

CAPISTRANO UNIFIED SCHOOL DISTRICT  
33122 Valle Road  
San Juan Capistrano, CA 92675

BOARD OF TRUSTEES  
Regular Meeting

September 26, 2011

Closed Session 6:00 p.m.  
Open Session 7:00 p.m.

**AGENDA**

**CLOSED SESSION AT 6:00 P.M.**

**1. CALL TO ORDER**

**2. CLOSED SESSION COMMENTS**

**3. CLOSED SESSION** (as authorized by law)

**A. CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION**

Number of Cases – One  
United States District Court – Central District  
Case No. SACV 11-01024 MLG  
(Pursuant to Government Code §54956.9(a))

**B. CONFERENCE WITH LABOR NEGOTIATORS**

Dr. Joseph M. Farley/Jodee Brentlinger/Ron Lebs/Julie Hatchel/Sara Jocham  
Employee Organizations:  
1) Capistrano Unified Education Association (CUEA)  
2) California School Employees Association (CSEA)  
3) Teamsters  
4) Unrepresented Employees (CUMA)  
(Pursuant to Government Code §54957.6)

**OPEN SESSION AT 7:00 P.M.**

**PLEDGE OF ALLEGIANCE**

**ADOPTION OF THE AGENDA – ROLL CALL**

**REPORT ON CLOSED SESSION ACTION**

**SPECIAL RECOGNITIONS**

*Savannah Zoller, Act of Heroism*

**BOARD AND SUPERINTENDENT COMMENTS**

**ORAL COMMUNICATIONS (Non-Agenda Items)**

Oral Communications will occur immediately following Board and Superintendent Comments. The total time for Oral Communications shall be twenty (20) minutes. Individual presentations are limited to a maximum of three (3) minutes per individual.

**RECORDING OF SCHOOL BOARD MEETINGS**

**In accordance with Board Policy 9324, Board Minutes, all Regular School Board Meetings will be audio recorded**

## DISCUSSION/ACTION ITEMS

1. **MEMORANDUM OF UNDERSTANDING WITH NATIONAL PARK SERVICE:**  
The Memorandum of Understanding (MOU) outlines collaboration between the District and entities associated with National Park Service (NPS). The project centers on bringing science, technology, engineering, and math (STEM) resources from remote locations to students in the District by virtual field trip learning experiences. The program is a one year pilot that involves nine schools with at least one class participating at each school. Teachers will work with scientists and historians at the parks to develop instructional units that promote STEM careers. Students will participate in a minimum of three virtual field trips during the year. Accompanying the MOU, there will be a demonstration from NPS representatives to show the virtual field trip experience the students will have. Approval of the MOU allows the District to collaborate with multiple federal agencies. There are no financial implications associated with this agenda item.

***CUSD Strategic Plan Pillar 3: Academic Achievement & Enrichment***

***Contact: Julie Hatchel, Assistant Superintendent, Education***

Staff Recommendation:

It is recommended the Board President recognize Julie Hatchel, Assistant Superintendent, Education Services, to present this item.

Following the discussion, it is recommended the Board of Trustees approve the Memorandum of Understanding with the National Park Service.

Motion by \_\_\_\_\_ Seconded by \_\_\_\_\_

2. **DEVELOPMENT OF A MANDARIN CHINESE IMMERSION PROGRAM:**  
This item provides the Board with an opportunity to receive a report on a proposed Mandarin Chinese Immersion Program (MIP) in the District. Acquisition of fluency in Mandarin Chinese would allow enrolled students the ability to become fully bilingual and biliterate in English and Mandarin Chinese. If this proposed specialized program is approved by the Board, it would be established within an existing school. MIP would not cause or create any changes in current attendance boundaries as students would be selected using the existing Open Enrollment process already approved and utilized for the Spanish Two-Way Immersion program that currently operates at three elementary school locations, two middle schools and one high school. There is strong evidence of organized parental support for MIP (both within and outside the District); an interest list currently shows 142 students committed to enroll, including 61 kindergartners and 12 first graders for 2012-2013 alone. Because MIP does not exist elsewhere in Orange County, the District would be able to reap additional ADA from students who reside outside the District but wish to enroll (provided space is available). While we cannot accurately project the potential increase in additional ADA, MIP start-up costs would be approximately \$15,000 to cover necessary curriculum and supplies. Personnel costs are dependent upon the type and size of program offered. Ongoing costs are unknown at this time and are dependent upon attrition rates as students move through the program.

***CUSD Strategic Plan Pillar 3: Academic Achievement & Enrichment***

***Contact: Julie Hatchel, Assistant Superintendent, Education Services***

Staff Recommendation:

It is recommended the Board President recognize Julie Hatchel, Assistant Superintendent, Education Services, to present this item.

Following discussion, it is recommended the Board of Trustees provide direction to staff regarding the implementation of a Mandarin Chinese Immersion Program.

Motion by \_\_\_\_\_ Seconded by \_\_\_\_\_

DISCUSSION/  
ACTION  
Vote \_\_\_\_\_  
Page 1  
**EXHIBIT 1**

DISCUSSION/  
ACTION  
Vote \_\_\_\_\_  
Page 5  
**EXHIBIT 2**

3. **RECOMMENDATION OF SUPPLEMENTAL TEXTBOOK – *NOTHING RHYMES WITH ORANGE*:**

DISCUSSION/  
ACTION  
Vote \_\_\_\_\_

The City of Aliso Viejo requested to distribute the book *Nothing Rhymes with Orange*, published by Stan Oftelie, at its “Gift of History” event to be held September 30, 2011, for all third grade students. *Nothing Rhymes with Orange* was brought forward to the Instructional Materials Review Committee (IMRC) at its last adoption cycle. An IMRC member requested a meeting to discuss concerns with the book. In order to consider adoption of the book prior to the Gift of History event, the IMRC met on Tuesday, September 6, 2011. IMRC members voted 10-1 to recommend the approval of *Nothing Rhymes with Orange* for supplemental use to support the third grade social science curriculum. There is no financial impact at this time.

***CUSD Strategic Plan Pillar 3: Academic Achievement and Enrichment***

***Contact: Julie Hatchel, Assistant Superintendent, Education Services***

Staff Recommendation:

It is recommended the Board recognize Julie Hatchel, Assistant Superintendent, Education Services, who will present this agenda item.

Following discussion, it is recommended the Board of Trustees approve the adoption of *Nothing Rhymes with Orange* for supplemental use to support the third grade social science curriculum.

Motion by \_\_\_\_\_ Seconded by \_\_\_\_\_

4. **AWARD OF RFQ/P NO. 5-1112 – TRUSTEE AREA REDISTRICTING ANALYSIS AND ADJUSTMENT SERVICES, NATIONAL DEMOGRAPHICS CORPORATION:**

DISCUSSION/  
ACTION  
Vote \_\_\_\_\_

With the passage of Measure H on November 2, 2010, the District changed the current method of election to a “by trustee area” method of election requiring each member of the Board of Trustees to reside within, and be elected by, the voters living within that particular Trustee area or district. Voters in a Trustee area will no longer elect members of the Board of Trustees for other Trustee areas. These changes become effective with the election scheduled for Tuesday, November 6, 2012.

Page 19  
**EXHIBIT 4**

Staff recommends the award of the contract to National Demographics Corporation (NDC) to assist the Board in reapportioning Trustee areas. NDC has extensive experience in providing redistricting services to state and local governments, special districts, and school districts. NDC is knowledgeable of the federal and state issues regarding the Voting Rights Act and has provided redistricting services to over 130 school districts. More specifically, NDC has provided redistricting services to 20 school districts moving from the “at-large” trustee election process to “area specific” trustee elections. The financial impact of the Trustee redistricting analysis to be completed by National Demographics Corporation is estimated at \$27,500 to \$38,000 depending upon the scope of work requested. Costs will be paid from the general fund.

***CUSD Strategic Plan Pillar 5: Effective Operations***

***Contact: Ron Lebs, Deputy Superintendent, Business & Support Services***

Staff Recommendation:

It is recommended the Board President recognize Ron Lebs, Deputy Superintendent, Business and Support Services, who will present this item.

Following discussion, it is recommended the Board of Trustees approve the award of RFQ for Trustee Area Redistricting Analysis and Adjustment Services to National Demographics Corporation.

Motion by \_\_\_\_\_ Seconded by \_\_\_\_\_

5. **RECOMMENDATION OF TENTATIVE AGREEMENT WITH TEAMSTERS FOR JULY 1, 2011 – JUNE 30, 2012:**

The purpose of this agenda item is to seek approval of the tentative agreement between the District and the Teamsters from the Board of Trustees. In addition to the tentative agreement, the Public Disclosure of the Collective Bargaining Agreement is attached. The total estimated fiscal impact of this agreement is a continued savings to the District of approximately \$400,000 for the 2011-2012 fiscal year.

***CUSD Strategic Plan Pillar 5: Effective Operations***

***Contact: Jodee Brentlinger, Assistant Superintendent, Personnel Services***

Staff Recommendation:

It is recommended the Board President recognize Jodee Brentlinger, Assistant Superintendent, Personnel Services, who will present this item.

Following discussion, it is recommended the Board of Trustees approve the tentative agreement between the District and the Teamsters.

Motion by \_\_\_\_\_ Seconded by \_\_\_\_\_

DISCUSSION/  
ACTION

Vote \_\_\_\_\_

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**EXHIBIT 5**

6. **REVIEW OF 2010-2011 PRELIMINARY FINANCIAL STATEMENT (UNAUDITED ACTUALS) and 2011-2012 REVISED BUDGET:**

The Board of Trustees approved the 2010-2011 Unaudited Actuals at the September 12, 2011, Board meeting. Staff will present an overview of the 2010-2011 fiscal year closing information, the 2011-2012 revised budget, and potential changes/impact to the 2011-2012 budget and multi-year projection from the proposed mid-year reductions.

Due to the size of the supporting documentation for this item, the backup information will be posted online on the District Board Agendas and Supporting Documentation page.

***CUSD Strategic Plan Pillar 5: Effective Operations***

***Contact: Ron Lebs, Deputy Superintendent, Business & Support Services***

Staff Recommendation:

It is recommended the Board President recognize Ron Lebs, Deputy Superintendent, Business and Support Services, who will present this item and answer any questions Trustees may have. This is an information item only and no Board action is necessary.

7. **SCHOOL FACILITY MITIGATION AGREEMENTS AND COMMUNITY FACILITIES DISTRICTS:**

The District currently operates ten Community Facilities Districts (CFDs) which are used to fund capital improvements at various school sites. Staff will present an overview of school facility mitigation, CFD mechanics, Capistrano Unified School District CFDs, and facility funding options with the goal of laying the foundation for policy decisions and operational direction as it relates to future housing development and subsequent school facility needs.

Due to the length of the presentation and quantity of information it contains, this item will be delivered over the course of two meetings and is broken into components as follows:

Part One – CFD Background and Mechanics

Part Two – Existing CFDs and Prospective CFD Policies

The PowerPoint presentation and supporting information will be posted online on the District Board Agendas and Supporting Documentation page prior to the close of business on Wednesday, September 21.

***CUSD Strategic Plan Pillar 5: Effective Operations***

***Contact: Ron Lebs, Deputy Superintendent, Business & Support Services***

INFORMATION/  
DISCUSSION

INFORMATION/  
DISCUSSION



Staff Recommendation:

It is recommended the Board President recognize Ron Lebs, Deputy Superintendent, Business and Support Services, who will provide the CFD update and answer any questions Trustees may have. This is an information item only and no Board action is necessary.

**8. SECOND READING – REVISIONS TO BOARD POLICY 1230, SCHOOL-CONNECTED ORGANIZATIONS:**

Revisions to existing Board policy and administrative regulations are necessary as the District adopts policies and procedures to comply with state law regarding student fees. Legislation pending before the state legislature will further clarify the rules surrounding this issue. In order to effectively develop new policies and procedures, District staff has engaged school site leaders, community groups, and student organizations to discuss the implications of the new rules surrounding student fees. This agenda item presents for consideration revisions to Board Policy 1230, *School-Connected Organizations*. The revisions outline expectations for school-connected organizations. There is no financial impact. Proposed additions to the Board policy are underlined; deletions are struck through.

***CUSD Strategic Plan Pillar 1: Community Relations***

***Contact: Marcus Walton, Chief Communications Officer***

Staff Recommendation:

It is recommended the Board President recognize Marcus Walton, Chief Communications Officer, to present the revision to Board Policy 1230, *School-Connected Organizations*.

Following discussion, it is recommended the Board approve revisions to Board Policy 1230, *School-Connected Organizations*.

Motion by \_\_\_\_\_ Seconded by \_\_\_\_\_

**9. AWARD BID NO. 1011-15 – SAN JUAN HILLS HIGH SCHOOL STADIUM PHASE II, OHNO CONSTRUCTION:**

On February 8, 2011, the Board of Trustees authorized District staff to commence the bidding of the revised plans and specifications for the remaining home-side bleachers and associated improvements at San Juan Hills High School once property issues were resolved with Whispering Hills, LLC. This work completes construction of the previously deleted project items that include: the home-side stadium bleachers, the press box, and the related electrical and public address systems. The synthetic track is part of the overall project but will be performed by a specialty contractor under a separate agreement.

The bids were received and opened on September 8, 2011. The lowest base bid was selected as the method to determine the lowest responsive bidder. At \$1,640,000, Ohno Construction Company was the lowest responsive bidder.

***CUSD Strategic Plan Pillar 5: Effective Operations***

***Contact: Ron Lebs, Deputy Superintendent, Business & Support Services***

Staff Recommendation:

It is recommended the Board President recognize Ron Lebs, Deputy Superintendent, Business and Support Services, who will present this item.

Following discussion, it is recommended the Board of Trustees approve the award of Bid No. 1011-15, San Juan Hills High Stadium Phase II in the amount of \$1,640,000 to Ohno Construction Company.

Motion by \_\_\_\_\_ Seconded by \_\_\_\_\_

DISCUSSION/  
ACTION

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**EXHIBIT 8**

DISCUSSION/  
ACTION

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**EXHIBIT 9**

## CONSENT CALENDAR

All matters listed under the Consent Calendar are considered by the Board to be routine and will be enacted by the Board in one motion in the form listed below. There will be no discussion of these items prior to the time the Board votes on the motion unless members of the Board, staff, or the public request specific items to be discussed and/or removed from the Consent Calendar. The Superintendent and the staff recommend approval of all consent Calendar items.

### GENERAL FUNCTIONS

**10. SCHOOL BOARD MINUTES:**

Approval of the minutes of the September 12, 2011, regular Board meeting.

*Contact: Jane Boos, Manager, Board Office Operations*

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**EXHIBIT 10**

### CURRICULUM & INSTRUCTION

**11. MEMORANDUM OF UNDERSTANDING BETWEEN ORANGE COUNTY SUPERINTENDENT OF SCHOOLS AND CAPISTRANO UNIFIED SCHOOL DISTRICT:**

Approval of the Memorandum of Understanding (MOU) between the Orange County Superintendent of Schools and Capistrano Unified School District will allow Orange County Department of Education (OCDE) to conduct special education programs and services for eligible District students July 1, 2011, through June, 30, 2012. The OCDE Division of Special Education Services operates a program to provide special education programs and services to pupils with exceptional needs. Students are referred by their Individualized Education Program (IEP) teams when it is jointly determined by the District and OCDE that the students' educational needs, as specified in the IEP, can be appropriately met by the programs and services operated by OCDE. Approximately 99 District students are currently enrolled in OCDE programs. There are three cost categories for OCDE programs: classroom, transportation, and special circumstance aide. The average classroom cost per student is \$40,737. Based on current enrollment, the estimated District cost for students attending OCDE classes for the 2011-2012 school year is approximately \$4,032,963. The estimated District cost for transportation provided by OCDE is approximately \$469,656. The estimated District cost for required special circumstance aides in classrooms or on buses is approximately \$937,863.

*CUSD Strategic Plan Pillar 3: Academic Achievement & Enrichment*

*Contact: Sara Jocham, Assistant Superintendent, Special Education Services*

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**EXHIBIT 11**

### BUSINESS & SUPPORT SERVICES

**12. DONATION OF FUNDS AND EQUIPMENT:**

A number of gifts have been donated to the District, including \$112,667.17 in cash. These funds will be deposited in the appropriate school accounts. Items other than cash gifts have no financial impact on the budget. The District does not guarantee maintenance of those items or the expenditure of any District funds for their continued use.

*CUSD Strategic Plan Pillar 3: Academic Achievement & Enrichment*

*Contact: Ron Lebs, Deputy Superintendent, Business & Support Services*

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**EXHIBIT 12**

**13. RESOLUTION NO. 1112-22 INCREASE IN THE WORKERS' COMPENSATION RATE:**

Approval of Resolution No. 1112-22 authorizing an increase in the Workers' Compensation Rate from \$1.61 per \$100 to \$2.00 per \$100. This will reduce the current unfunded liability in the Workers' Compensation account.

*CUSD Strategic Plan Pillar 5: Effective Operations*

*Contact: Ron Lebs, Deputy Superintendent, Business & Support Services*

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**EXHIBIT 13**

- 14. INDEPENDENT CONTRACTOR AGREEMENT – STAFF DEVELOPMENT TRAINING, MARY MERCHANT:** Page 81  
**EXHIBIT 14**
- Approval of an independent contractor agreement with Mary Merchant to provide staff development training for school psychologists and counselors. Mary Merchant will provide services at the rates indicated on the fee schedule for the 2011-2012 school year, on an as-needed basis, paid out of Medi-Cal funds. Scheduled services under this contract are estimated to be \$1,050.
- CUSD Strategic Plan Pillar 3: Academic Achievement & Enrichment*  
*Contact: Ron Lebs, Deputy Superintendent, Business & Support Services*
- 15. INDEPENDENT CONTRACTOR AGREEMENT – STATE-MANDATED HEARING AND VISION SCREENING SERVICES, PACIFIC AUDIOLOGICS:** Page 89  
**EXHIBIT 15**
- Approval of an independent contractor agreement with Pacific Audiologies to provide state-mandated hearing and vision screening services for grades kindergarten, second, fifth, and eighth. Pacific Audiologies will provide services at the rates indicated on the fee schedule for the 2011-2012 school year, on an as-needed basis, paid out of the general fund. Scheduled services under this contract are estimated to be \$69,250.
- CUSD Strategic Plan Pillar 2: Safe & Healthy Schools*  
*Contact: Ron Lebs, Deputy Superintendent, Business & Support Services*
- 16. AWARD BID NO. 1112-10 – TREE TRIMMING MAINTENANCE SERVICE, WEST COAST ARBORISTS, INCORPORATED:** Page 101  
**EXHIBIT 16**
- Approval of the award of bid for tree trimming maintenance service to West Coast Arborists, Incorporated. The initial base contract is August 27, 2011, through August 26, 2012. The contract may be extended by mutual agreement and upon Board approval, for a renewal term not to exceed two additional one-year periods. This contract provides competitive, set pricing for pruning, trimming, and maintenance of trees throughout the District, on an as-needed basis, at the prices shown on the Bid Form. The total annual expenditures under this contract are estimated to be \$80,000 funded from the routine restricted maintenance account.
- CUSD Strategic Plan Pillar 5: Effective Operations*  
*Contact: Ron Lebs, Deputy Superintendent, Business & Support Services*
- 17. EXTENSION AGREEMENT RFQ NO. 2-1011 – CONSTRUCTION MANAGER/ OWNER’S REPRESENTATIVE, EDENCO, INCORPORATED:** Page 113  
**EXHIBIT 17**
- Approval of extension agreement with Edenco, Incorporated. In light of the fiscal crisis, a letter was sent to the firm requesting reduced costs for the 2011-2012 renewal period. The firm has proposed a reduction in rates for services, at the new rate of \$150 per hour as opposed to \$155 per hour in the original agreement. The reduced hourly rate represents a cost savings of approximately 3.5 percent. This contract provides competitive, hourly rates for owner’s representative construction management services for the Capistrano Valley High School (CVHS) Performing Arts Theater, the San Juan Hills High School (SJHHS) Aquatics Center, and the stadium project. All three construction projects will run concurrently through February 2012, which is the scheduled completion of the SJHHS Aquatics Center. The construction of the second phase of the SJHHS stadium is expected to be completed by April/May 2012, and the CVHS Performing Arts Theater is anticipated to be finished by May 2013.
- The extension of Agreement RFQ No. 2-1011 for an additional year is anticipated to cost approximately \$312,000. Fees for construction management services traditionally represent approximately 8 percent of a project’s construction cost. This estimated fee can be influenced by a variety of construction and non-construction related factors including project complexity, contractor performance, and unforeseen conditions. A detailed review of Edenco’s construction management fees is attached. Funding for these services depends upon the specific project and will come from Community Facilities Districts 87-1 and 98-2.
- CUSD Strategic Plan Pillar 5: Effective Operations*  
*Contact: Ron Lebs, Deputy Superintendent, Business & Support Services*

**18. INCOME AGREEMENT – VISION ASSESSMENTS AND CONSULTATIONS, ORANGE COUNTY SUPERINTENDENT OF SCHOOLS:**

Page 159  
**EXHIBIT 18**

Approval of an income agreement with the Orange County Superintendent of Schools to provide the services of Jane Vogel for vision assessments and consultations for students. Services will be provided at the rates indicated in the agreement for the 2011-2012 school year, on an as-needed basis, paid out of special education funds. Scheduled services under this contract are estimated to be \$6,500.

*CUSD Strategic Plan Pillar 2: Safe & Healthy Schools*

*Contact: Ron Lebs, Deputy Superintendent, Business & Support Services*

**19. AMENDMENT TO SCHOOL BUS SERVICE AGREEMENT – JSERRA CATHOLIC HIGH SCHOOL:**

Page 165  
**EXHIBIT 19**

Approval of amendment to the school bus service agreement with JSerra Catholic High School adding the ability to provide services for additional buses. Through this agreement, the District provides servicing, inspections, maintenance, roadside assistance, and driver training. This agreement provides a positive revenue stream into the District's general fund to offset a portion of the Transportation Department's encroachment.

*CUSD Strategic Plan Pillar 5: Effective Operations*

*Contact: Ron Lebs, Deputy Superintendent, Business & Support Services*

**20. CORRECTED RENTAL AGREEMENT – CAPO BEACH CALVARY:**

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**EXHIBIT 20**

Approval of corrected rental agreement with Capo Beach Calvary changing the name and contact information. On August 8, 2011, the Board approved the original rental agreement inadvertently stating the incorrect vendor information. This agreement provides parking for a bus owned by Capo Beach Calvary at the South Transportation Yard. Fees charged for this service are \$75 per month. This agreement provides a positive revenue stream into the District's general fund to offset a portion of the Transportation Department's encroachment.

*CUSD Strategic Plan Pillar 5: Effective Operations*

*Contact: Ron Lebs, Deputy Superintendent, Business & Support Services*

Motion by \_\_\_\_\_

Seconded by \_\_\_\_\_

ROLL CALL:

Student Advisor Ryan Pallas \_\_\_\_\_

Trustee Addonizio \_\_\_\_\_

Trustee Alpay \_\_\_\_\_

Trustee Bryson \_\_\_\_\_

Trustee Hatton \_\_\_\_\_

Trustee Palazzo \_\_\_\_\_

Trustee Pritchard \_\_\_\_\_

Trustee Brick \_\_\_\_\_

**NOTE: BY USING A ROLL CALL VOTE FOR THE CONSENT CALENDAR, IT WILL MEET THE NEED FOR ACTION ITEMS WHICH REQUIRE A SIMPLE MOTION OR ROLL CALL VOTE.**

**ADJOURNMENT**

Motion by \_\_\_\_\_

Seconded by \_\_\_\_\_

**THE NEXT REGULAR MEETING OF THE BOARD OF TRUSTEES IS MONDAY, OCTOBER 10, 2011, 7:00 P.M. AT THE CAPISTRANO UNIFIED SCHOOL DISTRICT OFFICE BOARD ROOM, 33122 VALLE ROAD, SAN JUAN CAPISTRANO, CALIFORNIA**

For information regarding Capistrano Unified School District, please visit our website:

[www.capousd.org](http://www.capousd.org)

## INSTRUCTIONS FOR PRESENTATIONS TO THE BOARD BY PARENTS AND CITIZENS PRESENT AT THIS MEETING

We are pleased you can be with us at this meeting, and we hope you will return often. Your visit assures us of continuing community interest in our schools.

The members of the Board of Trustees of this District are locally elected state officials, who serve four-year terms of office, and who are responsible for the educational program of our community from grades kindergarten through twelve. They are required to conduct programs of the schools in accordance with the State of California Constitution, the State Education Code, and other laws relating to schools enacted by the Legislature, and policies and procedures which this Board adopts.

The Board is a policy-making body whose actions are guided by the school district's Mission and Goals. Administration of the District is delegated to a professional administrative staff headed by the Superintendent.

The agenda and its extensive background material are studied by each member of the Board for at least two days preceding the meeting. Board Members can call the administrative staff for clarification on any item, and many of the items on the agenda were discussed by the Board during previous meetings. These procedures enable the Board to act more effectively on agenda items than would otherwise be possible.

### WHAT TO DO IF YOU WISH TO ADDRESS THE BOARD OF TRUSTEES

**ITEMS ON THE AGENDA.** Any person may address the Board concerning any item on the agenda and may, at the discretion of the Board, be granted three (3) minutes to make a presentation to the Board at the time a specific item is under discussion. However, the time assigned for individual presentations could be fewer than three (3) minutes depending upon the total number of speakers who wish to address a specific agenda topic. Prior to the opening of the meeting, a Request to Address the Board card (located in the foyer) should be completed and submitted to the Secretary of the Board. The total time devoted to presentations to the Board shall not exceed twenty (20) minutes, unless additional time is granted by the Board. All presentations shall be heard by the Board prior to the formal discussion of the agenda topic under consideration. Once an agenda item has been opened for public comment, no additional "Request to Address the Board of Trustees" cards shall be accepted for that topic.

**ORAL COMMUNICATIONS (Non-Agenda Items).** Citizens may address the Board on any item not appearing on the agenda. Individual presentations are limited to three (3) minutes per individual, with twenty (20) minutes in total being devoted for this purpose, but could be less if there are a large number of Oral Communication speakers. Legally, the Board may not take action on items raised by speakers under Oral Communications. However, at its discretion, the Board may refer items to the administration for follow-up or place topics on a future Board agenda.

**PUBLIC HEARINGS.** Anytime the Board schedules a separate public hearing on any given topic, it shall not hear speakers on that topic before the public hearing, except as to the scheduling of the hearing, nor shall it hear speakers after the hearing, except as to changes in the policy or recommended actions which are directed at the time of the hearing.

**CLOSED SESSION.** In accordance with Education Code §35146 and Government Code §54957, the Board may recess to Closed Session to discuss personnel matters which they consider inadvisable to take up in a public meeting.

### REASONABLE ACCOMMODATION

*In order to help ensure participation in the meeting of disabled individuals, appropriate disability-related accommodations or modifications shall be provided by the Board, upon request, in accordance with the Americans with Disabilities Act (ADA). Persons with a disability who require a disability-related accommodation or modification, including auxiliary aids and services in order to participate in a Board meeting, shall contact the Superintendent or designee in writing by noon on the Friday before the scheduled meeting. Such notification shall provide school district personnel time to make reasonable arrangements to assure accessibility to the meeting.*

**Memorandum of Understanding**  
Between  
The United States Department of the Interior  
National Park Service  
And  
Capistrano Unified School District

This Agreement is entered into by and between the United States Department of the Interior, National Park Service (hereinafter "NPS"), acting through the Director of the Southern California Research Learning Center (hereinafter "SCRLC") Susan Teel, and Capistrano Unified School District (hereinafter "CUSD"), a public unified school district located in San Juan Capistrano, California, acting through its Assistant Superintendent, Education Services, Julie Hatchel.

**ARTICLE 1 – BACKGROUND AND OBJECTIVES**

This task Agreement initiates formal collaboration among NPS entity the SCRLC and CUSD in the form of the Memorandum of Understanding (MOU) to pilot a science, technology, engineering, and math (STEM) program featuring virtual field trips, actual field trips which include application of scientific monitoring and research methods, and an ambassadorship/mentoring component. The purpose of the proposed Agreement is to increase cooperation among our groups and further our collective missions. Below we provide background information for each program to demonstrate how collaboration would be mutually beneficial to all parties.

The role and function of the SCRLC is to promote and support research in the Mediterranean ecosystems at locations such as Cabrillo National Monument, Channel Islands National Park, and Santa Monica Mountains National Recreation Area. The purpose is to integrate science and research results into management strategies, and promote resource stewardship. The SCRLC communicates scientific information in mediums which promote increased awareness and understanding of the Mediterranean biome by resource managers, students and the public. The SCRLC staff will work closely with District staff, teachers, students, partner organizations, and NPS managers and staff in each network park to foster communication, prioritize research needs, facilitate implementation of scientific studies, communicate relevant study results, and provide access to science-based information for multiple audiences.

The ultimate goal of the SCRLC is to facilitate the application of scientific information to natural resource management, the complimentary goal of promoting strong STEM curricula programs at CUSD, and to train students to explore, understand, and apply science, technology, engineering, and mathematics towards employment in science related fields. The strong application based nature of the program at CUSD is an ideal match with the SCRLC programs.

The District is committed to collaboration between community agencies to safeguard that educational goals and objectives are relevant to the lives and future of students. Goals include

ensuring that students demonstrate competency in challenging subject matter, including mathematics and science. In addition, CUSD goals focus on clear career orientation and marketable skills for students so that they are well prepared to experience success at the university level or in vocational fields of study. Students will also be proficient in using the tools of technology and be able to demonstrate the ability to solve problems alone or in groups. The goals outlined above can be met through the engagement of teachers, students, and experts associated with SCRLC in STEM based virtual projects.

The District is committed to pursuing innovative programs that focusing on meeting the needs of students by enhancing their self-motivation. Along with the District adopted curriculum, teachers and representatives from federal agencies will work together to create supplemental curriculum that includes technologically-based virtual learning experiences, materials, realia, meaningful research questions, data collection and analysis, and capstone projects that produce real scientific results. The collaboration will benefit all parties involved, but none more than the students who will engage in experiential learning that expands knowledge of a scientific theme to all aspects of STEM and careers throughout a student's school career.

As the District moves into the 21<sup>st</sup> century, there is a great need for students to have an understanding of, experience in, and exposure to STEM related fields of study and careers. There is urgency in ensuring that students have the opportunity to apply problem solving techniques and technology in career fields that are relevant for their future. Learning about science, applying mathematics ideals, utilizing engineering to solve a problem, and communicating all these topics with technology provides students with an education that expands beyond the classroom and textbooks. The collaboration with SCRLC and CUSD is an ideal match to provide students with these rich and valuable experiences.

The pilot program will involve nine District schools; three elementary, three middle, and three high schools. Each feeder pattern from elementary to high school will develop a theme that creates a pathway for students to experience while they move through their years of schooling. Students will participate in virtual field trips to remote locations around the country, will mentor their younger peers in the STEM pathway, and will complete the experience with a capstone research project that will include visiting the NPS location that the students learned about through the years.

The purpose of this Agreement is to formalize our partnership through the following objectives:

1. Pilot a program to include nine District schools. Each school will plan and execute a minimum of three virtual field trips to remote locations coordinated through SCRLC.
2. Representatives from participating agencies will interpret the science and/or history/social science during the virtual field trips.
3. Teachers will work with representatives from SCRLC to create supplemental curriculum and a roadmap of locations to visit for the grade level.
4. Representatives from each participating agency may participate in seeking grant funding.
5. Representatives from each participating agency will collaborate on all aspects of the program during the pilot year.

## **ARTICLE II - AUTHORITY**

The MOU is used to document mutually agreed upon policies, procedures, objectives, and/or assistance relationships that do not involve funding. The enabling park legislation or the general management authorities under **16 USC §§1-3** are the legal authorities for this Agreement.

## **ARTICLE III – STATEMENT OF WORK**

### **A. CUSD will:**

1. Appoint Julie Hatchel, Assistant Superintendent, Education Services, as Principal Investigator (PI) of the program.
2. Cooperate with the Agreement Technical Representative (ATR), as specified in relevant portions of Project Products, to ensure that the conduct of the project complies with the *NPS Interim Guidance Document Governing Code of Conduct, Peer Review, and Information Quality Corrections for National Park Service Cultural and National Resource Disciplines*.
3. Fully acknowledge NPS in any published or formally presented materials developed or derived from this MOU.
4. Ensure that teacher and student participates have properly working equipment and materials to participate in virtual field trips.

### **B. The NPS will:**

1. Assign Susan Teel as the ATR.
2. Provide assistance to CUSD as provided in **16 USC §§1a-2j** and **Article VI** of this document.
3. Inform the PI of the specific activities required to comply with the *NPS Interim Guidance Document Governing Code of Conduct, Peer Review, and Information Quality Correction for National Park Service Cultural and National Resource Disciplines*, and with any and all subsequent guidance issued by the NPS Director to replace this interim document.
4. Fully acknowledge CUSD in any published or formally presented material developed or derived collaboratively from this partnership.

## **ARTICLE IV – TERM OF AGREEMENT**

This Agreement will be effective for a period of one year from the date of final signature, unless it is terminated earlier by one of the three parties pursuant to ARTICLE VIII that follows.



**ARTICLE V – KEY OFFICIALS**

A. Key officials are essential to ensure maximum coordination and communication between the parties and the work being performed. They are:

1. NPS:

Susan Teel, Director  
NPS/SCRLC  
401 West Hillcrest Drive  
Thousand Oaks, CA 91360  
(805) 370-2332  
[susan\\_teel@nps.gov](mailto:susan_teel@nps.gov)  
Fax: (805) 370-1850

Tom Workman, Superintendent  
1800 Cabrillo Memorial Drive  
San Diego, CA 92106  
NPS/Cabrillo National Monument  
(619) 523-4560  
[tom\\_workman@nps.gov](mailto:tom_workman@nps.gov)

2. CUSD:

Julie Hatchel, Assistant Superintendent, Education Services  
33122 Valle Rd.  
San Juan Capistrano, CA 92675  
(949) 234-9229  
[jhatchel@capousd.org](mailto:jhatchel@capousd.org)  
Fax: (949) 489-0467

Pam Watkins, Executive Director, Elementary Education  
33122 Valle Rd.  
San Juan Capistrano, CA 92675  
(949) 234-9260  
[pwatkins@capousd.org](mailto:pwatkins@capousd.org)  
Fax: (949) 489-0467

B. Changes in Key Officials – Neither the NPS or CUSD may make any permanent change in a key official without written notice to the other party reasonably in advance of the proposed change. The notice will include a justification with sufficient detail to permit evaluation of the impact of such a change on the scope of work specified within this Agreement. Any permanent change in key officials will be made only by modification to this Agreement.

## **ARTICLE VI – REPORTS AND OTHER DELIVERABLES**

### **A. Schedule and Milestones**

1. The SCRLC and CUSD representatives will meet bi-annually to collaborate about program progress. Adjustments will be made after each meeting to ensure achievement of stated goals and objectives.
2. The Director of SCRLC and Assistant Superintendent, Education Services will meet annually to draft a new MOU or otherwise modify the project for the following year.

### **B. Description of Project Reports**

1. Notes summarizing the meetings will serve as the project reports. Within 10 days after the final meeting, summary notes will be distributed to all participants.
2. The District will use the project reports to create a presentation to share with the Board of Trustees on a yearly basis.

## **ARTICLE VII – PROPERTY UTILIZATION**

Personal property of NPS maintained in the District will be used and disposed of as set forth in NPS Property Management Regulations.

## **ARTICLE VIII – MODIFICATION AND TERMINATION**

The proposed Agreement may be modified or terminated at any time by the mutual consent of the parties or by either party with sixty days advance written notice.

## **ARTICLE IX – STANDARD CLAUSES**

### **A. Civil Rights**

1. During the performance of this Agreement, the participants agree to abide by the terms of US Department of the Interior – Civil Rights Assurance Certification, non-discrimination, and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, sexual orientation, national origin, disabilities, religion, age, or sex.

### **B. Promotions**

1. The District will not publicize, or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts, or other publications) which states or implies Governmental Departmental, bureau, or Government employee endorsement of a product, service, or position which the District represents. No release of information relating to this Agreement may state or imply that the Government approves of the District's work product, or considers the Repository's work product to be superior to other products or services.

### **C. Liability**

1. The District accepts responsibility for any property damage, injury, or death caused by the negligent acts or omission of their respective faculty, employees, or agents arising under this MOU, to the fullest extent of the law.
2. NPS shall be responsible, to the extent allowed by the Federal Tort Claims Act, **28 USC §§1346** et seq., for claims against the United States for injury or loss of property or death resulting from the negligent or wrongful act or omission of its employee(s) while acting within the scope of his or her employment and with the scope of this MOU.

