

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

BOARD OF TRUSTEES  
Regular Meeting

September 25, 2013

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. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE AND/OR  
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

**EXHIBIT 3A**

Number of Cases – Two

1) OAH Case No. 2012050145

2) OAH Case No. 2012050349

*(Pursuant to Government Code §54956.9{a})*

**B. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE**

**EXHIBIT 3B**

*(Pursuant to Government Code §54957)*

**C. CONFERENCE WITH LABOR NEGOTIATORS**

Dr. Joseph M. Farley/Jodee Brentlinger/Clark Hampton/Jon Pearl

Employee Organizations:

1) Capistrano School Employees Association (CSEA)

2) Teamsters

*(Pursuant to Government Code §54957.6)*

**D. CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

**EXHIBIT 3D**

Dr. Joseph M. Farley/Clark Hampton/John Forney/Attorney Jeff Hoskinson

APN 637-412-02, intersection of Paseo de Colinas and Del Cerro

City of Laguna Niguel

*(Pursuant to Government Code §54956.8)*

**RECORDING OF SCHOOL BOARD MEETINGS**

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

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

**PLEDGE OF ALLEGIANCE**

**ADOPTION OF THE AGENDA – ROLL CALL**

**REPORT ON CLOSED SESSION ACTION**

**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.

**DISCUSSION/ACTION ITEMS**

**1. UPDATE ON THE RANCHO MISSION VIEJO COMPANY, LLC DEVELOPMENT MITIGATION AGREEMENT:**

Staff will provide the Board of Trustees with an update on the status of negotiations with the Rancho Mission Viejo Company, LLC regarding the mitigation agreement to address the impact of its planned developments on the District's need for school facilities.

The PowerPoint presentation will be posted online on the District Board Agendas and Supporting Documentation page on Friday, September 20, 2013.

*CUSD Strategic Plan Pillar 5: Effective Operations*

*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*

Staff Recommendation

It is recommended the Board President recognize Clark Hampton, Deputy Superintendent, Business and Support Services, to present information on this item and answer any questions Trustees may have. This is an information item and no Board action is necessary.

**2. RESOLUTION NO. 1314-21 - RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT APPROVING AMENDMENT NO. 1 TO FIRST AMENDED IMPACT MITIGATION AGREEMENT RELATED TO THE WHISPERING HILLS PROJECT AND COMMUNITY FACILITIES DISTRICT NO. 2005-1 AND DELEGATING AUTHORITY RELATED THERETO:**

The Board of Trustees, acting solely as the approving agent for the Capistrano Unified School District, is requested to approve and adopt Resolution No. 1314-21, which authorizes the execution of Amendment No. 1 to the First Amended Impact Mitigation Agreement related to the Whispering Hills Project and Community Facilities District No. 2005-1.

INFORMATION/  
DISCUSSION

Page 1

**EXHIBIT 1**

DISCUSSION/  
ACTION

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**EXHIBIT 2**

On June 13, 2011, the Board of Trustees of the Capistrano Unified School District, acting on behalf of itself, entered into the First Amended Impact Mitigation Agreement. The First Amended Impact Mitigation Agreement related to the Whispering Hills Project and Community Facilities District No. 2005-1 contained certain provisions regarding future bond issuance conditions, for example the underwriter selection process, whereby the underwriter shall be selected by Community Facilities District No. 2005-1, following consultation with the Capistrano Unified School District and Rancho San Juan Development.

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

***Contact: Clark Hampton, Deputy Superintendent, Business and Support Services***

Staff Recommendation

It is recommended the Board President recognize Clark Hampton, Deputy Superintendent, Business and Support Services, to present this item.

Following discussion, it is recommended the Board of Trustees approve Resolution No. 1314-21, Resolution of the Board of Trustees of the Capistrano Unified School District Approving Amendment No. 1 to First Amended Impact Mitigation Agreement Related to the Whispering Hills Project and Community Facilities District No. 2005-1 and Delegating Authority Related Thereto.

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

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

ROLL CALL:

Student Advisor Leilah Rodriguez \_\_\_\_

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

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

Trustee Hanacek \_\_\_\_\_

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

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

Trustee Reardon \_\_\_\_\_

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

**3. RESOLUTION NO. 1314-21 - RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT APPROVING AMENDMENT NO. 1 TO FIRST AMENDED IMPACT MITIGATION AGREEMENT RELATED TO THE WHISPERING HILLS PROJECT AND COMMUNITY FACILITIES DISTRICT NO. 2005-1 AND DELEGATING AUTHORITY RELATED THERETO:**

DISCUSSION/  
ACTION

The Board of Trustees of the Capistrano Unified School District, acting as the legislative body of Community Facilities District No. 2005-1 (Whispering Hills) of the Capistrano Unified School District, is requested to approve and adopt Resolution No. 1314-21, which authorizes the execution of Amendment No. 1 to the First Amended Impact Mitigation Agreement related to the Whispering Hills Project and Community Facilities District No. 2005-1.

On June 13, 2011, the Board of Trustees of the Capistrano Unified School District, acting as the legislative body of Community Facilities District No. 2005-1, entered into the First Amended Impact Mitigation Agreement. The First Amended Impact Mitigation Agreement related to the Whispering Hills Project and Community Facilities District No. 2005-1 contained certain provisions regarding future bond issuance conditions, for example the underwriter selection process, whereby the underwriter shall be selected by Community Facilities District No. 2005-1, following consultation with the Capistrano Unified School District and Rancho San Juan Development. Supporting documentation for this item is located in Exhibit 2.

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

***Contact: Clark Hampton, Deputy Superintendent, Business and Support Services***

Staff Recommendation

It is recommended the Board President recognize Clark Hampton, Deputy Superintendent, Business and Support Services, to present this item.

Following discussion, it is recommended the Board of Trustees approve Resolution No. 1314-21, Resolution of the Board of Trustees of the Capistrano Unified School District Approving Amendment No. 1 to First Amended Impact Mitigation Agreement Related to the Whispering Hills Project and Community Facilities District No. 2005-1 and Delegating Authority Related Thereto.

|  |                         |
|--|-------------------------|
| Motion by _____                        | Seconded by _____       |
| ROLL CALL:                             |                         |
| Student Advisor Leilah Rodriguez _____ |                         |
| Trustee Addonizio _____                | Trustee Hatton _____    |
| Trustee Bryson _____                   | Trustee Pritchard _____ |
| Trustee Hanacek _____                  | Trustee Reardon _____   |
|  | Trustee Alpay _____     |

4. **RESOLUTION NO. 1314-22 - RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) AUTHORIZING THE ISSUANCE OF THE FIRST SERIES OF SPECIAL TAX BONDS OF COMMUNITY FACILITIES DISTRICT NO. 2005-1, SERIES 2013 SPECIAL TAX BONDS, IN THE NOT-TO-EXCEED AMOUNT OF \$10 MILLION APPROVING A FISCAL AGENT AGREEMENT, APPROVING OTHER DOCUMENTS, AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH:**

At the May 22, 2013, Board meeting, Trustees received an update from Government Financial Strategies in connection with the District's trigger point for the first issuance of bonds for CFD No. 2005-1, "Whispering Hills," including estimated bond sizing, allocation of bond proceeds, and bond sale options for the bonds.

The Board will be asked to consider adoption of Resolution No. 1314-22, which will authorize the issuance of first series of Special Tax Bonds in the not-to-exceed amount of \$10 million and approve related documents and other actions.

Staff Recommendation

It is recommended the Board President recognize Clark Hampton, Deputy Superintendent, Business and Support Services, to present this item.

Following discussion, it is recommended the Board of Trustees approve Resolution No. 1314-22, Resolution of the Board of Trustees of the Capistrano Unified School District Acting as the Legislative Body of Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Authorizing the Issuance of the First Series of Special Tax Bonds of Community Facilities District No. 2005-1, Series 2013 Special Tax bonds, in the Not-to-Exceed Amount of \$10 million approving a Fiscal Agent Agreement, Approving Other Documents, and Taking Certain Other Actions in Connection Therewith.

|  |                         |
|--|-------------------------|
| Motion by _____                        | Seconded by _____       |
| ROLL CALL:                             |                         |
| Student Advisor Leilah Rodriguez _____ |                         |
| Trustee Addonizio _____                | Trustee Hatton _____    |
| Trustee Bryson _____                   | Trustee Pritchard _____ |
| Trustee Hanacek _____                  | Trustee Reardon _____   |
|  | Trustee Alpay _____     |

DISCUSSION/  
ACTION  
Page 229  
**EXHIBIT 4**



5. **EXPENDITURE PLAN FOR ONE-TIME FUNDS FOR COMMON CORE STATE STANDARDS:**

The state budget allocated \$1.25 billion statewide in one-time funds for the implementation of the Common Core State Standards. The District will receive approximately \$10 million in one-time revenue to be spent in 2013-2014 and 2014-2015 on professional development, instructional materials, and technology. A public hearing was held on September 11, 2013, to seek public input on the District's Expenditure Plan for One-Time Funds for Common Core Standards. As a condition of receipt of the funds, each district must adopt a spending plan after considering public input on how the one-time funding should be allocated. On or before July 1, 2015, a report must be filed with the California Department of Education detailing the specific purchases made to support the spending plan.

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

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

Staff Recommendation

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

Following discussion, it is recommended the Board of Trustees approve the Expenditure Plan for One-Time Funds for Common Core Standards.

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

6. **FIRST READING – REVISIONS TO BOARD POLICY 6114.1, EMERGENCY DRILLS:**

Board Policy 6114.1, *Emergency Drills*, is the governing policy for ensuring student safety is a primary concern in the District. Practicing emergency drills is one way in which we prepare for emergency situations. The School Safety Task Force recommended that the number of school lockdown drills should be increased to two per school year.

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

***Contact: Michelle Le Patner, Assistant Superintendent, Education Services, Secondary***

Staff Recommendation

It is recommended the Board President recognize Michelle Le Patner, Assistant Superintendent, Education Services, Secondary, to present information on this item and answer any questions Trustees may have. This is an information item only and no Board action is necessary.

**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**

7. **SCHOOL BOARD MINUTES:**

Approval of the minutes of the September 11, 2013, regular Board meeting.

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

DISCUSSION/  
ACTION  
Page 421  
**EXHIBIT 5**

INFORMATION/  
DISCUSSION  
Page 425  
**EXHIBIT 6**

Page 427  
**EXHIBIT 7**

## **CURRICULUM & INSTRUCTION**

### **8. STUDENT TEACHING AGREEMENT - CHAPMAN UNIVERSITY:**

Approval of student teaching agreement with Chapman University. During the school year master teachers are selected to work with student teachers to fulfill the requirements for student teaching at various institutes of higher education. Student teaching is the fieldwork experience necessary to earn a teaching credential.

*CUSD Strategic Plan Pillar 1: Community Relations*

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

Page 433  
**EXHIBIT 8**

## **BUSINESS & SUPPORT SERVICES**

### **9. PURCHASE ORDERS, COMMERCIAL WARRANTS, AND PREVIOUSLY BOARD-APPROVED BIDS AND CONTRACTS:**

Approval of purchase orders (Attachment 1) and commercial warrants (Attachment 2). The expenditures related to the listed purchase orders and commercial warrants included in this item were previously authorized as part of the District's budget approval process. The purchase orders total \$12,765,876.98 and the commercial warrants total \$807,898.46. Attachment 3 is a list of previously Board-approved bids and contracts to assist in the review of the purchase order and commercial warrant listings. Attachment 4 is a list of previously Board-approved by vendor warrants exceeding \$250,000.

*CUSD Strategic Plan Pillar 5: Effective Operations*

*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*

Page 439  
**EXHIBIT 9**

### **10. DONATION OF FUNDS AND EQUIPMENT:**

Approval of donations of funds and equipment. A number of gifts have been donated to the District, including \$52,061.79 in cash. These funds will be deposited in the appropriate school accounts. Items other than cash have no financial impact on the budget. The District does not guarantee maintenance of items or the expenditure of any District funds for continued use.

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

*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*

Page 465  
**EXHIBIT 10**

### **11. INDEPENDENT CONTRACTOR, PROFESSIONAL SERVICES, FIELD SERVICE, AND MASTER CONTRACT AGREEMENTS:**

Approval of the District standardized Independent Contractor, Professional Services, Master Contract, and Field Service Agreements. Due to state budget cuts to schools over the last several years, staff requests contractors to reduce their fees for services by ten percent. The expenditures related to the listed agreements were previously authorized as part of the District's budget approval process. The exhibit shows four new agreements totaling \$46,280, six ratifications for new agreements totaling \$125,614.80, two extensions to existing agreements totaling \$50,000, one ratified extension to an existing agreement totaling \$5,000, two amendments to existing agreements totaling \$41,123, and four ratified amendments to existing agreements totaling \$16,031.16.

Due to the size of the contract documents, the General Conditions for each type of agreement are posted online on the District's Board Agendas and Supporting Documentation page.

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

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

*CUSD Strategic Plan Pillar 5: Effective Operations*

*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*

Page 467  
**EXHIBIT 11**

**12. SPECIAL EDUCATION SETTLEMENT AGREEMENTS:**

Approval of the ratification of special education Settlement Agreement Case #2013070053 and Informal Dispute Resolution Agreement Cases #080813 and #080913. Due to the confidential nature of the agreements, supporting information is provided to Trustees under separate cover.

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

*Contact: Sara Jocham, Assistant Superintendent, SELPA and Special Education Operations*

**13. SPECIAL EDUCATION SETTLEMENT AGREEMENTS:**

Approval of special education Settlement Agreement Case #2013071052 and Informal Dispute Resolution Agreement Cases #070513 and #080613. Due to the confidential nature of the agreements, supporting information is provided to Trustees under separate cover.

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

*Contact: Sara Jocham, Assistant Superintendent, SELPA and Special Education Operations*

**14. AMENDMENT TO CONSULTANT AGREEMENT, ATKINSON, ANDELSON, LOYA, RUUD & ROMO, LEGAL SERVICES, ADDITIONAL FUNDS:**

Approval of the Amendment to Consultant Agreement No. C1011052 with Atkinson, Andelson, Loya, Ruud & Romo. This agreement will provide legal services to Special Education Services, Fiscal Services, and Personnel Services increasing the not-to-exceed amount to \$300,000, as requested by the District. Expenditures will be funded from the various departments requesting services.

*CUSD Strategic Plan Pillar 5: Effective Operations*

*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*

Page 567  
**EXHIBIT 14**

**15. RATIFICATION OF CONDITION OF CERTIFICATE OF COMPLIANCE:**

Approval of the Ratification of the Condition of Certificate of Compliance form between the Rancho Mission Viejo Community Development Company (RMV) and the District relating to the building of homes for new housing projects planned within the District. This will provide for a provisional agreement while a formal mitigation agreement between the District and RMV is being negotiated. The mitigation agreement will fund school sites and facilities for students who will eventually reside in the housing projects. The certificate of compliance provides evidence to the construction permit issuing authority, in this case the County of Orange, that home builders have satisfied a statutory requirement to mitigate the impact that students residing in the homes will have on District facilities. This certificate of compliance will be executed each time a home builder requests a permit for a home from the County and pays the appropriate fees to the District.

*CUSD Strategic Plan Pillar 5: Effective Operations*

*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*

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**EXHIBIT 15**

**16. EXTENSION OF AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES – EDENCO, INCORPORATED:**

Approval of Extension of Agreement for Construction Management Services to be provided by Edenco, Incorporated for the period of September 29, 2013, through October 31, 2013, to complete the closeout of the Capistrano Valley High School Performing Arts Theater project. There is no financial impact related to this extension.

*CUSD Strategic Plan Pillar 5: Effective Operations*

*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*

Page 593  
**EXHIBIT 16**

17. **FINAL ACCEPTANCE AND FILING OF NOTICE OF COMPLETION FOR BID NO. 1011-11 CAPISTRANO VALLEY HIGH SCHOOL PERFORMING ARTS THEATER, SAFECO INSURANCE COMPANY OF AMERICA AND LIBERTY MUTUAL INSURANCE COMPANY:** Page 633  
EXHIBIT 17
- Approval of the final acceptance and filing of the Notice of Completion for the performing arts theater at Capistrano Valley High School. All work has been inspected and completed to the satisfaction of staff. On August 16, 2013, the District received the formal recommendation to issue the notice of completion for the project from the construction management firm, Edenco, Incorporated.
- CUSD Strategic Plan Pillar 5: Effective Operations*  
*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*
18. **EXTENSION OF MASTER CONTRACT BETWEEN T.E.R.I. INCORPORATED & THE COUNTRY SCHOOL, A NON-PUBLIC SCHOOL:** Page 635  
EXHIBIT 18
- Approval of the Extension of Master Contract No. MCA 1213068 for special education services to be provided by T.E.R.I. Incorporated & The Country School, a non-public school. The contractor will provide services at the rates indicated in the agreement, paid by special education. Expenditures under this contract are limited to \$55,000.
- CUSD Strategic Plan Pillar 3: Academic Achievement & Enrichment*  
*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*
19. **DECLARATION OF SURPLUS ITEMS:** Page 657  
EXHIBIT 19
- Approval of the declaration of surplus items listed and described as surplus, and the approval of the public and private disposition of the surplus items in accordance with Education Code §§17545-17546 and Board Policy 3270. District schools and programs have accumulated various pieces of equipment, vehicles, materials, and other items that are beyond economical repair, obsolete, no longer required within the current curriculum, or necessary for any other school purpose. These items will be disposed of by public sale, or if no reasonable bids are received, by private sale for salvage. All items are subject to reallocation within the District prior to sale or disposal. Revenues from the sale are unknown. Sale proceeds may be deposited into the original fund from which the purchase was made.
- CUSD Strategic Plan Pillar 5: Effective Operations*  
*Contact: Clark Hampton, Deputy Superintendent, Business and Support Services*
- PERSONNEL SERVICES**
20. **RESIGNATIONS/RETIREMENTS/EMPLOYMENT – CLASSIFIED EMPLOYEES:** Page 659  
EXHIBIT 20
- Approval of the activity list for employment, separation, and additional assignments of classified employees. These positions will be charged to the appropriate fund and are included in the adopted budget.
- CUSD Strategic Plan Pillar 5: Effective Operations*  
*Contact: Jodee Brentlinger, Assistant Superintendent, Personnel Services*
21. **RESIGNATIONS/RETIREMENTS/EMPLOYMENT – CERTIFICATED EMPLOYEES:** Page 665  
EXHIBIT 21
- Approval of the activity list for employment, separation, and additional assignments of certificated employees. These positions will be charged to the appropriate fund and are included in the adopted budget.
- CUSD Strategic Plan Pillar 5: Effective Operations*  
*Contact: Jodee Brentlinger, Assistant Superintendent, Personnel Services*

**22. RECOMMENDATION OF SECOND AMENDMENT TO SUPERINTENDENT EMPLOYMENT AGREEMENT – JULY 1, 2013 – JUNE 30, 2014:**

Page 671  
**EXHIBIT 22**

Approval of a Second Amendment to the Employment Agreement between the District and the Superintendent. The total fiscal impact of this agreement is an estimated savings to the District of approximately \$7,793 for the 2013-2014 fiscal year. This agreement aligns with CUMA and provides targeted budget reductions.

*CUSD Strategic Plan Pillar 5: Effective Operations*

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

**23. RECOMMENDATION OF SECOND AMENDMENT TO DEPUTY SUPERINTENDENT, BUSINESS SERVICES EMPLOYMENT AGREEMENT JULY 1, 2013 – JUNE 30, 2014:**

Page 673  
**EXHIBIT 23**

Approval of a Second Amendment to the Employment Agreement between the District and the Deputy Superintendent, Business Services. The total fiscal impact of this agreement is an estimated savings to the District of approximately \$5,142 for the 2013-2014 fiscal year. This agreement aligns with CUMA and provides targeted budget reductions.

*CUSD Strategic Plan Pillar 5: Effective Operations*

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

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

ROLL CALL:

Student Advisor Leilah Rodriguez \_\_\_\_

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

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

Trustee Hanacek \_\_\_\_\_

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

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

Trustee Reardon \_\_\_\_\_

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

**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 WEDNESDAY, OCTOBER 9, 2013, 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.*

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

September 25, 2013

**RANCHO MISSION VIEJO COMPANY LLC DEVELOPMENT  
MITIGATION AGREEMENT**

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**BACKGROUND INFORMATION**

In 2004, the Orange County Board of Supervisors approved The Ranch Plan, which is a plan to develop 14,000 homes and five million square feet of non-residential uses on 6,000 acres of property owned by the Rancho Mission Viejo Company, LLC (RMV) within the District's boundaries. Due to the downturn in the local housing market, RMV delayed the development of The Ranch Plan. In January of 2012, RMV advised the District it was proceeding with development of the first portion of the Ranch Plan. In accordance with Education Code §65995, RMV and the District agreed to enter into negotiations to address the impact of RMV's development on the District's needs for school facilities.

**CURRENT CONSIDERATIONS**

After careful and thorough negotiations beginning early 2012, the District and RMV have developed a draft agreement for Board review incorporating the following:

1. A School Facilities and Funding Agreement
  - a. This agreement provides the method by which RMV will fund, combined with anticipated state funding, a new school to accommodate K-8 students and plan for and accommodate grades 9-12 students expected in Planning Area (PA) 1 and PA2 and the land acquisition for the new school.
2. School Site Plan
  - a. This agreement details the area proposed for the new school location. The enclosed presentation provides further information on the location and layout as well as adjacent joint use property.
3. A Joint Use Agreement
  - a. This agreement is for play fields and a multi-purpose building adjacent to the proposed school site. The agreement details how the school site and adjacent joint use property would be shared and maintained.

**FINANCIAL IMPLICATIONS**

The agreements will provide funds for accommodating high school students and building a new school to serve K-8 students from PA1 and PA2 of the RMV development.

**STAFF RECOMMENDATION**

It is recommended the Board President recognize Clark Hampton, Deputy Superintendent, Business and Support Services, to present information on this item and answer any questions Trustees may have. This is an information item only and no Board action is necessary.

**"Empowering  
Students for  
Success"**



EXHIBIT 1

# Update on Rancho Mission Viejo Development and School Facility Funding Agreement

September 25, 2013



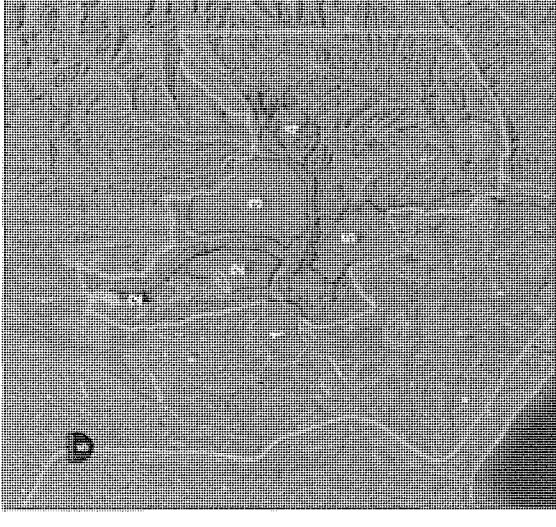
# Summary of Prior Update

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Summary of information presented to the Board of Trustees  
on January 28, 2013

# Prior Update

- Rancho Mission Viejo's "Ranch Plan"
  - 14,000 homes (including 8,000 market rate homes and 6,000 senior citizen homes)
  - 5,000,000 s.f. of commercial development
  - 25 – 30 years until complete build-out
- School Facility Needs
  - Potential for 4,500 new students (+/-) if at same rate as Ladera Ranch Development
  - Planning areas 1 & 2 are projected to produce 1,118 (K-8) and 266 (9-12) students
  - Proposed CUSD/RMV Agreement to build one 1,200 student K-8 school in planning area 2 and defer decision on 9-12 plans
- CUSD School Standards
  - New school sites and facilities to meet CDE standards
  - Include joint use where more efficient and more public benefit
- Funding
  - School fees are inadequate to build schools to CDE standards
  - State funding is inadequate to build schools to CDE standards
  - Joint use can help to make up the gap
  - Supplemental funding is necessary to make up the gap



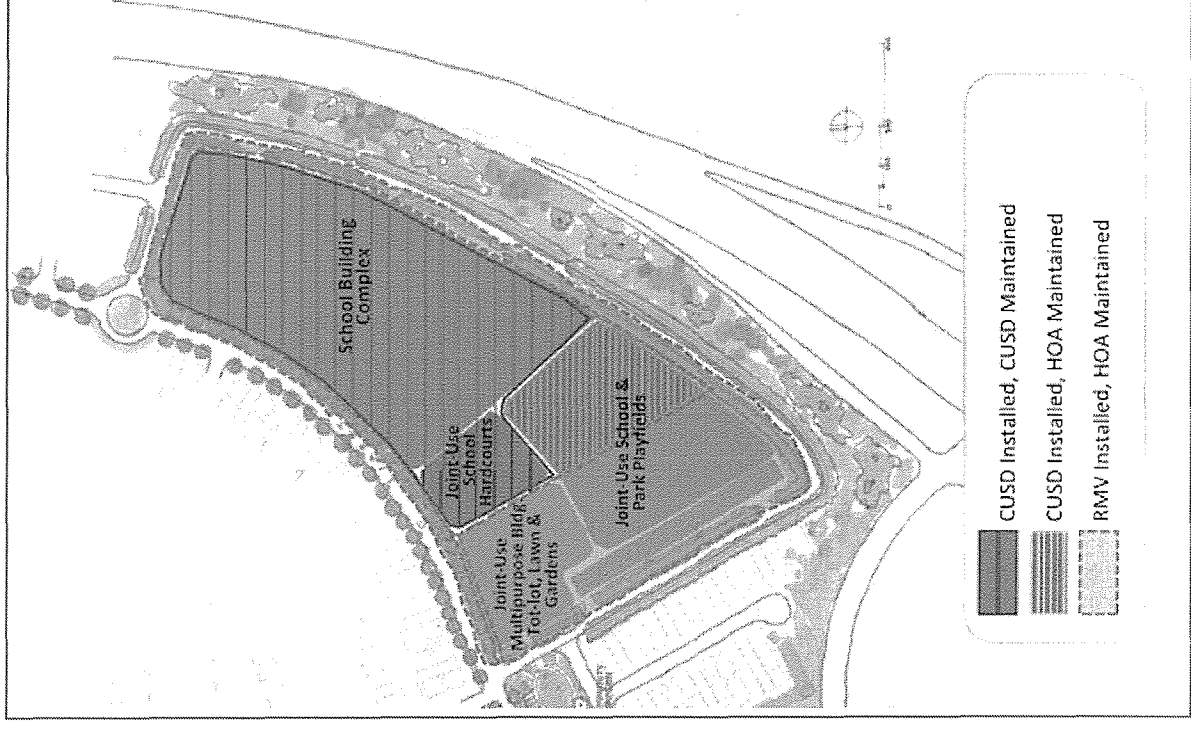
# Proposed School Facilities Funding Agreement for PAS 1 & 2

...

Addresses school facility needs related to  
development in planning areas 1 and 2.

# School Facilities Plan

- PA 2 School (K-8)
  - Permanent capacity for 1200 students, additional 400 student capacity in portable classrooms will provide for interim capacity until next new school is built
  - 75,850 SF at \$388/s.f. = \$29,429,800 (All costs and payments are as of 2012 to be indexed annually)
  - 14 acres at \$1.5 million/acre = \$21,000,000 (Estimated. Actual cost to be per appraisal)
  - Joint use of HOA owned multipurpose building with assembly capacity for 1,300 = no cost, use for P.E., rainy day lunches, assemblies, performances
  - Joint use of HOA owned 5 acres (incl. MPR and playfields) = no cost, plus, HOA will maintain school fields and perimeter landscape
  - HOA residents non-school-hour joint use of school playfields and hard courts
- H.S. Study (9-12)
  - Before PA 3, CUSD will study H.S. facility needs for entire RMV development
  - RMV committing approx. \$10.5 million for PA 1 & 2 H.S. students
  - CUSD can access the \$10.5 million if desired prior to completion of study

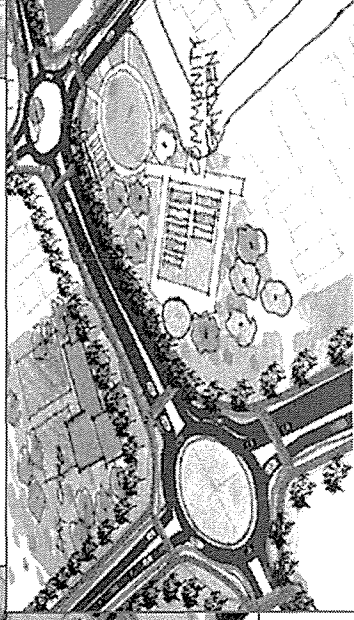
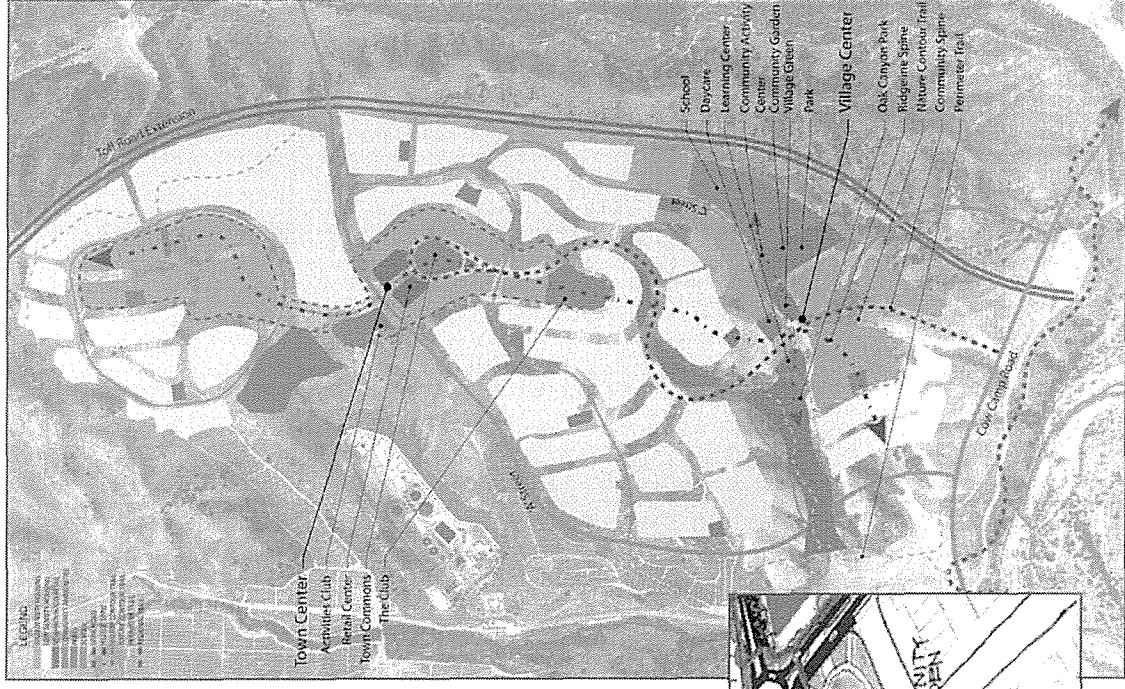


# Funding

- School Payments
  - CUSD will receive PA 2 School Payments equal to \$13,280 per SFD DU, \$9,900 per HD-SFD DU, \$7,660 per SFA DU and \$3,910 per MF DU plus Senior, Commercial and Industrial at \$0.51/s.f. (estimated at \$29 million, subject to “true-up”)
    - May be funded either by RMV or a CFD
  - CUSD will receive High School Payments equal to \$5,069 per SFD DU, \$3,779 per HD-SFD DU, \$2,924 per SFA DU and \$1,492 per MF DU (estimated at \$10.5 million)
    - RMV may defer payments with a guarantee of payment
- State Funding Projection *(based on current program)*
  - Site acquisition – 50% (estimated at \$10.5 million)
    - RMV at risk if state funding is reduced
  - Per pupil grants – approx. 40% (estimated at \$11.5 million)
    - CUSD and RMV share in risk
      - CUSD reduction in school cost = RMV increase in contribution
- RMV Advances of Funds
  - RMV obligated to advance funds when needed
  - CUSD gives RMV a Special Obligation Note that is only repaid/refunded from project funds – no general fund exposure
- Federal and Local Funding (or additional state funding)
  - CUSD can use first \$500,000 to improve PA 2 School

# PA 2 School Site Selection

- Location
  - Must be in bottom third of PA 2 due to timing of need for school plus availability of utilities
  - RMV was required to provide a study to show that the site will be acceptable to both CUSD and CDE
  - Planned topography with adjacent uses simulated in bird's eye view simulation
  - Traffic simulation resulted in additional traffic improvements on surrounding roadways



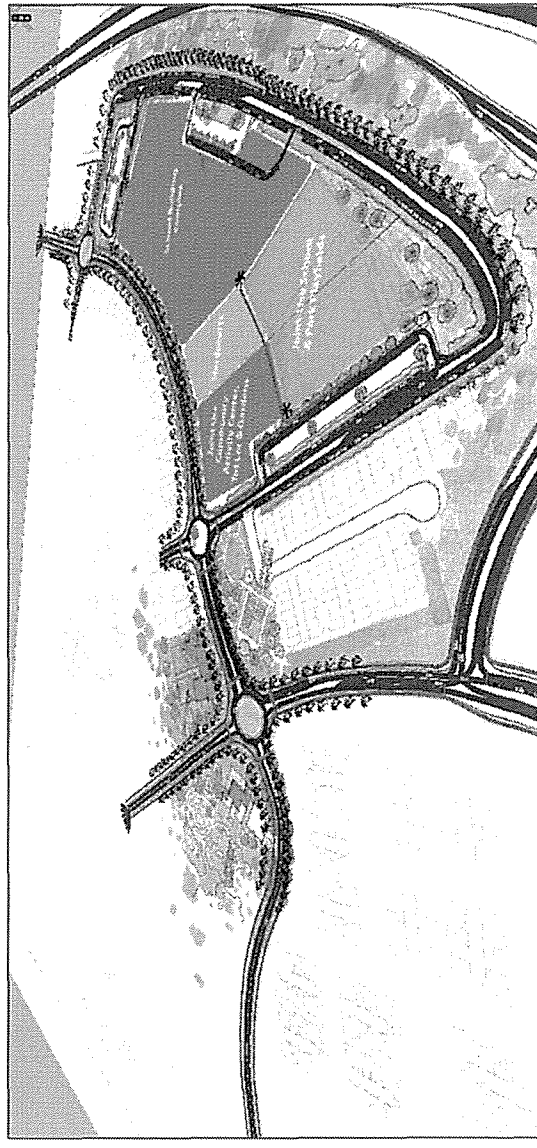
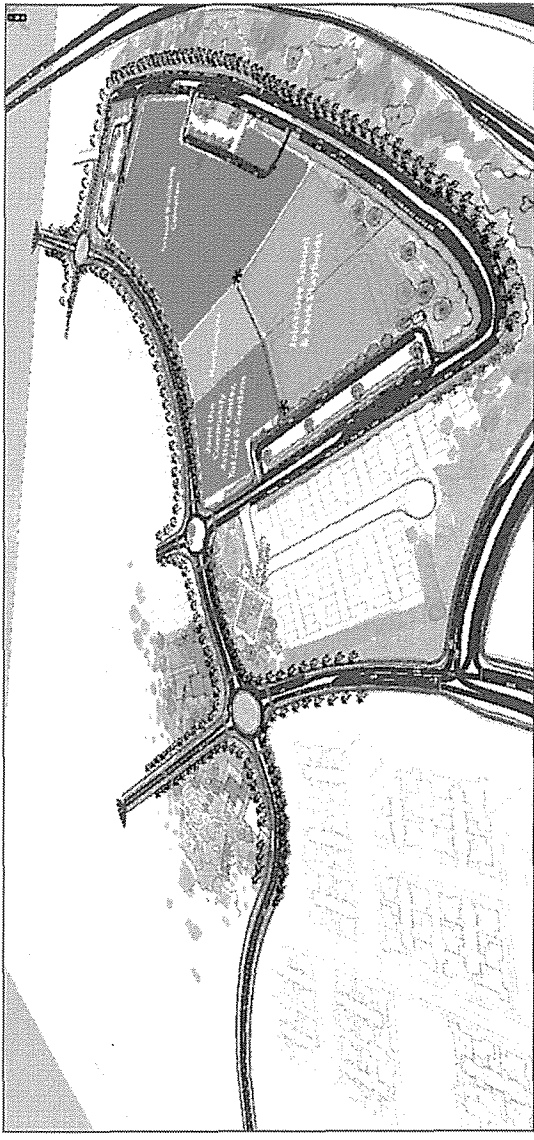
# Site Video Simulation





# Traffic Simulations

- Traffic was simulated at morning drop off and afternoon pick up
- The simulation showed some congestion at various times and locations
- Additional turning lanes and another traffic circle were added to ease the congestion





# Joint Use

- Existing Joint Use Agreements

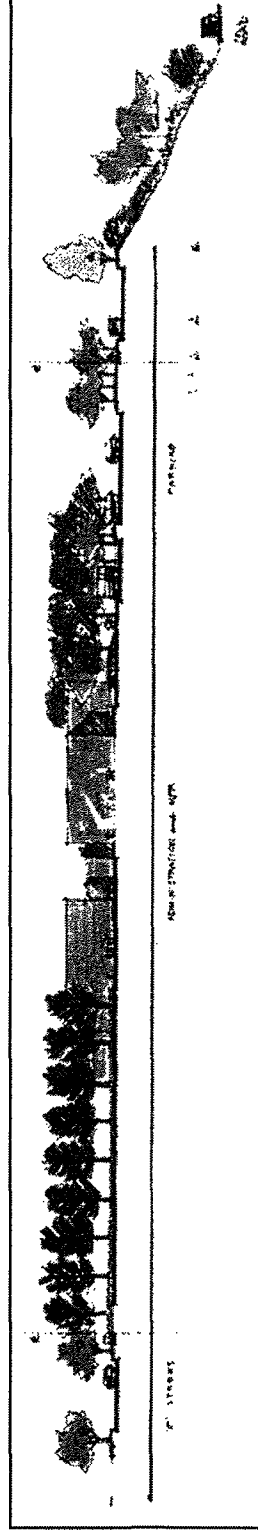
- CUSD has entered into other joint use agreements in connection with Rancho Mission Viejo projects – (LARMAC, SAMLARC)

- PA 2 School Joint Use Agreement

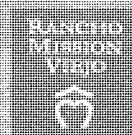
- Sports fields
  - RMV fields – CUSD exclusive use during school hours
  - CUSD fields – RMV non-exclusive casual use during non-school hours
- Parking lots
  - RMV lot(s) – CUSD drop off ok, non-exclusive parking for evening events
  - CUSD lot(s) – RMV non-exclusive parking for RMV evening events
- RMV Multipurpose building
  - CUSD 50% use during school, six exclusive use days, twelve exclusive evenings, rainy day lunch use, other use as granted by RMV
- CUSD hard courts – RMV non-exclusive casual use during non-school hours
- RMV community garden – CUSD non-exclusive use as granted by RMV
- Secured school property – No joint use
- RMV maintains, at no cost to district, the multipurpose building, all sports fields and all perimeter landscaping

# Schedule

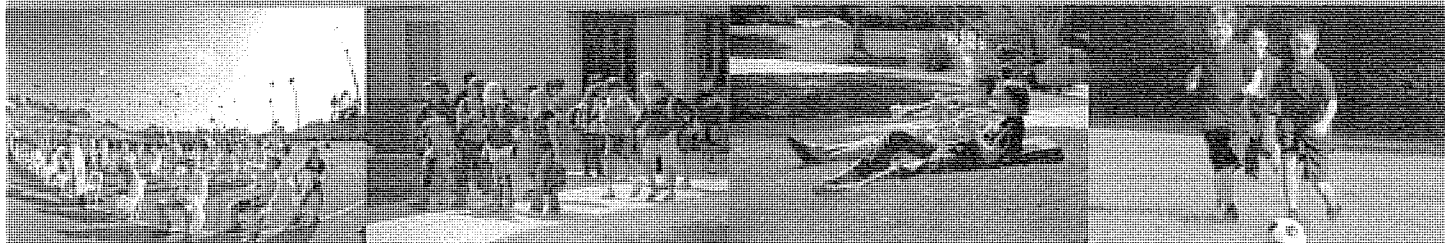
- PA 1 Occupancies Begun, Build-out in 2015
  - 332 projected K-8 students, 77 projected 9-12 students
- PA 2 Grading Begun, Build-out in 2019
  - 786 projected K-8 students, 189 projected 9-12 students
- Interim Housing of Students
  - CUSD can temporarily house new students at existing schools
  - Students will attend closest available school that can house them
  - RMV will pay for transportation if needed or installation of portables at existing sites
- Trigger for Site Purchase, Construction and Opening of PA 2 School
  - 300 actual K-5 students more than available permanent capacity at Ambuehl (currently 66 available permanent seats), or,
  - 1,150<sup>th</sup> dwelling unit trigger for site acquisition, 2 months to close escrow, 20 months to complete construction and open the school







## K8 School Study



2013 July 31

# Table of Contents & Introduction

## Introduction

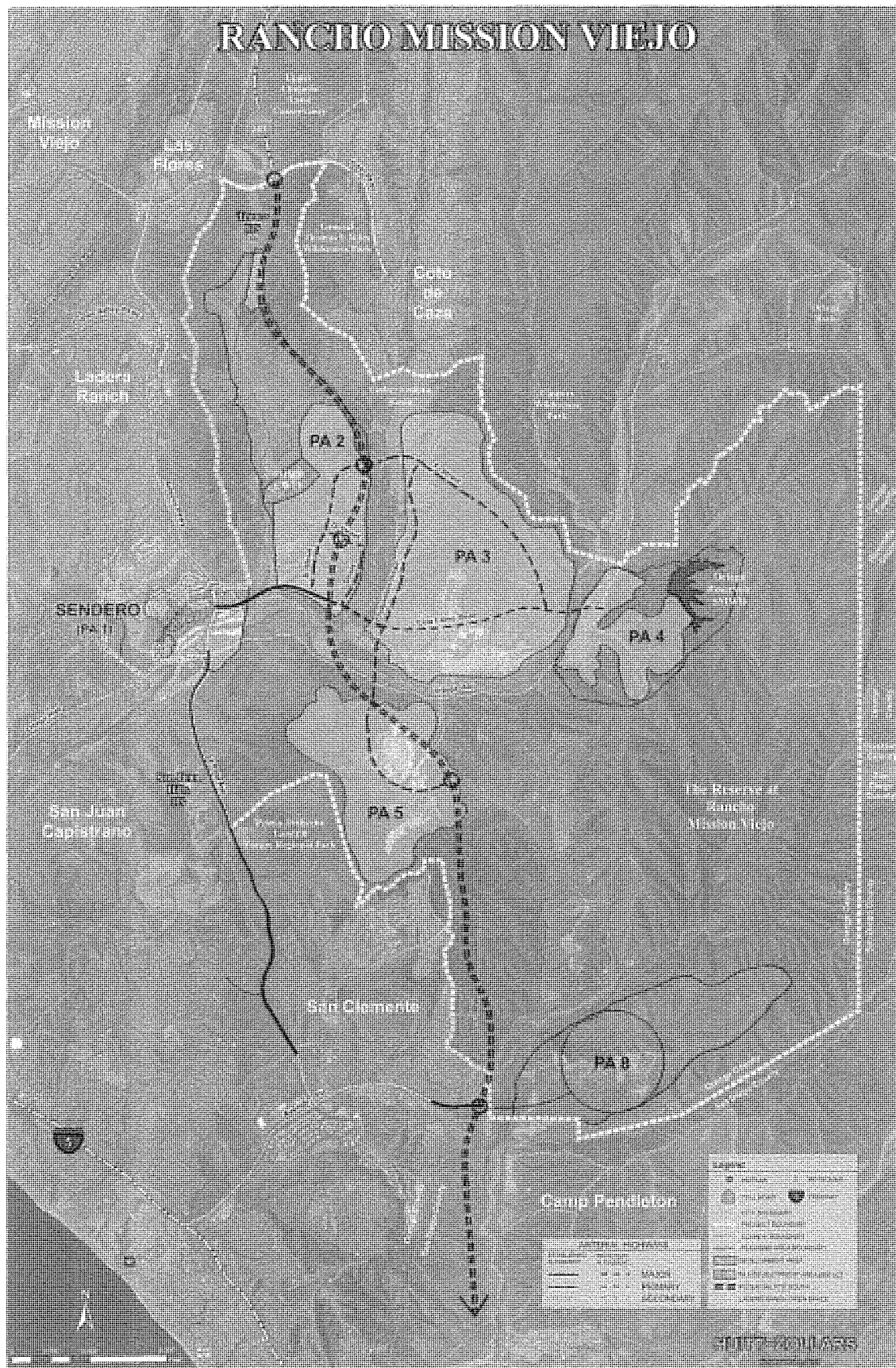
The purpose of this information is to present the proposed location for a future Capistrano Unified School District (CUSD) K-8 school in Planning Area 2, within the Rancho Mission Viejo Master Planned Community. The 14-acre school site adjacent to a 5-acre community park, is located in the southeastern portion of the Planning Area with easy access from local roadways. The following study introduces the area for the school site and its relationship to the future community. The study also briefly addresses many of the site selection issues that the California Department of Education may raise in their evaluation of this location.

