilitate an instructional materials final selection meeting of up to three hours.
- Facilitate instructional materials implementation sessions- up to two full days, or up to twelve hours for partial day meetings.
- Prepare handouts, activities, and slide decks for meetings.

IV. OWNERSHIP OF MATERIALS

All materials and documents, including without limitation memoranda, reports, specifications, designs, plans, maps, and other documents prepared for, or obtained related to the scope of, this Agreement shall be property of SDCOE from the moment of their creation.

V. CONTRACT TERM

This contract shall be in force from February 1, 2022, to January 30, 2023.

VI. PAYMENT

SYSD agrees to pay SDCOE for services provided, within 30 days of receipt of invoice.

The total Contract shall not be more than \$3875.00 . Fees contracted shall include:

- Prep time: 4 hours at \$125/hour = \$500
- Facilitation time:
 - Grounding meeting- 1 day at \$750/day
 - Narrowing meeting- 1 day at \$750/day
 - Check-in meetings- 2 hours gratis
 - Selection meeting- up to 3 hours at \$125/hour = up to \$375
 - Implementation meetings- up to 2 days at \$750/day = up to \$1,500, **OR** up to 12 hours at \$125/hour = up to \$1,500

VII. GOVERNING LAW/VENUE SAN DIEGO

In the event of litigation, the Agreement and related matters shall be governed by and construed in accordance with the laws of the State of California. Venue shall be with the appropriate State of Federal court located in San Diego County.

VIII. COMPLIANCES WITH LAW

The parties shall be subject to and shall comply with, all Federal State, and local laws and regulations applicable with respect to its performance under this Agreement including, but not limited to: licensing, employment, purchasing practices, wages, hours, and conditions of employment, including nondiscrimination.

IX. ENTIRE AGREEMENT

This agreement represents the entire Agreement and understandings of the parties hereto and no prior writings, conversations or representations of any nature shall be deemed to vary the provisions hereof. This Agreement may not be amended in any way except by a writing duly executed by both parties hereto.

X. HOLD HARMLESS

Each party agrees to hold harmless, defend, and to indemnify the other, its officers, agents, and employees against any and all losses, injuries, claims, actions, judgments, and liens arising from or alleged to have arisen from the indemnifying party's performance or lack thereof under this agreement.

XI. CANCELLATION OF AGREEMENT

This Agreement may be cancelled upon prior mutual written agreement of the parties. In the event of cancellation, payment of fees for services provided prior to cancellation will be immediately due and payable to SDCOE

XII. CONTACT INFORMATION

For SDCOE:

Matt Hayes
Coordinator
Learning and Leadership Services
6401 Linda Vista Road, 321 South
San Diego, CA 92111
858-295-8857
mahayes@sdcoe.net

For SYSD:

Cynthia Monreal Gonzalez
Executive Director
Educational Services
4350 Otay Mesa Road
San Ysidro, CA 92173
(619)428-4476
cynthia.gonzalez@syzdschools.org

XIII. FINAL APPROVAL

This Agreement is of no force or effect until approval by signature by the County Superintendent of Schools or his designee, the Assistant Superintendent of Business services.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executive on their behalf by their fully authorized representatives.

SAN DIEGO COUNTY SUPERINTENDENT OF SCHOOLS

CONTRACTOR

By (Authorized Signature)

Michael Simonson
Name (Type or Print)

Deputy Superintendent, Chief Business Officer
Title

Date

By (Authorized Signature)

Marilyn Adrianzen
Name (Type or Print)

Chief Business Official
Title

Date

Board approved: _____

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Maintenance, Operations, Transportation & Facilities
Paulo Azevedo, Director

Informational
 Action

AGENDA ITEM: AGREEMENT WITH UNITED PLUMBING

BACKGROUND INFORMATION:

United Plumbing was called due to a mainline water leak at Vista Del Mar Middle School. United Plumbing made the necessary repairs on a timely manner.

RECOMMENDATION:

Approve/Ratify the agreement with United Plumbing to repair a main line water leak at Vista Del Mar Middle School at a cost of \$16,498.00 from the Routine Restricted Maintenance fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

\$16,498.00

(Amount)

Routine Restricted Maintenance Fund

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

PUBLIC WORKS CONTRACT FOR SERVICES UNDER \$60,000
NONCOLLUSION DECLARATION TO BE EXECUTED BY PROPOSER AND SUBMITTED WITH PROPOSAL

THIS CONTRACT made and entered into on the last date of signature hereto by and between

_____ United Plumbing _____, hereinafter called the **CONTRACTOR** and the
_____ San Ysidro School District _____, hereinafter called the **DISTRICT**.

WITNESSETH; the parties do hereby contract and agree as follows:

1. The **CONTRACTOR** shall furnish labor and materials to the **DISTRICT**, in accordance with the Terms & Conditions set forth in Attachment C hereof and incorporated herein by this reference and any specifications attached for a total contract price of: _____ Sixteen thousand four hundred ninety eight and 00/100 _____ **Dollars (\$ 16,498.00)**
(MAY NOT EXCEED \$60,000), to be paid in full within thirty (30) days after completion and acceptance.

NOTE - Payment and Performance Bonds: For Contracts over \$25,000, the awarded contractor will be required to furnish the District with a Payment Bond equal to 100% of the contract amount and may be required to furnish a Performance Bond equal to 100% of the contract amount, prior to execution of the Contract, at no additional charge to the District. All bonds are to be secured from a surety that meets all of the State of California bonding requirements, as defined in Code of Civil Procedure Section 995.120, and is admitted by the State of California with a rating of A++, A+, A, or no less than A-.

2. **LICENSE:** Contractor shall be a licensed contractor pursuant to the Business and Professions Code and shall be licensed in the following classification: _____.

3. **CONSTRUCTION PERIOD:** This contract shall commence on _____, with work to be completed within _____ (_____) consecutive days and/or by 12/29/21.

4. **PREVAILING WAGE:** This PROJECT is a Public Work. Public works are subject to compliance monitoring and enforcement by the Department of Industrial Relations. A contractor or subcontractor cannot submit a proposal or engage in the performance of any contract for public work as defined in Labor Code Chapter 1: Public Works, Labor Code sections 1720 - 1861, unless currently registered and qualified to perform public work pursuant to Sections 1725.5 and 1771.1.

Contractor shall be registered with the Department of Industrial Relations pursuant to Labor Code 1725.5 (Attachment B) when public project exceeds \$25,000 or a maintenance project exceeds \$15,000

5. **SUBMISSION OF PROPOSAL/QUOTE:** By submitting a proposal, contractors warrant that they have made a site examination as they deem necessary as to the condition of the site and certify all measurements, specifications and conditions affecting the work to be performed at the site. Proposals are subject to acceptance by the signing of a contract and issuance of an appropriate purchase order. The District reserves the right to accept or reject any and all quotes and reserves the right to waive any informality in any quote.

6. **SCOPE OF WORK:** CONTRACTOR PROPOSES TO FURNISH LABOR AND MATERIAL IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

NOTE - Order of Precedence: This contract, in conjunction with the terms and conditions in Attachments A, B & C take precedence over any Contractor supplied attachments.

SCOPE OF WORK

Plumbing Leak Repair – Provide leak detection services to isolate source and location of leak. Please see estimate for additional details.

Prevailing Wages Apply

Note: If contract exceeds \$25,000, per Civil Code Section 3247, Contract shall provide a Payment Bond.

**NONCOLLUSION DECLARATION TO BE EXECUTED BY PROPOSER
AND SUBMITTED WITH PROPOSAL**

The undersigned declares: I am the _____ of _____, the party making the foregoing proposal. The proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The proposal is genuine and not collusive or sham. The proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal. The proposer has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or to refrain from proposing. The proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any other proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer. All statements contained in the proposal are true. The proposer has not directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham proposal, and has not paid, and will not pay, any person or entity for such purpose. Any person executing this declaration on behalf of a proposer that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute and does execute, this declaration on behalf of the proposer.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 20____, at _____, California.

By: _____ Print Name: _____

SCHOOL SAFETY ACT – COMMUNICATIONS WITH PUPILS

_____ In accordance with Education Code Section 45125.1, the District has determined that fingerprinting and certification will be required of the employees of the contractor who provide services under this contract (please complete certification form, Attachment A).

_____ In accordance with Education Code Section 45125.2, the District has determined that an exemption exists under requirements of 45125.1, and that workers may have other than limited contact with students. Therefore, the Contractor is required to provide or agree to one or more of the following: (to be determined by District)

_____ Installation of physical barrier at the work site to limit contact with pupils.

_____ Surveillance of employees of the Contractor by school personnel.

_____ Continual supervision and monitoring of all employees of the Contractor by an employee of the Contractor whom the DOJ has ascertained has not been convicted of a violent or serious felony.

Supervisor's Name: _____

Soc. Sec. No. (last 4 digits or full CDL#) _____

_____ In accordance with Education Code Section 45125.1, subdivision c, the District has determined that this contract is not subject to Education Code Section 45125.1 (a), because the contractor's employees, including the employees of any subcontractor, will have only "limited contact" with pupils on the site. Justifications is as follows:

_____ Work will be performed on a day or days when school is not in session (holidays, weekend or non-teaching days – may not include after school hours).

_____ Other, describe _____.

District Signature: _____, Title: Chief Business Official

Date: _____ Signature of District Official responsible for assuring selected conditions are met in accordance with Education Code Section 45125.2, if applicable.

Contractor understands that District department staff may monitor and evaluate adherence to these conditions during the performance of their work.

IN WITNESS WHEREOF, the parties hereunto have subscribed to this Contract, including all Contract Documents as listed below:

- | | |
|---|--|
| _____ Work Specs/Scope of Work Statement | _____ Contractor Certification Form, Attachment A |
| _____ Certificates of Insurance | _____ Contractor DIR Registration Certification Form, Attachment B |
| _____ Workers' Compensation Insurance Certificate | _____ Terms and Conditions, Attachment C |
| _____ Non Collusion Affidavit | _____ Purchase Order No. _____ |

NOTE - Taxpayer Identification: Federal Regulations (26 CFR 1.6041) requires non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security Number, whichever is applicable. The District requires a valid copy of a W-9 to be supplied upon request.

TYPE OF BUSINESS ENTITY

- _____ Individual
- _____ Sole Proprietorship
- _____ Partnership
- _____ Corporation
- _____ Other

TAX IDENTIFICATION

Employer Identification Number

Social Security Number

License No: _____ **Classification:** _____ **Expiration Date:** _____

(District Use Only – Purchasing Dept:)
CSLB License & DIR Reg. verified by _____, Date _____)

I hereby agree to abide by these terms and conditions if awarded the project as described herein. Under penalty of perjury I certify that I am a duly authorized agent/representative of the company providing this proposal. I also certify that none of the individuals identified on Attachment A Certification Form (if applicable) or any individual identified above as been convicted of a felony as defined in Education Code 45122.1

All notices permitted or required under this contract shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose. Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

Contract Execution

CONTRACTOR	
Date:	Accepted by - Print Name and Title
Company Name and Street Address: United Plumbing 10320 Camino Santa Fe Suite E San Diego, CA 92121	Signature
Phone:	Email:
DISTRICT	
Date:	District Representative – Print Name and Title Marilyn Adrianzen Chief Business Official
District Name and Street Address: San Ysidro School District 4350 Otay Mesa Road San Ysidro, CA 92173	Signature:
Phone: 619-428-4476 x 3004	Email: Marilyn.adrianzen@syzdschools.org

**ATTACHMENT A – CONTRACTOR PUPIL CONTACT CERTIFICATION FORM
CERTIFICATION PURSUANT TO EDUCATION CODE SECTION 45125.1
(Complete only if pertinent)**

The District has determined under Education Code Section 45125.1, subdivision (c) that in performing services to this contract, Contractor’s employees may have contact with pupils. As required under Education Code Section 45125.1, subdivision (a), Contractor shall require their employees, including the employees of any subcontractor, who will provide services pursuant to this contract to submit their fingerprints in a manner authorized by the Department of Justice in order to conduct a criminal background check to determine whether such employees have been convicted of or have charges pending for a felony as defined under Education Code Section 45122.1.

Contractor shall not permit any employee to perform services who may come in contact with pupils under this contract until the Department of Justice has determined that the employee has not been convicted of a felony or has no criminal charges pending for a felony as defined in Section 45122.1.

Contractor shall certify in writing to the District that all of its employees who may come in contact with pupils have not been convicted of or have no criminal charges pending for a felony, as defined in Education Code Section 45122.1.

Contractor shall defend, indemnify, protect and hold the District and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property which arise from or are connected with or are caused or claimed to be caused by Contractor’s failure to comply with all of the requirements contained in Education Code Section 45125.1, including, but not limited to, the requirements prohibiting Contractor for using employees who may have contact with pupils who have been convicted or have charges pending for a felony in Education Code Section 45122.1.

It is understood that by signing this document Contractor agrees that they are familiar with Education Code Section 45122.1. The following individuals are employees of contractor who may come in contact with pupils in the performance of services in this contract.

Name	Social Security No (last 4 digits or full CDL#)

I certify that none of the individuals identified above has been convicted of a felony as defined in Education Code Section 45122.1.

CONTRACTOR	
Date:	Print Name and Title
Company Name	Signature

**ATTACHMENT B
CERTIFICATION OF CONTRACTOR AND
SUBCONTRACTOR DIVISION OF INDUSTRIAL RELATIONS REGISTRATION**

Pursuant to Public Contract Code Section 1725.5, a Contractor or subcontractor must be registered with the Department of Industrial relations to engage in the performance of any defined public work contract.

I _____(Name), _____(Title) certify that

Contractor Representative Print Name:	Title:
United Plumbing 10320 Camino Santa Fe Ste #E San Diego, CA 92121	DIR Registration Number:
	DIR Registration Expiration Date:

is currently registered as a contractor with the Department of Industrial Relations (DIR).

Contractor further acknowledges:

1. Contractor shall maintain DIR registered status for the duration of the project without a gap in registration.
2. Contractor shall ensure that all subcontractors are registered prior to award of contract and maintain registered status for the duration of the project.
3. Contractor is to furnish a DIR Registration Number for all subcontractors prior to contract award.
4. Contractor shall only be able to substitute a subcontractor with a DIR registered contractor if listed subcontractor is unable to perform the work and district approves of the change.