**D. Public Information Release**

1. The District will ensure that all information submitted for publication or other public releases of information regarding this project will carry the following disclaimer:

“The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the US Government. Mention of trade names or commercial products does not constitute their endorsement by the US Government.”

2. The District will obtain prior NPS approval from Rick Jenkins at the regional public affairs office at Cabrillo National Monument for any public information release that refers to the Department of the Interior, any bureau or employee (by name or title) or to this Agreement. The specific text, layout, photographs, etc., of the proposed release must be submitted to the ATR, who will forward such materials to the public affairs office, along with the request for approval.
3. The NPS will obtain prior District approval from the Chief Communications Officer or designee for any public information release that refers to Capistrano Unified School District, any school or department or employee (by name or title) or student or to this Agreement. The specific text, layout, photographs, etc., of the proposed release must be submitted to the Chief Communications Officer or designee for approval.

**E. Publications of Results of Studies**

1. No party will unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publication of previously published technical matter. Publications pursuant to this Agreement may be produced independently or in collaboration with others; however, in all cases proper credit will be given to the efforts of those parties contributing to the publication. In the event no Agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscripts to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

**ARTICLE X – SIGNATURES**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

**FOR THE NATIONAL PARK SERVICE**

Signature: \_\_\_\_\_

Name: Tom Workman

Title: Superintendent – Cabrillo National Monument

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: Susan Teel

Title: Director – Southern California Research Learning Center

Date: \_\_\_\_\_

**FOR CAPISTRANO UNIFIED SCHOOL DISTRICT**

Signature: \_\_\_\_\_

Name: Joseph M. Farley, Ed. D

Title: Superintendent

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: Jack R. Brick

Title: President, CUSD Board of Trustees

Date: \_\_\_\_\_



# Sea to Shining Sea

A Partnership between Capistrano Unified School District and United States Government Agencies to Promote Science Based Educational Experiences which link to National Resources

## A White Paper

Summer 2011

### Introduction / Background

Over the last five years the National Park Service's Southern California Research Learning Center has worked with National Science Foundation (NSF) funded Applied Network Research to develop a low cost, interactive way to connect audiences to remote national parks. This project has been named Live Interactive Virtual Explorations (LIVE). Beginning in 2009 the Southern California Research Learning Center introduced a pilot program, the Climate Change Ambassador program, to integrate LIVE with science education. This program culminated with a meaningful expedition-style citizen science/service learning project.

A July 2011 meeting between the Southern California Research Learning Center and Capistrano Unified School District (CUSD) was held to brainstorm ways to develop low cost curriculum based programs that incorporate applied scientific methods, experiential learning and highlight the following: citizen science, interaction, real world examples which spark excitement about the science, technology, engineering and math (STEM) disciplines and the natural world.

### Proposed Program

The program will include partnerships with CUSD and multiple United States Government agencies including: National Park Service, Fish and Wildlife Service, National Oceanic and Atmospheric Administration and the Bureau of Reclamation.

This effort proposes to develop a pilot program within the CUSD using three different feeder patterns with a spiraling-up method of increasing substance and depth at each level. The curriculum developed will complement state education standards and will focus on a theme such as water or climate change. At the elementary levels, LIVE programs and technology will be integrated enabling students to virtually interface with federal scientists at field and laboratory locations. Middle school students will engage in LIVE and will also visit local sites in person to develop an even more hands-on appreciation for the subject matter. The middle school students

will serve as mentors and share the knowledge they acquire through the field trips with the elementary school students in the program.

Upper-level high school students will participate in a program similar to the Climate Change Ambassador program. This program will contain classroom and field preparation components, a multiday topical research expedition to a NPS, FWS, BOR, or NOAA location and a youth leadership civic engagement follow up component. The upper-level students will use the LIVE technology to interact with their younger peers.

## **Future Direction / Long-Term Focus**

The pilot will be created with an eye toward replicability and expansion to include more schools in CUSD and other school districts nationwide. The program will seek to develop best practices that in turn can be transferred to other interested parties.

## **Next Step**

Project leads will meet on August 22, 2011 to further conceptualize the pilot program. A presentation will be made to the CUSD Board of Trustees on September 28, 2011 to seek approval to draft a cooperative agreement for consideration, development, implementation of the pilot.

## Appendices A-C

### Appendix A – Sea to Shining Sea LIVE Project Summary

National Park Service  
U.S. Department of the Interior  
Southern California Research Learning Center  
Research Project Summary January 2011

## Sea to Shining Sea LIVE Project Summary

Hans-Werner Braun, University of California San Diego  
Kimberly Bruch, University of California San Diego  
Susan Teel, National Park Service

### Background and Purpose

The Sea to Shining Sea (StSS) Live Interactive Virtual Explorations (LIVE) project team is working to meet the Second Century Commission's recommendations

"...that the Park Service and its educational partners ensure access to current and leading-edge technology and media to facilitate park learning. As easily as we now make a phone call, every classroom in America should be able to conduct video conferences with park rangers, natural and cultural resources staff, and other experts, to learn about issues that are important to the parks, and how these issues relate to local, national, and global concerns".



A National Park Service ranger talks with students in Los Angeles about the Cabrillo National Monument's intertidal area. Photo Credit: HPWREN & California Science Center.

Pala Native American youths participate in a StSS LIVE activity between their rural reservation and the Cabrillo National Monument intertidal area. One student attempts to reach out and touch a hermit crab as it scurries along the rock crevices. Photo Credit: HPWREN



To date, a range of LIVE broadcasts have been conducted by 8 Research Learning Centers and 18 NPS sites including presentations to audiences at professional conferences, students in classrooms across the country, and audiences at university and museum auditoriums.



### Sea to Shining Sea LIVE Backpack System

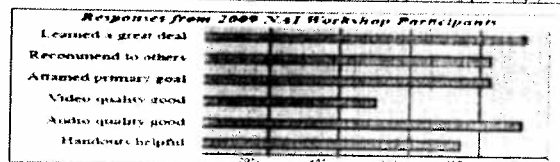
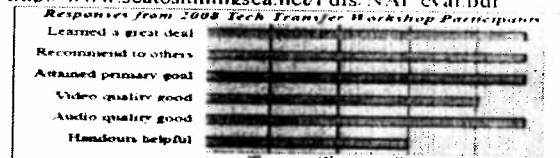
An inexpensive backpack system, developed by the High Performance Wireless Research and Education Network (HPWREN), allows park interpreters and scientists to easily move about in the field while broadcasting LIVE distance education programs. The instruction manual can be found at: <http://seatoshiningsea.org/news>

### LIVE Workshops and Training

November 2008 – LIVE Technology Transfer Workshop  
March 2009 – LIVE Workshop at George Wright Society  
November 2009 – LIVE Workshop at NAI  
May 2010 – LIVE Teacher Tech Workshop  
October 2010 – DOI Office of Civil Rights Diversity Days  
May 2011 – LIVE Technology Transfer and workshop

### Evaluation Results for LIVE Tech Transfer Workshops

Detailed evaluation results of the LIVE workshops are available in a 2009 George Wright Society article at: [http://www.seatoshiningsea.net/Pdfs/NAI\\_eval.pdf](http://www.seatoshiningsea.net/Pdfs/NAI_eval.pdf)



### Additional Resources

Mann-Bruch, K., Braun, H-W., Teel, S. (2010) Live Interactive Virtual Explorations at a Southern California Native American Learning Center Case Studies and Lessons Learned. *Journal of Science on Information Technology (JSIT)* Vol. 12(3), 2010

Mann-Bruch, K., Braun, H-W., Teel, S. (2010) An Examination of Live Interactive Virtual Explorations with the High Performance Wireless Research and Education Network in Southern California. Pages 311-332 in: Mukerji, Siran and Tripathi, Purnendu, Eds. *Cases on Technological Adaptability and Transnational Learning: Issues and Challenges*. IGI Global Hershey, PA, USA.





## Appendix B – Climate Change Ambassador Project Summary

National Park Service  
U.S. Department of the Interior  
Southern California Research Learning Center  
Research Project Summary September 2010



### Climate Change Ambassadors

*Nicholas de Rouillac, National Park Service*  
*Jim Donovan, National Park Service*  
*Brandon Everett, Elementary Institute of Science*  
*Erin Hunt, California Wolf Center*

*Kevin Schallert, National Park Service*  
*Melissa Sladek, National Park Service*  
*Paul Ollig, National Park Service*  
*Susan Teel, National Park Service*



#### Project Overview:

In July of 2010, twenty-two high school students from the Elementary Institute of Science (EIS) in San Diego completed a journey that would forever change their understanding of climate change and conservation efforts, as well as shape their futures. The group was comprised of students from 10 different schools in the San Diego area, who studied climate change for one year, which culminated in travel to Glacier National Park to work on research-based, citizen science program.

Over the course of two years 22 Climate Change Ambassador students, devoted their free time to studying climate change. These students studied climate legislation, clean energy, alternative energy sources, and green jobs. In addition to their studies, the students aimed to become

Climate Change Ambassadors to their peers and local community as well as researchers participating in climate change research. Many of these students had very little outdoor, or field research experience, so along with their studies they worked with the Southern California Research Learning Center on a series of outdoor training sessions that focused on backcountry survival skills, field research techniques, field methods and physical conditioning.

The research and learning expedition to Glacier National Park was the culmination of a year-long study program which included first-hand research field experience. The theme of the entire trip was to minimize the student's carbon footprint and support a green agenda. The students focused on being as environmentally friendly through their personal practices such as traveling via train from San Diego to Montana, using the public transportation, and hiking.



*Climate Change Ambassadors survey for mountain goats.*  
*Photo: Jami Belt*



**California Wolf Center**  
Education, Conservation & Research



*The Climate Change Ambassadors climb to Hidden Lake for mountain goat surveys. Photo: Brandon Everett*

Climate Change Ambassadors participated in citizen science research including surveys of mountain goats, a species considered sensitive to climate change. The data collected by the students will be used by park staff to determine the effects of climate change on goat behavior and population. The students also assisted in a repeat photography project led by USGS physical scientist Lisa McKeon. Landscapes that had been previously photographed as far back as the early 1900's were photographed by the students. USGS scientists will use the images the students collected to analyze physiological changes to the ecosystem.

#### **Ambassador Phase:**

The project continued as the students present their research and share their experiences at various events including; a community forum at West Glacier, Montana, numerous San Diego community forums, the Hispanic Association of Colleges and Universities (HACU), at Cabrillo National Monument, Tea for Food and Thought events in San Diego, the 2011 George Wright Society Conference in New Orleans, and culminating with a presentation at PowerShift 2011 in Washington D.C.



*The Climate Change Ambassadors at George Wright Society conference with Jon Jarvis, National Park Service Director. Photo: Brandon Everett*

#### **Acknowledgements**

The program was the result of planning and collaborative effort between the Southern California Research Learning Center (SCRLC), the Crown of the Continent Research Learning Center (CCRLC), Cabrillo National Monument, the Elementary Institute of Science (EIS), and the California Wolf Center. The dedicated efforts of these individuals made the dream of visiting Glacier a reality for the students of EIS.

#### **Additional Resources:**

Easley, T. Montgomery, C. Saunders S. & Spencer T. (2008) Hotter and Drier the West's Changed Climate. NRDC Publications Department, New York, NY

#### **For more information Contact:**

Susan Teel  
Director  
Southern California Research Learning Center  
National Park Service  
401 West Hillcrest Drive  
Thousand Oaks, CA 91360  
Phone: 805-370-2332  
susan\_teel@nps.gov  
<http://www.researchlearningcenter.org/>



**California Wolf Center**  
Wildlife, Conservation & Research

## **Appendix C – References**

*{bibliography of resources and references}*

### **Sea to Shining Sea LIVE Publications**

Mann-Bruch, K., Braun, H-W., Teel, S. (2011) Evaluating the Effectiveness of Live Interactive Virtual Explorations Involving a Hard-to-Reach Native American Earth Lodge and a Pacific Island Volcanoes Site. Journal of Interpretation Research (JIR) Vol. 16 (1)

Mann-Bruch, K., Braun, H-W., Teel, S. (2010) Live Interactive Virtual Explorations at a Southern California Native American Learning Center: Case Studies and Lessons Learned. Journal of Cases on Information Technology (JCIT) Vol. 12(3)

Bruch, K. M., Braun, H-W., Teel, S. (2010) Live Interactive Virtual Explorations via the High Performance Wireless Research and Education Network. In S. Mukerji (Ed.), Cases on Technological Adaptability and Transnational Learning: Issues and Challenges. Pennsylvania: IGI Global.

Teel, S., Washburn, J. Bruch, K. Bryant, P., Trimboli, S. Curry, R. (2009) Underwater wonders, mysteries below the earth's surface, and Sea to Shining Sea, LIVE. National Association for Interpretation Conference Proceedings. Hartford, CT.

Teel, S., Bruch, K., Curry, R. (2009) From the Stars to Underwater Depths and Sea to Shining Sea: LIVE Distance Education Programs. George Wright Society Conference Workshop. Portland, OR.

Bruch, K., Teel, S., Braun, H-W. (2009) An Examination of Live Interactive Virtual Explorations at the Cabrillo National Monument in Southern California. Pages 48-54, George Wright Society Conference Proceedings. Portland, OR.

## ***MANDARIN CHINESE IMMERSION PROGRAM CAPISTRANO UNIFIED SCHOOL DISTRICT***

### **Concept**

The recommended Mandarin Chinese Immersion Program (MIP) would be a new alternative program for students in the District. Students would begin learning Mandarin Chinese in an immersion setting in kindergarten or first grade. The majority of the school day would center on instruction of core subjects in Mandarin Chinese, but would also include daily English language arts. MIP would provide its students with fluency in Mandarin Chinese and Asian cultural proficiency, along with fulfilling English language academic outcomes conforming with District curriculum requirements. The program would be implemented as a “school within a school” program model.

The District also has the option of including a fee based Community Education sponsored afterschool enrichment program in Mandarin Chinese, as well as offering a fee based preschool program in Mandarin Chinese. The District would not need to purchase curriculum for the English subjects, however, materials in Mandarin Chinese would be necessary and are available for a reasonable cost from other Mandarin Chinese program teacher experts. Students would be instructed in Zhuyin and traditional characters in primary grades, followed by instruction in Pinyin and simplified characters in the upper grades. Students would complete their elementary education with Mandarin Chinese and English language proficiency, with an increased understanding of the culture behind the language.

Because MIP does not exist in any other school district in Orange County or in the immediate surrounding area, students outside of the District would be able to enroll on a space available basis. This would translate to additional revenue to the District. Given no prior history from which to forecast, anticipated revenue to the District cannot be determined at this time.

### **Purpose**

The purpose of MIP would be to encourage the development of bilingual, biliterate and multicultural competencies for all students in the Mandarin Chinese language. Approval of MIP would meet the goals outlined in the Strategic Plan strategy 3.3, which states the requisite to “develop & refine alternative programs for students,” as well as satisfy the District’s mission of providing excellence in education as outlined in Board Policy 6000 and the necessary skills to compete in a 21st century world. Students would benefit from this program by developing fluency in Mandarin Chinese, along with their standard core studies in English. Bilingualism enhances a student’s future and has positive implications in areas of economics, culture, politics, self-identity, and education.

### **Program Models**

The MIP program model would be a “school within a school” model. This model would maintain the traditional educational track available to students zoned within the attendance boundary, while offering an additional magnet program within the schools. All students would apply for the program through the open enrollment process. The MIP would also be open to students outside of the District’s boundary through the interdistrict transfer process.

### **Fee Based Options**

Afterschool Program through Community Education	Preschool – Outside agency
*Mandarin Chinese language based	*Start at age 4 (pre-K)
*Multi-cultural enrichment activities	*Mandarin Chinese language based

### **Location**

Staff recommends the school location be situated near the 5 freeway and, if possible, the 73 toll road to attract participants from within and outside of the District.

### **Curriculum**

MIP would include 90% of the instructional day taught in Mandarin Chinese in K and 1; 80% in 2nd grade; 70% in 3rd grade; 60% in 4th grade; and 50% in 5th grade, consistent with the model currently used in the District's Spanish Two-Way Immersion Program. Along with traditional Chinese characters, Mandarin Chinese phonetics (Zhuyin) would be taught as fundamental building blocks, which can be conceptually transferred to English phonetics. Both Pinyin (English character), the Chinese phonetic system, and simplified Chinese characters will be introduced in the upper grades.

### **Costs**

The full extent of program costs cannot be determined at this time. Startup expenses are listed below. Items are not listed if they are already provided to each school as a general expense. At this time, categorical funding cannot be used for MIP. The District would pursue grant funding and community partnerships, but given that MIP is a new and unique program, there is no track record or analysis that can be completed to properly forecast the amount and consistency that would be achieved.

- Curriculum and materials: \$5,000 - \$10,000 (depending on the number of grade levels that start in the first year)
- Additional assignment for teachers for staff development: \$5,000 - \$10,000
- Recruitment of teachers: \$5,000 - \$10,000

There is evidence of support in the community by parents to begin fundraising efforts, pending indication of approval by the Board. Should such efforts materialize, all requirements outlined in BP 1321 titled *Solicitation of Funds From and By Students*, as well as BP 1260 titled *Educational Foundation* must be followed.

**Personnel Support**

Staffing will be the District's biggest challenge in building and sustaining MIP. MIP personnel will require a multiple subject teaching credential and BCLAD Mandarin Chinese credential.

Currently, there are only 47 registered BCLAD Mandarin Chinese credentialed teachers in California. By means of comparison, there are 10,755 multiple subject/BCLAD Spanish credentialed teachers in California.

**Requested Action**

It is requested the Board provide direction to staff regarding the implementation of a Mandarin Chinese Immersion Program.



**CAPISTRANO UNIFIED SCHOOL DISTRICT**  
San Juan Capistrano, California

September 26, 2011

**AWARD OF RFQ/P NO. 5-1112**  
**TRUSTEE AREA REDISTRICTING ANALYSIS AND ADJUSTMENT**  
**SERVICES, NATIONAL DEMOGRAPHICS CORPORATION**

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**BACKGROUND INFORMATION**

With the passage of Measure H on November 2, 2010, the District changed the current method of election to a “by trustee area” method of election requiring each member of the Board of Trustees to reside within, and be elected by, the voters living within that particular trustee area or district. Voters in a Trustee area will no longer elect members of the Board of Trustees for other Trustee areas. These changes become effective with the election scheduled for Tuesday, November 6, 2012.

In addition, the 2010 Census generated updated demographic data. As populations shift, trustee areas need to be evaluated and rebalanced (if necessary) every ten years to reflect the revised census data, regardless of the how trustees are elected. This analysis needs to be completed and revised trustee areas established prior to March 1, 2012.

On August 24, 2011, District personnel presented to the Board for award Request for Qualifications (RFQ) No. 9-1011, Demographic Consultant Services, which represented a single solicitation and evaluation for both demographic services and Trustee area redistricting analysis and adjustment services. The Board rejected the recommended firms and directed staff to prepare a new solicitation for a consultant to provide specifically Trustee Area Redistricting Analysis and Adjustment Services.

A new request was prepared and issued, RFQ/P No. 5-1112 for Trustee Area Redistricting Analysis and Adjustment Services to firms that provide redistricting services to federal, state, local governments, and school districts. Notification of the RFP/Q was sent directly to 25 firms that specialize in redistricting services. Five qualification statements were submitted on September 8, 2011, and were initially reviewed with a paper screening process. The paper screening process assessed the firm’s responsiveness to the RFP/Q and each firm’s experience, references, and personnel qualifications. This process determined “tiers” of candidates with the top tier identified for interviews. Fees are not considered during the screening or interview.

Three firms were interviewed:

ARCBridge Consulting & Training, Inc. – Herndon, VA  
DecisionInsite and Dolinka Group – Irvine, CA  
National Demographics Corporation – Glendale, CA



### **CURRENT CONSIDERATIONS**

Staff recommends the award of the contract to National Demographics Corporation (NDC) to assist the Board in reapportioning Trustee areas. NDC has extensive experience in providing redistricting services to state and local governments, special districts, and school districts. NDC is knowledgeable of the federal and state issues regarding the Voting Rights Act and has provided redistricting services to over 130 school districts. More specifically, NDC has provided redistricting services to 20 school districts moving from the “at-large” trustee election process to “area specific” trustee elections.

### **FINANCIAL IMPLICATIONS**

The financial impact of the Trustee redistricting analysis to be completed by National Demographics Corporation is estimated at \$27,500 to \$38,000 depending upon the scope of work requested. Costs associated with the trustee area redistricting analysis and adjustment services will be paid from the general fund.

### **STAFF RECOMMENDATIONS**

It is recommended the Board President recognize Ron Lebs, Deputy Superintendent, Business and Support Services, who will present this item. Following discussion, it is recommended the Board of Trustees approve the award of RFQ for Trustee Area Redistricting Analysis and Adjustment Services to National Demographics Corporation.

## 1. Executive Summary

NDC has successfully guided many clients through the difficult process of moving from at-large to by-district and from-district election systems, and in re-drawing existing districts after each Census or following significant mid-decade growth. NDC has a unique combination of expertise in the Federal and California Voting Rights Act requirements, in the technical challenges of districting, and in public education and outreach on these issues.

Over its 32 years in business, NDC has served scores of local government partners. Founded in 1979, NDC has performed work in all regions of the country, serving clients as varied as the States of Mississippi, Arizona, Florida and Illinois, Clark County Nevada, American Waterworks, California's Franchise Tax Board, the San Diego Unified School District, the Foundation for California, the Arizona cities of Glendale, Mesa, Peoria, Phoenix, Mesa and Surprise, and many California jurisdictions, including Moreno Valley, Modesto, Pomona, the Jurupa Community Services District, San Diego Unified School District, Modesto, Pomona, and the Eastern and Western Municipal Water Districts in Riverside County. **No company has been responsible for successfully districting and redistricting more local governments.**

NDC's personnel are nationally recognized as leaders in the districting field, and are responsible for numerous books and articles on the subject. NDC possesses all the hardware and software necessary to the districting and redistricting needs of any jurisdiction, and its personnel have extensive experience in performing graphics districting and redistricting work as well as in developing databases for districting use.

All of NDC's former clients – without exception – can be contacted for references. And all NDC's local districting and redistricting plans have been accepted into law with a minimum of controversy.

## 2. Narrative

**Project-Related Experience.** NDC has successfully guided many clients through the difficult process of moving from at-large to by-district and from-district election systems, and in re-drawing existing districts after each Census or following significant mid-decade growth. NDC has a unique combination of expertise in the election system options available to local jurisdictions, in the Voting Rights Act requirements, and in public education and outreach on these issues.

**Public Involvement.** NDC pioneered the "transparent districting" approach which involves the public at every stage of the process. The company invented the "public participation kit" for public participation in districting efforts, which many of the firm's competitors now attempt to duplicate. Perhaps NDC's most valuable service is the firm's experience transforming often-contentious and passionate debates on this difficult subject into thoughtful, constructive discussions focused on the options and outcomes rather than individual personalities or positions. NDC also has considerable experience working with translators in public forums and providing materials in English and Spanish.

**Media Outreach.** The firm's work has been widely praised in the media, and NDC has worked extensively on background, off the record, and on the record with all types of press including radio, television, newspaper, and new media.

**Technical Expertise.** NDC's personnel are nationally recognized as leaders in the districting field, and are responsible for numerous books and articles on the subject. NDC possesses all the hardware and software necessary to the districting and redistricting needs of any jurisdiction, and its personnel have extensive experience in performing graphics districting and redistricting work as well as in developing databases for districting use.

## 2.a. Experience / References

Past Experience: (Re)Districting School District Trustee Areas:

Fresno Unified School District  
2309 Tulare Street, Fresno CA 93721  
Mr. Michael Hanson, Superintendent  
Phone: (559) 457-3000 Email: [michael.hanson@fresnounified.org](mailto:michael.hanson@fresnounified.org)  
Board of Trustees Redistricting – 2010  
Contract amount: \$21,000

Central Unified School District  
4605 N. Polk Avenue, Fresno CA 93722  
Mr. Mike Berg, Superintendent  
Phone: (559) 274-4700 Email: [mberg@centralusd.k12.ca.us](mailto:mberg@centralusd.k12.ca.us)  
Board of Trustees Redistricting – 2010  
Contract amount: \$18,000

Madera Unified School District  
1902 Howard Road, Madera CA 93637  
Mr. John Stafford, Superintendent  
Phone: (559) 675-4500 Email: [Stafford\\_J@madera.k12.ca.us](mailto:Stafford_J@madera.k12.ca.us)  
Board of Trustees Districting – 2008  
Contract amount: \$17,250

San Diego County Board of Education  
6401 Linda Vista Road, Room 609  
San Diego, CA 92111  
Mr. Keith Butler, Business Advisory Services  
Phone: (858) 292-3810 Email: [kbutler@sdcoe.net](mailto:kbutler@sdcoe.net)  
Board of Education Redistricting - 2011  
CVRA Assessments - 2010-2011  
Contract Amount (Redistricting only) \$18,000

City of San Diego Redistricting Commission  
1010 Second Avenue Suite 1060  
San Diego, CA 92101

Ms. Midori Wong, Executive Director  
Phone: (619) 533-3058 Email: WongM@sandiego.gov  
City Council Redistricting - 2011  
Contract Amount \$55,000

NDC has completed nearly 100 districting and redistricting projects, along with hundreds of evaluations of vulnerability under the California Voting Rights Act. NDC can provide additional references from any of these clients as requested.

## **2.b. Project Elements and Cost**

Detailed discussions of the basic and optional project elements are included in the appendix. The basic project elements are required to successfully complete the task, while optional items can be added (or not) at the jurisdiction's discretion:

### Basic Elements

- Utilizing ESRI's ArcGIS software, Caliper's Maptitude for Redistricting Software, Google Earth, and other technologies, create a redistricting database for use in this project including data from the federal 2010 Decennial Census, the Census Bureau's American Community Survey data on Citizen Voting Age Populations, the California Statewide Database data, and addresses (matched to Census Blocks) for the current members of the Board;
  - Incorporate into the redistricting database any Geographic Information System (GIS) data that the District wishes to include and provides (often including school locations; school attendance areas; important local landmarks; or local neighborhood boundaries);
  - Map and analyze the demographics of the existing Trustee Area boundaries
  - Develop draft maps for readjustment of the Trustee Area boundaries;
  - Conversion of all maps and reports to web-friendly versions for posting on District website, including Google Earth KML files for all plans;
  - Be available to present working drafts to Capistrano Unified School District at Board and Committee meetings.
  - Present at public hearings a minimum of three sets of draft Trustee Area boundary maps for public comment and additional boundary maps as requested.
  - Prepare a final version of maps and legal descriptions for readjustment of the Trustee Area boundaries.
  - Present final version of maps and legal descriptions to the Board of Trustees at Board and Committee hearings for public hearing and/or approval.
  - Conduct workshops and community meetings as appropriate.
  - Ensure the new Trustee Area boundaries meet all legal requirements, including requirements under the federal and state Voting Rights Laws.
  - Forward final maps and legal descriptions in an acceptable format to the Registrar of Voters no later than March 1, 2012.
- Work closely with the District staff, Board of Trustees and the Orange County Voter Registrar and Elections Office in development of final maps and legal descriptions for readjustment of the Trustee Area boundaries.

## Optional Elements

- Create, maintain, and update a project website
- Creation of a "Public Participation Kit" in paper/Acrobat PDF-only and paper-plus-Excel formats, including all necessary instructions and processing of all submitted plans
- Online redistricting application for the public to use to design and submit redistricting plans for NDC review and Board consideration
- Translation of any project materials in Spanish

## 3.a. Fee/Services Schedule

Basic Elements, excluding in-person meetings.....	\$27,500
Each day of in-person meetings .....	\$2,000
Optional: create & maintain project website .....	\$4,500
Optional: paper/PDF/Excel "Public Participation Kit" .....	\$4,000
Optional: Online redistricting application.....	\$11,500
Optional: Translation into Spanish (per page).....	\$125

The price stated includes all travel and other per diem expenses. Each "Hearing" or "Meeting" is assumed to last only one calendar day, and each additional calendar day is counted as an additional meeting. Multiple meetings held on the same day will only result in one meeting day expense.

The following element-by-element timelines can be put together (or left out) in a variety of ways, depending on the District's preferences and requirements.

A.	Creation of redistricting Database and initial demographic summary report .....	3 weeks
B.	Initial Board meeting to start project and one-on-one discussions with Trustees and/or key staff * .....	per District's schedule
C.	(Optional) Prepare "Public Participation Kit" * .....	2 weeks
D.	(Optional) Prepare NDC-created project website * .....	2 weeks
E.	(Optional) Setup Online Redistricting System * .....	2 weeks
F.	Community meeting(s) .....	as desired
G.	NDC prepares draft plans based on criteria, direction & public input .....	3 weeks
H.	Board consideration of final plan options .....	per District's schedule
I.	(optional) NDC incorporates Board's requested edits and returns for final Board consideration .....	2 weeks
J.	Implementation of new trustee areas with County elections office .....	3-5 weeks

\* The activities marked with an asterisk can be performed simultaneously.

## **Other Potential Project-Related Expenses:**

The only anticipated additional districting expenses would be any site or staff costs for conducting the community forums; and the cost of printing or copying paper copies of the "Public Participation Kit." In NDC's experience, most public participants will download and print the Kits in their own homes or offices.

## **4. Additional Data**

### **4.a. Board role**

The following describes the typical role and responsibilities of the Board in a districting or redistricting project. NDC welcomes any direction from, and involvement of, the Board in this process.

- i. At the start of the process, NDC recommends that the Board formally consider and adopt districting criteria.
- ii. At the start of the process, NDC needs input from key personnel -- usually the Trustees one on one, and the Superintendent, but sometimes involving only the Superintendent or other key staff member(s)-- to get insights on the communities of interest and logical community dividing points that could potentially aide the development of initial trustee area plans.
- iii. The Trustees, at their option, could participate in any community forums included in this process.
- iv. The Board will need to consider the districting plans developed by the public and by NDC and adopt their selected final plan. The Board may also direct NDC to test or incorporate changes to the 'final draft' plan and return for final adoption.

### **4. b. Staff role**

The following describes the typical role and responsibilities of District staff in a districting or redistricting project. NDC welcomes any direction from, and involvement of, District Staff in this process.

- i. Staff assistance will be needed to schedule times and locations for the community forums and to share that information with the District's usual community partners.
- ii. A staff contact (including email, fax and phone) will be needed for members of the public who wish to contact the District rather than working with the District's consultant, though NDC welcomes any direct contact with questions or ideas as well (unless the District prefers for all public and/or media contact to be with the District first). All public contact is recorded and included in NDC's report to the Board on public input.
- iii. If the District chooses to place project information and materials on its website, rather than asking NDC to create and maintain a project website, a Staff contact will be needed to review and post the documents provided by NDC. This will be an intermittent need, as material will need to be posted both before and after each Board meeting and community forum. If NDC creates and maintains the project website, the only web-related staff time necessary will involve setting up initial links from the official District page to the project site.
- iv. NDC will work with the appropriate Staff to ensure all materials are developed in time for, and incorporated into, the District's typical Board meeting information packets prior to any Board meetings on this topic.
- v. If translators are necessary for any community meetings, either staff or independent translators need to be arranged.

# NDC

## National Demographics Corporation

vi. The County may need a District staff contact to verify NDC's status as a contractor for the District before the County will provide information needed to develop the population database or prior to working with NDC on implementing any Board-adopted Trustee Areas.

### Additional References

Ms. Kathy Bennett, City Clerk, City of Menifee, 29714 Haun Road, Menifee, CA 92586. Phone: (951) 672-6777. Email: kbennet@cityofmenifee.us.

Judge Hugh Rose (retired), Chairman, City of Modesto Districting Commission. 508 King Richard Lane, Modesto, CA 95350. Phone (209) 522-0719. Email: hhrose@hotmail.com.

Ms. Susana Wood, City Attorney, City of Modesto, 1010 10th St, Suite 6300, Modesto, CA 95354. Phone: (209) 577-5284. Email: swood@modestogov.com.

Ms. Lucinda Aja. City Clerk, City of Buckeye, Arizona. 100 N Apache Rd, Suite A, Buckeye, AZ 85326. Phone (623) 349-6007. Fax (623) 349-6098. EMail: laja@buckeyeaz.gov.

Mr. Steve Lynn, Chairman, Arizona Independent Redistricting Commission, 1400 W Washington Street, Suite B-10, Phoenix, Arizona, 85007. Phone: (520) 884-3629. Fax: (602) 364-1351.

Mr. Eldon Horst, General Manager, Jurupa Community Services District. 11201 Harrel Street, Mira Loma, CA 91752. Phone (951) 685-7434. Fax (951) 685-1153. EMail: ehorst@jcsd.us.

Ms. Sherry Aguilar, City Clerk, City of Surprise, Arizona, 12425 West Bell Road, Suite D-100, Surprise, AZ 85374, Phone: (623) 583-3858. Fax: (623) 583-3396.

Mr. Randy Hill, General Manager, Palmdale Water District. 2029 E Avenue Q, Palmdale, CA 93550-4050. Phone: (661) 947-4111. Email: randyhill@hotmail.com.

Ms. Elaine M. Scruggs, Mayor , City of Glendale, Arizona. 5850 W. Glendale Ave., Glendale, AZ 85301. Phone: (623) 930-2874. Fax: (623) 930-2194.

Mr. Mike Berg, Superintendent, Central Unified School District, 4605 N. Polk Ave., Fresno, CA 93722. Phone: (559) 274-4700. EMail: mberg@centralusd.k12.ca.us.

Steve Kemp, City Attorney, City of Peoria. City of Peoria Municipal Complex, 8401 W. Monroe Street, Peoria, Arizona 85345, Phone: (623) 773-7043 Fax: (623) 773-7330.

### 7. Insurance Requirements

NDC has all of the requested types of insurance, though automotive liability is covered under our general liability rather than in a separate policy, and the amount of our general liability is \$2 million. Certificates can be provided, but were not in hand at the time this proposal was compiled.

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

September 26, 2011

**RECOMMENDATION OF TENTATIVE AGREEMENT  
WITH TEAMSTERS FOR JULY 1, 2011-JUNE 30, 2012**

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**BACKGROUND INFORMATION**

The District and Teamsters entered into a two-year contract agreement covering the 2010-2011 and 2011-2012 school years. As a provision of the contract agreement, each party had the ability to reopen up to two articles during the 2011-2012 school year. In February, only the District officially reopened, requesting discussions focus on the following articles:

- Article 3 – Hours of Employment
- Article 11 – Wages

The teams met three times between April and August 2011. Recognizing that the fiscal situation remained a challenge, both teams agreed to maintain the status quo of the current contract. In addition, both parties agreed to immediately reopen negotiations in the event the District incurs any additional base revenue limit reductions mid-year. The tentative agreement was reached on August 15, 2011, and ratified by employees on August 31, 2011.

Government Code §3547 (d) provides the public a “reasonable time” to become informed of re-openers by both the District and employee group. The District afforded the public this right by introducing the item as an information/discussion item at the March 8, 2011, Board meeting and returning to the next regularly scheduled Board meeting, April 11, 2011, for discussion/action. This item also affords the public the reasonable time, as required by law, as an information/discussion item.

*CUSD Strategic Plan Pillar 5: Effective Operations.*

**CURRENT CONSIDERATIONS**

The purpose of this agenda item is to seek approval of the tentative agreement between the District and the Teamsters from the Board of Trustees. In addition to the tentative agreement, the Public Disclosure of Collective Bargaining Agreement is attached.

**FINANCIAL IMPLICATIONS**

The total estimated fiscal impact of this agreement is a continued savings to the District of approximately \$400,000 for the 2011-2012 fiscal year.



Recommendation of Tentative Agreement  
With Teamsters for July 1, 2011-June 30, 2012  
September 26, 2011  
Page 2

**STAFF RECOMMENDATION**

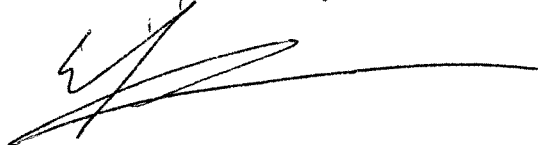
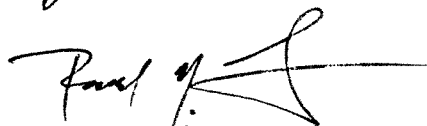
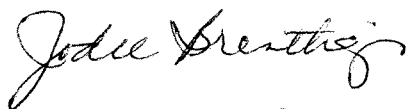
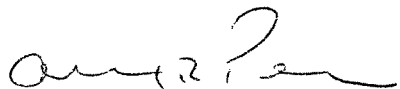
It is recommended the Board President recognize Assistant Superintendent, Personnel Services, Jodee Brentlinger, who will introduce this agenda item.