## Item

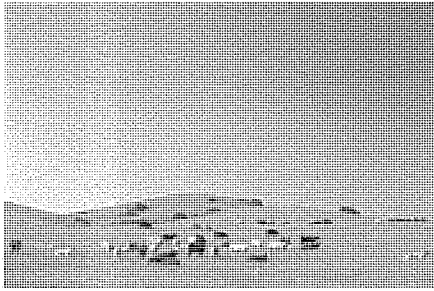
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- 1** Overall Community
- 2** The Site
- 3** Community Plan & Vision
- 4** School Test Fit Plan & Section
- 5** Maintenance
- 6** Transportation
- 7** Site Environmental
- 8** Geotechnical Conditions
- 9** Infrastructure
- 10** Wildland Fire Protection
- 11** Executive Summary: CDE Site Selection Criteria

# Item 1:: Overall Community

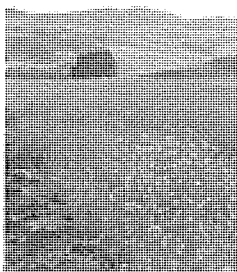
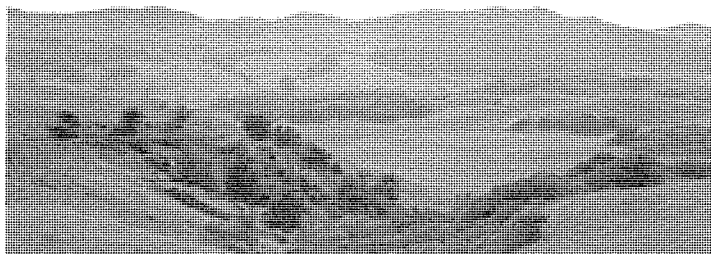


## Item 1:: Overall Community



Rancho Mission Viejo currently contains roughly 23,000 acres of agricultural land with a main focus on citrus orchards, cattle grazing, and open space. Eventually, much of this space will become part of The Reserve while still allowing for the creation of a Master Planned Community on approximately 6,000 acres. The Ranch Plan project was developed in coordination with the Natural Community Conservation Plan/ Master Streambed Alteration Agreement/ Habitat Conservation Plan (NCCP/ MSAA/ HCP) and the Special Area Management Plan (SAMP) planning programs. These programs, NCCP/ MSAA/ HCP, are voluntary planning programs involving local landowners and public agencies designed to provide long-term, large-scale protection of natural resources while allowing compatible land uses and appropriate levels of growth.

In 2004, Rancho Mission Viejo was entitled by the County of Orange to allow for the creation of a new master planned community of 14,000 homes and 5.2 million square feet of non-residential uses. The first village of Sendero opened in June 2013 with plans for the next village (Planning Area 2), east of Antonio Parkway starting to take shape. This location offers a unique opportunity to blend the elements of the Ranch and the new community.



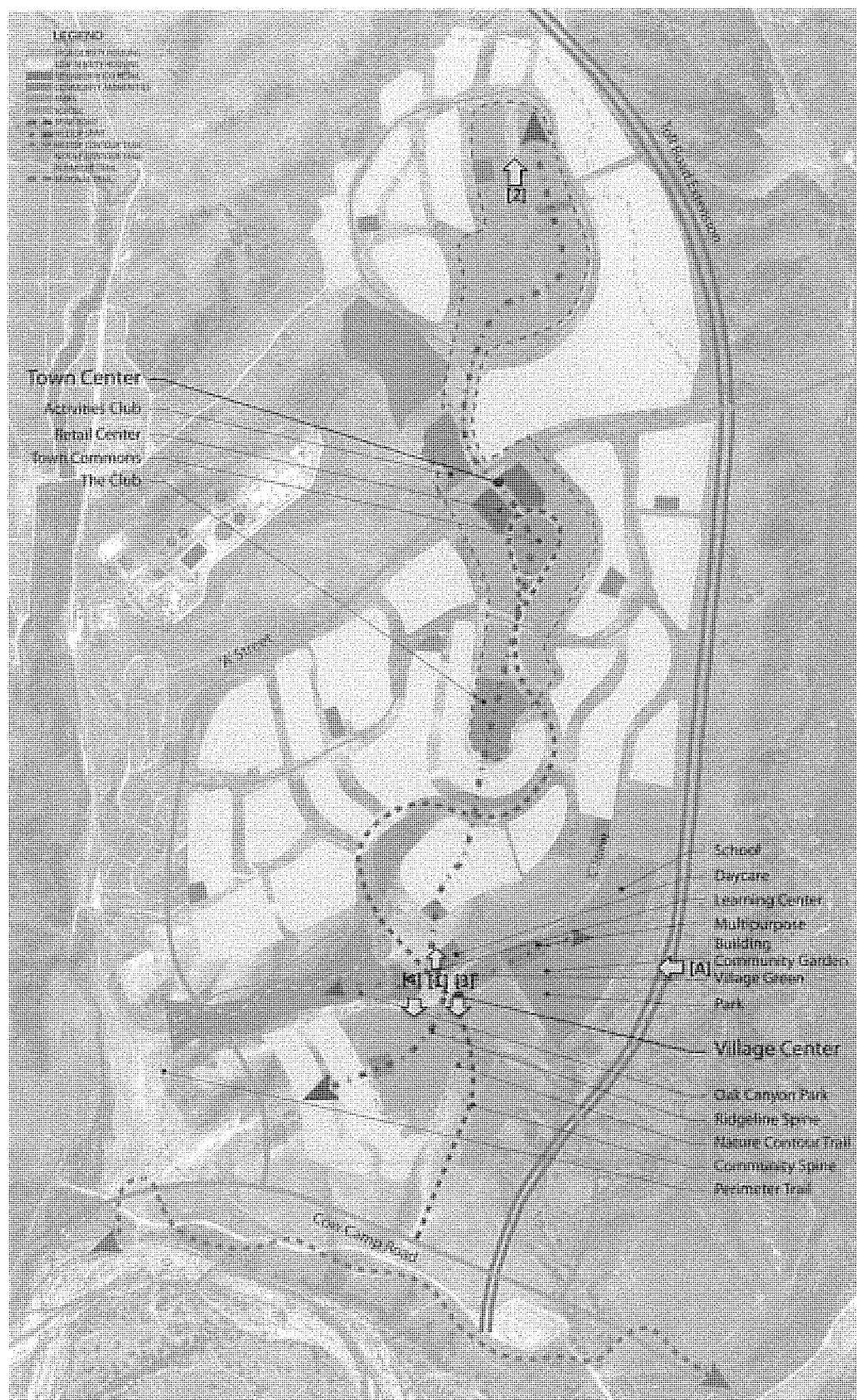
## Item 2:: The Site

Planning Area 2 inhabits a prominent ridgeline and broad western slope in the Ranch. This village will include a mix of Age Qualified (55+ Housing) and All Age Homes. The integration of these two groups in the community creates a truly unique environment that encourages the interaction and respects the space and interests of the residents.

The location of the CUSD K-8 school was selected to create a connection between the Community Amenities that include: an adjacent park with parking; a Community Multipurpose Building; a Community Learning Center; and an oak canyon park area. Planning Area 2 has been designed to orient most of the Age Qualified homes (restricted to 55 or older residents) toward the western portion of the village, with the All Age homes that may have school age children, oriented closer to the school site.

Exhibit 1, Community Structure and View Diagram, provides an overview to the community amenities near the school site and within the entire planning area. Exhibit 1 also provides a guide to five views of the school site and planning area.





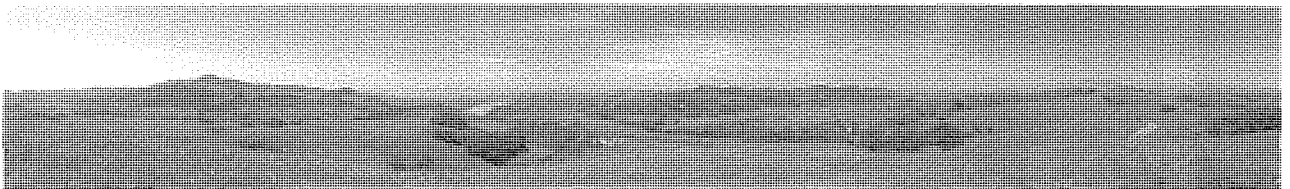
**Community Structure**  
Rancho Mission Viejo (PA-2)

## Exhibit 1: Community Structure and View Diagram

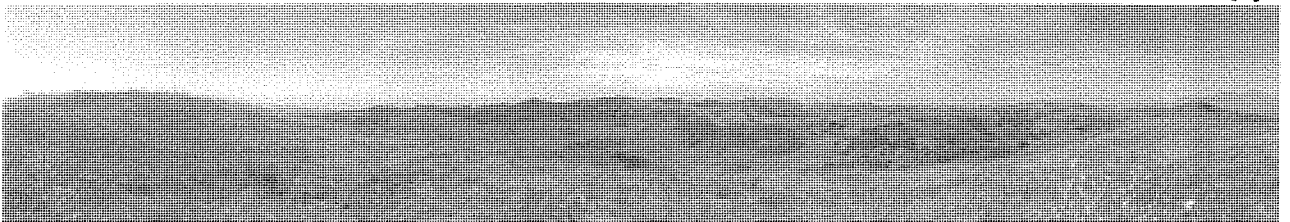
## Item 2:: The Site



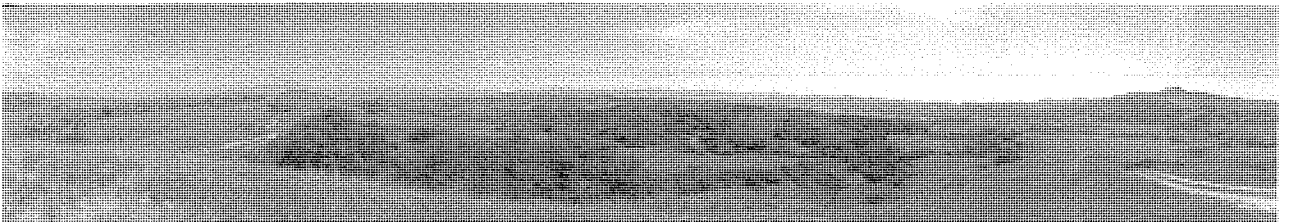
Rendering View [A]



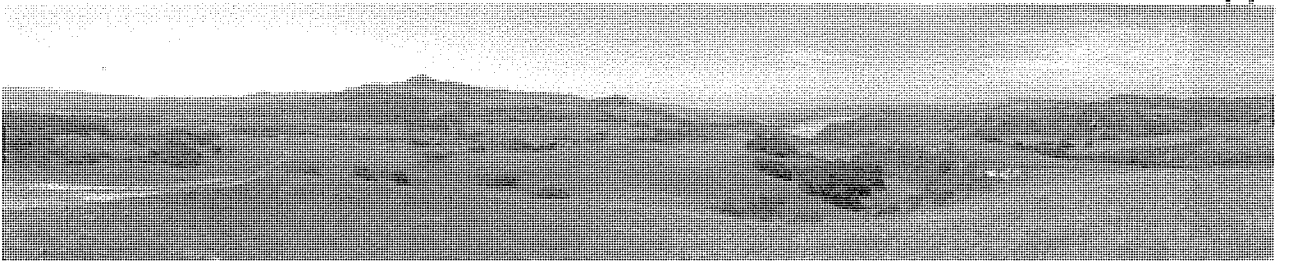
View [1]



View [2]



View [3]



View [4]

\*See Exhibit 1 for View locations

## Item 3:: Community Plan & Vision

Embraced by open space, canyons, creeks, pastures and orchards, Planning Area 2 is conceived as a community composed of multiple village districts, blessed with commanding territorial views, miles of trails and built to serve an ageless array of homeowners.

Based upon a connection to healthy living and the environment, Planning Area 2 sensitively re-shapes the character of the natural landform and captures the spirit of the coastal hills. Planning Area 2 integrates open space, residential neighborhoods and retail into a town enhanced and accentuated by pedestrian trails and unique recreational spaces.

Planning Area 2 welcomes all age groups by incorporating the latest in attached, clustered, detached homes and apartments along walkable streets and paseos. Designed as a fabric of smaller neighborhoods, Planning Area 2 integrates a variety of product types to create diverse and inclusive living environments. With village squares, community centers, and neighborhood parks just a short walk away, Planning Area 2 puts healthy living at your doorstep. Enjoy a coffee in a quiet shaded square, bike to the local market, rekindle a passion for lifelong learning, or take a stroll through the native landscape to an overlook park; Planning Area 2 has a sustainable framework at its core that connects you to both nature and an active Southern California lifestyle.

The natural topography of canyons and hillsides surround the town, creating a comprehensive visual system that connects residents to this unique natural resource. Native landscape, oak groves, cattle pastures and working citrus orchards fill the views. A preserved oak canyon park climbs from the surrounding open space centering an extensive network of trails that connects neighborhoods, schools, ball fields, overlook parks, community centers, and the village cores. The Nature Contour Trail is a flat community scaled trail that connects

significant programs around the Village Center together. These include the Oak Canyon Preserve, Learning Center, Village Green, Community Multipurpose Building, Community Garden, Daycare and K-8 School. The trail accommodates pedestrians and bikes in a safe, road-separated trail that celebrates the community's unique setting by providing access to views of the open space preserve and surrounding hills.

'A' Street creates a scenic entrance to Planning Area 2, celebrating the ranch with views into orchards, canyons, and The Reserve. Residential roads within the village are designed to preserve a neighborhood scale and the informal ranch character. A toll road, State Route 241 (SR-241) passes along the eastern edge of the site, providing convenient access to and from Planning Area 2 yet minimizing its impact to the village.

The residents of Planning Area 2 will feel a unique "sense of place" created by the surrounding natural beauty, attention paid to village and neighborhood design elements, an ageless array of products and robust social network.

Planning Area 2 is a community comprised of a series of neighborhood terraces, trails, native canyon, and recreational elements embracing a Southern California lifestyle and the heritage of Rancho Mission Viejo.

# Item 4:: School Test Fit Plan & Section

## Opportunities

Located at the southern hub of the Planning Area 2 development, the proposed 14 acre K-8 School site has been placed near several community facilities to promote Community and School joint-use with expanded program opportunities for students. Immediately adjacent to the site is a 5-acre community park with a playfield (sized to accommodate a regulation size soccer field and potential for a softball overlay), community gardens and a Community Multipurpose Building. Diagonally across the way are an ecological learning center and potential daycare facility. There is also a road running along three sides of the site that is almost exclusively designed to serve the school and park functions and to facilitate ease of parent and community access.

## Site Test Fit

The proposed plan (see Exhibit 2) presented in this document is just a test fit and is by no means an ultimate design for the proposed K-8 School. The test fit demonstrates that the site will be able to accommodate the key program components for an approximate population of 1,200 Kindergarten through eighth grade students per California Department of Education guidelines. It also shows that the site allows the opportunity to make use of the 'dedicated' perimeter road to create three separate and distinct public access points easing traffic circulation during peak before/ after school student drop-off and pick-up times. In addition, the site has the potential to create direct linkages to the adjacent Community Park and Multipurpose Building, while at the same time providing security of the school building complex for staff and students. A cross section of the site is shown in Exhibit 3.

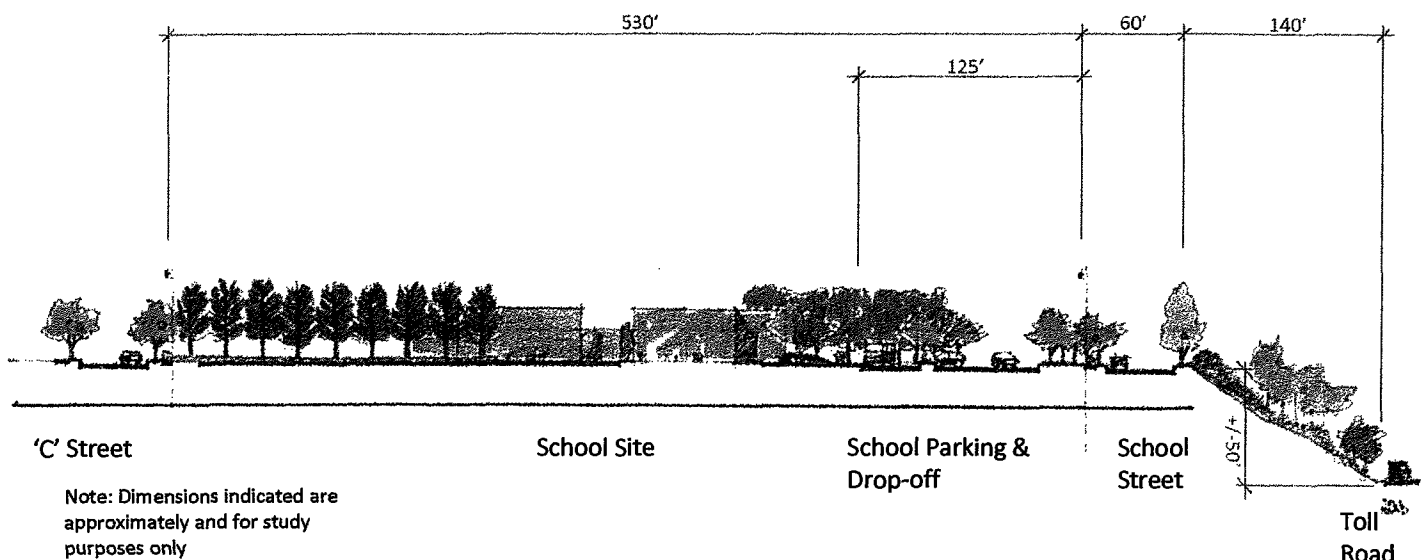


Exhibit 3 – Cross Section

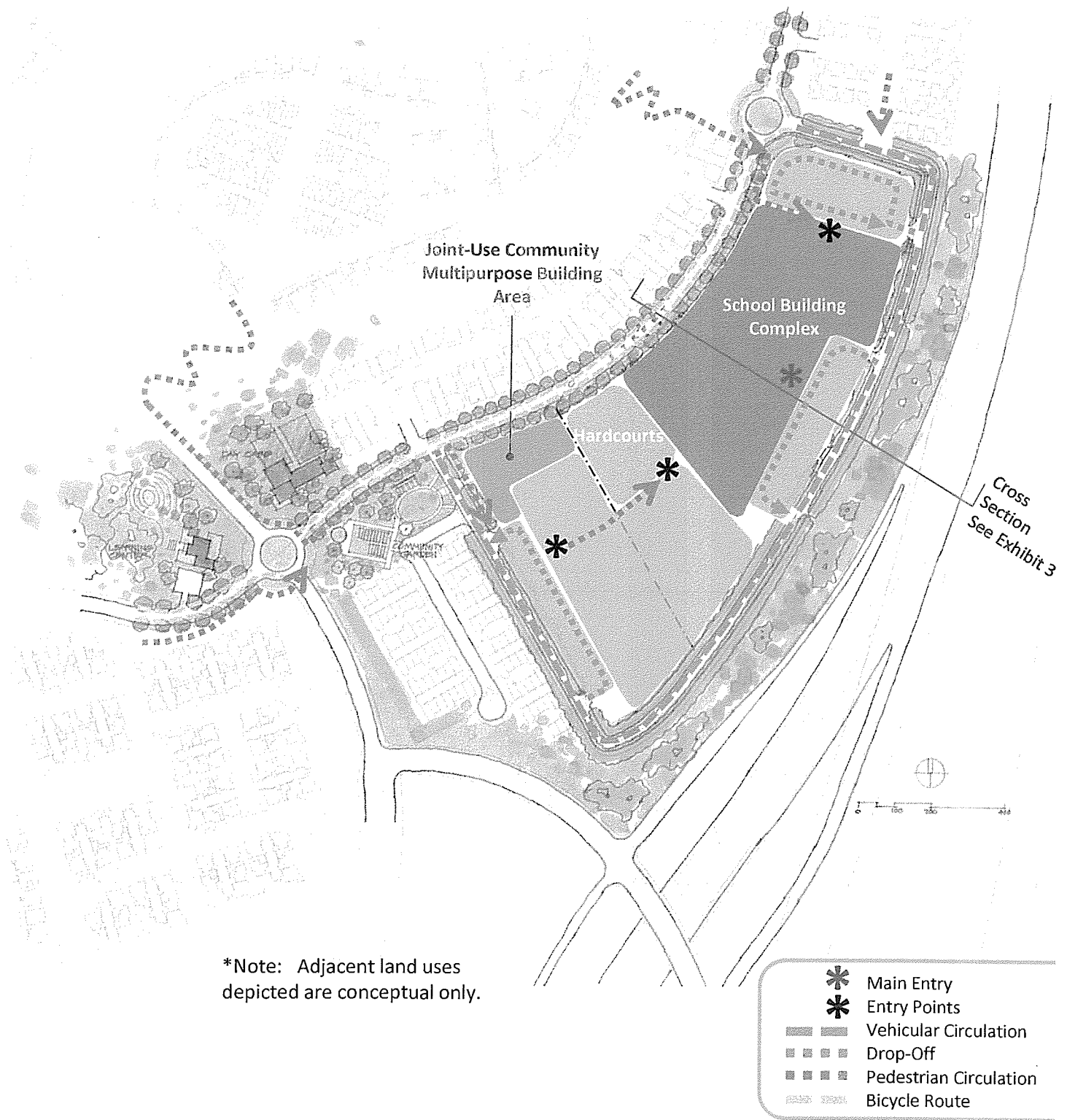
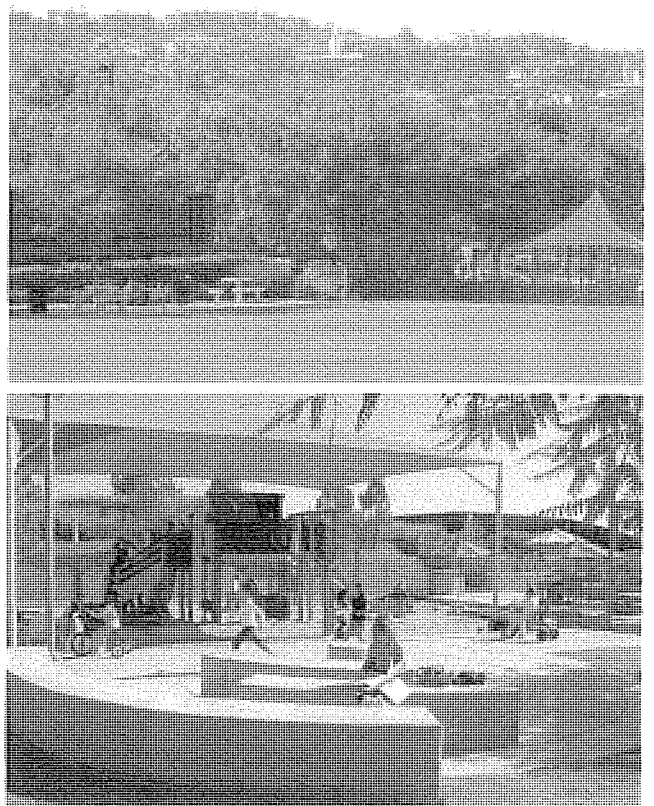


Exhibit 2 – Test Fit Plan

## Item 5:: Landscape Maintenance

The Capistrano Unified School District (CUSD) and Rancho Mission Viejo are working toward reaching an agreement on a Joint Use Agreement that will allow the school and the community to combine the use of the Community Multipurpose Building and the play area facilities for the benefit of student and resident programs. A similar program was established in the Ladera Ranch community and has helped to provide both groups' with greater functioning spaces and well maintained amenities. This program addresses the use of the Community Multipurpose Building, the landscape areas around the school and the large turf play field areas, non secured hard court areas and joint use parking to support both school and community events. Exhibit 4 depicts a conceptual plan for landscape maintenance.





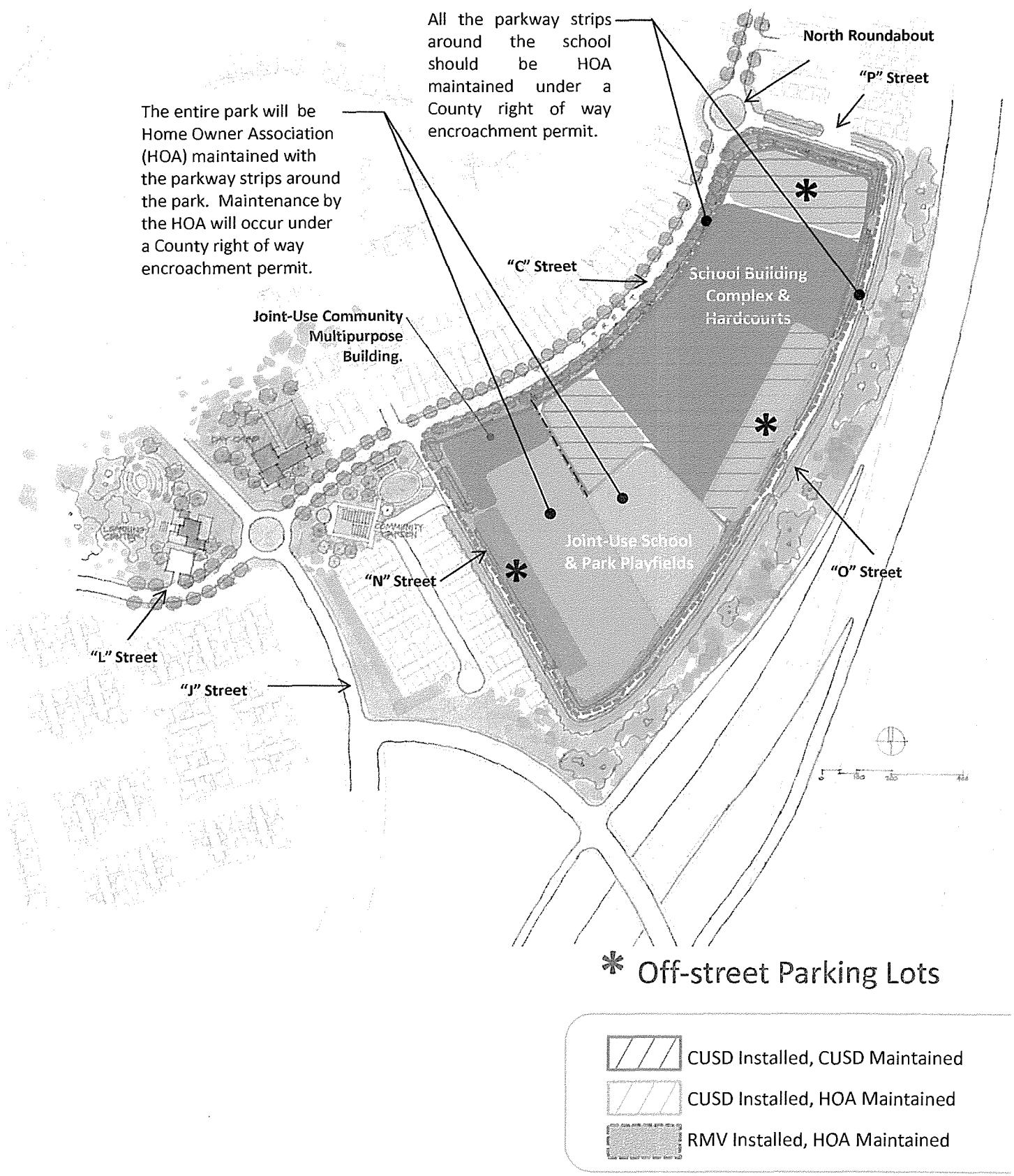


Exhibit 4 – Conceptual Landscape Maintenance

## Item 6:: Transportation



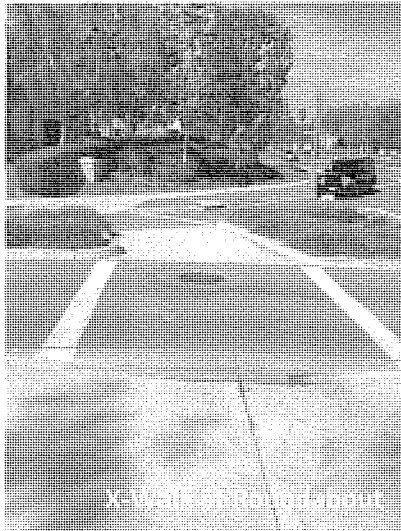
Bike Lane

### Transportation

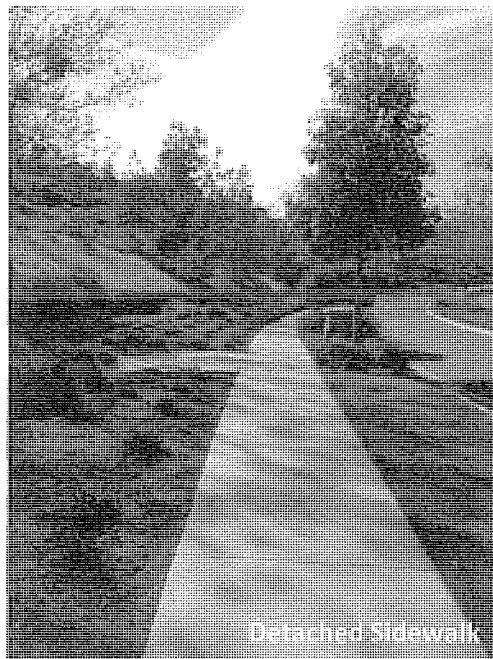
The following is a discussion of the key transportation-related issues connected with the proposed site. In each case, the attributes are described that led the RMV team to recommend this site.

### Location Relative to Attendance Area

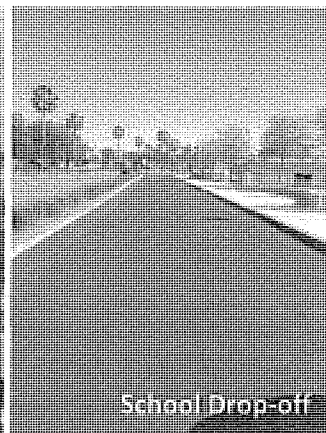
It is anticipated that the proposed school will draw students from Planning Area (PA)-1, PA-2, and PA-3 (at least temporarily). As such, it is preferable that the school be on the southern portion of PA-2 for easy access from PA-1 and PA-3 via Cow Camp Road. Additionally, the highest density and concentration of dwelling units in PA-2 is in the southern half of the plan, as the northern portion also includes a substantial commercial area. Therefore, the proposed site provides maximum accessibility to the student attendance area by its placement near Cow Camp Road.



X-Walk on Roundabout



Detached Sidewalk



School Drop-off



## Item 6:: Transportation

### Proximity to Adjacent Land Uses

The site is bordered by several complimentary land uses. A day care facility is proposed for a parcel adjacent to the school, such that parents can drop-off/pick-up pre-school kids as part of the same trip to the proposed school. The proposed "Learning Center" in the oak canyon would be within walking distance and approximately 570 dwelling units would be within a 1/3 mile from the school site.

### School-Related Traffic

The site provides a unique opportunity to establish a circulation pattern serving the site. See Exhibit 4 for the locations of the streets referenced. Streets "N", "O" and "P" provide a roadway system primarily dedicated to school and park users with two points of access. The roundabout on the northern end will provide an easy means for parents to turn in any direction as they travel to/from the school. The main access road ('C' Street) is planned as 2-lane collector roadway that will carry a modest traffic level of 5,000 vehicles per day, including school traffic.

In addition, vehicular access to the site in PA-2 occurs in many directions: northeast via C Street, east via L Street, and north via J Street. Consequently, the traffic from the school will be dispersed through the area. See Exhibit 4 for locations of streets.

A dynamic simulation of the traffic conditions has been provided in this package. This animation uses the VISSIM software program to represent real-time conditions. This particular simulation represents build-out conditions of the PA-2 and the school.

### School-Related Parking and Drop-off

This site has two distinct advantages with respect to parking and drop-off/pick-up:

- The long, perimeter access road ("C" Street), with no competing uses, provides ample space for on-street parking for overflow and special events. Portions of the curb space can also be designated for drop-off/pick-up as the school desires.
- The concept plan shows three off-street parking lots: a faculty lot on the north side, a main lot on the east side, and a recreational/school joint-use lot on the west side. See Exhibit 4 for locations.

### Bike and Pedestrian Access

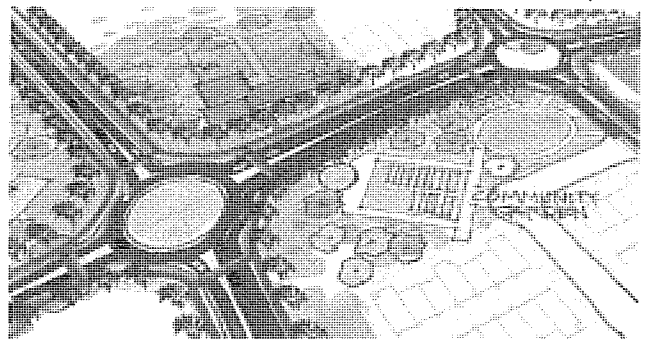
In addition to wide sidewalks that are detached from the roadway, C Street is proposed to have a bicycle lane to provide additional options for school-related bicycle users. The terrain in this area of PA-2 is relatively flat, which will assist with pedestrian and bicycle usage. Several off-street trails will also provide access to the school site as shown on Exhibit 2.

### Proximity to the SR 241 Planned Extension

In October of 2003, SB 352 became a law that identifies some restrictions with respect to school placement. One element of this law relates to the distance of a school from a "freeway or other busy traffic corridor". However, this law defines such roadways as having traffic volumes in excess of 50,000 vehicles per day in rural areas and 100,000 vehicles per day in urban areas (this area is considered "urban" because of its broader context, according to the 2010 urban area criteria identified by the US Census in the USDOC Federal Register Vol. 76 No. 164). The planned extension of SR 241 to Cow Camp Road would only carry 19,000 vehicles per day at build-out of RMV. If the roadway were ever extended to I-5, the maximum projected traffic volume is 43,000 vehicles per day.



Microsimulation of North Drop-Off



Microsimulation of Roundabouts on 'C' Street

# Exhibit 7:: Site Environmental

## Noise

A preliminary evaluation of the proposed school site in Planning Area 2 was prepared to assess the suitability of the site in relationship to noise, air quality, hazardous materials, and land use compatibility.

The Orange County and CUSD use the 65 CNEL (Community Noise Equivalent Level) as the measure of an acceptable noise level for school sites. Based on the schematic plans, the proposed school site would have a building located approximately 300 feet from the western edge of the proposed SR-241. See Exhibit 3. The elevation of the school site will be about 25 feet above the elevation of the roadway. Without any abatement measures, the noise level at the edge of property closest to the SR 241 would be about 69 CNEL, which is too loud for student activity areas. However, this noise level would be compatible with many other uses such as parking lots and drop-off areas. Noise decreases rapidly as distance from the roadway increases. At about 70 feet from the property line (i.e., 350 feet from the western edge of the SR-241) the noise level drops to about 64 CNEL, which is compatible with classrooms, play areas, and other areas where student activities may occur. Therefore, acceptable noise levels could be achieved by incorporating setbacks for student use areas into the project design. An alternative to setbacks would be to provide a 5 foot wall or berm along the edge of the school site that is adjacent to the proposed SR-241. With a 5 foot noise barrier, the noise level would be 63 CNEL directly behind the wall and decrease with increased distance from the SR-241. Therefore, in the required areas, a 5 foot noise barrier wall at the top of the slope adjacent to the toll road shall be provided, and the site will be suitable for all student activities.

## Air Pollution

California's Public Resources Code § 21151.8 essentially requires a health risk assessment for new public schools located within a ¼ mile of a freeway due to concerns about diesel truck exhaust. As part of the environmental work for the SR-241, a health risk assessment was prepared ("Air Quality Assessment Appendix B, Diesel Particulates: South Orange County Transportation Infrastructure Improvement Project," November 17, 2003) that evaluated the potential impacts on land uses adjacent to the SR-241. The proposed school site has several advantages, which will act to keep air pollution levels very low. First, it is on the upwind side of the SR-241. That is, air pollutants released on the SR-241 will on most occasions be blown away from the school site. Second, the SR-241 is depressed with respect to the school site. Pollutants released along the SR-241 will be trapped along the roadway in a no wind condition, and would have a very difficult time migrating up to the school site. Finally, the number of trucks projected to use the SR-241 is very low. Heavy duty diesel trucks, the greatest diesel particulate generators, are projected to be less than 2% of the traffic on the SR-241. On many freeways, heavy duty diesel trucks can be greater than 10% and up to 20% of the traffic. Therefore, the potential for significant generation of diesel particulate is very low along the SR-241. The air pollution levels at the site will be within mandated range.

## Item 7:: Site Environmental

### Hazardous Materials

A Phase I Environmental Site Assessment was prepared for Planning Area 2 in December 2012 to assess the presence or likely presence of an existing, historical, or threatened release of any hazardous substances or petroleum products into structures, soil, and/or groundwater beneath the subject property. Contamination within Planning Area 2 is not listed on any of the databases searched and there was no evidence of environmental concerns during the site assessment. Since portions of Planning Area 2 have been used for agricultural uses a limited agricultural chemical survey was conducted. Soil samples were analyzed for Organochlorine Pesticides. Even in locations with ongoing agricultural operations, concentration of the commercial agriculture pesticide DDE was less than residential screening levels. No further investigation was recommended. It should be noted the proposed school site is undeveloped and does not support agricultural operations. Therefore, there are no concerns associated with hazardous materials at the school.