Failure to comply with any of the above may result in immediate termination of contract.

I declare under penalty of perjury under California law that the foregoing is true and correct.

Signature:

Date: _____

ATTACHMENT C
TERMS AND CONDITIONS

ARTICLE 1. PROPOSAL ACCEPTANCE: Proposals are subject to acceptance by the signing of a contract and issuance of an appropriate purchase order at any time within sixty (60) days after the receipt of quotes unless otherwise stipulated. The District reserves the right to accept or reject any and all quotes and reserves the right to waive any informality in any quote.

ARTICLE 2. SITE EXAMINATION: Contractor must examine the site and certify all measurements, specifications and conditions affecting the work to be performed at the site. By submitting their quote a contractor warrants that it has made such site examination as it deems necessary as to the condition of the site, its accessibility for materials, workmen and utilities, and ability to protect existing surface and subsurface improvements. No claim for allowance of time or money will be allowed as to such matters or for any other undiscovered conditions on the site.

ARTICLE 3. EQUIPMENT AND LABOR: The Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein described, the services to be performed at such times and places as directed by and subject to the approval of the authorized district representative indicated in the work specifications attached hereto.

ARTICLE 4. SUBCONTRACTING: Contractor agrees to bind every subcontractor by terms of the contract as far as such terms are applicable to subcontractor's work. If Contractor shall subcontract any part of this contract, Contractor shall be fully responsible to the District for acts and omissions of his subcontractor and of persons either directly or indirectly employed by himself. Nothing contained in the contract documents shall create any contractual relations between any subcontractor and the District.

ARTICLE 5. ASSIGNMENT: Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations under this contract without the prior written consent of District.

ARTICLE 6. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE: The Contractor shall not commence work under this Contract until it has obtained the insurance required under this paragraph and satisfactory proof of such insurance has been submitted to District and said insurance has been approved by the District. Commercial General Liability Insurance (including automobile insurance) which provides limits of not less than \$1,000,000 per occurrence (combined single limit) and \$2,000,000 Project Specific Aggregate (for this Project only). Any general liability policy provided by Contractor hereunder shall contain an endorsement which applies its coverage to District, members of District's Board of Trustees, and the officers, agents, employees and volunteers of District, the State Allocation Board, if applicable, the architect, and the architect's consultants, if applicable, individually and collectively as additional insured.

The limits set forth above shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit contractor's indemnification obligations to District, and shall not preclude the District from taking such other actions available to District under other provisions of the contract documents or law.

Contractor and any subcontractor shall not commence work nor shall Contractor allow any subcontractor to commence work under this contract until all required insurance certificates have been delivered to and approved by District. Except for worker's compensation insurance, the policy shall not be amended or modified and the coverage amounts shall not be reduced without

the District's prior written consent, and, the District shall be named as an additional insured and be furnished thirty (30) days written notice prior to cancellation. The Contractor shall not allow any subcontractor, employee or agent to commence work on this contract or any subcontract until the insurance required of the Contractor, subcontractor, or agent has been obtained.

a) **WORKER'S COMPENSATION INSURANCE:** The Contractor shall procure and shall maintain during the life of this contract Worker's Compensation Insurance on all its employees engaged in work under this contract, or at the site of the Project, and if the work is sublet, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for subcontractor's employees. Any class of employee or employees not covered by subcontractor's insurance shall be covered by the Contractor's insurance. The Contractor shall provide prior to performing the work of the contract, a Certificate regarding workers' Compensation as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. Coverage shall include waiver of subrogation endorsement in favor of San Ysidro School District.

ARTICLE 7. LABOR CODE COMPLIANCE: A contractor or subcontractor shall not be qualified to engage in the performance of any contract for public work as defined in Labor Code Chapter 1: Public Works, Labor Code sections 1720 - 1861, unless currently registered and qualified to perform public work pursuant to Sections 1725.5 and 1771.1. Public works are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall maintain DIR registered status for the duration of the project without a gap in registration. Contractor shall ensure that all subcontractors are registered and maintain registered status for the duration of the project.

The Contractor hereby stipulates that it shall comply with the applicable provisions of the California Labor Code, Division 2, Part 7, Chapter 1, Articles 1-5 ("Public Works Labor Code Provisions"), including, but not limited to, the payment of the general prevailing rates for public works projects of more than One Thousand Dollars (\$1,000) (§1771), hiring of Apprentices (§ 1777.5) and Working Hours (§ 1813), and Payroll Records (§ 1776). Prevailing rate of per diem wages are on the website of the Division of Labor Statistics and Research of the Department of Industrial Relations at www.dir.ca.gov/OPRL/. Contractor shall be responsible for all reports and obligations respecting such employees, including, but not limited to, social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

Contractor or subcontractor shall, as a penalty to the District, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by Contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Article 3 of the Public Works Labor Code Provisions.

With regard to hiring of apprentices, the responsibility of compliance with Labor Code section 1777.5 shall rest with the Contractor.

Pursuant to the provisions of article 2 (commencing at section 1770), chapter 1, part 7, divisions 2 of the Labor Code of California, the Director of Industrial Relations has ascertained the general prevailing rate of per diem wages in the locality in which this public work is to be performed for each craft, classification or type of worker needed to execute the contract. Said determinations are available to any interested party on the web site (www.dir.ca.gov).

Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half times the general prevailing rate of per diem wages as determined by the Director of Industrial Relations, unless otherwise specified. Each worker of the Contractor or any of his subcontractors engaged in work on the project shall be paid not less than the general prevailing rate of per diem wages determined by the Director of Industrial Relations, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor and such workers.

Each worker needed to execute the work on the project shall be paid travel and subsistence payments, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed with the Department of Industrial Relations in accordance with Labor Code section 1173.8.

The Contractor shall, as a penalty to the District, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under the contract by him or by any subcontractor under him. Prevailing wage rates shall also be used when determining wages paid for change order items. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of the Contractor's mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor in meeting his prevailing wage obligations, or the Contractor's willful failure to pay the correct rates of prevailing wages. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor, and the Contractor shall be bound by the provisions of Labor Code section 1775.

Any worker employed to perform work on the project, which work is not covered by any classification listed in the general prevailing rate of per diem wages determined by the Director of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to work to be performed. Such minimum wage rate shall be retroactive to the time of initial employment of such person in such classification.

Pursuant to Labor Code section 1773.1, per diem wages are deemed to include employer payments for health and welfare, pension, vacation, travel time, subsistence pay and similar purposes.

Contractor shall post at appropriate conspicuous points on the site of project, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned.

Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him in connection with the public work.

The payroll records required above shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- a) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
- b) A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of

District, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

- c) A certified copy of all payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal office of the Contractor.

Contractor shall file a certified copy of the records required above with the District or entity that requested such records within ten days after receipt of a written request. Any copies of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor shall not be marked or obliterated.

Contractor shall inform the District of the location of the records required above, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.

In the event of noncompliance with the requirements of this article regarding maintenance of records, the Contractor shall have ten days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this article. Should noncompliance still be evident after such ten-day period, the Contractor shall, as a penalty by the District, forfeit twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalty shall be withheld from progress payments then due.

ARTICLE 8. APPRENTICES: Apprentices of any crafts or trades may be employed and, when required by Labor Code section 1777.5, shall be employed provided they are properly indentured to the Contract in full compliance with provisions of the Labor Code. The prime contractor shall bear the responsibility of compliance with Labor Code section 1777.5 for all apprenticeable occupations and agrees that he will comply with said section which reads: "Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works. Every apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he is employed, and shall be employed only at the work of the craft or trade to which he is registered."

Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing with Section 3070), of Division 3, of the Labor Code, are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he or she is training.

When the contractor to whom the contract is awarded by the District, in performing any of the work under the contract or subcontract, employs workers in any apprenticeable craft or trade, the contractor and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work for a certificate approving the contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However,

approval as established by the joint apprenticeship committee or committees shall be subject to approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject contractor or subcontractor, shall arrange for the dispatch of apprentices to the contractor or subcontractor in order to comply with this section. Every contractor and subcontractor shall submit contact award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices to be employed, and the approximate date the apprentices will be employed. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the craft or trade in the area of the site of the public work to ensure equal employment and affirmative action in apprenticeship for women and minorities. Contractors or subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen who shall be employed in the craft or trade on the public work may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen.

Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the job site and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Contractor shall employ apprentices for the number of hours computed as above before the end of the contract. However, the Contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the job site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

The Contractor or subcontractor, if he is covered by this section, upon the issuance of the approval certificate, or if he has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Contractor that he employs apprentices in such craft or trade in the state on all of his contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by a journeyman, or in the land surveyor classification, one apprentice for each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1-to-5 hourly ratio as set forth in the section. This section shall not apply to contracts of general contractors or to contracts of specialty contractors not proposing work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than thirty thousand (\$30,000) or 20 working days. This section shall not use any work performed by a journeyman in excess of eight hours per day or 40 hours per week to calculate the hourly ratio.

"Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to

the approval of the Administrator of Apprenticeship, exempting a contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met: a) Unemployment for the previous three-month period in such area exceeds an average of 15 percent. b) The number of apprentices in training in such area exceeds a ratio of 1-to-5. c) If there is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis, or on a local basis. d) Assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize his life, or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

When exemptions are granted to an organization which represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

A contractor to whom the contract is awarded, or any subcontractor under him who, employs journeymen or apprentices in any apprenticeable craft or trade to perform work under the contract and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any craft or trade in the area of the site of the public work, to which fund or funds other contractors in the area of the site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which he employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as the other contractors do. Where the trust fund administrators are unable to accept the fund, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. This contractor or subcontractor may add the amount of the contributions in computing his proposal for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Labor Code Section 227.

The District awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor. All decisions of the joint apprenticeship committee under this section are subject to Labor Code Section 3081.

ARTICLE 9. WORK HOURS: As provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work.

The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this contract upon the work or upon any part of the work contemplated by this contract is limited and restricted to eight (8) hours during any one-calendar day and forty (40) hours during any one-calendar week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

The Contractor and every subcontractor shall keep accurate record showing the name and actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the work or any part of the work contemplated by this contract. The record shall be kept open at all reasonable hours to the inspection of the District and the Division of Labor Law

Enforcement, Department of Industrial Relations of the State of California.

The Contractor shall pay to the District a penalty of twenty-five dollars (\$25) for each worker employed in the execution of this contract by the Contractor or by any subcontractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code.

Any work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to District

ARTICLE 10. INDEMNIFICATION: District shall not be liable for, and Contractor shall defend, indemnify, and hold harmless the District, its officials, employees, agents and volunteers, against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages or injury, in law or equity to property or persons, including wrongful death, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), which arise out of or are in any way connected to the Project or this contract arising either directly or indirectly from any act, error, omission or negligence of Contractor or its contractors, licensees, agents, servants, volunteers or employees, including, without limitation, Claims caused by the concurrent act, error, omission or negligence of District or its agents or employees. However, Contractor shall have no obligation to defend or indemnify District from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the active negligence, sole negligence, or willful misconduct of District or its agents or employees. Contractor shall reimburse District and its directors, officials, officers, employees, agents and volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

ARTICLE 11. MATERIALS: Contractor warrants good title to all material, supplies and equipment installed or including in the work. Except as otherwise specifically stated in this contract, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this contract within specified time. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality. Materials shall be furnished in ample quantities and at such times as to insure uninterrupted progress of work. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or work under this contract.

ARTICLE 12. PATENTS, ROYALTIES AND INDEMNITIES: The Contractor shall hold and save the District and its officers, agents and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of this contract, including its use by the District, unless otherwise specifically stipulated in the contract documents.

ARTICLE 13. GUARANTEE: Besides guarantees required elsewhere, Contractor shall, and hereby does, guarantee all work for a period of one year after date of acceptance of work by District and shall repair or replace any or all such work, together with any other work, which may be displaced in so doing, that may prove defective in workmanship and/or materials within a one year period from date of acceptance without expense whatsoever to District,

ordinary wear and tear, unusual abuse or neglect excepted. District will give notice of observed defects with reasonable promptness. Contractor shall notify District upon completion of repairs.

This article does not in any way limit the guarantee of any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish District all appropriate guarantee or warranty certificates upon completion of the project.

ARTICLE 14. PROTECTION OF WORK AND PROPERTY: The Contractor shall be responsible for all damages to persons or property that occur as a result of his fault or negligence in connection with the prosecution of this contract and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance by the District. All work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as provided by law and contract documents. Contractor shall take all necessary precautions for safety of employees on the work and shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where work is being performed. Contractor shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, barriers, light and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction. Contractor shall designate a responsible member of the organization on the work, whose duty shall be prevention of accidents. Contractor shall report name and position of person so designated to District. In an emergency affecting life and safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from District, is permitted to act at its discretion to prevent the threatened loss or injury. It shall be the responsibility of the Contractor to ascertain from the District the rules and regulations pertaining to safety, security and driving on school grounds, particularly when children are present

ARTICLE 15. DISTRICT'S RIGHT TO TERMINATE CONTRACT: If the Contractor refuses or fails to prosecute the work or any separable part thereof with such diligence as will insure its completion within the time specified or any extension thereof, or fails to complete said work within such time, or if the Contractor should be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency, or if Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials to complete the work in time specified, or should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or instructions of District, or otherwise be guilty of a substantial violation of any provision of the contract, or if Contractor or subcontractors should violate any of the provisions of this contract, then District may, without prejudice to any other right or remedy, serve written notice upon Contractor and surety of its intention to terminate this contract, such notice to contain the reasons for such intention to terminate, and unless within ten days after the service of such notice such condition shall cease or such violation shall cease and satisfactory arrangements for the correction thereof be made, this contract shall upon the expiration of said ten (10) days, cease and terminate. In the event this contract is terminated as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.

ARTICLE 16. COMPLIANCE WITH STORM WATER PERMIT:

Contractor shall be required to comply with all conditions of the State Water Resources Control Board ("State Water Board") National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity ("Permit") – General NPDES Permit No. CAS000004 adopted by the State Water Resources Control Board. Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit and include all costs in the Contract amount. Contractor shall be responsible for procuring, implementing and complying with the provisions, monitoring and reporting requirements as required by the Permit. In addition to compliance with the Permit, Contractor shall comply with the lawful requirements of any applicable municipality, the District, drainage district, and other local agencies regarding discharges of storm water to the storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs. Contractor shall provide copies of all reports and monitoring information to the District Representative.