Following discussion, it is recommended the Board of Trustees approve the Tentative Agreement with Teamsters for July 1, 2011-June 30, 2012.

## TEAMSTERS AND CUSD TENTATIVE AGREEMENT – August 15, 2011

TEAMSTERS AND CUSD agree to a one year memorandum of understanding effective July 1, 2011 through June 30, 2012 with the terms and conditions set forth below:

- 1) Both parties agree to keep the current conditions of the collective bargaining agreement effective July 1, 2011 through June 30, 2012.
- 2) The previously agreed upon one year trial "second bidding" document will expire allowing both parties to continue to review this process and other options to maximize operational efficiency and ongoing cost savings.
- 3) Both parties agree to immediately reconvene and re-enter into negotiations upon the notification that there will be any reductions in state funding to the District's 2011-2012 budget that impacts the transportation department.



8-15-2011



**Orange County Department of Education  
District Fiscal Services**

**REVISED**  
9-22-11

**PUBLIC DISCLOSURE OF COLLECTIVE BARGAINING AGREEMENT**  
in Accordance with AB 1200 (Chapter 1213/1991), GC 3547.5, and CCR, Title V, Section 15449

Name of School District:	Capistrano Unified School District
Name of Bargaining Unit:	Teamsters
Certificated, Classified, Other:	Classified

The proposed agreement covers the period beginning:	July 1, 2009 (date)	and ending:	June 30, 2012 (date)
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The Governing Board will act upon this agreement on:	September 26, 2011 (date)
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**A. Proposed Change in Compensation**

	Compensation	Annual Cost Prior to Proposed Agreement  2011-12	Fiscal Impact of Proposed Agreement		
			Year 1 Increase/(Decrease) FY 2011-12	Year 2 Increase/(Decrease) FY 2012-13	Year 3 Increase/(Decrease) FY 2013-14
1	<b>Salary Schedule</b> (1.03%) effective 7/01/11	\$ 5,710,815	\$ (57,108)	\$ -	\$ -
2	<b>Step and Column</b> Increase (Decrease) Due to movement plus any changes due to settlement	\$ -	\$ -	\$ -	\$ -
3	<b>Other Compensation -</b> 6 furlough days 10/11 4 days 11/12 0 days 12/13 0 days 13/14	\$ (173,507)	\$ 48,643	\$ 124,864	\$ -
	<b>Description of other compensation</b> Assignment Adjustments	\$ (210,820)	\$ 210,820	\$ -	
4	<b>Statutory Benefits - STRS, PERS, FICA, WC, UI, Medicare etc.</b>	\$ 1,197,395	\$ 45,489	\$ 28,069	\$ -
5	<b>Health/Welfare Plans</b>	\$ 1,073,947	\$ (177,724)	\$ (310,960)	\$ (472,000)
6	<b>Total Compensation -</b> Increase (Decrease) (Total Lines 1-5)	\$ 7,808,650	\$ 70,120	\$ (158,027)	\$ (472,000)
7	<b>Total Number of Represented Employees</b> (Use FTEs if appropriate)	101.00	0	0	0
8	<b>Total Compensation <u>Average</u> Cost per Employee</b>	\$ 77,313	694	(1,565)	(4,673)
			0.90%	-2.04%	-5.92%

9. What was the negotiated percentage increase approved? For example, if the increase in "Year 1" was for less than a full year, what is the annualized percentage of that increase for "Year 1"?

*The decrease is 1.0 percent starting 7/1/10. There were six furlough days in 2010/11, reduced to four furlough days in 2011/12. Work assignment savings in 2010/11 were restored in 2011/12.*

10. Were any additional steps, columns, or ranges added to the schedules? (If yes, please explain.)

*No.*

11. Please include comments and explanations as necessary.

*None.*

12. Does this bargaining unit have a negotiated cap for Health and Welfare benefits? Yes ☒ No ☐

If yes, please describe the cap amount.

*The plans are capped at the 2010 calendar year rates. The effective date of the cap is January 1, 2011.*

- B. Proposed Negotiated Changes in Noncompensation Items** (i.e., class size adjustments, staff development days, teacher prep time, classified staffing ratios, etc.)

*None.*

- C. What are the specific impacts on instructional and support programs to accommodate the settlement?**

Include the impact of changes such as staff reductions or increases, program reductions or increases, elimination or expansion of other services or programs (i.e., counselors, librarians, custodial staff, etc.)

*There are no specific impacts on instructional and support programs in order to accommodate the settlement.*

- D. What contingency language is included in the proposed agreement?** Include specific areas identified reopeners, applicable fiscal years, and specific contingency language.

*There is reopener language contingent upon reductions in state funding to the Districts's 2011-12 budget that impacts the transportation department.*

- E. Will this agreement create, increase or decrease deficit financing in the current or subsequent year(s)?** "Deficit Financing" is defined to exist when a fund's expenditures and other financing uses exceed its revenues and other financing sources in a given year. If yes, explain the amounts and justification for doing so.

*The agreement will decrease deficit spending.*

- F. Identify other major provisions that do not directly affect the district's costs, such as binding arbitrations, grievance procedures, etc.**

*None.*

**G. Source of Funding for Proposed Agreement**

1. Current Year

*N/A*

2. If this is a single year agreement, how will the ongoing cost of the proposed agreement be funded in subsequent years (i.e., what will allow the district to afford this contract)?

*N/A*

3. If this is a multiyear agreement, what is the source of funding, including assumptions used, to fund these obligations in subsequent years? (Remember to include compounding effects in meeting obligations.)

*N/A*

## H. IMPACT OF PROPOSED AGREEMENT ON CURRENT YEAR OPERATING BUDGET

### Unrestricted General Fund

Enter Bargaining Unit: **Teamsters**

	Column 1 Latest Board- Approved Budget Before Settlement (Original Budget)	Column 2 Adjustments as a Result of Settlement	Column 3 Other Revisions	Column 4 Total Current Budget (Columns 1+2+3)
<b>REVENUES</b>				
Revenue Limit Sources (8010-8099)	\$ 255,106,050	\$ -	\$ -	\$ 255,106,050
Remaining Revenues (8100-8799)	\$ 36,584,616	\$ -	\$ -	\$ 36,584,616
<b>TOTAL REVENUES</b>	\$ 291,690,666	\$ -	\$ -	\$ 291,690,666
<b>EXPENDITURES</b>				
Certificated Salaries (1000-1999)	\$ 150,769,268	\$ -	\$ -	\$ 150,769,268
Classified Salaries (2000-2999)	\$ 28,522,393	\$ -	\$ -	\$ 28,522,393
Employee Benefits (3000-3999)	\$ 53,674,922	\$ -	\$ -	\$ 53,674,922
Books and Supplies (4000-4999)	\$ 3,923,554	\$ -	\$ -	\$ 3,923,554
Services, Other Operating Expenses (5000-5999)	\$ 17,475,302	\$ -	\$ -	\$ 17,475,302
Capital Outlay (6000-6599)	\$ 250,000	\$ -	\$ -	\$ 250,000
Other Outgo (7100-7299) (7400-7499)	\$ 3,625,583	\$ -	\$ -	\$ 3,625,583
Direct Support/Indirect Cost (7300-7399)	\$ (3,653,820)	\$ -	\$ -	\$ (3,653,820)
Other Adjustments				
<b>TOTAL EXPENDITURES</b>	\$ 254,587,202	\$ -	\$ -	\$ 254,587,202
<b>OPERATING SURPLUS (DEFICIT)</b>	\$ 37,103,464	\$	\$	\$ 37,103,464
<b>TRANSFERS IN &amp; OTHER SOURCES (8910-8979)</b>	\$ 2,758,297	\$	\$	\$ 2,758,297
<b>TRANSFERS OUT &amp; OTHER USES (7610-7699)</b>	\$ -	\$ -	\$ -	\$ -
<b>CONTRIBUTIONS (8980-8999)</b>	\$ (50,063,250)	\$ (70,120)	\$	\$ (50,133,370)
<b>CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE</b>	\$ (10,201,489)	\$ *	\$	\$ (10,271,609)
<b>BEGINNING BALANCE</b>	\$ 24,407,895			\$ 24,407,895
Prior-Year Adjustments/Restatements (9793/9795)	\$			\$
<b>CURRENT-YEAR ENDING BALANCE</b>	\$ 14,206,406	\$ (70,120)	\$ -	\$ 14,136,286
<b>COMPONENTS OF ENDING BALANCE:</b>				
Nonspendable Reserves (9711-9719)	\$ 325,000	\$ -	\$ -	\$ 325,000
Restricted Reserves (9740)	\$ -	\$ -	\$ -	\$ -
Stabilization Arrangements (9750)	\$ -	\$ -	\$ -	\$ -
Other Commitments (9760)	\$ -	\$ -	\$ -	\$ -
Other Assignments (9780)	\$ 4,995,320	\$ -	\$ -	\$ 4,995,320
Reserve for Economic Uncertainties (9789)	\$ 7,525,000	\$ -	\$ -	\$ 7,525,000
Unassigned/Unappropriated (9790)	\$ 1,361,086	\$ (70,120)	\$ -	\$ 1,290,966

\* Please see question on page 7.

## H. IMPACT OF PROPOSED AGREEMENT ON CURRENT YEAR OPERATING BUDGET

### Restricted General Fund

Enter Bargaining Unit: **Teamsters**

	Column 1 Latest Board- Approved Budget Before Settlement (Original Budget)	Column 2 Adjustments as a Result of Settlement	Column 3 Other Revisions	Column 4 Total Current Budget (Columns 1+2+3)
<b>REVENUES</b>				
Revenue Limit Sources (8010-8099)	\$ 5,505,360	\$ -	\$ -	\$ 5,505,360
Remaining Revenues (8100-8799)	\$ 63,430,562	\$ -	\$ -	\$ 63,430,562
<b>TOTAL REVENUES</b>	\$ 68,935,922	\$ -	\$ -	\$ 68,935,922
<b>EXPENDITURES</b>				
Certificated Salaries (1000-1999)	\$ 41,294,738	\$ -	\$ -	\$ 41,294,738
Classified Salaries (2000-2999)	\$ 27,740,908	\$ 202,355	\$ -	\$ 27,943,263
Employee Benefits (3000-3999)	\$ 24,181,939	\$ (132,235)	\$ -	\$ 24,049,704
Books and Supplies (4000-4999)	\$ 9,436,496	\$ -	\$ -	\$ 9,436,496
Services, Other Operating Expenses (5000-5999)	\$ 8,971,553	\$ -	\$ -	\$ 8,971,553
Capital Outlay (6000-6599)	\$ 100,000	\$ -	\$ -	\$ 100,000
Other Outgo (7100-7299) (7400-7499)	\$ 6,791,962	\$ -	\$ -	\$ 6,791,962
Direct Support/Indirect Cost (7300-7399)	\$ 3,098,569	\$ -	\$ -	\$ 3,098,569
Other Adjustments				
<b>TOTAL EXPENDITURES</b>	\$ 121,616,165	\$ 70,120	\$ -	\$ 121,686,285
<b>OPERATING SURPLUS (DEFICIT)</b>	\$ (52,680,243)	\$ -	\$ -	\$ (52,680,243)
<b>TRANSFERS IN &amp; OTHER SOURCES (8910-8979)</b>	\$ -	\$ -	\$ -	\$ -
<b>TRANSFERS OUT &amp; OTHER USES (7610-7699)</b>	\$ -	\$ -	\$ -	\$ -
<b>CONTRIBUTIONS (8980-8999)</b>	\$ 50,063,250	\$ 70,120	\$ -	\$ 50,133,370
<b>CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE</b>	\$ (2,616,993)	\$ *	\$ -	\$ (2,616,993)
<b>BEGINNING BALANCE</b>	\$ 4,236,303			\$ 4,236,303
Prior-Year Adjustments/Restatements (9793/9795)	\$ -			\$ -
<b>CURRENT-YEAR ENDING BALANCE</b>	\$ 1,619,310	\$ -	\$ -	\$ 1,619,310
<b>COMPONENTS OF ENDING BALANCE:</b>				
Nonspendable Reserves (9711-9719)	\$ -	\$ -	\$ -	\$ -
Restricted Reserves (9740)	\$ 1,619,310	\$ -	\$ -	\$ 1,619,310
Stabilization Arrangements (9750)	\$ -	\$ -	\$ -	\$ -
Other Commitments (9760)	\$ -	\$ -	\$ -	\$ -
Other Assignments (9780)	\$ -	\$ -	\$ -	\$ -
Reserve for Economic Uncertainties (9789)	\$ -	\$ -	\$ -	\$ -
Unassigned/Unappropriated (9790)	\$ -	\$ -	\$ -	\$ -

\* Please see question on page 7.



## H. IMPACT OF PROPOSED AGREEMENT ON CURRENT YEAR OPERATING BUDGET

### Combined General Fund

Enter Bargaining Unit: **Teamsters**

	Column 1	Column 2	Column 3	Column 4
	Latest Board- Approved Budget Before Settlement (Original Budget)	Adjustments as a Result of Settlement	Other Revisions	Total Current Budget (Columns 1+2+3)
<b>REVENUES</b>				
Revenue Limit Sources (8010-8099)	\$ 260,611,410	\$ -	\$ -	\$ 260,611,410
Remaining Revenues (8100-8799)	\$ 100,015,178	\$ -	\$ -	\$ 100,015,178
<b>TOTAL REVENUES</b>	\$ 360,626,588	\$ -	\$ -	\$ 360,626,588
<b>EXPENDITURES</b>				
Certificated Salaries (1000-1999)	\$ 192,064,006	\$ -	\$ -	\$ 192,064,006
Classified Salaries (2000-2999)	\$ 56,263,301	\$ 202,355	\$ -	\$ 56,465,656
Employee Benefits (3000-3999)	\$ 77,856,861	\$ (132,235)	\$ -	\$ 77,724,626
Books and Supplies (4000-4999)	\$ 13,360,050	\$ -	\$ -	\$ 13,360,050
Services, Other Operating Expenses (5000-5999)	\$ 26,446,855	\$ -	\$ -	\$ 26,446,855
Capital Outlay (6000-6599)	\$ 350,000	\$ -	\$ -	\$ 350,000
Other Outgo (7100-7299) (7400-7499)	\$ 10,417,545	\$ -	\$ -	\$ 10,417,545
Direct Support/Indirect Cost (7300-7399)	\$ (555,251)	\$ -	\$ -	\$ (555,251)
Other Adjustments				
<b>TOTAL EXPENDITURES</b>	\$ 376,203,367	\$ 70,120	\$ -	\$ 376,273,487
<b>OPERATING SURPLUS (DEFICIT)</b>	\$ (15,576,779)	\$ (70,120)	\$ -	\$ (15,576,779)
<b>TRANSFERS IN &amp; OTHER SOURCES (8910-8979)</b>	\$ 2,758,297	\$	\$	\$ 2,758,297
<b>TRANSFERS OUT &amp; OTHER USES (7610-7699)</b>	\$ -	\$ -	\$ -	\$ -
<b>CONTRIBUTIONS (8980-8999)</b>	\$	\$	\$	\$ -
<b>CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE</b>	\$ (12,818,482)	\$ (70,120)	\$ -	\$ (12,888,602)
<b>BEGINNING BALANCE</b>	\$ 28,644,198			\$ 28,644,198
Prior-Year Adjustments/Restatements (9793/9795)	\$			\$
<b>CURRENT-YEAR ENDING BALANCE</b>	\$ 15,825,716	\$	\$	\$ 15,755,596
<b>COMPONENTS OF ENDING BALANCE:</b>				
Nonspendable Reserves (9711-9719)	\$ 325,000	\$ -	\$ -	\$ 325,000
Restricted Reserves (9740)	\$ 1,619,310	\$ -	\$ -	\$ 1,619,310
Stabilization Arrangements (9750)	\$ -	\$ -	\$ -	\$ -
Other Commitments (9760)	\$ -	\$ -	\$ -	\$ -
Other Assignments (9780)	\$ 4,995,320	\$ -	\$ -	\$ 4,995,320
Reserve for Economic Uncertainties (9789)	\$ 7,525,000	\$ -	\$ -	\$ 7,525,000
Unassigned/Unappropriated (9790)	\$ 1,361,086	\$ (70,120)	\$ -	\$ 1,290,966

\* Please see question on page 7.

## I. IMPACT OF PROPOSED AGREEMENT ON SUBSEQUENT YEARS

### Combined General Fund

Enter Bargaining Unit: **Teamsters**

	2011-12	2012-13	2013-14
	Total Current Budget After Settlement	First Subsequent Year After Settlement	Second Subsequent Year After Settlement
<b>REVENUES</b>			
Revenue Limit Sources (8010-8099)	\$ 260,611,410	\$ 265,486,267	\$ 272,573,086
Remaining Revenues (8100-8799)	\$ 100,015,178	\$ 84,013,322	\$ 84,013,322
<b>TOTAL REVENUES</b>	\$ 360,626,588	\$ 349,499,589	\$ 356,586,408
<b>EXPENDITURES</b>			
Certificated Salaries (1000-1999)	\$ 192,064,006	\$ 193,357,715	\$ 196,900,118
Classified Salaries (2000-2999)	\$ 56,465,656	\$ 59,659,947	\$ 60,839,063
Employee Benefits (3000-3999)	\$ 77,724,626	\$ 78,717,548	\$ 79,388,062
Books and Supplies (4000-4999)	\$ 13,360,050	\$ 10,347,948	\$ 10,297,742
Services, Other Operating Expenses (5000-5999)	\$ 26,446,855	\$ 26,234,613	\$ 26,357,635
Capital Outlay (6000-6999)	\$ 350,000	\$ 350,000	\$ 350,000
Other Outgo (7100-7299) (7400-7499)	\$ 10,417,545	\$ 10,579,707	\$ 10,746,734
Direct Support/Indirect Cost (7300-7399)	\$ (555,251)	\$ (555,251)	\$ (555,251)
Other Adjustments		\$ (26,600,000)	\$ (26,600,000)
<b>TOTAL EXPENDITURES</b>	\$ 376,273,487	\$ 352,092,227	\$ 357,724,103
OPERATING SURPLUS (DEFICIT)	\$ (15,576,779)	\$ (2,592,638)	\$ (1,137,695)
TRANSFERS IN & OTHER SOURCES (8910-8979)	\$ 2,758,297	\$ 2,758,297	\$ 2,758,297
TRANSFERS OUT & OTHER USES (7610-7699)	\$ -	\$ -	\$ -
CURRENT YEAR INCREASE (DECREASE) IN FUND BALANCE	\$ (12,818,482)	\$ 165,659	\$ 1,620,602
BEGINNING BALANCE	\$ 28,644,198	\$ 15,755,596	\$ 15,921,255
CURRENT-YEAR ENDING BALANCE	\$ 15,755,596	\$ 15,921,255	\$ 17,541,857
<b>COMPONENTS OF ENDING BALANCE:</b>			
Reserved Amounts (9711-9740)	\$ 1,944,310	\$ 1,944,310	\$ 1,944,310
Stabilization Arrangements (9750)	\$ -	\$ -	\$ -
Other Commitments (9760)	\$ -	\$ -	\$ -
Other Assignments (9780)	\$ 4,995,320	\$ 4,995,320	\$ 4,995,320
Reserve for Economic Uncertainties (9789)	\$ 7,525,000	\$ 7,041,845	\$ 7,154,482
Unassigned/Unappropriated (9790)	\$ 1,290,966	\$ 1,939,780	\$ 3,447,745

## J. IMPACT OF PROPOSED AGREEMENT ON UNRESTRICTED RESERVES

### 1. State Reserve Standard

		2011-12	2012-13	2013-14
a.	Total Expenditures, Transfers Out, and Uses (Including Cost of Proposed Agreement)	\$ 376,273,487	\$ 352,092,227	\$ 357,724,103
b.	State Standard Minimum Reserve Percentage for this District enter percentage:	2.00%	2.00%	2.00%
c.	State Standard Minimum Reserve Amount for this District (For districts with less than 1,001 ADA, this is the greater of Line a, times Line b. OR \$50,000	\$ 7,525,470	\$ 7,041,845	\$ 7,154,482

### 2. Budgeted Unrestricted Reserve (After Impact of Proposed Agreement)

a.	General Fund Budgeted Unrestricted Reserve for Economic Uncertainties (9789)	\$ 7,525,000	\$ 7,041,845	\$ 7,154,482
b.	General Fund Budgeted Unrestricted Unassigned/Unappropriated Amount (9790)	\$ 1,290,966	\$ 1,939,780	\$ 3,447,745
c.	Special Reserve Fund (Fund 17) Budgeted Reserve for Economic Uncertainties (9789)	\$	\$	\$
d.	Special Reserve Fund (Fund 17) Budgeted Unassigned/Unappropriated Amount (9790)	\$	\$	\$
g.	Total Available Reserves	\$ 8,815,966	\$ 8,981,625	\$ 10,602,227
h.	Reserve for Economic Uncertainties Percentage	2.00%	2.00%	2.00%

### 3. Do unrestricted reserves meet the state minimum reserve amount?

2011-12	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
2012-13	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
2013-14	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

### 4. If no, how do you plan to restore your reserves?

5. If the total amount of the adjustment in Column 2 on Page 4 does not agree with the amount of the Total Compensation Increase in Section A, Line 5, Page 1 (i.e., increase was partially budgeted), explain the variance below:

n/a

6. Please include any additional comments and explanations of Page 4 as necessary: n/a

**K. CERTIFICATION NO. 1: CERTIFICATION OF THE DISTRICT'S ABILITY TO MEET THE COSTS OF COLLECTIVE BARGAINING AGREEMENT**

The disclosure document must be signed by the District Superintendent and Chief Business Officer at the time of public disclosure.

In accordance with the requirements of Government Code Section 3547.5, the Superintendent and Chief Business Officer of \_\_\_\_\_ School District, hereby certify that the District can meet the costs incurred under the Collective Bargaining Agreement between the District and the \_\_\_\_\_ Bargaining Unit, during the term of the agreement from July 1, 2009 to June 30, 2012 .

The budget revisions necessary to meet the costs of the agreement in each year of its term are as follows:

**Budget Adjustment Categories:**

**Budget Adjustment  
Increase (Decrease)**

Revenues/Other Financing Sources

Expenditures/Other Financing Uses

Ending Balance Increase (Decrease)

-

-

N/A   X   (No budget revisions necessary)

\_\_\_\_\_  
**District Superintendent  
(Signature)**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Chief Business Officer  
(Signature)**

\_\_\_\_\_  
**Date**

## L. CERTIFICATION NO. 2

The disclosure document must be signed by the district Superintendent or designee at the time of public disclosure and by the President or Clerk of the Governing Board at the time of formal board action on the proposed agreement.

The information provided in this document summarizes the financial implications of the proposed agreement and is submitted to the Governing Board for public disclosure of the major provisions of the agreement (as provided in the "Public Disclosure of Proposed Bargaining Agreement") in accordance with the requirements of AB 1200 and Government Code Section 3547.5.

\_\_\_\_\_  
**District Superintendent (or Designee)**  
(Signature)

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**President or Clerk of Governing Board**  
(Signature)

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
Ronald N. Lebs  
**Contact Person**

\_\_\_\_\_  
(949) 234-9211  
**Phone**

**SCHOOL-CONNECTED ORGANIZATIONS**

The ~~Governing Board of Trustees~~ recognizes that parents, ~~/guardians/, and/or~~ community ~~groups~~ members may wish to organize booster clubs, associations, or foundations for the purpose of supporting curricular and/or extracurricular programs such as athletic teams, academic teams, performance groups and ~~the schools or the /District~~ in general. The Board supports such activities and welcomes the interest and participation of all of its stakeholders. ~~School-connected organizations shall be especially careful not to seek advantages for the activities they support if those advantages might be detrimental to the entire school program.~~

The Board recognizes that school-connected organizations are separate legal entities, independent of the ~~D~~istrict. However, in order to help the Board fulfill its legal and fiduciary responsibility to manage ~~D~~istrict operations, all school-connected organizations must operate as, or under, a registered 501(c)3 tax-exempt organization and must have a written statement of purpose and bylaws. School-connected organizations that desire to raise money to benefit any ~~d~~istrict school or student shall submit a request for authorization to the ~~Board~~ Superintendent or designee, in accordance with Board policy and administrative regulation. In addition, the Superintendent or designee shall establish appropriate internal controls for the relationship between school-connected organizations and the District. ~~School-connected organizations shall have an administrative designee who serves as a liaison to ensure appropriate communication and approvals for fundraising and expenditures.~~ School-connected organizations will consult with the principal/designee to ensure appropriate communication, determine school needs, and develop priorities for fundraising and expenditures. It is the desire of the Board that school site administration support the efforts of school-connected organizations. Any and all funds raised for any school or District-related activity must meet the District's policies on student fees. Schools will use funds to support the donative intent of the school-connected organization. All funds raised to support any new District students, programs, personnel, facilities, or projects must receive prior approval from the Superintendent or designee before fundraising begins.

Under no circumstances shall school-connected organizations or their individual members hire a person to be a District employee or pay any District employee directly. Any funds received for the purpose of funding extracurricular positions shall be paid to the District, which will in turn hire the personnel and pay the appropriate wage or stipend.

The Board encourages school-connected organizations to consider the impact of fundraising activities on the overall school and District program. Funds may not be used to create inequities in core academic programs and are meant to supplement and enrich existing programs. Activities by school-connected organizations shall not conflict with law, Board ~~P~~olicies, administrative regulations, or rules of the sponsoring school.

Violations of law, Board policies, administrative regulations, or rules of the sponsoring school may result in the rejection of donated funds or revocation of the school-connected organization's authorization to collect funds on behalf of the school or the District.

## SCHOOL-CONNECTED ORGANIZATIONS

BP 1230(b)

### *Legal Reference:*

#### EDUCATION CODE

~~200-262.4 Prohibition of discrimination on the basis of sex~~  
~~35160— Authority of governing boards~~  
~~38130-38138 Civic Center Act, use of school property for public purposes~~  
~~38131— Use of civic center by public~~

### *Legal Reference: (cont'd.)*

~~38134— Groups which may use school facilities without charge~~  
~~48931— Authorization for sale of food by student organization~~  
~~48932— Authorization for fund-raising activities by student organization~~  
~~49431— Sale of food to elementary students during the school day~~  
~~49431. Sale of food to middle, junior, or high school students~~  
~~49431.5 Sale of beverages at elementary, middle, or junior high schools~~  
~~51520— Prohibited solicitation on school premises~~  
~~5121— Fund-raising project~~

#### BUSINESS & PROFESSIONS CODE

~~17510-17510.95 Solicitations for charitable purposes~~  
~~25608— Alcohol on school property; use in connection with instruction~~

#### GOVERNMENT CODE

~~12580-12599.7 Fundraisers for Charitable Purposes Act~~

#### PENAL CODE

~~319-329— Lottery, raffle~~

#### CODE OF REGULATIONS, TITLE 5

~~4900-4965 Nondiscrimination in elementary and secondary education program~~  
~~15500— Food sales in elementary schools~~  
~~15501— Food sales in high schools and junior high schools~~

#### CODE OF REGULATIONS, TITLE 11

~~300-312.1 Fundraising for charitable purposes~~

#### UNITED STATES CODE, TITLE 20

~~1681-1688 Discrimination based on sex or blindness, Title IX~~

#### COURT DECISIONS

~~Serrano v. Priest, (1976) 18 Cal.3d728~~

### *Management Resources*

#### CDE LEGAL ADVISORIES

~~1101.89 School District Liability and "Hold Harmless" Agreements, LO: 4-89~~

### *Websites*

~~CSBA: <http://www.csba.org>~~  
~~California Office of the Attorney General, charitable trust registry:~~  
~~<http://caag.state.ca.us/charities>~~  
~~California State PTA: <http://www.capta.org>~~

Policy Adopted: 10/2/1995

Revised: 6/22/2009

Revised:

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California



CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

September 26, 2011

**AWARD OF BID NO. 1011-15  
SAN JUAN HILLS HIGH SCHOOL STADIUM PHASE II  
OHNO CONSTRUCTION COMPANY**

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**BACKGROUND INFORMATION**

The San Juan Hills High School stadium plans and specifications were prepared by PJHM Architects, Inc., and approved by the Division of State Architect as Project No. A04-108716 on December 3, 2007. A property-line dispute with an adjacent property owner only allowed for partial construction of the stadium. On February 8, 2011, the Board of Trustees authorized District staff to commence the bidding of the revised plans and specifications for the remaining home-side bleachers and associated improvements once property issues were resolved with Whispering Hills, LLC. This work completes construction of the previously deleted project items that include: the home-side stadium bleachers, the press box, and the related electrical and public address systems. This synthetic track is part of the overall project but will be performed by a specialty contractor under a separate agreement. Formal resolution regarding property line adjustments and ownership was reached, and the project was moved forward to bid.

The bid was advertised and plans were distributed to 13 contractors; 8 contractors bid on this project. The bids were received and opened on September 8, 2011. The lowest base bid was selected as the method to determine the lowest responsive bidder. At \$1,640,000, Ohno Construction Company was the lowest base bid. In addition, Ohno Construction Company has satisfied the bid requirements.

The original lowest bidder, Sanders Construction Services, withdrew their bid on September 9, 2011, due to a clerical error. District staff reviewed the documentation, and on September 12, 2011, consented withdrawal of the bid in accordance with California Public Contract Code §5103. The next low and responsive bidder was Ohno Construction Company.

The following items are attached for reference:

1. Bid Summary
2. Estimated Project Budget
3. DSA Approval Letter
4. Project Timeline

As part of the submitted bid package, the contractor has provided, and the District has verified, the following:

1. Bid Form
2. Designated Subcontractors List
3. Contractors Licenses

4. Surety Rating
5. Bid Bond
6. References

Prior to issuing the Notice to Proceed, the contractor will be required to file the following documents with the District:

1. Agreement
2. Payment Bond
3. Performance Bond
4. Required Certificates of Insurance
5. Other required Certifications

### **CURRENT CONSIDERATIONS**

This agenda item seeks the award of Bid No. 1011-15, San Juan Hills High School Stadium – Phase II to Ohno Construction Company, in the amount of \$1,640,000. The contract documents are on file and available in the Purchasing Department. For further information, please contact Randall Rowles, Executive Director, Facilities & Plant Operations, at (949) 234-9216.

### **FINANCIAL IMPLICATIONS**

Fiscal Impact:           \$1,640,000  
Funding Source:       CFD 98-2 Ladera

### **STAFF RECOMMENDATION**

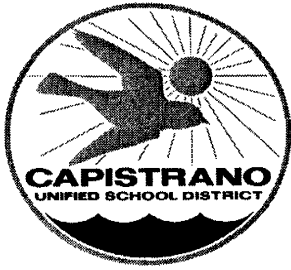
It is recommended the Board President recognize Ron Lebs, Deputy Superintendent, Business and Support Services, who will present this item.

Following discussion, it is recommended the Board of Trustees approve and award Bid No. 1011-15 San Juan Hills High Stadium – Phase II in the amount of \$1,640,000 to Ohno Construction Company.

# CAPISTRANO UNIFIED SCHOOL DISTRICT

## BID SUMMARY

### SAN JUAN HILLS HIGH SCHOOL STADIUM PHASE II BID NO. 1011-15



Bid Opening: Thursday, September 8, 2011, 2:00 pm  
CUSD-Education Center  
Doheny Conference Room  
33122 Valle Road  
San Juan Capistrano, CA 92675

CONTRACTOR	BID
Byrom Davey, Inc.	\$2,087,000
Construct 1 One	\$1,857,837
EG Montanez Construction	\$2,597,000
Minco Construction	\$3,177,700
Ohno Construction	\$1,640,000
Plyco Corp.	\$2,300,000
Sanders Construction Services	\$1,149,000
Silver Creek	\$2,427,679

## San Juan Hills High School Stadium - Phase II Project

## Overall Project Budget Summary - September 26, 2011

PROJECT ACTIVITIES & VENDORS		Estimated Budget Based on September 8, 2010 Bid Day Results		Notes and Comments
Estimated Construction Costs				
Stadium Contractor Bid - Ohno Construction Company		\$	1,640,000.00	Contractor to install District owned stadium bleachers
CMAS Contract - California Track & Engineering - Synthetic Track		\$	346,995.00	Cal Track has installed all five District HS track surfaces
Construction Contingency - 15%		\$	300,000.00	
Electrical Utilities Location and Repairs		\$	25,000.00	Electrical facilities locating and repairs needed prior to start
Allowance to Purchase Missing Bleacher Parts		\$	40,000.00	Anticipate need for replacement parts after contractor inventory
Allowance to Repair Landscaping		\$	35,000.00	
Estimated Total Construction Costs		\$	2,351,995.00	
Estimated Professional Fees & Costs				
Architectural Design Fees - plhm architects		\$	30,000.00	Additional programming, design and bid services
DSA Plan Check Fees		\$	15,000.00	
Cal-OSHA Inspection & Certification		\$	9,250.00	
Misc. Costs - Printing, etc		\$	15,000.00	Planwell and other publication / printing related charges
DSA Inspection - Knowland Construction Services		\$	121,200.00	Full time onsite DSA inspection
Materials Testing - mitgl		\$	71,555.00	Approximately 3% of construction costs
Geotechnical Review - NMG		\$	8,000.00	
On-Call Scheduling Services (Red Brick)		\$	8,000.00	Construction schedule monitoring and review
Construction Management - Edenco		\$	60,000.00	Provided constructability review and bid document preparation
Legal Services - Bergman & Dacey		\$	25,000.00	For project related legal consultation
Project Controls Management Software		\$	-	Costs carried by the SJHHS Pool & Capo Valley PAC Projects
On-Call Survey Services for IOR / Owner		\$	25,000.00	Confirm / validate stadium elevations and tolerances
Total Estimated Professional Fees & Costs		\$	388,005.00	
TOTAL ESTIMATED PROJECT COST		\$	2,740,000.00	



State of California • Arnold Schwarzenegger, Governor  
State and Consumer Services Agency

**DGS**

**DEPARTMENT OF GENERAL SERVICES**

**Division of the State Architect - San Diego Office**

## **12/3/2007 - APPROVAL OF PLAN(S)**

MR. James Fleming, Superintendent  
CAPISTRANO UNIFIED SCHOOL DISTRICT  
32972 CALLE PERFECTO  
SAN JUAN CAPISTRANO 92675

**Project:** SAN JUAN HILL HIGH SCHOOL

**Total Scope of Project:** Construction of 1 - Concession Bldg , 2 - Toilet Bldgs, Outdoor Bleachers/Pressbox, 5 - Light Pole/s, Sitework.

**Increment #:** 0

**Application #:** 04-108716

**File #:** 30-9

Drawings and specifications for the subject project have been examined and stamped by the Division of the State Architect (DSA) for identification on 12/3/2007. This letter constitutes the "written approval of the plans as to safety of design and construction" required before letting any contract for construction, and applies only to the work shown on these drawings and specifications. The date of this letter is the DSA approval date.

Approval is limited to the particular location shown on the drawings and is conditioned on construction starting within one year from the stamped date. The inspector must be approved and the contract information, including the construction start date, must be given to DSA prior to start of construction.

DSA does not review drawings and specifications for compliance with Parts 3 (California Electrical Code), 4 (California Mechanical Code), and 5 (California Plumbing Code) of Title 24. It is the responsibility of the professional consultants named on the application to verify this compliance.

Please refer only to the boxes checked below which indicate applicable conditions specific to this project:

- ☒ Buildings constructed in accordance with approved drawings and specifications will meet minimum required standard given in Title 24, California Code of Regulations, for structural, and fire and life safety.
- ☐ Due to the nature of the building(s), certain precautions considered necessary to assure long service have not been required. In the condition as built, the building(s) will meet minimum required standards for structural, and fire and life safety. The owner must observe and correct deterioration in the building in order to maintain it in a safe condition.
- ☐ Your attention is drawn to the fact that this application was submitted under the provisions of Sections 39140/81130 of the Education Code which permit repairs or replacement of a fire damaged building to be made in accordance with the drawings and specifications previously approved by this office. The drawings and specifications approved for the reconstruction of this building conform to the drawings and specifications approved under application # \_\_\_\_\_.
- ☐ These drawings and specifications meet the rules, regulations, and building standards in effect at the time of the original approval and do not necessarily comply with rules, regulations, or building standards currently in effect.
- ☐ Due to the nature of the poles, certain precautions considered necessary to assure long service have not been insisted upon. In their condition as built, they will meet minimum required safety standards; however, your attention is directed to the comparatively short life of wood poles. It will be the responsibility of the owner to maintain them in a safe condition.