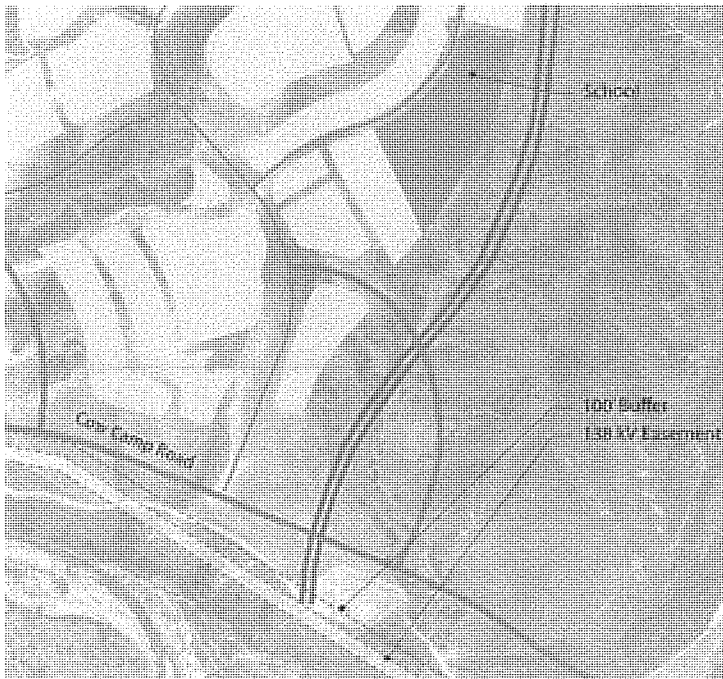


Exhibit 5 – SDG&E Facilities

### Land Use Compatibility

The proposed school site and most of Planning Area 2 are currently undeveloped. The closest land use is the citrus and avocado orchards, currently located about ¼ mile to the west. The San Diego Gas and Electric (SDG&E) EMF substation is located over ½ mile to the southeast. The nearest power line, a 138kV power line is more than 2,500 feet away from the edge of the site. In comparison, per Title 5 California Code of Regulations - Standards for School Site Selection, the minimum distance required for this type of power line is 100 feet from the edge of the site. See Exhibit 5. The Chiquita Water Reclamation Plant is located over ½ mile to the northwest of the proposed school site. None of these uses would have an impact on the school operations. The remainder of the site is undeveloped.

In March 2013, the County of Orange approved the Master Plan for Planning Area 2 and Subarea Plans for the majority of the Planning Area. A Master Area Plan shows the relationship of proposed uses within the entire planning area, conceptual grading plans, and how special concerns are addressed. Subarea Plans provide a more detailed level of planning on the key features of the development proposed in a subarea. The proposed school site is located in Subarea 2.1. Proposed uses surrounding the site are residential uses and a community center/ park, which will provide an array of amenities, such as playfields, day care, and a learning center.

There are no airports, rail lines, or high pressure fuel lines in the area that would pose land use compatibility issues related to the proposed school site.

## Item 8:: Geotechnical Conditions

### **Proposed Site Grading**

The school site is primarily in a proposed fill condition, as the site extends off the eastern flank of an existing natural ridgeline with three small tributary ravines below. A small area at the northwest side of the school site is in a proposed cut condition. There are no significant cut slopes affecting the school site. The site will be provided to the District certified by all applicable agencies.

### **Soil and Bedrock Conditions**

The proposed school site is underlain by favorable geotechnical conditions. Bedrock below the site is classified as the Santiago Formation, which consists of predominantly sandstone with lesser siltstone and rare claystone. This bedrock formation is mantled by surficial deposits of topsoil, slopewash, and terrace deposits. The topsoil and slopewash are considered to be compressible deposits that will need to be removed by conventional remedial grading. Following remedial grading, the planned fills will be placed overtop of competent bedrock or terrace deposits. Soils derived from the formations noted above will have a low to medium expansion potential and will have a moderate corrosion potential for metals and concrete.

### **Faulting, Seismicity & Seismic Hazards**

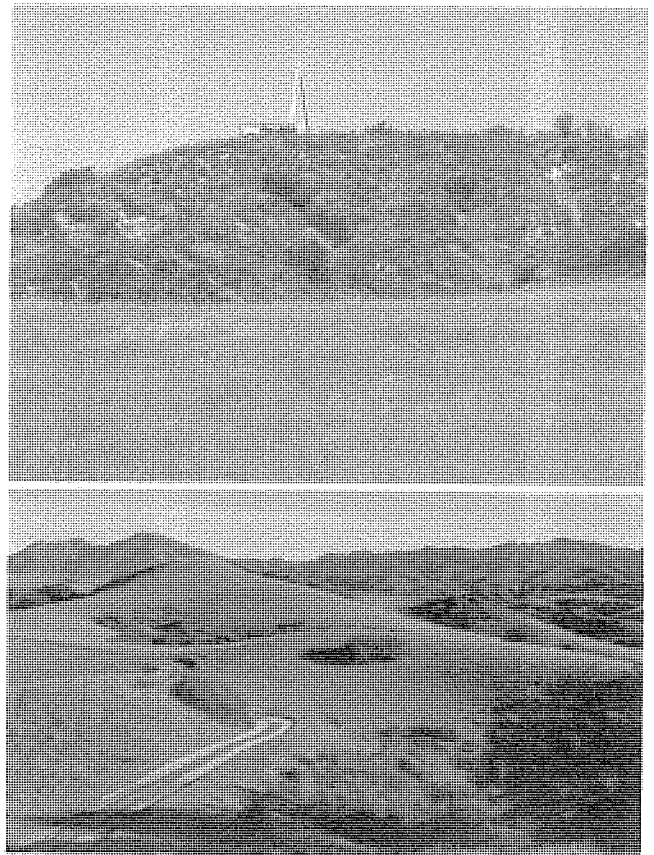
On-site seismicity and seismic hazards are typical of the area and will be mitigated through conventional design of grading and structural improvements. The site is not within an Alquist-Priolo Earthquake Fault Zone, and no known active faults are shown on current geologic maps as crossing the site. The California Geological Survey's Seismic Hazard Zone Map for the Cañada Gobernadora Quadrangle indicates that a large majority of the proposed school site is not located within a seismic hazard zone for liquefaction or earthquake-induced landslides. As an exception to this, a small area in the northwestern portion of the site is within a mapped zone of potential earthquake-induced landslides. This potential hazard will be mitigated through the planned site grading and remedial grading.

### **Remedial Grading and Fill Placement**

Remedial grading below the site will be typical of Southern California developments where compressible soils are removed prior to fill placement. As discussed above, all topsoil and slopewash deposits will be removed entirely to expose competent bedrock or terrace deposits. All proposed fills are to be placed as engineered fill that has been moisture conditioned and mechanically compacted to a minimum of 90% relative compaction.

### **Geotechnical Feasibility**

The proposed school site development is feasible and practical from a geotechnical standpoint and all grading will be performed in accordance with the recommendations of the project geotechnical consultant and all applicable grading codes and ordinances.



## Item 9:: Infrastructure

RMV Community Development, LLC (the master developer of Rancho Mission Viejo) has also previously developed the master-planned communities of Ladera Ranch, Las Flores, Rancho Santa Margarita, and Mission Viejo. As in each of these historical developments, Rancho Mission Viejo's (RMV) approach is to provide "ready-to-go" school sites that include the provision of all the necessary access, utilities and infrastructure, within a community context that is aimed at assuring successful integration. The following infrastructure and utilities are to be provided to the school site by RMV:

1. Roads completely surrounding the proposed school site, to be constructed by RMV and maintained by the County.
2. The proposed 14-acre school site pad will be located directly adjacent to a future 5-acre Community Park. The Park will include a large turf area that could support a soccer and softball field overlays, a tot lot, an additional parking and drop off area, and a Community Multipurpose Building. These facilities will be owned and operated by Master Community Homeowners Association (HOA). A joint use agreement with Capistrano Unified School District (CUSD) will define how these facilities are jointly used.
3. The following utilities would be "stubbed out" to the proposed school site:
  - a. Water & Sewer by SMWD
  - b. Power by SDG&E
  - c. Gas by Southern California Gas Company
  - d. Telephone & Data by Cox and AT&T
4. Water quality basins will be located outside of the proposed school site, which effectively expands the useful acreage of the site. These water quality basins will treat typical school site runoff.

## Item 10:: Wildland Fire Protection

RMV Community Development, LLC has been involved in wildland fire protection planning with the Orange County Fire Authority (OCFA) for a decade. In 2007 OCFA and the OC Board of Supervisors approved the Ranch Plan Fire Protection Program, which would limit the potential spread of wildland fires through sprinklers, landscape restrictions, and other proactive measures. Components of this community-wide program include fuel modification zones, emergency access and evacuation routes, automatic fire sprinklers, and construction and landscaping restrictions to reduce the danger from flying embers associated with a wildland fire.

In March 2013 OCFA approved a Fuel Modification Plan that protects Planning Area 2 of the planned community, which contains the proposed school site, from wildland fires (see Exhibit 6). A 110-foot zone (Fuel Modification Zone) around the site will be permanently maintained as non-combustible landscape and hardscape to provide a fuel break and a defensible space for fire fighters to extinguish any wildland fires that might occur in the surrounding open space area.

Fuel Modification Zone



Exhibit 6 – Fuel Modification Zone

# Item 11: Executive Summary - CDE

## CDE Site Selection Criteria

The following summarizes the California Department of Education (CDE) Site Selection Criteria.

### **Safety**

The site for the proposed K-8 school has been a part of the Master Plan Community design. The proximity to roadways will provide effective access to the families, while also creating a safe environment for the students. The developer will provide a safe location for the school that meets the State of California requirements.

### **Location**

The K-8 school has been located in an area that provides access to the nearby residents and students. The design of the community will help to promote both walking and biking through the dedication of trail connections and designated bike lanes. A 5-acre park is also located directly adjacent to the school and agreements between Rancho Mission Viejo and Capistrano Unified School District (CUSD) will define the joint use of these areas for the benefit of both the school and residents.

### **Environment**

Potential noise from the adjacent Foothill Transportation Corridor South (SR-241) will be located approximately 200-feet east of the school play areas and approximately 40-feet below the school pad elevation. A noise analysis for the roadway will be reviewed and mitigation measures, such as a sound wall, will be provided as needed.

The "Air Quality Assessment Appendix B, Diesel Particulates: South Orange County Transportation Infrastructure Improvement Project," notes that air pollution levels at this site will be very acceptable.

### **Soils**

The school site will comply with all geotechnical State requirements and be constructed in a manner that is suitable to its use.

### **Topography**

The site will be graded as a part of the Master Planned Community. The school site will be delivered as a graded pad with a 2% cross fall for positive drainage.

### **Size and Shape**

The 14-acre school site provides sufficient space to construct a K-8 school to support 1,200 students and staff. The shape of the site is driven by the topography of the hillside location and the length to width ratio is 2.2:1, not including the dedicated road adjacent to the site. The adjacent 5-acre community park and 19 acres of useable program which is in line with State school site size guidelines. Additionally, the site's location within the Master Planned Community provides a unique relationship for this school and also delivers dedicated access roads and parking that complement the school's improvements.

### **Accessibility**

The placement and design of the proposed school site provides roadways on all four sides of the joined school and community park area. This relationship creates a number of opportunities for school access points, parking areas, and drop-off/pick-up locations. The traffic volumes in this area are also at a manageable level to help provide safe crossing points for pedestrian and bicyclists with reasonably flat grades in the adjacent streets. Community trails will be defined with the development of this community and provide patterns to help promote pedestrian use.



# Item 11:: Executive Summary - CDE

## CDE Site Selection Criteria

### Public Services

Police service in this area will be provided by the Orange County Sheriff and fire protection and emergency services will be provided by the Orange County Fire Authority (OCFA). A new fire station (OCFA Station No. 56) is planned to be constructed at the intersection of Antonio Parkway and Sendero Way (near Cow Camp Road). This location is approximately 1-mile from the proposed school site. Trash and disposal services are contracted by the County of Orange for this area and are currently serviced by CR&R.

### Utilities

All public utilities connecting to this school site will be installed by the developer to provide the following services:

- Electrical Power – San Diego Gas & Electric
- Natural Gas – Southern California Gas Company
- Sewer and Water – Santa Margarita Water District
- Telephone & Data – Cox Communications and AT&T
- Water quality treatment will also be provided outside of the school site area as part of the master planned development.

### Cost

RMV will grade and install the improvements to provide roadway access and utilities to the new school site. The value of the site will be based upon the appraised value of the land and use. The maintenance of landscaped school areas and the joint use facilities will be supported by the Master Homeowners Association and addressed in the joint use agreement between Rancho MMC and CUSD.

### Availability

The site will be graded and delivered with adjacent improvements by March 2015 for support of the CUSD work on the school. The property will be clear of any title issues for acceptance by CUSD.

### Public Acceptance

The Master Area Plan for Planning Area 2 and sub-area 2.1 that includes the school site location, was approved on March 27, 2013 by the Orange County Planning Commission. The entitlement for this area identifies a K-8 school site in the approximate location as part of the approval.

**SCHOOL FACILITIES AND FUNDING AGREEMENT  
AND OPTION TO PURCHASE SCHOOL SITE**

**by and among**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**and**

**RMV COMMUNITY DEVELOPMENT, LLC, et al**



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SCHOOL FACILITIES AND FUNDING AGREEMENT  
AND OPTION TO PURCHASE SCHOOL SITE

THIS SCHOOL FACILITIES AND FUNDING AGREEMENT AND OPTION TO PURCHASE SCHOOL SITE ("SFF/Agreement") dated as of \_\_\_\_\_, 2013, is entered into by and among CAPISTRANO UNIFIED SCHOOL DISTRICT ("School District"), a public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California ("State"), RMV COMMUNITY DEVELOPMENT, LLC, a California limited liability company ("RMV"), RMV PA2 Development, LLC, a California limited liability company ("RMV PA2" and with RMV, "Developers") and each other "Owner" listed in Recital B below.

**RECITALS**

A. The Board of Supervisors of the County of Orange ("County") have approved a General Plan Amendment (Resolution No. 04-291), Zone Change (Resolution No. 04-292/Ordinance No. 04-014), Development Agreement (Resolution No. 04-293/Ordinance No. 04-015) Environmental Impact Report No. 589 ("Project EIR"), Affordable Housing Implementation Agreement ("Affordable Housing Agreement"), and other entitlements (collectively, "Entitlements"), establishing a comprehensive land development and conservation plan for the remaining 22,815 acres of the historic Rancho Mission Viejo. The collective elements of the Entitlements may be referred to as the "Rancho Mission Viejo Project."

B. The owners of the property comprising the developable portions of the Rancho Mission Viejo Project ("Rancho Mission Viejo Property") are Developers, DMB San Juan Investment North, LLC, a Delaware limited liability company, RMV Middle Chiquita, LLC, a California limited liability company, RMV Ranch House, LLC, a California limited liability company, RMV Headquarters, LLC, a California limited liability company, RMV San Juan Watershed, LLC, a California limited liability company, RMV San Mateo Watershed, LLC, a California limited liability company, RMV Blind Canyon, LLC, a California limited liability company, and RMV MC Investment, LLC, a California limited liability company (each, an "Owner" and, collectively, "Owners") and, with respect to Planning Area 1 within the Rancho Mission Viejo Property, William Lyon Homes, Inc., Meritage Homes of California, Inc., Pulte Home Corporation, Ryland Homes of California, Inc., Mission Viejo P8, L.P., Shea Homes, Inc., Standard Pacific Corp., TriPointe Homes, LLC and Ranch Plan Apartments I, LLC (the "PA 1 Merchant Builders"). The Rancho Mission Viejo Property is depicted on Exhibit A attached hereto and described in Exhibit A-1.

C. Developers, as the owners of portions of the Rancho Mission Viejo Property, are the holders of certain development rights concerning the Rancho Mission Viejo Project relating to Planning Area 1 and 2 ("PA 1" and "PA 2"), and are authorized to process and otherwise perfect such agreements, permits and authorizations as are necessary for ensuring the orderly implementation of the Entitlements as to PA 1 and PA 2.

D. As approved, the Entitlements presently authorize the development of up to 14,000 dwelling units, of which 6,000 may be designated exclusively for age-qualified housing consistent with the requirements of Government Code Section 65995.1 and referred to herein as "Senior Unit," and approximately 5,000,000 square feet of non-residential, commercial uses

("Commercial/Industrial Development"). Based on future traffic studies, the 8,000 non-Senior Units may be increased, and the 6,000 Senior Units decreased, so as not to exceed the 14,000 total dwelling units authorized by the Entitlements. In addition, pursuant to the Affordable Housing Agreement, the County may require Owners to set aside up to sixty (60) acres within the Rancho Mission Viejo Property for the construction of rental dwelling units affordable to low and very-low income households. Any such property set-aside within PA 1 or PA 2 shall be referred to as "County Affordable Housing Property" and any dwelling units constructed on such property shall be referred to as "Affordable Dwelling Units" and shall be subject to the terms of this SFF/Agreement as specified herein. The Affordable Dwelling Units constructed within the Affordable Housing Property are in addition to the 14,000 dwelling units permitted by the Entitlements for the Rancho Mission Viejo Property.

E. Implementation of the Rancho Mission Viejo Project is anticipated to occur over a period of 25-30 years. The development of the Rancho Mission Viejo Property pursuant to the Entitlements will be implemented in phases and the timing of development will depend upon several factors including, but not limited to, entitlement processing schedules, demographics, market demand, financing costs and local/regional infrastructure coordination. Development activities within the Rancho Mission Viejo Property will occur within a series of individual planning areas and sub-planning areas ("Planning Areas"). The proximate location and size of the individual Planning Areas are depicted in the attached Exhibit A. The Planning Area 1 and 2 portions of the Rancho Mission Viejo Property are depicted in Exhibit A and described in Exhibit A-1 ("PA 1 Property," "PA 2 Property" and, collectively, the "PA 1/PA 2 Property").

F. Portions of the PA 1/PA 2 Property are owned by Developers, DMB San Juan Investment North, LLC, RMV MC Investment, LLC and RMV Headquarters, LLC (the "PA 1/PA 2 Owners"). The remainder of the PA 1/PA 2 Property is owned by the PA 1 Merchant Builders.

G. The PA 1/PA 2 Property is located within School District's jurisdictional boundaries and students residing within the PA 1/PA 2 Property and enrolled in the School District ("PA 1/PA 2 Project Students") will attend School District facilities ("School Facilities"), including those to be provided pursuant to this SFF/Agreement.

H. School District and Developers acknowledge and agree that both the amount and timing of School District's receipt of School Payments and State Funds (both defined below) may be insufficient to fully fund the school facilities for the PA 1/PA 2 Property ("PA 1/PA 2 School Facilities") as described in this SFF/Agreement and the School Housing Plan attached hereto. In the absence of the parties' mutual agreement as set forth herein, and except as otherwise required by the Entitlements in accordance with applicable law, School District would be authorized to collect from the PA 1 Merchant Builders, the PA 1/PA 2 Owners, and their successors, only statutory or alternative school fees for the construction, furnishing and equipping of the PA 1/PA 2 School Facilities. School District and the PA 1/PA 2 Owners have agreed that given such uncertainties, including the timing and amount of State Funds for the PA 1/PA 2 School Facilities, it is in their mutual best interest to enter into this SFF/Agreement to provide a local source of funding for such PA 1/PA 2 School Facilities that may be in excess of the amount the PA 1 Merchant Builders and the PA 1/PA 2 Owners, and their successors, would otherwise be required to provide in connection with the development of the PA 1/PA 2 Property.

I. School District acknowledges, in accordance with the terms of this SFF/Agreement, that it shall make reasonable efforts to pursue funding for the PA 1/PA 2 School Facilities from the State ("State Funds"), federal government ("Federal Funds") and local agencies ("Local Funds"), if any, when, and to the extent, available.

J. This SFF/Agreement and performance thereof is intended to completely satisfy the school facilities requirements of development of the PA 1/PA 2 Property in lieu of (i) any fees that School District, County or any other Public Agency might be authorized to impose in connection with development of the PA 1/PA 2 Property pursuant to Education Code Section 17620 or Government Code Sections 65970, *et seq.* and 65995, *et seq.* or any other present or future law ("Statutory School Fees") and (ii) any other school facilities requirements that School District, County or any other Public Agency might be authorized to impose pursuant to applicable present or future law in order to satisfy the school facilities requirements of the development of the PA 1/PA 2 Property ("School Facilities Requirements"). This SFF/Agreement is not intended to address funding of the impact of development of Planning Areas 3, 4, 5 and 8 of the Rancho Mission Viejo Property upon Grades K-12 school facilities of the School District

K. The PA 1/PA 2 Owners and School District desire to enter into this SFF/Agreement to set forth the PA 1/PA 2 Owners' voluntary, contractual obligations to make the herein provided School Payments to School District in order to assist the School District in the provision of the PA 1/PA 2 School Facilities, as provided herein, and to set forth the corresponding obligations of School District relating to the provision of the PA 1/PA 2 School Facilities for PA 1/PA 2 Project Students. In entering into this SFF/Agreement the Owners of the portions of the Rancho Mission Viejo Property within Planning Areas 3, 4, 5 and 8 of the Rancho Mission Viejo Property and School District have agreed that this SFF/Agreement does not modify or satisfy the provisions of the Entitlements relating to school facilities and the issuance of building permits and that the provisions apply to such Planning Areas, to the same extent they would have applied to Planning Area 1 had the parties not entered into this SFF/Agreement, subject to applicable law.

## **AGREEMENT**

### **Section 1.0 Recitals**

The foregoing recitals are true, correct, and herein incorporated.

### **Section 2.0 Definitions**

The capitalized terms used in this SFF/Agreement shall have the meanings set forth as follows unless such terms are defined elsewhere herein or the context requires otherwise:

"Affordable Housing Agreement" means the Affordable Housing Implementation Agreement by and between the Owners and the County.

"Affordable Dwelling Unit" means any dwelling unit constructed within the County Affordable Housing Property that is not a Senior Unit.



“A” Map” means a subdivision map creating parcels for financing or conveyancing purposes only and not lots for which a building permit may be issued.

“Area Plan” means a plan approved by the County for each Planning Area prior to the issuance of a grading permit or recordation of a subdivision or parcel map, which plan identifies generally the land uses and major infrastructure within the Planning Area.

“Available K-5 Capacity” means such capacity as defined in Section 3.2(d) below.

“Bonds” means any obligation of a CFD to pay or repay a sum of money with special taxes of the CFD, including obligations in the form of bonds, notes, certificates of participation, lease payments or installment purchase payments or any refunding thereof incurred by the CFD, to finance the acquisition or construction of the PA 1/PA 2 School Facilities or any portion thereof.

“Calendar Year” means the period commencing January 1 of any year and ending the following December 31.

“Certificate of Compliance” means a certificate issued by School District pursuant to Education Code Section 17620(b) acknowledging the fact that the recipient thereof has complied with all requirements of School District for the payment of statutory school fees/alternative school facility fees/mitigation payments.

“CFD Bond Proceeds” means (i) the proceeds of Bonds available for PA 1/PA 2 School Facilities after funding costs of issuance, a reserve fund for the Bonds and capitalized interest on the Bonds, and (ii) CFD special tax prepayments not required to redeem Bonds, excluding amounts that are attributable to CFD Special Tax Remainder Funds, as described in Exhibit C.

“CFD Parameters” means Exhibit C attached hereto.

“CFD Special Tax Remainder Funds” means the special taxes of a CFD collected from “Developed Property” within a CFD that are not required to pay annual debt service on outstanding Bonds and administrative expenses of the CFD and replenish the reserve fund for the Bonds of a CFD of School District or that are allocated to the School District by a CFD formed by another Public Agency pursuant to a JCFA.

“Commercial/Industrial Development” means any assessable commercial, office or industrial property, as such terms are used in Education Code Section 17620, *et seq.*, within the PA 1/PA 2 Property.

“Commercial/Industrial Development School Payment” means a payment from Commercial/Industrial Development in the amount set forth in Section 3.2(a) below.

“Community Facilities District” or “CFD” means a community facilities district authorized to finance the School Facilities that is formed by School District or other Public Agency pursuant to the provisions of the Act and the CFD Parameters, or some other comparable public financing mechanism as further described in the CFD Parameters.

“Construction Index” means the existing or future construction cost index for Class “B” construction used by the State Office of Public School Construction or, in the event the Office of Public School Construction no longer uses a construction cost index, a comparable index of costs of construction in southern California.

“County” means the County of Orange.

“County Affordable Housing Property” means property that is conveyed, irrevocably offered for dedication, or leased to the County, or its designee, for an affordable housing project pursuant to the Affordable Housing Agreement within the PA 1/PA 2 Property.

“Deferral, Guaranty and Security Agreement” means the agreement and corporate guaranty in the form attached hereto as Exhibit F.

“Developers” means RMV Community Development, LLC, and RMV PA2 Development, LLC, and their successors and assigns.

“District Student” means a Grades K-8 student and, as applicable, a Grades 9-12 student enrolled in School District.

“Dwelling Unit” or “DU” means each separate residential dwelling unit that comprises an independent facility capable of sale or lease separate from adjacent residential dwelling units, including any Affordable Dwelling Unit, but excluding a Senior Unit.

“Education Policies” means the policies of the School District as established from time to time to direct the achievements of the School District’s mission consisting of those formal written and adopted policies of the Board of Trustees and those policies that are pursuant to current School District practices as of the date of this SFF/Agreement.

“Entitlements” means the land use entitlements approved by the County or other Public Agency including, without limitation, the County General Plan, the Ranch Plan, zoning, Area Plans, Project EIR, Affordable Housing Agreement, tentative subdivision maps, final subdivision maps and associated environmental approvals permitting development of the Rancho Mission Viejo Property.

“Federal Funds” means funds provided by the U.S. Department of Education or other federal agency to School District for the PA 2 School.

“Funding Amount” means an amount to be funded from the Funding Sources for the PA 2 School at a Funding Threshold.

“Funding Sources” means Project Funding Sources and State Funds available to fund the PA 2 School.

“Funding Threshold” means specific conditions relating to the PA 2 School, the satisfaction of which triggers a corresponding Funding Amount, as specified in Exhibit D.

“High School Facilities” means the Grades 9-12 School Facilities identified in the High School Study or that are provided pursuant to Section 7.2 below.

“High School Payment” means a payment for High School Facilities with respect to Dwelling Units within the PA 1/PA 2 Property in the amount set forth in Section 3.2(c) below.

“High School Study” shall mean a study of the Grades 9-12 school facilities needs for Project Students in Planning Areas 1 through 5 and Planning Area 8, as further described in Section 7.1 below and the School Housing Plan.

“Improvement Fund” means a fund established for a CFD into which the proceeds of Bonds intended to finance the PA 1/PA 2 School Facilities and Other Facilities shall be deposited, which shall include a School Facilities Account and, with respect to each Public Agency whose facilities are authorized to be financed through the CFD, an Other Facilities Account.

“Interim Facilities” means portable classrooms, furnishings and equipment for interim housing of up to 400 Grades K-8 Project Students only on the PA 2 School Site.

“JCFA” means a joint community facilities agreement entered into among the School District, Owners and a Public Agency with respect to a CFD.

“Joint Use Agreement” means an agreement between School District and Rancho MMC with respect to Joint Use Facilities in substantially the form attached hereto as Exhibit E.

“Joint Use Facilities” means those buildings, facilities, playing fields and property described in the School Housing Plan and Joint Use Agreement.

“Joint Use Site” means a site of approximately five (5) acres adjoining the proposed PA 2 School Site upon which the Joint Use Facilities will be located as depicted conceptually on Exhibit G hereto.

“Local Funds” means funds available from the Orange County Office of Education or other Public Agency for the PA 2 School on terms and conditions acceptable to School District.

“Local Schools” means the existing School District Grades K-12 schools defined as such in the School Housing Plan.

“Net Usable Acres” means the gross acres of the PA 2 School Site less any acreage within a public right of way, the acreage of perimeter slopes exceeding a 2% grade or any other acreage otherwise not reasonably useable for a School Site.

“Notice of Availability” means RMV PA 2’s written notice to School District that the PA 2 School Site is in Superpad Condition and available for acquisition.

“One Year Projection” shall have the meaning ascribed to it in Section 4.3 below.

“Option Agreement” means the Option Agreement between School District and RMV PA2 Development, LLC dated as of \_\_\_\_\_, 2013 granting an option to School District to acquire the PA 2 School Site in the form attached hereto as Exhibit I.

“Other Facilities” means public facilities of a Public Agency authorized to be financed through a CFD in addition to PA 1/PA 2 School Facilities.

“Other Facilities Account” means an account within an Improvement Fund into which CFD Bond Proceeds are to be deposited and disbursed to fund Other Facilities in accordance with this SFF/Agreement and the applicable JCFA.

“Other School Payments” means those Statutory School Fees, School Facilities Requirements, and/or payments made pursuant to any applicable agreement between School District and Owners to fund School Facilities for the Rancho Mission Viejo Property other than School Payments.

“Other School Payments Credit” is defined in Section 3.2(d) below.

“Owner” and “Owners” means individually, and collectively, Developers and each of the other owners of portions of the Rancho Mission Viejo Property as of the date of this SFF/Agreement listed in Recital B above, their successors and assigns, and excluding the PA 1 Merchant Builders.

“Owner PA 2 School Advance” means an advance of funds by the Developers or any other Owner for the PA 2 School, which is to be (i) credited against PA 2 School Payments, Senior Unit School Payments, Commercial/Industrial Development School Payments and/or Other School Payments, and (ii) reimbursed from CFD Bond Proceeds, if applicable.

“Owner PA 2 School Advance Certificate” means the certificate issued by School District for advance payment of PA 2 School Payments as discussed in Section 6.10.

“Owner State Funding Advance” means funds advanced for the PA 2 School by Developers pursuant to Section 6.5 of this SFF/Agreement.

“PA 1 Merchant Builders” means the entities listed in Recital B above.

“PA 1/PA 2 Project Student” means a District Student residing within the PA 1/PA 2 Property.

“PA 1/PA 2 Property” means the property depicted on Exhibit A and described in Exhibit A-1 hereto that comprises Planning Areas 1 and 2 within the Rancho Mission Viejo Property, including any County Affordable Housing Property.

“PA 1/PA 2 Property Owners” means RMV Community Development, LLC, RMV PA2 Development, LLC, DMB San Juan Investment North, LLC, RMV MC Investment, LLC and RMV Headquarters, LLC, their successors and assigns.

“PA 1/PA 2 School Facilities” shall mean the PA 2 School and the High School Facilities for PA 1/PA 2 Project Students, as further described in the School Housing Plan and this SFF/Agreement.

“PA 2 School” means the Grades K-8 school within Planning Area 2 to be funded and constructed in accordance with the School Housing Plan and this SFF/Agreement.

“PA 2 School Payment” means a payment for the PA 2 School with respect to Dwelling Units within the PA 1/PA 2 Property in the amount set forth in Section 3.2(a) below.

“PA 2 School Site” means the property depicted on Exhibit G hereto.

“Permanent School Facilities” means those School Facilities that are eligible for modernization funds from the State after 25 years pursuant to Education Code Section 17073.15 and SAB Regulatory Section 1859.60.

“Planning Area” means a specific development area for which an Area Plan or sub-Area Plan is approved as designated in Exhibit A.

“Portable School Facilities” means non-permanent school facilities that are eligible for modernization after 20 years pursuant to Education Code Section 17073.15 and SAB Regulatory Section 1859.60.

“Product Type” means SFD, HD-SFD, SFA, MF and Affordable Dwelling Units as such terms are further defined in the School Housing Plan.

“Project Eligibility” means School District’s eligibility for State Funds and all additional eligibility for State Funds available to School District for Grade K-8 school facilities as a result of, derived from or based upon the Entitlements for the PA 1/PA 2 Property as of the time an application for State Funds is submitted for the PA 2 School.

“Project Funding Amount” means the amount identified as such and set forth in Exhibit D for acquisition of the PA 2 School Site and planning, design, engineering, construction, furnishing and equipping the PA 2 School, as such amount is adjusted in accordance with this SFF/Agreement.

“Project Funding Sources” means School Payments (other than High School Payments), CFD Bond Proceeds, Federal Funds, Local Funds and Owner PA 2 School Advances available to fund the PA 2 School.

“Public Agency” means the County, any city or other public agency, the jurisdictional limits of which include all or any portion of the PA 1/PA 2 Property.

“Rancho MMC” means Rancho Mission Viejo Master Maintenance Corporation, a California non-profit public benefit corporation.

“Rancho Mission Viejo Property” means all of the property that is subject to the Entitlements, which property is depicted on Exhibit A and described in Exhibit A-1 attached hereto.

“School Facilities Account” means an account within an Improvement Fund into which CFD Bond Proceeds are to be deposited and disbursed to fund PA 1/PA 2 School Facilities in accordance with this SFF/Agreement and any applicable JCFA.

“School Facilities Requirements” means any school facilities requirements that School District, County or other Public Agency might be authorized to impose pursuant to the

Entitlements or applicable present or future law in order to mitigate the impact of the development of the PA 1/PA 2 Property upon School District.

“School Housing Plan” means the School Housing Plan attached hereto as Exhibit B, as it may be amended with the mutual consent of Developers and School District.

“School Payments” means (i) the PA 2 School Payment, (ii) the High School Payment, (iii) the Senior Unit School Payment and (iv) the Commercial/Industrial Development School Payment as provided for in this SFF/Agreement.

“Senior Unit” means a dwelling unit within a property developed for senior citizen housing, a residential care facility for the elderly or a multi-level facility for the elderly, as described in Government Code Section 65995.1 as such Section may be amended from time to time.

“Senior Unit School Payment” means a payment with respect to Senior Units within the PA 1/2 Property in the amount set forth in Section 3.2(c) below.

“Site Purchase Agreement” means a purchase and sale agreement with respect to the PA 2 School Site in the form attached as Exhibit D to the Option Agreement.

“Special Fund” means the fund established pursuant to Section 6.7 below and administered pursuant to the terms of this SFF/Agreement.

“State” means the State of California.

“State Funding Amount” means the amount identified as such and set forth in Exhibit D for the PA 2 School that is assumed to be financed with State Funds, as adjusted in accordance with this SFF/Agreement.

“State Funds” means funds available and obtained from the State, based upon Project Eligibility, to fund the PA 2 School pursuant to the Leroy F. Green School Facilities Act of 1998, as it may be amended, supplemented or superseded.

“Statutory School Fees” means fees that School District might impose in connection with development of the Rancho Mission Viejo Property pursuant to Education Code Section 17620 or Government Code Section 65970, et seq., and 65995, et seq., or any other present or future law.

“Student Generation Report” shall have the meaning ascribed to it in Section 4.1 below.

“Superintendent” means the Superintendent of School District, or his or her designee.

“Superpad Condition” means: (i) the PA 2 School Site has been graded to a 2% grade or less, and, if required pursuant to Section 8.4 below, to a 1/10<sup>th</sup> of a foot contour; (ii) all remediation or other site work required by Section 8.1(b) has been completed; (iii) frontage street improvements providing at least two points of access to the PA 2 School Site have been completed; (iv) all wet and dry utilities have been stubbed to the PA 2 School Site property line, and (v) drainage facilities necessary to accommodate flows into and storm water run off from,

the PA 2 School Site, all as further specified in Section 8.4 below, the Site Purchase Agreement and any site design specifications that are mutually approved by School District and Developers.

“Three-Year Projection” shall have the meaning ascribed to it in Section 4.4 below.

“True-Up Payment” means a payment by Developers to School District that is required pursuant to Section 3.2(d) below.

### **Section 3.0 School Facilities**

3.1. Purpose of Agreement. The purposes of this SFF/Agreement are: (i) to provide funding to School District for the PA 1/PA 2 School Facilities by means of School Payments, CFD Bond Proceeds, Owner PA 2 School Advances, Owner State Funding Advances, payments for Interim Facilities, and, if applicable, a True-Up Payment; (ii) to set forth Developers’ obligations with respect to the Joint Use Facilities; (iii) to set forth the corresponding obligations of School District to seek to obtain other Funding Sources for the PA 1/PA 2 School Facilities and to house PA 1/PA 2 Project Students to the extent of the funding provided from all Funding Sources consistent with the Education Policies; (iv) to set forth the School District’s and Owners’ mutual understanding that this SFF/Agreement shall not in any way satisfy or modify any provisions of the Entitlements with respect to Planning Areas 3, 4, 5 and 8 of the Rancho Mission Viejo Property as to School Facilities, as further set forth in Sections 3.8 and 3.9 below, and that the parties have agreed that the provisions of the Entitlements as to school facilities and issuance of building permits apply to the remainder of the Rancho Mission Viejo Property, subject to applicable law; and (v) provide for any funding adjustment in the form of a True-Up Payment or credits as described in Section 3.2(d) below.

#### **3.2. School Payments.**

(a) PA 2 School Payment. Prior to the issuance of a Certificate of Compliance for a Dwelling Unit within the PA 1/PA 2 Property, the applicant, PA 1/PA 2 Property Owners or Developers shall pay a PA 2 School Payment equal to \$13,280 per SFD DU, \$9,900 per HD-SFD DU, \$7,660 per SFA DU and \$3,910 per MF DU, subject to adjustment each January 1, commencing January 1, 2014, based upon the percentage change in the Construction Index from the base date of January 1, 2012. All PA 2 School Payments shall be deposited in the Special Fund and disbursed to fund Project Funding Amounts and, to the extent herein provided, reimburse Owner PA 2 School Advances. RMV’s agreements with the PA 1 Merchant Builders require that RMV pay the PA 2 School Payment for the PA 1 Merchant Builders and RMV hereby agrees with School District to do so.

(b) High School Payment. Prior to the issuance of a Certificate of Compliance for a Dwelling Unit within the PA 1/PA 2 Property, the applicant, PA 1/PA 2 Property Owners or Developers shall pay a High School Payment equal to \$5,069 per SFD DU, \$3,779 per HD-SFD DU, \$2,924 per SFA DU and \$1,492 per MF DU, subject to adjustment each January 1, commencing January 1, 2014, based upon the percentage change in the Construction Index from the base date of January 1, 2012. Subject to RMV’s execution of the Deferral, Guaranty and Security Agreement provided pursuant to Section 7.2 below, the applicant, PA 1/PA 2 Property Owners or Developers may elect to defer payment of the High School Payments with respect to any Dwelling Units within to the PA 1/PA 2 Property, except

for Affordable Dwelling Units. In the event of a default by RMV under the Deferral, Guaranty and Security Agreement, School District's obligation to issue Certificates of Compliance shall be subject to payment of all prior, deferred High School Payments and accrued interest and subsequent payment of each applicable High School Payment at the time of issuance of a Certificate of Compliance for each Dwelling Unit.

(c) Senior Units and Commercial/Industrial Development. Prior to the issuance of a Certificate of Compliance for any Senior Unit or Commercial/Industrial Development within the PA 1/PA 2 Property, the applicant shall pay a Senior Unit School Payment or Commercial/Industrial Development School Payment, respectively, equal to \$0.51 per square foot of assessable space, subject to adjustment every other January 1, commencing January 1, 2014, based upon the percentage change in the Statutory School Fees applicable to such types of development approved by the State Allocation Board applicable thereto on, or about, each such January 1. PA 2 School Payments, Senior Unit School Payments and Commercial/Industrial Development School Payments shall be deposited in the Special Fund and disbursed to fund Project Funding Amounts for the PA 2 School and to reimburse Owner PA 2 School Advances pursuant to Sections 6.9 and 6.10 below.

(d) True-Up Payment. As set forth in the School Housing Plan, the PA 1/PA 2 Property is presently proposed to be developed with 3,172 Dwelling Units consisting of an assumed mix of Product Types that is projected to generate 1,118 Grades K-8 PA 1/PA 2 Project Students. The Parties acknowledge, however, that the actual development of the PA 1/PA 2 Property may generate a greater or lesser number of PA 1/PA 2 Project Students and the PA 2 School will be built with a permanent capacity sufficient to house 1,200 Grade K-8 PA 1/PA 2 Project Students.

Notwithstanding the number of PA 1/PA 2 Project Students actually generated by each individual Dwelling Unit within the PA 1/PA 2 Property, PA 2 School Payments will be made for each Dwelling Unit within the PA 1/PA 2 Property. Following the issuance of a Certificate of Compliance for the final Dwelling Unit within the PA 1/PA 2 Property, School District shall prepare the next Student Generation Report due in accordance with Section 4.1 below. As part of such Student Generation Report, School District shall determine the available Permanent School Facilities as to Grades K-5 capacity in the following group of schools: Ambuehl Elementary School, Ladera Elementary School, Oso Grande Elementary School and Chaparral Elementary School. The available Grades K-5 capacity Permanent School Facilities in such schools, if any, shall be proportionately allocated by School District between the PA 1/PA 2 Property and future development within the then-existing attendance areas of those schools based upon their relative number of existing or future dwelling units and existing, and future District Students within the existing attendance areas of those schools. The PA 1/PA 2 Property's allocation so determined shall be deemed "Available K-5 Capacity." If the number of K-8 PA 1/PA 2 Project Students in that Student Generation Report is greater than the total of (i) 1,200 plus (ii) the Available K-5 Capacity, then the PA 1/PA 2 Property Owners shall pay to School District an amount equal to \$16,415 per student multiplied by the number of K-8 PA 1/PA 2 Project Students in excess of the total of (i) and (ii) (the "True-Up Payment"). If the number of K-8 PA 1/PA 2 Project Students is less than the total of (i) and (ii) above, Developers shall be entitled to a credit against Other School Payments in an amount equal to \$16,415 per student multiplied by the amount by which the total of (i) and (ii) above exceeds the number of K-8 PA 1/PA 2 Project Students (the "Other School Payments



Credit"). The amount of \$16,415 per student shall adjust each January 1, commencing January 1, 2014, based upon the percentage change in the Construction Index from the base date of January 1, 2012.