Storm, surface, nuisance, or other waters may be encountered at various times during construction of the Project. The Contractor, by signing this contract, hereby acknowledges that it has investigated the risk arising from such waters, has prepared its proposal accordingly, and assumes any and all risks and liabilities arising therefrom. Failure to comply with the Permit is in violation of federal and state law. Contractor hereby agrees to indemnify and hold harmless District, its officials, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which District, its officials, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the sole established negligence, willful misconduct or active negligence of the District, its officials, officers, agents, employees or authorized volunteers. District may seek damages from Contractor for fines or delay in completing the Contract in accordance with the Contract Documents, caused by Contractor's failure to comply with the Permit or other regulatory regulations. Contractor shall provide copies of all reports and monitoring information to the District Representative.

ARTICLE 17. CLEAN UP: Contractor at all times shall keep premises free from debris such as waste, rubbish and excess materials and equipment caused by his work; debris shall be removed from premises. Contractor shall not leave debris under, in, or about the premises. Upon completion of work Contractor shall clean interior and exterior of building including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections and any areas where debris has collected so surfaces are free from foreign material or discoloration; Contractor shall clean and polish all glass, plumbing fixtures and finish hardware and similar finish surfaces and equipment and remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from site.

ARTICLE 18. PROVISIONS REQUIRED BY LAW DEEMED INSERTED: Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provisions is not inserted, or is not correctly inserted then upon application of either party the contract shall forthwith be physically amended to make such insertion or correct.

ARTICLE 19. EXCAVATION DEEPER THAN FOUR FEET: If this contract involves digging trenches or other excavations that extend deeper than four feet below the surface, then all of the following apply:

- a. The Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing of any: (1) Material that the Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law. (2) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to proposers prior to the deadline for submitting proposals. (3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract.
- b. Upon receiving any such notice, the District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in this contract.
- c. In the event that a dispute arises between the District and the Contractor whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in the Contractors' cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by this contract, but shall proceed with all work to be performed under the contract. A contractor shall retain any and all rights provided either by contract or by law, which pertain to the resolution of disputes and protests between the contracting parties.

ARTICLE 20. REMOVAL OR RELOCATION OF MAIN OR TRUNKLINE UTILITY FACILITIES:

The Contractor shall not be assessed for liquidated damages for delay in completion of this project, when such delay was caused by the failure of the awarding authority of this contract or the owner of the utility to provide for removal or relocation of the existing main or trunkline utility facilities; however, when the Contractor is aware that removal or relocation of an existing utility has not been provided for, Contractor shall promptly notify the awarding authority and the utility in writing, so that provision for such removal or relocation may be made to avoid and minimize any delay which might be caused by the failure to remove or relocate the main or trunkline utility facilities, or to provide for its removal or relocation. In accordance with section 4215 of the Government Code, if the Contractor while performing the contract discovers any existing main or trunkline utility facilities not identified by the public agency in the contract plans or specifications, he shall immediately notify the public agency and utility in writing. The public utility, where they are the owners, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price. The Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work.

ARTICLE 21. CHANGES AND CHANGE ORDERS: Change orders may not cause the total aggregate cost of the project to exceed \$60,000 or the project will become subject to competitive bidding. The District, without invalidating contract, and as provided by law, may order extra work or make changes by altering, adding to, or deducting from work, the contract sum being adjusted accordingly. All such work shall be subject to prevailing wage rates and shall be executed under the conditions of the original contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change. In giving instructions, Contractor agrees that the District shall have authority to make

minor changes in work, not involving change in cost, and not inconsistent with the purposes or approvals of the project. Otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless pursuant to a written order from District, and no claim for an addition to the contract sum shall be valid unless so ordered.

ARTICLE 22. PAYMENTS: The Contractor shall submit to the District an invoice requesting payment for completion of the Work. The District shall review payment request and, as soon as practical, shall: (i) certify that the request is correct in all aspects and should be paid by the District; (ii) reject the request as not proper, stating the reason(s) why rejection is appropriate; or (iii) require that the Contractor provide additional information that the District reasonably determines is necessary to verify the requested payment amount. In the event the District rejects the request for payment, the Contractor may resubmit the request with additional or new information establishing why payment should be made despite the reason(s) set forth in the District's initial rejection. The District shall pay the undisputed amount of the Contractor's request for payment, less any amounts that may be withheld or retained pursuant to this Contract or applicable law, within thirty (30) days of receipt of such request and in accordance with Public Contract Code Section 20104.50.

ARTICLE 23. RESOLUTION OF CONSTRUCTION CLAIMS OF \$375,000 OR LESS: For public work claims of \$375,000 or less between Contractor and District, if District has not elected to resolve disputes by arbitration pursuant to article 7.2 (commencing with section 10240) of chapter 1 of part 2 of the Public Contract Code, the provisions of article 1.5 (commencing with section 20104) of chapter 1 of part 3 of the Public Contract Code apply ("Article 1.5").

For purposes of Article 1.5, "public work" means "public works contract" as defined in Public Contract Code section 1101. "Claim" means a separate demand by Contractor for a time extension, or payment of money or damages for work done by or for Contractor, payment for which is not otherwise expressly provided in the contract or to which Contractor would not otherwise be entitled, or a payment disputed by District.

Each claim shall be submitted in writing before the date of final payment and shall include all necessary substantiating documentation. District shall respond in writing within forty-five (45) days of receipt of the claim if the claim is less than \$50,000 ("50,000 claim") or within sixty (60) days of receipt of the claim, if the claim is over \$50,000 but less than or equal to \$375,000 ("50,000-\$375,000 claim"). In either case, District may request in writing within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the District may have against the claimant. Any additional information shall be requested and provided upon mutual agreement of the District and the claimant. District's written response to the claim shall be submitted to claimant within fifteen (15) days after receipt of the further documentation for \$50,000 claims or within thirty (30) days after receipt of the further documentation for \$50,000-\$375,000 claims or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

Within fifteen (15) days of receipt the District's response, if claimant disputes District's written response or within fifteen (15) days of the District's failure to respond within the time prescribed, the claimant shall provide written notification to District demanding an informal conference to meet and confer ("conference") to be scheduled by the District within thirty (30) days. If the claim or any portion of the claim remains in dispute following the meet and confer ("meet and conference") to be scheduled by the District within 30 days. If the claim or any portion of the claim remains in dispute following the

meet and confer conference, the claimant may file a claim as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the period of time within which a claim must be filed is tolled from the time the claimant submits a written claim until the time the claim is denied, including time utilized as a result of the meet and confer process.

If a civil action is filed to resolve claims within sixty (60) days (but no earlier than thirty (30) days) following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide that both parties select a disinterested third person mediator within fifteen (15) days, shall be commenced within thirty (30) days of the submittal and concluded within fifteen (15) days from the commencement of the mediation unless time is extended upon a good case showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure, notwithstanding section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with section 2060.010) of part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. The court may, upon request by any party, order any witness to participate in the mediation or arbitration process.

Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates not to exceed their customary rate. Such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall state or county funds pay these fees or expenses. Any party who, after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment, shall pay the attorney's fees of the other party arising out of the trial de novo in addition to payment of costs and fees required under chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure. District shall not fail to pay any portion of a claim which is undisputed unless otherwise provided herein and shall pay interest at the legal rate commencing on the date the suit is filed in court on any arbitration award or judgment.

ARTICLE 24. DEFAULT BY CONTRACTOR: When Contractor, or any subcontractor, or vendor shall fail to deliver any article or service or shall deliver any article or service which does not conform to the work specifications, the District may, upon five (5) business days' prior written notice describing the default, at its option, annul and set aside the contract entered into with said Contractor, subcontractor or vendor either in whole or in part, and make and enter into a new contract in such manner as seems to the Board of Education to be to the best advantage of the District. Any failure for furnishing such articles or services by reason of the failure of the Contractor, subcontractor or vendor, as above stated, shall be a liability against the Contractor and his sureties. The Board of Education reserves the right to cancel any articles or services which the Contractor may be unable to furnish because of economic conditions, governmental regulations or other similar causes beyond the control of the Contractor provided satisfactory proof is furnished to the Board of Education, if requested.

ARTICLE 25. WORKERS AND SUPERVISION: Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor whom the District may deem incompetent or unfit shall be dismissed from the job site and shall not again be employed at site without written consent from the District.

ARTICLE 26. SUBSTITUTIONS: No substitutions of materials from those specified in the Work Specifications shall be made without the prior written approval of the District.

ARTICLE 27. ACCESS TO WORK: District representatives shall at all times have access to work wherever it is in preparation or progress. Contractor shall provide safe and proper facilities for such access.

ARTICLE 28. OCCUPANCY: District reserves the right to occupy buildings at any time before formal contract completion and such occupancy shall not constitute final acceptance or approval of any part of the work covered by this contract, nor shall such occupancy extend the date specified for substantial completion of the work.

ARTICLE 29. ASSIGNMENT OF CONTRACT AND PURCHASE ORDER: The Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations under this contract without the prior written consent of the District.

ARTICLE 30. FORCE MAJEURE: The parties to this contract shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering, or performing by Act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented to the other party (ies), provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

ARTICLE 31. PERMITS AND LICENSES: The Contractor and all of his employees, agents, and subcontractors shall secure and maintain in force, at Contractor's sole cost and expense, such licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or services herein listed.

ARTICLE 32. CONTRACTOR NOT OFFICER, EMPLOYEE, OR AGENT OF DISTRICT: While engaged in carrying out other terms and conditions of the purchase order, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District.

ARTICLE 33. ASSIGNMENT OF CLAIMS: In submitting a quote on this public works project, or any subcontractor agreeing to supply goods, services, or materials, and entering a contract pursuant thereto, the Contractor and/or subcontractor do offer and agree to assign to the District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act, Chapter 2 (commencing with Section 116700 of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor without further acknowledgment by the parties.

ARTICLE 34. COMPLIANCE WITH LAWS: Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct or work as indicated or specified. If Contractor observes that any of the work required by this contract

is at variance with any such laws, ordinances, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work knowing it to be in violation of such laws, ordinances, rules or regulations, and without first notifying the District of such violation, Contractor shall bear all costs arising therefrom.

ARTICLE 35. TIME IS OF THE ESSENCE: Time is of the essence in the performance of and compliance with each of the provisions and conditions of this contract.

ARTICLE 36. GOVERNING LAW: This contract shall be governed by and construed in accordance with the laws of the State of California.

ARTICLE 37. NO ORAL MODIFICATION: Any waiver, amendment, modification, consent or acquiescence with respect to this contract or any provision of this contract or with respect to any failure to perform in accordance therewith shall be set forth in writing and duly executed by or on behalf of the party to be bound thereby.

ARTICLE 38. ASBESTOS HAZARD EMERGENCY RESPONSE ACT (AHERA): All contract work that is performed for the San Marcos Unified School District by outside contractors or workers must meet all of the regulations that have been set forth in the AHERA rule. This means that all work which could disturb the integrity of any Asbestos Containing Building Material (A.C.B.M.) needs to be approved by the District. This refers to the sawing, grinding, cutting, or drilling of any A.C.B.M. in occupied areas of District buildings.

ARTICLE 39. PROHIBITION AGAINST LEAD-BASED MATERIALS: In accordance with the Lead-Safe Schools Protection Act (Education Code Section 32240 *et seq.*), the Contractor shall not use for purposes of the Work, or incorporate into the Work, any lead-based paint, lead plumbing or solders, or other materials, equipment or other things that, in whole or in part, consist of lead and, therefore, may be a potential source of lead contamination.

ARTICLE 40. DRUG FREE/SMOKE FREE/ALCOHOL FREE POLICY: All District sites are designated drug free/smoke free/alcohol free. The use or abuse of controlled substances, tobacco products and alcohol will not be tolerated.

ARTICLE 41. DVBE PARTICIPATION: This contract will be subject to disabled veterans participation goals and record retention program if State funding is used for the Project. If applicable, in accordance with Education Code section 17076.11, this District will implement its participation goal for disabled veteran business enterprises ("DVBE") of at least 3 percent per year of the overall dollar amount of funds allocated to the District by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization and expended each year by the District. Prior to, and as a condition precedent for final payment under any contract for such project, Contractor shall provide appropriate documentation to the District identifying the amount paid to disabled veteran business enterprises in conjunction with the contract, so that the District can assess its success at meeting this goal.

[Contractor agrees that, for all contracts subject to DVBE participation goals, the State and the District have the right to review, obtain and copy all records pertaining to performance of the contract in accordance with DVBE requirements. Contractor

agrees to provide the State or the District with any relevant information requested and shall permit the State and/or the District access to its premises upon reasonable notice for purposes of interviewing employees and inspecting records. Contractor agrees to maintain such records for a period of three (3) years after final payment under the contract.]

ARTICLE 42. PROJECT-RELATED RECORDS: The Contractor shall maintain all documents, books, papers, accounting records, computer files, and other information related to the Project and performance of the Work ("Project Records"), including, but not limited to, Change Orders, submittals, requests for information, daily reports, correspondence, permits, insurance policies, certificates of insurance, testing and inspection reports, and safety records. The Contractor shall keep such accurate and comprehensive Project Records as are (i) necessary for proper administration and performance of the Work and (ii) required by law or this Contract. All Project Records, as applicable, shall be maintained in accordance with generally-accepted accounting principles. If the Contract Amount, as adjusted pursuant to this Contract, exceeds \$10,000, then, in accordance with Government Code Section 8546.7, the State has the right to examine, review, audit and/or copy the Records of the Work during the three-year period following final payment to the Contractor pursuant to the Contract. In addition, the District hereby has the right to examine, review, audit and/or copy the Records of the Work during the four-year period following final payment to the Contractor pursuant to the Contract. Therefore, the Contractor shall make the Project Records available at its offices at all reasonable times during the performance of the Work and for four (4) years from the Governing Board accepts the Work. However, if any audit is commenced within such four (4) year period, the Contractor shall make the Project Records available at all reasonable times until proceedings related to such audit are complete and all statutes of limitation related thereto have expired. In the event the District notifies the Contractor that federal funds have been used in connection with the Project, the Contractor shall retain and make available the Project Records for such longer period as may be required by federal law.