DSA San Diego Regional Office \* 16680 West Bernardo Drive \* San Diego, CA 92127 \* (858) 674-5400

Application #: 04-108716

File #: 30-9

- ☐ Bleachers or grandstands constructed in accordance with approved drawings and specifications will meet minimum required standards for structural, and fire and life safety. The owner should provide for and require periodic safety inspections throughout the period of use to ensure framing and other parts have not been damaged or removed. On bleachers or grandstands having bolts, locking or safety devices, the owner shall require that all such components be properly tightened or locked prior to each use.
- ☐ This approval is for the part shown only since the drawings and specifications for the proposed work include only the portion of the building to be partially constructed on the subject site. It is understood that a separate application will be subsequently filed, together with drawings and specifications showing a plot plan and details of work necessary for completion. A contract for completion shall not be let before the written approval of such drawings has been obtained from the Department of General Services.
- ☐ The building(s) was designed to support a snow load of \_\_\_\_\_ pounds per square foot of roof area. Snow removal must be considered if the amount of snow exceeds that for which the building(s) was designed.
- ☒ This constitutes the written approval certifying that the drawings and specifications are in compliance with State regulations for the accommodation of the disabled which are required before letting any contract for construction (See Section 4454, Government Code.)
- ☐ Your application for the construction of a relocatable building submitted under the provisions of Section 17293 of the Education Code is hereby approved. This approval certifies that the drawings and specifications are in compliance with state regulations for accommodation of the disabled, structural safety, and fire and life safety. This approval applies only to the drawings and specifications for the foundation system, anchorage of the overhead nonstructural elements, and site work related to this project. Documentation has been received indicating that the building was constructed after December 19, 1979, and bears a commercial coach insignia of approval from the Department of Housing and Community Development (HCD). Confirmation that the construction of the HCD building conforms to the appropriate state regulations is done by others. (See Section 17307, Education Code and Section 4454, Government Code.)
- ☒ Deferred Approval(s) Items:  
Fire Sprinkler System, Wheel Chair Lifts, Bleachers.

This Project has been classified as **CLASS 2**. An Inspector who is certified by DSA to inspect this class of project must be approved by DSA prior to start of construction.

Please refer to the above application number in all correspondence, reports, etc., in connection with this project.

Sincerely,



Digitally signed by CRAIG RUSH  
DN: cn=CRAIG RUSH, o=SAN DIEGO, st=CALIFORNIA,  
ou=California Department of General Services, ou=Division  
of the State Architect, www.verisign.com/inspector/CPS  
Incorp. by ReLLIAB LTD(s)88, Registered Engineer  
License Number - S 3714, title=PRINCIPAL STRUCTURAL  
ENGINEER, email=craig.rush@dgs.ca.gov  
Reason: I am approving this document  
Location: San Diego  
Date: 2007.12.11 08:48:20 -0800

for David F. Thorman, AIA  
State Architect



cc:  
Architect

## **Capistrano Unified School District**

### *San Juan Hills High School Stadium – Phase II Tentative Project Schedule – September 26, 2011*

#### **TENTATIVE PROJECT SCHEDULE**

Constructability Review / Revisions	Complete
Advertise for Bids	July / August 2011
Receive Bids & Document Review	September 8, 2011
Award Construction Contract (Board Approval)	September 26, 2011
Commence Stadium Construction	October 2011
Complete Stadium Construction	May 2012
Installation of Synthetic Track Surface	June / July 2012
CUSD Occupancy	August 2012





CAPISTRANO UNIFIED SCHOOL DISTRICT  
BOARD OF TRUSTEES  
MINUTES – REGULAR MEETING  
SEPTEMBER 12, 2011  
EDUCATION CENTER – BOARD ROOM

President Brick called the meeting to order at 6:00 p.m. The Board recessed to closed session to discuss Public Employee Discipline/Dismissal/Release and CSEA/CUEA/CUMA/Teamsters negotiations.

The regular meeting of the Board reconvened to open session and was called to order by President Brick at 7:00 p.m.

The Pledge of Allegiance was led by President Brick.

Present: Trustees Addonizio, Alpay, Brick, Bryson, Hatton, Palazzo, Pritchard, and Student Advisor Ryan Pallas.

**A CD of the Board meeting discussion related to each of the items on the public agenda is on file in the Superintendent's Office as a matter of the permanent record. An audio recording of the meeting is available on the District website: [www.capousd.org](http://www.capousd.org)**

**Permanent Record**

It was moved by Trustee Alpay, seconded by Trustee Bryson, and motion carried unanimously to adopt the Board agenda.

**Adoption of the Board Agenda**

President Brick asked Vice President Pritchard to facilitate the meeting.

**President's Announcement**

Trustee Pritchard reported the following action taken during closed session:

**President's Report From Closed Session Meeting**

**Agenda Item #3 A – Public Employee Discipline/Dismissal/Release:** No action was taken.

**Agenda Item #3 B – CSEA/CUEA/CUMA/Teamsters Negotiations:** No action was taken.

Trustee Pritchard introduced and welcomed Student Advisor Ryan Pallas.

**Introduction**

Trustee Pritchard read the following collective observation of the Board from Superintendent Farley's evaluation: "The Board believes that Dr. Farley is exactly the type of leader CUSD needs at this time. His sound leadership has proven to be a stabilizing force in the District. The Board believes that Dr. Farley's experience and enthusiasm for instructional excellence makes the District an exciting place to learn and teach. The Board looks forward to a productive 2011-2012 school year with Dr. Farley leading our District towards meeting our goals and addressing our challenges."

**Board and Superintendent Comments**

Trustee Bryson commended Julie Hatchel, Ron Lebs, Marcus Walton, Connie Scott, and George Duarte for the way they handled the bomb threat at San Clemente High School on the first day of school and the electricity outage the following day.

Trustee Palazzo commended staff for their quick response to the bomb scare and stated she had visited the Emergency Operations Center at the District and was very impressed.

Trustee Hatton mentioned there were several education legislation bills regarding college and career readiness currently on the Governor's desk.

Trustee Addonizio commented she and Trustee Palazzo visited Julie Jensen, the manager at the Albertsons' supermarket on Pico in San Clemente, to personally thank her for supplying food, water, and support during the San Clemente High School bomb threat.

Dr. Farley introduced and welcomed new high school principals Chris Carter, Jason Allemann, Kevin Astor, and Fiscal Services Executive Director David Carter.

As specified in Board Bylaw 9323 for Oral Communications, each speaker was allowed three (3) minutes to speak.

**Oral  
Communications**

The following speakers addressed the Board:

- *Jim Berg, Sean Perks, Tom Donnelly, Ward Patton, and Mark Klein spoke in support of teacher and coach Eric Patton and asked the Board to fully investigate the allegations.*

## **DISCUSSION/ACTION**

Assistant Superintendent Julie Hatchel provided a PowerPoint presentation on Senate Bill 1381, the Kindergarten Readiness Act of 2010, rolling back the kindergarten entry age beginning in 2012-2013. The Kindergarten Readiness Act changes the kindergarten entry date from December 2 to September 1 by 2014-2015. It mandates the District provide a Transitional Kindergarten program for those students who miss the cutoff entry date; however, participation in the program is optional.

**Kindergarten  
Readiness Act  
2010-Simitian Bill  
SB 1381  
Agenda Item 1**

Following discussion, it was moved by Trustee Addonizio, seconded by Trustee Bryson, and motion carried unanimously to approve the month by month rollback of the kindergarten entry age beginning in 2012-2013.

Assistant Superintendent Julie Hatchel explained a subcommittee met, at the request of Trustees, to consider changing the name of West View Academy. After discussing a number of options the subcommittee unanimously selected California Preparatory Academy.

**Proposed Name  
Change for West  
View Academy  
Agenda Item 2**

Following discussion, it was moved by Trustee Hatton, seconded by Trustee Alpay, and motion carried by a 5-2 vote to approve the name change of West View Academy to California Preparatory Academy.

AYES: Trustees Alpay, Brick, Bryson, Hatton, Pritchard, and Student  
Advisor Ryan Pallas  
NOES: Trustees Addonizio and Palazzo

Assistant Superintendent Jodee Brentlinger explained the purpose of this agenda item is to present the tentative agreement between the District and the Teamsters to the Board of Trustees and public as an information item as required by Government Code §3547(d). The tentative agreement will be brought back to the September 26 Board meeting for approval.

**Tentative  
Agreement with  
Teamsters  
Agenda Item 3**

Chief Communications Officer Marcus Walton reported this agenda item presents for consideration revisions to Board Policy 1230, *School-connected Organizations*. The revisions outline expectations for school-connected organizations as the District adopts policies and procedures to comply with state law regarding student fees. This policy will return for a second reading and Board approval.

**Board Policy  
Revision  
Agenda Item 4**

Deputy Superintendent Ron Lebs reported the relocatable project at Ladera Ranch School has been closed with certification.

**Division of State  
Architect  
Agenda Item 5**

Trustee Addonizio requested staff provide an update on the Carl Hankey K-8 conversion project.

Trustee Pritchard asked Trustees for items they wished to pull from the Consent Calendar. Items #7, #13, and #23 were pulled.

**Items Pulled from  
the Consent  
Calendar**

## **CONSENT CALENDAR**

It was moved by Trustee Alpay, seconded by Trustee Addonizio, and motion carried unanimously to approve the following Consent Calendar items:

Minutes of the August 24, 2011, regular Board meeting and August 30, 2011, special Board meeting.

**Minutes  
Agenda Item 6**

Resolution No. 1112-19, acceptance of 2011-2012 Assistance League contract for Kids on the Block.

**Assistance League  
Contract  
Agenda Item 8**

Resolution No. 1112-20, acceptance of 2011-2012 Assistance League contract for Links to Learning Philanthropic Program.

**Assistance League  
Contract  
Agenda Item 9**

Resolution No. 1112-21, acceptance of 2011-2012 Assistance League contract for Hands on Literacy Project.

**Assistance League  
Contract  
Agenda Item 10**

Expunging of expulsion records: Case #2010-004 and #2010-132.

**Expunging  
Expulsion Records  
Agenda Item 11**

Expulsion readmissions: Case #2009-088, #2009-112, #2009-137, #2010-023, #2010-047, #2010-118, #2010-128, #2010-130, #2011-024, #2011-027, #2011-031, #2011-033, #2011-048, #2011-049, #2011-058, and #2011-099.

**Expulsion  
Readmissions  
Agenda Item 12**

Donation of funds and equipment.

**Donations  
Agenda Item 14**

Resolution No. 1112-12, Delegation of Authority.

**Delegation of  
Authority  
Agenda Item 15**

Resolution No. 1112-13, preliminary 2010-2011 financial statements (Unaudited Actuals).

**Preliminary 2010-  
2011 Financial  
Statements  
Agenda Item 16**

Resolution No. 1112-14, adopting the 2010-2011 actual Gann Limit and the 2011-2012 estimated Gann Limit.

**Gann Limit  
Agenda Item 17**

Resolution No. 1112-15, authorizing the increase/decrease in appropriations for the fiscal year ending 2010-2011.

**Increase/Decrease  
in Appropriations  
for 2010-2011  
Agenda Item 18**

Resolution No. 1112-16, authorizing the reappropriation of carryover funds.

**Carryover Funds  
Agenda Item 19**

Resolution No. 1112-17, to participate in the Class Size Reduction Program and certification for 2011-2012.

**Class Size  
Reduction  
Program  
Agenda Item 20**

Authorization to utilize the State of California Multiple Award Schedule Contract No 4-09-78-0048A, General Services Administration Schedule GS-03F-0142V, for the purchase and installation of a sport surface, synthetic track at San Juan Hills High School, awarded to California Track & Engineering, Incorporated, under the same terms and conditions of the public agency's contract.

**CMAS Contract  
Synthetic Track  
Agenda Item 21**

Authorization to utilize the State of California Multiple Award Schedule Contract No 4-11-84-0037A, General Services Administration Schedule GS-07F-0481X, for the purchase and warranty of security equipment awarded to Tel-Tec Security Systems, Incorporated, as needed throughout the District, under the same terms and conditions of the public agency's contract.

**CMAS Contract  
Security  
Equipment  
Agenda Item 22**

Indian Education Workshops, Debra L. Horowitz.

**Independent  
Contractor  
Agenda Item 24**

Lease/purchase financing agreement for replacement and upgrade of old Print Services Department equipment, Key Government Finance.

**Lease/Purchasing  
Financing  
Agreement  
Agenda Item 25**

Physical fitness program, YMCA of Orange County.

**Independent  
Contractor  
Agenda Item 26**

E-rate application, AMS.net Products and Services.

**Extension  
Agreement  
Agenda Item 27**

Resignations, retirements, and employment of classified personnel.

**Resignations/  
Retirements/  
Employment  
(Classified Personnel)  
Agenda Item 28**

Resignations, retirements, and employment of certificated personnel.

**Resignations/  
Retirements/  
Employment  
(Certificated Personnel)  
Agenda Item 29**

ROLL CALL: AYES: Trustees Addonizio, Alpay, Brick, Bryson, Hatton, Palazzo,  
Pritchard, and Student Advisor Ryan Pallas  
NOES: None  
ABSENT: None  
ABSTAIN: None

Trustee Bryson pulled this item to commend the Assistance League for their effort in helping children succeed by providing clothing.

**Assistance League  
Contract  
Agenda Item 7**

It was moved by Trustee Bryson, seconded by Trustee Addonizio, and motion carried unanimously to approve Resolution No. 1112-18, acceptance of 2011-2012 Assistance League contract for Operation School Bell.

Trustee Palazzo questioned staff regarding the amount of money being paid to Sparkletts for water. Deputy Superintendent Ron Lebs stated water was being provided to programs such as the Adult Transition program where water isn't available on site. Mr. Lebs stated he would provide Trustees with a breakdown of the costs by program.

**Purchase Orders/  
Warrants  
Agenda Item 13**

It was moved by Trustee Palazzo, seconded by Trustee Addonizio, and motion carried unanimously to approve purchase orders, commercial warrants, and previously Board-approved bids and contracts.

Trustee Palazzo asked Assistant Superintendent Jodee Brentlinger to explain the reason for this consulting agreement. Mrs. Brentlinger stated the consulting agreement will provide formal IBB training for the District and CSEA leadership representatives for the facilitation of the negotiations process and properly implement Article 22.3 of the collective bargaining agreement.

**Consulting  
Agreement  
Agenda Item 23**

Following discussion, it was moved by Trustee Bryson, seconded by Trustee Alpay, and motion carried by a 5-2 vote to approve training for negotiators and leadership, Barber & Gonzales Consulting.

AYES: Trustees Alpay, Brick, Bryson, Hatton, Pritchard, and Student  
Advisor Ryan Pallas  
NOES: Trustees Addonizio and Palazzo

It was moved by Trustee Alpay, seconded by Trustee Addonizio, and motion carried unanimously to adjourn the meeting.

**Adjournment**

Trustee Pritchard announced the meeting adjourned at 8:03 p.m.

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Board Clerk

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Secretary, Board of Trustees

*Minutes submitted by Jane Boos, Manager, Board Office Operations*



Memorandum of Understanding Between  
The Orange County Superintendent of Schools  
And  
Capistrano Unified School District

The Orange County Superintendent of Schools, which operates the Division of Special Education Services within the Orange County Department of Education, hereinafter referred to as “OCDE” and the “Capistrano Unified School District” herein referred to as “District,” and collectively referred to herein as the “Parties,” mutually agree as follows (Agreement):

1. Basis of Agreement

Pursuant to the authority established in Education Code Sections 56195, 56195.1, 56195.3 and 56195.5, OCDE may provide for the education of individual pupils in special education programs who reside in other districts or counties. OCDE’s Division of Special Education Services operates OCDE’s Special Schools Program to provide special education programs and services to individuals with exceptional needs requiring intensive educational services, including a regional deaf and hard of hearing program.

2. Term of Agreement

This Agreement is effective for the period beginning July 1, 2011, and ending June 30, 2012.

3. Acknowledgment of Special Education Funding Formula

It is acknowledged that, in accordance with Part 30 of the Education Code, Chapter 7.2, Section 56836 et seq., the California State funding formula for special education programs, services and administration generates an entitlement based on the average daily attendance of pupils in the local education agencies that comprise a Special Education Local Plan Area (SELPA). It is further acknowledged that the SELPA base year calculations for special education funding under Assembly Bill 602 (AB 602) include a dollar amount that is transferred back to the SELPA of residence for pupils served in special education programs prior to implementation of AB 602. The Parties acknowledge that both the distribution of these special education funds and the District's fiscal responsibility for students served outside the SELPA of residence are determined by the Local Plan of the SELPA of residence.

4. Scope

OCDE shall conduct special education programs and services for those eligible pupils of the District referred by their Individualized Education Program (IEP) Teams when it is jointly determined by the District and OCDE that the pupil's educational needs as specified in the pupil's IEP can be appropriately met by the programs and services operated by OCDE. Prior to offering placement in any OCDE Special Schools Program, the District shall contact the appropriate OCDE Special Schools Principal to discuss a possible referral and the appropriateness of the OCDE Special Schools Program placement. If the referral seems appropriate, the District shall obtain from the parent authorization to release information to OCDE and submit an OCDE referral packet to the appropriate OCDE Special Schools Principal as well as schedule a visitation with the parent. OCDE referral packets are available on-line at [http://sped.ocde.us/Special\\_Schools\\_Referral\\_Packet.htm](http://sped.ocde.us/Special_Schools_Referral_Packet.htm).



Upon review of the referral packet and site visit by parent, the OCDE Special Schools Principal and District representative will coordinate an IEP team meeting for purposes of discussing possible placement in an OCDE Special Schools Program. The District and OCDE acknowledge that the District, as the pupil's district of residence, maintains primary responsibility as the local education agency (LEA) to ensure the pupil receives a free appropriate public education. In the event a pupil participating in an OCDE Special Schools Program moves out of the District, the District shall immediately provide OCDE written notice of the pupil's change in residence, including the new school district of residence, if known. Similarly, OCDE shall immediately notify District in the event a parent reports a change in residence. OCDE shall maintain and provide special education programs for District pupils during the 2011-2012 school year within the administrative parameters established by the Special Education Fiscal Advisory Committee. Class size ranges and student-adult ratios shall be maintained in a manner which allows OCDE to meet the programmatic, health and safety needs of the pupils.

##### 5. Annual and Triennial Reviews

The District shall be notified of annual reviews scheduled for its pupils participating in an OCDE Special Schools Program and may provide a representative who will participate in the development of the annual IEP. For initial placement, triennial review, recommendation for home instruction, or a change in eligibility or services specified on the current IEP, a District representative who is authorized to approve or disapprove the allocation of specified District resources necessary for the implementation of the pupil's IEP shall attend the IEP team meeting. For pupils enrolled in an OCDE Special Schools Program who are participating in a general education program on the school site in the school district where the Special Schools Program is

located (“Host District”) OCDE will work with the Host District to provide a general education teacher at IEP team meetings. In the event the Host District is unable to provide a general education teacher for the IEP team meeting, the District agrees to provide a general education teacher unless otherwise waived in writing by the pupil’s parent in accordance with the Individuals with Disabilities Education Act (IDEA) and State law. For all other pupils enrolled in an OCDE Special Schools Program, the District agrees to provide a general education teacher at IEP team meetings unless otherwise waived in writing by pupil’s parent in accordance with the IDEA and State law. Subject to approval by the pupil’s parents, the general education teacher and/or other IEP team participants may use alternative means of meeting participation, such as video conferences and conference calls.

Progress reports relating to goals and objectives in a pupil’s IEP shall be sent by OCDE to parents per the pupil’s IEP schedule for progress reporting and to the Director of Special Education of the District upon request. When requested by District or parent, an updated report shall be provided if there is no current progress report whenever a pupil is scheduled for an IEP review or when pupil’s enrollment in OCDE is terminated.

#### 6. Integration/Mainstreaming Opportunities

The Host District where OCDE Special Schools Programs operate often provide opportunities for pupils enrolled in an OCDE Special Schools Program to integrate with non-disabled typical peers during the school day. These opportunities are typically in non-core curriculum areas such as physical education, art, music, assemblies, recess and lunch. Some pupils enrolled in an OCDE Special Schools Program will participate in core curriculum activities for a portion of the school day in a program operated by the Host District, however,

such pupils are supervised by OCDE staff at all times during such activities. In the event a pupil enrolled in an OCDE Special Schools Program is participating in core curriculum activities in a program operated by the Host District for more than 50% of the school day, the Host District will be reimbursed for any costs incurred resulting from such pupil's participation, upon OCDE's receipt of appropriate documentation of such costs.

7. Assessments/Independent Educational Evaluations

OCDE and District shall coordinate and collaborate in conducting assessments for pupils participating in an OCDE Special Schools Program. In the event OCDE staff is not available to conduct a requested assessment, OCDE shall notify the District and/or District's SELPA to assist in conducting such assessment(s).

In the event a request is made for an independent educational evaluation (IEE), OCDE shall immediately forward such request to the District and the District shall determine how to respond to the request for an IEE. OCDE and/or the District may also schedule an IEP team meeting to further discuss the requested IEE.

8. Pupil Count

A count shall be taken of the number of pupils enrolled in OCDE's Special Schools Program as of the first day of each calendar month, July 1, 2011 through June 1, 2012. A pupil shall be counted as "enrolled" in an OCDE Special Schools Program on the first day of attendance in the program or fourteen (14) days after the IEP team has met and an approved IEP has been executed for the pupil's educational placement in an OCDE Special Schools Program, whichever occurs sooner. Pupils continuing in an OCDE Special Schools Program from the

previous school year shall be counted as “enrolled” on the first school day in September unless written notification of withdrawal is received from either the parent or district of residence. If a continuing pupil has not attended school by the eleventh (11<sup>th</sup>) day of the first school month, OCDE shall notify the district of residence and a determination shall be made regarding continuing enrollment. In the event either OCDE or District are informed that a pupil has been withdrawn by the parent from an OCDE Special Schools Program, each agency shall immediately notify the other of such withdrawal. Any pupil withdrawn by the parent from an OCDE Special Schools Program is no longer counted as “enrolled” or considered a continuing pupil for the following school year.

9. Definitions

a. “Special Education Fiscal Advisory Committee” shall be a committee comprised of the Orange County Special Education Local Plan Area Directors, Chief Business Officials representing each SELPA and OCDE representatives including the Chief of Special Education Services Division, Director of Special Schools and Programs, Business Administrator, and the Assistant Superintendent of Business Services, or designee.

b. “Regional Special Education Programs” are the special education classes and support services operated by OCDE for severely disabled and medically fragile pupils, pupils with low incidence disabilities, pupils with autism spectrum disorders, pupils with emotional disturbances and other eligible pupils.

c. “Regional Deaf/Hard of Hearing (D/HH) Program” shall include classes and services operated by OCDE for Deaf and Hard of Hearing pupils who are learning through total communication, utilizing sign language, note-takers, oral speech and residual hearing.

d. "Regional Oral Deaf Program" shall include classes and services operated by OCDE for Deaf and Hard of Hearing pupils who are learning through oral and written communication using oral speech, speech reading, residual hearing, auditory devices and cochlear implants.

e. "Special Education Program Income" shall be defined as the sum of all State and Federal funds generated by or on behalf of pupils transferred to regional programs operated by OCDE Special School Programs under this Agreement. For the purposes of this Agreement:

f. "Special Education Program Expenditures" shall include Direct Costs, Direct Support Costs and Indirect Cost of Special Schools Programs.

g. "Average Cost Per Pupil" shall refer to the Special Education Program Expenditures attributable to the program divided by the average number of pupils enrolled during the year.

h. "Average Number of Pupils" shall refer to the total of the number of pupils counted on the first school day of each calendar month divided by the number of calendar months in the period specified.

#### 10. Funding

In consideration of the enrollment of pupils in special education programs conducted by OCDE, the SELPA and/or the school district transferring pupils to the regional programs operated by OCDE agree to pay the average cost per pupil based on expenditure categories and ratios reviewed by the Special Education Fiscal Advisory Committee and shall provide for program funding as follows:

a. The District shall be responsible for the Average Cost per Pupil in an OCDE Special Schools Program, including the Regional Deaf/Hard of Hearing Program, multiplied by the average number of pupils enrolled, minus Special Education Program income received by OCDE for the purpose of educating said pupils including, but not limited to Revenue Limit, AB 602 funds, and Federal I.D.E.A. Local Assistance Grant funds. The District shall be responsible for the Average Cost Per Pupil in the Regional Oral Deaf Program multiplied by the average number of pupils enrolled, minus Special Education Program income received by OCDE for the purpose of educating said pupils including, but not limited to Revenue Limit, AB 602 funds, and Federal I.D.E.A. Local Assistance Grant funds.

b. Special Circumstance Paraeducators – The District, as specified in its SELPA's Local Plan, shall be responsible for the full cost of additional personnel required for the benefit of and specified in the IEP for individual pupils who are residents of the District.

c. The following documents shall be used as a basis for all figures reported:

- (1) Various Program Cost Reports
- (2) State Form 01
- (3) In-House Accounting Reports

d. OCDE Special Schools Program income and expenditures shall be listed in accordance with The California School Accounting Manual Standardized Account Code Structure for Special Education as of April 19, 1999, with a summary page as shown in Appendix A, incorporated herein.

e. Indirect cost for Special Education Programs operated by OCDE shall be at the State approved rate not to exceed 7.5% of total Program expenditures.

f. OCDE shall bill the District on a monthly basis and forward invoices to the District's accounting department.

11. Related Services/Designated Instructional Services (DIS)

OCDE provides the following related services as part of its Special Schools Programs: Speech-Language Pathology Services, Adapted Physical Education, Physical Therapy, Occupational Therapy, Health and Nursing, Specialized Physical Health Care, Vocational Counseling, Adult Transition, Assistive Technology, Vision Training, Orientation and Mobility, Behavior Management/Intervention and Psychological Counseling. In addition to the above, as part of its Regional D/HH Program and Regional Oral Deaf Program, OCDE provides Audiological services and Sign Language Interpreters. Any other related services necessary for the pupil to benefit from the special education program shall be provided by the District or as otherwise agreed to by OCDE and the District, including translator services at IEP team meetings and/or translation of documents. In addition, OCDE shall separately bill the District for the services provided by a 1:1 paraeducator as required by the pupil's IEP.

12. Home Instruction

When a pupil is absent from school for more than ten (10) consecutive school days as a result of a medical condition and is expected to have an extended health related absence, the pupil's IEP team shall review the IEP and determine appropriate educational services. A District representative who is authorized by the District's Director of Special Education to approve or disapprove the allocation of specified District resources necessary for the implementation of the pupil's IEP shall participate in the IEP team meeting when considering a placement for home or

hospital instruction. When recommending placement for home or hospital instruction, the IEP team shall consider documentation from the pupil's treating physician indicating the pupil's condition, verifying that the condition prevents the pupil from attending school and providing a projected date for the pupil's return to school. Any in-home instruction, including other related services, shall be provided by the District or as otherwise agreed to by OCDE and the District. In the event the pupil is hospitalized in a facility located outside of the District, it is the District's responsibility to inform the parent that instruction will be provided in accordance with Education Code section 48207 and 48208. In either circumstance, it may be necessary to exit the pupil from OCDE in order for the District to provide the necessary in-home instruction or for the pupil to receive hospital instruction. In the event OCDE and the District agree that OCDE will provide in-home or hospital instruction to the pupil, OCDE shall separately bill the District for such services.

13. Transportation

a. Transportation by the Orange County Department of Education

The District shall provide transportation for its pupils participating in an OCDE Special Schools Program unless otherwise agreed between the District and OCDE. In the event OCDE agrees to transport a pupil, the District shall be responsible for the difference between the Direct and Direct Support Cost of home-to-school transportation as shown on the annual State Transportation Report plus one percent (1%) indirect support costs and the State transportation allocation received by the OCDE on a per pupil basis pursuant to Appendix B, incorporated herein. The District shall pay for the full cost of one-on-one transportation assistants as specified in the pupil's IEP. In the event OCDE is transporting five or more District pupils from one



Special Schools Program site, the District shall provide OCDE written notice on or before December 1 of each year of any proposed changes in the number of students requiring OCDE transportation for the following school year. Absent appropriate notice from the District of any proposed change in transportation for the following school year, the District may be solely responsible for funding the costs related to such change in transportation. Similarly, OCDE shall provide the District written notice on or before December 1 of each year of any proposed changes in OCDE's transportation services, not including cost projections, for the following school year.

b. Transportation by District

Districts transporting pupils to an OCDE Special Schools Program shall ensure that buses arrive at the school site with sufficient time to unload students prior to the beginning of the instructional day and to load them at the end of the instructional day. Delays requiring either overtime supervision or causing portions of the instructional program to be missed and subsequently made up may result in charges to the District for additional costs incurred by OCDE related to such delays.

14. Due Process and Complaints

OCDE and District agree to collaborate and fully cooperate in any due process proceeding involving a pupil currently attending or formerly enrolled in an OCDE Special Schools Program, including resolution sessions, mediations and hearings, as well as coordinating witness availability and producing documents regarding the pupil.

In the event OCDE is named as the sole LEA in a due process complaint, OCDE and District agree that District, as the pupil's school district of residence, is a necessary party to the due process proceedings.

OCDE and District shall also fully participate in the investigation and provision of documentation related to any complaint filed with the State of California, the Office for Civil Rights, or any other State and/or federal governmental body or agency.

15. Estimated Billing

The estimated billing for 2011-2012 will be based on actual information for 2010-2011 plus COLA as set forth in the most current State Budget plus any budgeting projections for step and column, and salary and benefit increases.

16. Final Accounting

An accounting accompanied by completed Appendices A and B with appropriate supporting documentation shall be sent to each District by September 15 of the following year. In addition, OCDE shall provide a quarterly expenditure report to the District's Director of Special Education. Corrections to prior year OCDE Special Schools Program costs resulting from adjustments to income or expenditure calculations shall be credited or billed to the District affected by the correction or adjustments.

17. Projected Enrollment/Facilities and Staffing Needs

In order to assist OCDE in planning for both facilities and staffing needs for its programs, each District shall submit to OCDE, in writing, on or before December 1 of each year, the projected number of pupils expected to be transferred to OCDE programs for special education and support services in the following school year. Absent a projection, the number of District pupils reported in the current year December 1 Federal Pupil Count shall be used for facilities, staffing and budget planning by OCDE for the following school year. In the event the District intends to withdraw five (5) or more pupils from a specific OCDE Special Schools Program site or enroll five (5) or more pupils in a specific OCDE Special Schools Program site for the following school year, the District shall notify OCDE in writing of such intention on or before December 1 of each year. OCDE shall forward such written notice to the Special Education Fiscal Advisory Committee for its review and consideration. Absent appropriate notice from the District of any proposed change in enrollment in an OCDE Special Schools Program site for the following school year, the District may be solely responsible for funding the costs related to such change in enrollment.

If the District is a Host District for any OCDE Special Schools Program, the District shall submit to OCDE, in writing, on or before December 1 of each year, notice of any proposed facilities projects, including but not limited to modernization or new construction projects at the school site where the OCDE Special Schools Program is located, as well as any potential impact such projects may have on the operation of an OCDE Special Schools Program, including opportunities for integration with typical peers at the Host District school site. In the event any such project would require relocation of an OCDE Special Schools Program, the District shall provide OCDE with at least one (1) year prior written notice to allow OCDE sufficient time to

plan accordingly. OCDE shall forward such written notice to the Special Education Fiscal Advisory Committee for its review and consideration.

In the event OCDE intends to close a Special Schools Program in which District pupils are enrolled, OCDE shall notify the District in writing of such intention on or before December 1 of each year.

18. Program Cost for 2011-2012

On or before fifteen (15) days after the release of the May revise each year, the Orange County Superintendent of Schools shall compute the projected Special Education Program Income and Special Education Program Expenditures for the following year with an Average Cost per Pupil for pupils enrolled in Special Schools Programs based on the Projected Enrollment data, and provide it to District Student Services and Business Directors.

19. Notices

All notices to be given pursuant to this Agreement, by either party to the other, shall be in writing and (a) delivered in person; (b) deposited in the United States Mail duly certified or registered, return receipt requested with postage prepaid; or (c) sent by Federal Express or other similar overnight delivery service. Notice is deemed to have be duly given and received upon (a) personal delivery; (b) as of the third business day after deposit in the Unities States Mail; or (c) the immediately succeeding business day after deposit with an overnight delivery service. Notices hereunder shall be provided to the following addresses, and such addresses may be changed by providing written notice in accordance with this Section:

OCDE: Orange County Department of Education  
Special Education Division  
200 Kalmus Drive  
Costa Mesa, CA 92626  
Attn: **Dennis Roberson**  
**Chief, Special Education Services**  
Fax: (714) 545-6312  
Phone: (714) 966-4133

District: Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675  
Attn: Sara R. Jocham, Assistant Superintendent, SELPA  
Fax: (949) 240-9047  
Phone: (949) 234-9275

20. No Waiver

The failure of OCDE in any one or more instances to insist upon strict performance of any of the terms of this Agreement or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon such terms or option on any future occasion.

21. Hold Harmless

To the extent permitted by law, and except for the acts or omissions of employees, agents and officers of the District, OCDE agrees to hold harmless, indemnify and defend the District and its governing board, officers, agents and employees from all claims, demands, liabilities, losses, damages, or expenses of any nature whatsoever arising from or connected with OCDE's performance of services during the term of this Agreement. To the extent permitted by law, and except for the acts or omissions of employees, agents and officers of OCDE, the District agrees

to hold harmless, indemnify and defend OCDE and its governing board, officers, agents and employees from all claims, demands, liabilities, losses, damages, or expenses of any nature whatsoever arising from or connected with the District's performance of services during the term of this Agreement.

22. Complete Agreement

This Agreement is the complete Agreement of the Parties. Any amendments hereto shall be in writing and shall be dated and executed by both Parties.

23. Applicable Law

This Agreement is governed by California state and federal law, and shall be interpreted as if jointly drafted by the Parties to this Agreement.

24. Counterparts

This Agreement may be signed in counterparts. A copy or original of this document with all signature pages appended together shall be deemed a fully executed Agreement. Facsimile signatures shall be deemed as binding as original signatures.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed.