The True-Up Payment shall be a joint and several obligation of the Developers payable within thirty (30) days following School District's written demand. School District shall apply the True-Up Payment to provide Permanent School Facilities for PA 1/PA 2 Project Students, as determined by School District, and these PA 1/PA 2 Project Students shall be considered permanently housed.

The Other School Payments Credit may be assigned by the PA 1/PA 2 Property Owners to any property owners within Planning Area 3, 4, 5, or 8, and it may be applied by the PA 1/PA 2 Property Owners and such assignees dollar for dollar against any obligation for the payment of Other School Payments, subject to written notice to School District.

3.3. Mutual Considerations. By entering into this SFF/Agreement and complying with its terms, the PA 1/PA 2 Property Owners shall be deemed to have fully mitigated the impact of Grades K-12 students resulting from development of the PA 1/PA 2 Property. In consideration of the PA 1/PA 2 Property Owners' performance of their obligations pursuant to this SFF/Agreement, School District, among other obligations set forth below in this SFF/Agreement, agrees to limit its actions with respect to the PA 1/PA 2 Property as further described in Section 3.7 below.

3.4. Agreement Unaffected By Changes in Law. School District and Owners agree that each party to this SFF/Agreement has negotiated voluntarily in good faith to reach accord on this SFF/Agreement, and as such, the SFF/Agreement is a legally binding contract between the parties, enforceable in accordance with its terms. School District and Owners agree that to the maximum extent permitted by law, this SFF/Agreement shall not be affected, modified, or annulled by any subsequent change in local, state or federal law.

3.5. School Housing Plan. This SFF/Agreement, including, without limitation, the School Housing Plan, constitutes the agreed-upon school facilities needs analysis for the School Facilities needed to accommodate the PA 1/PA 2 Project Students.

3.6. Waiver of Right to Protest. Execution of this voluntarily, mutually acceptable SFF/Agreement and any and all payments, responsibilities, obligations or consideration made by each Owner as set forth herein is made by such Owner without protest. The Owners and School District acknowledge that Government Code Section 66020(d)(1) provides that local agencies, including school districts, shall provide a project applicant notice, in writing, at the time of imposition of fees, dedications, reservations, or other exactions, a statement of the amount of fees, or a description of the dedications, reservations, or exactions and a notification that the 90-day approval period in which the applicant may protest such fees has begun. The Owners agree that they have voluntarily entered into this SFF/Agreement and knowingly and willingly waive all rights of protest under Government Code Sections 66020, 66021 or 66022, or any other provision of law with respect to school fees and protest rights applicable with respect to this SFF/Agreement and, as applicable, the School Payments and all other obligations herein. Owners agree that in the event that a 90-day approval period cannot be

waived, this SFF/Agreement includes mutually agreed contractual provisions with respect to the development of the PA 1/PA 2 Property and, as applicable, the Rancho Mission Viejo Property, with respect to School Facilities for the Project Students, the Entitlements and the reservation of a high school site and further acknowledge that the 90-day approval period described above, in the event that such a waiver cannot be waived, will commence as of the date of this SFF/Agreement.

Owners, as applicable, agree that the School Payments and other consideration provided for herein may be in excess of any amounts payable pursuant to California statute, law or regulation, if any, and are not fees, charges, dedications, taxes or any other requirements within the meanings of such statute, law or regulation, but are completely voluntary, contractual payments made by PA 1/PA 2 Property Owners to assist School District in providing the PA 1/PA 2 School Facilities for the PA 1/PA 2 Property.

3.7. School District Covenants. So long as PA 1/PA 2 Property Owners are not in breach of this SFF/Agreement and RMV is not in breach of the Deferral, Guaranty and Security Agreement, School District, as to the PA 1/PA 2 Property, hereby covenants that it will not:

(a) other than as specifically set forth in this SFF/Agreement, exercise any power or authority (under Section 17620 of the California Education Code or any other provision of applicable law) to levy any new fee, tax, assessment, charge, dedication, or other form of requirement against the PA 1/PA 2 Property and any Dwelling Unit, Senior Unit or any Commercial/Industrial Development undertaken within the PA 1/PA 2 Property for the purpose of providing funding or financing School Facilities or any portion thereof required to mitigate the impact of the development of the PA 1 and 2 Property on School District. This proviso is not applicable to: (i) possible future District-wide parcel taxes for operating costs or technology improvements, (ii) any existing authorized general obligation bonds of School District, (iii) any existing authorized general obligation bonds of a School Facilities Improvement District of School District, and (iv) any School Facilities Improvement District of School District consisting of only the PA 1/PA 2 Property to provide needed funding for the completion of the PA 1/PA 2 School when the unavailability of State Funds has required a reduction in the extent of the PA 1/PA 2 School Facilities as described in Section 6.5

(b) require the County or any Public Agency to exercise, or cooperate with the County or any Public Agency in the exercise of the power under Title 7, Division 1, Chapter 4.7 of the California Government Code (commencing with Section 65970) or any other provision of applicable law, to require the dedication of land, the payment of fees in lieu thereof, or both for classroom or related facilities for Grades K-12 schools as a condition to the approval of any Dwelling Unit, Senior Unit or any Commercial/Industrial Development within the PA 1/PA 2 Property, as applicable (other than as specifically set forth in this SFF/Agreement); and

(c) oppose development (including but not limited to commercial, industrial or residential development) of the PA 1/PA 2 Property on the basis of inadequate school facilities or seek other forms of mitigation with respect to the adequacy of school facilities including, but not limited to, the establishment of Statutory School Fees (other than as specifically set forth in this SFF/Agreement), the imposition of School Facilities Requirements, the payment of money by any developer, the dedication of land, or the application of an

assessment or requirement of any nature against any developer of any portion of the PA 1/PA 2 Property as may otherwise be permitted by present or future State law, rulings, regulations and court decisions.

(d) The foregoing notwithstanding, the provisions of Section 3.7 (a) through (c) do not apply to Planning Areas 3, 4, 5 and 8 and shall terminate separately with respect to each of the PA 1 Property and PA 2 Property upon issuance of building permits for all residential development as to each of the PA 1 Property and PA 2 Property, respectively. Nothing in this SFF/Agreement shall be deemed to prohibit School District from asserting rights it believes it has pursuant to the Entitlements for Planning Areas 3, 4, 5 and 8 relating to Grades K-12 School Facilities, which rights are not modified or waived as a result of School District's execution of this SFF/Agreement.

3.8. School District Acknowledgement. School District acknowledges that, subject to the receipt of the School Payments and State Funds, as well as execution and performance of the Option Agreement, if exercised by School District, and the Joint Use Agreement, and provided the development of the PA 1/PA 2 Property takes place consistent with the Entitlements, compliance with the terms of this SFF/Agreement makes adequate provision for the PA 1/PA 2 School Facilities, as provided in the School Housing Plan, to house the PA 1/PA 2 Project Students consistent with the Education Policies. School District further acknowledges that Owners' execution of this SFF/Agreement and performance of any of its terms and performance shall not be deemed to constitute a waiver of rights Owners may assert (i) in future negotiations with School District regarding the Entitlements and Grade K-12 school facilities for Planning Areas 3, 4, 5 or 8 Project Students; or (ii) in any proceedings relating to the Entitlements, the obligations of Owners or their successors to provide school sites (excluding the herein addressed high school site) and fund school facilities to meet the needs resulting from the development of such Planning Areas, as applicable, or the preconditions for the issuance of Certificates of Compliance in such Planning Areas. By execution hereof, the Superintendent is authorized to execute a document from time to time, if requested by the Developers, indicating that this SFF/Agreement has been approved by School District, that performance of this SFF/Agreement by the PA 1/PA 2 Property Owners mitigates the School Facilities impacts of the development of the PA 1/PA 2 Property, to the extent described in this SFF/Agreement, and that each such Owner, as reasonably determined by the Superintendent at the time of execution of such document, has performed its obligations as set forth in this SFF/Agreement.

3.9. Owners Acknowledgement. Owners acknowledge that School District's execution of this SFF/Agreement and performance of any of its terms shall not be deemed to constitute a waiver of rights School District may assert (i) in future negotiations with Owners regarding the Entitlements and Grades K-12 school facilities serving Planning Areas 3, 4, 5 or 8 or (ii) in any proceedings relating to the Entitlements, the obligations of Owners or their successors to provide school sites and fund school facilities to meet the needs resulting from the development of such Planning Areas or the preconditions for the issuance of Certificates of Compliance in such Planning Areas.

#### **Section 4.0 Student Generation Reports and Projections.**

4.1. Determination of Actual PA 1/PA 2 Project Students. On January 31 and July 31 of each Calendar Year, commencing with the first such date to occur following the date

of this SFF/Agreement, School District shall provide Developers with a written statement, as of the preceding December 31 and June 30, respectively, of the number of Dwelling Units by Product Type for which Certificates of Compliance have been issued within the PA 1/PA 2 Property, the number of PA 1/PA 2 Project Students, the schools in which such PA 1/PA 2 Project Students are enrolled, the total enrollment of District Students in all Local Schools and, following the construction of the PA 2 School, the number of PA 1/PA 2 Project Students in the PA 2 School and each Local School in Permanent School Facilities and Portable School Facilities (each report, a "Student Generation Report").

4.2. 42-Month Student Projection. Not later than January 31st of each Calendar Year, commencing the January 31 following the date of this SFF/Agreement and continuing until the later of the issuance of the Certificate of Compliance for the last or 3,172<sup>nd</sup> Dwelling Unit within the PA 1/PA 2 Property, Developers shall provide School District with the total number of Dwelling Units by Product Type for which Certificates of Compliance are projected by Developers to be obtained within the PA 1/PA 2 Property during the six (6) month period ending June 30 of that Calendar Year and each of the next three (3) twelve (12) month periods from July 1 of that Calendar Year through June 30 of the next three (3) Calendar Years ("42-Month Projection"). School District shall reasonably estimate the number of PA 1/PA 2 Project Students expected to be generated over such six (6) month period and each of such three (3) twelve (12) month periods of the described 42 month period based on the number, Product Type and mix of Dwelling Units anticipated to be constructed, as provided by Developer, and the estimated student generation of PA 1/PA 2 Project Students for each such period using the methodology and resulting student generation rate described in the School Housing Plan. School District shall also reasonably estimate the number of District Students expected to attend the Local Schools over each such period of the 42 month period.

4.3. One School Year Projection. In addition to, and at the same time as, School District is preparing the 42-Month Projection, School District will compare the number of existing and projected PA 1/PA 2 Project Students and the District Students in the Local Schools and the PA 2 School, once constructed, in the next school year, to the Permanent and Portable School Facilities capacity of such Local Schools allocated to remaining PA 1/PA 2 Property remaining to be developed as provided in this SFF/Agreement and the permanent and interim capacity of the PA 2 School ("One Year Projection"). The One Year Projection shall be used by the parties to determine the need for transportation, or additional portable classrooms for PA 1/PA 2 Project Students at the Local Schools, pursuant to Section 11.2 below. The One Year Projection shall also be used to determine the need for Interim Facilities at the PA 2 School pursuant to Section 6.12 below.

4.4. Three School Year Projection. In conjunction with the 42-Month Projection and One Year Projection, School District shall also compare the number of such existing and projected PA 1/PA 2 Project Students and the District Students to the Permanent School Facilities capacity available in the Local Schools allocated to the PA 1/PA 2 Property by School District, as provided in this SFF/Agreement, and the permanent and interim capacity of the PA 2 School, once constructed, for each of the next three (3) school years ("Three Year Projection"). The Three Year Projection shall be used by the Developers and School District in planning for PA 1/PA 2 School Facilities and in determining whether Funding Thresholds have occurred.

4.5. Proportional Allocation. For purposes of the One Year Projection and Three Year Projection, capacity in the Permanent School Facilities, and for purposes of the One Year Projection only, Portable School Facilities in the Local Schools shall be proportionately allocated by School District to the PA 1/PA 2 Property and future development within the attendance areas of the Local Schools based upon the relative number of Dwelling Units and District Students in the PA 1/PA 2 Property and such other development within the attendance areas of the Local Schools.

## **Section 5.0 Local, State and Federal Funds**

5.1. Pursuit of State Funds. School District and PA 1/PA 2 Property Owners agree that State Funds are an integral funding source for the PA 2 School. Therefore, School District, on a best efforts basis, shall (a) take all reasonable steps to apply for and shall diligently pursue State Funds for the PA 2 School based upon Project Eligibility, (b) use reasonable efforts to maximize the amount of Project Eligibility available for the PA 2 School when applications for State Funds are submitted for the PA 2 School in order to obtain State Funds for the PA 2 School, (c) consider State Funds eligibility in its decisions relating to the interim use of portable classrooms, (d) consider State Funds eligibility in its decisions related to establishing school attendance boundaries, (e) make timely application for State Funds consistent with applicable law with the intent that the State Funds shall be available, consistent with applicable regulations of the State Allocation Board, at the time the Funding Thresholds occur as set forth in Exhibit D, and (f) provide Developers with copies of all documents submitted to the State relating to eligibility for State Funds as well as all applications for State Funds for new construction until the PA 2 School is acquired and constructed and all Owner State Funding Advances and special obligation notes issued pursuant to this SFF/Agreement or the Site Purchase Agreement are repaid. School District and Developers, if requested by Developers, shall consult on at least a quarterly basis regarding all matters relating to State Funds for the PA 2 School. Developers agree to cooperate with School District in all matters relating to applying for State Funds and establishing eligibility for State Funds for the PA 2 School. Nothing herein shall constitute a waiver of or preclude a PA 1/PA 2 Property Owner from asserting any right such a PA 1/PA 2 Property Owner may have in law or equity to challenge any School District decision regarding the use or allocation of School District's eligibility for State Funds as a breach of School District's obligations under this SFF/Agreement. All State Funds received for any costs of the PA 2 School shall be considered a Funding Source for the State Funding Amounts and applied, to the maximum extent permitted by applicable laws, in accordance with the priorities specified in Section 5.4 below, except as otherwise provided in Section 6.6 below.

5.2. Pursuit of Federal Funds. School District, on a best efforts basis, shall take reasonable steps available to it to pursue and obtain Federal Funds for the PA 2 School. School District agrees to provide Developers copies of Federal Funds application forms filed by or on behalf of School District and Developers agree to cooperate with School District with respect to such applications. All Federal Funds received for any costs of constructing the PA 2 School or acquiring the PA 2 School Site shall be considered a Project Funding Source and applied, to the maximum extent permitted by applicable laws, in accordance with the priorities specified in Section 5.4 below, except as otherwise provided in Section 6.6 below. If, however, such Federal Funds are required by the applicable law to be spent on a specific component of the PA 2 School, they shall still be considered a Project Funding Source, but shall be applied to fund the PA 2 School in accordance with such law. Nothing herein shall require School District to

utilize eligibility for Federal Funds that is derived from the development of other property in the School District in order to obtain Federal Funds for the PA 2 School or to accept, as reasonably determined by School District, unreasonable conditions imposed on the receipt of any Federal Funds.

5.3. Pursuit of Local Funds. School District, on a best efforts basis, shall take reasonable steps available to it to pursue and obtain Local Funds for the PA 2 School on conditions acceptable to School District. School District agrees to provide Developers copies of Local Funds application forms, if any, filed by or on behalf of School District and Developers agree to cooperate with School District with respect to such applications. All Local Funds received for any costs of constructing the PA 2 School or acquiring the PA 2 School Site shall be considered a Project Funding Source and applied, to the maximum extent permitted by applicable laws, in accordance with the priorities specified in Section 5.4 below, except as otherwise provided in Section 6.6 below. If, however, such Local Funds are required by the applicable law to be spent on a specific component of the PA 2 School, they shall still be considered a Project Funding Source, but shall be applied to fund the PA 2 School in accordance with such law. Nothing herein shall require School District to utilize eligibility for Local Funds that is derived from the development of other property in the District in order to obtain Local Funds for the PA 2 School or to accept, as reasonably determined by School District, unreasonable conditions imposed on the receipt of any Local Funds.

5.4. Use of Local, State and Federal Funds. Local Funds, State Funds and Federal Funds received by School District for the PA 2 School pursuant to Sections 5.1, 5.2 and 5.3 above shall be applied, to the maximum extent permitted by applicable laws, according to the following priorities:

(a) first, with respect to State Funds received to acquire the PA 2 School Site, to pay the State Funding Amount of the Purchase Price of the PA 2 School Site, and with respect to all other State Funds, to fund the State Funding Amount of all other costs of the PA 2 School for which the State Funds were received consistent with the provisions of Section 5.1 above. Second, to pay any applicable special obligation notes issued by School District relating to the acquisition of the PA 2 School Site from State Funds received therefor and from other State Funds to reimburse, proportionately, Owner State Funding Advances and advances, if any, by School District in accordance with this SFF/Agreement; and

(b) if Local Funds or Federal Funds are received such funds shall be used first to fund Project Funding Amounts and, second, to pay proportionately any special obligation notes issued by School District relating to Owner PA 2 School Advances and the acquisition of the PA 2 School Site in accordance with this SFF/Agreement or the Site Purchase Agreement, as permitted by applicable law and to reimburse School District for any funds advanced for the PA 2 School as provided in Section 6.5 hereof.

5.5. Third Party Consultants. School District, in consultation with Developer, shall select an experienced and qualified third party consultant to be retained by School District to assist it in submitting and processing applications for Local Funds, State Funds and Federal Funds. The fees of such consultant shall be paid by Developers or from the Special Fund.

## **Section 6.0 PA 2 School**

6.1. PA 2 School Site, PA 2 School, and Joint Use Site and Facilities Requirements. The PA 2 School Site size, configuration, elevation and grade, as well as the PA 2 School and Joint Use Facilities construction and education specifications shall conform to the provisions of the School Housing Plan and this SFF/Agreement, and applicable law relating thereto. It is agreed that Developers will construct the Joint Use Facilities on the Joint Use Site abutting the PA 2 School Site as shown on Exhibit G hereto. Developers agree the Joint Use Facilities shall be constructed by Developers and the Joint Use Agreement to be executed concurrently herewith provides for the Joint Use Facilities to be accepted by Rancho MMC prior to, or concurrent with, the construction of the PA 2 School. The Joint Use Facilities shall be suitable for use by the School District for the purposes set forth in the Joint Use Agreement and the School Housing Plan. The plans for the Joint Use Facilities shall be approved by the Division of State Architect ("DSA") and construction shall be inspected by DSA. The Joint Use Site is subject to the approval of CDE, Department of Toxic Substance Control ("DTSC") and DSA, as applicable, in the same manner and at the same time as approval of the PA 2 School Site, including with respect to any imported fill materials prior to placement on the PA 2 School Site. The Board of Directors of Rancho MMC has adopted a resolution attached hereto with the form of Joint Use Agreement approving the form of the Joint Use Agreement and authorizing two officers of Rancho MMC to execute it prior to, or concurrently with, execution of this SFF/Agreement by all parties and to accept the Joint Use Facilities as provided in the Joint Use Agreement.

6.2. Location and Size of PA 2 School Site. The Area Plan for Planning Area 2 provides that a school is expected to be built within the Planning Area. The PA 2 School Site shall be 14 Net Usable Acres with joint use of the Joint Use Site for the Joint Use Facilities. The location of the PA 2 School Site and Joint Use Site are generally depicted on Exhibit G. The precise location and acreage of the PA 2 School Site and Joint Use Site shall be determined by School District and RMV PA2 when the first "A" Map is approved for Planning Area 2. The Option Agreement shall be executed, subject to applicable law, including "CEQA," concurrent with this SFF/Agreement. Notwithstanding anything to the contrary in this Section, Developers acknowledge that the PA 2 School Site must be approved as a school site by the CDE and DTSC, and must comply with all necessary approval processes, including Education Code Section 17211, CEQA and as set forth in Section 8.1 below.

6.3. PA 2 School Funding Thresholds. The parties agree to the Funding Thresholds and Funding Amounts for the PA 2 School as set forth in Exhibit D, subject to adjustment of the Funding Amounts in accordance with Sections 6.4, 6.5 and 6.6 below. The determination by School District as to whether a Funding Threshold has been reached shall be based upon the most recent Student Generation Report and Three Year Projection. As an alternative to the specified Funding Thresholds in Exhibit D for PA 2 School Site acquisition and construction of the PA 2 School, following the issuance of a Certificate of Compliance for the 1,150<sup>th</sup> Dwelling Unit within the PA 1 and 2 Property, School District may elect to trigger the PA 2 School Site acquisition Funding Threshold, by written notice to Developers, provided (i) School District has Project Eligibility for at least 1,200 K-8 pupil construction grants and (ii) School District closes escrow on the PA 2 School Site within sixty (60) days following such notice. School District can also elect to trigger the PA 2 School construction Funding Threshold, by written notice to Developer and satisfaction of such conditions, provided School District shall

complete and open the PA 2 School to Project Students within twenty (20) months following such written notice subject to extension of such performance date in accordance with Section 11.17 below. Should Developers fail to provide any required Owner PA 2 School Advance at a specified Funding Threshold, no future Certificates of Compliance shall be issued for the PA 1/PA 2 Property until such failure has been cured.

The PA 1/PA 2 Property Owners are willing to assume the obligation for Owner PA 2 School Advances and other obligations under this SFF/Agreement in consideration, in part, for School District's obligation to open the PA 2 School at the beginning of the first school year following the completion of construction of the PA 2 School and to continue to operate the PA 2 School following its opening for a period of at least three (3) full school years. It may be difficult to measure the damage the PA 1/PA 2 Property Owners would suffer if the PA 2 School was not opened following its completion or was opened and then closed at any time within three (3) full school years following its opening. Therefore, the PA 1/PA 2 Owners and School District hereby agree to School District's payment of liquidated damages in the amount of \$500,000 per year in the event the PA 2 School is constructed and then not opened and available to be attended by PA 1/PA 2 Project Students in the first school year that begins following the completion of construction or if it is opened but then closed at any time within three (3) full school years following its opening. Such liquidated damages shall not be applicable in any school year in which the PA 2 School was open at any point in the school year. Any applicable amount shall be paid to the PA 1/PA 2 Property Owners jointly on June 30 at the end of the applicable full school year.

6.4. Funding Amounts. The initial Funding Amounts in Exhibit D for (i) planning, design, engineering and State approvals, (ii) construction and (iii) furnishings and equipment are based on the amounts and assumptions set forth in the School Housing Plan. The actual Funding Amounts required for such purposes at the applicable Funding Threshold shall not exceed the lesser of (i) the actual cost, based upon executed contracts, bids received or recent cost estimates by School District or (ii) the unexpended portion of the initial Funding Amounts set forth in Exhibit D, as adjusted each January 1, commencing January 1, 2014, based upon the percentage change in the Construction Index from the base date of January 1, 2012. In addition, the initial Project Funding Amounts for such costs may be increased in the event the receipt of State Funds is determined to be unlikely or delayed as further described in Section 6.5 below. The total Funding Amount for acquisition of the PA 2 School Site shall be the fair market value of the School Site, as determined in accordance with Section 8.3 below and the Site Purchase Agreement.

6.5. Failure to Obtain State Funds for PA 2 School. As set forth in the School Housing Plan, it is currently anticipated that State Funds may pay for 50% of the purchase price of the PA 2 School Site and \$11,500,000 of the total cost of the design, engineering, construction, furnishing and equipping of the PA 2 School. The Parties agree that if at the time School District is preparing plans and specifications for the PA 2 School, School District reasonably determines that there is uncertainty as to the availability or timing of receipt of State Funds for the PA 2 School, School District may design the PA 2 School so that it could be constructed in phases, if necessary, due to the lack of State Funds and consistent with the amount of funding otherwise made available pursuant to this SFF/Agreement. If at the time the Funding Threshold is reached for the acquisition of the PA 2 School Site, State Funds have not been received by School District for payment of at least 50% of the purchase price of the PA 2 School



Site, RMV PA2 agrees to accept a non-interest bearing, special obligation note from School District, in a form reasonably acceptable to RMV PA2 that is generally consistent with Exhibit F to the Purchase Agreement, and in a principal amount equal to the difference between the amount of the State Funds received for purchase of the PA 2 School Site and 50% of the purchase price. Such special obligation note shall be payable from (i) State Funds received for acquisition of the PA 2 School Site, (ii) Local Funds or Federal Funds available for acquisition of the PA 2 School Site and (iii) CFD Bond Proceeds available following the completion of the PA 2 School.

If at the time the Funding Threshold is reached or triggered for the construction of the PA 2 School in accordance with Section 6.3, State Funds are not available in the full expected amount of \$11,500,000, and Board of Trustees of School District reasonably determines, after consultation with Developers, in a public meeting that such funds are not expected to be available for at least five years, the Project Funding Amount shall be increased by an amount equal to 50% of the difference between the amount of State Funds then available and \$11,500,000 subject to adjustment by the Construction Index as provided in Section 6.6. Such additional amount shall be funded by Owners, at their election, by means of an Owner State Funding Advance or an Owner PA 2 School Advance. If Owners make an Owner State Funding Advance in the amount of such increase in the Project Funding Amount, it shall be reimbursed from 50% of State Funds subsequently received for construction of the PA 2 school, if any. If Owners elect alternatively to make an Owner PA 2 School Advance, it shall be refunded from CFD Bond Proceeds after completion of the PA 2 School and payment of all costs. In such event, School District shall either (i) reduce the scope or cost of the PA 2 School so as to achieve savings equal to the increase in the Project Funding Amount calculated above, or (ii) in School District's sole discretion contribute funds to the PA 2 School from a source other than a Project Funding Source subject to reimbursement from the other 50% of State Funds received for construction of the PA 2 School. If School District elects not to do so, Developers, in their sole discretion, may contribute additional funds as an Owner State Funding Advance subject to reimbursement from State Funds received for construction of the PA 2 School.

If, however, at the time the Funding Threshold is reached for the construction of the PA 2 School, State Funds are not available in the full expected amount of \$11,500,000, but School District's application for State Funds has been approved by the State and School District, after consultation with Developers, reasonably expects State Funds totaling \$11,500,000 (subject to adjustment by the Construction Index as provided in Section 6.6) will be available within five years, Developers shall loan to School District as an Owner State Funding Advance an amount equal to 50% of the difference between the amount of State Funds then available and \$11,500,000 (subject to adjustment by the Construction Index as provided in Section 6.6). Such loan shall be repaid from 50% of the future State Funds received by School District for construction of the PA 2 School pursuant to this SFF/Agreement and a non interest bearing, special obligation promissory note issued by School District to Developers in a principal amount equal to the amount of the loan and in substantially the form attached hereto as Exhibit J. School District shall, in its sole discretion, either (i) phase the construction of the PA 2 School so as to achieve savings equal to the amount of Developers' loan, and build the later phase with State Funds, once received, or (ii) in its sole discretion, advance funds from a source other than a Project Funding Source, subject to repayment from 50% of the State Funds received by School District.

6.6. Success in Obtaining Other Funding Sources. If School District or the Owners are successful in obtaining Local Funds, State Funds, Federal Funds or private grants for the PA 2 School which total in excess of \$11,500,000, the first \$500,000 in excess of \$11,500,000 may be used by School District to fund costs of the PA 2 School in excess of the total Funding Amount in Exhibit D, as adjusted. Any such funds received in excess of \$12,000,000 shall be applied to fund costs of the PA 2 School and proportionately pay any applicable special obligation note or advance by School District for the PA 2 School as provided in Section 6.5 herein. After completion of the PA2 School and payment of all special obligation notes provided for herein, the future PA 2 School Payments and Project Funding Amount prospectively shall be reduced proportionately by the amount of such excess. Each of the dollar amounts specified in this Section 6.6 and Section 6.5 above shall adjust each January 1, commencing January 1, 2014, based upon the percentage change in the Construction Index from the base date of January 1, 2012.

6.7. Special Fund. Within fifteen (15) days following the approval and execution of this SFF/Agreement, School District shall establish a discrete, interest bearing special fund (the "Special Fund"). Within fifteen (15) days following the approval and execution of this SFF/Agreement, Developers shall pay to School District all School Payments for Certificates of Compliance issued by School District prior to approval of this SFF/Agreement less any amounts previously deposited by Developers for such Certificates of Compliance. All School Payments shall be deposited in the Special Fund and segregated as to (i) PA 2 School Payments, Senior Unit School Payments and Commercial/Industrial Development School Payments and (ii) High School Payments, and funds shall be disbursed from it in accordance with this SFF/Agreement as to the PA 2 School and High School Facilities. Earnings on the investment of funds in the Special Fund shall be deposited in the Special Fund and reflected respectively as to funds for the PA 2 School and High School Facilities. Notwithstanding the foregoing, applicable High School Payments, excluding those for the Affordable Dwelling Units, may be deferred as provided in Section 7.2, subject to execution of the Deferral, Security and Guaranty Agreement.

6.8. CFD Bond Proceeds. School District as hereinafter provided agrees, if requested by Developer to initiate and pursue to completion or participate in a CFD pursuant to Section 11.3 below. Pursuant thereto, CFD Special Tax Remainder Funds as described in Exhibit C, if any, shall be disbursed to School District and available for any lawful purpose, as determined by School District. CFD Bond Proceeds consisting of the portion of the proceeds of Bonds earmarked for PA 1/PA 2 School Facilities shall be deposited in a School Facilities Account of the Improvement Fund and within the School Facilities Account allocated between a PA 2 School subaccount and a High School Facilities subaccount. Funds shall be disbursed from the PA 2 School subaccount only to fund the Project Funding Amount for the PA 2 School and to refund Owner PA 2 School Advances and Owner State Funding Advances. Funds shall be disbursed from the High School Facilities subaccount only to fund High School Facilities and only at the same time and in the same amounts as High School Payments may be required by this SFF/Agreement. Funds deposited in the PA 2 School subaccount and High School Facilities subaccount shall be in satisfaction of an equal amount of PA 2 School Payments and High School Payments, respectively, subject to all applicable law relating to the issuance of tax-exempt bonds. After all PA 1/PA 2 School Facilities have been fully funded and all Owner Advances have been fully reimbursed, CFD Bond Proceeds may be applied by School District

for any lawful purpose, including, without limitation, funding School District central administration facilities and technology enhancements for the PA 1/PA 2 School Facilities.

6.9. Funding Thresholds and Amounts. School District and the PA 1/PA 2 Property Owners agree to the Funding Thresholds and corresponding Funding Amounts for the PA 2 School set forth in Exhibit D, subject to modification of such Funding Amounts in accordance with this SFF/Agreement. School District and the PA 1/PA 2 Property Owners also agree that the Project Funding Amounts for the PA 2 School are to be satisfied from the following Project Funding Sources, in order of priority:

- (i) Local Funds and Federal Funds;
- (ii) PA 2 School Payments, Senior Unit School Payments, and Commercial/Industrial Development School Payments deposited in the Special Fund;
- (iii) CFD Bond Proceeds deposited in the School Facilities Account, if any; and
- (iv) Owner PA 2 School Advances.

Subject to the provisions of Section 6.5, as a Funding Threshold is reached, the corresponding Project Funding Amount shall be funded according to the following priority: first, from available Local Funds and Federal Funds; second, from amounts in the Special Fund, to the extent necessary; third, from CFD Bond Proceeds, to the extent necessary; and fourth, from Owner PA 2 School Advances, to the extent provided for in this SFF/Agreement. Developers and School District acknowledge that School Payments and/or CFD Bond Proceeds may be available later than a Funding Threshold and, therefore, may serve as a source of reimbursement of Owner PA 2 School Advances, as provided in this SFF/Agreement.

6.10. Owner PA 2 School Advances. If, at the time a Funding Threshold is reached or triggered for the PA 2 School in accordance with Section 6.3, the funds then available from the Project Funding Sources are less than the corresponding Project Funding Amount, the Developers, within thirty (30) calendar days of notice from School District, shall advance funds to School District in an amount equal to the shortfall (an "Owner PA 2 School Advance"). An Owner PA 2 School Advance shall be evidenced by issuance by School District of an "Owner PA 2 School Advance Certificate" in the dollar amount of such Owner PA 2 School Advance. The Owner PA 2 School Advance Certificates, may be used to satisfy School Payments, other than High School Payments, and Other School Payments in the amount thereof at the time a Certificate of Compliance is issued. The unused dollar amount of such Owner PA 2 School Advance Certificate shall be adjusted on each January 1st by the same percentage as the adjustment in the PA 2 School Payment on such date. Subject to prior written notice to School District, the Owner PA 2 School Advance Certificate may be assigned in whole or in part. Each Owner PA 2 School Advance shall be evidenced also by a non-interest bearing, special obligation promissory note provided by School District to the Developer in substantially the form attached as Exhibit L to be paid from CFD Bond Proceeds as they first become available pursuant to this SFF/Agreement subject to and consistent with applicable law, including such provisions relating to issuance of and use of proceeds of tax-exempt bonds.

6.11. Accounting. On or before November 1 of each year, School District shall provide Developers with its unaudited, prior fiscal year accounting of all Funding Sources received on a cumulative basis and since the last accounting, the amount and specific nature of the expenditures of Funding Sources and the balance of all applicable Funding Sources.

6.12. Interim Facilities. Upon the completion of each Student Generation Report and One-Year Projection following the opening of the PA 2 School, School District will compare the number of existing and projected Grades K-8 PA 1/PA 2 Project Students and District Students in the Local Schools and the PA 2 School in the next school year, based upon the Student Generation Report and One Year Projection, to the capacity of such Local Schools and the PA 2 School in both Permanent School Facilities and Portable School Facilities to determine whether Interim Facilities are needed to house the PA 1/PA 2 Project Students. If the One Year Projection shows such existing and projected PA 1/PA 2 Project Students and District Students will exceed the total capacity of the Local Schools and the PA 2 School, Developers shall fund the required Interim Facilities, as reasonably determined by School District pursuant to this Section 6.12, within forty-five (45) calendar days of written notice to Developers. This obligation shall terminate upon completion of the Student Generation Report described in Section 3.2(d) above.

Developers' obligation for the required Interim Facilities shall be based upon the amount by which the number of Grades K-8 PA 1/PA 2 Project Students attending the PA 2 School exceeds 1,200. The amount to be funded by Developers shall not exceed \$40,000 for every 26 unhoused Grades K-8 PA 1/PA 2 Project Students. The not-to-exceed amount of \$40,000 above shall adjust each January 1, commencing January 1, 2014, based upon the percentage change in the Construction Index from the base date of January 1, 2012.

6.13. Examples. For illustrative purposes only, examples of the application of Sections 6.5, 6.10 and 7.2 of this SFF/Agreement are provided in Exhibit K attached hereto.

## **Section 7.0 High School Facilities.**

7.1. High School Study. Following the County's approval of the first tentative "A" Map in Planning Area 3 or issuance of Certificates of Compliance for 3,172 Dwelling Units within the PA 1/PA 2 Property, whichever occurs first, School District shall initiate a study to determine the Grades 9-12 school facilities requirements for the development of the Rancho Mission Viejo Property ("High School Study"). The School District and Owners agree that the High School Study will review and provide information as to the need/demand for new or expanded Permanent School Facilities in the context of School District's Education Policies and entire jurisdiction and service area of School District, and will address the issues and information set forth in the School Housing Plan. School District may determine to have the High School Study evaluate the Grades 9-12 school facilities requirements for Planning Areas 1 through 5 and 8, or separately for Planning Area 8. If the School District determines the development plans for Planning Area 8 are uncertain at the time of preparation of the High School Study for Planning Areas 1 through 5, School District may postpone the preparation of a High School Study for Planning Area 8 until following the approval of the Planning Area 8 Area Plan. The reasonable cost of the High School Study for Planning Areas 1 through 5 and the separate High School Study for Planning Area 8, if any, shall be paid by Developers within forty-five (45) days following Developers' review and reasonable approval of the scope of work for the consultant to

be retained by School District to conduct the applicable High School Study, if no response is received from Developers in such period of time, the scope of work shall be deemed approved and such amount shall be paid on demand by School District to Developers.

School District will reasonably determine, based on the information set forth in the High School Study, whether the projected Grades 9 12 District Students residing within the Rancho Mission Viejo Property can be accommodated in existing Permanent School Facilities consistent with School District's Education Policies and, if not, how the facilities requirements for projected, unhoused Grades 9 12 District Students residing within the Rancho Mission Viejo Property may be satisfied based upon the Education Policies and the following options:

- (i) Expansion of San Juan Hills or Tesoro High School;
- (ii) Construction of an 8 to 9 acre Grades 9-12 school within the Rancho Mission Viejo Property, as provided below;
- (iii) the reservation of a comprehensive high school site in Planning Area 3, 4 or 5 subject to adequate funding commitments for acquisition of the school site and construction of a comprehensive high school, as provided below; or
- (iv) with Owners' consent, which shall not be unreasonably withheld, alternative high school facilities serving Project Students.

School District, after consultation with Developers, shall select a school facilities consultant to prepare the High School Study. Developers shall reasonably cooperate with School District in the preparation of the High School Study and School District shall exercise its best efforts to ensure the High School Study is commenced within ninety (90) calendar days following the County's approval of the first tentative "A" Map in Planning Area 3 or issuance of Certificates of Compliance for 3,172 Dwelling Units within the PA 1/PA 2 Property, whichever occurs first, and completed within one hundred eighty (180) calendar days following its commencement. If School District determines that a separate High School Study is to be prepared for Planning Area 8 it shall be commenced by School District within ninety (90) calendar days following the County's approval of the first tentative "A" Map for Planning Area 8 and completed within one hundred eighty (180) calendar days following its commencement.

7.2. Deferred High School Payments. PA 1/PA 2 Property Owners and School District agree that each Dwelling Unit for which a Certificate of Compliance is issued within the PA 1/PA 2 Property shall be subject to the High School Payment prior to issuance of a Certificate of Compliance. The actual payment of High School Payments as to any Dwelling Units, excluding any Affordable Dwelling Units, may be deferred, however, by means of the Deferral, Guaranty and Security Agreement set forth in Exhibit F, until the earlier of (i) completion of the High School Study, (ii) issuance of a Certificate of Compliance for the last Dwelling Unit within the PA 1/PA 2 Property, or (iii) School District's determination, in accordance with this Section 7.2, to require payment of some or all of the deferred High School Payments in order to provide Grades 9-12 school facilities to serve PA 1/PA 2 Project Students. The amount of the deferred High School Payment for a Dwelling Unit at the time it is actually required to be paid pursuant to this Section 7.2 shall be the amount of the High School Payment

at the time of issuance of the Certificate of Compliance for the Dwelling Unit plus interest on such amount accrued from the date of such issuance until the date of payment at a rate equal to the interest rate on five (5) year direct general obligations of the United States of America issued or held in book-entry form on the books of the Department of Treasury of the United States of America in effect on the date of issuance of the applicable Certificate of Compliance.

Based upon a One Year Projection or Three Year Projection, School District may determine that additional classrooms are required to be provided at either San Juan Hills or Tesoro High School in order to accommodate Grades 9-12 Project Students. School District shall provide written notice to Developers of such determination, which notice shall include: (i) a description of the necessary classrooms, (ii) a schedule for the construction of such classrooms, (iii) an estimate of the cost of such classrooms, and (iv) the amount of deferred High School Payments, including accrued interest, to be paid by the Developers for such classrooms, not to exceed the total amount of deferred High School Payments to date. Developers shall pay the amount stated in the School District's notice within sixty (60) calendar days of receipt. Upon and following such payment, the number of Dwelling Units for which the High School Payments have been made and twenty-seven (27) Grades 9-12 PA 1/PA 2 Project Students per classroom funded with such High School Payments shall be excluded from the High School Study and all subsequent One Year Projections and Three Year Projections and shall be deemed fully mitigated. RMV shall guarantee payment of any and all deferred High School Payments imposed pursuant to this SFF/Agreement by executing the Deferral, Guaranty and Security Agreement, in the form attached hereto as Exhibit F, concurrent with execution of this SFF/Agreement.

By the last to occur of (i) 180 calendar days following issuance of a Certificate of Compliance for the last Dwelling Unit within the PA 1/PA 2 Property or (ii) thirty (30) calendar days following completion of the High School Study, School District shall provide written notice to Developers with respect to the payment, release or further deferral of the outstanding, unpaid High School Payments. The deferred High School Payments shall be released and no longer payable if and to the extent that School District, on the basis of the High School Study, reasonably concludes that no additional High School Facilities are required to serve Grades 9-12 PA 1/PA 2 Project Students. The deferred High School Payments shall be paid or further deferred for later payment, as reasonably determined by School District, if and to the extent the School District determines based on the High School Study that additional High School Facilities are required to serve Grades 9-12 PA 1/PA 2 Project Students and, once paid, shall only be used for such High School Facilities.