THIS CONCLUDES THE GENERAL TERMS AND CONDITIONS consisting of Articles 1 through 42

INSERT PAYMENT AND PERFORMANCE BONDS IF OVER \$25,000.

(Balance of page intentionally blank.)

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: December 10, 2021

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

Informational
 Action

AGENDA ITEM: ACCEPTANCE OF DONATIONS

BACKGROUND INFORMATION:

The San Ysidro School District appreciates the support of individuals and organizations that contribute to the enhancement of the District's educational programs. These gifts/donations are in keeping with the criteria of Board Policy 3290.

The District would like to accept and thank the organization and/or individuals on the attached list for their generous contributions to education, students and staff.

RECOMMENDATION:

Accept donations valued at \$775.00 to help support and enrich our educational programs.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

DONATIONS
\$775.00

(Amount)

Cash/Checks Only
Donations Account

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

SAN YSIDRO SCHOOL DISTRICT GOVERNING BOARD AGENDA

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Business Services
Marilyn Adrianzen, Chief Business Official

Informational
 Action

AGENDA ITEM: SECOND QUARTERLY COMPLAINT REPORT FOR WILLIAM'S SETTLEMENT RELATED ISSUES FOR SCHOOL YEAR 2021-22

BACKGROUND INFORMATION:

Pursuant to regulations adopted by the State of California in the William's Settlement, districts must submit a report every quarter to the Governing Board delineating the amount of complaints received and the status of those complaints. After Board acceptance, this report must also be filed with the San Diego County Office of Education.

The synopsis below reports that from October 1, 2021 to December 31, 2021, the District has not received any written complaints pertaining to teacher mis-assignments, instructional materials deficiencies or facilities disrepair.

<u>Type</u>	Number of Complaints Received in Quarter	Number of Complaints Resolved	Number of Complaints Unresolved
Instructional Materials	0	N/A	N/A
Facilities	0	N/A	N/A
Teacher Vacancy and Misassignment	0	N/A	N/A
Total	0	N/A	N/A

RECOMMENDATION:

Accept the Report of William's Settlement related complaints for the second quarter from October 1, 2021 to December 31, 2021 of the 2021-22 school year for submission to the San Diego County Office of Education.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Goal No. 2: Base Services and Safety

2.1 Maintain basic operating services of the district including MOT personnel, transportation, contracted services, and utilities.

Renewal New Amendment Ratify Other

Financial Implications?

Are funds for this item available in the 2021-2022 Budget?

Requisition #

Yes No

Yes No

N/A
(Amount)

N/A
(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Special Education Department
Oscar Madera, Director

Informational
 Action

AGENDA ITEM: SAN DIEGO COUNTY NONPUBLIC MASTER CONTRACT WITH SOUND THERAPIES, INC.

BACKGROUND INFORMATION:

Children who are identified as having language-processing disorder may benefit from language therapy. Therapy can be provided to help improve children who have word finding difficulty, language processing disorder or delay, phonological awareness deficits, verbal problem solving weaknesses, listening comprehension difficulty and such.

The Sound Therapies, Inc., a non-public agency, will be providing speech services to students who receive special education services per their Individualized Education Program (IEP) for the 2021-2022 school year, in order to meet the State and Federal regulations and compliance. The Speech and Language Pathologist (SLP) and/or SLPA will conduct initial and triennial evaluations, provide support to the general education staff and students as part of response to intervention, and consult with special education staff with regard to communication development strategies.

Cost Implications: \$80.72/hour (SLP), \$61.00/hr (SLPA)

RECOMMENDATION:

Approve the San Diego County Nonpublic Master Contract with Sound Therapies, Inc. for school year 2021-2022 at hourly rates ranging from \$61.00 to \$80.72 from the Special Education Fund.

LCAP GOAL AND ACTION/SERVICE:

Goal 1, Item 1.21: Continue to provide site and/or district based academic intervention programs to serve the districts subgroups (i.e. English Learners, Low Income, Students with Disabilities, etc...) and educationally disadvantaged students in program improvement schools. Personnel (e.g. instructional aides) may be hired to support in-class interventions for all student subgroups and educationally disadvantaged students at all school sites.

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

\$80.72/hr &
\$61.00/hr

(Amount)

Special Education

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

2021-2022

San Diego County

Nonpublic

Master Contract

Directions:

- Main document **must** be completed for every Nonpublic School/Agency or Room & Board Contract.
- Complete and attach Appendices A: School, B: Agency, C: Room & Board as appropriate.

San Diego County Nonpublic Master Contract
Main Document

2021-2022

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MAIN DOCUMENT

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APPENDIX B: AGENCIES

APPENDIX C: ROOM AND BOARD

Directions:

- *Main document **must** be completed for every Nonpublic School/Agency or Room & Board Contract*
- *Complete and attach Appendices A: School, B: Agency, C: Room & Board as appropriate.*

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Nonpublic
Master Contract

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**San Diego County Nonpublic Master Contract
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**NONPUBLIC
MASTER CONTRACT**

This Master Contract is made and entered into

this 28th day of January, 2022 between the

San Ysidro School District, County of San Diego,
(Local Education Agency)

hereinafter sometimes referred to as the "LEA," and

Sound Therapies, Inc.
(Nonpublic.)

hereinafter referred to as "CONTRACTOR."

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SECTION 1: AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

1.1 MASTER CONTRACT

For the purpose of providing special education and related services to individuals with exceptional needs under the authorization of Education Code sections 56157, 56361, and 56365-56366.5 the Master Contract consists of (the Main Document and Master Contract Appendices A (Schools), B (Agencies), C (Room & Board)). The general term "Master Contract" refers to the Master Contract /Main Document/ and Master Contract /Appendices A (Schools), B (Agencies), and C (Room and Board) given to the CONTRACTOR by a representative of the LEA's Special Education Unit on terms acceptable to the LEA and the CONTRACTOR. It is also understood that this contract does not commit the CONTRACTOR to provide special education and related services to any individual unless and until an Individual Services Agreement (ISA) is executed between the LEA and the CONTRACTOR on behalf of such individual or interim written approval is given to the CONTRACTOR by an authorized representative of the LEA's Special Education Unit. This interim written approval shall be for a maximum period of one hundred eighty (180) days, beginning with the anticipated student start date, during which time the contract and/or Individual Services Agreement shall be completed and executed by the LEA and the CONTRACTOR. If an Individual Services Agreement is not completed and executed by the LEA and the CONTRACTOR within this one hundred eighty (180) day period, the LEA or the CONTRACTOR may request an IEP meeting to be held as soon as possible to discuss a change in placement for the pupil. The LEA shall continue to reimburse the CONTRACTOR as set forth in the interim written approval, or as otherwise agreed by the parties in writing, pending any change in placement or subsequent execution of an Individual Services Agreement.

1.2 SUPERSEDES PRIOR CONTRACTS

This Master Contract includes the Main Document, Appendix A (Schools), Appendix B (Agencies), Appendix C (Room and Board), to the extent that they are applicable, and each ISA, all of which are incorporated herein by this reference and any exhibits or attachments hereto constitute the entire agreement between the parties to this contract and supersedes any prior contract, understanding, or agreement with respect to the terms set forth in this contract.

1.3 MODIFICATIONS AND AMENDMENTS

The LEA and the CONTRACTOR agree that any amendments to the contract must be in writing and approved by the LEA's Governing Board and the Board of Directors/Trustees or authorized representative of the CONTRACTOR. Prior to executing a written amendment to the contract, the LEA shall obtain approval from the San Diego County SELPA Directors and the County Director of Special Education. In implementing this Master Contract, any specific terms related to an individual pupil shall be reflected in the Individual Services Agreement.

1.4 INDIVIDUAL SERVICES AGREEMENT

The LEA and the CONTRACTOR shall enter into an Individual Services Agreement for each pupil who is to receive special education and/or related services provided by the CONTRACTOR. The LEA is responsible for completing each pupil's Individual Services Agreement, which shall identify the provider of each service required by the pupil's Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) (CCR 3062(e)). Individual Services Agreements shall only be issued for those pupils enrolled with the approval of the LEA. Changes in any LEA pupil's educational program, including instruction, services, or instructional setting provided under this contract, may only be made on the basis of revisions to the pupil's IEP or IFSP. At any time during the term of this contract, the parent, the CONTRACTOR or LEA may request a review of the pupil's IEP/IFSP, subject to all procedural safeguards required by law, including notice given to and participation by the CONTRACTOR in the IEP Team meeting. In the event that the CONTRACTOR recommends that the pupil requires either a lesser or more restrictive placement than the CONTRACTOR can provide, the CONTRACTOR will notify the LEA immediately. The LEA shall expedite the review and/or the resulting change in placement, and shall modify the Individual Services Agreement as appropriate if there is a change in the instructional and/or other services provided.

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1.5 NONPUBLIC CERTIFICATION OR WAIVER

A current copy of the CONTRACTOR'S California Department of Education (CDE) Nonpublic Certification or waiver of such certification issued by CDE pursuant to EC 56366.2 is attached hereto. This Master Contract shall be null and void if such certification is expired, revoked, rescinded, or otherwise nullified during the effective period of this contract.

1.6 TERM OF MASTER CONTRACT

Neither the CONTRACTOR nor the LEA is required to renew this contract in subsequent contract years. In the event that a pupil is enrolled with the CONTRACTOR during the term of this contract and said pupil continues to receive special education and/or related services by the CONTRACTOR as approved by the LEA in accordance with the pupil's IEP/IFSP and either (a) a new contract has not been fully executed or (b) the CONTRACTOR or the LEA chooses not to renew this contract, the terms of this contract and associated Individual Service Agreements shall apply to any and all special education and/or related services provided by the CONTRACTOR and payment for those services by the LEA.

Upon agreement of both parties to this Master Contract, its provisions shall be retroactive to the beginning of this contract year (July 1st), to cover services provided by the CONTRACTOR to LEA students, unless otherwise mutually agreed upon by both parties.

The term of this Master Contract shall be from January 28, 20 22 to June 30, 20 22.

Any subsequent Master Contract is to be renegotiated prior to June 30 of each year.

This Master Contract has no force or effect until approved or ratified by the LEA's Governing Board.

1.7 COMPLIANCE WITH APPLICABLE FEDERAL AND STATE LAWS

During the term of this contract, the CONTRACTOR and LEA shall comply with all applicable federal and state laws and regulations relating to the required special education and designated instruction and services and facilities for individuals with exceptional needs, including those not expressly documented in this Master Contract.

a. Nondiscrimination

The CONTRACTOR and the LEA shall not discriminate on the basis of race, religion, sex, national origin, age, sexual orientation disability or any other classification protected by federal or state laws in employment or operation of its programs.

b. Sexual Harassment Policy

The CONTRACTOR shall have a written policy and provide training on sexual harassment in accordance with state and federal regulations and guidelines.

c. Corporal Punishment Prohibitions

No public education agency, or nonpublic school or agency serving individuals pursuant to Education Code Section 56365 et seq., may authorize, order, consent to, or pay for any of the following interventions, or any other interventions similar to or like the following:

- (1) Any intervention that is designed to, or likely to, cause physical pain;
- (2) Releasing noxious, toxic or otherwise unpleasant sprays, mists, or substances in proximity to the individual's face;
- (3) Any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;
- (4) Any intervention which is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule or humiliation, or which can be expected to cause excessive emotional trauma;
- (5) Restrictive interventions which employ a device or material or objects that simultaneously immobilize all four extremities,

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including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention pursuant to subsection EC 56521.2 (a5) (i)

(6) Locked seclusion, except pursuant to EC 56521.2 (a) (6) (i) (4) (A)

(7) Any intervention that precludes adequate supervision of the individual; and

(8) Any intervention which deprives the individual of one or more of his or her senses.

d. Student Discipline

The CONTRACTOR shall maintain and abide by a written policy for student discipline that is consistent with state and federal law and regulations, such that students who exhibit serious behavioral challenges receive timely and appropriate assessments and positive supports and interventions in accordance with the federal Individuals with Disabilities Education Act and its implementing regulations.

The CONTRACTOR shall report all incidents of discipline where there has been violation of EC 48900 or 48915 which results in in- or out-of-school suspension, expulsion, or other means of correction.

When a CONTRACTOR seeks to remove a student from his/her current educational placement for disciplinary reasons, the CONTRACTOR shall immediately submit a written discipline report to the LEA. Written discipline reports shall include, but not be limited to: the student's name; the time, date, and description of the misconduct; the disciplinary action taken by the CONTRACTOR; and the rationale for such disciplinary action. LEA will schedule an IEP meeting or if appropriate, a manifestation determination IEP meeting when required and in accordance with California Education Code.

e. Behavioral Emergency Reports (EC 56521.1)

When a CONTRACTOR is serving students with significant behavioral needs or who are on behavioral intervention plans, the CONTRACTOR will comply with EC 56366.10(e).

(1) Anytime an emergency intervention is used pursuant to EC 56521.1, CONTRACTOR must notify LEA, parent, guardian, and residential care provider, if appropriate, within one schoolday. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs.

(2) Whenever a "Behavioral Emergency Report" is written regarding an individual who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim behavioral intervention plan.

(3) Anytime a "Behavioral Emergency Report" is written regarding an individual who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective should be referred to the IEP team to review and determine if the incident constitutes a need to modify the plan.

(4) "Behavioral Emergency Report" data shall be collected by the CONTRACTOR and be submitted to LEA.

(5) A summary of Behavioral Emergency Reports shall be submitted at least monthly to the LEA and the Director of the Special Education Local Plan Area of which the LEA is a member.

f. Seclusion

Anytime seclusion, as defined in EC 49005.1(i), is used, the CONTRACTOR must notify the LEA consistent with other emergency interventions as outlined in Section 1.7(e) Behavior Emergency Reports.

1.8 DEFINITIONS

"DAYS": For the purpose of the contract, "days" refers to calendar days unless otherwise specified.