APPROVED BY:

ORANGE COUNTY SUPERINTENDENT OF SCHOOLS

OCDE – [NAME]

CAPISTRANO UNIFIED SCHOOL DISTRICT

DISTRICT – [NAME]

BY: \_\_\_\_\_

(Authorized Agent)

BY: \_\_\_\_\_

(Authorized Agent)

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE APPROVED BY COUNTY  
SUPERINTENDENT OR DISTRICT BOARD:

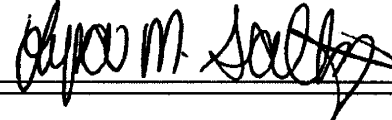
\_\_\_\_\_

cc: SELPA

APPROVED AS TO FORM:

DATE: 6/28/11

LYSA M. SALTZMAN, COUNSEL  
ORANGE COUNTY DEPARTMENT OF EDUCATION

BY  ATTORNEY

**Orange County Department of Education  
Special Schools Program**

<b>2011-12 Preliminary 1 Budget</b>	<b>Object</b>	<b>2009-2010</b>	<b>2010-2011</b>	<b>2010-2011</b>	<b>2011-12</b>
	<b>Code</b>	<b>Unaudited Actuals</b>	<b>Adopted Budget</b>	<b>Estimated Actuals Budget</b>	<b>Preliminary 1 Budget</b>
Restricted Fund Balance Low Incidence	9791	361,171.00	416,527	416,527	435,595
Reserve for Economic Uncertainty	9791	1,514,844.95	899,012	899,012	887,010
Adjustment to ending balance		45,462.00			
08-09 Refund to districts		(547,396.95)			
Categorical Flexibility					
Categorical Sweep					
<b>Total Beginning Balance</b>	<b>9791</b>	<b>1,374,081.00</b>	<b>1,315,539</b>	<b>1,315,539</b>	<b>1,322,605</b>
Federal-ARRA		724,870.05	683,132	641,920	0
<b>Revenue</b>					
Revenue Limit	8091	2,907,606.00	2,666,940	2,840,379	2,714,852
AB602 Allocation	8097	1,701,940.00	1,704,435	1,690,054	1,675,576
<b>AB602 Allocation</b>		<b>4,609,546.00</b>	<b>4,371,375</b>	<b>4,530,433</b>	<b>4,390,428</b>
Prior Year Apportionment	8319	-	0	0	0
Other State Revenue	8590	2,919.00	0	0	0
<b>Other State Revenue</b>		<b>2,919.00</b>	<b>0</b>	<b>0</b>	<b>0</b>
Interagency Fees Bill Back to Districts	8677	22,353,938.85	22,471,370	20,982,657	21,183,130
Interagency Fees Special Circumstance Aids	8677	2,879,540.08	2,570,000	3,020,376	3,020,376
Other revenue				76,065	
Other Local Revenue/EE contract	8699	137,007.61	113,193	137,709	137,709
<b>Other Local Revenue</b>		<b>25,370,486.54</b>	<b>25,154,563</b>	<b>24,216,807</b>	<b>24,341,215</b>
Transfer in from Other Fund	8919				
Contribution from Unrestricted	8980				
Contribution for Indirect	8981	477,793.73	487,039	474,445	495,510
Contribution from Restricted	8990	49,335.39	0	0	0
Contribution to Restricted Routine Maint.	8991	(198,312.00)	(186,033)	(181,141)	(181,141)
Contribution to Food Services	8992	(94,393.96)	(122,669)	(108,388)	(110,832)
Contribution to Special Ed	8993		0	0	0
<b>Total Contributions</b>		<b>234,423.16</b>	<b>178,337</b>	<b>184,916</b>	<b>203,537</b>
<b>Total Revenue</b>		<b>32,316,325.75</b>	<b>31,702,946</b>	<b>30,889,615</b>	<b>30,257,786</b>



**Orange County Department of Education  
Special Schools Program**

2011-12 Preliminary 1 Budget	Object	2009-2010	2010-2011	2010-2011	2011-12
	Code	Unaudited Actuals	Adopted Budget	Estimated Actuals Budget	Preliminary 1 Budget
<b>Expenditures</b>					
Teachers Salaries	1100	7,607,254.69	7,352,267	7,132,662	6,727,051
Federal Jobs Money Transfer					-138,258
Pupil Support Salaries	1200	1,158,477.30	1,154,786	1,145,960	1,208,367
Supervisor/Administrators	1300	1,170,397.46	1,168,931	1,116,759	971,131
Other Certificated	1900	960,182.61	996,301	982,653	950,736
<b>Total Certificated</b>		<b>10,896,312.06</b>	<b>10,672,285</b>	<b>10,378,034</b>	<b>9,719,027</b>
Instructional Assistants	2100	6,611,895.11	6,617,055	6,509,329	6,513,677
If calendar is reduced to 205 days					-307,580
Positions RIF					267,797
Classified Support Salaries	2200	536,911.01	647,417	539,299	542,077
Supervisors/Managers	2300	292,459.89	338,640	357,449	363,195
Clerical/Technical	2400	791,706.74	779,399	797,275	809,310
Short term Sub	2900	20,357.10	71,228	0	0
<b>Total Classified</b>		<b>8,253,329.85</b>	<b>8,454,739</b>	<b>8,203,352</b>	<b>8,188,476</b>
STRS/PERS	3100-3200	1,662,540.91	1,636,441	1,694,041	1,831,148
Medicare and PARS	3300	247,013.03	274,889	259,126	269,149
Health and Welfare	3400	3,467,479.62	3,634,818	3,794,741	4,354,654
Unemployment	3500	60,550.10	137,090	134,421	290,625
Worker's Comp	3600	317,063.41	295,383	288,471	283,056
Retiree's Benefit	3700		0	0	0
PERS Reduction	3800	297,379.55	194,555	204,099	145,502
Life Insurance/Other	3900	29,305.04	29,365	28,727	29,404
<b>Total Benefits</b>		<b>6,081,331.66</b>	<b>6,202,541</b>	<b>6,403,626</b>	<b>7,203,538</b>
Federal ARRA Expenditures		724,870.05	883,132	641,920	
Textbooks	4100	668.18	150	120	0
Other Books	4200	479.89	1,000	300	900
Materials and Supplies	4300	246,468.21	337,180	280,950	420,244
NonCapitalized Equipment	4400	43,212.32	44,742	58,894	49,500
<b>Total Books and Supplies</b>		<b>290,828.60</b>	<b>383,052</b>	<b>340,264</b>	<b>470,644</b>
Travel and Conference	5200	96,003.11	132,800	95,702	101,980
Dues and Membership	5300	774.54	1,563	850	850
Utilities	5500	170,328.41	192,400	181,700	183,175
Rents/Leases/Repairs	5640	578,358.00	660,847	515,225	523,796
Repairs/Maintenance	5600			51,276	45,717
Transfer of Direct Costs	5700	60,782.19	47,982	25,064	20,855
Medi-Cal Reserves					-200,000
Fairview Transfer				-114,103	
Professional/Consulting Services	5800	167,021.80	215,080	84,088	73,965
Communications	5900	80,609.96	94,410	84,303	84,009
<b>Total</b>		<b>1,153,878.01</b>	<b>1,345,082</b>	<b>924,105</b>	<b>834,347</b>
Improvement on Sites	6100	-	500	100,000	0
Buildings	6200	-	6,500	7,620	0
Capitalized Equipment	6400/6500	-	3,567	25,692	26,000
<b>Total</b>		<b>-</b>	<b>10,567</b>	<b>133,312</b>	<b>26,000</b>
Support Costs	7340	1,981,333.25	2,029,327	1,960,552	1,974,827
Support Contributions	7341	477,793.73	487,039	474,445	495,510
IFT out-other authorized IFT	7619	107,400.00	107,400	107,400	0
<b>Total Support</b>		<b>2,566,526.98</b>	<b>2,623,766</b>	<b>2,542,397</b>	<b>2,470,337</b>
<b>Total Expenditures</b>		<b>29,967,077.21</b>	<b>30,376,164</b>	<b>29,567,010</b>	<b>28,912,369</b>
Restricted Fund Balance Low Incidence	9780	416,526.55	416,527	435,595	478,045
Reserve for Economic Uncertainty	9780	1,932,721.99	911,255	887,010	867,371
<b>Ending Fund Balance</b>		<b>2,349,248.54</b>	<b>1,327,782</b>	<b>1,322,605</b>	<b>1,345,416</b>
Total bill back		22,356,858	22,471,370	20,982,657	21,183,130
Average enrollment		557.33	560	523	520
Estimated Bill Back per pupil		\$ 40,114.22	\$ 40,127	\$ 40,127	\$ 40,737
Actual billing		\$ 38,259.67		0.03%	1.52%
Increase per student from prior year		-2.86%			

ORANGE COUNTY DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION TRANSPORTATION

2011-2012 Pupil Transportation Budget (B1)

	2011-12 B1
1. Estimated number of pupils transported	320.00
2. Maximum number of billable days	213.00
3. Classified Salaries	87,938.00
4. Employee Benefits	27,630.00
5. Supplies	50.00
6. Travel/Conferences/Dues/Memberships	1,919.00
7. Other Expenses	100.00
8. Contracts with Private Contractors (5100)	4,136,727.00
9. Payments to Private Carriers (5830)	25,000.00
10. Other Services/Operating Expenses	0.00
11. Equipment/Replacement	0.00
12. Therapy Transportation	0.00
Subtotal Direct Costs	4,136,727.00
13. Direct Support costs	142,637.00
14. Total Direct/Direct Support Costs	3.45%
15. Indirect Support Costs @ 1%	1,426.00
16. Total Transportation Cost Allocation	4,280,790.00
17. State Transportation Entitlement	1,977,157.00
Revenue Reduction (19.8%)	(392,692.00)
Full Cost Buses + 5%	60,000.00
Full Cost Services	0.00
18. Beginning Fund Balance	0.00
Total Revenue	1,644,465.00
19. Excess Transportation Cost	2,636,325.00
19a. Per Pupil Excess Cost Line19/Line1	8,238.52
19b. Per Day Excess Cost Line19a/Line2	38.68

<b>DONATED BY</b>	<b>AMOUNT</b>	<b>PURPOSE</b>	<b>SCHOOL</b>
Screamin' Media Group Inc. DBA Screamin' Daily Deals	\$97.61	supplies	Las Palmas Elementary
Edison Gifts	\$100.00	technology	Aliso Viejo Middle
Edison International Employee Contributions Campaign	\$100.00	technology	Aliso Viejo Middle
Edison International Employee Contributions Campaign	\$100.00	employee match general supplies	Truman Benedict Elementary
Edison International Edison Gifts	\$100.00	employee match general supplies	Truman Benedict Elementary
Kona Ice OC, Inc.	\$103.20	supplies	Moulton Elementary
Western Digital (thru United Way Silicon Valley)	\$110.00	instructional supplies-gift account	Dan Hills High
Screamin' Media Group, Inc. DBA Screamin' Daily Deals	\$135.73	2nd qtr reward instructional supplies	Tijeras Creek Elementary
Screamin' Media Group Inc. DBA Screamin' Daily Deals	\$138.81	general supplies	Truman Benedict Elementary
Screamin' Media Group, Inc. DBA Screamin' Daily Deals	\$144.25	commission-instructional supplies	John S. Malcolm Elementary
Edison International	\$150.00	schoolwide supplies	Castille Elementary
Edison International Employee Contributions Campaign	\$150.00	employee match program donation	Reilly Elementary
Edison International Employee Contributions Campaign	\$150.00	employee match program donation	Reilly Elementary
The Bellomo Family	\$154.00	Boeing Company Employee Community Fund	Marco Forster Middle
The Irvine Museum	\$165.00	field trip transportation	Del Obispo Elementary
Edison International Employee Contributions Campaign	\$189.98	employee match-supplies for teachers	Aliso Niguel High
Edison International Employee Contributions Campaign	\$189.98	employee match-supplies for teachers	Aliso Niguel High
Screamin' Media Group, Inc. DBA Screamin' Daily Deals	\$195.72	technology	Ladera Ranch Elementary
Screamin' Media Group Inc.	\$214.73	office supplies	Don Juan Avila Elementary
Rancho Mission Viejo Land Trust	\$220.00	Mrs. Wilson field trip	Del Obispo Elementary
Screamin Coupons, Inc.	\$263.45	supplies	Del Obispo Elementary
Kyle Adler	\$323.05	Constellation Energy Group Employee Fund	Marco Forster Middle
City of Mission Viejo	\$330.00	3rd grade field trip gift account	Viejo Elementary
Concordia PTA	\$400.00	kindergarten supplies	Concordia Elementary
Viejo Elementary Fifth Grade Science Camp	\$412.50	camp gift account	Viejo Elementary
Screamin' Media Group Inc.	\$436.53	technology	Aliso Viejo Middle
Viejo Elementary School PTA	\$467.50	gift account-field trips	Viejo Elementary
Ralphs Grocery Company/Kroger	\$515.92	supplies	Del Obispo Elementary
Reilly School Foundation	\$732.00	teacher stipends	Reilly Elementary
Coca Cola Refreshments	\$886.02	teacher supplies	Aliso Niguel High
CUCPTSA	\$950.00	student materials	State and Federal Programs
Society for Science & the Public	\$1,000.00	supplies for math and science	Aliso Niguel High
Simon Youth Foundation, Inc.	\$1,000.00	supplies	Fresh Start Program
Tijeras Creek Booster Club	\$1,241.65	laptop	Tijeras Creek Elementary
Vending Plus	\$2,277.41	supplies for teachers	Aliso Niguel High
R. H. Dana Elementary ENF PTA	\$2,500.00	iPads	R. H. Dana Elementary ENF
Frank J. Mogavero	\$2,501.00	reminder binders	Vista del Mar Middle
Catherine C. Pfeifer	\$5,000.00	classroom materials	San Clemente High
Concordia PTA	\$5,539.73	library furniture	Concordia Elementary
CUSD Foundation	\$7,000.00	student math program	TIS
Vista del Mar Mako Educational Foundation	\$16,061.40	computer lab upgrade	Vista del Mar Elementary
Vista del Mar Mako Educational Foundation	\$17,000.00	computer lab aide	Vista del Mar Elementary
Las Flores Elementary PTA	\$21,000.00	primary music	Las Flores Elementary
Reilly School Foundation	\$21,920.00	5th grade science camp	Reilly Elementary

<b>DONATED BY</b>	<b>AMOUNT</b>	<b>PURPOSE</b>	<b>SCHOOL</b>
JAMS		Donation of 80 binders and office supplies	San Juan Elementary
Saddleback Rancho Capistrano Church		Donation of 50 backpacks with school supplies	San Juan Elementary
Laguna Niguel Presbyterian Church		Donation of 75 backpacks with school supplies	San Juan Elementary
Zuni Trucking		Donation of 60 storage bins and office supplies	San Juan Elementary
Girl Scout Troops 1440 and 308		Donation of school supplies	San Juan Elementary

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

**RESOLUTION NO. 1112-22**

**INCREASE IN THE WORKERS' COMPENSATION RATE**

*WHEREAS*, the most recent actuarial study completed on behalf of the District shows an unfunded liability of approximately \$900,000 in the District's self-funded Workers' Compensation Program, and

*WHEREAS*, the Business Department estimates that this deficit may be reduced and possibly eliminated by increasing the current rate charged to the various programs for Workers' Compensation from \$1.61 per \$100 of payroll to \$2.00 per \$100 of payroll.

*NOW THEREFORE BE IT RESOLVED* the Board of Trustees authorizes an increase in the Workers' Compensation Rate from \$1.61 per \$100 of payroll to \$2.00 per \$100 of payroll; premiums generated by this increase to be deposited in the Workers' Compensation Fund.

AYES: ( )

NOES ( )

ABSENT ( )

ABSTAIN ( )

I, Joseph M. Farley, Secretary of the Capistrano Unified School District Board of Trustees, hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board at the meeting thereof on the 26<sup>th</sup> day of September, 2011, by a roll call vote of said Board.

IN WITNESS THEREOF, I have hereunto set my hand and seal this 26<sup>th</sup> day of September, 2011.

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John M. Alpay, Clerk

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Joseph M. Farley, Ed.D.  
Superintendent  
Secretary of the Board of Trustees



CONTRACTOR'S NAME: Mary Merchant

CONTRACT No. 11112060



## INDEPENDENT CONTRACTOR AGREEMENT

This AGREEMENT is hereby entered into between **Capistrano Unified School District**, hereinafter referred to as "DISTRICT", and Mary Merchant hereinafter referred to as "CONTRACTOR".

WHEREAS, DISTRICT is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required;

WHEREAS, DISTRICT is in need of such special services and advice; and

WHEREAS, CONTRACTOR is specially trained and experienced and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis;

NOW THEREFORE, the parties agree as follows:

1. **Services to be provided by CONTRACTOR:** Staff development training for CUSD school psychologists and counselors.

2. **Term:** CONTRACTOR shall commence providing services under this AGREEMENT on July 1, 2011, and will diligently perform as required and complete performance by June 30, 2012.

1

EXHIBIT 14

**CONTRACTOR'S NAME:** Mary Merchant **CONTRACT No.** I1112060

**3. Compensation:** DISTRICT agrees to pay the CONTRACTOR for service satisfactorily rendered pursuant to this AGREEMENT a total fee not to exceed N/A Dollars (\$ N/A ).  
DISTRICT shall pay CONTRACTOR according to the following terms and conditions: District to issue purchase orders for each assignment per fee schedule.

**4. Expenses:** DISTRICT shall not be liable to CONTRACTOR for any costs or expenses paid or incurred by CONTRACTOR in performing services for DISTRICT, except as follows: None.

**5. Independent Contractor:** CONTRACTOR, in the performance of this AGREEMENT, shall be and act as in independent contractor. CONTRACTOR understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT, and/or to which DISTRICT'S employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. CONTRACTOR assumes the full responsibility for the acts and/or omissions of his/her employees or agents as they relate to the services to be provided under this AGREEMENT. CONTRACTOR shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to CONTRACTOR'S employees.

**6. Materials:** CONTRACTOR shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this AGREEMENT, except as follows: None.

CONTRACTOR'S services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession.

**7. Originality of Services:** CONTRACTOR agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays, and/or



video productions prepared for, written for, submitted to the DISTRICT and/or used in connection with this AGREEMENT, shall be wholly original to CONTRACTOR and shall not be copied in whole or in part from any other source, except that submitted to CONTRACTOR by DISTRICT as a basis for such services.

**8. Copyright/Trademark/Patent:** CONTRACTOR understands and agrees that all matters produced under this AGREEMENT shall become the property of DISTRICT and cannot be used without DISTRICT's express written permission. DISTRICT shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the DISTRICT. CONTRACTOR consents to use of CONTRACTOR'S name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

**9. Termination:** DISTRICT may, at any time, with or without reason, terminate this AGREEMENT and compensate CONTRACTOR only for services satisfactorily rendered to the date of termination. Written notice by DISTRICT shall be sufficient to stop further performance of services by CONTRACTOR. Notice shall be deemed given when received by the CONTRACTOR or no later than three days after the day of mailing, whichever is sooner.

DISTRICT may terminate this AGREEMENT upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this AGREEMENT by the CONTRACTOR; or (b) any act by CONTRACTOR exposing the DISTRICT to liability to others for personal injury or property damage; or (c) CONTRACTOR is adjudged a bankrupt, CONTRACTOR makes a general assignment for the benefit of creditors or a receiver is appointed on account of CONTRACTOR's insolvency. Written notice by DISTRICT shall contain the reasons for such intention to terminate and unless within ten (10) days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this AGREEMENT shall upon the expiration of the ten (10) days cease and terminate. In the event of such termination, the DISTRICT may secure the required services from another contractor. If the cost to the DISTRICT exceeds the cost of providing the service pursuant to this AGREEMENT, the excess cost shall be charges to and collected from the CONTRACTOR. The foregoing provisions are in addition

to and not a limitation of any other rights or remedies available to DISTRICT. Written notice by DISTRICT shall be deemed given when received by the other party or no later than three (3) days after the day of mailing, whichever is sooner.

**10. Hold Harmless:** CONTRACTOR agrees to and does hereby indemnify, hold harmless and defend the DISTRICT and its governing board, officers, employees and agents from every claim or demand made and every liability, loss damage or expense, of any nature whatsoever, which may be incurred by reason of:

(a) Liability for damages for: (1) death or bodily injury to person; (2) injury to, loss or theft of property; or (3) any other loss, damage or expense arising out of (1) or (2) above, sustained by the CONTRACTOR or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract, upon or in connection with the services called for in this AGREEMENT, however caused, except for liability for damages referred to above which result from the negligence or willful misconduct of the DISTRICT or its officers, employees or agents.

(b) Any injury to or death of any person(s), including the DISTRICT's officers, employees and agents, or damage to or loss of any property caused by any act, neglect, default, or omission of the CONTRACTOR, or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract arising out of, or in any way connected with, the services covered by this AGREEMENT, whether said injury or damage occurs either on or off DISTRICT property, except for liability for damages which result from the sole negligence or willful misconduct of the DISTRICT or its officers, employees or agents.

(c) Any liability for damages which may arise from the furnishing or use of any copyrighted or uncopyrighted matter or patented or unpatented invention under this AGREEMENT.

**11. Insurance:** Pursuant to Section 10, CONTRACTOR agrees to carry a comprehensive general and automobile liability insurance with limits of One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage in a form mutually acceptable

to both parties to protect CONTRACTOR and DISTRICT against liability or claims of liability which may arise out of the AGREEMENT. In addition, CONTRACTOR agrees to provide an endorsement to this policy stating, "Such insurance as is afforded by this policy shall be primary and any insurance carried by DISTRICT shall be excess and noncontributory." No later than the actual start date, CONTRACTOR shall provide DISTRICT with certificates of insurance evidencing all coverages and endorsements required hereunder including a thirty (30) day written notice of cancellation or reduction in coverage. CONTRACTOR agrees to name DISTRICT and its governing board, officers, agents and employees as additional insureds under said policy.

**12. Assignment:** The obligations of the CONTRACTOR pursuant to this AGREEMENT shall not be assigned by the CONTRACTOR.

**13. Compliance with Applicable Laws:** The services completed herein must meet the approval of the DISTRICT and shall be subject to the DISTRICT's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to CONTRACTOR, CONTRACTOR's business, equipment and personnel engaged in services covered by the AGREEMENT or accruing out of the performance of such services.

**14. Permits/Licenses:** CONTRACTOR and all CONTRACTOR's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this AGREEMENT.

**15. Employment with Public Agency:** CONTRACTOR, if an employee of another public agency, agrees that CONTRACTOR will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this AGREEMENT.

**16. Entire Agreement/Amendment:** This AGREEMENT and any exhibits attached hereto constitute the entire AGREEMENT among the parties to it and supersede any prior or

contemporaneous understanding or agreement with respect to the services contemplated, and may be amended only by a written amendment executed by both parties to the AGREEMENT.

**17. Nondiscrimination:** CONTRACTOR agrees that it will not engage in unlawful discrimination in employment of persons because of race, ethnicity, religion, nationality, disability, gender, marital status or age of such persons.

**18. Non Waiver:** The failure of DISTRICT or CONTRACTOR to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this AGREEMENT shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.

**19. Notice:** 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 services or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section. At the date of this AGREEMENT, the addresses of the parties are as follows:

DISTRICT:	CONTRACTOR:
<u>Terry Fluent, Director, Purchasing</u>	<u>Mary Merchant</u>
<u>Capistrano Unified School District</u>	<u>11560 Maynard Ave.</u>
<u>33122 Valle Road</u>	<u>Tustin, CA 92782</u>
<u>San Juan Capistrano, CA 92675</u>	<u></u>

**20. Severability:** If any term, condition or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

CONTRACTOR'S NAME: Mary Merchant CONTRACT No. I1112060

**21. Attorney Fees/Costs:** Should litigation be necessary to enforce any terms or provisions of this AGREEMENT, then each party shall bear its own litigation and collection expenses, witness fees, court costs, and attorneys' fees.

**22. Governing Law:** The terms and conditions of the AGREEMENT shall be governed by the laws of the State of California with venue in Orange County, California. This AGREEMENT is made in and shall be performed in Orange County, California.

**23. Exhibits:** This AGREEMENT incorporates by this reference, any exhibits, which are attached hereto and incorporated herein.

a. Exhibit	A	<u>Fee Schedule</u>
b. Exhibit	B	<u>None</u>
c. Exhibit	C	<u>None</u>

THIS AGREEMENT IS ENTERED INTO THIS 27th DAY OF September, 2011.

Capistrano Unified School District  
Name of District

Mary Merchant  
Contractor Name

By: \_\_\_\_\_

Signature: \_\_\_\_\_

Terry Fluent  
Typed Name

Mary Merchant  
Typed or Printed Name

Director, Purchasing  
Title

\_\_\_\_\_  
Title

September 26, 2011

Board Approval Date

\_\_\_\_\_

Initials/Date BH - 9/6/11

Taxpayer Identification Number

**EXHIBIT A**

**FEE SCHEDULE**

Mary Merchant Psy, D. MFT, LEP  
11560 Maynard Avenue  
Tustin, CA 92782  
(714)336-9958  
mm.edpsych@gmail.com

Staff Development / Training

\$175.00 per hour

By: \_\_\_\_\_ Date: \_\_\_\_\_



## INDEPENDENT CONTRACTOR AGREEMENT

This AGREEMENT is hereby entered into between **Capistrano Unified School District**, hereinafter referred to as "DISTRICT", and Pacific Audiologies hereinafter referred to as "CONTRACTOR".

WHEREAS, DISTRICT is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required;

WHEREAS, DISTRICT is in need of such special services and advice; and

WHEREAS, CONTRACTOR is specially trained and experienced and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis;

NOW THEREFORE, the parties agree as follows:

1. **Services to be provided by CONTRACTOR:** Hearing and vision screening services  
District wide.

2. **Term:** CONTRACTOR shall commence providing services under this AGREEMENT on September 7, 2011, and will diligently perform as required and complete performance by June 30, 2012.

CONTRACTOR'S NAME: Pacific Audiologies CONTRACT No. I1112054

3. **Compensation:** DISTRICT agrees to pay the CONTRACTOR for service satisfactorily rendered pursuant to this AGREEMENT a total fee not to exceed N/A Dollars (\$ N/A ).  
DISTRICT shall pay CONTRACTOR according to the following terms and conditions: District to issue purchase orders for each assignment per fee schedule.

4. **Expenses:** DISTRICT shall not be liable to CONTRACTOR for any costs or expenses paid or incurred by CONTRACTOR in performing services for DISTRICT, except as follows: None.

5. **Independent Contractor:** CONTRACTOR, in the performance of this AGREEMENT, shall be and act as in independent contractor. CONTRACTOR understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT, and/or to which DISTRICT'S employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. CONTRACTOR assumes the full responsibility for the acts and/or omissions of his/her employees or agents as they relate to the services to be provided under this AGREEMENT. CONTRACTOR shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to CONTRACTOR'S employees.

6. **Materials:** CONTRACTOR shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this AGREEMENT, except as follows: None.

CONTRACTOR'S services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession.

7. **Originality of Services:** CONTRACTOR agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays, and/or



video productions prepared for, written for, submitted to the DISTRICT and/or used in connection with this AGREEMENT, shall be wholly original to CONTRACTOR and shall not be copied in whole or in part from any other source, except that submitted to CONTRACTOR by DISTRICT as a basis for such services.

**8. Copyright/Trademark/Patent:** CONTRACTOR understands and agrees that all matters produced under this AGREEMENT shall become the property of DISTRICT and cannot be used without DISTRICT's express written permission. DISTRICT shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the DISTRICT. CONTRACTOR consents to use of CONTRACTOR'S name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

**9. Termination:** DISTRICT may, at any time, with or without reason, terminate this AGREEMENT and compensate CONTRACTOR only for services satisfactorily rendered to the date of termination. Written notice by DISTRICT shall be sufficient to stop further performance of services by CONTRACTOR. Notice shall be deemed given when received by the CONTRACTOR or no later than three days after the day of mailing, whichever is sooner.

DISTRICT may terminate this AGREEMENT upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this AGREEMENT by the CONTRACTOR; or (b) any act by CONTRACTOR exposing the DISTRICT to liability to others for personal injury or property damage; or (c) CONTRACTOR is adjudged a bankrupt, CONTRACTOR makes a general assignment for the benefit of creditors or a receiver is appointed on account of CONTRACTOR's insolvency. Written notice by DISTRICT shall contain the reasons for such intention to terminate and unless within ten (10) days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this AGREEMENT shall upon the expiration of the ten (10) days cease and terminate. In the event of such termination, the DISTRICT may secure the required services from another contractor. If the cost to the DISTRICT exceeds the cost of providing the service pursuant to this AGREEMENT, the excess cost shall be charges to and collected from the CONTRACTOR. The foregoing provisions are in addition

to and not a limitation of any other rights or remedies available to DISTRICT. Written notice by DISTRICT shall be deemed given when received by the other party or no later than three (3) days after the day of mailing, whichever is sooner.

**10. Hold Harmless:** CONTRACTOR agrees to and does hereby indemnify, hold harmless and defend the DISTRICT and its governing board, officers, employees and agents from every claim or demand made and every liability, loss damage or expense, of any nature whatsoever, which may be incurred by reason of:

(a) Liability for damages for: (1) death or bodily injury to person; (2) injury to, loss or theft of property; or (3) any other loss, damage or expense arising out of (1) or (2) above, sustained by the CONTRACTOR or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract, upon or in connection with the services called for in this AGREEMENT, however caused, except for liability for damages referred to above which result from the negligence or willful misconduct of the DISTRICT or its officers, employees or agents.

(b) Any injury to or death of any person(s), including the DISTRICT's officers, employees and agents, or damage to or loss of any property caused by any act, neglect, default, or omission of the CONTRACTOR, or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract arising out of, or in any way connected with, the services covered by this AGREEMENT, whether said injury or damage occurs either on or off DISTRICT property, except for liability for damages which result from the sole negligence or willful misconduct of the DISTRICT or its officers, employees or agents.

(c) Any liability for damages which may arise from the furnishing or use of any copyrighted or uncopyrighted matter or patented or unpatented invention under this AGREEMENT.

**11. Insurance:** Pursuant to Section 10, CONTRACTOR agrees to carry a comprehensive general and automobile liability insurance with limits of One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage in a form mutually acceptable

to both parties to protect CONTRACTOR and DISTRICT against liability or claims of liability which may arise out of the AGREEMENT. In addition, CONTRACTOR agrees to provide an endorsement to this policy stating, "Such insurance as is afforded by this policy shall be primary and any insurance carried by DISTRICT shall be excess and noncontributory." No later than the actual start date, CONTRACTOR shall provide DISTRICT with certificates of insurance evidencing all coverages and endorsements required hereunder including a thirty (30) day written notice of cancellation or reduction in coverage. CONTRACTOR agrees to name DISTRICT and its governing board, officers, agents and employees as additional insureds under said policy.

**12. Assignment:** The obligations of the CONTRACTOR pursuant to this AGREEMENT shall not be assigned by the CONTRACTOR.

**13. Compliance with Applicable Laws:** The services completed herein must meet the approval of the DISTRICT and shall be subject to the DISTRICT's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to CONTRACTOR, CONTRACTOR's business, equipment and personnel engaged in services covered by the AGREEMENT or accruing out of the performance of such services.

**14. Permits/Licenses:** CONTRACTOR and all CONTRACTOR's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this AGREEMENT.

**15. Employment with Public Agency:** CONTRACTOR, if an employee of another public agency, agrees that CONTRACTOR will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this AGREEMENT.

**16. Entire Agreement/Amendment:** This AGREEMENT and any exhibits attached hereto constitute the entire AGREEMENT among the parties to it and supersede any prior or

contemporaneous understanding or agreement with respect to the services contemplated, and may be amended only by a written amendment executed by both parties to the AGREEMENT.

**17. Nondiscrimination:** CONTRACTOR agrees that it will not engage in unlawful discrimination in employment of persons because of race, ethnicity, religion, nationality, disability, gender, marital status or age of such persons.

**18. Non Waiver:** The failure of DISTRICT or CONTRACTOR to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this AGREEMENT shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.

**19. Notice:** 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 services or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section. At the date of this AGREEMENT, the addresses of the parties are as follows:

**DISTRICT:**

Terry Fluent, Director, Purchasing  
Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675

**CONTRACTOR:**

Pacific Audiologies  
1846 Woodlawn St.  
Upland, CA 91786

**20. Severability:** If any term, condition or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

CONTRACTOR'S NAME: Pacific Audiologies CONTRACT No. I1112054

**21. Attorney Fees/Costs:** Should litigation be necessary to enforce any terms or provisions of this AGREEMENT, then each party shall bear its own litigation and collection expenses, witness fees, court costs, and attorneys' fees.

**22. Governing Law:** The terms and conditions of the AGREEMENT shall be governed by the laws of the State of California with venue in Orange County, California. This AGREEMENT is made in and shall be performed in Orange County, California.

**23. Exhibits:** This AGREEMENT incorporates by this reference, any exhibits, which are attached hereto and incorporated herein.

a. Exhibit	A	<u>Fee Schedule</u>
b. Exhibit	B	<u>None</u>
c. Exhibit	C	<u>None</u>

THIS AGREEMENT IS ENTERED INTO THIS 27th DAY OF September, 2011.

Capistrano Unified School District  
Name of District

Pacific Audiologies  
Contractor Name

By: \_\_\_\_\_

Signature: \_\_\_\_\_

Terry Fluent  
Typed Name

\_\_\_\_\_  
Typed or Printed Name

Director, Purchasing  
Title

\_\_\_\_\_  
Title

September 26, 2011

Board Approval Date

\_\_\_\_\_

Initials/Date BH - 9/7/11

Taxpayer Identification Number



## AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into this \_\_\_\_\_, by and between the Office of CAPISTRANO UNIFIED SCHOOL DISTRICT, hereinafter called "THE DISTRICT", and Pacific Audiologics, our school screening division, hereinafter called "CONSULTANT"

1. The complete agreement includes all documents, Terms and Conditions:

### RECITALS

WHEREAS, CONSULTANT is specially skilled, trained, experienced, and competent to render the services and advice described in Article 1 of this agreement and THE DISTRICT requires these services and advice; and

NOW THEREFORE, THE DISTRICT AND CONSULTANT mutually agree as follows:

1. Services to be provided by CONSULTANT
  - A. CONSULTANT will render services described below:
  - B. Provide hearing and vision screening services as described in the proposal sent with this agreement. CONSULTANT will commence work under this agreement starting at a mutually agreed upon start date during 2011-2012 school year, and will diligently prosecute the work thereafter. CONSULTANT acknowledges that THE DISTRICT has multiple school calendars and will provide said services within these calendars as spelled out within the contract period at the rate of one school site per scheduled day. Make-up/re-test screening and threshold testing will be performed if desired by the THE DISTRICT.
  - C. CONSULTANT will perform said services as an independent contractor under the direction of THE DISTRICT in pursuit of his or her independent calling and not as an employee of THE DISTRICT; and he or she shall be under the control of THE DISTRICT as to the result to be accomplished.
  - D. Reports by the CONSULTANT shall only contain the results of the vision and hearing testing performed. The results will only be released to authorized personnel of THE DISTRICT.

- E. The CONSULTANT will indemnify and hold harmless THE DISTRICT and its agents, from any liability incurred, by reason of injury, death, or property damage sustained in connection with or caused by actions of the CONSULTANT in the performance of this contract.

NOTE- The testing services that are offered are for the general population of students who can be mass screened. Students who are in SDC, or others who will require additional testing time, or special test methods, should not be considered as part of our standard mass screening population. Testing of students who will require additional time, or alternate test methods can be scheduled to be seen one-on-one, by our school nurses with special testing experience, and on a different payment structure.

## 2. Services to be provided by THE DISTRICT

- A. THE DISTRICT will prepare and furnish to CONSULTANT upon his or her request such information as is reasonably necessary in the performance of CONSULTANT'S work under this agreement.
- B. THE DISTRICT, or school site staff, will assist if needed in the coordination of staff members, and/or parent volunteers for each test site. THE DISTRICT shall be responsible for the supervision and conduct of the students during the testing sessions. It is THE DISTRICT'S responsibility to get the students to and from their class at each of the school sites. THE DISTRICT shall assign a Health Supervisor as the authorized agent to be the main contact between the CONSULTANT and THE DISTRICT.
- C. THE DISTRICT, or school site staff, will assist in the location of adequate space to conduct the vision screening, and a parking space for the mobile hearing screening unit. Make-up/re-test days may require space for vision and hearing screening and threshold testing using portable equipment.
- D. THE DISTRICT shall provide, if requested, a facility to park or store the mobile testing unit during the testing timeframe agreed upon. A bus yard or secure maintenance yard shall be made available after each test day, and on weekends or holidays during the testing cycle.
- E. A 60 day written notice must be given in the event of cancellation of this contract. In the event of cancellation, THE DISTRICT shall give the CONSULTANT proper consideration at an amount of 10% of total revenues expected. A minimum of one day notice is requested if rescheduling is needed. If testing is canceled or halted by THE DISTRICT or it's agents after testing has begun for the day, THE DISTRICT will reimburse the CONSULTANT for mileage, fuel, and salaries incurred for the testing of that day.
- F. THE DISTRICT shall issue any necessary purchase orders a minimum of 30 days prior to the beginning of testing. THE DISTRICT will be billed monthly on work completed, and the terms of payment will be net 15 days. A 1 1/2% per month interest will be applied to balances not paid after 60 days.

- G. THE DISTRICT shall be responsible for reporting failures and recommendations to parents, as well as reporting any figures, reports, or Intent to Contract paperwork with applicable agencies.

3. CONSULTANT'S Fee and Payment Thereof

- A. THE DISTRICT will pay the CONSULTANT for services rendered as listed below. As services are rendered, they are to be billed on a per session basis, or on a monthly basis for large districts.

1. Session 1 – First round vision and hearing screening of all schools in THE DISTRICT.
2. Session 2 – Vision and hearing make-up/re-testing and threshold testing of failed hearing screening students at all schools.

- B. For services rendered above (3a), THE DISTRICT will pay the CONSULTANT fees as follows:

- |   |                   | Initial    |
|---|-------------------|------------|
| 1. Hearing, Vision, and color screening – selected grade boys (2 nurses for vision, 1 audiometrist, 1 assistant, and 1 mobile hearing screening unit capable of screening about 370 students per day – elementary). | \$1390.00 per day | <u>NB</u>  |
| 2. Above services with 3 nurses (capable of screening about 555 students per day)   | \$1615.00 per day | <u>MB</u>  |
| 3. Above with 4 nurses (about 740 students)   | \$1840.00 per day | <u>MB</u>  |
| 4. Threshold testing (if failed hearing and Time permits)   | NO CHARGE         | <u>N/A</u> |
| 5. Make-up/re-test sessions (one nurse with portable equipment) (fee is per nurse, per day)   | \$250.00 per day  | <u>N/A</u> |
| 6. Pre-printing test response forms (includes data download & conversion)   | \$150.00          | <u>MB</u>  |
| 7. Scoliosis testing (fee is per nurse, per day)  | \$250.00 per day  | <u>N/A</u> |
| 8. Hearing only (unit, audiometrist & assistant)  | \$940.00 per day  | <u>N/A</u> |

Above items are listed as a menu. Initial only those services desired. Districts with multiple schools of varying sizes may need to initial #1, #2, and/or #3.