**7.3. Identification of High School Site.** If the High School Study describes a need/demand for the development of a high school facility within Planning Areas 3, 4 or 5, and School District reasonably determines such a facility is required, Developers will cooperate with School District, subject to applicable law, including CEQA, in identifying, in accordance with the School Housing Plan, a high school site of appropriate size and location that will meet State CDE standards within one of such Planning Areas. In School District's selection of a high school site, the Parties shall consider environmental standards, traffic conditions, soils conditions and other factors that may affect the suitability and/or use of the selected site as a high school. The high school site selected by School District will be reserved by the applicable Owner not later than the date on which the County approves the next tentative "A" Map (after receipt of notice from the School District) for the subsequent individual subarea within the relevant

Planning Area that will contain the high school facility. For example, and not by way of limitation or exclusion, if the School District reasonably determines, based on the High School Study, that (i) a high school facility within the Rancho Mission Viejo Property will be necessary and (ii) the School District determines that the preferred and most appropriate location for the high school facility is within Planning Area 3, then Owner shall reserve for the high school site in the first tentative "A" Map prepared for the individual subarea within Planning Area 3 that will contain the proposed high school facility. The terms for School District's acquisition of the reserved high school site shall be mutually agreed upon by the School District and applicable Owner.

#### **Section 8.0 PA 2 School Site and PA 2 School**

8.1. PA 2 School Site Approvals. In addition to any other requirements set forth in this SFF/Agreement, prior to the transfer of title to the PA 2 School Site to School District pursuant to the terms of this SFF/Agreement and the Site Purchase Agreement, all of the following must occur.

(a) The PA 2 School Site and the Joint Use Site, subject to applicable law, must have received any and all final approvals from School District and all agencies having jurisdiction over the PA 2 School Site, including but not limited to, the County, CDE, DTSC and DSA, as applicable, and any other applicable governmental agencies. The PA 2 School Site must have satisfied all conditions required for school sites under CEQA and all other applicable local, state, or federal law, and must either have no identified health hazards as a result of the Preliminary Endangerment Assessment required by the DTSC or any health hazards must be able to be satisfactorily remediated or mitigated at no cost to School District.

(b) Any and all remediation, mitigation, clean-up, or other site work necessary to secure the above-referenced approvals for the PA 2 School Site and Joint Use Site shall be undertaken at the sole cost of Developers, provided, however, if Developers determine it would be economically infeasible to complete such work School District and Developers shall identify an alternative PA 2 School Site and Joint Use Site that meets all necessary State approvals and is mutually acceptable to both parties. Any costs incurred by School District as to the infeasible site shall be reimbursed to School District thirty (30) calendar days after request by School District.

(c) Developers agree to fully and timely cooperate with School District in the actions necessary to obtain the approvals set forth above.

8.2. Option to Purchase PA 2 School Site. Concurrent with execution of this SFF/Agreement by all Parties, RMV PA2 Development, LLC and School District shall execute the Option Agreement.

8.3. Timing and Process of Site and Determination of Purchase Price. RMV PA2 shall deliver title to the PA 2 School Site in accordance with the Site Purchase Agreement. The purchase price for the School Site shall be determined according to the process described below. RMV PA2 acknowledges and agrees the purchase price of the PA 2 School Site shall be paid solely from the Funding Sources and subject to all provisions of this SFF/Agreement relating to delayed or diminished State Funds.

School District, after consultation with RMV PA2, shall select an MAI appraiser to prepare a report as to the fair market value of the land, as of the agreed appraisal date ("School District Appraiser"). The School District Appraiser shall be instructed to appraise the fair market value of the PA 2 School Site based upon its highest and best use as residential development pursuant to the Entitlements, assuming the land is in Superpad Condition, and subject to all reservations and restrictions in the Site Purchase Agreement and Grant Deed incorporated therein. If RMV PA2 does not agree with the value determined by the School District Appraiser, RMV PA2 may designate an MAI appraiser to independently appraise the land, as of the agreed appraisal date, and prepare a report of the fair market value of the land as described above ("Owner Appraisal"). If the opinions of value of the two appraisers differ by 10% or less from each other, the purchase price of the land shall be the average of the two appraisals. If the opinions of the value of the two appraisers differ by more than 10%, the two appraisers shall be provided written notice by either party to agree upon a third MAI appraiser within thirty (30) days of such written notice. The third appraiser shall independently assess the land and prepare a letter opinion of the fair market value of the land as described above. In that event, the purchase price of the land shall be deemed to be the average of the two appraisals (from the previous two appraisals reports and the third appraisal letter opinion) having the closest opinions of value. The appraiser(s) shall be instructed to prepare their reports in accordance with the State Allocation Board requirements for such appraisal. The cost of the School District Appraisal and fifty percent (50%) of the third appraisal, if any, shall be funded from the Funding Sources. All other costs as to the purchase price determination shall be borne by Developers.

8.4. Condition of School Site. Pursuant to Attachment 2 to the School Housing Plan, Developers shall provide to School District for its review draft infrastructure improvement plans for the frontage public street improvements, wet and dry utilities, irrigation facilities and drainage facilities serving the PA 2 School Site as described in the School Housing Plan and the Site Purchase Agreement prior to approval of such plans by the applicable Public Agency and applicable service provider. Subject to the approval of the applicable Public Agency and/or applicable service provider, Developers shall incorporate in such plans reasonable revisions requested by School District in order to provide the PA 2 School Site in Superpad Condition. Developers shall also provide to School District for its review draft grading plans for the PA 2 School Site prior to approval of such plans by the applicable Public Agency. The grading plans shall provide for grading of the PA 2 School Site to not more than a 2% grade. In addition, if School District (i) provides to Developers site design specifications for the PA 2 School Site to a 1/10 of a foot contour in a timely manner prior to approval of the grading plans and (ii) has entered into the Site Purchase Agreement for the PA 2 School Site which provides for the School District's acquisition of the PA 2 School Site within ninety (90) calendar days following completion of the PA 2 School Site in Superpad Condition, the PA 2 School Site shall be graded to such contour. Otherwise, such grading work with respect to the PA 2 School Site will be conducted by School District. The costs of the frontage street improvements and wet and dry utilities to the PA 2 School Site, any remediation work required by Section 8.1(b) and grading of the PA 2 School Site pursuant to this Section 8.4 shall be considered the Superpad Condition in which School Site is to be delivered and shall be reflected in the conditions of the appraisal(s) relative to the fair market value of the PA 2 School Site.

RMV PA2 and School District agree that the PA 2 School Site shall be delivered in Superpad Condition, and RMV PA2 shall provide a Notice of Availability with respect to the PA 2 School Site upon satisfaction of the Superpad Condition for the PA 2 School Site. In



addition, RMV PA2 must be able to deliver title to the PA 2 School Site, free and clear of any and all defects, encumbrances, conditions, covenants and restrictions and liens as described in the Site Purchase Agreement that, as reasonably determined by School District, would materially affect School District's ability to use the PA 2 School Site for its intended purposes, including CFD special taxes of any Public Agency. Should all of the improvements required to deliver the PA 2 School Site in Superpad Condition not be completed prior to close of escrow, a performance bond as required by SAB Regulations shall be provided by RMV PA2. School District shall release such performance bond upon completion of such improvements. All improvements and work required to complete the Superpad Condition of the PA 2 School Site shall be accomplished by RMV PA2 consistent with applicable law.

8.5. Use of School Sites. The PA 2 School Site shall be conveyed to School District subject to the condition that subsequent to construction of the PA 2 School it not sell the PA 2 School Site for at least thirty (30) years from the date of the SFF/Agreement. RMV PA2 may waive the condition set forth in this Section 8.5 with respect to the PA 2 School Site at any time.

8.6. Design and Phasing. School District and PA 1/PA 2 Property Owners intend that the PA 2 School shall be designed, engineered and constructed in the most cost-effective manner possible and shall be reasonably compatible in architecture and design, including exterior materials, colors, textures, features and landscaping with the commercial properties expected to be constructed within the Planning Area in which the PA 2 School is located, as reasonably determined by School District. School District and Developers shall consult with one another periodically in the process of (i) RMV PA2's preparation of the grading plans for, and infrastructure improvement plans relating to, the PA 2 School Site and Joint Use Site, (ii) School District's preparation of the PA 2 School Site and Joint Use Site layout, (iii) School District's engineering and preparation of plans and specifications for the PA 2 School, (iv) Developers' engineering and preparation of plans for the Joint Use Facilities, and (v) developing and selecting the exterior materials, colors, textures, features and landscaping ("Exterior Design") for the PA 2 School. This consultation will include the following: (1) prior to commencing design of the PA 2 School, School District and its architect shall meet with Developers to discuss the specifications of the School and the Exterior Design concepts for the School and their compatibility with the commercial development in PA 2, and (2) as and when School District's architect prepares preliminary plans which includes Exterior Design elements, Developers shall be invited to review and provide comments on or suggestions respecting such plans, and (3) School District shall give due consideration to such comments in the preparation of the final plans and any additional cost as to design features proposed by Developers that exceed in cost the standard design features used by School District shall be borne by Developers, if any. In order that architects and engineers selected by School District to design the PA 2 School are adequately informed of their responsibilities under this SFF/Agreement, School District will include a description of the engineering and design review process substantially similar to this description and as set forth in the School Housing Plan in all solicitation for engineering and architectural services related to the PA 2 School.

8.7. Award of Construction Contracts. The contracts or bids solicited by School District, if applicable, may be obtained in the alternative for a phased PA 2 School for each phase and for the entire PA 2 School. If sufficient State Funds are received for the entire PA 2 School, including for acquisition of the PA 2 School Site, and taking into account Project

Funding Sources available at the time the Funding Threshold is reached for the first phase, School District may award contracts for the entire PA 2 School. If the associated Funding Amount is not sufficient to fund acquisition of the PA 2 School Site and the construction, furnishing and equipping of the PA 2 School, based on all of the alternative contracts or bids solicited by School District for the PA 2 School, such contracts or bids may be rejected and the PA 2 School redesigned so as to meet the herein described student capacity requirements, to the extent feasible on the basis of the funding available. Thereafter, the redesigned PA 2 School shall be contracted or bid and constructed to the extent of available funds as reasonably determined by School District. Alternatively, Developers may, in their sole discretion, augment the herein provided funding, on terms acceptable to Developers, so as to allow the PA 2 School to be constructed on the basis of the contracts or bids originally received.

### **Section 9.0 County Affordable Housing Property**

The Ranch Plan and the Affordable Housing Agreement obligate the Owners to provide up to 60 acres within the Rancho Mission Viejo Property to the County for the development of affordable rental housing. The portions of the PA 1/PA 2 Property ultimately conveyed to the County or the County's assignee pursuant to the Affordable Housing Agreement are referred to in this SFF/Agreement as the "County Affordable Housing Property." The Affordable Housing Agreement provides that the County's "Approved Builder" with respect to the County Affordable Housing Property shall be responsible for obtaining all permits, certificates and other approvals required for the development of the County Affordable Housing Property and to funding all applicable public facilities. Affordable Dwelling Units constructed within the County Affordable Housing Property shall be subject to the PA 2 School Payment and the High School Payment. The Deferral, Guaranty and Security Agreement for deferral of the High School Payments is not applicable to such Affordable Dwelling Units.

### **Section 10.0 Dispute Resolution**

10.1. General Any controversy or claim between School District and Owners arising out of or relating to this SFF/Agreement or any alleged breach hereof, shall be submitted to binding arbitration. Said arbitration shall be conducted by Judicial Arbitration & Mediation Services, Inc. ("JAMS") in accordance with JAMS' Rules of Practice and Procedure ("JAMS Rules"). Judgment upon any award rendered may be entered in any court having jurisdiction thereof. Unless a different location is required by applicable law, such arbitration shall be conducted at the JAMS office in the County. The substantive law applied in such arbitration shall be as provided in Section 11.14 below. The arbitration and the parties' agreement therefor shall be deemed to be self-executing, and if any party fails to appear at any properly-noticed arbitration proceeding, an award may be entered against such party despite said failure to appear. Notwithstanding the foregoing, (i) if it is determined by any court of competent jurisdiction, by the JAMS arbitrator, or by the agreement of the School District and Owners that arbitration shall be held at a location outside of the County and (ii) JAMS notifies the parties that it is unable to provide an arbitrator in the location where the arbitration is to be held, then the matter shall be arbitrated pursuant to the Commercial Arbitration Rules ("AAA Rules") of the American Arbitration Association ("AAA") through the AAA office closest to the location where the arbitration shall be held.

10.2. Arbitration Rules. Notwithstanding anything herein, the AAA Rules, or JAMS Rules, as applicable, as applied between the parties shall be modified by this SFF/Agreement as follows:

(a) Within seven (7) calendar days after its receipt of any demand for arbitration, JAMS or AAA, as applicable, will deliver to the parties a list of three (3) prospective arbitrators. Within seven (7) calendar days after said list is delivered to the parties, School District and Owners may each then strike one name and shall immediately so inform JAMS or AAA, as applicable, in writing. The remaining person on the list will serve as the designated arbitrator. If more than one name remains, then JAMS or AAA, as applicable, will designate an arbitrator from the remaining names on the list. If, for any reason, the designated arbitrator should fail or be unable to perform his or her duties of office, then JAMS or AAA, as applicable, shall declare the office vacant and immediately fill it. Said vacancy shall first be filled by JAMS or AAA, as applicable, designating one of the names, if any, remaining on the original list. If there are no names remaining, then said vacancy shall be filled in accordance with the terms and time limits set forth above in this sub-paragraph for the original designation of an arbitrator.

(b) If any party requests a prehearing conference, said request shall be made no later than seven (7) calendar days after the designation by JAMS or AAA, as applicable, of the chosen arbitrator. Any prehearing conference ordered by the arbitrator shall be scheduled so as not to delay the final outcome and may be ordered in the arbitrator's discretion to be held by telephone.

(c) No settlement or mediation conference or conferences may be ordered unless all parties request same.

(d) All discovery shall be at the sole discretion of the arbitrator, for good cause shown, and conducted in a fashion which will not delay the final outcome. There shall be no discovery as a matter of right, except that the arbitrator shall order a mutual exchange of what it determines to be relevant documents at the request of any party.

(e) Concise prehearing briefs are encouraged. Unless otherwise ordered by the arbitrator, all parties are requested to submit said briefs at least five (5) business days prior to the arbitration hearing.

(f) Within seven (7) calendar days of appointment, the arbitrator shall obtain available hearing dates from all parties and will set a hearing date. The arbitrator shall endeavor to accommodate the schedules of all parties, but in no case will the hearing date be set more than forty-five (45) calendar days after the original filing date of the demand for arbitration unless all parties consent, or unless a later scheduling is required by good cause and the rights of any party would be substantially prejudiced by refusal to set a later date. In the event a hearing is set more than forty-five (45) calendar days after the original filing date of the demand for arbitration without the consent of all parties, but instead because such a setting is required by good cause and by the necessity to avoid substantial prejudice to a party, then the arbitrator shall nonetheless schedule the hearing for the earliest date which would not substantially prejudice the right of any party. At least fifteen (15) calendar days' notice of the hearing date shall be given to all parties by the arbitrator. The arbitrator shall endeavor to conduct hearings on consecutive days (weekends and holidays excepted) to conclusion without adjournments. Adjournments shall

be ordered only upon the consent of all parties or for good cause shown in order to avoid substantial prejudice to any party.

(g) The fees and expenses of the arbitration will be borne equally by School District and Owners. As soon as practicable after selection of the arbitrator, the arbitrator or his/her designated representative shall determine a reasonable estimate of anticipated fees and expenses of the arbitrator and the arbitration, and render a statement to each party setting forth that party's pro-rata share of said fees and expenses. Thereafter, each party shall, within five (5) days of receipt of said statement, deposit said sum with the arbitrator. Failure of any party to make such a deposit shall result in a forfeiture by the non-depositing party of the right to prosecute or defend the claim which is the subject of the arbitration, but shall not otherwise serve to abate, stay or suspend the arbitration proceedings.

(h) In addition to all other relief, the prevailing party in any dispute which proceeds to arbitration hereunder shall also be entitled to an award of its reasonable attorney's fees, fees for witnesses and service of process, experts' fees and expenses ordered by the arbitrator incurred in (i) pre-filing negotiation with the losing party, (ii) the arbitration itself, (iii) proceedings in court to confirm or set aside any award, and (iv) efforts to obtain collection of any award or judgment rendered thereupon. Post-award and post-judgment expenses recoverable under this subsection shall not be merged into any award or judgment.

(i) In addition to all other forms of service provided for under the JAMS Rules or AAA Rules, as applicable, any party or counsel for a party which has a facsimile machine which is used as a part of his or its normal business shall be deemed to have consented to service by facsimile transmission.

(j) The arbitrator shall make his or her award no later than seven (7) calendar days after the close of evidence or the submission of final briefs, whichever occurs later.

## **Section 11.0 Miscellaneous**

11.1. Priority Attendance. School District has adopted a priority access policy that gives priority attendance access in a school to the students residing within a CFD that has contributed funding to such school. It is agreed by the Parties that, to the extent permitted by applicable law, the PA 1/PA 2 Property will be included in the attendance boundaries for the PA 2 School when constructed. School District agrees to provide Developers prior written notice of any School District Board actions regarding the adoption of attendance boundaries for the PA2 School and will meet and confer with Developers prior to such actions.

11.2. Portable Classrooms and Transportation Costs. By September 1 of each school year prior to the opening school year for the PA 2 School, School District shall determine whether any PA 1/PA 2 Project Students require portable classrooms or are required to be offered busing by School District due to the lack of available capacity in the Local Schools, as reasonably determined by School District. Such determination by School District shall consider the most recent Student Generation Report and One Year Projection. Developers agree to pay to School District either the actual cost of any required portable classrooms or the annual cost of busing such PA 1/PA 2 Project Students, in either case not to exceed \$1,587.60 annually for each

PA 1/PA 2 Project Student for whom busing or portable classrooms are required, in two equal installments no later than October 1 and February 1 of the school year.

11.3. Formation of CFD. Upon execution of this SFF/Agreement and all herein described related agreements by all parties, School District shall initiate and diligently pursue to completion proceedings to either, at Developer's request, (i) establish one or more CFDs for Planning Area 2 to finance the School Payments in accordance with the CFD Parameters or (ii) enter into a JCFA with another Public Agency establishing a CFD to finance the School Payments for Planning Area 2, in accordance with the CFD Parameters. All costs thereof shall be advanced to School District by Developers. If School District, in its sole, subjective discretion, elects neither to form such CFD nor enter into such JCFA as requested by and within a reasonable period of time following Developers' written request, Developers and Owners may terminate this SFF/Agreement, the Option Agreement and the Site Purchase Agreement by providing written notice to the School District. Provided, however, the provisions of Sections 3.8 and 3.9 relating to the applicability of the Entitlements as to Planning Areas 3, 4, 5 and 8 shall survive such termination and all School Payments received previously by School District shall be retained by School District to be used in accordance with applicable law. Upon formation of a CFD by the School District, if any, the Board of Trustees of the School District, as governing body of such CFD, shall take the necessary action to have the CFD become a party to this SFF/Agreement and all applicable provisions that apply to School District shall apply to the CFD as well. The Board, acting as the legislative body of the CFD, shall perform all obligations of this SFF/Agreement that require performance on the part of the CFD.

11.4. Successors and Assigns. All of the covenants, stipulations, promises, and agreements contained in this SFF/Agreement by or on behalf of, or for the benefit of, either of the parties hereto, shall bind or inure to the benefit of the successors and assigns of the respective parties. The owners of any completed Dwelling Unit or Senior Unit constructed and sold within the Rancho Mission Viejo Property, a public agency or non profit entity owning property not intended for residential development or Commercial/Industrial Development, the owner of any completed Commercial/Industrial Development, Rancho MMC and any other homeowners or property owners association (each an "End User") shall not be deemed to be a successor and assign of Owners for purposes of this SFF/Agreement, and shall have no right to enforce any provisions of this SFF/Agreement. At close of escrow for each Dwelling Unit constructed on the Rancho Mission Viejo Property, the completion of construction of any Senior Unit or Commercial/Industrial Development, the transfer of property to any public agency or non profit entity as to which such public agency or non profit entity would be deemed an End User, and the transfer of property to Rancho MMC or any other homeowners or property owners association, this SFF/Agreement shall automatically terminate as to such Dwelling Unit, Senior Unit and property without any further action of any party hereto. Notwithstanding such automatic termination, at the request of any party all other parties agree to execute a recordable document evidencing such termination at no cost to School District.

11.5. Amendment. This SFF/Agreement may not be amended except in writing by Developers, the other Owners and School District, duly executed by their authorized agents.

11.6. Entire Agreement. This SFF/Agreement supersedes and cancels any and all other agreements, either oral or written, between the parties with respect to the subject matter herein. Each party to this SFF/Agreement acknowledges that no representation by any party

which is not embodied herein or in any other agreement, statement, or promise not contained in this SFF/Agreement shall be valid and binding. The parties hereto agree to act in a manner that will not frustrate the purposes of this SFF/Agreement.

11.7. Attorney Fees. In the event of any action or proceeding brought by either party against the other under this SFF/Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees, costs and expenses incurred in such action or proceeding. In addition to the foregoing, the prevailing party shall be entitled to its reasonable attorney fees and costs and expenses incurred in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this SFF/Agreement into any judgment on this SFF/Agreement.

11.8. Execution. This SFF/Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

11.9. Notices. All correspondence, notices or certificates required by this SFF/Agreement shall be sufficiently given and served if delivered by hand directly to the offices named below or sent by United States first-class mail postage prepaid, with return receipt requested, and addressed as follows:

If to Developers and other Owners: c/o RMV Community Development, LLC  
28811 Ortega Highway  
San Juan Capistrano, CA 92693  
Attention: Chief Operating Officer

With a copy to: O'Neil LLP  
19900 MacArthur Blvd., Suite 1050  
Irvine, CA 92612  
Attention: John P. Yeager, Esq.

If to School District: Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675  
Attention: Superintendent

With a copy to: Bowie, Arneson  
4920 Campus Drive, Suite A  
Newport Beach, CA 92660  
Attention: Alex Bowie, Esq.

Either party may change its mailing address at any time by giving written notice of such change to the other party in the manner provided herein. All notices under this SFF/Agreement shall be deemed given, received, made, or communicated on the date personal delivery is effected or, if mail, on the delivery date or attempted delivery date shown on the return receipt.

11.10. Exhibits. The Exhibits attached hereto are deemed incorporated into this SFF/Agreement in their entirety by reference.

11.11. Time. Time is of the essence in this SFF/Agreement and in each and every terms, provision and condition hereof.

11.12. Remedies Cumulative. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity. The waiver or failure to enforce any provision of this SFF/Agreement shall not operate as a waiver of any future breach of such provision or of any other provision hereof.

11.13. Construction. The parties hereto acknowledge and agree that each has been given the opportunity to review this SFF/Agreement with legal counsel independently, and/or has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. In the event of an ambiguity in or dispute regarding the interpretation of same, the interpretation of this SFF/Agreement shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the draftsman.

11.14. Choice of Law. This SFF/Agreement has been negotiated and executed in the State of California and shall be governed and construed by the laws of that state without regard to the conflicts of laws principles.

11.15. Captions. The captions, headings, and titles to the various articles and paragraphs of this SFF/Agreement are not a part of this SFF/Agreement, are for convenience and identification only, and shall have no effect upon the construction or interpretation of any part hereof.

11.16. No Third Party Benefit. This SFF/Agreement is by and between the parties named herein, and unless expressly provided in the foregoing provisions no third party shall be benefited hereby. This SFF/Agreement may not be enforced by anyone other than a party hereto or a successor to such party who has acquired his/her/its interest in a way permitted by the above provisions.

11.17. Force Majeure. The obligations of any party under this SFF/Agreement, and all deadlines by which any party's obligations hereunder must be performed, shall be excused or extended for a period of time equal to any prevention, delay or stoppage in performance which is attributable to any strike, lock-out or other labor or industrial disturbance, civil disturbance, act of a public enemy, war, riot, sabotage, blockade, embargo, lightning, earthquake, fire, storm, hurricane, tornado, flood or explosion.

11.18. Consultation Regarding Consultants. School District and Developers shall consult with each other regarding School District's ultimate selection of consultants for the formation of the CFD and issuance of Bonds, the State approvals for the PA 1/PA 2 School Facilities and the design and construction of the PA 1/PA 2 School Facilities to the extent herein provided.

11.19. District CEQA Compliance. The obligations of School District as to acquiring or constructing the PA 1/PA 2 School Facilities are subject to School District complying with the California Environmental Quality Act.

11.20. Memorandum of Agreement. Within fifteen (15) days following the execution of this SFF/Agreement by all parties, a memorandum of this SFF/Agreement, in the form set forth in Exhibit I, may be recorded with respect to those portions of the Rancho Mission Viejo Property owned by the Owners at the time of execution of this SFF/Agreement.

*[Signature page follows]*



IN WITNESS WHEREOF, the parties hereto have executed this SFF/Agreement on the day and year first written.

CAPISTRANO UNIFIED SCHOOL DISTRICT

By: \_\_\_\_\_  
President, Board of Education

By: \_\_\_\_\_  
Clerk, Board of Education

Approved as to Form:  
Bowie, Arneson, Wiles & Giannone

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

RMV COMMUNITY DEVELOPMENT, LLC,  
a California limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications

*[Signatures continued on next page]*

RMV PA2 DEVELOPMENT, LLC,  
a California limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications

DMB San Juan Investment North, LLC, a Delaware  
limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications

*[Signatures continued on next page]*

RMV Middle Chiquita, LLC, a California limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications

RMV Ranch House, LLC, a California limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications

*[Signatures continued on next page]*

RMV Headquarters, LLC, a California limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications

RMV San Juan Watershed, LLC, a California limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications

*[Signatures continued on next page]*

RMV San Mateo Watershed, LLC, a California  
limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications

RMV Blind Canyon, LLC, a California limited  
liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications

*[Signatures continued on next page]*

RMV MC Investment, LLC, a California limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

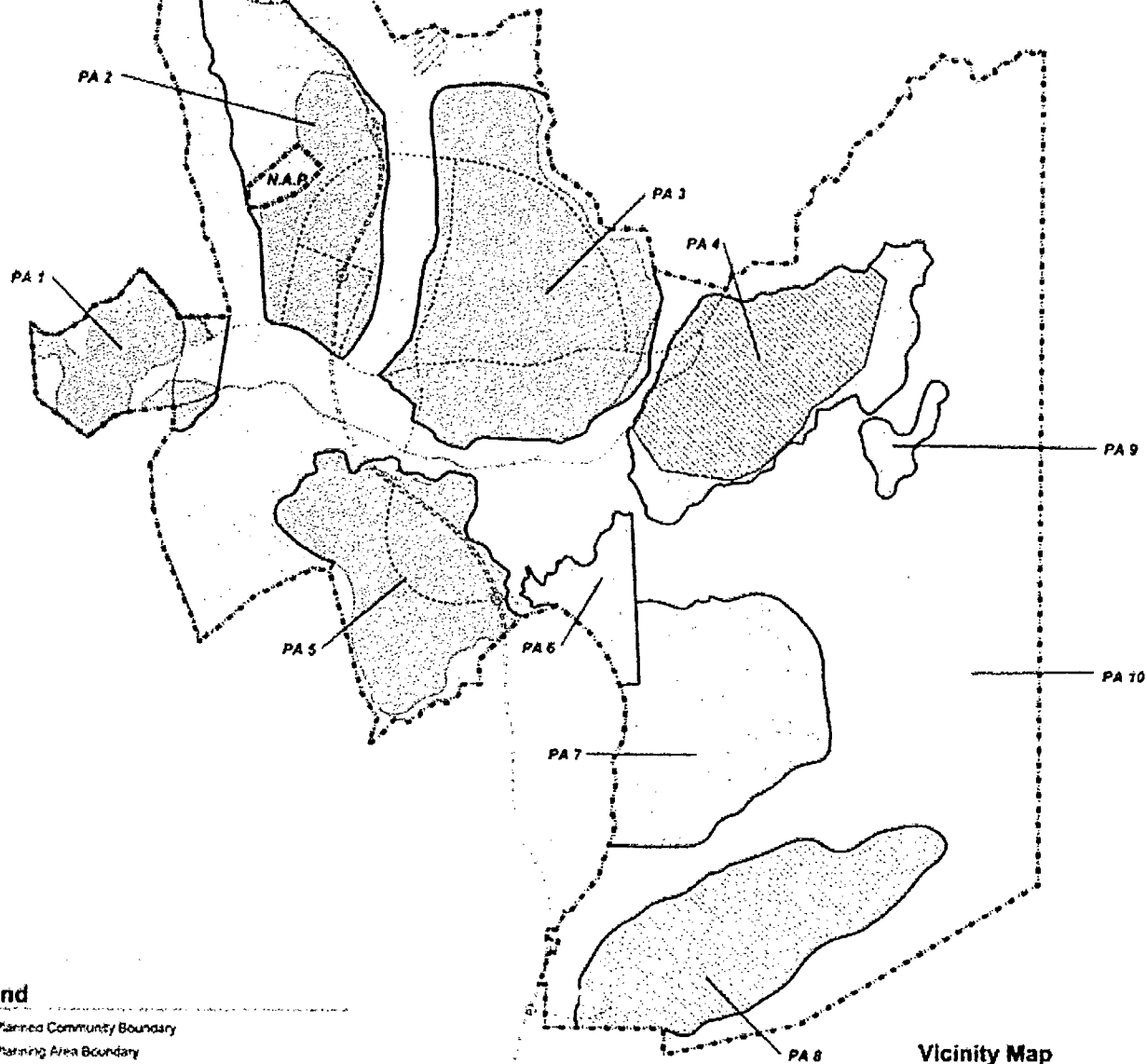
By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government Relations  
and Corporate Communications



## EXHIBIT A

### MAP OF RANCHO MISSION VIEJO PROPERTY

(Including Planning Areas)



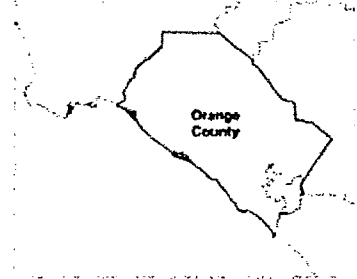
#### Legend

- Planned Community Boundary
- Planning Area Boundary
- Open Space (100' Contour Intervals - USGS)
- Development Area
- Potential Development Impact Areas
  - PA 4 - 550 AC Maximum Development Area
  - PA 5 - 175 AC Potential Reservoir
  - PA 9 - 500 AC Maximum Development Area
- Upper Gobernadora Water Quality / Flood Retention / Detention Basin
- Proposed FYC South (MPAH Alignment)
- Existing Arterial Road System
- Proposed Arterial Road System
- Crown Valley Parkway (MPAH Alignment)



NOT TO SCALE

#### Vicinity Map





**EXHIBIT A-1**

**DESCRIPTION OF RANCHO MISSION VIEJO PROPERTY**

**PA1** (MERCHANT BUILDERS)

LOTS 1-31 OF TRACT NO. 17453 AS SHOWN ON A MAP FILED ON 10/23/12, IN BOOK 911, PAGES 1 THROUGH 48, INCLUSIVE, OF MISCELLANEOUS MAPS, INSTRUMENT NO. 2012000644146.

PARCEL 1, AS SHOWN ON EXHIBIT "B" ATTACHED TO LOT LINE ADJUSTMENT LL 2004-039 RECORDED 10/21/04 AS INSTRUMENT NO. 2004000951825; EXCEPTING THEREFROM, THAT PORTION CONVEYED TO THE COUNTY OF ORANGE, AS MORE FULLY DESCRIBED IN DOCUMENT RECORDED 8/1/08 AS INSTRUMENT NO. 2008000368965; ALSO EXCEPTING THEREFROM, THAT PORTION CONVEYED TO THE COUNTY OF ORANGE, AS MORE FULLY DESCRIBED IN DOCUMENT RECORDED 10/5/10 AS INSTRUMENT NO. 2010000500805.

**PA1** (COMMERCIAL)

PARCEL 44, CC 2001-01, INSTRUMENT NO. 20010508635 O.R., RECORDED 07/26/01

LOT DD OF TRACT NO. 17453 AS SHOWN ON A MAP FILED ON 10/23/12, IN BOOK 911, PAGES 1 THROUGH 48, INCLUSIVE, OF MISCELLANEOUS MAPS, INSTRUMENT NO. 2012000644146

**PA2** (SOUTH)

PARCELS 39-48, CC 2011-01, INSTRUMENT NO. 2011000677171 O.R., RECORDED 12/27/2011  
PORTIONS OF PARCEL 29 AND 30, CC 2011-01

PARCEL 38, EXCEPTING THEREFROM THAT PORTION OF LAND GRANTED TO THE COUNTY OF ORANGE FOR COW CAMP ROAD, PER THE GRANT DEED AS INSTRUMENT NO. 2013000390494 O.R., RECORDED 6/27/2013

**PA2** (NORTH)

PORTION OF PARCEL 13, CC 2011-01, INSTRUMENT NO. 2011000677171 O.R., RECORDED 12/27/2011

**PA3**

PARCEL 70-103, CC 2011-01, INSTRUMENT NO. 2011000677171 O.R., RECORDED 12/27/2011

PARCEL 1, PM 93-159, PMB 280/49-50

PARCEL 1, PM 94-153, PMB 287/9-10

PARCEL 1, PM 95-161, PMB 296/11-12

**PA4**

PARCELS 104-121, CC 2011-01, INSTRUMENT NO. 2011000677171 O.R., RECORDED 12/27/2011  
(550-ACRE PA4 PARCELS 104-112, CC 2011-01)

**PA5**

PARCELS 4-7, 9-16, 18-24, CC 2012-01, INSTRUMENT NO. 2010000690527 O.R., RECORDED 12/22/2010

**PA8**

PARCEL 71-91, CC 2012-01, INSTRUMENT NO. 2010000690527 O.R., RECORDED 12/22/2010

**EXHIBIT B**

**SCHOOL HOUSING PLAN FOR THE RANCHO MISSION VIEJO**



## **EXHIBIT B**

### **2013 SCHOOL HOUSING PLAN FOR THE RANCHO MISSION VIEJO**

#### **1. PURPOSE AND SUMMARY**

This “2013 School Housing Plan” or (“2013 SHP”) is an exhibit to the School Facilities and Funding Agreement and Option to Purchase School Site (the “SFF/Agreement”) among Capistrano Unified School District (“School District”), RMV Community Development, LLC and RMV PA2 Development, LLC (collectively, “Developers”) and other “Owners,” which sets forth certain obligations for school facilities to serve students residing within the PA 1/PA 2 Property (“PA 1/PA 2 Project Students”). Rancho Mission Viejo development activities will occur within a series of individual planning areas (“PAs”). The approximate location and size of the PAs (per current plans and agreements) are depicted in Exhibit A of the SFF/Agreement and described as PAs 1, 2, 3, 4, 5 and 8. The 2013 SHP encompasses the school facilities plan for PA 1 and PA 2 as well as criteria to be considered in the High School Study described in the SFF/Agreement.

The 2013 SHP includes the following: the Developers’ residential dwelling unit (“DU”) projections for PA 1 and PA 2 the anticipated student generation rates per DU and student projections, a plan for serving the PA 1/PA 2 Project Students, the number and type of permanent and portable facilities currently operated by School District, and the estimated costs for future interim and permanent facilities. This 2013 SHP reflects present School District Board Education Policies and/or the California Department of Education (“CDE”) guidelines related to school size capacity, loading standards, and site acreages for new schools.

It is anticipated that the parties may in the future approve a school housing plan for K-12 students from PAs 3, 4, 5 and 8. This 2013 SHP may serve as the framework for those future discussions.

Capitalized terms that are not otherwise defined in this 2013 SHP shall have the meaning ascribed to them in the SFF/Agreement.

#### **2. ASSUMPTIONS USED FOR SCHOOL IMPACT ANALYSIS FOR PA 1/PA 2 PROPERTY**

To project the number of PA 1/PA 2 Project Students, the following number of DUs and student generation rates (“SGRs”) were assumed:

##### ***A. New Residential Units***

For the purposes of this analysis, the DUs are classified into five product types: (1) single family detached units (“SFD”); (2) high density > 7 DU/acre (“ac”) single family detached units (“HD-SFD”); (3) single family attached units (“SFA”); (4) multifamily rental units (“MF”); and (5) multifamily rental affordable units (“Affordable Dwelling Units”).

Based upon current development plans, it is anticipated that a maximum of 14,000 residential units are projected at build out of the Rancho Mission Viejo Project, of

which 6,000 are assumed for development as Senior Units, and not including any Affordable Dwelling Units that may be constructed in County Affordable Housing Property. Senior Units shall be consistent with Government Code Section 65995.1 and on such basis are assumed to not generate students. It is assumed there will be a total of 1,227 total residential units in PA 1, consisting of 286 Senior Units and the remaining 941 DUs divided among the following product types: 351 SFD, 304 SFA, and 286 MF DUs, as outlined in Table 1.

In PA 2, the 2013 SHP assumes 1,967 DUs divided among the following product types: 536 SFD, 691 HD-SFD, 450 SFA, and 290 MF DUs. In addition, a 12-acre site may be designated for use by the County for Affordable Dwelling Units. The density on this site is assumed to be 22 DU/acre for 264 Affordable Dwelling Units. The estimated total number of Dwelling Units in PA 2 is 2,231 for a total of 3,172 DUs within the PA 1/PA 2 Property, as outlined in Table 1.

**TABLE 1**  
*Estimated Number and Product Type of Dwelling Units by Planning Area*

|              | <u>Product Type</u> | <u>Number of Units</u> |
|--------------|---------------------|------------------------|
| <b>PA 1</b>  | SFD                 | 351                    |
|              | SFA                 | 304                    |
|              | MF                  | 286                    |
|              | <i>Total</i>        | <i>941</i>             |
| <b>PA 2</b>  | SFD                 | 536                    |
|              | HD SFD              | 691                    |
|              | SFA                 | 450                    |
|              | MF                  | 290                    |
|              | <i>Sub-total</i>    | <i>1,967</i>           |
|              | <i>Affordable</i>   | <i>264</i>             |
|              | <i>Total</i>        | <i>2,231</i>           |
| <b>TOTAL</b> | <b>SFD</b>          | <b>887</b>             |
|              | <b>HD SFD</b>       | <b>691</b>             |
|              | <b>SFA</b>          | <b>754</b>             |
|              | <b>MF</b>           | <b>576</b>             |
|              | <i>Sub-total</i>    | <i>2,908</i>           |
|              | <i>Affordable</i>   | <i>264</i>             |
|              | <i>Total</i>        | <i>3,172</i>           |

*Note: Timing, the number and type of Dwelling Unit within each PA are subject to change from time to time as market conditions dictate. Unit counts exclude Senior Units.*

The Rancho Mission Viejo Project will be implemented in phases and the timing of development and the number and type of units constructed within each PA will depend upon several factors including, but not limited to, entitlement processing schedules, demographics, market demand, financing costs, local/regional infrastructure coordination and the County's election to provide for additional Affordable Dwelling Units in PAs 3, 4, 5 and 8. An Area Plan will be prepared and approved by the County for each PA. Through the Area Plan and subsequent subdivision map process, the specific number and type of Dwelling Units will be

established. No later than January 31 each year, Developer will provide School District the total number of Dwelling Units by product type projected to be built over the first six months of that year (January through June) and each of the following three year periods (July 1 through June 30) as further provided in the SFF/Agreement.

**B. Student Generation Rates (“SGR”)**

For the purpose of the 2013 SHP, as to the PA 1/PA 2 Property it was mutually agreed by School District and Developers to estimate student generation in PA 1 and PA 2, based upon the SGR from existing residential development within Ladera Ranch comparable in density, size, pricing, and amenities to the planned housing (“Like Product”). In the case of HD-SFD SGR, Irvine Unified School District-wide SGR for like product were used to validate the Ladera HD-SFD SGR. In the case of the Affordable Dwelling Units, a formula increased the Ladera MF SGR for K-8 by 220% and the MF for 9-12 by 334% based upon Irvine Unified School District-wide SGR for multifamily, affordable dwelling units.

For future PAs, this process may be repeated. The Developers will identify existing DUs in PA 1 and PA 2 similar to the future housing planned in the PAs and provide School District with the addresses of the Like Product. The School District will match the addresses to determine the SGRs (“Actual SGR”). At least 300 Dwelling Units within each Product Type must be occupied prior to use of Actual SGR for planning school facilities. The current assumed SGR for each Product Type are described in Table 2 below.

**TABLE 2**  
*Student Generation Rates*

| <i>Product Type</i>                        | <i>K-5</i> | <i>6-8</i> | <i>9-12</i> | <i>K-12</i> |
|--|------------|------------|-------------|-------------|
| <b>Like Product SGRs for PA 1 and PA 2</b> |            |            |             |             |
| SFD  | 0.4404     | 0.1624     | 0.1371      | 0.7399      |
| HD SFD                                     | 0.2670     | 0.0922     | 0.0777      | 0.4369      |
| SFA  | 0.2353     | 0.0796     | 0.0681      | 0.3829      |
| MF   | 0.0607     | 0.0234     | 0.0271      | 0.1112      |
| Affordable                                 | 0.1335     | 0.0516     | 0.0904      | 0.2755      |

*Source: SGR based on Ladera Ranch Like Product and other sources for Affordable Dwelling Units. Matching by CUSD. May 2012.*

**3. STUDENT PROJECTION**

As outlined in the SFF/Agreement, on an annual basis, School District and Developers shall estimate the number of PA 1/PA 2 Project Students expected to be generated within the PA 1/PA 2 Property over a forty-two (42) month period based on the number and Product Types of Dwelling Units anticipated to be constructed, as provided by Developer, and the SGR outlined in Section II. B above.