"PARENT": For the purpose of the contract, a parent (34CFR 300.30(a)) is the natural parent, adoptive parent, or legal guardian or any other adult granted educational decision-making rights by the natural or adoptive parent or a court of competent jurisdiction. A trained, certified surrogate parent, identified by the LEA, may act on behalf of the pupil if no parent, guardian or person acting as a parent can be located. The LEA shall be responsible for providing a translator for the parent if needed.

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SECTION 2: ADMINISTRATION OF CONTRACT

2.1 NOTICES

Notices provided for by this contract shall be in writing, be delivered to the individual identified below in this section, and shall be delivered by certified, registered, or return receipt requested mail, postage prepaid, or by facsimile transmission, unless a specific section of this contract requires or allows notice or contact to be made in a different manner or to a different individual. The effective date of an invoice shall be the date of its receipt by the LEA. The effective date of all other notices shall be the date of the postmark or of the facsimile transmittal date identified in the document. In the event there is a change in the individual to be notified, the CONTRACTOR or the LEA shall provide written notice of the change and, after such notice is provided, all future notices shall be addressed to that individual. Notice may be provided under this section pursuant to regular United States mail if the LEA and the CONTRACTOR agree in writing to notice by regular USPS mail. If the LEA or the CONTRACTOR does not identify an individual to be notified in this section, the person to be notified under this section shall be the LEA or the CONTRACTOR representative that executes this contract.

Notices mailed to the LEA shall be addressed to:

Marilyn Adrianzen, Chief Business Official
Name/Title

San Ysidro School District
Local Education Agency

4350 Otay Mesa Road
Address

San Ysidro CA 92173
City State Zip

(619) 428-4476
Phone

(619) 428-6473
Facsimile

marilyn.adrianzen@sysdschools.org
Email Address

Notices to the CONTRACTOR shall be addressed to:

Rachel Tapper Zijistra, Founder & CEO
Name/Title

Sound Therapies, Inc.
Nonpublic

3327 Fernside Blvd.
Address

Alameda CA 94501
City State Zip

(619) 806-0119
Phone

()
Facsimile

rachel@soundtherapiesinc.com
Email Address

San Diego County Nonpublic Master Contract Main Document

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2.2 INDEPENDENT CONTRACTOR STATUS

This contract is by and between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

2.3 SUBCONTRACT AND ASSIGNMENT

The CONTRACTOR shall not enter into an initial subcontract with any noncertified Nonpublic Agency (NPA) or provider, for any of the instructional or related services contemplated under this contract without first obtaining written approval by a representative of the LEA. Such approval shall not be unreasonably withheld. The LEA and the CONTRACTOR shall maintain a copy of the written approval.

2.4 INDEMNIFICATION

The CONTRACTOR hereby indemnifies, defends, and holds harmless the LEA, its Board, officers, employees, agents, independent contractors, consultants and other representatives from and against any and all liabilities, claims, demands, costs, losses, damages, or expenses, including reasonable attorneys' fees and costs, and including but not limited to consequential damages, loss of use, extra expense, cost of temporary classrooms, that arise out of or result from, in whole or in part, the negligent, wrongful or willful acts or omissions of the CONTRACTOR, its employees, agents, subcontractors, independent contractors, consultants, or other representatives.

The LEA hereby indemnifies, defends, and holds harmless the CONTRACTOR, its Board, officers, employees, agents, independent contractors, consultants and other representatives from and against any and all liabilities, claims, demands, costs, losses, damages, or expenses, including reasonable attorneys' fees and costs, and including but not limited to consequential damages, loss of use, extra expense, cost of temporary classrooms, that arise out of or result from, in whole or in part, the negligent, wrongful or willful acts or omissions of the LEA, its employees, agents, subcontractors, independent contractors, consultants, or other representatives.

The CONTRACTOR shall have no obligation to indemnify, defend, or hold harmless the LEA, its Board, officers, employees, agents, independent contractors, consultants, and other representatives for the LEA's sole negligence or willful misconduct; and the LEA shall have no obligation to indemnify, defend, or hold harmless the CONTRACTOR, its Board, officers, employees, agents, independent contractors, consultants and other representatives for the CONTRACTOR'S sole negligence or willful misconduct. This indemnity shall survive the termination of the Contract or final payment hereunder, and is in addition to any other rights or remedies that the CONTRACTOR or LEA may have under the law or this contract.

2.5 INSURANCE

During the entire term of this contract and any extension or modification thereof, the CONTRACTOR shall keep in effect a policy or policies of general liability insurance, including contractual liability coverage, professional liability, and auto liability coverage of owned and non-owned vehicles used by the CONTRACTOR in relation to the performance of service(s) under this Master Contract, with minimum limits of one million dollars (\$1,000,000) per occurrence, and three million dollars (\$3,000,000) in aggregate. Such insurance shall name LEA as an additional insured, and an endorsement evidencing such coverage shall be provided within ninety (90) days, only as to matters arising out of this Master Contract for which the CONTRACTOR has an obligation to indemnify the LEA, under the Indemnification clause, Section 2.4, of this Master Contract.

Not later than the effective date of this contract, the CONTRACTOR shall provide the LEA with satisfactory evidence of insurance. The insurance maintained by the CONTRACTOR shall include a provision for the insurance provider to send written notice of cancellation or modification to the CONTRACTOR at least thirty (30) calendar days before cancellation or adverse material change, or ten (10) days for nonpayment of premium. Such CONTRACTOR'S insurance may contain the same notice requirement for the LEA. If the insurance provider is only required to send such notice to the CONTRACTOR (but not the LEA), the CONTRACTOR shall provide the LEA written notice of cancellation or adverse material modification within one (1) business day after receiving such notice from the insurer. Such notice shall be provided pursuant to Section 2.1 (Notices) of this contract. The CONTRACTOR shall at its own cost and expense procure and maintain insurance under the applicable State's Workers' Compensation laws. Failure to maintain the above mentioned insurance coverage shall be cause for termination of this contract.

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LEA warrants that it is self-insured in compliance with the laws of the State of California, that the self insurance covers persons acting on its behalf or under its control, that its self insurance covers LEA's indemnification obligations to the CONTRACTOR under this contract, and that LEA agrees to provide coverage to the CONTRACTOR pursuant to this self insurance in the event the indemnification obligations of Section 2.4 of this contract are triggered. The LEA further warrants that it shall notify the CONTRACTOR pursuant to Section 2.1 (Notices) of this contract, of any material insurance coverage changes at least thirty days prior to the change.

The CONTRACTOR agrees that any subcontractor with which it contracts to provide services pursuant to any Individual Services Agreement, shall submit written proof of insurance in a minimum amount of \$1,000,000 per occurrence, including general, liability, auto liability (if applicable), and professional liability (if applicable). Such insurance shall be maintained by any subcontractor for the scope of duties performed and duration of time it provides services to LEA pupils. Proof of insurance shall be provided to the LEA prior to the beginning of transportation services by a subcontractor, and upon renewal of coverage thereafter. Transportation subcontractors shall submit copies of insurance policies upon request of the LEA; otherwise, certificates of insurance may be acceptable proof, provided that the information thereon is adequate and verifiable. Subcontractors shall be required to provide to the CONTRACTOR written notice of cancellation of insurance or adverse material change in such insurance at least thirty (30) days prior to cancellation or adverse material change or within one business day after receiving such notice, whichever is earlier.

2.6 TRANSPORTATION

Transportation to and from school, and the associated costs are the responsibility of the LEA unless otherwise agreed to in writing. LEA accepts full responsibility for pupil safety, and liability for accident, injury, or death, at all times pupil is on a LEA transportation vehicle.

In the event that the CONTRACTOR transports students to or from school due to health, behavior, other emergencies, or as otherwise agreed to by the CONTRACTOR and the LEA, the LEA shall reimburse the CONTRACTOR at the rate specified in this Master Contract, (Rate Schedule - Appendix A: Section 4.1, Appendix B: Section 5.1) or a temporary rate agreed to by LEA and the CONTRACTOR.

The CONTRACTOR shall have in place a transportation safety plan that prescribes procedures for school personnel to follow to ensure safe transport of pupils. The safety plan shall specify, among other matters, that the CONTRACTOR shall provide each pupil being transported with adequate supervision during the transport and with instruction in vehicle emergency procedures and passenger safety, as appropriate to the pupil needs. The CONTRACTOR has liability for accident, injury, or death, at all times pupil is in the CONTRACTOR's vehicle.

2.7 WAIVERS

The LEA and/or the CONTRACTOR may independently or jointly submit waivers of applicable state laws and regulations.

2.8 SUCCESSORS IN INTEREST

This contract binds the CONTRACTOR's successors and assignees. The CONTRACTOR shall not assign this Master Contract without the written consent of LEA, and any attempt by the Contractor to effect such an assignment without the written consent of LEA shall make this Master Contract terminable at the option of the LEA.

2.9 SEVERABILITY

If any provision or portion of a provision of this contract is held in whole or in part to be unenforceable for any reason, the remainder of the provision and of the entire contract shall be severable and shall remain in effect.

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2.10 CONFLICTS OF INTEREST

a. The CONTRACTOR agrees to furnish to the LEA a copy of its current bylaws and a current list of its Governing Board of Directors (or Trustees), if it is incorporated. The LEA has the right to request a current list of the Board of Directors or Trustees at any time during the term of the Master Contract.

b. The CONTRACTOR and members of its Board of Directors (or Trustees) shall disclose any relationship with the LEA that constitutes or may constitute a conflict of interest including, but not limited to, employment with the LEA, provisions of private party assessments and/or reports, and attendance at the IEP team meetings and/or due process proceedings.

c. Anytime the CONTRACTOR is contracted to conduct a formal Independent Educational Evaluation (IEE), and the IEP team determines that services are necessary as a result of that IEE the LEA shall be obligated to select a service provider who is not the CONTRACTOR. Unless, a service provider who is not the CONTRACTOR is unavailable or unable to provide that service.

2.11 INABILITY TO MEET CONTRACT REQUIREMENTS

The CONTRACTOR shall notify the LEA in writing when the CONTRACTOR is unable to meet the requirements of this contract. The LEA shall notify the CONTRACTOR in writing when the LEA is unable to meet the requirements of this contract.

2.12 DISPUTE RESOLUTION

Disagreements concerning the meaning, requirements or performance of this contract shall first be brought to the attention of the other party in writing, pursuant to the notice provisions (Section 2.1) of this contract, in an attempt to resolve the dispute at the lowest level. Any remaining disputes or disagreements may be resolved either 1) as voluntarily agreed to by the parties, 2) by equitable remedies, or 3) by other legal means.

2.13 DUE PROCESS AND COMPLAINT PROCEDURES

The CONTRACTOR and LEA shall comply with all applicable federal and state laws and regulations related to due process and the rights of students and parents.

The CONTRACTOR agrees to maintain policies and procedures as follows: (1) Uniform Complaint Procedures pursuant to Title 5 of the California Code of Regulations (CCR) section 4600 *et seq.*; (2) Nondiscrimination policy pursuant to Title 5 of the CCR section 4960 (a); (3) Sexual Harassment Policy, California Education Code 231.5 (a) (b) (c); (4) Title IX Student Grievance Procedure, Title IX 106.8 (a) (d) and 106.9 (a); and (5) Notice of Privacy Practices in compliance with Health Insurance Portability and Accountability Act (HIPAA).

2.14 VENUE AND GOVERNING LAW

This contract, and conditions of this contract, shall be governed by the laws of the State of California with venue in San Diego County, California.

2.15 RIGHT TO REPORT MASTER CONTRACT VIOLATIONS

The CONTRACTOR acknowledges and understands that the LEA may report to the CDE any violations of the provisions of this contract; and that may result in the suspension of the CDE nonpublic school certification pursuant to EC 56366.4(a).

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2.16 TERMINATION OF MASTER CONTRACT AND/OR INDIVIDUAL SERVICES AGREEMENT

a. Master Contract

Either the LEA or the CONTRACTOR may terminate this Master Contract for cause as set forth in EC section 56366(a)(4), with twenty (20) days written notice pursuant to Section 2.1 of this contract, or immediately if the CONTRACTOR and LEA mutually agree that there are significant health or safety concerns. Cause shall include but not be limited to non maintenance of current nonpublic school certification, failure of either the LEA or the CONTRACTOR to maintain the standards required under the Master Contract and/or Individual Services Agreement, or material breach of the contract by the CONTRACTOR or LEA. To terminate the contract either party shall give a minimum of twenty (20) days written notice pursuant to the provisions of Section 2.1 (Notices) of this contract. Upon termination, the LEA shall pay within forty-five (45) days, without duplication, for all services performed and expenses incurred to date of termination according to the provisions set forth in Appendix A Section 4.1, Appendix B Section 5.1 (Rate Schedule) and Main Document Section 4.1 (Billing and Payment) of this contract. The CONTRACTOR shall provide to the LEA the IEP/IFSP and all related documents in its possession or under its control pertaining to its services, for all pupils of the LEA who were receiving services from the CONTRACTOR in accordance with applicable state and federal laws regarding student records.

b. Individual Services Agreement

The Individual Services Agreement may be terminated or suspended by the LEA or the CONTRACTOR for cause, as set forth in EC 56366(a)(4), with twenty (20) days written notice pursuant to Section 2.1 (Notices) of this contract, or immediately if the CONTRACTOR and the LEA mutually agree that there are significant health or safety concerns.

Individual Services Agreements are null and void upon termination of the Master Contract.

The LEA shall not terminate Individual Services Agreements because of the availability of a public class initiated during the course of the contract unless the parent agrees to the transfer of a pupil to a public school program, which agreement must only be given in a duly called and held IEP/IFSP meeting at which the CONTRACTOR is present.

2.17 INDIVIDUALIZED EDUCATION PROGRAM (IEP) / INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)

When a pupil is accepted for enrollment in a nonpublic school, the CONTRACTOR shall provide the pupil a program of educational instruction and services within the nonpublic school, which is consistent with his or her IEP/IFSP as specified in each pupil's Individual Services Agreement.

The CONTRACTOR shall implement those responsibilities delegated to the CONTRACTOR in the plan for transition services (per EC 56445 and EC 56462) as stated by the IEP/IFSP.

The CONTRACTOR shall provide an appropriate adult to pupil ratio for pupils with exceptional needs between three (3) and five (5) years of age, in accordance with EC 56441.5.