THE DISTRICT will pay no amount of travel or other expenses of CONSULTANT under this agreement.



C. Payments should be sent to the following address:

Pacific Audiologics  
1846 Woodlawn  
Upland, Ca. 91786

NEW ADDRESS

Our tax I.D. information is as follows:

Industrial Hearing and Pulmonary Management  
1846 Woodlawn  
Upland, Ca. 91786                      Fed I.D. # 33-0913346

4. Duration of Agreement

- A. The term of this agreement shall be from September 6<sup>th</sup>, 2011, through June 30<sup>th</sup>, 2012.

5. Special Provisions

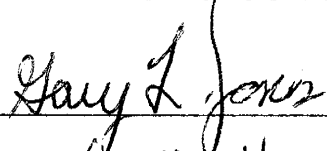
- A. CONSULTANT shall comply with all federal, state, and local laws and ordinances, as well as required equipment calibration requirements applicable to services to be provided. CONSULTANT shall maintain all required insurance coverage.
- B. This agreement may be amended by the mutual written consent of the parties hereto.

CAPISTRANO UNIFIED SCHOOL DISTRICT

  
\_\_\_\_\_

Date: \_\_\_\_\_

PACIFIC AUDIOLOGICS

  
\_\_\_\_\_

Date: 0-13-11



## **AGREEMENT**

THIS AGREEMENT, dated September 27, 2011, in the County of Orange, State of California, is by and between Capistrano Unified School District, (hereinafter referred to as "DISTRICT" ), and West Coast Arborists, Inc., (hereinafter referred to as "CONTRACTOR").

The DISTRICT and the CONTRACTOR, for the consideration stated herein, agree as follows:

1. CONTRACTOR agrees to complete the Project known as **BID NO. 1112-10, TREE TRIMMING MAINTENANCE SERVICE** according to all the terms and conditions set forth in the Project Documents, including but not limited to the Notice Calling For Bids, Information for Bidders, Bid Form, Bid Security, Designation of Subcontractors, Information Required of Bidder, all prequalification forms submitted pursuant to Public Contract Code Section 20111.5, if any, Noncollusion Affidavit, Workers' Compensation Certificate, Faithful Performance Bond, Payment Bond, Escrow Agreement, if applicable, Drug-Free Workplace Certification, Criminal Records Check Certification, Change Orders, Shop Drawing Transmittals, Insurance Certificates and Endorsements, Guarantees, Contractor's Certificate Regarding Non-Asbestos Containing Materials, Disabled Veteran Business Enterprises Certification, if applicable, General Conditions, Supplemental Conditions, if any, Special Conditions, if any, Drawings, Specifications, and all modifications, addenda and amendments thereto by this reference incorporated herein. The Project Documents are complementary, and what is called for by any one shall be as binding as if called for by all.

2. CONTRACTOR shall perform within the time set forth in Paragraph 4 of this Agreement everything required to be performed, and shall provide, furnish and pay for all the labor, materials, necessary tools, expendable equipment, and all taxes, utility and transportation services required for construction of the Project. All of said work shall be performed and completed in a good workmanlike manner in strict accordance with the drawings, specifications and all provisions of this Agreement as hereinabove defined and in accordance with applicable laws, codes, regulations, ordinances and any other legal requirements governing the Project. The CONTRACTOR shall be liable to the DISTRICT for any damages arising as a result of a failure to fully comply with this obligation, and the CONTRACTOR shall not be excused with respect to any failure to so comply by any act or omission of the Architect, Engineer, Inspector, Division of State Architect, or representative of any of them, unless such act or omission actually prevents the CONTRACTOR from fully complying with the requirements of the Project Documents, and unless the CONTRACTOR protests at the time of such alleged prevention that the act or omission is preventing the CONTRACTOR from fully complying with the Project Documents. Such protest shall not be effective unless reduced to writing and filed with the DISTRICT within three (3) working days of the date of occurrence of the act or omission preventing the CONTRACTOR from fully complying with the Project Documents.

3. DISTRICT shall pay to the CONTRACTOR, as full consideration for the faithful performance of this Agreement, subject to any additions or deductions as provided in the Project Documents, the sum as specified in attached bid price sheet.

4. The work shall be commenced on or before the seventh (7<sup>th</sup>) day after receiving the DISTRICT'S Notice to Proceed and shall be completed within **thirty (30)** consecutive calendar days from the date specified in the Notice to Proceed. The initial term of this agreement will be for one year, with two (2) one year renewal periods, at the option of the Board of Trustees, for a total contract term not to exceed 36 months.

5. **Time is of the essence.** If the work is not completed in accordance with Paragraph 4 above, it is understood that the DISTRICT will suffer damage. It being impractical and infeasible to determine the amount of actual damage, in accordance with Government Code Section 53069.85, it is agreed that CONTRACTOR shall pay to DISTRICT as fixed and liquidated damages, and not as a penalty, the sum of **two hundred dollars (\$200.00)** for each calendar day of delay until work is completed and accepted. Time extensions may be granted by the DISTRICT as provided in Article 63 of the General Conditions. Liquidated damages shall be imposed as set forth in Article 63 of the General Conditions.

6. Termination for Cause or Nonappropriation. In the event CONTRACTOR defaults in the performance of the Agreement as set forth in General Conditions Article 13(a) or if there is a nonappropriation of funds or insufficient funds as set forth in General Conditions Article 13(d), then this Agreement shall terminate or be suspended as set forth in General Conditions Article 13.

Termination for Convenience. DISTRICT has discretion to terminate this Agreement at any time and require CONTRACTOR to cease all work on the Project by providing CONTRACTOR written notice of termination specifying the desired date of termination. Upon receipt of written notice from DISTRICT of such termination for DISTRICT'S convenience, CONTRACTOR shall:

- (i) Cease operations as directed by DISTRICT in the notice;
- (ii) Take any actions necessary, or that DISTRICT may direct, for the protection and preservation of the work; and
- (iii) Not terminate any insurance provisions required by the Project Documents.

In case of such termination for DISTRICT'S convenience, CONTRACTOR shall be entitled to receive payment from DISTRICT for work satisfactorily executed and for proven loss with respect to materials, equipment, and tools, including overhead and profit for that portion of the work completed. In the case of Termination for Convenience, DISTRICT shall have the right to accept assignment of subcontractors. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the DISTRICT.

7. The CONTRACTOR agrees to and does hereby indemnify and hold harmless the DISTRICT, its Governing Board, officers, agents, and employees from every claim or demand

made, and every liability, loss, damage, or expense, of any nature whatsoever, which may be incurred by reason of:

(a) Any injury to or death of any person(s) or damage to, loss or theft of any property sustained by the CONTRACTOR or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract, upon or in connection with the work called for in this AGREEMENT, except for liability resulting from the sole active negligence, or willful misconduct of the DISTRICT.

(b) Any injury to or death of any person(s) or damage, loss or theft of any property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm, or corporation employed by the CONTRACTOR, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs either on or off DISTRICT property, if the liability arose due to the negligence or willful misconduct of anyone employed by the CONTRACTOR, either directly or by independent contract,

The CONTRACTOR, at CONTRACTOR'S own expense, cost, and risk shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the DISTRICT, its Governing Board, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its Governing Board, officers, agents or employees in any action, suit or other proceedings as a result thereof.

8. Hold Harmless and Indemnification. To the fullest extent permitted by law, the CONTRACTOR, at the CONTRACTOR'S sole cost and expense, agrees to fully defend, indemnify and hold harmless, the DISTRICT, including but not limited to any of its governing board members, officers, employees and agents, from and against any and all claims, actions, demands, costs, judgments, liens, penalties, liabilities, damages, losses, anticipated losses of revenues, and expenses, including any fees of accountants, attorneys or other professionals, arising out of, in connection with, resulting from or related to, or claimed to be arising out of, in connection with, resulting from or related to any act or omission by the CONTRACTOR or any of its officers, agents, employees, subcontractors, sub-subcontractors, any person performing any of the work pursuant to a direct or indirect contract with the CONTRACTOR or individual entities comprising the CONTRACTOR, in connection with or relating to, or claimed to be in connection with or relating to the work, this Agreement, or the Project, including but not limited to any costs or liabilities arising out of or in connection with:

- (a) failure to comply with any applicable law, statute, code, ordinance, regulation, permit or orders;
- (b) any misrepresentation, misstatement or omission with respect to any statement made in the Project Documents or any document furnished by the CONTRACTOR in connection therewith;
- (c) any breach of duty, obligation or requirement under the Project Documents;
- (d) any failure to coordinate the work of other contractors;

- (e) any failure to provide notice to any party as required under the Project Documents;
- (f) any failure to act in such a manner as to protect the DISTRICT and the Project from loss, cost, expense or liability; or
- (g) any failure to protect the property of any utility company or property owner.

This indemnity shall survive termination of the contract or final payment thereunder. This indemnity is in addition to any other rights or remedies which the DISTRICT may have under the law or under the Project Documents. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, the DISTRICT may in its sole discretion reserve, retain or apply any monies due to the CONTRACTOR under the Project Documents for the purpose of resolving such claims; provided, however, that the DISTRICT may release such funds if the CONTRACTOR provides the DISTRICT with reasonable assurance of protection of the DISTRICT'S interests. The DISTRICT shall in its sole discretion determine whether such assurances are reasonable.

9. CONTRACTOR shall take out, prior to commencing the work, and maintain, during the life of this Agreement, and shall require all subcontractors, if any, whether primary or secondary, to take out and maintain the insurance coverages set forth below and in Articles 16, 17, 18 and 19 of the General Conditions. CONTRACTOR agrees to provide all evidences of coverage required by DISTRICT including certificates of insurance and endorsements.

Public Liability Insurance for injuries including accidental death, to any one person in an amount not less than	<b>\$1,000,000.00</b>
--	-----------------------

and

Subject to the same limit for each person on account of one accident, in an amount not less than	<b>\$1,000,000.00</b>
--	-----------------------

Property Damage Insurance in an amount not less than	<b>\$1,000,000.00</b>
---	-----------------------

Course of Construction Insurance without exclusion or limitation in an amount not less than	<b>\$1,000,000.00</b>
--	-----------------------

Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to above-mentioned public liability insurance or

property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:

Automotive and truck where operated in amounts as above

Material hoist where used in amounts as above

10. Public Contract Code Section 22300 permits the substitution of securities for any retention monies withheld by the DISTRICT to ensure performance under this Agreement. At the request and expense of the CONTRACTOR, securities equivalent to the monies withheld shall be deposited with the DISTRICT, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to the CONTRACTOR. The DISTRICT retains the sole discretion to approve the bank selected by the CONTRACTOR to serve as escrow agent. Upon satisfactory completion of the Agreement, the securities shall be returned to the CONTRACTOR. Securities eligible for investment shall include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit. The CONTRACTOR shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

In the alternative, under Section 22300, the CONTRACTOR may request DISTRICT to make payment of earned retention monies directly to the escrow agent at the expense of the CONTRACTOR. Also at the CONTRACTOR'S expense, the CONTRACTOR may direct investment of the payments into securities, and the CONTRACTOR shall receive interest earned on such investment upon the same conditions as provided for securities deposited by CONTRACTOR. Upon satisfactory completion of the Agreement, CONTRACTOR shall receive from the escrow agent all securities, interest and payments received by escrow agent from DISTRICT pursuant to the terms of Section 22300.

**11. LABOR COMPLIANCE PROGRAM: N/A**

12. If CONTRACTOR is a corporation, the undersigned hereby represents and warrants that the corporation is duly incorporated and in good standing in the State of \_\_\_\_\_, and that \_\_\_\_\_, whose title is \_\_\_\_\_, is authorized to act for and bind the corporation.

13. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either party the Agreement shall forthwith be physically amended to make such insertion or correction.

14. This Agreement constitutes the entire agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and

pursuant to action of the Governing Board of the District. This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

DISTRICT

CONTRACTOR

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Terry Fluent  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Director, Purchasing  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Contractor's License No.

\_\_\_\_\_  
Tax ID/Social Security No.

(CORPORATE SEAL OF CONTRACTOR,  
if corporation)



## **BID FORM**

Name of Bidder: West Coast Arborists, Inc.

To: Capistrano Unified School District, acting by and through its Governing Board, herein called the "DISTRICT."

1. The undersigned Bidder, having become familiarized with all the following documents including but not limited to the Notice Calling for Bids, Information for Bidders, Bid Form, Bid Security, Designation of Subcontractors Form, Information Required of Bidder, all prequalification forms pursuant to Public Contract Code Section 20111.5, if any, Noncollusion Affidavit, Workers' Compensation Certificate, Faithful Performance Bond, Payment Bond, Agreement, Escrow Agreement, Drug-Free Workplace Certification, Criminal Records Check Certification, Change Order Forms, Shop Drawing Transmittal Form, all insurance requirements, Guarantee forms, Contractor's Certificate Regarding Non-Asbestos Containing Materials, Disabled Veteran Business Enterprises Certification, if applicable, General Conditions and Supplemental Conditions, if any, Special Conditions, if any, drawings, specifications, and all modifications, addenda and amendments, if any (hereinafter Project Documents), the local conditions affecting the performance of the work and the cost of the work at the place where the work is to be done, hereby proposes and agrees to be bound by all the terms and conditions of the Project Documents and agrees to perform, within the time stipulated, the work, including all of its component parts, and everything required to be performed, and to provide and furnish and pay for any and all of the labor, materials, tools, expendable equipment, and all applicable taxes, utility and transportation services necessary to perform the work and complete in a good workmanlike manner all of the work required in accordance with laws, codes, regulations, ordinances and any other legal requirements governing the work, in connection with the following:

Project: Tree Trimming Maintenance Service  
Bid No: 1112-10

## BID PRICE SHEET

- All pricing herein to include all standard tools, supplies, equipment, applicable delivery, mileage, taxes, insurance, and all miscellaneous costs normally required to complete the job.
- Note: Bid prices for labor may not be lower than the applicable Prevailing Wage for the specified work. See General Conditions – Article 48 – Wage Rates, Travel and Subsistence.
- Low bid to be determined by select line items representing the most common District projects at a weighted percentage.
- Line items and weighted percentage used to determine low bid will be provided at the bid opening.

Item #	Description	Unit	Unit Price
	<b>FULL TRIM BASED ON SERVICE OR SPECIAL REQUESTS</b> Trees requiring service to rectify a specific problem such as blocking street lighting or signs, right-of-way clearance for utility lines, or broken limbs will be performed as a "Service Request."		
1	0-6" dbh	Per tree	\$ 40.00
2	7"-16" dbh	Per tree	\$ 85.00
3	17"-24" dbh	Per tree	\$ 185.00
4	25"-36" dbh	Per tree	\$ 250.00
4	37" dbh & over	Per tree	\$
	<b>PALM TREE TRIMMING</b>		
6	Coco Palm, any size	Per tree	\$ 40.00
7	Washingtonia Palm, any size	Per tree	\$ 40.00
8	Canary Island Date Palm, any size	Per tree	\$ 185.00
	<b>TREE REMOVAL</b>		
9	Complete tree and stump removal	Per dbh	\$ 19.00
10	Tree removal only	Per dbh	\$ 15.00
11	Stump only removal	Per dbh	\$ 8.00
	<b>TREE PLANTING</b>		
12	15 gallon tree with root barrier	Per tree	\$ 145.00
13	15 gallon tree without root barrier	Per tree	\$ 120.00
14	24 inch box tree	Per tree	\$ 255.00
15	24 inch box tree without root barrier	Per tree	\$ 225.00
16	<b>ROOT PRUNING</b>	Linear foot	\$ 15.00

17	<b>CREW RENTAL (standard)</b> Standard maintenance crew of three (3) persons, one (1) chipper truck, one (1) aerial tower truck and chipper and all necessary saws and hand tools	Per crew hour	\$ 159.00
18	<b>CREW RENTAL (overtime, weekends, holidays)</b> Standard maintenance crew of three (3) persons, one (1) chipper truck, one (1) aerial tower truck and chipper and all necessary saws and hand tools.	Per crew hour	\$ 159.00
19	<b>EMERGENCY CREW RENTAL</b> 3-Person Crew	Per crew hour	\$ 159.00
20	<b>ARBORIST SERVICES</b> Arborist services provided by the hour as prescribed per the Special Provisions of these Specifications	Per hour	\$ 159.00
21	<b>EQUIPMENT RATES</b> List additional equipment you have available and the rates for each.		
	Crane w/ Operator	HR.	\$ 159.00
	95-Ft. Tower w/ Operator	HR.	\$ 159.00
	Loader/ Roll Off w/ Operator	HR.	\$ 159.00
	Watering Truck w/ Operator	HR.	\$ 159.00
	GPS Tree Inventory (Optional)	Tree Site	\$ 3.00

Each individual bid term shall be determined from visiting the work site, reviewing the drawings and specifications and all portions of the Project Documents, and shall include all items necessary to complete the work, including the assumption of all obligations, duties, and responsibilities necessary to the successful completion of the Project, and the furnishing of all materials and equipment required to be incorporated in and form a permanent part of the work, and the furnishing of tools, equipment, supplies, transportation, facilities, labor, superintendence, and services required to perform and complete the work, all as per the requirements of the Project Documents, whether or not expressly listed or designated.

2. It is understood that the DISTRICT reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding process. Bidder agrees that this bid shall remain open and not be withdrawn for the period specified in the Information for Bidders.

3. The required bid security is attached.

4. The required list(s) of proposed subcontractors is attached hereto, and the undersigned represents and warrants that such list(s) is complete and in compliance with the Subletting and Subcontracting Fair Practices Act. Public Contract Code Sections 4100, et seq.

5. It is understood and agreed that if written notice of the award of a contract is mailed, faxed, or delivered to the bidder, the bidder will execute and deliver to the DISTRICT the Agreement and will also furnish and deliver to the DISTRICT the Faithful Performance Bond and a separate Payment Bond as specified, and certificates and endorsements of insurance, the Workers' Compensation Certificate, Drug-Free Work Place Certification, the Criminal Records Check Certification, Contractor's Certificate Regarding Non-Asbestos Containing Materials, and the Disabled Veteran Business Enterprises Certification, if applicable, within **five (5)** working days of the notice of award of the contract, or as otherwise requested in writing by the DISTRICT. It is understood that should bidder fail or refuse to return these documents as required by the DISTRICT, the bid security shall be forfeited to the DISTRICT. The bidder further agrees that the work shall be commenced by the bidder, if awarded the contract, on or before the **seventh (7<sup>th</sup>)** day after receiving the DISTRICT'S Notice to Proceed, and shall be completed by the bidder in the time specified by the DISTRICT.

6. Communications conveying notice of award of the contract, requests for additional information or other correspondence should be addressed to the bidder at the address stated below.

7. The name(s) of all persons interested in the bid as principals are as follows:  
Patrick Mahoney, Richard Mahoney, Rose Epperson, Mike Mahoney

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8. In submitting this bid, the bidder offers and agrees that if the bid is accepted, it will assign to 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

(Business & Professions Code Section 16700, et seq.) arising from purchases of goods, materials, or services by the bidder for sale to the DISTRICT pursuant to the bid. Such assignment shall be made and become effective at the time the DISTRICT tenders final payment under the contract. (Public Contract Code Section 7103.5; Government Code Section 4450, 4451 and 4552).

9. The undersigned hereby warrants that the bidder has an appropriate license, License No. 366764, Class C27\*, at the time of the bid opening, that such license entitles bidder to provide the work, that such license will be in full force and effect throughout the duration of performance of this Project. Bidder shall be nonresponsive if the Bidder is not licensed as required by the DISTRICT at the time of the bid opening. Any and all subcontractors to be employed by the undersigned shall have appropriate licenses at the time of the bid opening.

10. The bidder hereby certifies that it is, and at all times during the performance of work hereunder shall be, in full compliance with the provisions of the Immigration Reform and Control Act of 1986 ("IRCA") in the hiring of its employees, and the bidder shall indemnify, hold harmless and defend the DISTRICT against any and all actions, proceedings, penalties or claims arising out of the bidder's failure to comply strictly with the IRCA.

11. It is understood and agreed that if requested by the DISTRICT, the bidder shall furnish a notarized financial statement, references, and other information required by the DISTRICT sufficiently comprehensive to permit an appraisal of bidder's ability to perform the Project.

12. The undersigned hereby warrants that all work shall be completed within the time specified in the purchase order or Notice to Proceed. Time is of the essence. The undersigned agrees that failure to complete the work within the time set forth herein will result in the imposition of liquidated damages for each consecutive calendar day of delay in the amount of **two hundred dollars (\$200.00)** (Government Code Section 53069.85)

13. The required noncollusion affidavit properly notarized is attached as required by Public Contract Code Section 7106. Bidder understands and agrees that failure to submit a completed and signed affidavit will render the bidder automatically nonresponsive.

14. It is understood and agreed that all change order requests must be submitted in the form set forth in the Project Documents and pursuant to Article 59 of the General Conditions. The amount of allowable charges submitted pursuant to a change order shall be limited to the charges allowed under Article 59 of the General Conditions. Indirect, consequential and incidental costs, project management costs, extended home office and field office overhead, administrative costs and profit and other charges not specifically authorized under Article 59 of the General Conditions will not be allowed.

15. The Information Required of Bidder form has been fully completed and is attached hereto.

\*C61/D49

**Individual**      **Name:** N/A

**Signed by:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Business Address:** \_\_\_\_\_

\_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Partnership**      Name: N/A

Signed by: \_\_\_\_\_

Print Name: \_\_\_\_\_

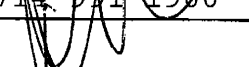
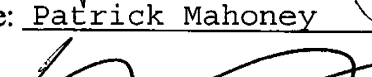
Date: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Other Partner(s): \_\_\_\_\_

Corporation Name: West Coast Arborists, Inc.  
(a                      Corporation<sup>1</sup>)  
Business Address: 2200 E. Via Burton St.  
Anaheim, CA 92806  
Telephone: 714-991-1900  
Signed by: , President, Date: 8/26/11  
Print Name: Patrick Mahoney, President  
Signed by: , Secretary, Date: 8/26/11  
Print Name: Richard Mahoney, Secretary  
[Seal]

**Bid Form**  
**6**

**EXTENSION OF AGREEMENT**  
**BETWEEN**  
**CAPISTRANO UNIFIED SCHOOL DISTRICT**  
**AND**  
**EDENCO, INC.**

RFQ-P No. 2-1011 – Construction Manager-District's Representative called for an original contract period of September 29, 2010 through September 28, 2011, with an option to extend the contract in two 12-month increments for an option period not to exceed 24 consecutive months.

The contract with Edenco, Inc. pursuant to RFQ-P No. 2-1011, shall be extended an additional 12 months, for the period September 29, 2011, through September 28, 2012, at the reduced hourly rate of \$150 as shown in Exhibit A to this Extension Agreement, and Board approved on September 26, 2011.

Except as set forth in this Extension Agreement, and Board approved on September 28, 2010, all other terms of the contract remain in full force and effect.

**Capistrano Unified School District**

**Edenco, Inc.**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Terry Fluent

\_\_\_\_\_

Print Name

Director, Purchasing

\_\_\_\_\_

Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_





## **Review of Construction Management Services – Edenco, Incorporated**

Edenco, Incorporated has provided constructability review and construction management services for the District since selected by the Board of Trustees in September 2010. A major effort of plan and specification review, along with scope of work clarification, was performed by Edenco on the District's three primary capital projects: the San Juan Hills High School Aquatic Center, the Capistrano Valley High School Performing Arts Theater, and the upcoming San Juan Hills High School Stadium – Phase II. Edenco's efforts have improved the quality of our documents and provided positive impact to the capital construction budgets. A summary of Edenco's contribution to each project is listed below:

### **San Juan Hills High School Aquatic Center**

The constructability review produced three primary modifications to the project:

1. Major site logistical clarifications to minimize the construction impact during school operation. *The construction has had little to no impact on campus activities and learning environment.*
2. Upgrades to pool area lighting and public address/scoreboard/video systems. *The revisions are providing a university level experience to athletes and the public. This programming product is a significant positive change to the original design.*
3. Modification/improvements to the weight room. *Edenco integrated the District's programming needs into the final bid documents, which has greatly improved the usage and operation for student physical education and athletics.*

The constructability review produced a much cleaner set of bid documents, as reflected in the District, receiving several very competitive bids and awarding a bid that was only slightly higher than the previously rejected low bid, and it included upgrades to lighting and the weight room.

The project is currently under construction and its progress / current status is reflected below:

**Construction Start: April 2011**

**Estimated Completion: February 2012**

**Original Construction Costs: \$3,023,000    Change Orders: \$162,376 (5.4%)**

### **Capistrano Valley High School Performing Arts Theater**

An extensive review of the project logistics, theater systems, and existing campus needs was performed by Edenco. The constructability review produced four primary improvements to the project:

1. Site electrical and promenade modifications. *Edenco implemented a District plan to relocate utility construction outside of the mall and classroom areas and move it to a utility corridor, avoiding a major impact to the student learning environment. Additionally, a new District concept to create a "theater promenade" was introduced. The lighting and decorative concrete pathway provides critical way finding for the public to the new theater and Edenco oversaw the design and construction of the effort.*

2. Delivery ramp relocation and the addition of the Americans with Disabilities Act (ADA) field access. *Meetings with site administration uncovered the need to provide ADA pathway on to the athletic playing fields. Edenco assisted in the modification of the theater's service ramp that provided a more efficient ramp for delivery of performance related equipment and the incorporated ADA field access with the same design.*
3. Theatrical enhancements and standardization of lighting and equipment. *Edenco met with District personnel and the theater consultant to modify the original lighting and equipment specifications to "standardize" the theater lighting and sound systems between San Juan Hills High School and Capistrano Valley High School. This was a major contribution and will provide more efficient operations.*
4. Major site logistical clarifications to minimize the construction impact during school operation. *Extensive communication with District and site administration staff was performed by Edenco to address all logistical site impacts of the two year construction. Parking, hours of operation and delivery, "quiet times" for testing, student evacuation and safety, contractor staging areas, and a temporary power strategy are part of this comprehensive logistical plan to minimize the campus impacts.*

The project is currently under construction and its progress/current status is reflected below:

**Construction Start: July 2011**

**Estimated Completion: May 2013**

**Original Construction Costs: \$11,975,007**

**Change Orders: \$58,552 (0.5%)**

### **San Juan Hills High School Stadium Phase II**

Edenco provided document and constructability review for the final stadium construction phase. The District previously purchased the bleachers but was unable to construct over a property line dispute. Edenco integrated additional programming requirements from site administration and necessary logistical clarifications into the construction documents that provide for the simultaneous construction of the pool and stadium with minimal site impacts.

The project was bid on September 8, 2011, and District personnel will be submitting the contract for award approval by the Board of Trustees on September 26, 2011. The Stadium Phase II construction is anticipated to start in late October 2011, and conclude late spring of 2012.

## Construction Management Fee Distribution - Edenco, Inc.

Sept. 29, 2011- Sept. 28, 2012

	SJHHS Pool	SJHHS Stadium	Capo Valley PAC	Totals
Project Construction Cost	\$3,200,000	\$1,000,000	\$12,000,000	

<b>Edenco, Inc. Billing Rate - \$150 per Hour</b>				
Sep-11	5	5	5	
Oct-11	60	55	60	
Nov-11	60	55	60	
Dec-11	60	55	60	
Jan-12	60	55	60	
Feb-12	60	55	60	
Mar-12		75	95	
Apr-12		75	95	
May-12			170	
Jun-12			170	
Jul-12			170	
Aug-12			170	
Sep-12			170	
Total Hours Sep. 11 - Sep. 12	305	430	1345	
<b>CM Fee Sept. 2011 - Sept. 2012</b>	<b>\$ 45,750.00</b>	<b>\$ 64,500.00</b>	<b>\$ 201,750.00</b>	<b>\$ 312,000.00</b>
CM Base Fees as Percentage of Construction Costs - 2011-2012	1.43%	6.45%	1.68%	

<b>TOTAL ESTIMATED BASE CONTRACT CM FEES - EDENCO, INC</b>	<b>\$ 312,000.00</b>
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# CAPISTRANO UNIFIED SCHOOL DISTRICT

33122 VALLE ROAD, SAN JUAN CAPISTRANO CA 92675  
TELEPHONE: (949) 234-9441/FAX: 493-4083 [www.capousd.org](http://www.capousd.org)

## BOARD OF TRUSTEES

JACK R. BRICK  
PRESIDENT

GARY PRITCHARD, PH. D.  
VICE PRESIDENT

JOHN M. ALPAY  
CLERK

ELLEN M. ADDONIZIO

ANNA BRYSON

LYNN HATTON

SUE PALAZZO

## SUPERINTENDENT

JOSEPH M. FARLEY, Ed. D.

July 1, 2011

Walt Eden, President  
Edenco, Inc.  
2906 La Ventana  
San Clemente, CA 92672

**Subject: RFQ-P No. 2-1011 – Construction Manager - District's Representative**

Dear Mr. Eden:

Your current contract for services to the Capistrano Unified School District, as referenced above, will expire on September 28, 2011.

Newly elected Superintendent of Public Instruction Tom Torlakson has announced the state's public education system is in a state of "financial emergency". As a result of this emergency and the impact on the students of Capistrano Unified School District, you are being asked to submit reduced costs for the renewal period September 29, 2011 through September 28, 2012. A copy of your current contract pricing is enclosed for your review. Please provide a comparison sheet with a column listing your current pricing and a column listing your proposed pricing. **Should your company wish to extend your contract for an additional 12-month period, a letter to this office stating your desire to extend must be received by August 1, 2011.**

Financial consideration shall be part of the determination by the Board of Trustees for acceptance of this contract extension or the necessity to re-bid this service.

Your understanding and assistance in this matter is appreciated.

If you have any questions, please contact me at (949) 234-9436.

Sincerely,

Terry Fluent  
Director, Purchasing

SERVING THE COMMUNITIES OF:

ALISO VIEJO • COTO DE CAZA • DANA POINT • LADERA RANCH • LAGUNA NIGUEL • LAS FLORES • MISSION VIEJO  
RANCHO SANTA MARGARITA • SAN CLEMENTE • SAN JUAN CAPISTRANO



July 9, 2011

Terry Fluent, Director Purchasing  
Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675

**SUBJECT: Contract RFQ-P No. 2-1011 Extension Request for 2011**

Ms. Fluent:

We are in receipt of the District's request letter, dated July 1, 2011. On behalf of Edenco, I am formally submitting this request of extension for RFQ-P No. 2-1011 for Construction Management / Owner's Representation. The renewal period shall commence September 29, 2011 through September 28, 2012.


Edenco is very cognizant of the present fiscal crisis that California's educational system is currently facing. As such, we agree to reduce our previously agreed upon hourly rate. Our new fee structure shall be as follows:

Revised Rate - \$150.00/Hour

Present Rate - \$155.00/Hour

We appreciate the opportunity to manage the District's Capital Improvement Projects and are looking forward to their successful completion.

Respectfully Submitted,



Walt Eden,  
President



# **AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES (PROJECT MANAGEMENT)**

This Agreement for Construction Management Services ("Agreement") is made as of September 29, 2010, between the Capistrano Unified School District a California public school district ("District") and Edenco, Inc, a California corporation ("Construction Manager") (both collectively "Parties"), for the projects described below, which shall be referred to herein as the "Project" or "Projects":

Construction management services during design and construction administration of the following projects:

San Juan Hills High School 30-Meter Pool and Support Buildings  
Capistrano Valley High School Performing Arts Theater  
Other construction projects as required by the District

See **Exhibit "A"** for detailed Project scopes.

The Parties agree Walt Eden will work on the Projects on an hourly basis to be determined by the District.

The Project may include multiple components. Any one of the components or a combination thereof may be changed, including terminated, in the same manner as the Project, as indicated herein, without changing in any way the remaining component(s). The provisions of this Agreement shall apply to each component without regard to the status of the remaining component(s). Construction Manager shall invoice for each component separately and District shall compensate Construction Manager for each component separately on a proportionate basis based on the level and scope of work completed for each component.

That for and in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

## **Article 1. Definitions**

- 1.1. In addition to the definitions above, the following definitions for words or phrases shall apply when used in this Agreement, including all Exhibits:
  - 1.1.1. **Agreement**: The Agreement consists exclusively of this document and all identified exhibits attached and incorporated by reference.
  - 1.1.2. **Architect**: The architect(s) that the District designates as being the architect(s) for all or a portion of the Project, including all consultants to the Architect(s).
  - 1.1.3. **Construction Manager**: The entity listed in the first paragraph of this Agreement, including all Consultant(s) to the Construction Manager.
  - 1.1.4. **Construction Budget**: The total amount indicated by the District for the Project plus all other costs, including design, construction, administration, financing, and all other costs.
  - 1.1.5. **Construction Cost Budget**: The total cost to District of all elements of the Project designed or specified by the Architect, as adjusted at the end of each design phase in accordance with this Agreement. The Construction Cost Budget does not include the compensation of the Program Manager, the Architect and the Architect's consultants, the Construction Manager, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the District.
  - 1.1.6. **Consultant(s)**: Any and all consultant(s), sub-consultant(s), subcontractor(s), or agent(s) to the Construction Manager.
  - 1.1.7. **Design Team**: The Architect(s) that the District designates as being the architect(s) for all or a portion of the Project, including all consultants to the Architect(s), plus all engineer(s) or other designer(s), who have a responsibility to the District to design all or a portion of the Project either directly or as a subconsultant or subcontractor.
  - 1.1.8. **DSA**: The Division of the State Architect.
  - 1.1.9. **Extra Services**: Extra Services are defined in Article 7 and Exhibit "B."
  - 1.1.10. **Fee**: The Construction Manager's Fee is defined in Section 6.1, payable as set forth in Article 6 and in Exhibit "D."
  - 1.1.11. **Program Manager**: Any program manager hired to perform program management services for the District, including all Consultant(s) to the Program Manager. If no Program Manager is

hired by the District for the Project(s), then all references to "Program Manager" shall be read and interpreted as the District.

- 1.1.12. **Service(s)**: All labor, materials, supervision, services, tasks, and work that the Construction Manager is required to perform and that are required by, or reasonably inferred from, the Agreement, and that are necessary for the design and completion of the Project.

## **Article 2. Scope, Responsibilities And Services Of Construction Manager**

- 2.1. **Scope**: Construction Manager shall provide the Services described herein and under **Exhibit "A"** for the Project. The parties agree that the Construction Manager's Services described herein are based on a construction manager / multiple-prime structure on the Project(s). The District reserves the right to change this structure including, without limitation, utilizing a construction manager / general contractor structure, a design-build structure, or a lease-leaseback structure, each of which the Parties agree may require the Construction Manager's Fee and Scope as well as certain terms and conditions of this Agreement to be adjusted by an amendment, in writing and signed by both Parties.
- 2.2. **Coordination**: In the performance of Construction Manager's services under this Agreement, Construction Manager agrees that it will maintain such coordination with District personnel and/or its designated representatives as may be requested and desirable. This shall include, without limitation, coordination with all members of the District's design team, and the persons responsible for operation of the District's Labor Compliance Program, if any. If the Construction Manager employs sub-consultant(s), the Construction Manager shall ensure that its contract(s) with its sub-consultant(s) include language notifying the sub-consultant(s) of the District's Labor Compliance Program, if any.
- 2.3. **Construction Manager's Services**: Construction Manager shall act as the District's agent to render the services and furnish the work as described in **Exhibit "A,"** which will commence upon the receipt of a Notice to Proceed signed by the District representative. Construction Manager's services will be completed in accordance with the schedule attached as **Exhibit "C."**

## **Article 3. Construction Manager Staff**

- 3.1. The Construction Manager has been selected to perform the work herein because of the skills and expertise of key individuals.



- 3.2. The Construction Manager agrees that the following key people in Construction Manager's firm shall be associated with the Project in the following capacities:

Principal In Charge:	_____
Project Director:	_____
Construction Manager:	Walt Eden
Asst. Construction Manager:	_____
Other:	_____
Other:	_____
Other:	_____

- 3.3. The Construction Manager shall not change any of the key personnel listed above without prior written approval by District, unless said personnel cease to be employed by Construction Manager. In either case, District shall be allowed to interview and approve replacement personnel.
- 3.4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice the Construction Manager shall immediately remove that person from the Project and provide a temporary replacement. Construction Manager shall within seven (7) days provide a permanent replacement person acceptable to the District. All lead or key personnel for any Consultant must also be designated by the consultant and are subject to all conditions previously stated in this paragraph.
- 3.5. Construction Manager represents that the Construction Manager has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this Agreement and that no person having any such interest shall be employed by Construction Manager.