At the time of preparing this 2013 SHP, using the SGRs from Table 2 above, the number of students anticipated at build-out within PA 1 and PA 2 are 823 K-5 students, 295 6-8 students and 266 9-12 students as shown in Table 3. Students generated from new communities may lag the SGR for a few years, and typically peak 5 to 10 years after initial home occupancy in the area. Historically, a new community begins to decline from the peak and the number of students stabilizes for many years, but in some instances there are increases in future years. The build out of PA 1 is expected to take 3 to 4 years and PA 2 is expected to build out several years following PA 1. Because the Like Product SGRs are derived from Ladera Ranch, which is assumed to be currently peaking in student population, these projections may be an estimate of an assumed maximum number of students.

| <b>TABLE 3</b><br><i>Cumulative Student Generation for PA 1 &amp; 2 using Like Product SGR</i> |            |            |            |             |             |
|--|------------|------------|------------|-------------|-------------|
| <i>Product Type</i>  | <i>K-5</i> | <i>6-8</i> | <i>K-8</i> | <i>9-12</i> | <i>K-12</i> |
| SFD  | 391        | 144        | 535        | 122         | 656         |
| HD SFD   | 184        | 64         | 248        | 54          | 302         |
| SFA  | 177        | 60         | 237        | 51          | 289         |
| MF   | 35         | 13         | 48         | 16          | 64          |
| Affordable   | 35         | 14         | 49         | 24          | 73          |
| Total  | 823        | 295        | 1,118      | 266         | 1,384       |

#### 4. FACTORS RELATIVE TO SCHOOL CONSTRUCTION

##### A. *Size of Schools: School Capacity and School Site Acreage*

Table 4 shows School District's desired school capacity and the proposed corresponding school site acreage<sup>1</sup>.

| <b>TABLE 4</b><br><b>Student Loading and School Site</b> |                            |                            |                               |   |
|--|----------------------------|----------------------------|-------------------------------|---|
| <i>School<br/>(Grade Level)</i>                          | <i>Permanent<br/>Seats</i> | <i>Peak<br/>Enrollment</i> | <i>Joint –Use<br/>Acreage</i> | <i>CUSD Proposed<br/>Site Acreage w<br/>Joint-use</i> |
| Elementary (K-5)   | 750                        | 1,000                      | 3                             | 13  |
| K-8  | 1,200                      | 1,600                      | 5                             | 19  |
| High (9-12)  | 2,200                      | 2,800                      | 10                            | 50  |
| <i>Source: CUSD</i>                                      |                            |                            |                               |   |

<sup>1</sup> School site acreage assumes net usable acres defined as the gross acres of a school site less any acreage within a public right of way, the acreage of perimeter slopes exceeding a 2% grade or any other acreage otherwise not reasonably useable for a school site.

*B. Anticipated Capacity in Existing Local Schools:*

Except as to determining Funding Thresholds and True Up Payments pursuant to the SFF/Agreement, existing School District schools listed in Table 5 ("Local Schools") are anticipated pursuant to the SFF/Agreement to serve PA 1/PA 2 Project Students based on a proportionate allocation by School District of available capacity on an interim basis as described in detail below. As provided in the SFF/Agreement, not later than January 31 each year, School District will compare the number of existing and projected PA 1/PA 2 Project Students and existing and projected District Students in the Local Schools and the PA2 School, once constructed, in the next school year to the Permanent School Facilities and Portable School Facilities capacity of such Local Schools allocated to the PA 1/PA 2 Property as provided in the SFF/Agreement and the permanent and interim capacity of the PA 2 School ("One Year Projection"). School District shall also compare the number of such existing and projected PA 1/PA 2 Project Students and District Students to the Permanent School Facilities capacity available in the Local Schools, as proportionately allocated by School District pursuant to Sections 4.4 and 4.5 of the SFF/Agreement and the PA 2 School, once constructed, for each of the next three (3) school years (the "Three Year Projection"). Prior to completion of the PA 2 School, the One Year Projection shall be used by the Parties in determining the need for transportation, or additional Portable Classrooms at Local Schools. Following completion of the PA 2 School, the One Year Projection shall be used to determine the need for Interim Facilities at the PA 2 School. The Three Year Projection shall be used by the parties in determining whether Funding Thresholds have occurred. At the time of preparation of this 2013 SHP, the following capacity is anticipated to be available at the Local Schools for proportionate allocation to the PA 1/PA 2 Property and PA 1/PA 2 Project Students:

Prior to construction of permanent facilities within PA 2, the Grades K-5 PA 1/PA 2 Project Students may attend Ambuehl Elementary School, where there is estimated existing capacity for 166 additional students, of which 100 would be housed in existing portable classrooms.<sup>2</sup> The current permanent capacity of Ambuehl is 500 students and the current enrollment is 434 students leaving an estimated available permanent capacity of 66. Because the Ambuehl site is 15 acres, it is anticipated that additional portables might be added to the site on an interim basis, with funds provided pursuant to Section 11.2 of the SFF/Agreement for example, without overcrowding the site to provide capacity for additional PA 1/PA 2 Project Students, subject to complying with applicable law and regulations, including CEQA.

Prior to construction of permanent facilities within PA 2, the Grades 6-8 PA 1/PA 2 Project Students may attend Marco Forster Middle School, where there is estimated existing capacity for 554 additional middle school students in existing portable classrooms. The total current permanent capacity of Marco Forster is 917 and the current enrollment is 1,363.

High school capacity at San Juan Hills High School might be available to serve PA 1/PA 2 Project Students. San Juan Hills High School has 355 seats available in

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<sup>2</sup>Available capacity calculation assumes loading factor of 25 students per classroom.

portable classrooms based on current enrollment.<sup>3</sup> The total current permanent capacity of San Juan Hills is 1,728 and the current enrollment is 2,021.

PA 1/PA 2 Project Students may also attend other Local Schools listed in Table 5 on an interim basis as space is available.

**TABLE 5**  
*Existing Local Schools to Serve PA 1 and PA 2 and future PAs on an Interim Basis*

| <i>Elementary Schools</i> | <i>Middle Schools</i> | <i>High Schools</i> |
|---------------------------|-----------------------|---------------------|
| Ambuehl                   | Ladera Ranch          | San Juan Hills      |
| Chaparral                 | Las Flores            | Tesoro              |
| Del Obispo                | Marco Forster         |                     |
| Kinoshita                 |                       |                     |
| Ladera Ranch              |                       |                     |
| Las Flores                |                       |                     |
| Oso Grande                |                       |                     |

*Source: CUSD.*

C. *School Construction Costs*

1. K-8 Schools Framework

The PA 2 School shall be constructed to house 1,200 students in permanent facilities and approximately 400 students on an interim basis in additional portable classrooms. On a per student basis, approximately 67 square feet ("SF") are allocated in permanent facilities for the PA 2 School. In addition and not included in the 67 SF allocation are interim portable classrooms for 400 students loaded at 26 students per classroom. Approximately 15 portable classrooms will be needed for interim capacity.

The total cost (excluding land acquisition and including all soft costs, service site, furniture and equipment, etc.) of the PA 2 School was calculated at \$388 (2012 costs) per square foot per the SFF/Agreement. The estimated current cost of additional portable classrooms is assumed to be \$40,000 per classroom.<sup>4</sup>

2. Elementary School Framework

Although no K-5 schools are planned within PA 1 and PA 2, elementary school construction may be considered in the future PAs. Any new K-5 schools within Rancho Mission Viejo are anticipated to house 750 students in permanent facilities and approximately 300 students in additional portable classrooms. On a

<sup>3</sup> CUSD Core Capacity. School Site Capacity Analysis & Board Policy and Administrative Regulations. Capistrano Unified School District. Prepared by Shawn M. Lohman, Executive Director, School Facilities and Planning. January 14, 2008. P. 7.

<sup>4</sup> Estimate includes acquisition and installation of a portable classroom.



per student basis, approximately 59 SF are allocated in permanent facilities. Portable classrooms for up to 300 students loaded at 25 students per classroom could be added to K-5 campuses to address interim capacity.

### 3. High School

At the time of preparation of the 2013 SHP, School District and Developers have agreed to High School Payments on a per Dwelling Unit basis within the PA 1/PA 2 Property, subject to the terms of the SFF/Agreement, but have not agreed on a school plan for permanent school facilities to address high school students generated by the development of Rancho Mission Viejo. The type of high school facilities, including the options of a small high school on 8-9 acres, an expansion of one of the existing high schools or a fair share of a new comprehensive high school within PA 3, 4 or 5 will determine the necessary high school facilities. School District, at its election, may require payment of deferred High School Payments and interest accrued thereon and provide High School Facilities prior to completion of the High School Study, as provided in Section 7.2 of the SFF/Agreement. Pursuant to Section 7.1 of the SFF/Agreement, a third party consultant selected by School District will conduct a study of the high school facility requirements for Rancho Mission Viejo at the time set forth in the SFF/Agreement. With respect to PAs 1 through 5, the study will be based on then current and projected student generation, capacity at high schools district wide and the Education Policies. A separate element of the study or a later study will examine PA 8 and the high school needs at San Clemente High School. Should a comprehensive high school or a small high school be required by the PAs 1 through 5 study, the applicable Owner will reserve, as provided in the SFF/Agreement, for acquisition by the School District on mutually acceptable terms, a high school site that meets the State requirements for school sites.

#### *D. School Site Acquisition and Development Costs*

The Option Agreement for the PA 2 School Site will be executed concurrently with the SFF/Agreement. The purchase price of the PA 2 School Site shall be fair market value in a Superpad Condition as set forth in the SFF/Agreement.

#### *E. Joint-Use Parameters*

An agreement between School District and Rancho Mission Viejo Master Maintenance Corporation ("Rancho MMC") will outline the rules and procedures for the joint-use of facilities located on property adjacent to the School Site ("Joint Use Agreement") and be executed concurrently with the SFF/Agreement and the Option Agreement for the PA 2 School Site. The SFF/Agreement provides for the construction of the Joint Use Facilities by Developers prior to, or concurrent with, completion of the PA 2 School. The basic requirements of the Joint Use Facilities include the following:

##### 1. Site Size

The PA 2 School is to be built on 14 acres adjoining approximately 5 acres that will be available for joint-use and owned by Rancho MMC as provided in the Joint Use Agreement. The exact acreage of the Joint Use Site will be determined in the design process as agreed upon by the School District and Developers.

## 2. Facilities

A multipurpose building will be built by Developers on the Joint Use Site concurrent with the PA 2 School and subject to the Joint Use Agreement. The multipurpose building will be available for school activities and events and will be designed so that a total of 1,300 students and adults can assemble in the multipurpose building at one time. The Developers, with the cooperation of School District, may design the multipurpose building facility so that school activities and Rancho MMC community activities can occur simultaneously in different locations within the multipurpose building.

Joint use fields and playgrounds will be built on both school district property and the Joint Use Site. To be considered joint-use, fields must be built to meet CDE requirements as to size, DTSC and, as applicable, DSA requirements relating to design and construction specifications. As provided in the Joint Use Agreement, the fields and playgrounds will not be used simultaneously.

No construction of any facilities such as sports fields, concessions, backstops or seating can be built on joint use land, whether on School District property or on the Joint Use Site without the permission and approval of the applicable landowner, as provided in the Joint Use Agreement.

## 3. Hours and Scheduling

The hours of use and scheduling process are set forth in the Joint Use Agreement.

## 4. Management and Maintenance

Management and maintenance of the Joint Use Facilities is set forth in the Joint Use Agreement.

## 5. Capital Cost

The multipurpose building shall be constructed by the Developers and sized so that a total of 1,300 students and adults could assemble in the multipurpose building at one time. The multipurpose building will meet the required codes and include the required ancillary facilities for a total of 1,300 students and adults such as restrooms and storage.

The School District will use its Furniture and Equipment allowance out of the construction budget for the PA 2 School to equip the multipurpose building for school-related needs.

The School District, if authorized by applicable law, will apply to the state and other potential funding sources for joint-use construction funding if such funding becomes available and the multipurpose building becomes eligible for such funding. Currently the Joint Use Facilities described above do not meet the current statutory requirements for the State Joint Use funding program because they will be owned by Rancho MMC.

6. State Approval

The Joint Use Facilities will be designed to meet state requirements, including CDE and DTSC for the field areas and DSA for the multipurpose building. The School District will obtain CDE approval for the joint-use fields from CDE. The Developer will obtain DSA approval for the multipurpose building.

7. Design and Design Process

Developers and School District intend that the multipurpose building be available for the PA 2 School activities and events as well as be available for community activities and events, at times simultaneously in different locations, as provided in the Joint Use Agreement. Developers agree that in the development of plans and specifications of the multipurpose building, consultation with School District representatives will include (1) a meeting prior to the commencing of the design with the Developers' architect; (2) review of preliminary plans by the School District where comments and suggestions are provided; and (3) due consideration of School District comments in preparation of the final plans. The plans shall be reviewed by DSA and construction shall be inspected by DSA.

F. State Funding

School District shall make reasonable efforts to pursue funding for the PA 2 School from the State ("State Funds") as provided in the SFF/Agreement. School District and Developers agree that State Funds are an integral funding source for the PA 2 School.

Pursuant to the current State funding program the State contributes for new schools per student grants and 50% of actual land acquisition and site development costs. At a minimum, under the current rules and land value assumptions, the State funding program would provide 50% of the fair market value of the PA 2 School Site. The per pupil construction grant amounts are updated annually based on changes in construction cost indexes that are intended to reflect current school construction costs. The per pupil grant amounts, which are the minimum amounts of construction funding anticipated, are updated annually in January and are currently as follows in Table 6. Based on 2013 per pupil grant amounts, it is assumed \$11,500,000 would be allocated by the State for construction of a 1,200 student K-8 school subject to Project Eligibility for 1,200 students.

**TABLE 6**  
*2012 State Funding Grant Amounts*

| <i>School (Grade Level)</i> | <i>Grant Amount per Pupil</i> |
|-----------------------------|-------------------------------|
| Elementary (K-6)            | \$9,455                       |
| Middle (7-8)                | \$9,999                       |
| High (9-12)                 | \$12,721                      |

*Source: State Allocation Board Meeting, January 2012.*

The current State funding program also administers special programs such as those funding joint-use facilities meeting applicable statutory requirements,

Career Technical education and many others. Therefore, it is assumed that State Funding estimates provided in this 2013 SHP are the minimum expected amounts under the current program.

1. Failure to Obtain State Funding

The SFF/Agreement includes provisions to address delays in obtaining, or unavailability of, State Funds for the PA 2 School.

G Other Sources of Funding

Other sources of funding to be applied by School District for the PA 2 School are described in the SFF/Agreement.

5. PROPOSED HOUSING PLAN

Based upon the student projections shown in Table 1, it is estimated that one new K-8 school in PA 2 will be sufficient to accommodate all K-8 students generated from PA 1 and PA 2. The projected number of high school students in PA 1 and PA 2 is 266. Capacity in existing Local Schools, as proportionately allocated by School District as described above, or additional portable school facilities as described in the SFF/Agreement, will address housing needs of PA 1 and PA 2 students on an interim basis as elected by School District.

A. Elementary and Middle School Level

School District will pursue State Funds for the PA 2 School. The PA 2 School will be constructed to house 1,200 students in permanent facilities with infrastructure in place for portable classrooms that could be added, with funds provided by Developers pursuant to the SFF/Agreement, to house approximately 400 additional students. Portable classrooms will be loaded at a rate of 26 students per classroom. On a per student basis, approximately 67 SF are allocated in permanent facilities depending on grade level for a total of 80,400 square feet. A deduction of 4,550 SF for the PA 2 School has been made as a result of the provision of the Joint-Use multipurpose building so that the total square footage of the PA 2 School will be 75,850. The resulting cost of the PA 2 School, excluding land, to be funded with Project Funding Sources and State Funds, shall not exceed the amount of \$29,429,800 ( $\$388/\text{SF} \times 75,850 \text{ SF}$ ), as adjusted on January 1, 2014, and each January 1 thereafter, based on the percentage change in the Construction Index, from the base date of January 1, 2012.

As set forth in the SFF/Agreement, the timing for completion of constructing the PA 2 School, subject to Section 11.17 of the SFF/Agreement, shall occur no later than when 300 grades K-5 PA 1/PA 2 Project Students in excess of the number of available permanent seats at Ambuehl Elementary School, if any, proportionately allocated to the PA 1/PA 2 Property are projected to be generated within PA 1 and PA 2 in a given school year ("Unhoused K-5 Students"). The Three Year Projection provided for in the Agreement will determine the year in which at least 300 Unhoused K-5 Students are projected, which will be the target school opening or completion date of the K-8 school ("K-8 Opening Date"). The following Funding Thresholds have been set based on the K-8 Opening Date:

- Funding of site acquisition and construction will be provided 20 months prior to the K-8 Opening Date. However, School District may request funding earlier, as provided in Section 6.3 of the SFF/Agreement, if that Funding Threshold has not occurred by the issuance of a Certificate of Compliance for the 1,150<sup>th</sup> DU within the PA 1/PA 2 Property and the other conditions provided in Section 6.3 of the SFF/Agreement are satisfied.
- The unexpended portion of the not-to-exceed Funding Amounts in the SFF/Agreement shall adjust each January 1, commencing January 1, 2014, based upon the percentage change in the Construction Index from the base date of January 1, 2012.

## B. High School Level

### 1. Framework for High School Needs and Demands Study

School District and Developers agree that School District's determination of whether a high school facility within the Rancho Mission Viejo Property is necessary will require district-wide analysis and a review of impacts from the entire Rancho Mission Viejo Project. As provided in Section 7.1 of the SFF/Agreement, School District will select and engage a third party consultant for preparation of a needs and demands study ("High School Study") that will address, in relevant part, how high school students from Rancho Mission Viejo may be accommodated by School District by the following alternatives:

- Construction of an 8 to 9 acre Grades 9-12 school within the Rancho Mission Viejo Property
- Expansion or improvement of Local high schools
- Comprehensive high school
- With Owners' consent, which shall not be unreasonably withheld, alternative high school facilities serving Project Students

The cost of services by the school facilities consultant, including research and study preparation, is not to exceed \$50,000 subject to annual adjustment by the same percentage as the Funding Amount adjustment. The High School Study shall be completed within 180 days from commencement. CUSD contemplates making a decision regarding high school facilities required for Rancho Mission Viejo at the conclusion of the study.

### 2. High School Study Methodology

The High School Study shall include the following elements:

- (i) Preparation of a five year high school projection using district wide K-12 student enrollment (California Basic Education Data System ["CBEDS"] files) weighted going back at least five years by school

of attendance and residence. The projection will be based on all of the following variables:

- students residing within School District and attending School District schools (inter-district students and private school students will not be considered),
- a cohort without weighting mechanisms,
- births within the zip codes of the district,
- actual student generation rates of new development constructed within the last five years,
- existing and projected development district wide with lag considerations,
- other relevant variables including but not limited to move-in/move-out factor.

- (ii) A methodology for determining permanent capacity and portable capacity to satisfy requirements to qualify for State Funding for the existing high schools. Based on such methodology, a calculation of capacity of the existing high schools in each of District's six comprehensive high schools and all other high schools existing at that time will be addressed;
- (iii) Identification of capacity shortages and surpluses by high school attendance area and/or area of residence;
- (iv) Map of results based on information in item (iii) above;
- (v) Review of the options for housing high school students, need, timing and funding of new high school facilities within Rancho Mission Viejo;
- (vi) Rank of order of the high school facilities options considering the Education Policies, capital costs, operating costs and available funds; and
- (vii) Other information and data as provided in the approved scope of work.

### 3. High School Site

If based upon the conclusions in the High School Study, the School District reasonably determines that a new high school is needed, Developers and School District will cooperate to identify and Developers will reserve a school site consistent with CDE standards for acquisition by the School District on mutually acceptable terms.

## 6. School Payments

School Payments include (i) with respect to Dwelling Units in Planning Area 1 and Planning Area 2, a PA 2 School Payment in the amounts per Product Type for the PA 2

School as provided in Table 7 and in Section 3.2 of the SFF/Agreement; and (ii) with respect to Dwelling Units in Planning Area 1 and Planning 2 a High School Payment as shown in Table 7 and in Section 3.2 of the SFF/Agreement.<sup>5</sup> School Payments are subject to adjustment each January 1, commencing January 1, 2014, as provided in Section 3.2 of the SFF/Agreement. School Payments may be adjusted prospectively in accordance with Section 6.6 of the SFF/Agreement if School District or Developer is able to find alternative funding sources not specifically identified in the SFF/Agreement to construct the PA 2 School or High School Facilities. The School Payment amounts reflect presently agreed student generation, anticipated construction costs and projected development, including the number of Dwelling Units and product types within PA 1 and PA 2 as outlined in this SHP.

The School Payments by Product Type are provided in Table 7 below:

**TABLE 7**  
*School Payments by Product Type and Grade Level*

| <b>School Payment</b>       | <b>Product Type</b>    | <b>Payment Per Unit</b> |
|-----------------------------|------------------------|-------------------------|
| <b>PA 2 School Payments</b> | SFD                    | \$13,280/ DU            |
|                             | HD SFD                 | \$9,900/ DU             |
|                             | SFA                    | \$7,660/ DU             |
|                             | MF                     | \$3,910/ DU             |
|                             | Affordable             | \$3,910/ DU             |
|                             | Commercial Development | \$0.51/ SF              |
| <b>High School Payments</b> | Senior                 | \$0.51/ SF              |
|                             | SFD                    | \$5,069/ DU             |
|                             | HD SFD                 | \$3,779/ DU             |
|                             | SFA                    | \$2,924/ DU             |
|                             | MF                     | \$1,492/ DU             |
|                             | Affordable             | \$1,492/ DU             |

<sup>5</sup> SFF/Agreement also provides for School Payments of \$0.51 per SF for Senior Units and Commercial/Industrial Development within the PA 1/PA 2 Property.

# **ATTACHMENT 1** **TASK SCHEDULE/ PROCESS OUTLINE**

The purpose of this Task Schedule and the target dates and timelines is to identify key milestones so the Parties, subject to Section 11.17 of the SFF/Agreement, can manage progress toward the opening of the PA 2 School.

| Item  | Completion  | Party Required to Perform  |
|---|---|--|
| Identify PA 2 School Site and Joint-Use Site and Joint-Use Facilities                     | Prior to 1 <sup>st</sup> Tentative "A" Map in PA 2                                    | School District, Developer and Rancho MMC                                  |
| Complete Preliminary State Site Approval  | Within 90 days following site identification  | School District  |
| Require competitive proposals and hire architect for PA 2 School and Joint-Use Facilities | 90 days from Funding Threshold for planning, etc.                                     | School District (for PA 2 School) and Developer (for Joint-Use Facilities) |
| School Site and Joint-Use Site studies commence   | 120 days from Funding Threshold for planning, etc.                                    | School District, Developer   |
| DTSC no further action letter for PA 2 School Site and Joint-Use Site                     | 300 days from Funding Threshold for planning, etc.                                    | School District, Developer   |
| Meet CEQA requirements  | 300 days from Funding Threshold   | School District  |
| CDE site package submission   | 300 days from Funding Threshold for planning, etc.                                    | School District, Developer   |
| DSA PA 2 School and Joint-Use Facilities construction plans submission                    | 420 days from Funding Threshold for planning, etc.                                    | School District, Developer   |
| CDE approval  | 3 months following submission of plans  | School District, Developer   |
| DSA approval  | 3 months following submission of plans  | School District, Developer   |
| OPSC application submission   | Within two weeks of CDE and DSA approvals   | School District  |
| School Site and Joint-Use Site Notice of Availability                                     | Satisfaction of Superpad Site Condition   | Developer  |
| Execute Site Purchase Agreement and acquire School Site                                   | Within 90 days of Notice of Availability, if not earlier pursuant to Option Agreement | School District and Developer  |
| SAB Approval  | Within 60 days of submitting application  | School District  |
| School Construction bidding   | Within 60 days of SAB approval  | School District  |
| Construction of PA 2 School and Joint-Use Facilities                                      | Within 60 days or later of (i) receipt of construction bids and/or (ii)               | School District and Developer  |



|  |  |                                |
|--|--|--------------------------------|
| commenced                              | Funding Threshold for construction                 |                                |
| Construction completed                 | Within 540 days of commencement                    | School District, Developer     |
| School and Joint-Use Facilities Opened | First school year after completion of PA 2 School  | School District, Developer     |
| Execute Joint-Use Agreement            | Completion of PA 2 School and Joint Use Facilities | School District and Rancho MMC |

## **ATTACHMENT 2**

### **GRADING, INFRASTRUCTURE, ENGINEERING AND DESIGN REVIEW PROCESS**

The purpose of Review Process is to facilitate coordination between the School District and its consultants and the Developer regarding the design of the school and the Joint Use facilities.

**Orientation (Kick-off)** Meeting with Developers or designee to discuss PA 2 School Site and Joint Use Site layout, infrastructure criteria and location, educational specifications of PA 2 School and initial design direction, including the location of any drainage or irrigation facility easements.

**Grading and Infrastructure Planning** Submittals to School District by Developers:  
1) Grading plans for PA 2 School Site and Joint Use Site  
2) Wet and dry utility infrastructure plans to School Site boundary

**Geo-Hazard Investigation and Report** Prepared by School District to determine Site layout

**Conceptual Planning Design Review** Submittals to Developers:  
1) Conceptual site plan(s) and related information  
2) Architectural concept plans and elevations  
3) Landscape concept plans

**Joint-Use Multipurpose Facility Conceptual Planning Design Review** Submittals to School District:  
1) Conceptual site plan(s) and related information  
2) Architectural concept plans and elevations  
3) Landscape concept plans

**Engineering and Design Review** Submittals to Developers:  
1) Dimensional site plans and details  
2) Developed architectural plans and details  
3) Developed landscape plans and details  
4) Exterior materials and colors under consideration  
5) Preliminary sign and naming concepts  
6) Sign program  
7) Preliminary engineering

**Construction Documents** Submittals to Developers:

**Design Review**

- 1) Final site plans, including grading/utilities plans
- 2) Final architectural plans and details
- 3) Sample board of exterior colors and materials
- 4) Final landscape/irrigation plans, with plant sizes
- 5) Exterior lighting plan and fixture illustrations
- 6) Final drawings for exterior signs

**Construction  
Compliance**

Submittals to Developers:

**Design Review**

Field change order review and design review verification

**Note:** The process for design review by Developers is independent to the process for design review by the state or other governmental entities. The procedures are not related in any direct way.

## EXHIBIT C

### CFD PARAMETERS

1. Definitions. Capitalized terms used in this Exhibit C that are not otherwise defined below shall have the meaning ascribed to them in the Agreement.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended (Government Code Section 53311, *et seq.*).

“Assessor’s Parcel” means a lot or parcel of land designated on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.

“Assessor’s Parcel Map” means an official map of the Assessor of the County designating parcels by Assessor’s Parcel Number.

“Assessor’s Parcel Number” means the number assigned to an Assessor’s Parcel by the County for the purpose of identification.

“Developed Property” means Assessor’s Parcels for which building permits are issued prior to March 1 of the prior fiscal year.

“Final Map Property” means Assessor’s Parcels for which a Final Subdivision “B” Map has been approved.

“Goals and Policies” means the “Local Public Agency Goals and Policies for Community Facilities Districts” adopted by School District as of the date of this SFF/Agreement.

“JCFA” means a joint community facilities agreement, by and among the Developer, School District or other Public Agency establishing a CFD and a Public Agency whose facilities are to be authorized to be financed through the CFD, which satisfies the requirements of the Act.

“Undeveloped Property” means taxable property within a CFD that is not classified as Developed Property or Final Map Property.

2. CFD Established by County, SMWD or other Public Agency.

• At Developers’ request, pursuant to Section 11.3 of the SFF/Agreement, and School District’s concurrence, the School Facilities may be authorized to be financed with the proceeds of the special taxes, excluding CFD Special Tax Remainder Funds, and bonds of one or more CFDs to be established that encompass(es) all or a portion of the PA 2 Property by the County, the Santa Margarita Water District (“SMWD”), or other Public Agency as the lead agency (the “Lead Agency”) in accordance with the parameters set forth below and, consistent with such parameters, a JCFA to be entered into by School District, Developers and the Lead Agency.

A. CFD Structure.

- Each CFD may consist of multiple improvement areas (each, an “Improvement Area”) corresponding to development areas or phases.
- Each CFD or Improvement Area will be subject to its own rate and method of apportionment of special taxes (“RMA”) and authorized indebtedness.
- Each CFD may be authorized to finance PA 1/PA 2 School Facilities.

B. Allocation of Special Taxes and Bond Proceeds.

- The JCFA shall provide for an allocation to School District of the portion of the CFD Special Tax Remainder Funds relating to the funding of the PA 1/PA 2 School Facilities, which may be applied by School District for any lawful purpose.
- The JCFA shall provide for an allocation to School District of a portion of the net proceeds of the Bonds to fund the PA 1/PA 2 School Facilities in satisfaction of the School Payments.

3. CFD Established by School District.

Consistent with the Goals and Policies, and subject to compliance with all applicable laws, Developers and the applicable Owner(s), pursuant to Section 11.3 of the SFF/Agreement may elect to request that School District serve as the lead agency for one or more CFDs that encompass(es) all or a portion of the PA 2 Property, in which case the CFD structure, RMA and Bonds of each CFD established by School District shall be based upon and conform to the parameters set forth below.

A. CFD Structure.

- Each CFD may consist of multiple Improvement Areas corresponding to development areas or phases, each of which will be subject to its own RMA and authorized indebtedness.
- Each CFD shall be authorized to finance PA 1/PA 2 School Facilities and, at Developer’s and the applicable Owner(‘s)(s’) request and subject to a JCFA with the applicable Public Agency(ies) with terms acceptable to the parties, facilities of the Public Agency; provided, however, the CFD special tax and bond proceeds of a CFD available to fund the facilities of a Public Agency shall not exceed \$1.00 less than the total CFD proceeds reasonably expected at the time of formation of the CFD to be generated by the CFD for PA 1/PA 2 School Facilities.

B. Rate and Method of Apportionment of Special Taxes.

- Assessors Parcels for which a building permit for a Dwelling Unit has been issued prior to March 1 each fiscal year shall be classified as “Developed Property.”

Assessors Parcels for which a Final Subdivision Map has been approved prior to January 1 but for which building permits have not been issued prior to March 1 each fiscal year shall be classified as "Final Map Property." All other taxable property shall be classified as "Undeveloped Property."

- The maximum special tax on all classifications of taxable property shall escalate by 2% annually, at Developers' election.

- The Developed Property special tax rate may vary based upon house size, density range or Product Type.

- The maximum special tax rates shall be established in an amount required to fund reasonable CFD administrative expenses per Improvement Area or CFD as a first priority for use of annual special tax collections and to provide 110% coverage of debt service on the Bonds; provided, however, the total effective tax rate in each CFD or Improvement Area shall not exceed 2% of the average estimated sales prices of Dwelling Units within the CFD or Improvement Area as of the date of formation, or such lesser amount requested by Developers.

- Each RMA shall provide for the levy of Special Taxes on Developed Property at the maximum, assigned special tax rate in each fiscal year at least until all School Facilities have been fully funded and all Owner Advances have been fully repaid.

- The special taxes collected from Developed Property and not required to pay CFD administrative expenses and debt service shall be deemed "CFD Special Tax Remainder Funds" and shall be available to the School District for any lawful purpose.

- Each RMA shall provide for the levy of special taxes to fund debt service, annual administrative expenses, reserve fund replenishment and, to the extent the CFD is not subject to a Teeter Plan, an amount of anticipated delinquency (the "Special Tax Requirement") according to the following priorities:

1. First, special taxes shall be levied on all Developed Property at the assigned annual special tax rate;

2. Second, special taxes shall be levied proportionately on all Final Map Property up to 100% of the assigned annual special tax rate as necessary to fund the Special Tax Requirement; and

3. Third, special taxes shall be levied proportionately on all Undeveloped Property up to 100% of the assigned annual special tax rate as necessary to satisfy the Special Tax Requirement.

- Full or partial prepayment of special taxes on Developed Property shall be permitted at any time.

- Commercial/Industrial Development and Senior Units shall be exempt from the levy of special taxes.

4. Bonds.

- No Bonds shall be issued without the Developers' and applicable Owner('s)(s') consent unless such issuance would not require the levy of special taxes on Final Map Property or Undeveloped Property.

- Bonds of each CFD, or Improvement Area of a CFD, shall be issued and administered pursuant to a bond indenture, fiscal agent agreement, resolution of issuance or similar agreement (the "Indenture"). The Indenture shall establish an Improvement Fund and separate accounts of the Improvement Fund referred to as the School Facilities Account and, with respect to each public agency that has entered into a JCFA, an Other Facilities Account.

- CFD Bond Proceeds deposited in the School Facilities Account shall be disbursed at Funding Thresholds to fund Project Funding Amounts to the extent and as required in the Agreement and to reimburse Owner Advances.

- Subject to bond market conditions at the time, bonds, other than bond or tax anticipation notes or similar short-term borrowings, shall have a final maturity of not less than 30 years.

- Developers and applicable Owners may request that, the CFD issue series of bonds, variable rate bonds, capital appreciation bonds, bond anticipation notes, tax anticipation notes or other similar short-term borrowing in order to minimize the levy of special taxes on Undeveloped Property and Final Map Property and to fund the PA 1/PA 2 School Facilities on a timely basis subject to concurrence by School District in its reasonable discretion. Subject to acceptable commitments by Developers and applicable Owners in accordance with municipal finance industry practices, and specifically subject to the availability of credit and liquidity facilities reasonably acceptable to School District, School District will not unreasonably refuse to issue variable rate bonds.

- Subject to bond market conditions at the time, in order to maximize the principal amount of Bonds that may be issued, Bonds may have escalating debt service that on average matches any escalation in the annual special tax rates.

5. Other Financing Mechanism. At the time of approval of this SFF/Agreement the Act represents the most efficient public financing mechanism for the PA 1/PA 2 School Facilities. If in the future, however, a new public financing mechanism becomes available that Developers and School District agree is preferable to the establishment of a CFD pursuant to the Act, the parties agree to implement such mechanism in substantial conformance to these CFD Parameters and such mechanisms shall be considered a "CFD" pursuant to this SFF/Agreement.

## EXHIBIT D

### FUNDING THRESHOLDS AND AMOUNTS

| Funding Purpose  | Funding Amount <sup>a</sup>                 | Funding Threshold <sup>b, c</sup>            |
|--|---|--|
| (a) Planning, design, architecture, engineering, state approvals | As required for actual costs                | Execution of SFF/Agreement                   |
| (b) Site acquisition   |   |  |
| Project Funding Amount   | 50% of fair market value                    | (i) Completion of superpad improvements; and |
| State Funding Amount   | As provided in SAB Regulations <sup>1</sup> | (ii) 20 months prior to Opening Date         |
| (c) Construction   |   |  |
| Project Funding Amount   | \$17, 929,800 <sup>d</sup>                  | (i) Acquisition of school site; and          |
| State Funding Amount   | \$11,500,000                                | (ii) 20 months prior to Opening Date         |
| (d) Furnishing and equipping                                     | Included in (c)                             | 6 months prior to Opening Date               |

a) Funding Amounts shall adjust according to Sections 6.4, 6.5 and 6.6 of the Agreement, as applicable and the actual required total Funding Amount shall be the lesser of (i) actual costs, as determined in accordance with Section 6.4, and (ii) the amounts stated in this table.

b) References to “Opening Date” means July 1 of the first school year in which it is determined in accordance with a Student Generation Report and Three Year Projection there will be 300 Grades K-5 PA 1/PA 2 Project Students in excess of the number of available permanent seats at Ambuehl Elementary School, if any, proportionately allocated to the PA 1/PA 2 Property. Where the Funding Threshold consists of an event or date, both the event and date must have occurred in order for the Funding Threshold to have occurred.

c) As an alternative to the specified Funding Thresholds in (b), (c) and (d), following the issuance of a Certificate of Compliance for the 1,150<sup>th</sup> Dwelling Unit within the PA 1 and 2 Property, School District can elect to trigger the site acquisition Funding Threshold by written notice to Developers, provided (i) School District closes escrow on the PA 2 School Site within sixty (60) days following such notice and (ii) School District has Project Eligibility for at least 1,200 Grades K-8 pupil construction grants and School District can elect to trigger the construction Funding Threshold by written notice to Developers, provided School District shall complete and open the School to Project Students within twenty (20) months following such written notice.

<sup>1</sup> The lesser of 50% of the Purchase Price or Appraisal in accordance with applicable SAB Regulations.



d) This Funding Amount is inclusive of any and all amounts previously expended by School District for (a) and all amounts to be funded for (d).

**EXHIBIT E**

**FORM OF JOINT USE AGREEMENT**



**RANCHO MISSION VIEJO/SCHOOL DISTRICT  
JOINT USE AGREEMENT  
PA2 SCHOOL**

This Joint Use Agreement ("JU/Agreement") is entered into as of \_\_\_\_\_, 2013, by Rancho Mission Viejo Master Maintenance Corporation ("Rancho MMC"), a California Nonprofit Public Benefit Corporation and the Capistrano Unified School District ("School District"). School District and Rancho MMC may be referred to herein as "Party" or collectively as "Parties". Capitalized terms used in the Recitals are defined in Section 1.

**RECITALS**

A. Rancho MMC will become the owner of certain facilities in Orange County, California, each of which is described on Exhibit A as a Shared Facility and conceptually depicted on Exhibit B.

B. The Rancho MMC's Shared Facilities are to be located in the master planned community known as Rancho Mission Viejo and are to be maintained by Rancho MMC. Members of Rancho MMC pay monthly assessments which are used, in part, for the upkeep, repair, improvement and maintenance of the Rancho MMC's Shared Facilities.

C. The members of Rancho MMC and Rancho MMC's Shared Facilities are subject to the Master Declaration (as defined in Section 1.f, below). The Master Declaration provides that Rancho MMC has the authority and the duty to maintain and manage Rancho MMC's Shared Facilities.

D. School District anticipates acquiring the PA2 School Site as depicted on Exhibit B. School District anticipates constructing a K-8 school on the PA2 School Site (the "PA2 School").

E. The PA2 School and PA2 School Site ("PA 2 School Facilities") are located adjacent to the Shared Facilities owned by Rancho MMC. PA 2 School Facilities include Shared Facilities to be owned by School District as described in Exhibit A. School District wishes to use Rancho MMC's Shared Facilities for the herein-specified School-related purposes and Rancho MMC desires to use the School District's Shared Facilities to the extent provided herein.

F. Rancho MMC and School District are willing to establish an arrangement to share the Shared Facilities in accordance with the terms of this JU/Agreement and the provisions of this JU/Agreement are subject to Rancho MMC and School District being owners of the Shared Facilities as herein described.

THEREFORE, Rancho MMC and School District agree as follows:

1. Defined Terms. Capitalized terms used in this JU/Agreement are given the following meanings:

a. "JU/Agreement" means this Joint Use Agreement, including the Recitals and the Exhibits.

- b. "Licensee" means the Party with the license to use the Shared Facility.
- c. "Licensor" means the Party that owns the Shared Facility.
- d. "Lunch Hours" are generally defined as from 11:00 a.m. to 1:00 p.m. on a School Day as determined by School District.
- e. "Master Declaration" means the Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Rancho Mission Viejo Recorded on February 7, 2013, as Instrument No. 2013000081623, in Official Records of Orange County, California.
- f. "Main Gathering Space" means the main gathering space in the Multipurpose Building. The Main Gathering Space is expected to be designed so that it may be partitioned into smaller rooms, allowing for multiple small events or activities to be held simultaneously.
- g. "Multipurpose Building" means the joint use facility on Rancho MMC property adjacent to the School District school site as depicted on Exhibit B. The Multipurpose Building will be used for school activities and events as well as Rancho MMC activities and events. The Multipurpose Building will be designed so that a minimum of 1,300 students and adults can assemble in the "Main Gathering Space" of the Multipurpose Building at one time.
- h. "Party" means Rancho MMC and School District, individually. "Parties" means Rancho MMC and School District, collectively.
- i. "Rancho MMC" means Rancho Mission Viejo Master Maintenance Corporation, a California Nonprofit Public Benefit Corporation.
- j. "Rancho MMC's Operating Standards" means the collective operating rules and standards as of the date of this JU/Agreement defined and identified as "Operating Standards" in the Master Declaration.
- k. "PA2 School" means, a public school located on the PA2 School Site within "Planning Area 2" of the Rancho Mission Viejo Planned Community to serve kindergarten through eighth grade students.
- l. "PA2 School Site" means the school site depicted on Exhibit B.
- m. "School Day" means a day as determined by School District when instructional classes are conducted. Federal and State holidays, in-service days, summer, and other vacation or break days are not School Days.
- n. "School District" means the Capistrano Unified School District, its Governing Board, employees (both full and part time), students and its invitees.
- o. "School Hours" mean the hours when instructional classes are conducted, starting ten minutes before the first instructional class of the School Day, continuing through

breaks, recess and lunch, and terminating at the end of the last instructional class of the School Day.

p. "School Year" is generally defined as September through June.

q. "Shared Facility" and "Shared Facilities" refer individually and collectively to the facilities identified on Exhibit A as Shared Facilities and depicted on Exhibit B.