The LEA shall invite the CONTRACTOR and the CONTRACTOR shall participate in all IEP/IFSP meetings, including those related to placement and those called by the parent in accordance with EC section 56343.5, so long as the pupil is to be served by the CONTRACTOR pursuant to an Individual Services Agreement. The student's present teacher shall participate in the IEP meeting in accordance with EC 56341(b)(3). Every effort shall be made to schedule the meeting at a time and place that is mutually convenient to parents, the CONTRACTOR's staff, and LEA's staff.

The LEA shall oversee and evaluate the pupil's progress through the IEP process. The IEP team shall evaluate whether the pupil is making appropriate educational progress through a review of the student's progress toward IEP goals and, as appropriate, a review of the pupil's scores on state assessments. If the CONTRACTOR or LEA will be making recommendation(s) for significant changes to the student's program, placement or services, the LEA Case Manager and representative of the CONTRACTOR shall discuss the recommendation(s) prior to the IEP meeting. The IEP team will consider whether or not the needs of the pupil continue to be best met with the CONTRACTOR, whether changes to the pupil's IEP are necessary, and whether the pupil may be

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transitioned to a less restrictive setting (EC 56366(a)(2)(B), EC 56343(d), EC 56043(h)). Partial day attendance may be appropriate to support transition to a public school program.

2.18 FREE APPROPRIATE PUBLIC EDUCATION

No charge of any kind to parents shall be made by the CONTRACTOR for educational activities and related services specified on the pupil's IEP/IFSP, including screening or interviews which occur prior to, or as a condition of, a pupil's enrollment under the terms of the contract, except as specified in writing in a due process procedure that is signed by all relevant parties and attached to the relevant pupil's Individual Services Agreement, or for voluntary extracurricular activities conducted subsequent to written notification to parents as to the cost and the voluntary and extracurricular nature of the activity. Unless the activity (for example, field trips) takes place during a school vacation or holiday, pupils not participating in such activities shall continue to receive special education and/or related services as set forth in their IEP/IFSPs.

2.19 TRANSITION TO A LEAST RESTRICTIVE ENVIRONMENT

The CONTRACTOR & the LEA shall support least restrictive environment options, including dual enrollment, if appropriate, for students enrolled in NPS to have access to the general curriculum and to be educated with nondisabled peers to the maximum extent appropriate.

The CONTRACTOR & the LEA shall address LRE placement options for students at all IEP team meetings, including whether the students may be transitioned to a public school setting.

When an IEP team has determined that a student should be transitioned into the public school setting, the CONTRACTOR shall assist the LEA in implementing the IEP team's recommendations activities to support the transition.

2.20 PUPIL PROGRESS

The CONTRACTOR shall have written procedures in place for measuring progress utilizing on-going data collection in the goal areas identified on the IEP/IFSP.

The CONTRACTOR shall provide to parents and the LEA case manager written pupil progress reports on the goals in the IEP/IFSP, no less than quarterly. The CONTRACTOR shall submit an updated report if there is no current progress report when pupils are scheduled for a review by the IEP/IFSP team or when a pupil's enrollment is terminated.

The CONTRACTOR shall allow periodic review of each pupil's instructional program by the LEA. Representatives of the LEA shall have reasonable access to observe each pupil at work, observe the instructional setting, meet with the CONTRACTOR and review each pupil's progress, including the behavioral intervention plan, if any. LEA representatives making site visits shall initially report to the CONTRACTOR's site administrative office.

2.21 ASSESSMENTS

a. Individual Student Assessments

If the CONTRACTOR receives a parent request for evaluation, the CONTRACTOR shall inform the parent of his or her ability to submit a written request for evaluation to the LEA in accordance with applicable law. The LEA shall collaborate with the CONTRACTOR to develop the evaluation plan and submit it to the parent for approval. The LEA retains the responsibility for conducting triennial evaluations (EC 56381(c)).

2.22 CONFIDENTIALITY OF RECORDS

All reports, records and other documents that the CONTRACTOR is required to submit to LEA, the Special Education Local Plan Area (SELPA), or otherwise, pursuant to this contract, shall be redacted to the extent necessary and appropriate to protect the confidentiality and privacy of pupils, employees, and subcontractors, as provided for pursuant to state and federal law.

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2.23 FORWARDING OF EDUCATIONAL RECORDS

The CONTRACTOR agrees, in the event of school closure, to immediately forward pupil records to the LEA pertaining to the LEA's pupils enrolled in the CONTRACTOR's educational program. These records shall include, but need not be limited to, current transcripts, IEP/IFSPs and results of performance testing.

2.24 DATA REPORTING

The CONTRACTOR agrees to provide LEA with all student information required for LEA to report to the California Longitudinal Pupil Achievement Data System (CALPADS) as well as other data as required by Every Student Succeeds Act (ESSA) or any federal data reporting requirements, including, but not limited to, data required to calculate enrollment and dropout and graduation rates, discipline, restraints and seclusion.

SECTION 3: PERSONNEL

3.1 VERIFICATION OF CREDENTIALS, LICENSES AND OTHER QUALIFICATIONS

The CONTRACTOR shall provide all contracted special education, and/or related services required by the IEP/IFSP, Master Contract and Individual Services Agreement by appropriately qualified staff. The CONTRACTOR shall provide appropriately credentialed teachers and/or licensed or license-eligible personnel or other education related mental health provider consistent with the California laws and regulations unless the CDE has granted a written waiver. The CONTRACTOR shall be responsible for monitoring the status of waiver applications submitted to the state for all non-credentialed teachers and non-licensed service providers. All non-credentialed teachers and non-licensed service providers shall apply for a waiver.

The CONTRACTOR shall be responsible for verification of credentials and licenses held by its employees, agents and subcontractors. Once the CONTRACTOR has provided the LEA with a copy of the credential or license for all staff providing services to students with disabilities, the CONTRACTOR shall supply the LEA with copies of any changes in the credentials or licenses of staff within forty-five (45) days of the change in accordance with CCR 3062.

The CONTRACTOR is fiscally responsible for all training necessary to provide appropriate services per IEP/IFSP. The LEA shall not reimburse CONTRACTOR for training that occurs outside of contact time with student, and that is not during implementation of IEP/IFSP.

When behavior intervention services are provided by the CONTRACTOR, the CONTRACTOR shall train staff in implementing the Behavior Intervention Plan and pupils shall receive the level of supervision required in the pupil's IEP/IFSP. This training shall comply with the requirements in ED 56366.1(4)(A-C) and 56366.10(f).

The CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including the provisions with respect to supervision.

3.2 EMPLOYEE FINGERPRINTS AND TUBERCULOSIS TESTING

The CONTRACTOR shall ensure that employee fingerprints have been processed in a manner required by EC 44237. The CONTRACTOR shall maintain a file containing a current certificate of each person covered by Health and Safety Code Sections 121525-121555 (tuberculosis testing). In addition, the CONTRACTOR will adhere to all of the requirements under AB 389.

3.3 QUALIFICATIONS OF INSTRUCTIONAL AIDES AND TEACHER ASSISTANTS

The CONTRACTOR shall ensure that newly hired instructional aides and teacher assistants have demonstrated proficiency in basic reading, writing, and mathematics skills, based on a test selected and administered by the CONTRACTOR.

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3.4 REQUIREMENT TO REPORT

a. Child Abuse or Molestation

The CONTRACTOR shall maintain a signed statement by all personnel, who are required to sign such a statement under the child abuse reporting laws, acknowledging their training and understanding of the reporting requirements regarding observed or suspected cases of child abuse.

b. Missing Students

The CONTRACTOR shall ensure that staff is aware of its responsibility and requirement to report to parents, and local law enforcement as appropriate, when a pupil leaves campus without permission, immediately upon confirmation that the pupil is missing, in accordance with EC 49370. The CONTRACTOR shall contact the LEA case manager by telephone no later than the end of the day in the event a pupil leaves campus without permission, does not return that school day, and is not located at his or her residence or in the custody of his or her parent or guardian.

c. Student Injury

The CONTRACTOR agrees to complete a written report when a pupil has suffered an injury that requires medical attention, and notify the LEA case manager within forty-eight (48) hours.

The CONTRACTOR agrees to submit a written report to the LEA case manager by the end of the following school day, in cases of injury or the death of a student. The CONTRACTOR agrees to reasonably participate in any communications between the pupil's parents and the LEA regarding any injuries resulting from physical restraint.

SECTION 4: FISCAL

4.1 BILLING AND PAYMENT

a. Invoices

The CONTRACTOR shall submit invoices monthly. Effective date of the invoice shall be the confirmed date of receipt by the LEA, either electronically or by USPS. Invoices should clearly reflect rates as specified in the Master Contract, be in accordance with the Individual Services Agreements, and include all days of creditable service, beginning no earlier than the date specified in the Interim Written Approval or ISA. The CONTRACTOR shall submit said invoice for services rendered no later than thirty (30) days from the end of the attendance accounting period calendar month in which said services are actually provided and the invoice shall be submitted pursuant to Section 2.1 (Notices) of this contract. All education related mental health services will be billed by the CONTRACTOR in separate invoice.

b. Late Invoices

If the LEA does not receive a properly submitted invoice within thirty (30) days from the end of the attendance accounting period calendar month, the LEA may deduct 1.5% per month, calculated proportionately per day, of that total invoice, if the LEA does not agree to the request of the CONTRACTOR to an extension of time to submit the invoice.

c. Payment

The LEA shall make payment within forty-five (45) days of receipt of a properly prepared and submitted invoice and such payment shall be submitted pursuant to Section 2.1 (Notices) of this contract. This payment shall be at the rates agreed to in the Rate Schedule (See Appendix A for Schools, B for Agencies, and C for Room and Board) of this contract and shall be in an amount equal to the number of creditable days of attendance during both the regular and extended school years, make-up sessions (including "excused" absences) per the Individual Services Agreement (ISA) for each pupil. This calculation shall include the Extended School Year if the pupil is enrolled in the Extended School Year, and any other absence for which the LEA has agreed to pay the CONTRACTOR and any related services and transportation costs as specified in the Rate Schedule (See Appendix A

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for Schools, B for Agencies, and C for Room and Board) of this contract and in accordance with the Individual Services Agreements. If no notice of withholding is provided to the CONTRACTOR within ten (10) working days of receipt of an invoice, the LEA shall not withhold any payment. Payment by the LEA shall refer to the invoice number or the date of the bill submitted by the CONTRACTOR. If the CONTRACTOR agrees to accept credit card payments, and LEA chooses to pay invoices by credit card, the LEA agrees to add the CONTRACTOR'S credit card processing fee to the invoice balance of the credit card payment. Credit card payments will be assumed to have been made on the date the payment posts to the CONTRACTOR'S bank account for late payment and interest calculation purposes.

d. Pupil Enrolled Prior to Approval of Agreement to a Contract

Ed Code addresses situations when a contract has not yet been developed and the pupil is enrolled and receiving services from the Nonpublic School or Agency (ED 56366.9 c (1)).

"If a pupil is enrolled in a nonpublic, nonsectarian school or agency with the approval of the local educational agency prior to agreement to a contract or individual services agreement, the local educational agency shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem tuition rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for ninety (90) days during which time the contract shall be consummated."

Ed Code 56366.9 c (1) above states "this provision shall be allowed for ninety (90) days during which time the contract shall be consummated", however this group has agreed to one hundred eighty (180) days.

e. Late Payment

If the payment is not postmarked from the LEA within forty-five (45) days of the receipt of the invoice, the LEA agrees to pay an additional fee of 1.5% interest per month on amounts not paid, such interest being calculated beginning day forty-six (46) from receipt of the invoice. Interest shall be calculated in accordance with standard accounting procedures. The CONTRACTOR shall bill the LEA for the interest. Failure by the LEA to pay an appropriately submitted invoice within ninety (90) days of receipt may be considered a breach of contract.

f. Medi-Cal Reimbursement

Documentation of LEA Medi-CAL Billable Services will be completed by the provider. All documentation of provider services shall be given to the LEA/SELPA for reimbursement submissions to Medi-Cal. The CONTRACTOR will not submit any claims in the LEA Billing Option program and the LEA has the right to submit claims for reimbursement.

4.2 RIGHT TO WITHHOLD

The LEA has the right to withhold payment to the CONTRACTOR when the LEA has reliable evidence, described in writing to the CONTRACTOR at the time the notice of withholding is submitted that: (A) service is provided by personnel who are not appropriately credentialed/licensed; (B) records required by the LEA prior to school closure with respect to one or more LEA pupil(s) enrolled in the CONTRACTOR's educational program have not been received; (C) the CONTRACTOR confirms a pupil's change of residence to another district but neglects to notify the LEA within five (5) days; or (D) the CONTRACTOR fails to notify the LEA within five (5) days after the 10th consecutive school day of a pupil's absence. If the basis for withholding is subsections (B) (C) or (D) of this section the LEA may only withhold the proportionate amount of the bill related to that pupil. If the basis for withholding is subsection (A) of this section, the LEA may only withhold payment for services provided by that personnel.

The LEA shall notify the CONTRACTOR in writing within ten (10) working days of receipt of an invoice of any reason why requested payment shall not be paid. (EC 56366.5(a)). Such notice shall specify the basis for the LEA's withholding payment and shall be made pursuant to Section 2.1 (Notices) of this contract. If no notice of withholding is provided to the CONTRACTOR within ten (10) working days of receipt of an invoice, the LEA shall not withhold any payment. Within fourteen (14) days from the date of receipt of such notice, the CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for the LEA's withholding payment. Upon receipt of the CONTRACTOR'S written request showing good cause sent pursuant

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to Section 2.1 (Notices) of this Contract, the LEA shall extend the CONTRACTOR'S time to respond by an additional fourteen (14) days. The CONTRACTOR shall submit rebilling for payment no later than thirty (30) calendar days when an invoice is returned to the CONTRACTOR with a notice of withholding. Upon verification of remediation of identified deficiencies and receipt of rebilling, the LEA shall pay the resubmitted invoice in accordance with Appendix A: Section 4.1 (Rate Schedule for Contract Year), Appendix B: Section 5.1 (Rate Schedule for Contract Year) of this contract. If the CONTRACTOR does not resubmit sufficient rebilling or verify remediation of identified deficiencies within thirty (30) calendar days, that shall constitute a reason to continue to withhold payment unless and until the CONTRACTOR resubmits the bill and corrects the deficiencies as noted in the original notice of withholding.