#### **Article 4. Schedule Of Work**

The Construction Manager shall commence work under this Agreement upon receipt of a Notice to Proceed, and shall prosecute the work diligently as described in **Exhibit "A"** in accordance with the schedule attached as **Exhibit "C"** for an initial term of one (1) year, with two additional annual renewals at the option of the Board of Trustees at his hourly rate on an as needed basis. Time is of the essence and failure of Construction Manager to perform work on time as specified in this Agreement is a material breach of this Agreement.

## **Article 5. Construction Cost Budget**

- 5.1. The Construction Manager shall have responsibility to develop, review, and reconcile the Construction Cost Budget with the Architect and the District throughout the design process and construction.
- 5.2. The Construction Cost Budget shall be the total cost to District of all elements of the Project designed or specified by the Project design professional(s). The Construction Cost Budget does not include the compensation of the Construction Manager, the Project design professional(s), sub-consultants, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the District.
- 5.3. Construction Manager shall work cooperatively with the Project design professional(s) during the Schematic Design Phase, Design Development Phase, and Construction Documents Phase, as described in **Exhibit "A,"** so that the construction cost of the work designed by the Project design professional(s) will not exceed the Construction Cost Budget, as may be adjusted subsequently with the District's written approval. The Construction Manager shall notify the District if it believes the construction cost of the work by the Project design professional(s) will exceed the Construction Cost Budget. The Construction Manager, however, shall not perform or be responsible for any design or architectural services.
- 5.4. Evaluations of the District's Construction Budget, and preliminary and detailed cost estimates prepared by the Construction Manager, represent the Construction Manager's best judgment as a professional familiar with the construction industry.
- 5.5. If the Bidding Phase has not commenced within ninety (90) days after DSA approval, the Construction Cost Budget shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the District and the date on which proposals are sought.
- 5.6. If any of the following events occur:
  - 5.6.1. If the lowest responsive base bid received is in excess of ten percent (10%) of the Construction Cost Budget, or
  - 5.6.2. If the combined total of base bid and all additive alternates come in fifteen percent (15%) or more under the Construction Cost Budget, or
  - 5.6.3. If the Construction Cost Budget increases in phases subsequent to

the Schematic Design Phase due to reasonably foreseeable changes in the condition of the construction market in the county in which the District is located, in so far as these have not been caused by Acts of God, earthquakes, strikes, war, or energy shortages due to uncontrollable events in the world economy, then the District, in its sole discretion, has one or a combination of the following alternatives:

5.6.3.1. Give the Construction Manager written approval on an agreed adjustment to the Construction Cost Budget.

5.6.3.2. Authorize the Construction Manager to re-negotiate, where appropriate, re-bid on or more Projects within three (3) months time (exclusive of District and other agencies' review time) at no additional cost to the District.

5.6.3.3. Terminate this Agreement if the Project is abandoned, without further obligation by either party.

5.6.3.4. Instruct the Project design professional(s) to revise the drawings and specifications to bring the Project within the Construction Cost Budget for re-bidding, with Construction Manager's performing cost estimating, value engineering, and/or bidding support at no additional cost to the District.

5.7. The Construction Cost Budget shall be reconciled at the completion of each design phase.

## **Article 6. Fee And Method Of Payment**

District shall pay Construction Manager an amount equal to one hundred fifty five dollars (\$155) per hour for all services contracted for under this Agreement and based on the Fee Schedule attached to **Exhibit "D."**

6.1. District shall pay Construction Manager the Fee pursuant to the provisions herein and in **Exhibit "D."**

6.2. Construction Manager shall bill its work under this Agreement on a monthly time and materials basis in accordance with **Exhibit "D."**

6.3. No increase in fee will be due from change orders generated during the construction period to the extent caused by Construction Manager's error.

6.4. The Construction Manager's fee set forth in this Agreement shall be full compensation for all of Construction Manager's Services incurred in

the performance hereof as indicated in **Exhibit “D”**, including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location, offices, per diem expenses, printing, providing, or shipping of deliverables in the quantities set forth in **Exhibit “A.”**

#### **Article 7. Payment for Extra Services**

- 7.1. District-authorized Services outside of the scope in **Exhibit “A”** or District-authorized reimbursables not included in Construction Manager’s fee are “Extra Services.” Any charges for Extra Services shall be paid by the District as described in **Exhibit “B”** only upon certification that the claimed Extra Services were authorized in writing in advance by the District and that the Extra Services have been satisfactorily completed.
- 7.2. A written proposal describing the proposed scope of services and listing the personnel, labor duration, rates, and cost shall be submitted by the Construction Manager to the District for written approval before proceeding with any Extra Services.

#### **Article 8. Ownership Of Data**

After completion of the Project or after termination of this Agreement, Construction Manager shall deliver to District a complete set of Project records, including without limitation all documents generated by Construction Manager, copies of all documents exchanged with or copied to or from all other Project participants, and all closeout documents. Said Project records shall be indexed and appropriately organized for easy use by District personnel. All Project records are property of the District, whether or not those records are in the Construction Manager’s possession.

#### **Termination Of Contract**

- 9.1. If Construction Manager fails to perform Construction Manager’s duties to the satisfaction of the District, or if Construction Manager fails to fulfill in a timely and professional manner Construction Manager’s material obligations under this Agreement, or if Construction Manager shall violate any of the material terms or provisions of this Agreement, the District shall have the right to terminate this Agreement effective immediately upon the District giving written notice thereof to the Construction Manager. In the event of a termination pursuant to this subdivision, Construction Manager may invoice District for all work performed until the notice of termination, but District shall have the right to withhold payment

and deduct any amounts equal to the District's costs because of Construction Manager's actions, errors, or omissions that caused the District to terminate the Construction Manager.

- 9.2. District shall have the right in its sole discretion to terminate the Agreement for its own convenience. In the event of a termination for convenience, Construction Manager may invoice District and District shall pay all undisputed invoice(s) for work performed until the notice of termination. This shall be the only amount(s) potentially owing to Construction Manager's if there is a termination for convenience.
- 9.3. The Construction Manager has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement and fails to cure such material default within sixty (60) days, or if the default cannot be cured within sixty (60) days, commence to cure such default, diligently pursue such cure, and complete the cure within a reasonable time following written notice and demand from Construction Manager. Such termination shall be effective after receipt of written notice from Construction Manager to the District.
- 9.4. Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.
- 9.5. If, at any time in the progress of the Project, the governing board of the District determines that the Project should be terminated, the Construction Manager, upon written notice from the District of such termination, shall immediately cease work on the Project. The District shall pay the Construction Manager only the fee associated with the services satisfactorily provided, since the last invoice that has been paid and up to the notice of termination.
- 9.6. If the Project is suspended by the District for more than one hundred and eighty (180) consecutive days, the Construction Manager shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the schedule shall be adjusted and the Construction Manager's compensation shall be equitably adjusted to provide for expenses incurred in the resumption of the Construction Manager's services. Upon resumption of the Project after suspension, the Construction Manager will take all reasonable efforts to maintain the same Project personnel.

#### **Article 10. Indemnity**

- 10.1. To the furthest extent permitted by California law, Construction Manager shall defend, indemnify and hold free and harmless the

**CAPISTRANO UNIFIED SCHOOL DISTRICT**  
**San Juan Capistrano, California**

**SCHOOL BOARD AGENDA ITEMS**

(cover sheet)

**Board Meeting Date** 9/26/11 **Item Number** \_\_\_\_\_

**CONSENT CALENDAR**   X  

**General Functions** \_\_\_\_\_ **School Plant** \_\_\_\_\_

**Curriculum & Instruction** \_\_\_\_\_ **Employees** \_\_\_\_\_

**Business & Finance**   X  

**DISCUSSION/ACTION** \_\_\_\_\_

**INFORMATION/DISCUSSION** \_\_\_\_\_

**CLOSED SESSION** \_\_\_\_\_

-----  
This form, along with supporting information, is **due by 9 a.m.** (or sooner) on the Monday preceding regular Board meetings.

1. Title of agenda topic (as it should appear on the agenda listing):

**EXTENSION AGREEMENT RFQ NO. 2-1011, CONSTRUCTION MANAGER/OWNER'S REPRESENTATIVE – EDENCO, INCORPORATED:**

2. Brief description of what the topic involves (if **supporting information is not included**):

Approval of extension agreement RFQ No. 2-1011, Construction Manager/Owner's Representative – Edenco, Incorporated. In light of the fiscal crisis, a letter was sent to the firm requesting reduced costs for the 2011-2012 renewal period. The firm has proposed a reduction in rates for services, at the new rate of \$150 per hour as opposed to \$155 per hour in the original agreement. The reduced hourly rate represents a cost savings of approximately 3.5 percent. This contract provides competitive, hourly rates for owner's representative construction management services for the Capistrano Valley High School Performing Arts Theater, the San Juan Hills High School (SJHHS) Aquatics Center, and the San Juan Hills High School Stadium project. All three construction projects will run concurrently through February 2012, which is the scheduled completion of the SJHHS Aquatics Center. The construction of SJHHS Stadium – Phase II is expected to be complete by April/May 2012, and the Capistrano Valley High School Performing Arts Theater is anticipated to be finished by May 2013.

The extension of Agreement RFQ No. 2-1011 for an additional year is anticipated to cost approximately \$312,000. Fees for construction management services traditionally represent approximately 8 percent of a project's construction cost. This estimated fee can be influenced by a variety of construction and non-construction related factors including project complexity, contractor performance, and unforeseen conditions. A detailed review of Edenco's construction management fees is attached.

Funding for these services depends upon the specific project and will come from Community Facilities Districts 87-1 and 98-2.

***CUSD Strategic Plan Pillar 5: Effective Operations***  
**ATTACHMENT**

District, its agents, representative, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claims"), to property or persons, including personal injury and/or death, directly or indirectly arising out of, connected with, or resulting from the performance of the services, the Project, or this Agreement unless a Claim is caused by the sole negligence or sole willful misconduct of the indemnified parties.

- 10.2. Construction Manager shall pay and satisfy any judgment, award or decree that may be rendered against the indemnified parties in any Claim. Construction Manager shall also reimburse District for the cost of any settlement paid by District arising out of any Claim. Construction Manager shall reimburse the indemnified parties for any and all legal expenses and costs, including attorneys' fees, expert witness fees and consultant fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided to the extent caused by the above agreement to indemnify. Construction Manager's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the indemnified parties. District shall have the right to accept or reject any legal representation that Construction Manager proposes to defend the indemnified parties.

## **Article 11. Fingerprinting**

- 11.1. Unless the District has determined pursuant to Education Code section 45125.2 that on the basis of scope of work in this Agreement that Construction Manager and its subcontractors and employees will have only limited contact with pupils, the Construction Manager shall comply with the provisions of Education Code section 45125.01 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Construction Manager shall not permit any employee to have any contact with District pupils until such time as the Construction Manager has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. The Construction Manager's responsibility shall extend to all employees, agents, and employees or agents of its subcontracts regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Construction Manager. Verification of compliance with this section and the Criminal Background Investigation Certification shall be provided in writing to the District prior to each individual's commencement of employment or participation on the

Project and prior to permitting contact with any student.

- 11.2. No drugs, alcohol and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, or contractors are to use drugs on these sites.
- 11.3. Unacceptable and/or loud language will not be tolerated. "Cat calls" or other derogatory language toward students or public will not be allowed.

## **Article 12. Responsibilities Of The District**

- 12.1. The District shall examine the documents submitted by the Construction Manager and shall render decisions so as to avoid unreasonable delay in the process of the Construction Manager's services.
- 12.2. The District shall provide to the Construction Manager complete information regarding the District's requirements for the Project.
- 12.3. The District shall retain design professional(s) whose services, duties and responsibilities shall be described in written agreement(s) between the District and design professional(s).
- 12.4. The District shall, in a timely manner, and with Construction Manager's assistance, secure, submit and pay for necessary approvals, easements, assessments, permits and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, subject to Construction Manager's and/or the design professional(s) duties to recommend or provide same.
- 12.5. The District, its representatives, and consultants shall communicate with the contractor either directly or through the Construction Manager.
- 12.6. During the Construction Phase of the Project, the District may require that the contractors submit all notices and communication relating to the Project directly to the Construction Manager.
- 12.7. The District shall designate an officer, employee and/or other authorized representatives to act on the District's behalf with respect to the Project. The District's representative for the Project shall be available during working hours and as often as may be required to render decisions and to furnish information in a timely manner.



### **Article 13. Liability Of District**

- 13.1. Other than as provided in this Agreement, District's obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
- 13.2. Any and all costs incurred by District, or for which District may become liable, to the extent caused by negligent delays of Construction Manager in its performance hereunder, shall be paid to District by Construction Manager as provided for herein and/or under California law.
- 13.3. District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Construction Manager, or by its employees, even though such equipment be furnished or loaned to Construction Manager by District.
- 13.4. The Construction Manager hereby waives any and all claim(s) for recovery from the District under this Agreement, which loss or damage is covered by valid and collectible insurance policies. Construction Manager agrees to have its required insurance policies endorsed to prevent the invalidation of insurance coverage by reason of this waiver. This waiver shall extend to claims paid, or expenses incurred, by Construction Manager's insurance company on behalf of the District.

### **Article 14. Insurance**

- 14.1. Construction Manager shall procure prior to commencement of the work of this Agreement and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Construction Manager, their agents, representatives, employees and sub-consultant(s).
- 14.2. **Minimum Scope and limits of Insurance:** Coverage shall be at least as broad as the following scopes and limits:
  - 14.2.1. **Commercial General Liability.** One million dollars

(\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

14.2.2. **Commercial Automobile Liability, Any Auto.** One million dollars (\$1,000,000) per accident for bodily injury and property damage.

14.2.3. **Workers' Compensation.** Statutory limits required by the State of California and

14.2.4. **Employer's Liability.** One million dollars (\$1,000,000) per accident for bodily injury or disease.

WE  
\$ 500,000.00  
PER: RFG-P  
dl ff

14.2.5. **Professional Liability.** This insurance shall cover the Construction Manager and his/her sub-consultant(s) ~~for Two million dollars (\$2,000,000)~~ aggregate limit subject to no more than twenty five thousand dollars (\$25,000) per claim deductible, coverage to continue through completion of construction plus two years thereafter. The policy must contain terms or endorsements extending coverage that requires the insurer to defend and indemnify for acts which happen before the effective date of the policy provided the claim is first made during the policy period.

14.3. The District reserves the right to modify the limits and coverages described herein, with appropriate credits or changes to be negotiated for such changes.

14.4. **Deductibles and Self-Insured Retention:** Any deductibles or self-insured retention exceeding \$25,000 must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the District, its officers, officials, employees and volunteers; or the Construction Manager shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

14.5. **Other Insurance Provisions:** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

14.5.1. All policies except for the professional insurance policy shall

be written on an occurrence form

- 14.5.2. The District, the Construction Manager, their representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insureds") are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Construction Manager; instruments of service and completed operations of the Construction Manager; premises owned, occupied or used by the Construction Manager; or automobiles owned, leased, hired or borrowed by the Construction Manager. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.
- 14.5.3. For any claims related to this project, the Construction Manager's insurance coverage shall be primary insurance as respects the Additional Insureds. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of the Construction Manager's insurance and shall not contribute with it.
- 14.5.4. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.
- 14.5.5. The Construction Manager's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 14.5.6. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.
- 14.6. **Acceptability of Insurers:** Insurance is to be placed with insurers admitted in California with a current A.M. Best's rating of no less than A:VII.
- 14.7. **Verification of Coverage:** Construction Manager shall furnish the District with:
  - 14.7.1. Certificates of insurance showing maintenance of the required insurance coverage;

14.7.2. Original endorsements affecting general liability and automobile liability coverage. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before work commences.

**Article 15. Nondiscrimination**

Construction Manager agrees that no discrimination shall be made in the employment of persons under this Agreement because of the race, national origin, ancestry, religion, age, physical disability, sex, or sexual orientation of such person. Construction Manager shall comply with any and all regulations and laws governing nondiscrimination in employment.

**Article 16. Covenant Against Contingent Fees**

Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Construction Manager, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Construction Manager, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage fee, gift, or contingency.

**Article 17. Entire Agreement/Modification**

This Agreement, including the Exhibits hereto, supersedes all previous contracts and constitutes the entire understanding of the parties hereto. Construction Manager shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Construction Manager specifically acknowledges that in entering this Agreement, Construction Manager relies solely upon the provisions contained in this Agreement and no others.

**Article 18. Non-Assignment Of Agreement**

In as much as this Agreement is intended to secure the specialized services of the Construction Manager, Construction Manager may not assign, transfer, delegate or sublet any interest therein without the prior written consent of District and any such assignment, transfer, delegation or

sublease without the District's prior written consent shall be considered null and void. Likewise, District may not assign, transfer, delegate or sublet any interest therein without the prior written consent of Construction Manager and any such assignment, transfer, delegation or sublease without Construction Manager's prior written consent shall be considered null and void.

**Article 19. Law, Venue**

- 19.1. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.
- 19.2. The county in which the District administration office is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

**Article 20. Alternative Dispute Resolution**

All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. If this method proves unsuccessful, then all claims, disputes or controversies as stated above may be decided through arbitration, if agreed to by all Parties.

**Severability**

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

**Article 22. Employment Status**

- 22.1. Construction Manager shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which the Construction Manager performs the services which are the subject matter of this Agreement; provided always, however, that the services to be provided by Construction Manager shall be provided in a manner consistent with all applicable standards and regulations governing such services.

- 22.2. Construction Manager understands and agrees that the Construction Manager's personnel are not and will not be eligible for membership in or any benefits from any District group plan for hospital, surgical or medical insurance or for membership in any District retirement program or for paid vacation, paid sick leave or other leave, with or without pay or for other benefits which accrue to a District employee.
- 22.3. Should District, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Department, or both, determine that Construction Manager is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Construction Manager which can be applied against this liability). District shall then forward those amounts to the relevant taxing authority.
- 22.4. Should a relevant taxing authority determine a liability for past services performed by Construction Manager for District, upon notification of such fact by District, Construction Manager shall promptly remit such amount due or arrange with District to have the amount due withheld from future payments to Construction Manager under this Agreement (again, offsetting any amounts already paid by Construction Manager which can be applied as a credit against such liability).
- A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Construction Manager shall not be considered an employee of District. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Construction Manager is an employee for any other purpose, then Construction Manager agrees to a reduction in District's liability resulting from this Agreement pursuant to principles similar to those stated in the foregoing paragraphs so that the total expenses of District under this Agreement shall not be greater than they would have been had the court, arbitrator, or administrative authority determined that Construction Manager was not an employee.
- 22.6. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement.

**Article 23. Warranty Of Construction Manager**

- 23.1. Construction Manager warrants that the Construction Manager is properly licensed and/or certified under the laws and regulations of the State of California to provide all the services that it has herein agreed to perform.
- 23.2. Construction Manager certifies that it is aware of the provisions of the Labor Code of the State of California, that require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with those provisions before commencing the performance of the work of this Agreement.
- 23.3. Construction Manager certifies that it is aware of the provisions of California Labor Code that require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects (“Prevailing Wage Laws”). Since the Construction Manager is performing work as part of an applicable “public works” or “maintenance” project, and since the total compensation is \$1,000 or more, the Construction Manager agrees to fully comply with and to require its sub-consultant(s) to fully comply with all applicable prevailing wage requirements of the California Labor Code.

**Article 24. Cost Disclosure - Documents And Written Reports**

Construction Manager shall be responsible for compliance with California Government Code section 7550, if the total cost of the contract is over five thousand dollars (\$5,000).

## **Communications / Notice**

If notice is given by registered or certified mail with postage prepaid, return receipt requested, it shall be considered delivered on the day the notice is signed for

### **If to District:**

Capistrano Unified School District  
Education Center  
Attention: Randy Rowles, Executive  
Director, Facilities & Plant Operations  
33122 Valle Road  
San Juan Capistrano, CA 92675

Telephone: (949) 234-9436  
Facsimile: (949) 493-4083  
e-mail: [tfluent@capousd.org](mailto:tfluent@capousd.org)

### **If to Construction Manager:**

Walt Eden, President  
Edenco, Inc.  
2906 La Ventana  
San Clemente, CA 92672

Telephone: (949) 874-9170  
Facsimile:

e-mail: [wseden@cox.net](mailto:wseden@cox.net)

The Construction Manager and the District, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

## **Article 25. Disabled Veteran Business Enterprise Participation**

Pursuant to section 17076.11 of the Education Code, the District has a participation goal for disabled veteran business enterprises (DVBEs) of at least three (3) percent, per year, of funds expended each year by the District on projects that use funds allocated by the State Allocation Board pursuant to the Leroy F. Greene School Facilities Act (the Act). This Project may use funds allocated under the Act. Therefore, to the extent feasible, the Construction Manager shall provide to the District certification of compliance with the procedures for implementation of DVBE contracting goals, appropriate documentation identifying the amount paid to DVBEs in conjunction with the contract, and documentation demonstrating the Construction Manager's good faith efforts to meet these goals.

## **Article 26. Other Provisions**

- 26.1. The Construction Manager shall be responsible for the cost of construction change orders caused directly by the Construction Manager's willful misconduct or negligent acts, errors or omissions.



Without limiting Construction Manager's liability for indirect or consequential cost impacts, the direct costs for which the Construction Manager shall be liable shall equal its proportionate share of the difference between the cost of the change order and the reasonable cost of the work had such work been a part of the originally prepared construction documents.

- 26.2. Neither the District's review, approval of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and Construction Manager shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Construction Manager's failure to perform any of the services furnished under this Agreement to the standard of care of the Construction Manager for its Services, which shall be, at a minimum, the standard of care of construction managers performing similar work for California school districts at or around the same time and in or around the same geographic area of the District.
- 26.3. Each party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) indicated below.

Dated: 11/3, 2010

**Capistrano Unified School District**

By: T. Fluent

Print Name: Terry Fluent

Print Title: Director, Purchasing

Dated: NOVEMBER 1, 2010

**Edenco, Inc.**

By: Walt Eden

Print Name: Walt Eden

Print Title: President

**EXHIBIT "A"**

**RESPONSIBILITIES AND SERVICES OF CONSTRUCTION MANAGER**

<b>1.</b>	<b>BASIC SERVICES</b>	<b>A-1</b>
<b>2.</b>	<b>GENERAL PROGRAM SERVICES</b>	<b>A-3</b>
<b>3.</b>	<b>PRECONSTRUCTION PHASE</b>	<b>A-4</b>
<b>4.</b>	<b>PRE-BID PHASE</b>	<b>A-6</b>
<b>5.</b>	<b>BIDDING PHASE</b>	<b>A-6</b>
<b>6.</b>	<b>CONSTRUCTION PHASE</b>	<b>A-6</b>
<b>7.</b>	<b>PROJECT COMPLETION</b>	<b>A-10</b>
<b>8.</b>	<b>FINAL DOCUMENTS</b>	<b>A-10</b>
<b>9.</b>	<b>WARRANTY</b>	<b>A-11</b>

## **EXHIBIT "A"**

### **RESPONSIBILITIES AND SERVICES OF CONSTRUCTION MANAGER**

Construction Manager shall provide professional services necessary for completing the following on an as-needed basis to be determined by the District:

#### **1. BASIC SERVICES**

- 1.1. Provide work which shall comply with professional standards and applicable requirements of federal, state, and local law.
- 1.2. Advise the District as to the regulatory agencies that have jurisdiction over the project(s), and as to coordination with and implementation of the requirements of the regulatory agencies, including without limitation the Division of the State Architect.
- 1.3. Contract for or employ, at Construction Manager's expense, sub-consultant(s) to the extent deemed necessary for Construction Manager's Services. Nothing in the foregoing shall create any contractual relationship between the District and any sub-consultant(s) employed by the Construction Manager under terms of this Agreement.
- 1.4. Cooperate with other professionals employed by the District for the design, coordination or management of other work related to the Project.
- 1.5. Chair, conduct and take minutes of periodic meetings between the District and its design professional(s) of the Site Committee meetings and of construction meetings during the course of the Project. Construction Manager shall invite the District and/or its representative to participate in these meetings. Construction Manager shall keep meeting minutes to document comments generated in these meetings, but shall not be responsible for analyzing design issues raised in said meetings.
- 1.6. Be responsible for the professional quality and technical accuracy of all cost estimates, constructability reviews, studies, reports, projections, opinions of the probable cost of construction, and other services furnished by Construction Manager under this Agreement as well as coordination with all Master Plans, studies, reports and other information provided by District to Construction Manager. Construction Manager shall, without additional compensation, correct or revise any errors or omissions in materials it generates.
- 1.7. Maintain a log of all meetings, site visits or discussions held in conjunction with the work of this Project, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the

District and/or its representative for inclusion in the overall Project documentation.

- 1.8. At the request of the District, develop a Management Information System ("MIS") to assist in establishing communications between the District, Construction Manager, design professional(s), construction contractor(s) and other parties on the Project. In developing the MIS, the Construction Manager shall interview the District's key personnel and others in order to determine the type of information to be managed and reported, the reporting format, the desired frequency for distribution of the various reports, the degree of accessibility by potential users, and the security protocol for the system.
- 1.9. Coordinate transmittal of documents to regulatory agencies for review and shall advise the District of potential problems in completion of such reviews.
- 1.10. Prepare a bidders list for each bid package for approval by the District.
- 1.11. Assist the District in pre-qualifying bidders if prequalification is permitted by the District. This service shall include the following:
  - 1.11.1. Preparation and distribution of prequalification questionnaires;
  - 1.11.2. Receiving and analyzing completed questionnaires;
  - 1.11.3. Interviewing possible bidders, bonding agents and financial institutions; and
  - 1.11.4. Preparing recommendations for the District.
- 1.12. Conduct a telephonic and correspondence campaign to attempt to increase interest among qualified bidders.
- 1.13. Assist the District in preparing and placing notices and advertisements to solicit bids for the Project.
- 1.14. Coordinate the delivery of Bid Documents to the bidders. The District shall obtain the District-approved Contract Documents from the design professional(s) and the Construction Manager shall arrange for printing, binding, wrapping, and delivery to the bidders. The Construction Manager shall not be responsible for the cost of printing Bid Documents. The Construction Manager shall maintain a list of bidders receiving Contract Documents.
- 1.15. Prepare an estimate of costs for all addenda and shall submit the estimate to the District for approval. The Construction Cost Estimate and other Project costs shall be adjusted as indicated in the Agreement.

- 1.16. Provide and maintain a management team on the Project site(s).
- 1.17. Provide documentation, pictures, and other information and assistance to the District for the District's use on a website for public access to show Project status.
- 1.18. Cooperate and coordinate with the persons responsible for operation of the District's labor compliance program, if applicable.
- 1.19. Comply with any storm water management program that is approved by the District and applicable to the Project, at no additional cost to the District.
- 1.20. Ensure that all Project contractor(s), Project sub-contractor(s) and Construction Manager's sub-consultant(s) comply with any District-approved storm water management program that is applicable to the Project, at no additional cost to the District.
- 1.21. Provide direction and planning to ensure Project adherence to applicable environmental requirements such as those emanating from the Environmental Protection Agency (EPA), Cal/EPA, the California Environmental Quality Act ("CEQA"), Air Quality Management District and State of California and Regional Water Quality Control Board laws, regulations and rules. The Construction Manager shall comply with, and ensure that all contractors and their subcontractors and Design Professionals and their sub-consultants comply with, any storm water pollution prevention plans, other storm water management program and other environmental impact mitigation requirements that are approved by the District and applicable to the Project, at no additional cost to the District.
- 1.22. Construction Manager is NOT responsible for:
  - 1.22.1. Ground contamination or hazardous material analysis.
  - 1.22.2. Any asbestos testing, design or abatement; however, it shall coordinate and integrate its work with any such information provided by District.
  - 1.22.3. Compliance with the California Environmental Quality Act ("CEQA"), except that Construction Manager agrees to coordinate its work with that of any CEQA consultants retained by the District, and to provide current information for use in CEQA compliance documents.
  - 1.22.4. Historical significance report.
  - 1.22.5. Soils investigation.
  - 1.22.6. Geotechnical hazard report.

- 1.22.7. Topographic survey, including utility locating services.
- 1.22.8. Other items specifically designated as the District's responsibilities under this Agreement.
- 1.22.9. As-built documentation from previous construction projects.

## **2. GENERAL PROGRAM SERVICES**

- 2.1. **General:** Monitor and advise the District as to all material developments in the Project. Construction Manager shall develop and implement with the District approval reporting methods for schedules, cost and budget status, and projections for each project in the District's construction program ("Program"). The Construction Manager shall be the focal point of all communication to and from construction contractor(s) and shall be copied on all communications between the District and its design professional(s).
- 2.2. **Scheduling:** Prepare methods to track and report on schedule status for each project and for the overall Program. The Construction Manager shall develop master schedules and milestone schedules for each project, and shall report on same each month to the District.
- 2.3. **Cost Controls:** Prepare and implement methods to budget and track all expenditures on each Project. The Construction Manager shall generate monthly reports to the District reflecting this information.
- 2.4. **Communications to Board:** The Construction Manager may be required to attend each monthly meeting of the District's Board of Education, and to provide updates at each meeting.

## **3. PRECONSTRUCTION PHASE**

- 3.1. Provide overall coordination of the Project; serve as the focal point of communication, transmitting information to the District and Project team on general aspects of the Project, including planning, scheduling, cost management, progress reporting, design review, dispute resolution, and documentation. Communications from the construction contractor(s) to the District and Project design team shall be through the Construction Manager. The Construction Manager shall receive simultaneous copies of all written communications from the District or the Project design team to the construction contractor(s).
- 3.2. Develop and implement District-approved implementation procedures, forms, and reporting requirements for the Project that involve all members of the Project teams, including the District, design professional(s), and construction contractor(s).

- 3.3. Provide value engineering at the Schematic Design and/or 100% Design Development Phase. This evaluation will consist of a review of the proposed materials, equipment, systems and other items depicted in the Design Documents and shall be coordinated with the District's design guidelines and design professional(s). The Construction Manager will prepare a value engineering report will document the results of the evaluation and make recommendations to the District with respect to alternatives, deletions, or amendments of such proposed items that pertain to the anticipated construction costs, useful life, maintenance and operational costs and efficiencies. The Construction Manager shall provide to the District value engineering recommendations and cost/benefit analysis of those recommendations.
- 3.4. Perform or subcontract for constructability reviews of each Project at the Design Development Phase and at 90% Construction Documents. The Construction Manager shall review the Design Documents for clarity, consistency, constructability and coordination. The results of the review shall be provided in writing and as notations on the documents to the District. The Construction Manager shall also make recommendations to the District with respect to constructability, construction cost, sequence of construction, construction duration and separation of the contracts for various portions of the Project into categories of the work and separate bid trade packages. However, the Construction Manager is not responsible for providing, nor does the Construction Manager control, the Project design or the contents of the Design Documents. The Construction Manager's actions in reviewing the Project design and the Design Documents and in making recommendations as provided herein are advisory only to the District. The design professional(s) are not third party beneficiaries of the Construction Manager's work described in this paragraph and the design professional(s) remains solely responsible for the contents of design drawings and the Design Documents.
- 3.5. Develop master bid/award schedule(s) including construction milestones for the Project through the completion of construction, as directed by the District, in coordination with design professional(s) and advise and consult with the District. Construction Manager shall review and approve construction contractor(s)' schedules, but shall not dictate any construction contractor(s)' means and/or methods of performance.
- 3.6. Establish schedules for the soils consultant, for any hazardous materials testing and other consultants, and review costs, estimates, and invoices of each.
- 3.7. Develop and implement a management control system to support such functions as planning, organizing, scheduling, budgeting, reporting progress and identifying and documenting problems and solutions for the Project. The system will allow for monthly progress reports to the District regarding the schedule for the Project.

- 3.8. Organize an initial planning workshop to create baseline parameters for the Project, to define overall building requirements, Project strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, the Construction Manager will develop an implementation plan that identifies the various phases of the Project, coordination among phases, and budget and time constraints for each phase of the Project. The plan will include a detailed strategy, master budget and master schedule as well as identification of critical events and milestone activities.
- 3.9. Attend all planning, programming and master site planning meetings relating to the Project.
- 3.10. Provide updated cost estimates for the Project at the Schematic Design, Design Development, and Construction Documents Phase as directed by District; coordinate with design professional(s) and reconcile cost estimates with design professional(s)' estimates.
- 3.11. Advise District regarding "green building" technology and lifecycle costing, when applicable.



#### **4. PRE-BID PHASE**

- 4.1. Develop a master schedule and a construction milestone schedule for the Project.
- 4.2. Construction Manager shall in consultation with the District and according to District-approved policies, procedures, and standards, implement procedures, forms, and reporting requirements for the Project. Establish, accordingly, a communications procedure for the Project that allows for decision making at appropriate levels of responsibility and accountability.
- 4.3. Work with the design professional(s) to modify or add to standard, special, or general conditions for Contract Documents that might be needed for unique Project or bid package conditions, for the District's approval.
- 4.4. Work with the design professional(s) to separate the Construction Phase for the Project into bid packages.

#### **5. BIDDING PHASE**

- 5.1. Conduct pre-bid conferences to familiarize bidders with the bidding documents, and any special systems, materials or methods and with Project procedures. Field questions from bidders, referring questions to design professional(s) and District as required. Coordinate with design professional(s)' to respond to bidder questions by addenda.
- 5.2. Prepare bid analyses and advise the District on compliance of bidders with District requirements and bid requirements. Report and recommend to the District after review and evaluation. Make recommendations to the District for prequalification of bidders and award of contracts or rejection of bids.
- 5.3. Conduct pre-award conferences with successful bidders.
- 5.4. Schedule and conduct preconstruction meetings. Maintain, prepare, and distribute minutes.

#### **6. CONSTRUCTION PHASE**

- 6.1. Administer the construction contract(s).
- 6.2. Monitor the construction contractor(s) to verify that tools, equipment, and labor are furnished and work performed and completed within the time as required or indicated by the plans and specifications, under the direction and to the satisfaction of the District. The Construction Manager expressly agrees to verify that the specifications are met, observed, performed, and followed in accordance with the professional standards of care for construction management. The

Construction Manager shall not, however, be responsible for directing construction contractor(s)' means and methods.

- 6.3. Coordinate work of the construction contractor(s) and effectively manage the project to achieve the District's objectives in relation to cost, time and quality. Construction Manager shall not, however, be responsible for directing construction contractor(s)' means and methods.
- 6.4. Conduct construction meetings for the Project to discuss and resolve such matters as progress, quality and scheduling. Said meetings shall be weekly unless Project conditions do not require that frequency. Prepare and promptly distribute minutes. When required by field or other conditions, construction progress, or the quality of workmanship, conduct special construction meetings; record, prepare, and distribute minutes of these meetings to the District, the affected construction contractor(s), and design professional(s).
- 6.5. Ensure that construction contractor(s) provide construction schedules as required by their construction contracts, including activity sequences and durations, submittal schedule, or procurement schedule for products that require long lead time. The Construction Manager shall review construction contractor(s)' construction schedules for conformity with the requirements of the construction contract(s) and conformity with the overall schedule for the Project. Where construction contractor(s)' construction schedules do not so conform, the Construction Manager will take appropriate measures to secure compliance, subject to District approval.
- 6.6. Ensure construction contractor(s)' compliance with the requirements of their respective construction contracts for updating, revising, and other obligations relative to their respective construction schedules. The Construction Manager shall incorporate construction contractor(s)' construction schedule updates and revisions into the Project construction schedule.
- 6.7. Continually monitor whether construction contract requirements are being fulfilled and recommend courses of action to the District when contractor(s) fails to fulfill contractual requirements.
- 6.8. The Construction Manager may authorize minor variations in the work from the requirements of the contract documents that do not involve an adjustment in the contract price or the contract time or design and which are consistent with the overall intent of the contract documents. The Construction Manager shall provide to the design professional(s) and the District copies of these authorizations.
- 6.9. Develop, implement, and coordinate with assistance from the District, the design professional(s), and the Project Inspector(s) ("Inspector"), procedures for the submittal, review, verification and processing of applications by contractor(s) for progress and final payments for all construction contracts.