2. Grant of License for Use of Shared Facility. Each Party grants to the other Party a nonexclusive license to enter upon and use the Shared Facility owned by the Party, as limited by this JU/Agreement and for the purposes described in this JU/Agreement. As provided in this JU/Agreement, in some instances the license to use is exclusive; at other times, the license to use is nonexclusive so both Parties may use designated portion of the Shared Facility at the same time. Whether a license to use is exclusive or nonexclusive is indicated in Section 8 and on Exhibit A for the Shared Facilities. Any Licensee's use of a Shared Facility must not unreasonably interfere with the reasonable use and enjoyment of the Shared Facility by the Licensor or any persons authorized to use the Shared Facility through the Licensor.

3. Rancho Mission Viejo Community Services Organization ("RanchLife") is a nonprofit public benefit corporation formed and operated to provide community services, promote social welfare and foster a unique sense of community in Rancho Mission Viejo. Rancho MMC, pursuant to the terms of this JU/Agreement, may authorize RanchLife, through Rancho MMC, as provided for herein, to use Shared Facilities.

4. Grant of License to Maintain. Each Party obligated to perform maintenance of a Shared Facility described on Exhibit A which is owned by the other Party is granted a nonexclusive pedestrian and vehicle license to enter to perform such maintenance. This license includes the right to allow employees, agents and contractors to enter to perform maintenance subject to Rancho MMC or its agents complying with applicable provisions of the Education Code.

5. Scope of License for Use. School District's license for use allows School District to use Rancho MMC's Shared Facilities for School-related activities compatible with the Shared Facility improvements. School District's authorized use does not include team sports practice or games, whether intramural or interschool, or any special events, unless approved in writing, in advance, for the school year or otherwise scheduled by Rancho MMC which Rancho MMC will reasonably approve on request of School District. Rancho MMC's license for use allows Rancho MMC to use School District's Shared Facilities for activities and programs offered by Rancho MMC to its members that are compatible with the Shared Facility improvements. Rancho MMC's authorized use of School District Shared Facilities does not include team sports practice or games, or any special events, unless approved in writing, in advance, for the school year or otherwise scheduled by School District which School District will reasonably approve. Rancho MMC members shall have the right to use the School District Shared Facilities during non School Hours on a casual basis and not for any organized activities. Neither School District nor Rancho MMC shall have any right to authorize use of Shared Facilities owned by the other Party by any third party via sublicense, facilities use

request, or other means without the prior written consent of the other Party which may be revoked at any time and for any reason.

6. Limits on License to Use.

a. Each license to use granted under this JU/Agreement only allows use during the hours and on the days authorized in this JU/Agreement.

b. Each license to use is exclusive or nonexclusive, as described in this JU/Agreement.

c. Each Licensee must pay all direct costs, provide appropriate staffing, provide coordination and arrange scheduling for all activities, events, services and programs that a Licensee provides in a Shared Facility. Each Licensee must ensure that all uses of a Shared Facility are appropriately and safely conducted.

d. Shared Facilities must be used in accordance with applicable law and governmental regulations. Use of Rancho MMC property shall be in accordance with the Master Declaration and Rancho MMC's Operating Standards. Use of School District property shall be in accordance with School District rules.

e. Each license to use granted under this JU/Agreement allows the Licensee to restrict admission to the portion of the Shared Facility Licensee is using during the Licensee's hours of use.

f. Licensee activities in a Shared Facility must not materially affect other Shared Facility users, ability to use the Shared Facility for their approved and intended purposes, nor become a nuisance to neighboring property owners or the Licensor.

g. No vehicle access, restroom access or right to store equipment onsite is granted unless expressly stated on Exhibit A.

h. No animals (except service animals allowed by law) may be brought in the Shared Facility in connection with a Licensee activity.

i. Each license to use does not include permission to construct, install, or erect any structure, device or other item, regardless of size, use or function, whether temporary or permanent on or in the Shared Facility.

j. Each Licensee is solely responsible for supervising adults and minors when using the Shared Facility. Each Licensee shall provide sufficient staffing and exercise such control as is necessary to avoid damage to the Shared Facility, its landscaping and improvements and/or injury to persons or property using the Shared Facility.

k. After a Licensee uses a Shared Facility, the Licensee must return the Shared Facility to its original condition. This includes returning any equipment, tables and chairs to the place that they were stored and removing any trash that accumulated.

7. Licensors Right to Use Shared Facility. Each Licensor shall continue to exclusively control the Shared Facility it owns. Each Licensor retains the right to use any portion of a Shared Facility that is not being used by Licensee.

8. License to Maintain. Any Party obligated by this JU/Agreement to perform maintenance of a Shared Facility owned by the other Party shall perform such maintenance in accordance with the following:

a. The Licensee shall use its best efforts to maintain, replace, remove, repair and renovate the Shared Facility in accordance with all applicable standards, rules and regulations. Unless advance written consent is obtained from the Licensor, to the extent reasonably possible, any plant material or improvements removed or damaged by Licensee must be replaced with the same or similar quality material;

b. The Licensee shall coordinate with Licensor personnel whenever maintenance, replacement, removal, repair or renovation of the Shared Facility requires the temporary removal of the areas from active use or where best management practices or general safety/health concerns recommend a temporary discontinuance of use; and

9. Calendar Planning and Use Scheduling.

a. Calendar Planning Session. At least twice a year, generally in June for the fall school quarter and November for the winter and spring school quarters, at a date, time and location convenient to both Parties, the Parties' representatives shall meet to plan the calendar for the Multipurpose Building and the other Shared Facilities. The Parties shall set the dates and times for the events listed in Section 8.c, discuss exclusive and compatible, shared use of the Multipurpose Building, planning for any significant construction or maintenance to be performed, and discuss any other issues related to the Shared Facilities.

b. Regular Days and Times Shared Facility is Available to Licensee. During the hours the Shared Facility is available for use by Licensee pursuant to this JU/Agreement, and so long as Licensee is current in the payment of any obligations under this JU/Agreement and is not otherwise in breach of this JU/Agreement, Licensee shall be entitled to schedule use of the Shared Facility. The hours the Shared Facility is available for use by Licensee may be changed by a written agreement signed by both Parties. If a Licensee advises the other Party, in writing or in other means agreed to by both parties, that it has elected not to use a Shared Facility during a scheduled use time, the Licensor may use the Shared Facility.

c. Multipurpose Building: Additional Arrangements. Rancho MMC and School District intend to get maximum use out of the Multipurpose Building owned by Rancho MMC. As a result, Rancho MMC and School District intend to have the Multipurpose Building available for simultaneous, compatible use by Rancho MMC and School District as much as possible when classes are in session on School Days, while reserving specific dates and times for exclusive use by School District. In view of these shared intentions, Rancho MMC and School District agree as follows:

(i) Nonexclusive Shared Use. School District shall have the priority right to use fifty percent (50%) of the useable area in the Main Gathering Space during School

Hours. The Parties acknowledge that the Multipurpose Building is available for simultaneous use (in different locations) by School District and Rancho MMC during School Hours so the dates and times of each Party's use during School Hours shall be set at the calendar planning session described in Section 8.a. The Parties agree to work together so that each Party has equal, compatible use of the Multipurpose Building during School Hours. The Parties also agree that either Party may use the entire Main Gathering Space during School Hours when it is not being used by the other Party subject to the approval of the other Party, which may not be unreasonably withheld.

(ii) Exclusive Use by School District. Up to six (6) times a year, School District will have exclusive use of the Multipurpose Building when classes are in session on School Days. Up to twelve (12) times a year, School District will have exclusive use of the Multipurpose Building from 3:00 p.m. to 10:00 p.m. on School Days. The dates and times of School District's exclusive use shall be set at the calendar planning session described in Section 8.a.

(iii) Rainy Day Use During Lunch Hours by School District. Rancho MMC agrees to allow School District to have nonexclusive use of the Multipurpose Building, on request, on rainy School Days during scheduled Lunch Hours. School District shall endeavor to provide Rancho MMC with as much advance notice as possible; however, the Parties understand that School District may only be able to give 30 minutes' advance notice. If Rancho MMC has events planned during Lunch Hours on a rainy day, Rancho MMC will work cooperatively with School District to accommodate School District's request to the extent possible.

(iv) Exclusive Use by Rancho MMC. If School District does not reserve use of the Multipurpose Building at the calendar planning session described in Section 8.a, then the Multipurpose Building is available for Rancho MMC's exclusive use.

d. Other Events at a Shared Facility. Should a Licensee desire to use the Shared Facility outside the hours authorized by this JU/Agreement for any reason, including for a special event or to prepare for any event, or if School District does not reserve use of the Multipurpose Building at the calendar planning session described in Section 8.a but then determines that it wishes to use the Multipurpose Building, then the Licensee must obtain written permission from the Licensor to reserve the Shared Facility. Rancho MMC's written permission shall be in the form of a Facilities Use Permit. If permission is granted, which shall not be unreasonably withheld, Licensee is authorized to use the Shared Facility in accordance with the terms of the document granting permission, the provisions of this JU/Agreement that do not contradict the terms of this documents and subject to Licensee's reimbursement of Licensor's direct costs incurred or in-kind services in lieu of such costs as a result of Licensee's use during non-School Hours. Use of the Shared Facility is evidence that Licensee agrees to the terms of the written permission. Rancho MMC agrees to use reasonable efforts to cooperate with School District to make the Multipurpose Building available for School District use.

e. Licensor Obligations in Connection with Licensee Reserved Use. When a Licensee has scheduled use:



(i) Licensors will not schedule or allow any other individuals or group to reserve the Shared Facility unless the use is approved in advance, in writing, by Licensee. Licensors are not required to patrol the Shared Facility or remove persons who may be using the Shared Facility during the hours the Shared Facility is available for use by Licensee. If Licensee shares use of a Shared Facility, Licensee's rights granted under this subsection shall only apply to the portion of the Shared Facility Licensee has the right to use.

(ii) Each Licensors will post on its website and periodically distribute notices to its Shared Facility users advising them of Licensee's right to use the Shared Facility.

10. Management and Maintenance.

a. Exclusive Control Over Shared Facility. Each Party retains the sole and exclusive right to make management decisions concerning all aspects of the Shared Facility that the Party owns. This management right includes the right to establish, amend, implement and enforce reasonable rules and regulations for the use of the Shared Facility. This management right includes the right to establish the timing and level of maintenance of the Shared Facility.

b. Right to Restrict Access to Shared Facility. Each Party retains the right to temporarily restrict access to the Shared Facility it is responsible for maintaining as the Party determines is reasonably necessary for safety reasons or to perform maintenance, repair or improvement activities. The Party obligated to perform maintenance agrees to use its best efforts to accommodate the other Party's schedule when scheduling work. The Party performing maintenance shall use its best efforts to provide the other Party prior written notice at least thirty (30) days in advance of any scheduled temporary restriction on access. In case of emergency, access may be restricted immediately. Whenever access is restricted, the Party restricting access shall provide the other Party with a written notice explaining the reason for restricting access and the estimated length of time the restriction will be in effect.

c. Damage to the Shared Facility. If a Licensors determines that an activity of a Licensee is causing excessive damage to a Shared Facility, the Licensee shall, at the written request of the Licensors, immediately discontinue such activity. Moreover, within thirty (30) days following Licensors's delivery of an invoice to Licensee identifying the costs and expenses reasonably incurred by Licensors in repairing the damage caused by the activity complained of, Licensee shall pay the invoice by delivery of immediately available funds. Licensee shall not recommence or otherwise allow the commencement of the activity complained of unless and until Licensors and Licensee have developed a mutually-acceptable plan concerning the conduct/activity in question.

d. Capital Improvements to Shared Facility. Should a Party desire to make any capital improvements to a Shared Facility, the Party may do so only after having secured the prior written consent of the other Party. All expenses associated with the proposed capital improvement must be borne by the Party proposing the work exclusively unless the other Party agrees to share in the expense. Any such agreement to share in the expense for a capital improvement must be in writing and signed by both Parties.

e. Limit on Work. A Licensee with a license to use shall not make any repairs to the Shared Facility without the prior written consent of the Licensor.

f. Vandalism and other Damage. If a Shared Facility is vandalized or damaged in any way during the time the Licensee is using a Shared Facility, the cost of repair and restoration shall be borne by the Licensee exclusively regardless of whether the perpetrators are known or not. If the Shared Facility is vandalized or damaged in any way at any other time or if the time of act causing the damage cannot be determined, the cost of repair and restoration shall be borne by the Licensor exclusively regardless of whether the perpetrators are known or not. This provision shall not limit the ability of the Licensor or Licensee to participate in the prosecution of, and to pursue and obtain restitution from, the individual(s) responsible for the damage.

g. Destruction of Rancho MMC Shared Facilities. In the event any Rancho MMC Shared Facility is destroyed or damaged during the term of this JU/Agreement, Rancho MMC covenants to repair and reconstruct such Rancho MMC Shared Facility at the earliest practicable date in conformance with Section 11.1 of that certain Master Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Rancho Mission Viejo recorded as Instrument No. 2013000081623 on February 7, 2013 in the Official Records of Orange County, California.

h. Restriction on Change in Use of Shared Facilities. Notwithstanding anything to the contrary contained in this JU/Agreement, the permitted use of a Shared Facility shall not be changed if such change would deprive Licensee of its rights to use the Shared Facility for the purposes set forth in this JU/Agreement. For example purposes only, School District shall not be permitted to install portable classrooms on the Sports Fields unless the Parties agree to negotiate an amendment to the terms of this JU/Agreement.

11. JU/Agreement Term/ Documentation. This JU/Agreement shall be effective upon the date of full execution hereof by the Parties. Notwithstanding the foregoing, the Parties' obligations under this JU/Agreement shall not commence until such time as the PA 2 School is constructed and operating and the Rancho MMC Shared Facilities are constructed, have been conveyed to Rancho MMC and are available for use (the "Commencement Date"). Rancho MMC agrees to accept such Shared Facilities upon completion of construction and operate such facilities as herein provided so long as School District or its licensee uses the PA 2 School as a public school for children. A copy of the Resolution of the Board of Directors of Rancho MMC authorizing the foregoing is attached as Exhibit C. Following the Commencement Date, this JU/Agreement shall remain in full force and effect so long as School District or its licensee operates the PA 2 School as a public school for children. This JU/Agreement shall automatically terminate on the date that School District or its licensee ceases to use the PA 2 School as a public school for children. Following such occurrence, and at the request of either Party, the other Party shall prepare, execute and deliver such reasonable documentation as shall reflect the termination of this JU/Agreement.

Prior to the beginning of each school year during the term, or as soon after as possible:  
(1) School District shall provide to Rancho MMC a copy of its School calendar for the upcoming

school year; and (2) each Licensee shall provide each Licenser with the insurance certificates required by Section 12.b.

12. Expense Allocation. The cost to maintain the School play fields shown on Exhibit C shall be borne by Rancho MMC to a standard equal to that of similar property of Rancho MMC. The cost to maintain all other Shared Facilities shall be borne by the owner of the Shared Facility. Each Licensee shall pay to its Licenser, as a portion of the consideration for the grant of this license, the following expenses:

a. The actual cost of work performed to repair damage described in Section 9.c and 9.f. Payment shall be due within thirty (30) days of receipt of the billing.

b. The charge for holding a special event imposed in the written permission to hold the event issued pursuant to Section 8.d. Unless a different date is set, payment shall be due within thirty (30) days of the issue date of the permission (but, in no event, later than the date of the special event).

c. Such other expenses and costs as are mutually agreed upon in writing from time to time by the Parties due on dates also agreed to by the Parties.

d. Late charges and interest calculated as follows: any payment due under this JU/Agreement which is paid more than fifteen (15) days after the due date, shall incur a 15% late charge which shall be due when levied. Additionally, any payment, including late charges, which is not made within thirty (30) days of its due date, shall bear interest at the rate of 12% per annum (or the highest interest rate allowed under applicable law) from the 30<sup>th</sup> day until the amount is paid.

13. Insurance and Indemnification.

a. Liability Insurance. Each Licensee shall obtain and keep in place a policy of general liability insurance with respect to its use of each Shared Facility. This liability policy shall provide coverage for any property damage, bodily injury, personal injury and/or death which occurs or is occasioned due in whole or in part to negligence by the Licensee. If the policy is provided by School District, it shall name Rancho MMC (including all of its corporate directors, officers and volunteers) and its Community Management Company as an additional insured, and an additional insured endorsement, in a form reasonably acceptable to Rancho MMC, must be provided. Each policy of insurance maintained by a Licensee shall be deemed primary, and no Licensee liability policy shall permit or require any contribution from Licenser or any other policy of insurance which might also cover the Shared Facility. The policy limits shall be at least \$3,000,000 per person, per occurrence in its limits. Each policy must include the right for Licenser to be notified if there is any termination, cancellation, or nonrenewal of that policy.

b. Proof of Insurance. Upon Licenser request, Licensee shall provide to Licenser one or more certificates manifesting the coverage required in Section 12.a. Moreover, Licensee shall provide written evidence of insurance renewal to Licenser prior to the expiration of the existing policy and at least thirty (30) days before each school year begins.

c. Reciprocal Indemnification. School District expressly agrees to indemnify, defend and hold Rancho MMC, its Community Management Company, their agents, employees, directors, officers, and volunteers free and harmless from all liability from whatever source for any and all injuries, damages, suits, actions, claims, liens, losses and/or demands arising from or as a result of School District's exercise of its rights under this JU/Agreement. This indemnity does not extend to claims arising from the sole negligence, sole willful misconduct or gross negligence of Rancho MMC.

Rancho MMC expressly agrees to indemnify, defend and hold School District, its governing board officers, employees, agents, students, and/or any other School District invitees free and harmless from all liability from whatever source for any and all injuries, damages, suits, actions, claims, liens, losses and/or demands arising from or as a result of Rancho MMC's exercise of its rights under this JU/Agreement. This indemnity will not extend to claims arising from the sole negligence, sole willful misconduct or gross negligence of School District.

The indemnity provisions applicable to both Rancho MMC and School District shall extend to claims accruing after this JU/Agreement is terminated (for activities/actions occurring during the term hereof) as well as while it is in force.

d. Claims Arising From Joint Acts or Omissions. Each Party shall provide its own defense with respect to any claim, demand, action or other proceeding arising out of the joint acts or omissions of the Parties in connection with or pursuant to this JU/Agreement. In such cases, except as provided in Section 12.e, each Party shall retain its own legal counsel and bear its own defense costs, and each Party may obtain indemnity from the other Party in accordance with any final judgment of a court of competent jurisdiction that apportions liability or determines comparative fault.

e. Joint Defense. The Parties may agree in writing to a joint defense of any claim, action or proceeding arising out of the joint acts or omissions of the Parties. Any such agreement may provide that the Parties may appoint agreed-upon legal counsel to defend such claim, action or proceeding. The Parties may equally bear the cost of any such joint defense and any amount paid by the Parties in settlement of, or as a result of a court judgment, arbitration or mediation of, the claim, action or proceeding. The Parties may equally share in any amount awarded to or received by the Parties in settlement of or as a result of a court judgment, arbitration or mediation of, the claim, action or proceeding. Neither Party may bind the other Party to any settlement of a claim, action, or proceeding without the express written consent of the other Party.

f. Comparative Fault. in the event any settlement, court judgment, or arbitration or mediation award allocates or determines the comparative fault of the Parties, either Party shall be entitled to reimbursement from the other Party, with respect to defense costs, settlement payments, judgments and awards, consistent with such comparative fault to the extent such settlement, judgment, award, payment or costs are not paid or reimbursed through insurance coverage that a Party is required to maintain pursuant to this JU/Agreement.

g. Survival of Terms. With respect to any acts, omissions, and/or incidents occurring prior to termination of this JU/Agreement, the requirement that a Party indemnify,

defend and/or hold the other Party harmless, or pay any amounts owing under this JU/Agreement, shall survive.

14. Notices.

a. School District Contact Person. School District shall provide (i) the name, address, phone number, email address and business hours of an individual who will act as the contact person on behalf of School District for all nonemergency matters, and (ii) the name, address, phone number and email address of an individual who will act as the contact person on behalf of School District and who will be available after hours and on weekends. Each contact person must have the authority to act and make decisions on behalf of School District related to use of each Shared Facility and related to any emergency matters. The information about the contact person shall be updated as necessary by written notice to Rancho MMC. The initial School District contact person is: Deputy Superintendent Business and Support Services, 33122 Valle Rd., San Juan Capistrano, CA 92675; Phone: (949) 234-9200, email: cdhampton@capousd.org, business hours: 8:00 a.m. to 5:00 p.m..

b. Rancho MMC Contact Person. Rancho MMC shall provide (i) the name, address, phone number, email address and business hours of an individual who will act as the contact person on behalf of Rancho MMC for all nonemergency matters, and (ii) the name, address, phone number and email address of an individual who will act as the contact person on behalf of Rancho MMC and who will be available after hours and on weekends. Each contact person must have the authority to act and make decisions on behalf of Rancho MMC related to use of each Shared Facility and related to any emergency matters. The initial Rancho MMC contact person is: Todd Beebe, 35 Ascenso, Rancho Mission Viejo, CA 92694; Phone: (949) 625-6500; email: todd.beebe@fsresidential.com, business hours: 9:00 a.m. to 5:00 p.m..

15. Conflicts/Dispute Resolution.

a. Communication To Prevent Problems from Becoming Disputes. In recognition of the need to resolve problems quickly and because of the proximity of the Shared Facilities, the School and the homes of the Rancho MMC members, School District and Rancho MMC shall use their best efforts to respond to all communications (whether written, or oral, by mail or electronic) within the response time indicated in the communication, but in no event later than twenty (20) days following dispatch of the communication by the other party. The Parties shall work cooperatively and in good faith to promptly resolve the issues/conflicts identified in the communication, which resolution shall be accomplished in the shortest time reasonably possible, but in no event later than forty-five (45) days following the issuance of the original communication. Again, both parties to this JU/Agreement agree to use their best efforts to resolve any problems which arise (whether related to this JU/Agreement or otherwise) as quickly as possible.

b. Breach Of the JU/Agreement. Failure to comply with the terms of this JU/Agreement is a breach. The following are examples of breaches of this JU/Agreement:

(i) A Licensee using the Shared Facility for a purpose or at a time not authorized by this JU/Agreement.

(ii) Failure to discontinue, or recommencement of, an objectionable activity in violation of the provisions of Section 9.c.

(iii) A Licensee failing to pay any expenses as required by this JU/Agreement.

(iv) A Licensor failing to make a Shared Facility available to a Licensee on the dates and at the times required by this JU/Agreement.

(v) The failure by either Party to fulfill any nonmonetary obligation where such failure continues beyond any applicable notice and cure period.

c. Mediation Prior to Litigation. School District and Rancho MMC agree that before initiating any litigation to enforce this JU/Agreement, the Parties will first make a reasonable attempt to mediate the dispute through nonbinding mediation.

d. Attorney's Fees. Should it be necessary to file an action at law or in equity to interpret and/or enforce the provisions of this JU/Agreement, the prevailing party shall be entitled to reasonable attorney's fees together with the costs of the suit if such fees and costs are ordered paid to the prevailing party by the court.

16. Miscellaneous.

a. No Assignment Without Consent. Neither Rancho MMC nor School District may assign any rights or delegate any obligations under this JU/Agreement without the express written consent of both of the Parties.

b. Waiver of Rights and Obligations. No waiver of any right or obligation under this JU/Agreement is effective unless executed in writing by the Party relinquishing the right or excusing the obligation. Any such waiver shall be limited to the specific right or obligation set out in the written waiver and shall not be a waiver of any other right or obligation under this JU/Agreement.

c. Entire JU/Agreement. Exhibit A and Exhibit A-1 are incorporated in this JU/Agreement by this reference. The written expression of this JU/Agreement, including the recitals and the Exhibits, contains the entire understanding of the Parties with respect to this JU/Agreement. No other statements, promises or understandings of any kind not contained in this JU/Agreement were made to or by either Party.

d. Interpretation. In interpreting this JU/Agreement, it shall be deemed to have been prepared by the Parties jointly and no ambiguity shall be resolved against either Party on the premise that it or its attorneys were responsible for drafting this JU/Agreement or any of its provisions. If there is a conflict between this JU/Agreement and the School Facilities and Funding JU/Agreement entered into by School District and RMV Community Development, LLC, a California limited liability company, this JU/Agreement controls and compliance with this JU/Agreement shall not be a default under the School Facilities and Funding JU/Agreement.

e. Waiver. Failure by a Party to enforce any term, condition, restriction, or provision of this JU/Agreement, in any certain instance or on any particular occasion, shall not be deemed a waiver of such enforcement right, with respect to that or any future breach of the same or any other term, condition, restriction or provision.

f. Severability. If any provision of this JU/Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by a court of competent jurisdiction to be illegal, null or void or against public policy, the remaining provisions shall not be affected.

g. Modification. All modifications to this JU/Agreement must be in writing and signed by both School District and Rancho MMC.

h. Representation of Authority. Each Party warrants and represents that all of the actions, steps and/or resolutions necessary to empower the signer to make and enter into this JU/Agreement on behalf of each of the Parties has been fully and faithfully taken so as to authorize and bind each of the respective Parties to this JU/Agreement.

i. No Third Party Beneficiaries. The only parties to this JU/Agreement are Rancho MMC and School District. This JU/Agreement does not involve any third party beneficiaries, and it is not intended and will not be construed to benefit or be enforceable by any other person or entity.

j. No Joint Venture. Neither Party is authorized to assume or create any obligation on behalf of, in the name of, or binding upon the other Party, nor shall this JU/Agreement in any way create, give rise to, or be deemed a joint venture or partnership between the Parties.

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**RANCHO MISSION VIEJO MASTER  
MAINTENANCE CORPORATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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**EXHIBIT A**

**SHARED FACILITIES CHART**

| <b>Description of Facility</b>                       | <b>Owner</b>    | <b>Licensee/Scope of License</b>   | <b>Licensee Hours of Exclusive Use and Nonexclusive Use</b>                              | <b>Additional Rules</b> |
|--|-----------------|--|--|-------------------------|
| Sports Fields<br>(excluding restroom access)         | Rancho MMC      | School District granted license to use. No vehicular access. No restroom access. Rancho MMC obligated to maintain.                               | Exclusive use during School Hours.   | No                      |
| Multipurpose Building<br>(including restroom access) | Rancho MMC      | School District granted license to use. No vehicular access. Restroom access granted. Rancho MMC obligated to maintain.                          | Available for use as described in Section 8.   | Yes<br>See Exhibit A-1  |
| Community Garden                                     | Rancho MMC      | School District granted license to use by Rancho MMC on a case-by-case basis.  | As approved by Rancho MMC  | No                      |
| School Play Fields                                   | School District | Rancho MMC granted license to maintain including associated vehicular access. No restroom access. Available for casual use by Rancho MMC members | Nonexclusive use for casual use and maintenance to be performed outside of School Hours. | No                      |
| School Parking Areas                                 | School District | Rancho MMC granted a nonexclusive license to use School District parking areas   | Nonexclusive use only during Rancho MMC events scheduled outside of School Hours.        | No                      |
| Rancho MMC Parking Areas                             | Rancho MMC      | School District granted a nonexclusive license to use Rancho MMC parking areas   | Nonexclusive use only during the non School Hours  | No                      |

| <b>Description of Facility</b>            | <b>Owner</b>    | <b>Licensee/Scope of License</b>   | <b>Licensee Hours of Exclusive Use and Nonexclusive Use</b> | <b>Additional Rules</b> |
|---|-----------------|--|---|-------------------------|
| Hard Courts located in a non-secured area | School District | Rancho MMC granted a nonexclusive license to use Hard Courts during non School Hours | Nonexclusive use only during the non School Hours           | No                      |

#### NONSHARED FACILITIES CHART

| <b>Description of Facility</b>  | <b>Owner</b>    | <b>Licensee/Scope of License</b>           | <b>Licensee Hours of Exclusive Use and Nonexclusive Use</b> | <b>Additional Rules</b> |
|---------------------------------|-----------------|--|---|-------------------------|
| Tot Lot and Lawn                | Rancho MMC      | School District granted no license to use. | School District granted no license to use.                  | No                      |
| Secured area of School Property | School District | Rancho MMC granted no license to use.      | Rancho MMC granted no license to use.                       | No                      |

## **EXHIBIT A-1**

### **ADDITIONAL RULES FOR USE OF MULTIPURPOSE BUILDING**

1. Licensor shall provide Licensee with one set of master keys for the Multipurpose Building. Licensee shall indemnify, defend and hold Licensor harmless with respect to any and all claims, demands, actions, other proceedings, liabilities, cost and expenses, including, without limitation, attorney's fees and expenses, arising from unauthorized possession or use of such keys. Licensee is responsible for ensuring that the Multipurpose Building is properly secured after each use.

2. Licensee, at its own cost and expense, shall be responsible for providing furnishings, equipment and supplies necessary for all events, activities and programs that Licensee provides, sponsors or conducts in the Multipurpose Building. Because the Multipurpose Building, at all times remains property of the Licensor, Licensee may not physically attach any fixtures to any portion of the Multipurpose Building without the express written consent of the Licensor.

3. Licensor Directors, agents and employees shall have the right at all times to enter any portion or area of the Multipurpose Building, whether or not in the event of an emergency or imminent threat to any person or property; provided that Licensor may not unreasonably disrupt or cause cessation of any Licensee activities or sponsored events at the Multipurpose Building.

4. When both Licensor and Licensee are using the Multipurpose Building, each party shall use reasonable efforts to ensure that its users do not enter the portion of the building the other party is using.

5. Licensor shall perform all regular and normal maintenance to the Multipurpose Building and repairs to the Multipurpose Building. Licensee shall advise Licensor at any time Licensee perceives a need for extra-normal maintenance or any repair of the Multipurpose Building. Licensee shall advise Licensor immediately upon discovery of any situation that constitutes an imminent threat to any person(s) or property, including, without limitation, any threat of additional damage to property. Licensor shall coordinate any necessary extra-normal maintenance or necessary repairs with Licensee, and shall attempt to schedule such activities at a mutually convenient time unless they are to be performed on an emergency basis.

6. Unless another arrangement is agreed to in writing, Licensor shall be responsible for paying all costs of capital improvements or replacements, including any building addition or reconstruction, renovation or replacement (other than normal repair and maintenance) of (i) building structural members, (ii) roof or roofing materials, or (iii) HVAC, electrical, plumbing or other utility systems, to the Multipurpose Building.

7. Events must be scheduled so that attendees have sufficient time to exit and enter the Multipurpose Building.

8. All School District users who are children under the age of fourteen (14) must be accompanied by a responsible adult age eighteen (18) or older.

9. Due to fire regulations, the total number of guests may not exceed the maximum occupancy as noted in the room and designated by law.

10. Catering and third party vendors are required to provide proof of insurance coordinated through Rancho MMC. All caterers must provide proof of liability insurance naming Rancho MMC and its Community Management Company as Additional Insured on the insurance policy for the day of the event.

11. All pick-ups and deliveries for School District events must be made within the time period allocated for School District use.

12. School District must ensure that guests and vendors vacate the Multipurpose Building at or before the end of the use time.

13. Smoking is not allowed inside or within 100 feet of the Multipurpose Building.

14. Only service animals are allowed inside the Multipurpose Building.

15. Excessive noise, or any noise which creates a nuisance, is prohibited. Special approval must be obtained from Rancho MMC for the use of amplified music or a public address system. Should the volume from musical groups, entertainment or public address systems create disturbances, Rancho MMC reserves the right to request that the volume be adjusted. Outdoor musical entertainment will not be allowed after 10:00 p.m. due to local ordinances.

16. Use of illegal drugs is prohibited.

17. Carrying or discharge of firearms is prohibited.

18. Rancho MMC is not responsible for personal items that may be lost, stolen or left behind.

19. All injuries or accidents involving Rancho MMC Property must be reported to Rancho MMC Management within 24 hours of the incident.

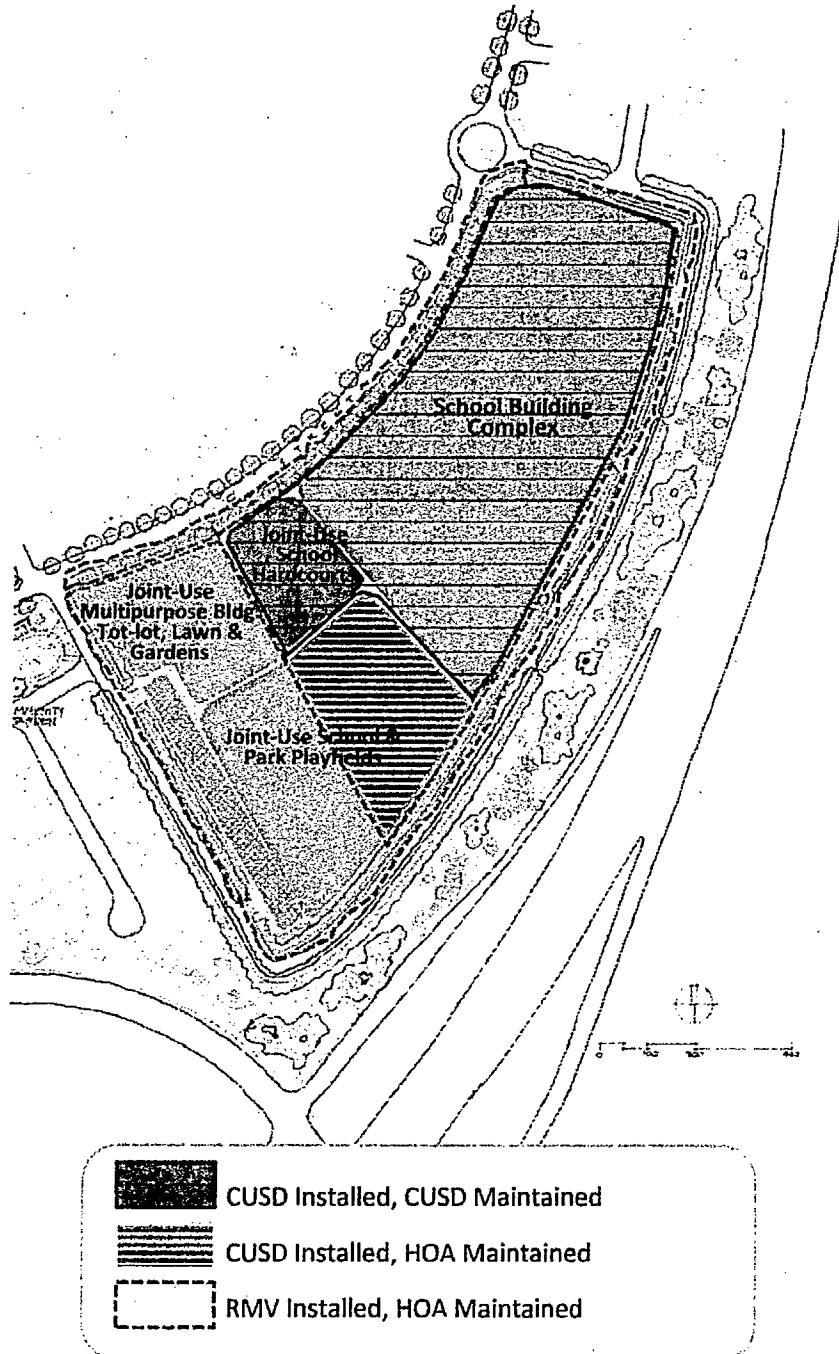
**EXHIBIT B**

**JOINT USE SITE PLAN**

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**EXHIBIT B**

**JOINT USE SITE PLAN**



**EXHIBIT C**

**RESOLUTION OF BOARD OF DIRECTORS OF RANCHO MMC**

DRAFT

**Minutes of the Special Meeting of the  
Rancho Mission Viejo Master Maintenance Corporation  
BOARD OF DIRECTORS**

I. **Call to Order.** Paul Johnson called to order the special meeting of the Rancho Mission Viejo Master Maintenance Corporation ("**Rancho MMC**") Board of Directors at 2 pm o'clock on August 29, 2013 at 28811 Ortega Hwy, San Juan Capistrano, California.

II. **Roll Call**

Directors present: Lisa Christian                      Directors absent: Marc Lamkin  
Paul Johnson

III. **New Business - Approval of Joint Use Agreement With the Capistrano Unified School District.** The Directors discussed then adopted, by affirmative vote of the two Directors present, the following resolutions:

**RESOLVED**, that the form of Joint Use Agreement to be used to establish an arrangement to share facilities in planning area 2 is approved. A copy of the form of Joint Use Agreement shall be filed in the Rancho MMC records with these minutes.

**RESOLVED FURTHER**, that the officers are authorized to have any incomplete Exhibits to the Joint Use Agreement prepared and are authorized to approve the Exhibits for use with the Joint Use Agreement.

**RESOLVED FURTHER**, that the officers are authorized to approve such additional changes as may be necessary to obtain School District approval of the final form of Joint Use Agreement.


**RESOLVED FURTHER**, that two officers are authorized to execute the Joint Use Agreement on behalf of Rancho MMC.

**RESOLVED FURTHER**, that upon completion, the Joint Use Facilities that will be owned by Rancho MMC shall be accepted in accordance with Rancho MMC Property acceptance procedures.

IV. **Adjournment.** Paul Johnson adjourned the meeting at 2:30 pm.


Dated: 8/29/2013

Submitted by:

  
\_\_\_\_\_  
Lisa Christian, Secretary

Approved by:

  
\_\_\_\_\_  
Paul Johnson, Director

  
\_\_\_\_\_  
Lisa Christian, Director

  
\_\_\_\_\_  
Marc Lamkin, Director



## **Form of Joint Use Agreement Approved at Meeting**

**EXHIBIT F**

**FORM OF DEFERRAL, GUARANTY AND SECURITY AGREEMENT**



## **EXHIBIT F**

### **FORM OF DEFERRAL, GUARANTY AND SECURITY AGREEMENT**

THIS DEFERRAL, GUARANTY AND SECURITY AGREEMENT ("Guaranty"), dated as of \_\_\_\_\_, 2013, is made by RMV Community Development, LLC, a California limited liability company ("Guarantor"), in favor of Capistrano Unified School District ("School District").

Guarantor, RMV PA2 Development, LLC, a California limited liability company ("RMV PA2" and, with Guarantor, "Developers"), other landowners and School District are parties to that certain School Facilities and Funding Agreement and Option to Purchase School Site dated \_\_\_\_\_, 2013 ("SFF/Agreement"), pursuant to which the Developers have promised to pay High School Payments, as provided in and as those terms are defined in the SFF/Agreement (the "Obligations"). School District has agreed to permit Developers to defer payment of the Obligations as provided in Section 7.2 of the SFF/Agreement on the condition that this Guaranty be executed by Guarantor pursuant to which Guarantor has agreed to guarantee the Obligations of the Developers to the School District in an amount not to exceed \$10,000,000. Accordingly, Guarantor hereby warrants, covenants and agrees as follows:

1. **Guaranty.** Guarantor hereby guarantees to School District the performance of the Obligations of the Developers, up to a maximum amount of \$10,000,000, which maximum amount and guaranty shall adjust based upon the adjustment of all deferred High School Payments and interest accrual pursuant to Section 7.2 of the SFF/Agreement. Guarantor acknowledges and agrees that, with respect to the Obligations, such guaranty shall be a guaranty of payment and not of collection. If either of the Developers shall default in the full and timely payment of any amounts owed in respect of the Obligations, Guarantor will forthwith make full payment of any amount due and payable at that time under the SFF/Agreement (up to a maximum amount of \$10,000,000, as adjusted,) at its sole cost and expense within sixty (60) calendar days of written demand by School District. The liabilities and obligations of Guarantor to School District pursuant to this Section 1 shall be unconditional and irrevocable and shall not be conditioned or contingent upon the pursuit of any remedies against any other person or entity ("Person"). Guarantor hereby waives any right, whether legal or equitable, statutory or non-statutory, to require School District to proceed against or take any action against or pursue any remedy with respect to any Person or make presentment or demand for performance or give any notice of nonperformance before School District may enforce its rights against Guarantor hereunder and, to the fullest extent permitted by law, or raise any other defenses or benefits that may be derived from or afforded by applicable law limiting the liability of or exonerating guarantors or sureties, or which may conflict with the terms of this Section 1.

2. **Continuing Guaranty.** Guarantor agrees that this Guaranty is a continuing guaranty relating to the Obligations in the amount of the deferred High School Payments and accrued interest due and payable at any time in accordance with the SFF/Agreement. This Guaranty shall continue in effect and be binding upon Guarantor until either (i) it is replaced by a guaranty in substantially the form of this Guaranty from a new guarantor that is reasonably acceptable to School District, (ii) it is replaced by other security that is reasonably acceptable to School District or (iii) the Obligations have been fully satisfied or terminated in accordance with Section 7.2 of the SFF/Agreement.

3. Representations. Guarantor represents and warrants to School District that (i) Guarantor is a limited liability company duly organized, validly existing and in good standing under the laws of the State of California, and has all requisite power and authority to execute, deliver and perform its obligations under this Guaranty; (ii) the execution, delivery and performance by Guarantor of this Guaranty have been duly authorized by all necessary limited liability company action of Guarantor; and (iii) this Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms.