4.3 INSPECTION AND AUDIT

a. Maintenance of Fiscal Records

The CONTRACTOR shall maintain cost data in sufficient detail to verify the annual operating budget in providing education and designated instructional services to students with disabilities and shall make that data available to the LEA upon reasonable request consistent with the provisions of this section. Fiscal records shall be maintained by the CONTRACTOR for five (5) years and shall be available for audit consistent with the provisions of this section.

b. Maintenance of Student Records

District of special education accountability is the custodian of the student records.

c. LEA Access to Documents Related to the Master Contract

The CONTRACTOR shall provide access to, or forward copies of, any documents or other matters relating to the contract within twenty (20) days upon reasonable request by the LEA except as otherwise provided by law. The reason for this request for records shall be provided to the CONTRACTOR at the time it is made. The CONTRACTOR may request from the LEA an extension of time to comply with any records request, which shall not be unreasonably withheld. Such documents may include: 1) registers and roll books of teachers; 2) daily service logs and notes or other documents used to record the provision of related services; 3) absence verification records; 4) transportation records; 5) staff lists specifying credentials held, business and/or professional licenses held documents evidencing other qualifications; 6) dates of hire, and dates of termination; 7) staff time sheets; 8) non-paid volunteer sign-in sheets; 9) related services contracts; 10) school calendars; 11) bell/class schedules; 12) liability and workers' compensation insurance policies; 13) state nonpublic school certifications; 14) marketing materials; 15) statements of income and expenses; 16) general ledgers and supporting documents; 17) all budgetary information and projections submitted by the CONTRACTOR to LEA for purpose of contract negotiations. The CONTRACTOR shall maintain written policies concerning operations that are consistent with law, regulations, safety, and good practice. These policies, in whole or in part, shall be made available to LEA upon written request. The CONTRACTOR shall include LEAs in distribution of communication to families which references significant changes to school policies or procedures.

d. Audit Exceptions

The CONTRACTOR agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions identified by appropriate LEA personnel or state or federal audit agencies occurring as a result of the CONTRACTOR's performance of this contract. The CONTRACTOR also agrees to pay to the LEA within thirty (30) days of demand by LEA for any financial penalties resulting from any audit exceptions to the extent they are attributable to the CONTRACTOR's failure to perform properly any of its obligations under this contract unless the LEA agrees to different terms in writing and any demand by the LEA for such payment shall be made pursuant to the notice provisions of Section 2.1 of this contract. Any, and all audit exceptions must be specified in complete detail before any demand from the LEA for any amount set forth therein.

e. Reasons for Unannounced Visits

LEA and/or SELPA representatives may make unannounced inspections when there is a concern regarding the health, safety, or welfare of a student, or a substantial concern regarding the implementation of the IEP.

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SECTION 5: SIGNATURES

This Nonpublic Master Contract 2021-2022, including its component parts, may be signed in counterparts and the signatures may appear on separate signature pages. A copy and/or original, with all signatures attached, shall be deemed a fully executed document. A facsimile version of any party's signature shall be deemed an original. The parties hereto have executed this Master Contract by and through their duly authorized agents or representatives as indicated by their signatures.

This contract is effective on January 28, 2022 and terminates at 5:00 p.m. on June 30, 2022 unless sooner terminated as provided herein.

CONTRACTOR

Nonpublic School Agency

Authorized Representative Signature

DATE: _____

Rachel Zijjstra, Founder & CEO
(Type) Name and Title

LEA

Local Educational Agency

Authorized Representative Signature

DATE: _____

Marilyn Adrianzen, Chief Business Official
(Type) Name and Title

LEA Board Approval

DATE: _____

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Appendix B: Agencies

SAN DIEGO COUNTY NONPUBLIC MASTER CONTRACT
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NONPUBLIC MASTER CONTRACT
Appendix B: Agencies

SECTION 1: EDUCATIONAL PROGRAM

1.1 ADMISSION/ENROLLMENT PROCEDURES

Prior to the CONTRACTOR deciding whether or not to enroll a pupil, the LEA shall provide the CONTRACTOR a copy of the pupil's current IEP/IFSP, and facilitate an observation of the pupil, data gathering from the current or prior education providers, and any other reasonable information gathering CONTRACTOR wishes to undertake prior to making an enrollment decision. The CONTRACTOR retains the right to decline enrollment of any pupil and nothing in this contract shall be construed to limit this right.

If a pupil is being considered for enrollment, his or her IEP/IFSP shall be reviewed in collaboration with the LEA, the CONTRACTOR, parents, and other invited participants, as appropriate.

The CONTRACTOR shall notify the LEA of its decision to decline enrollment or the effective date of enrollment of the pupil in accordance with Section 2.1 (Notices) of this contract within ten (10) working days of receipt of the referral.

1.2 SUPPLIES AND EQUIPMENT

The CONTRACTOR shall be responsible for providing all standard and usual supplies and equipment required for the general program provided by the CONTRACTOR. If an individual pupil's IEP/IFSP requires specialized equipment and/or supplies beyond the CONTRACTOR'S general program, the LEA shall provide them unless otherwise specified in the Individual Services Agreement. The LEA shall provide the low incidence equipment assigned to the pupil through the IEP/IFSP unless the CONTRACTOR specifically agrees in the Individual Services Agreement to provide the low incidence equipment. Supplies and/or equipment purchased and/or provided by the LEA remain the property of the LEA and supplies and/or equipment purchased and/or provided by the CONTRACTOR remain the property of the CONTRACTOR, if not specifically reimbursed by the LEA for that specific supply or equipment. If the CONTRACTOR provides DIS and/or related services, the CONTRACTOR shall be responsible for providing usual and reasonable supplies and assessment tools necessary to implement the provision of services unless otherwise agreed in the Individual Services Agreement.

1.3 CALENDAR

The CONTRACTOR shall only provide designated instruction and services during the period of the pupil's regular or extended school year program, or both, at the location designated by the IEP, unless otherwise specified by the pupil's IEP/IFSP. The CONTRACTOR shall observe the following legal holidays including Independence Day, Veteran's Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King Jr. Day, President's Day, and Memorial Day, as specified in the CONTRACTOR'S official calendar. Make-up sessions may be scheduled for other days of school vacations.

1.4 PARENT VISITS/COMMUNICATION

- a. The CONTRACTOR shall provide for reasonable parental visits to all of the agency facilities including, but not limited to, the instructional setting attended by pupils and recreational activity areas. The CONTRACTOR shall notify case manager or other authorized district representative of all planned parental visits, and provide opportunity for case manager or other district representative to attend visit. The CONTRACTOR shall use its good faith efforts to provide that parental visits are in agreement with a court order, if any.
- b. All communication between the CONTRACTOR and Parent regarding programmatic decisions must include case manager or other authorized IEP team member, unless authorized by LEA representative or case manager, regarding program recommendations.

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1.5 OWNERSHIP

All activity plans, token systems, reinforce systems or inventories, visual schedules, data, drills, progress reports, quarterly reports, behavior intervention plans, behavior support plans, behavior graphs, student assessment results, and program materials created specifically for individual pupils by the CONTRACTOR under this Agreement shall be the joint property of the CONTRACTOR and LEA.

1.6 STAFF ABSENCES

When a provider is absent, The CONTRACTOR shall provide appropriate coverage in accordance with EC section 56061. The CONTRACTOR shall provide the LEA the documentation of such coverage upon request. As appropriate, the CONTRACTOR and the LEA may make arrangements for make-up sessions, usually within thirty (30) days, at a mutually convenient time and location if appropriate staff is not available to provide coverage for staff absences.

The CONTRACTORS who provide nurses, 1:1 aides or 1:1 behavior intervention staff in accordance with an individual student's IEP/IFSP shall provide substitute coverage when the staff member is absent, unless other arrangements have been made with the LEA on a case by case basis.

SECTION 2: ATTENDANCE

The CONTRACTOR shall keep original records of services provided to each pupil in a register, report or record with the pupil's absences clearly indicated. The CONTRACTOR shall file the signed copies of such service logs with monthly invoices to the LEA within thirty (30) days of the close of the school month. The documents and reports identified in this section shall be provided to LEA pursuant to the provisions in Section 2.1 (Notices) of the Nonpublic Master Contract Main Document. The CONTRACTOR is responsible for verifying accuracy of the service logs and for informing subcontractors of their personal responsibility for the completion and accuracy of said forms. A unit of service for payment purposes is one session as specified in the pupil's IEP/IFSP.

If a pupil's absences exceed more than ten days, the CONTRACTOR may notify the LEA of the intent to terminate the Individual Services Agreement and if it does, at the same time it shall request an IEP/IFSP meeting. Said notice shall be provided pursuant to Section 2.1 (Notices) of this contract. Upon receipt of this request, the LEA shall convene an IEP/IFSP meeting as soon as possible to review the placement, modify the IEP/IFSP if appropriate, or determine another appropriate placement option for the student.

If a CONTRACTOR attempts to provide services for five (5) consecutive days or sessions, and the student is not available for the service, the CONTRACTOR may suspend the Individual Services Agreement and notify the district of the need to convene a meeting of the IEP/IFSP team to attempt to resolve the problem. If a pupil's absences exceed more than ten (10) unreimbursed days, the CONTRACTOR may notify the LEA of the intent to terminate the Individual Services Agreement and if it does, at the same time it shall request an IEP/IFSP meeting. Said notice shall be provided pursuant to Section 2.1 (Notices) of this contract. Upon receipt of this request, the LEA shall convene an IEP/IFSP meeting as soon as possible to determine another appropriate placement option for the student.

SECTION 3: SAFETY

3.1 SAFE AND APPROPRIATE ENVIRONMENT

If nonpublic agency services are not provided on a school site, the CONTRACTOR shall be responsible for providing facilities in which it provides the services agreed to in the Individual Services Agreement, unless there is written agreement to the contrary. The CONTRACTOR shall comply with applicable law with respect to the structural specifications of the facilities in which it provides services. The CONTRACTOR shall comply with all applicable local, county, and/or state ordinances and statutes relating to fire, health, sanitation and building safety. If services are provided at a school site, the CONTRACTOR shall participate in the regularly scheduled fire, earthquake, and disaster drills as appropriate.

When the IEP specifies that NPA services are to be provided in the student's home, the parent/guardian or another adult caregiver designated by the parent shall be present in the home while the services are delivered.

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SECTION 4: CONFLICT OF INTEREST

All recommendations for service by the CONTRACTOR are the decisions of the IEP team.

To the extent required by EC section 56366.3, the CONTRACTOR shall not provide special education and related services, administration, or supervision by an individual who is or was an employee of a contracting district, special education local plan area, or county office within the last three hundred sixty-five (365) days, except if the individual was involuntarily terminated or laid off as part of necessary staff reductions from the contracting district, special education local plan area, or county office. This provision does not apply to any person who is able to provide designated instruction and services during the extended school year because he or she is otherwise employed for up to ten (10) months of the school year by the district, special education local plan area, or county office. For purposes of this section the special education local plan area shall be the special education local plan area of which the LEA is a member and the county office shall refer to the San Diego County Office of Education.

In terms of determining whether an individual who provides special education and related services, administration, or supervision, is or was an employee of a contracting district, special education local plan area, or county office within the last three hundred sixty-five (365) days or whether the individual was involuntarily terminated or laid off as part of necessary staff reductions from the contracting district, special education local plan area, or county office, the information provided to the CONTRACTOR by the individual in his or her application for employment, resume, or other paperwork, shall be conclusive evidence on this issue for purposes of determining compliance (if required) with EC section 56366.3. No payment shall be withheld or reimbursement demanded from the CONTRACTOR if the individual failed to disclose on his or her application, resume, or paperwork, submitted to the CONTRACTOR that he or she is or was an employee of a contracting district, special education local plan area, or county office within the last three hundred sixty-five (365) days or misstates the reason for separation. However, if the LEA subsequently provides the CONTRACTOR written notice (pursuant to Section 2.1 of this contract) that an individual who provides special education and related services, administration, or supervision, is or was an employee of a contracting district, special education local plan area, or county office within the last three hundred sixty-five (365) days (and was not involuntarily terminated or laid off as part of necessary staff reductions) the CONTRACTOR shall have five school days from receipt of the written notice to investigate the matter and to determine the accurate facts and whether the individual should be terminated. The CONTRACTOR shall not be subject to any payment withholding or reimbursement demands ("penalties") for the time period prior to receiving the written notice or for the five school days after such written notice is received.

The CONTRACTOR shall be subject to penalties required by EC section 56366.3, commencing the sixth school day after such notice is provided only if both of the following conditions occur: 1) if it is determined that the individual was an employee of a contracting district, special education local plan area, or county office within the last three hundred sixty-five (365) days and was not involuntarily terminated or laid off as part of necessary staff reductions and 2) if the individual was not terminated prior to the sixth school day after receiving written notice from the LEA, special education local plan, or county office, or did not otherwise stop providing special education and related services, administration or supervision on behalf of the CONTRACTOR. If the CONTRACTOR is subject to penalties, the time period for which penalties may be assessed, if required by EC section 56366.3, shall not be retroactive but shall only commence on the sixth school day after the CONTRACTOR received written notice from the LEA as specified in this paragraph. The penalty, if imposed, shall only apply to the salary of the person who was previously employed by an LEA within the last three hundred sixty-five (365) days.

SAN DIEGO COUNTY NONPUBLIC MASTER CONTRACT
APPENDIX B: AGENCIES
2021-2022

SECTION 5: FINANCIAL

5.1 RATE SCHEDULE FOR CONTRACT YEAR

CONTRACTOR: Sound Therapies, Inc.