- 6.10. Verify that safety programs are developed and submitted by each of the construction contractor(s) as required by the contract(s). Neither Construction Manager nor District shall be responsible for or have any liability for contractor(s) failure to provide, comply with, or enforce said safety programs.
- 6.11. Record the progress of the Project by a daily log.
- 6.12. Monitor ongoing Project costs to verify that projected costs do not exceed approved budget and provide the District timely notice of any potential increase in costs in excess of approved budgets provided to Construction Manager.
- 6.13. Negotiate contractor's proposals and review change orders prepared by design professional(s), with design professional(s)' input as needed, for approval by the District's governing board.
- 6.14. Maintain a change order log for the Project and implement procedures to expedite processing of change orders.
- 6.15. Implement procedures for issues identification and resolution of actual or potential claims of construction contractor(s) and take actions to mitigate all claims against the District and attempt to eliminate and/or settle all claims.
- 6.16. Assist the District in selecting and retaining special consultants and testing laboratories and coordinate their services.
- 6.17. In conjunction with the Inspector and the design professional(s), monitor work of the construction contractor(s) to determine that the work is being performed in accordance with the requirements of the respective Construction Documents. As appropriate, with assistance of design professional(s) and the Inspector, make recommendations to the District regarding special inspection or testing of work that is not in accordance with the provisions of the Contract Documents.
  - 6.17.1. To guard District against defects in the work of the construction contractor(s), the Construction Manager shall establish and implement a quality control program to monitor the quality and workmanship of construction for conformity with:
    - 6.17.1.1. Accepted industry standards;
    - 6.17.1.2. Applicable laws, rules, or ordinances; and
    - 6.17.1.3. The Design Documents and Contract Documents;

- 6.17.2. Where the work of a construction contractor does not conform as set forth above, the Construction Manager shall, with the input of design professional(s):
- 6.17.2.1. Notify the District of any non-conforming work observed by the Construction Manager;
  - 6.17.2.2. Reject the non-conforming work; and
  - 6.17.2.3. Take any and all action(s) necessary to compel the construction contractor(s) to correct the work.
- 6.18. Maintain logs of requests for information (“RFI”) from construction contractor(s), based on information obtained from the design professional(s).
- 6.19. Establish and implement procedures, in collaboration with the District and design professional(s), for expediting the processing and approval of shop drawings, product data, samples, and other submittals for each contract. Receive and transmit all submittals from the construction contractor(s) to the design professional(s) for review and approval. Maintain submittal and shop drawing logs.
- 6.20. Record the progress of work at the Project. When present, prepare daily reports for the Project containing a record of weather, construction contractor(s) present and their number of workers, work accomplished, problems encountered, and other relevant data.
- 6.21. Prepare and distribute monthly project status reports for each active project and the Program, including updates on project activities, progress of work, outstanding issues, potential problems, schedule, and status of RFIs, change orders, and submittals.
- 6.22. Maintain at the Project site and, if necessary, at the Construction Manager’s office, a current copy of all approved documents, drawings, specifications, addenda, change orders and other modifications, and drawings marked by the construction contractor(s) to record all changes made during construction. These shall include shop drawings, product data, samples, submittals, applicable handbooks, maintenance and operating manuals and instructions, and other related documents and revisions which are relevant to the contract work. Maintain records of principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations as provided by the construction contractor(s). At the completion of the Project, deliver all such records to District. Construction contractor(s) and design professional(s) share responsibility to prepare “Record Drawings” and “As-Built” documents.

## **7. PROJECT COMPLETION**

- 7.1. The Construction Manager shall observe, with the District's maintenance personnel, the construction contractor's check-outs of utilities, operational systems and equipment, and start-up and testing. The Construction Manager shall maintain records of start-up and testing as provided by the construction contractor(s) and shall ensure the District of compliance with applicable provisions of the contract(s), that all work has been performed and accepted, and that all systems are complete and operative.
- 7.2. At the punch list phase of the Project or designated portions thereof, the Construction Manager, in consultation with the Architect(s) and Inspector, shall ensure the preparation of a list of incomplete or unsatisfactory work or work which does not conform to the requirements of the Contract Documents ("punch list work") and a schedule for the completion of the punch list work. The Construction Manager shall provide this list to the construction contractor(s). The Construction Manager shall coordinate construction contractor(s)' performance and completion of punch list work. The Construction Manager shall review, with the Architect(s) and District, the completed punch list work. The Construction Manager shall ensure, with input of the Architect(s), that the completed punch list work complies with applicable provisions of the construction contract(s).
- 7.3. The Construction Manager shall determine, with the Architect(s) and District, when the Project or designated portions thereof are complete.
- 7.4. The Construction Manager shall conduct, with the Architect(s) and District, final inspections of the Project or designated portions thereof. The Construction Manager shall notify the District of final completion.
- 7.5. The Construction Manager shall consult with the Architect(s), Inspector and District and shall determine when the Project and the construction contractor(s)' work are finally completed. The Construction Manager shall assist with the issuance of a Certificate of Final Completion, and shall provide to the District a written recommendation regarding payment to the contractor(s).

## **8. FINAL DOCUMENTS**

The Construction Manager shall review and monitor all as-built drawings, maintenance and operations manuals, and other closeout documents to be sure that all required documents meeting contract requirements are provided, and shall secure and transmit to the District those documents and all required guarantees, keys, manuals, record drawings, and daily logs. The Construction Manager shall also forward all documents and plans to the District upon completion of the project and ensure all such plans and documents are well organized for any appropriate audit or review of the project.

## **9. WARRANTY**

The Construction Manager shall implement a Warranty Inspection and Warranty Work procedure that all contractors are to follow. The procedure shall include a twelve (12) month call back period and a final warranty inspection eleven (11) months after Project completion to inspect the Project and identify any outstanding warranty work.

## **EXHIBIT "B"**

### **CRITERIA AND BILLING FOR EXTRA SERVICES**

The following Extra Services to this Agreement shall be performed by Construction Manager if needed and requested by District as indicated in the Agreement:

- 1.** Providing services required because of significant documented changes in the Project initiated by the District, including but not limited to size, quality, complexity, the District's schedule, or method of bidding or negotiating and contracting for construction.
- 2.** Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with replacement of such work.
- 3.** Providing services made necessary by the default of contractor(s), or by major defects or deficiencies in the work of the contractor, or by failure of performance of the District's consultants, or in the absence of a final Certificate of Payment, more than sixty (60) days after the date of completion of work on the project involved.
- 4.** The selection, layout, procurement or specification at the District's request of movable furniture, furnishings, equipment or other articles that is not included in the Contract Documents.
- 5.** Providing surveys relative to future facilities, systems or equipment which are not intended to be constructed during the Construction Phase.
- 6.** Preparation of applications and supporting documents for governmental grants and permits other than as required in this Agreement.
- 7.** Seeking variances or changes to agency guidelines on behalf of the District when so directed by the District.
- 8.** Providing coordination of Services or providing services related to Services performed by the District's own forces.
- 9.** Preparing to serve or serving as a witness in connection with any public hearing, dispute resolution proceeding or legal proceeding, other than that necessitated by the negligent acts, errors or omissions of Construction Manager or where the Construction Manager is party thereto, except for a contractor's hearing necessitated by its request to substitute a subcontractor.
- 10.** Performing technical inspection and testing.
- 11.** Providing additional construction administration services necessitated by changes in the design professional(s)' firm or key personnel.

- 12.** Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted scope of program or project management practice.

The rates identified in the Fee Schedule attached to **Exhibit "D"** include overhead, administrative cost and profit and shall be utilized in arriving at the fee for Extra Services.



Exhibit C Schedule of Work  
**APPROVED SCHEDULES FOR:**  
**San Juan Hills H.S. - Aquatic Center**  
**Capistrano Valley H.S. - Performing Arts Center**  
 Data Date : 10/10/10 (Revision)

Item No.	Activity Description	Proposed Schedule	
		San Juan Hills- Pool \$4 MM	Capo Valley - P.A.C. \$13 MM
1	Initial Bids Due	7/22/10	10/7/10
2	District Action	District Rejected All Bids - 9/28/10	District Cancelled Bidding - 10/5/10
3	Constructability - Phase I	10/1/10	11/1/10
4	Constructability - Phase II	10/31/10	12/1/10
	Front End Document Review - Site Logistics & Accessibility, Scheduling, Doc. Control, Change Manage. (W.O.), etc.	Arch. Starts 10/18/10 (2 Mos.)	Arch. Starts 11/15/10 (4 Mos.)
5	Deadline to Agendize Re-Bid for Board	11/15/10	2/14/11
6	Board Action Approval to Re-Bid	12/7/10	3/8/11
7	Architect Incorporates Construt. Comments	12/15/10	3/15/11
8	Re- Bid Commences	12/15/10 (1Mon.)	3/21/11 (5 Wks.)
9	Re- Bids Due	1/20/11 (1 Mon.)	4/28/11 (1 Mon.)
10	Board Awards Contract	2/22/11 (3 Wks.)	5/24/11 (5 Wks.)
11	Commence Construction	3/14/11 (8Mos.)	6/27/11 Last Day of School (18 Mos.)
12	Finish Construction	11/11/11 (1 Mon.)	1/3/13 First Day of Spring Semester (3 Mos.)
13	"Test & Adjust" Completed	12/16/11	3/28/13
14	Turnover to District	1/2/12	4/1/13
15	Grand Opening	1/16/12 to 1/27/12	5/1/13 to 5/17/13
12	Commencement of 2012 Swim Season	2/1/12 to 2/5/12	Not Applicable
13	"End of Year" Senior Performances	Not Applicable	5/20/13 to 5/31/13

**EXHIBIT "D"**  
**FEE SCHEDULE**

**Compensation**

1. The Construction Manager's fee set forth in this Agreement shall be full compensation for all of Construction Manager's Services incurred in its performance, including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location, offices, per diem expenses, printing, providing, or shipping of deliverables in the quantities set forth in **Exhibit "A."**
2. The amount of compensation shall be the amount set forth in the Agreement, including all billed expenses, without advance written approval of the District.

**Method of Payment**

1. Construction Manager shall submit monthly invoices on a form and in the format approved by the District.
2. Construction Manager shall submit these invoices in duplicate to the District via the District's authorized representative.
3. Construction Manager shall submit to District on a monthly basis documentation showing proof that payments were made to his/her/its sub-consultants.
4. Upon receipt and approval of Construction Manager's invoices, the District agrees to make payments on all undisputed amounts within sixty (60) days of receipt of the invoice.

**Hourly Rates**

1. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement. Construction Manager shall bill in quarter-hour increments for all Extra Services.

<b><u>Job Title</u></b>	<b><u>Hourly Rate</u></b>
Principal In Charge:	\$_____00
Project Director:	\$_____00
Construction Manager (s):	\$_____155.00
Assistant Construction Manager	\$_____00
Other	
Other	
Other	

2. The mark-up on any approved item of Extra Services performed by sub-consultant(s) or subcontractor(s) shall not exceed ten percent (10%).

INCOME AGREEMENT  
CAPISTRANO UNIFIED SCHOOL DISTRICT

This AGREEMENT is hereby entered into this 1st day of July, 2011, by and between the Orange County Superintendent of Schools, 200 Kalmus Drive, Costa Mesa, California 92626, hereinafter referred to as SUPERINTENDENT, and the Capistrano Unified School District, 33122 Valle Road, San Juan Capistrano, California 92675, hereinafter referred to as DISTRICT. SUPERINTENDENT and DISTRICT shall be collectively referred to as the Parties.

WHEREAS, DISTRICT is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, DISTRICT is in need of such special services and advice; and

WHEREAS, SUPERINTENDENT is specially trained and experienced and competent to perform the special services required by the SUPERINTENDENT, and such services are needed on a limited basis;

NOW, THEREFORE, the parties hereby agree as follows:

1.0 SCOPE OF WORK. DISTRICT hereby engages SUPERINTENDENT as an independent contractor to perform the following described work and SUPERINTENDENT hereby agrees to perform said work upon the terms and conditions hereinafter set forth. Specifically, SUPERINTENDENT shall provide the following services for Special Education Services:

1           1.1       Provide the services of Jane Vogel for functional  
2                    vision assessments and consultations for students.

3   2.0       TERM.   This AGREEMENT shall commence on July 1, 2011, and end  
4   on June 30, 2012, subject to termination as set forth in Section 9.0  
5   of this AGREEMENT.

6   3.0       COMPENSATION.

7           A.   DISTRICT agrees to pay SUPERINTENDENT for services  
8   satisfactorily performed pursuant to Section 1.0 of this AGREEMENT a  
9   total sum not to exceed Six thousand five hundred dollars (\$6,500.00)  
10   for services satisfactorily rendered pursuant to Section 1.0 of this  
11   AGREEMENT.

12           B.   Payment shall be mailed to: Orange County Superintendent  
13   of Schools, Attn: Accounting Manager, 200 Kalmus Drive, P.O. Box  
14   9050, Costa Mesa, California 92628-9050, or at such other place as  
15   SUPERINTENDENT may designate in writing.

16   4.0       INDEPENDENT CONTRACTOR. SUPERINTENDENT, in the performance of  
17   this AGREEMENT, shall be and act as an independent contractor.  
18   SUPERINTENDENT understands and agrees that SUPERINTENDENT and  
19   SUPERINTENDENT'S employees shall not be considered officers,  
20   employees or agents of the DISTRICT and are not entitled to benefits  
21   of any kind or nature normally provided employees of the DISTRICT  
22   and/or to which DISTRICT'S employees are normally entitled,  
23   including, but not limited to, State Unemployment Compensation or  
24   Workers' Compensation. SUPERINTENDENT assumes the full responsibility  
25   for the acts and/or omissions of its employees or agents as they  
   relate to the services to be provided under this AGREEMENT.

1 SUPERINTENDENT shall assume full responsibility for payment of all  
2 federal, state and local taxes or contributions, including  
3 unemployment insurance, social security and income taxes with respect  
4 to SUPERINTENDENT'S employees.

5 5.0 HOLD HARMLESS/INDEMNIFICATION.

6 A. SUPERINTENDENT hereby agrees to indemnify, defend, and  
7 hold harmless DISTRICT, its Governing Board, officers, agents, and  
8 employees from liability and claims of liability for bodily injury,  
9 personal injury, sickness, disease, or death of any person or  
10 persons, or damage to any property, real personal, tangible or  
11 intangible, arising out of the negligent acts or omissions of  
12 employees, agents or officers of SUPERINTENDENT or the Orange County  
13 Board of Education during the period of this AGREEMENT.

14 B. DISTRICT hereby agrees to indemnify, defend, and hold  
15 harmless SUPERINTENDENT, the Orange County Board of Education, and  
16 its officers, agents, and employees from liability and claims of  
17 liability for bodily injury, personal injury, sickness, disease, or  
18 death of any person or persons, or damage to any property, real,  
19 personal, tangible or intangible, arising out of the negligent acts  
20 or omissions of employees, agents or officers of DISTRICT during the  
21 period of this AGREEMENT.

22 6.0 ASSIGNMENT. SUPERINTENDENT or DISTRICT shall not subcontract  
23 or assign the performance of any of the services in this AGREEMENT  
24 with out prior written approval of the party.

25 7.0 TOBACCO USE POLICY. In the interest of public health, the  
SUPERINTENDENT provides a tobacco-free environment. Smoking or the

1 use of any tobacco products are prohibited in buildings and vehicles,  
2 and on any property owned, leased or contracted for by the  
3 SUPERINTENDENT pursuant to SUPERINTENDENT Policy 400.15. Failure to  
4 abide with conditions of this policy could result in the termination  
5 of this AGREEMENT.

6 8.0 NON-DISCRIMINATION. SUPERINTENDENT and DISTRICT agree that  
7 they will not engage in unlawful discrimination in employment of  
8 persons because of race, color, religious creed, national origin,  
9 ancestry, physical handicap, medical condition, marital status, or  
10 sex of such persons.

11 9.0 TERMINATION. Either party may terminate this AGREEMENT with  
12 or without reason with the giving of thirty (30) days written notice  
13 to the other party. DISTRICT shall compensate SUPERINTENDENT only  
14 for services satisfactorily rendered to the date of termination.  
15 Written notice by DISTRICT shall be sufficient to stop further  
16 performance of services by SUPERINTENDENT. Notice shall be deemed  
17 given when received by the SUPERINTENDENT or DISTRICT or no later  
18 than three (3) days after the day of mailing, whichever is sooner.

19 10.0 NOTICE. All notices or demands to be given under this  
20 AGREEMENT by either party to the other, shall be in writing and given  
21 either by: (a) personal service or (b) by U.S. Mail, mailed either by  
22 registered or certified mail, return receipt requested, with postage  
23 prepaid. Service shall be considered given when received if  
24 personally served or if mailed on the third day after deposit in any  
25 U.S. Post Office. The address to which notices or demands may be  
given by either party may be changed by written notice given in

1 accordance with the notice provisions of this section. At the date  
2 of this AGREEMENT, the addresses of the Parties are as follows:

3 DISTRICT: Capistrano Unified School District  
33122 Valle Road  
4 San Juan Capistrano, California 92675  
5 Attn: \_\_\_\_\_

6 SUPERINTENDENT: Orange County Superintendent of Schools  
200 Kalmus Drive  
7 P.O. Box 9050  
Costa Mesa, California 92628-9050  
8 Attn: Patricia McCaughey

9 11.0 NON WAIVER. The failure of SUPERINTENDENT or DISTRICT to  
10 seek redress for violation of, or to insist upon, the strict  
11 performance of any term or condition of this AGREEMENT shall not be  
12 deemed a waiver by that party of such term or condition, or prevent a  
13 subsequent similar act from again constituting a violation of such  
term or condition.

14 12.0 SEVERABILITY. If any term, condition or provision of this  
15 AGREEMENT is held by a court of competent jurisdiction to be invalid,  
16 void, or unenforceable, the remaining provisions will nevertheless  
17 continue in full force and effect, and shall not be affected,  
18 impaired or invalidated in any way.

19 13.0 GOVERNING LAW. The terms and conditions of this AGREEMENT  
20 shall be governed by the laws of the State of California with venue  
21 in Orange County, California.

22 14.0 ENTIRE AGREEMENT/AMENDMENT. This AGREEMENT and any exhibits  
23 attached hereto constitute the entire agreement among the Parties to  
24 it and supersedes any prior or contemporaneous understanding or  
25 agreement with respect to the services contemplated, and may be




1 amended only by a written amendment executed by both Parties to the  
2 AGREEMENT.

3 IN WITNESS WHEREOF, the Parties hereto set their hands.

4 DISTRICT: CAPISTRANO UNIFIED  
5 SCHOOL DISTRICT

ORANGE COUNTY SUPERINTENDENT  
OF SCHOOLS

6 BY: \_\_\_\_\_  
Authorized Signature

BY:  \_\_\_\_\_  
Authorized Signature

7 PRINTED NAME: \_\_\_\_\_

PRINTED NAME: Patricia McCaughey

8 TITLE: \_\_\_\_\_

TITLE: Coordinator

9 DATE: \_\_\_\_\_

DATE: August 29, 2011

10  
11  
12  
13  
14  
15 CUSD-Income-JaneVogel (37264) 12  
ZIP4

**AMENDMENT TO SCHOOL BUS SERVICE AGREEMENT NO. C1011065**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**JSERRA**

The original School Bus Service Agreement between Capistrano Unified School District and JSerra, called for the District to provide services for one (1) JSERRA school bus. JSERRA is in need of the services provided by the District for an additional bus that they purchased.

Articles 1.0, 1.2, 1.3. and 1.4 in the agreement between Capistrano Unified School District and JSERRA shall be amended to replace the words “the one (1) JSERRA school bus” with “select JSERRA school buses”.

Except as set forth in this Amendment to Agreement, and Board approved on September 14, 2010, all other terms and conditions of the contract remain in full force and effect.

**Capistrano Unified School District**

**JSERRA**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Terry Fluent \_\_\_\_\_

\_\_\_\_\_  
Print Name

Director, Purchasing \_\_\_\_\_

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

CAPISTRANO UNIFIED SCHOOL DISTRICT  
SCHOOL BUS SERVICE AGREEMENT

This AGREEMENT is hereby entered into this 15th day of September, 2010, by and between the Capistrano Unified School District, 33122 Valle Road, San Juan Capistrano, California 92675 (hereinafter referred to as "DISTRICT"), and JSerra, 26351 Junipero Serra Road, San Juan Capistrano, CA 92675, (hereinafter referred to as "JSERRA"). DISTRICT and CLIENT shall be collectively referred to as the Parties.

WHEREAS, the DISTRICT is specially trained and experienced and competent to perform the special services required by JSERRA to maintain the school bus purchased by JSERRA;

WHEREAS, JSERRA is in need of such special services and advice from DISTRICT; and

WHEREAS, DISTRICT AND JSERRA wish to enter into this AGREEMENT with the understanding that these services are being rendered secondary to services required by DISTRICT'S schools and students and only if DISTRICT operations are not adversely impacted in any way;

NOW, THEREFORE, the Parties hereby agree as follows:

1.0 SERVICES TO BE PROVIDED BY THE DISTRICT;

1.1 Provide routine inspection and servicing (i.e. lubrication of chassis, changing oil, oil filters and air filters) on the one (1) JSERRA school bus every 3,000 miles

or 45 calendar days, whichever occurs first, at \$105/hour (inspection/servicing fees have a ¼ hour minimum).

1.2 Provide an annual maintenance check-up on one (1) JSERRA bus at \$105/hour and any repairs necessitated by such maintenance check-up will be mutually agreed to in writing between the Parties.

1.3 Provide roadside assistance for one (1) JSERRA school bus within DISTRICT boundaries at \$105/hour, which shall commence from point of departure to point of return.

1.4 Provide emergency roadside assistance for the one (1) JSERRA school bus outside DISTRICT boundaries at DISTRICT'S discretion at \$105/hour, which shall commence from point of departure to point of return.

1.5 Provide certified California school bus driver training at \$55.00/hour per training session.

1.6 Provide certified California school bus behind the wheel training at \$55.00/hour per individual driver. (Initial training for Class B license requires drivers to take 25 hours of classroom training plus 25 hours of behind the wheel training - a one-time requirement for a five year license. Each year thereafter, annual in-service classroom training of 10 hours is required upon each driver's birth date.)

2.0 TERM. DISTRICT shall commence providing services under this AGREEMENT on or after September 15, 2010 and this Agreement

shall be effective for one (1) year with two (2) one year options to renew upon mutual written agreement of the Parties.

3.0 FEES/PAYMENT. JSERRA agrees to pay the DISTRICT for services satisfactorily rendered pursuant to Section 1.0 of this AGREEMENT. JSERRA agrees to pay all hourly rates as stated in Section 1.0 and any and all towing costs, if necessary. ALL parts/supplies/materials, fuel and oil shall be paid by JSERRA. There shall be no costs or expenses to the DISTRICT to provide these services. Payment shall be made upon receipt of an invoice from DISTRICT in duplicate. Payment shall be mailed to: CAPISTRANO UNIFIED SCHOOL DISTRICT, 33122 VALLE ROAD, SAN JUAN CAPISTRANO, CALIFORNIA 92675, ATTN: ACCOUNTS PAYABLE, or at such other place as DISTRICT may designate in writing.

4.0 COMMUNICATION BETWEEN THE PARTIES. JSERRA SHALL COMMUNICATE DIRECTLY WITH THE DISTRICT'S Director of Transportation for the purpose of requesting any of the services provided in this AGREEMENT. JSERRA shall comply with all schedules that have been established by the DISTRICT for inspecting, servicing and/or maintaining the JSERRA school bus and shall deliver the bus at or before the time scheduled.

5.0 INDEPENDENT CONTRACTOR. DISTRICT, in the performance of this AGREEMENT, shall be and act as an independent contractor. DISTRICT understands and agrees that it and all of its employees shall not be considered officers, employees or agents of the JSERRA, and are not entitled to benefits of any kind or nature normally provided employees of JSERRA and/or to which JSERRA

employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. DISTRICT assumes the full responsibility for the acts and/or omissions of its employees as they relate to the services to be provided under this AGREEMENT. DISTRICT shall assume full responsibility for payment of all federal, state, and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to DISTRICT'S employees.

6.0 TERMINATION. Either party may terminate this AGREEMENT with or without reason by providing thirty (30) days written notice to the other party specifying the desired date of termination. Notice shall be deemed given when received or no later than three (3) days after the day of mailing, whichever is sooner.

7.0 HOLD HARMLESS/INDEMNIFICATION. JSERRA agrees to and does hereby indemnify, hold harmless and defend the DISTRICT and its Governing Board, officers and employees from every claim or demand made and every liability, loss, damage or expense, of any nature whatsoever, which may be incurred by reason of any injury to or death of any person(s), or damage to or loss of any property caused by any negligent act, default, or negligent omission of the JSERRA, or its officers or employees arising out of, or in any way connected with, this AGREEMENT, whether said injury or damage occurs either on or off JSERRA or DISTRICT'S property, except for liability for damages which result from the sold negligence or willful misconduct of the DISTRICT or its officers or employees.

8.0 COMPLIANCE WITH APPLICABLE LAWS. DISTRICT and JSERRA agree to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to DISTRICT and JSERRA as they relate to their respective performances pursuant to this AGREEMENT.

9.0 ASSIGNMENT. The obligations of the DISTRICT pursuant to this AGREEMENT shall not be assigned by the DISTRICT.

10.0 TOBACCO USE POLICY. In the interest of public health, DISTRICT provides a tobacco-free environment. Smoking or the use of any tobacco products are prohibited in buildings and vehicles, and on any property owned, leased or contracted for by the DISTRICT pursuant to DISTRICT Policy 400.15. Failure to abide with the conditions of this policy could result in the termination of this AGREEMENT.

11.0 COMPLIANCE WITH APPLICABLE LAWS. DISTRICT and JSERRA agree to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to DISTRICT and JSERRA as they relate to their respective performances pursuant to this AGREEMENT.

12.0 PERMITS/LICENSES. DISTRICT and all DISTRICT'S employees shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this AGREEMENT.

13.0 NON-DISCRIMINATION. DISTRICT and JSERRA agree that they will not engage in unlawful discrimination in employment of persons

because of race, ethnicity, religion, nationality, disability, gender, marital status or age of such persons.

14.0 NOTICE. 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 or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or, if mailed, on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section. As of the date of this AGREEMENT, the addresses of the parties are as follows:

DISTRICT:                   Capistrano Unified School District  
                              33122 Valle Road  
                              San Juan Capistrano, CA 92675  
                              Attn: Mike Patton, Director, Transportation

CLIENT:                    JSerra Catholic High School  
                              26351 Junipero Serra Road  
                              San Juan Capistrano, CA 92675  
                              Attn: Michelle Ramirez, CFO

15.0 NON WAIVER. The failure of DISTRICT or JSERRA to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this AGREEMENT, shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.



16.0 SEVERABILITY. If any term, condition or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

17.0 GOVERNING LAW. The terms and conditions of this AGREEMENT shall be governed by the laws of the State of California which venue in Orange County, California

18.0 ENTIRE AGREEMENT/AMENDMENT. This AGREEMENT and any exhibits attached hereto constitute the entire agreement among the Parties to it and supersedes any prior or contemporaneous understanding or agreement with respect to the services contemplated, and may be amended only by a written amendment executed by both Parties to the AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto set their hands.

DISTRICT:

CAPISTRANO UNIFIED SCHOOL DISTRICT

BY: Terry Fluent

Print Name: Terry Fluent

TITLE: Director, Purchasing

DATE: 4/22/11

JSERRA

BY: Michele Ramirez

PRINT NAME: MICHELE RAMIREZ

TITLE: CFO

DATE: 4/19/11

**EXTENSION OF AGREEMENT**  
**BETWEEN**  
**CAPISTRANO UNIFIED SCHOOL DISTRICT**  
**AND**  
**JSERRA**

This School Bus Service Agreement called for an original 12-month contract covering the period September 15, 2010 through September 14, 2011, with annual renewals at the option of the Board of Trustees for two (2) additional one year periods.

The contract with JSERRA pursuant to Contract No. C1011065, shall be extended, covering the period September 15, 2011 through September 14, 2012.

Except as set forth in this Extension Agreement, and Board approved on September 14, 2010, all other terms of the contract remain in full force and effect.

**DISTRICT****Capistrano Unified School District**

By: Terry Fluent  
Signature

Terry Fluent

Director, Purchasing

Date: 9/12/11

**CLIENT****JSERRA**

By: Michele Ramirez  
Signature

MICHELE RAMIREZ  
Print Name

CFO  
Title

Date: 9/6/11

CAPISTRANO UNIFIED SCHOOL DISTRICT  
RENTAL SERVICE AGREEMENT  
Rev. 1 (dated 9/27/11)

This AGREEMENT is hereby entered into this 1st day of July, 2011, by and between the Capistrano Unified School District, 33122 Valle Road, San Juan Capistrano, California 92675 (hereinafter referred to as "DISTRICT"), and Capo Beach Calvary, 25975 Domingo Ave., Capistrano Beach, CA 92624, (hereinafter referred to as "CLIENT"). DISTRICT and CLIENT shall be collectively referred to as the Parties.

WHEREAS, CLIENT is in need of such special services FROM DISTRICT; and

WHEREAS, DISTRICT AND CLIENT wish to enter into this AGREEMENT with the understanding that these services are being rendered secondary to services required by DISTRICT's schools and students and only if DISTRICT operations are not adversely impacted in any way:

NOW, THEREFORE, the Parties hereby agree as follows:

1.0 SERVICES TO BE PROVIDED BY THE DISTRICT.

1.1 Provide designated parking for one (1) school bus at the District's bus facility located at 26126 Victoria Blvd, Capistrano Beach, California 92624 for a fee of \$75.00 per bus per month for a total of \$75.00 per month.

2.0 TERM. DISTRICT shall commence providing services under this AGREEMENT on or after July 1, 2011, and this agreement shall be effective for one (1) year ending June 30, 2012 with two

(2) one year options to renew upon mutual written agreement of the Parties.

3.0 FEES/PAYMENT. CLIENT agrees to pay the DISTRICT for services satisfactorily rendered pursuant to Section 1.0 of this AGREEMENT. There shall be no costs or expenses to the District to provide these services. Payment shall be made upon receipt of an invoice from DISTRICT in duplicate. Payment shall be mailed to: CAPISTRANO UNIFIED SCHOOL DISTRICT, 33122 VALLEY RD., SAN JUAN CAPISTRANO, CALIFORNIA 92675, ATTN: ACCOUNTS PAYABLE, or at such other place as DISTRICT may designate in writing.

4.0 COMMUNICATION BETWEEN THE PARTIES. CLIENT shall communicate directly with the DISTRICT's Executive Director of Transportation for the purpose of requesting any of the services provided in this AGREEMENT.

5.0 INDEPENDENT CONTRACTOR. DISTRICT, in the performance of this AGREEMENT, shall be and act as an independent contractor. DISTRICT understands and agrees that it and all of its employees shall not be considered officers, employees or agents of CLIENT, and are not entitled to benefits of any kind or nature normally provided employees of CLIENT and/or to which CLIENT'S employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. DISTRICT assumes the full responsibility for the acts and/or omissions of its employees as they relate to the services to be provided under this AGREEMENT. DISTRICT shall

1 assume full responsibility for payment of all federal, state  
2 and local taxes or contributions, including unemployment  
3 insurance, social security and income taxes with respect to  
4 DISTRICT'S employees.

5 6.0 TERMINATION. Either party may terminate this AGREEMENT with  
6 or without reason by providing thirty (30) days written notice  
7 to the other party specifying the desired date of termination.  
8 Notice shall be deemed given when received or no later than  
9 three (3) days after the day of mailing, whichever is sooner.

10 7.0 HOLD HARMLESS/INDEMNIFICATION. CLIENT agrees to and does  
11 hereby indemnify, hold harmless and defend the DISTRICT and  
12 its Governing Board, officers and employees from every claim  
13 or demand made and every liability, loss, damage or expense,  
14 of any nature whatsoever, which may be incurred by reason of  
15 any injury to or death of any person(s), or damage to or loss  
16 of any property caused by any negligent act, default, or  
17 negligent omission of CLIENT, or its officers or employees  
18 arising out of, or in any way connected with, this AGREEMENT,  
19 whether said injury or damage occurs either on or off CLIENT'S  
20 property, except for liability for damages which result from  
21 the sole negligence or willful misconduct of the DISTRICT or  
22 its officers or employees.

23 DISTRICT agrees to and does hereby indemnify, hold  
24 harmless and defend CLIENT and its affiliates, directors,  
25 administrative board and employees from every claim or demand  
made and every liability, loss, damage or expense, of any

1 nature whatsoever, which may be incurred by reason of any  
2 injury to or death of any person(s), or damage to or loss of  
3 any property caused by any negligence or willful misconduct of  
4 the DISTRICT, or its officers or employees arising out of  
5 their performance under this AGREEMENT.

6 8.0 INSURANCE. CLIENT will provide the DISTRICT with a  
7 certificate of insurance which provides insurance coverage on  
8 the CLIENT owned school bus parked at the District's bus  
9 facility. A certificate of insurance shall also show that the  
10 DISTRICT is named as an additional insured on the policy or  
11 policies of general liability and auto liability policies.  
12 Said certificate of insurance shall also show the DISTRICT  
13 will be given at least thirty (30) days notice prior to the  
14 termination, cancellation or modification of said insurance.

15 9.0 ASSIGNMENT. The obligations of the DISTRICT pursuant to this  
16 AGREEMENT shall not be assigned by the DISTRICT.

17 10.0 TOBACCO USE POLICY. In the interest of public health,  
18 DISTRICT provides a tobacco-free environment. Smoking or the  
19 use of any tobacco products are prohibited in buildings and  
20 vehicles, and on any property owned, leased or contracted for  
21 by the DISTRICT pursuant to DISTRICT Policy 400.15. Failure  
22 to abide with conditions of this policy could result in the  
23 termination of this AGREEMENT.

24 11.0 COMPLIANCE WITH APPLICABLE LAWS. DISTRICT and CLIENT agree to  
25 comply with all federal, state and local laws, rules,  
regulations and ordinances that are now or may in the future

1 become applicable to DISTRICT and CLIENT as they relate to  
2 their respective performances pursuant to this AGEEMENT.

3 12.0 PERMITS/LICENSES. DISTRICT and all DISTRICT's employees  
4 shall secure and maintain in force such permits and licenses  
5 as are required by law in connection with the furnishing of  
6 services pursuant to this AGREEMENT.

7 13.0 NON-DISCRIMINATION. DISTRICT and CLIENT agree that they will  
8 not engage in unlawful discrimination in employment of persons  
9 because of race, color, religious creed, national origin,  
10 ancestry, physical handicap, medical condition, marital  
11 status, or sex of such persons.

12 14.0 NOTICE. All notices or demands to be given under this  
13 AGREEMENT by either party to the other shall be in writing and  
14 given either by: (a) personal service or (b) by U.S. Mail,  
15 mailed either by registered or certified mail, return receipt  
16 requested, with postage prepaid. Service shall be considered  
17 given when received if personally served or if mailed on the  
18 third day after deposit in any U.S. Post Office. The address  
19 to which notices or demands may be given by either party may  
20 be changed by written notice given in accordance with the  
21 notice provisions of this section. As of the date of this  
22 AGREEMENT, the addresses of the parties are as follows:  
23  
24  
25



1 CLIENT: CAPO BEACH CALVARY  
2 25975 Domingo Ave.,  
3 Capistrano Beach, CA 92624  
4 Attn: Craig Whittaker, Lead Pastor  
5 DISTRICT: Capistrano Unified School District  
6 33122 Valle Road  
7 San Juan Capistrano, CA 92675  
8 Attn: Mike Patton, Executive Director

9 15.0 NON WAIVER. The failure of DISTRICT or CLIENT to seek redress  
10 for violation of, or to insist upon, the strict performance of  
11 any term or condition of this AGREEMENT, shall not be deemed a  
12 waiver by that party of such term or condition, or prevent a  
13 subsequent similar act from again constituting a violation of  
14 such term or condition.

15 16.0 SEVERABILITY. If any term, condition or provision of this  
16 AGREEMENT is held by a court of competent jurisdiction to be  
17 invalid, void, or unenforceable, the remaining provisions will  
18 nevertheless continue in full force and effect, and shall not  
19 be affected, impaired or invalidated in any way.

20 15.0 GOVERNING LAW. The terms and conditions of this AGREEMENT  
21 shall be governed by the laws of the State of California with  
22 venue in Orange County, California.

23 16.0 ENTIRE AGREEMENT/AMENDMENT. This AGREEMENT and any exhibits  
24 attached hereto constitute the entire agreement among the  
25 Parties to it and supersedes any prior or contemporaneous  
understanding or agreement with respect to the services  
contemplated, and may be amended only by a written amendment  
executed by both Parties to the AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto set their hands.

DISTRICT:  
CAPISTRANO UNIFIED  
SCHOOL DISTRICT

CLIENT:  
CAPO BEACH CALVARY

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Authorized Signature

PRINT NAME: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

TAXPAYER ID#: \_\_\_\_\_