CONTRACTOR NPA ID NUMBER: 9900764

Education service(s) offered by the CONTRACTOR, and the charges for such service(s) during the term of this contract, shall be as follows:

<u>RELATED SERVICES</u>	<u>RATE</u>	<u>PERIOD</u>
<u>Intensive Individual Services (340)</u>	<u></u>	<u></u>
<u>Individual and Small Group Instruction (Ages 3-5 only) (350)</u>	<u></u>	<u></u>
<u>Language and Speech (415)</u>	<u>80.72</u>	<u>hr</u>
<u>Language and Speech (415) - SLP-A (Credentialed)</u>	<u>61.00</u>	<u>hr</u>
<u>Language and Speech (415) – Speech Therapy Assistant</u>	<u></u>	<u></u>
<u>Language and Speech (415) – Bilingual SLP</u>	<u>80.72</u>	<u>hr</u>
<u>Language and Speech (415) - Assessment</u>	<u></u>	<u></u>
<u>Adapted Physical Education (425)</u>	<u></u>	<u></u>
<u>Adapted Physical Education Assessment (425)</u>	<u></u>	<u></u>
<u>Health and Nursing: Specialized Physical Health Care LVN (435)</u>	<u></u>	<u></u>
<u>Health and Nursing: Specialized Physical Health Care RN (435)</u>	<u></u>	<u></u>
<u>Health and Nursing: Specialized Physical Health Care CRN (435)</u>	<u></u>	<u></u>
<u>Health and Nursing: Other Services LVN (436)</u>	<u></u>	<u></u>
<u>Health and Nursing: Other Services RN (436)</u>	<u></u>	<u></u>
<u>Health and Nursing: Other Services CRN (436)</u>	<u></u>	<u></u>
<u>Health and Nursing: Other Services Health Aide/CNA (436)</u>	<u></u>	<u></u>
<u>Assistive Technology Services – Credentialed (445)</u>	<u></u>	<u></u>
<u>Assistive Technology Services - Classified (445)</u>	<u></u>	<u></u>
<u>Assistive Technology Services Assessment (445)</u>	<u></u>	<u></u>
<u>Occupational Therapy (450)</u>	<u></u>	<u></u>
<u>Occupational Therapy (450) – Certified OT Assistant</u>	<u></u>	<u></u>

SAN DIEGO COUNTY NONPUBLIC MASTER CONTRACT
APPENDIX B: AGENCIES
2021-2022

Occupational Therapy (460) - Assessment		
Physical Therapy (460)		
Physical Therapy PT Assistant (460)		
Physical Therapy Assessment (460)		
Individual Counseling (510)		
Counseling and Guidance (515)		
Parent Counseling (520)		
Social Work Services (525)		
Psychological Services (530)		
Psychological Services Assessment (530)		
Behavior Intervention Services (535)		
Behavior Intervention Services (535) - Supervision		
Behavior Intervention Services (535) – Other Provider/Beh.Tech		
Specialized Services for Low Incidence Disabilities (610)		
Specialized Services for Low Incidence Disabilities Assess (610)		
Specialized Deaf and Hard of Hearing (710)		
Specialized Deaf and Hard of Hearing Assessment (710)		
Interpreter Services (715)		
Interpreter Services Shift Differential (715)		
Audiological Services (720)		
Audiological Services Assessment (720)		
Specialized Vision Services (725)		
Specialized Vision Services Assessment (725)		
Orientation and Mobility (730)		
Orientation and Mobility Assessment (730)		
Braille Transcription (735)		
Specialized Orthopedic Services (740)		

SAN DIEGO COUNTY NONPUBLIC MASTER CONTRACT
APPENDIX B: AGENCIES
2021-2022

Specialized Orthopedic Services Assessment (740)		
Reader Services (745)		
Note Taking Services (750)		
Transcription Services (755)		
Recreation Services, Including Therapeutic (760)		
College Awareness Preparation (820)		
Vocational Assessment, Counseling/Guidance Assessment (830)		
Career Awareness (840)		
Work Experience Education (850)		
Job Coaching (855)		
Mentoring (860)		
Agency Linkages (referral and placement) (865)		
Travel Training (870)		
Other Transition Services (890)		
Other (900) Music Therapy		
Other (900) Vision Therapy		
Transportation – Emergency		
Bus Passes		
Professional Development		

NOTES: _____

*Parent transportation reimbursement rates to be set forth in Individual Services Agreements.

SAN DIEGO COUNTY NONPUBLIC MASTER CONTRACT
APPENDIX B: AGENCIES
2021-2022

SECTION 6: APPROVALS

CONTRACTOR
Nonpublic Agency

Authorized Representative Signature

Rachel Tapper Zijistra, Founder & CEO
(Type) Name and Title

DATE: _____

LEA
Local Educational Agency

Authorized Representative Signature

Marilyn Adrianzen, Chief Business Official
(Type) Name and Title

DATE: _____

LEA Board Approval

DATE: _____

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Maintenance, Operations, Transportation & Facilities
Paulo Azevedo, Director

Informational
 Action

AGENDA ITEM: AMENDMENT NO. 2 TO THE MICHAEL BAKER INTERNATIONAL AGREEMENT FOR MITIGATION COMPLIANCE SERVICES

BACKGROUND INFORMATION:

The District was required to obtain permits and authorizations to implement a 5-Year Maintenance and Monitoring Program (MMP) for the vernal pool mitigation site, including annual reporting and coordination with agencies, which ended in December 2016. A final field meeting was completed on April 5, 2017, at which concurrence was obtained that all required performance standards have been achieved at the vernal pool mitigation site. With acceptance (“sign-off”) of this mitigation site by the agencies involved, the post-MMP Perpetual Management Phase for the Offsite Preserve has been initiated. The City of San Diego has indicated that they may take over the responsibility for performing the perpetual management tasks identified in these documents for the Offsite Preserve.

On January 21, 2021, the Governing Board approved the agreement with Michael Baker International and their subconsultant to represent the District in meetings with the City of San Diego for the Offsite Preserve and the Onsite Preserve.

Amendment No. 2 – includes additional services to prepare legal descriptions of the mitigation sites at a not to exceed cost of \$7,500.00. All other terms and conditions remain the same.

RECOMMENDATION:

Approve/Ratify Amendment No. 2 to the agreement with Michael Baker International to provide Mitigation Compliance Services for the District’s offsite and onsite preserves, perpetual management phase of the mitigation sites. The new not-to-exceed contract amount is \$54,500.00 from the Routine Restricted Maintenance fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

\$54,500.00

(Amount)

Routine Restricted Maintenance Fund

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

SAN YSIDRO SCHOOL DISTRICT

4350 Otay Mesa Road, San Ysidro, CA 92173

AMENDMENT NO. 2

The Professional Services Agreement between San Ysidro School District (District) and Michael Baker International was entered on January 22, 2021, to provide mitigation compliance services for Vista Del Mar School project related to the Vernal Pool.

Amendment No. 2 - The following sections are being amended.

- EXHIBIT A: Add the following to the Scope of Work.
 - Prepare a legal description and plat describing the metes and bounds of the conservation area.
 - Prepare the description from record information, not a field survey.
 - Grant deed(s) to be provided by the District.
 - Acquire Title Report.
- SECTION 2.1 FEES: The cost implication for the additional services described above shall not exceed \$7,500.00. The new not-to-exceed contract total is \$54,500.00.

All other Terms and Conditions of the Agreement dated January 22, 2021, remain the same.

The District and Michael Baker International, each of the parties signing this Amendment warrants to the other that he or she has the full authority to sign on behalf of the Party which his or her signature is made.

Michael Baker International

Firm Name

Signature of Authorized Agent

Bob Stark, AICP Project Manager

Print Name, Title

Date:

San Ysidro School District

Firm Name

Signature

Marilyn Adrianzen, Chief Business Official

Print Name, Title

Date

Board Approved/Ratified

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Preschool & Child Development Programs
Lorena Varela-Reed, Director

Informational
 Action

AGENDA ITEM: CALIFORNIA STATE PRESCHOOL PROGRAM (CSPP) CONTRACT –
AMENDMENT NO. 2

BACKGROUND INFORMATION

The California State Department of Education has amended the Preschool & Child Development contract CSPP-1468 for fiscal year 2021-2022. Effective January 1, 2022, the Maximum Reimbursable Amount (MRA) was amended from \$1,471,679.00 to \$1,570,079.00 in place thereof, with an overall increase in funding of \$98,400.00.

RECOMMENDATION:

Approve/Ratify Amendment No. 2 to the California State Department of Education Contract CSPP-1468 increasing the funding for the Preschool & Child Development Programs to \$1,570,079.00 for fiscal year 2021-2022.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

REVENUE

\$1,570,079.00

(Amount)

Preschool & Child Development (CSPP)

(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No



Amendment 02

LOCAL AGREEMENT FOR CHILD DEVELOPMENT SERVICES
ALLOCATION LETTER
RATE REFORM

DATE: July 01, 2021
CONTRACT NUMBER: CSPP-1468
PROGRAM TYPE: CALIFORNIA STATE PRESCHOOL PROGRAM
PROJECT NUMBER: 37-6837-00-1

STATE AGENCY: CALIFORNIA DEPARTMENT OF EDUCATION
CONTRACTOR'S NAME: SAN YSIDRO ELEMENTARY SCHOOL DISTRICT

This agreement with the State of California dated July 01, 2021 designated as number CSPP-1468 and Amendment #01 (Budget Act Amendment) shall be amended as of January 1, 2022 in the following particulars and no others:

The Maximum Reimbursable Amount (MRA) payable pursuant to the provisions of this agreement shall be amended by deleting reference to \$1,471,679.00 and inserting \$1,570,079.00 in place thereof.

REMOVE REFERENCE TO:

The Maximum Rate per child day of enrollment payable pursuant to the provisions of the agreement shall be \$52.72.

AND REPLACE WITH:

Effective January 1, 2022, the service county reimbursement rate as provided in https://www.cde.ca.gov/fg/aa/cd/documents/csppcontractrateatb.xlsx is applicable to the sites, as located in the service counties, approved by the Early Education Division and indicated in the Child Development Management Information System (CDMIS).

SERVICE REQUIREMENTS

The minimum Child Days of Enrollment (CDE) Requirement shall not be impacted by this amendment.

Minimum Days of Operation (MDO) Requirement shall be 180. (No Change)

EXCEPT AS AMENDED HEREIN all terms and conditions of the original agreement shall remain unchanged and in full force and effect.

IMPORTANT: Signature is not required.

Table with financial and program details including Amount Encumbered by this Document (\$98,400), Prior Amount Encumbered for this Contract (\$1,471,679), Total Amount Encumbered to Date (\$1,570,079), Program/Category (Child Development Programs), Fund Title (General), and Object of Expenditure (SACS: Res-6105 Rev-8590).

**SAN YSIDRO SCHOOL DISTRICT
GOVERNING BOARD AGENDA**

TO: Governing Board

BOARD MEETING DATE: January 27, 2022

VIA: Gina A. Potter, Ed.D.
Superintendent

FROM:
Administration Informational
Gina A. Potter, Ed.D., Superintendent Action

AGENDA ITEM: MEMBERSHIP TO THE CALIFORNIA PUBLIC RELATIONS
ASSOCIATION (CalSPRA) 2021-2022

BACKGROUND INFORMATION:

California School Public Relations Association (CalSPRA) is a network of professionals dedicated to excellent school communication. Its primary purpose is to advance the practice of school communications by providing professional development, resources, support, and networking opportunities for all its members. CalSPRA is an incomparable resource for information sharing and statewide collaboration.

RECOMMENDATION:

Approve/Ratify the membership of Francisco Mata, Coordinator of Public Relations and Community Services, to the California Public Relations Association for 2021-2022 at an estimated cost of \$150.00 from the General fund.

LCAP GOAL AND ACTION/SERVICE (please indicate):

Renewal New Amendment Ratify Other

Financial Implications?

Yes No

Are funds for this item available in the 2021-2022 Budget?

Yes No

Requisition #

\$150.00
(Amount)

General Fund
(Name of funding source and/or location)

Recommended for: Approval Denial Certification Requested Yes No

Join CalSPRA Today!

Your leadership of California's public schools is a critical component in assuring educational success for all students. As one of five National School Public Relations Association's Chapter of Distinctions, the California Schools Public Relations Association will prepare your organization to effectively communicate during a crisis or the changes we are facing with Common Core Standards, a bond passage, trustee redistricting, and/or the local control-funding model. An essential way to ensure that your organization has the best possible resources at hand to improve student achievement and build support for education through informing and engaging stakeholders is by purchasing CalSPRA's Institutional Membership (up to three individuals per institution) for only \$250.

CalSPRA memberships run for an entire year from the date of registration - no matter when you join!

Here are a few of the benefits we look forward to sharing with your organization:

- CalSPRA Listserv — a “lifeline” for daily networking and mentoring with colleagues from across the state. Got a crisis or question? Need a parent letter or sample policy? Post your query on the CalSPRA Listserv and you'll get an instant response.
- Reduced registration fees at CalSPRA regional networking events, conferences, and awards program
- Sample resources in our comprehensive Member Library such as letters, contract, board policies, communication and marketing plans, parent involvement and engagement plans, and much more to make communicating easier.
- Annual Excellence in Communications Awards Program and Ceremony
- Networking with Superintendents, Communicators, and students alike
- Regional Professional Development and Networking Events - Southern, Central Valley, and Bay Area Region
- Member of a valuable professional association

CalSPRA is a network of professionals dedicated to excellent school communication. Its primary purpose is to advance the practice of school communications by providing professional development, resources, support, and networking opportunities for our members. Simply put, CalSPRA is an incomparable resource for information sharing and statewide collaboration. Start the school year off right with a communication edge by joining us or renewing your membership today.

- We guarantee that joining CalSPRA will be one of the best investments you will make this year! Please also take time to review the [National School Public Relations Association membership information](#) and consider investing in your professional future by joining its team as well!

So what are you waiting for? Join us!

-

Institutional Membership, log in to your profile with your email and password that will be sent to you in your registration email.

Note that your payment must be received by CalSPRA before you can add other members to your Institutional Membership. If you are paying by a check and purchase order process, make sure to remit the invoice you receive to your Business office for payment.

Your membership grants you access to our members-only section of calspra.org as well as our listserv. If at any time you have questions or issues with the website or listserv, please do not hesitate to contact us at caschoolprassociation@gmail.com.

Thank you for joining CalSPRA!

Level Individual - \$150.00 (USD)
Subscription period: 1 year
No automatically recurring payments

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Next

Paying by check? Please include an invoice number with your payment.

Looking for a membership level that isn't offered above? Please contact us at caschoolprassociation@gmail.com for more information.