4. Guarantor Bank Statements. Following the execution of this Guaranty, on the first business day on or following each January 15, April 15, July 15 and October 15, Guarantor shall provide to the Chief Business Officer of School District on a confidential basis, and not as a public record, statements of deposits of Guarantor's funds or other liquid assets ("Available Deposits") in financial institutions. If the amount of such Available Deposits is less than the total amount of deferred High School Payments and accrued interest as of the end of the preceding month (the "Accrued Obligation") School District shall deliver a written demand to Guarantor to, within sixty (60) days of receipt of such notice, provide either (i) updated statements of deposit demonstrating that the Available Deposits equal or exceed the Accrued Obligation, (ii) a guaranty from a substitute guarantor reasonably acceptable to School District or (iii) another form of security for the Obligations reasonably acceptable to the School District. If Guarantor does not provide any of (i), (ii) or (iii) above, the School District can deem the entire Accrued Obligation to be immediately due and payable and, until paid, may elect not to issue Certificates of Compliance for future Dwelling Units within the PA 1/PA 2 Property until the Accrued Obligation has been paid.

5. Default. The Guarantor shall be in default under this Guaranty on the occurrence of its default in the payment of the Obligations pursuant to Section 1 or 4 above.

6. Notices. All notices and other communications provided for hereunder shall be in writing (including by facsimile or email) and shall be mailed, sent or delivered (i) if to School District at 33122 Valle Road, San Juan Capistrano, CA 92675, Attention: Superintendent, Fax (\_\_\_\_) \_\_\_\_-\_\_\_\_; and (ii) if to Guarantor, at or to its address or facsimile number, or email address, set forth below its name on the signature page hereof, or at or to such other address or facsimile number, or email address, as such party shall have designated in a written notice to the other party. All such notices and communications shall be effective upon receipt.

7. No Waiver. No failure on the part of School District to exercise, and no delay in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, remedy, power or privilege preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights and remedies under this Guaranty are cumulative and not exclusive of any rights, remedies, powers and privileges that may otherwise be available to School District.

8. Binding Effect; Amendments. This Guaranty shall be binding upon Guarantor and its successors and assigns, and inure to the benefit of and be enforceable by School District and its successors, endorsees, transferees and assigns. This Guaranty may not be amended except by a writing signed by Guarantor and School District. No waiver of any rights of School District under any provision of this Guaranty or consent to any departure by Guarantor therefrom shall be effective unless in writing and signed by School District.

9. Law. This Guaranty shall be governed by and construed in accordance with California law.

10. Legal Costs. In the event that School District incurs costs or legal fees in regard to seeking to collect the deferred Obligations, it shall also recover all costs and fees, including legal fees.

11. Legal Construction. In case any one or more of the provisions contained in this Guaranty shall for any reason be held invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability of that provision shall not affect any other provision of this Guaranty, and this Guaranty shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

12. Prior Agreements Superseded. This Guaranty constitutes the only agreement of the parties with respect to the subject matter of a guaranty as set forth in this Guaranty and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Guaranty.

*[Signature page follows]*

IN WITNESS WHEREOF, Guarantor has executed and delivered this Guaranty, as of the date first above written.

RMV Community Development, LLC, a  
California limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

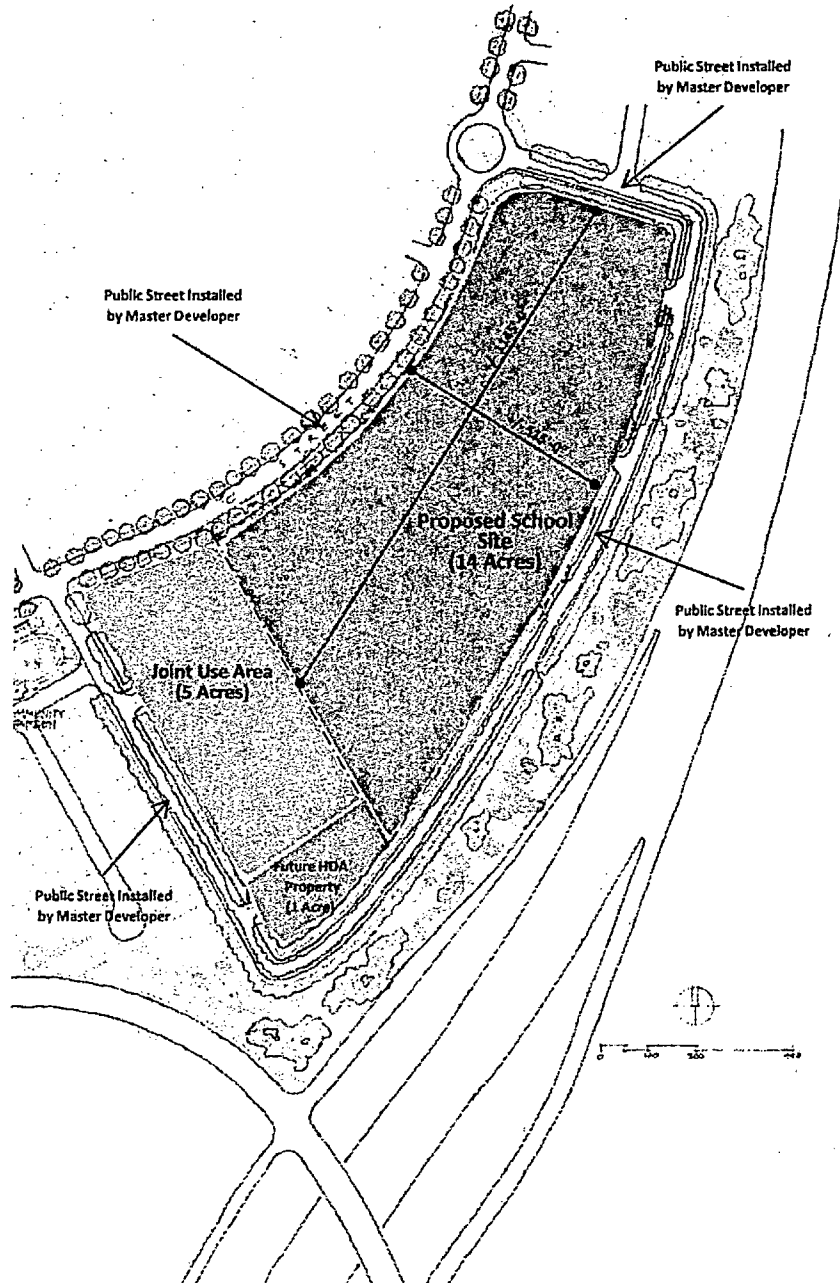
By: \_\_\_\_\_  
Dan Kelly  
Senior VP – Government  
Relations and Corporate  
Communications

RMV Community Development, LLC  
Attention: Donald L. Vodra  
Email: [dvodra@ranchomv.com](mailto:dvodra@ranchomv.com)  
Fax: 949-248-0810



## EXHIBIT G

### PA 2 SCHOOL SITE AND JOINT USE SITE LAYOUT







**EXHIBIT H**

**FORM OF MEMORANDUM OF AGREEMENT**



**EXHIBIT H**

**FORM OF MEMORANDUM OF AGREEMENT**

**RECORDING REQUESTED BY:**

**WHEN RECORDED MAIL TO:**

Space above line for recorder's use only

**MEMORANDUM OF SCHOOL FACILITIES AND FUNDING AGREEMENT  
AND OPTION TO PURCHASE SCHOOL SITE**

This MEMORANDUM OF SCHOOL FACILITIES AND FUNDING AGREEMENT AND OPTION TO PURCHASE SCHOOL SITE ("**Memorandum**") dated \_\_\_\_\_, 2013, is entered into by and among the CAPISTRANO UNIFIED SCHOOL DISTRICT, a school district organized and existing under the laws of the State of California ("**District**"), and RMV Community Development, LLC, RMV PA2 Community Development, LLC, DMB San Juan Investment North, LLC, a Delaware limited liability company, RMV Middle Chiquita, LLC, a California limited liability company, RMV Ranch House, LLC, a California limited liability company, RMV Headquarters, LLC, a California limited liability company, RMV San Juan Watershed, LLC, a California limited liability company, RMV San Mateo Watershed, LLC, a California limited liability company, RMV Blind Canyon, LLC, a California limited liability company, and RMV MC Investment, LLC, a California limited liability company (each, an "Owner" and, collectively, "Owners").

1. Property. Owners own fee title to certain property within the County of Orange and the District described in Attachment A ("**Rancho Mission Viejo Property**").
2. School Facilities and Funding Agreement and Option to Purchase School Site. The District and Owners have entered into that certain School Facilities and Funding Agreement and Option to Purchase School Site dated \_\_\_\_\_, 2013 ("**School Agreement**"), under which, among other things, RMV PA2 Community Development, LLC has granted to District an option to purchase certain real property within the Rancho Mission Viejo Property for purposes of construction and operation of a public school thereon.
3. Purpose. The purpose of this Memorandum is to provide record notice of the existence of the School Agreement and the obligations of the parties thereunder.

4. No Alteration or Amendment. This Memorandum is not intended to, and shall not, alter or amend the terms, covenants, and conditions of the School Agreement. In the event of any conflict between the provisions of this Memorandum and those of the School Agreement, the provisions of the School Agreement shall prevail.
5. Not Binding on End Users. Notwithstanding anything herein that may be construed to the contrary, neither this Memorandum nor the School Agreement shall be binding upon or inure to the benefit of any owner of a completed Dwelling Unit or Senior Unit constructed and sold within the Rancho Mission Viejo Property, a public agency or non-profit entity owning property not intended for residential development or Commercial/Industrial Development, the owner of any completed Commercial/Industrial Development, Rancho MMC and any other homeowners or property owners association (each an "End User"), and under no circumstance may any End User, in that capacity, be deemed or construed as a successor or assign of the Owners with respect to the School Agreement. At close of escrow for each Dwelling Unit constructed on the Rancho Mission Viejo Property, the completion of construction of any Senior Unit or Commercial/Industrial Development, the transfer of property to any public agency or non-profit entity as to which such public agency or non-profit entity would be deemed an End User, and the transfer of property to Rancho MMC or any other homeowners or property owners association, this Memorandum and the School Agreement shall automatically terminate as to such Dwelling Unit, Senior Unit and property without any further action of any Party hereto. Notwithstanding such automatic termination, at the request of any Party all other Parties agree to execute a recordable document evidencing such termination.

*[Signature page follows]*

IN WITNESS WHEREOF, the parties, by their undersigned authorized signatories, have executed this Memorandum as of the date first written above.

CAPISTRANO UNIFIED SCHOOL DISTRICT,  
a Political Subdivision of the State of California

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

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

APPROVED AS TO FORM

Capistrano Unified School District  
Legal Counsel

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

RMV COMMUNITY DEVELOPMENT, LLC, a California  
limited liability company

By: RMV COMMUNITY DEVELOPMENT COMPANY,  
INC., a California corporation, its sole member

By: \_\_\_\_\_  
Dan Kelly  
Its: Senior Vice President

ATTACHMENT A  
TO MEMORANDUM OF SCHOOL FACILITIES AND FUNDING AGREEMENT

**PA2** (SOUTH)

PARCELS 39-48, CC 2011-01, INSTRUMENT NO. 2011000677171 O.R., RECORDED 12/27/2011  
PORTIONS OF PARCEL 29 AND 30, CC 2011-01  
PARCEL 38, EXCEPTING THEREFROM THAT PORTION OF LAND GRANTED TO THE COUNTY OF ORANGE  
FOR COW CAMP ROAD, PER THE GRANT DEED AS INSTRUMENT NO. 2013000390494 O.R., RECORDED  
6/27/2013

**PA2** (NORTH)

PORTION OF PARCEL 13, CC 2011-01, INSTRUMENT NO. 2011000677171 O.R., RECORDED 12/27/2011

**PA3**

PARCEL 70-103, CC 2011-01, INSTRUMENT NO. 2011000677171 O.R., RECORDED 12/27/2011  
PARCEL 1, PM 93-159, PMB 280/49-50  
PARCEL 1, PM 94-153, PMB 287/9-10  
PARCEL 1, PM 95-161, PMB 296/11-12

**PA4**

PARCELS 104-121 , CC 2011-01, INSTRUMENT NO. 2011000677171 O.R., RECORDED 12/27/2011  
(550-ACRE PA4 PARCELS 104-112, CC 2011-01)

**PA5**

PARCELS 4-7, 9-16, 18-24, CC 2012-01, INSTRUMENT NO.2010000690527 O.R., RECORDED 12/22/2010

**PA8**

PARCEL 71-91, CC 2012-01, INSTRUMENT NO.2010000690527 O.R., RECORDED 12/22/2010



**EXHIBIT I**  
**FORM OF OPTION AGREEMENT**



## OPTION AGREEMENT

THIS OPTION AGREEMENT (this “**Agreement**”) is made and entered into as of \_\_\_\_\_, 2013 (“**Effective Date**”), by and between RMV PA2 DEVELOPMENT, LLC, a Delaware limited liability company (“**Developer**”), and THE CAPISTRANO UNIFIED SCHOOL DISTRICT (“**School District**”).

### RECITALS

A. Developer owns the Property (as defined below), which consists of approximately 14 acres of land depicted on Exhibit A attached hereto, and generally located in Planning Area 2 of the Ranch Plan (a master planned community for the Rancho Mission Viejo, commonly referred to as the “Ranch Plan,” and approved by the Orange County Board of Supervisors in November 2004), in the County of Orange, State of California (“County”).

B. Developer and School District are parties to that certain School Facilities and Funding Agreement and Option to Purchase School Site dated as of \_\_\_\_\_, 2013 (“**SFF/Agreement**”) executed concurrent herewith, which sets forth certain rights and obligations of the parties with respect to the Property. All capitalized terms not otherwise defined herein shall have the meaning given to them in the SFF/Agreement.

C. Developer desires to grant to School District an option to purchase the Property on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings of the parties hereto, it is hereby agreed as follows:

1. Grant of Option.

(a) Grant of Option. Developer grants to School District the exclusive right and option (the “**Option**”) to purchase the Property. As used herein, the “**Property**” means, collectively, all right, title and interest of Developer in and to that certain land generally depicted on Exhibit A. The Property is currently part of a larger parcel of land identified as Parcel 42 of Certificate of Compliance CC 2011-01 in the Unincorporated Territory of the County, recorded December 27, 2011 as Instrument No. 2011000677171 of Official Records. Until such time as Tract Map No. 17561 is recorded, or created as a legal parcel pursuant to applicable law as provided in subparagraph (e) hereof, the parties do not desire to convey and accept the Property .

(b) Term of Option. The “**Option Term**” shall commence on the Effective Date and shall expire at 5:00 p.m. Pacific time on the later of (i) January 31, 2015, (ii) thirty (30) days following Developer’s written notice to School District that it intends to commence construction of the improvements to improve the Property to the conditions set forth in Section 8.3 of the SFF/Agreement, or (iii) the date which is two (2) years following the Funding Threshold for acquisition of the PA2 School Site set forth in the SFF/Agreement.

(c) Option Consideration. In consideration for School District entering into the SFF/Agreement, Developer is granting the Option. School District shall also pay an option consideration in the amount of \$100 (“**Independent Consideration**”) to Developer upon recordation

of the Memorandum of Option (defined below). The Independent Consideration constitutes bargained-for consideration for this Agreement and is expressly acknowledged by the parties to be adequate. The obligation of School District to pay the Independent Consideration to Developer is unconditional and shall survive any termination of this Agreement.

(d) Exercise of Option. School District, subject to complying with applicable law, including Education Code Section 17211 and the California Environmental Quality Act ("CEQA"), may exercise the Option at any time prior to the expiration of the Option Term by delivering a written notice to Developer of its exercise of the Option. In the event the Option is duly exercised prior to the expiration of the Option Term, Developer and School District shall execute the Agreement for Purchase and Sale and Escrow Instructions substantially in the form attached hereto as **Exhibit D** ("PSA"). Developer is hereby irrevocably committed to executing the PSA upon School District's exercise of the Option. The PSA shall constitute a binding contract for the purchase and sale of the Property. If School District fails to exercise the Option during the Option Term, then this Agreement shall automatically terminate, and the parties' obligations relative to the PA2 School Site shall be controlled by the SFF/Agreement.

(e) Memorandum of Option. Upon creation of the Property as a legal parcel by recordation of Tract Map No. 17561 or as otherwise provided by applicable law, Developer shall deliver to School District a duly executed and acknowledged recordable memorandum substantially in the form of **Exhibit B** ("Memorandum of Option Agreement"), including the legal description for the Property, which may be recorded at School District's cost, if any, in the Office of the County Recorder of the County. Notwithstanding the foregoing, in the event Tract Map 17561 is not recorded by December 31, 2014, School District may elect to have a metes and bounds legal description prepared at the Developer's cost, and Developer shall execute the Memorandum of Option Agreement with the metes and bounds legal description. Upon the termination of the Option pursuant to the terms of this Agreement, or the expiration of the Option Term, School District shall cause a Quitclaim Deed substantially in the form attached hereto as **Exhibit C** to be recorded in the Office of the County Recorder of the County. Any failure by School District to record the Quitclaim Deed shall not affect or otherwise impair the termination of the Option.

2. Purchase Price. In the event the Option is duly exercised pursuant to the provisions of this Agreement, the purchase price ("**Purchase Price**") shall be the sum equal to the fair market value of the Property, as determined in accordance with Section 8.3 of the SFF/Agreement and the provisions of the PSA, including any reservations thereto by Developer as described in the PSA.

3. Termination Right. At any time on or before expiration of the Option Term, School District may give written notice to Developer electing to waive its rights to the Option. Upon such election, this Agreement shall automatically terminate, and the parties' rights and obligations shall be controlled by the SFF/Agreement. Developer shall have the right to request, and School District shall provide, all documents reasonably necessary or appropriate to reflect and memorialize said termination.

4. Consents and Approvals. Except as otherwise expressly provided herein, any approval or consent provided to be given by a party hereunder must be in writing to be effective and may be given or withheld in the sole and absolute discretion of such party.

5. Modification. This Agreement may not be modified or amended except by written agreement signed by Developer and School District.

6. Matters of Construction.

(a) Incorporation of Exhibits. All exhibits attached and referred to in this Agreement are hereby incorporated herein as fully set forth in (and shall be deemed to be a part of) this Agreement.

(b) Entire Agreement. This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements between the parties hereto respecting such matters.

(c) Non-Business Days. Whenever action must be taken (including the giving of notice or the delivery of documents) under this Agreement during a certain period of time (or by a particular date) that ends (or occurs) on a non-business day, then such period (or date) shall be extended until the immediately following business day. As used herein, "**business day**" means any day other than a Saturday, Sunday or federal or California state holiday.

(d) Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(e) Interpretation. Each party acknowledges and agrees that (a) it has received independent legal advice from attorneys of its choice with respect to the advisability of making and executing this Agreement and the documents in connection herewith or has waived its right to do so, (b) this Agreement is the product of negotiations between the parties, and (c) this Agreement shall not be deemed prepared or drafted by any one party. In the event of any dispute between the parties concerning this Agreement, the parties agree that any ambiguity in the language of this Agreement is to not to be resolved against Developer or School District, but shall be given a reasonable interpretation in accordance with the plain meaning of the terms of this Agreement and the intent of the parties as manifested hereby.

(f) Governing Law. THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF CALIFORNIA (WITHOUT REGARD TO CONFLICTS OF LAW).

(g) Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement, Developer and School District do not intend by any provision of this Agreement to confer any right, remedy or benefit upon any third party, and no third party shall be entitled to

enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

7. Effectiveness of Agreement. In no event shall any draft of this Agreement create any obligations or liabilities, it being intended that only a fully executed and delivered copy of this Agreement will bind the parties hereto.

8. No Joint Venture. This Agreement does not and shall not be construed to create a partnership, joint venture or any other relationship between the parties hereto except the relationship of the Developer and School District specifically established hereby.

9. Notices. Any notice which a party is required or may desire to give the other shall be in writing and may be sent by personal delivery or by mail (either [i] by United States registered or certified mail, return receipt requested, postage prepaid, [ii] by Federal Express or similar generally recognized overnight carrier regularly providing proof of delivery, or [iii] facsimile, provided that a copy of the notice is delivered within 1 business day pursuant to clause [i] or [ii] above), addressed to such party at the corresponding address set forth on Schedule 1. Service of any such notice or other communications so made shall be deemed effective on the day of actual delivery (whether accepted or refused) as evidenced by confirmed answerback if by facsimile (provided that if any notice or other communication to be delivered by facsimile cannot be transmitted because of a problem affecting the receiving party's facsimile machine, the deadline for receiving such notice or other communication shall be extended through the next business day), as shown by the addressee's return receipt if by certified mail, and as confirmed by the courier service if by courier; provided, however, that if such actual delivery occurs after 5:00 p.m. (local time where received) or on a non-business day, then such notice or demand so made shall be deemed effective on the first business day after the day of actual delivery. No communications via electronic mail shall be effective to give any notice, request, direction, demand, consent, waiver, approval or other communications hereunder.

10. Legal Costs. The parties hereto agree that they shall pay directly any and all legal costs which they have incurred on their own behalf in the preparation of this Agreement, all other agreements pertaining to this transaction and that such legal costs shall not be part of the closing costs.

11. Attorneys' Fees. In the event any action shall be instituted in connection with this Agreement, the party prevailing in such action shall be entitled to recover from the other party all of its costs and expenses incurred therein, including without limitation reasonable attorneys' fees.

12. Time is of the Essence. Time is of the essence hereof; and if either party fails to perform any act when due, or if the conditions to the Option referenced herein have not been satisfied or waived, then the non-breaching party may cancel this Agreement by notice in writing to the other party, and, except as otherwise provided in this Agreement, both parties shall thereupon be released from their obligations with respect to the Property.

13. Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other,

whether express or implied, shall not constitute consent to, waiver of, or excuse for any different or subsequent breach.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

“School District”

CAPISTRANO UNIFIED SCHOOL  
DISTRICT

By: \_\_\_\_\_  
Clark Hampton  
Deputy Superintendent  
Business and Support Services

“Developer”

RMV PA2 DEVELOPMENT, LLC  
a Delaware limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior Vice President –  
Corporate Communications  
and Marketing

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Bowie, Arneson, Wiles & Giannone  
Legal Counsel to Capistrano Unified  
School District

## **EXHIBIT LIST**

- A        -        Depiction of the Property
- B        -        Form of Memorandum of Option Agreement
- C        -        Quitclaim Deed
- D               Form of Purchase and Sale Agreement

**EXHIBIT A**

**DEPICTION OF THE PROPERTY**

*[To Be Provided by Developers]*



**EXHIBIT B**

**FORM OF MEMORANDUM OF OPTION AGREEMENT**

RECORDING REQUESTED BY  
AND RETURN TO:

CAPISTRANO UNIFIED SCHOOL DISTRICT  
33122 Valle Road  
San Juan Capistrano, California 92675  
Attn: \_\_\_\_\_  
Associate Superintendent

(Space Above for Recorder's Use Only)

**MEMORANDUM OF OPTION AGREEMENT**

THIS MEMORANDUM OF OPTION AGREEMENT is made as of \_\_\_\_\_, 20\_\_, by and between RMV PA2 DEVELOPMENT, LLC, a Delaware limited liability company ("**Developer**"), and CAPISTRANO UNIFIED SCHOOL DISTRICT ("**School District**"), who agree as follows:

That for the Option Term defined in Section 1(b) of the Option Agreement referenced in this paragraph, and upon the terms and conditions as set forth in that certain written agreement titled "**Option Agreement**" dated \_\_\_\_\_, 20\_\_, by and between Developer and School District ("**Option Agreement**"), all of which terms and conditions are specifically made a part hereof as fully and completely as if specifically set out in full, Developer grants to School District the option to purchase that certain real property in the County of Orange, State of California, as described in the attached **Exhibit A**.



The sole purpose of this Memorandum of Option Agreement is for recording, and it in no way modifies the express and particular terms, conditions, and provisions of the Option Agreement.

Executed on the above date.

“School District”

“Developer”

CAPISTRANO UNIFIED SCHOOL  
DISTRICT

RMV PA2 DEVELOPMENT, LLC  
a Delaware limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as its authorized agent and manager

By: \_\_\_\_\_  
Clark Hampton,  
Deputy Superintendent  
Business and Support Services

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior Vice President –  
Corporate Communications  
and Marketing

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Bowie, Arneson, Wiles & Giannone  
Legal Counsel to Capistrano Unified  
School District

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**EXHIBIT A TO MEMORANDUM OF OPTION AGREEMENT**

**DESCRIPTION OF THE PROPERTY**

*[To Be Provided by Developers]*



**EXHIBIT C**

**[FORM OF]  
QUITCLAIM DEED**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Paskerian, Block, Martindale & Brinton LLP  
85 Enterprise, Suite 470  
Aliso Viejo, California 92656  
Attention: Devon W. Block

THIS SPACE ABOVE FOR RECORDER'S USE

**QUITCLAIM DEED**

THE UNDERSIGNED DECLARES:

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, CAPISTRANO UNIFIED SCHOOL DISTRICT ("**Grantor**"), hereby REMISES, RELEASES AND FOREVER QUITCLAIMS to RMV PA2 DEVELOPMENT, LLC, a Delaware limited liability company ("**Grantee**"), all of Grantor's right, title and interest in and to the real property located in the County of Orange, State of California, and more particularly described in **Exhibit A** attached hereto and made a part hereof, together with, all and singular, all right, title and interest in the tenements, hereditaments, easements, rights of way and appurtenances belonging or in anywise appertaining to the same, including, without limitation, any and all rights or interests that Grantor has, or may have, evidenced by that certain Memorandum of Option Agreement, dated as of \_\_\_\_\_, 20\_\_, by and between Grantor and Grantee.

IN WITNESS WHEREOF, the undersigned hereby executes this instrument as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

"GRANTOR"

CAPISTRANO UNIFIED SCHOOL DISTRICT

By: \_\_\_\_\_  
Clark Hampton, Deputy Superintendent  
Business and Support Services

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Bowie, Arneson, Wiles & Giannone  
Legal Counsel to Capistrano Unified  
School District

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**EXHIBIT D**  
**FORM OF PURCHASE AND SALE AGREEMENT**

**AGREEMENT FOR PURCHASE AND SALE  
AND ESCROW INSTRUCTIONS  
(PA2 School Site)**

First American Title Insurance Company  
2 First American Way  
Santa Ana, California 92707  
Attn: Hugo Tello  
Escrow No.:

THIS AGREEMENT FOR PURCHASE AND SALE AND ESCROW INSTRUCTIONS (“**Agreement**”), dated as of \_\_\_\_\_, 20\_\_, is entered into by and between RMV PA2 DEVELOPMENT, LLC, a Delaware limited liability company (“**Seller**”), and THE CAPISTRANO UNIFIED SCHOOL DISTRICT (“**Buyer**”), with reference to that certain property proposed to be used for the “PA 2 School Site,” located in the County of Orange, State of California (“**County**” and “**State**”), as described on **Exhibit A** attached hereto and incorporated by this reference (“**Property**”).

**RECITALS**

- A. Seller is the owner of the Property, which consists of approximately 14 acres of land.
- B. Seller and School District are parties to that certain School Facilities and Funding and Option to Purchase School Site Agreement dated as of \_\_\_\_\_, 2013 (“**SFF/Agreement**”), which sets forth certain rights and obligations of the parties with respect to the Property. All capitalized terms not otherwise defined herein shall have the meaning given to them in the SFF/Agreement.
- C. Seller and School District are also parties to that certain Option Agreement dated as of \_\_\_\_\_, 2013 (“**Option Agreement**”), pursuant to which School District has an option to purchase the Property.
- D. Seller is a party to the Rancho Mission Viejo Development Agreement County of Orange (Ranch Plan Project and hereafter (“**RMV/Development Agreement**”) the benefits of which shall run with the Property when acquired by Buyer as therein provided. Seller remains responsible for all mitigation obligations, fees and expenses thereunder and the parties agree none of the mitigation obligations, fees and expenses are assumed by Buyer. Seller concurrent with Close of Escrow shall provide a duly executed Assignment and Assumption of Development Agreement to such effect to County and Buyer as provided in Section .1(a)(iv) of the RMV/Development Agreement. Seller hereby indemnifies Buyer as to any and all mitigation costs related thereto,

which obligation shall survive the termination of this Agreement or Close of Escrow and acquisition of the Property by Buyer.

E. Seller and others have obtained from the Board of Supervisors of County General Plan Amendment (Resolution No. 04-291), Zone Change (Resolution No. 04-292/Ordinance No. 04-014), Development Agreement (Resolution No. 04-293/Ordinance No. 04-015) Environmental Impact Report No. 589 ("Project EIR"), Affordable Housing Implementation Agreement ("Affordable Housing Agreement"), and other entitlements (collectively, "Entitlements"). Seller and Buyer agree that all obligations of the Entitlements are obligations of Seller and that Seller indemnifies Buyer as to any and all costs and obligations related thereto which obligation shall survive the termination of this Agreement or Close of Escrow and acquisition of the Property by Buyer.

F. Seller and others were parties to the Rancho "Mission Viejo/Resource Organization Litigation" that was resolved by means of the Rancho Mission Viejo/Settlement and Declaration of Restrictions Agreement ("RMV/SA") recorded as to the Property and other property of Seller and others as Instrument No. 200500648330 of the Official Records of Orange County. All obligations of the RMV/SA are agreed to be obligations of Sellers and others, are not assigned to or assumed by Buyer, and Seller indemnify Buyer as to any and all costs and obligations thereof, which obligation shall survive the termination of this Agreement or Close of Escrow and acquisition of the Property by Buyer.

G. Seller and others are parties to the Secured Fire Protection Agreements with the Orange County Fire Authority recorded as Instruments No. 2007000218114 and 200700218115 in the Official Records of Orange County, recorded as to the Property and other property of Seller and others ("SFP/A"). All obligations of the SFP/A are agreed to be obligations of Seller and others, are not assigned to or assumed by Buyer and Seller indemnifies Buyer as to any and all costs and obligations thereof, which obligation shall survive the termination of this Agreement or Close of Escrow and acquisition of the Property by Buyer.

H. School District has exercised the option to purchase the Property on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings of the parties hereto, it is hereby agreed as follows:

1. Sale and Purchase. Subject to the terms and conditions set forth in this Agreement, and the above Recitals which are herein incorporated, Seller agrees to sell the Property to Buyer, and Buyer agrees to buy the Property from Seller.

2. Purchase Price. The purchase price for the Property shall be \$\_\_\_\_\_. ("Purchase Price") [which amount has been determined in accordance with Section 8.3 of the SFP/Agreement including all reservations by Seller].

3. Opening of Escrow. Escrow shall open when a copy of this Agreement, properly executed by Buyer and Seller, has been deposited with First American Title Insurance Company, a California corporation ("**Escrow Holder**"). Escrow Holder shall notify all parties in

writing immediately upon receipt of a copy of this Agreement so executed as of the date of the opening of escrow.

4. Buyer Title Review and Approval.

(a) Preliminary and Supplemental Title Reports. Within fifteen (15) calendar days after the Opening of Escrow, First American Title Insurance Company, in its capacity as title insurer ("**Title Insurer**"), shall deliver to Buyer, and to its legal counsel, copies of: (i) a preliminary title report ("**PTR**") covering the Property; (ii) complete and legible copies of all documents referred to in the PTR that evidence or create exceptions to title to the Property ("**Underlying Documents**"); and (iii) complete plotting reports of all easements disclosed in the PTR ("**Plotting Reports**"). If subsequently required, the Title Insurer shall deliver to each Party and to its legal counsel: (i) any amended PTR; (ii) any Underlying Documents referenced in the amended PTR, but not previously provided to the Parties; and (iii) Plotting Reports for all easements and exceptions disclosed in the amended PTR, if not previously plotted and provided to the Parties. Hereinafter, the PTR, any amended PTR, and all related Underlying Documents and Plotting Reports, may be referred to collectively as "**Title Documents**."

(b) Except for those Title Documents set forth on Schedule 1, the Buyer shall have the right to review and either approve or disapprove the Title Documents for the Property as provided in this Section. The parties shall conform to the following procedures for Buyer's review and approval of the Title Documents:

(i) Not later than thirty (30) calendar days after the date it receives the final and complete copies of all Title Documents, the Buyer may object to any one or more of the items listed in the Title Documents that affect title to the Property (each a "**Disapproved Item**") by providing written notice to Seller and Escrow Holder ("**Buyer Title Notice**"). If Buyer fails to provide a Buyer Title Notice within such thirty (30) calendar day period, the Buyer shall be deemed to have approved the Title Documents.

(ii) Upon discussion with one or both of the parties, the Title Insurer may agree to delete from the Title Documents any or all Disapproved Items specified in the Buyer Title Notice.

(iii) If Title Insurer has not agreed to delete from the Title Documents all Disapproved Items specified in the Buyer Title Notice, the Seller may elect to cure or cause the deletion of one or more of the remaining Disapproved Items, including, without limitation, through purchase at Seller's expense of any endorsement(s) to the title insurance for the Property. The Seller shall provide written notice to the Buyer and Escrow Holder, within thirty days after receipt of the Buyer Title Notice, specifying whether Seller will cure or cause the deletion of all, some or none of the remaining Disapproved Items ("**Seller Title Notice**"). If Seller fails to provide a Seller Title Notice within such thirty (30) calendar day period, the Seller shall be deemed to have elected to not cure or cause the deletion of all remaining Disapproved Items.

(iv) If the Seller Title Notice indicates that Seller has not elected to cure or cause the deletion of all remaining Disapproved Items, or if Seller fails to provide a Seller Title Notice, the Buyer may elect to either: (i) proceed with Close of Escrow on the basis of the



Disapproved Items, if any, that the Title Insurer and Seller have agreed or elected to cure or cause to be deleted from the Title Documents; or (ii) cancel the Escrow; by providing written notice to Seller and Title Insurer within twenty (20) days after receipt of the Seller Title Notice or, if no Seller Title Notice was provided, within twenty (20) calendar days of the date that was the deadline for delivery of the Seller Title Notice ("**Buyer Election Notice**"). If Buyer fails to provide a Buyer Election Notice within such twenty (20) day period, the Buyer shall be deemed to have elected to cancel the Escrow.

(v) If the Seller and/or Title Insurer are to cure or cause the deletion of any Disapproved Items in accordance with this Section 3.2, such cure or deletion shall be a condition precedent to the Close of Escrow.

(vi) Notwithstanding anything to the contrary, the Buyer shall not be required to object to items specified in the Title Documents that relate to items of a monetary nature, including, but not limited to, general taxes, special taxes, and assessment fees or charges, mortgages, improvement liens, and similar encumbrances. As a condition precedent to Close of Escrow, the Seller must pay-off or otherwise satisfy and release any and all mortgages, improvement liens and similar encumbrances on or against any portion of the Property. Section 4.10 herein provides for payment of any and all general taxes, special taxes, and assessment fees or charges and recordation of a Notice of Cancellation of liens for special taxes and assessments and liens and right of the Rancho Mission Viejo Master Maintenance Corporation ("**RMVMMC**").

If an item specified in the PTR is not either a Disapproved Item pursuant to Subsection (a) of Section 3.2 or an item of a monetary nature as described herein, then such item shall be deemed to be a Permitted Exception to Buyer's title to the Property as conveyed through the Escrow (each a "**Permitted Exception**"). It shall be a condition precedent to the Buyer's obligation to proceed to Close of Escrow that Title Insurer issue to the Buyer, at Close of Escrow, the Title Policy, insuring the Buyer's fee simple title to the Property, subject only to the Permitted Exceptions and otherwise free and clear of all mortgages, liens, charges, encumbrances, encroachments, easements, conditions, exceptions, assessments, taxes, or other defects in title as provided in this Agreement.

## 5. Close Of Escrow.

(a) The close of escrow ("**Closing Date**") shall occur on or before \_\_\_\_\_, subject to any extension agreed to in writing by Buyer and Seller.

(b) Buyer shall deposit or cause to be deposited in escrow prior to the Close of Escrow the Purchase Price; provided Seller hereby agrees to accept the non-interest bearing "**Special Obligation Note**" of Buyer as described in the SFF/Agreement as special obligation purchase money financing in the event Buyer has not received State Funding for 50% of the Purchase Price. In such event, the balance of the Purchase Price, subject to receipt of adequate School Payments from Seller, shall be deposited by Buyer in cash from the Funding Sources as described in the SFF/Agreement. The Special Obligation Note is in the form attached hereto as **Exhibit G**, and secured by State Funds, Local Funds or Federal Funds and other Funding Sources available for purchase of the PA2 School Site, all on the terms and as set forth in Section 6.9 of the SFF/Agreement.

(c) The Purchase Price in cash or cash and the Special Obligation Note shall be delivered to Seller when Escrow Holder is in a position to obtain an ALTA standard coverage owner's policy of title insurance insuring Buyer as follows:

(i) Policy to be issued by Escrow Holder with the standard title company exceptions ("**Title Policy**");

(ii) Liability to be in the amount of the Purchase Price;

(iii) Fee title vested in Buyer;

(iv) Property vesting in Buyer free and clear of all liens, encumbrances and other defects of title and taxes, including monetary obligations, excepting the following terms listed in the order of the priority to be effected through this escrow (collectively, "**Permitted Exceptions**");

(1) Subject to Section 6 hereof, general and special taxes not yet due and payable;

(2) All items shown on the Covenant and Declaration of Restriction as set forth on Exhibit E;

(3) All items shown on the Grant Deed;

(4) Any other encumbrances caused by acts of Buyer or consented to in writing by Buyer.

(5) There shall be no special taxes, assessments and any rights or liens of the RMVMMC recorded against the Property.

(d) Close of escrow means the time Seller's Grant Deed in substantially the form attached hereto as **Exhibit B** ("**Grant Deed**") is recorded by the Escrow Holder in the office of the County Recorder of Orange County, California. Escrow Holder shall instruct the Orange County Recorder to mail the Grant Deed to Buyer at the address set forth herein after recordation. Title to said Property shall pass immediately upon close of escrow. The conclusive evidence of delivery of title to the Property by Seller to Buyer shall be the recordation of the Grant Deed and the issuance by Escrow Holder of the Title Policy insuring Buyer in the amount of the Purchase Price that fee simple title to the Real Property is vested in Buyer as of the close of escrow subject only to the Permitted Exceptions.

(e) Seller's obligation to sell the Property is expressly conditioned on the satisfaction of Buyer's commitments and obligations expressly set forth herein for completion or satisfaction prior to the close of escrow, including depositing with Escrow Holder all sums required hereunder prior to the close of escrow.

(f) Buyer's obligation to buy the Property is expressly conditioned on each of the following conditions precedent:

(i) Compliance with all applicable law, including Education Code Section 17211, CEQA, Government Code Section 65402, and Public Resources Code Section 21151.2.

(ii) The commitment by the Escrow Holder to issue and deliver the Title Policy;

(iii) Buyer obtaining all documents and funds, if any, accruing to Buyer pursuant to this Agreement and the SFF/Agreement;

(iv) Buyer's approval of all inspections, tests, surveys and other studies and documents, together with the grading of the Property pursuant to Sections 9 and 10;

(v) Seller's compliance with Section 8.4 of the SFF/Agreement regarding the condition of the Property as of the Closing Date;

(vi) Buyer's approval of the documents and materials more particularly described on Exhibit C attached hereto ("**Basic Materials**"); provided, if Buyer does not acquire the Property in accordance with this Agreement, the Basic Materials shall be promptly returned to the Seller;

(vii) Buyer's receipt of all necessary approvals as set forth in in Section 8.1(a) of the SFF/Agreement.

(viii) Completion by Seller of all Superpad condition improvements to the Property as described in the SFF/Agreement.

(x) Buyer's receipt of an Assignment and Assumption Agreement described in Section 6.1 (a) (iv) of the Development Agreement evidencing that Seller remains obligated as to all mitigation obligations, fees and expenses set forth in the RMV/Development Agreement and that no obligations thereof are assumed by Buyer

6. Documents to Be Delivered or Recorded Through Escrow.

(a) Seller. Seller shall deposit with Escrow Holder all of the following documents and/or funds before the close of escrow:

(i) The Grant Deed, duly executed, acknowledged and in recordable form conveying the Property to Buyer;

(ii) A Non-Foreign Status Affidavit executed by Seller attached hereto as Exhibit D;

(iii) The Covenant and Declaration of Restriction executed by Seller attached hereto as Exhibit E; and

(iv) All documents required by this Agreement and funds, including all costs referenced in Section 7, as may be necessary in order for Escrow Holder to comply with this Agreement.

(b) Buyer. Buyer shall deposit with Escrow Holder all of the following documents and/or funds before the close of escrow:

(i) The Purchase Price;

(ii) The Special Obligation Note (if required) executed by Buyer attached hereto as Exhibit F;

(iii) The Covenant and Declaration of Restriction executed by Buyer attached hereto as Exhibit E;

(iv) The Joint Use Agreement (as defined in the SFF/Agreement) executed by Buyer and Rancho Mission Viejo Master Maintenance Corporation ("RMVMMC"); and

(v) A letter from Buyer stating that Buyer (a) accepts the Property in accordance with and subject to the terms and conditions of this Agreement and (b) has received all necessary approval and authorization to purchase the Property, including without limitation State Department of Education approval to acquire the Property for its intended use.

7. Real Property Taxes. All nondelinquent general and special real property taxes and assessments levied for fiscal year 20\_\_-20\_\_ shall be paid by Seller on or before the close of escrow without proration and all refunds shall inure to Seller. There shall be no special taxes, assessments, rights and liens of the RMVMMC recorded against the Property. Any real property taxes which become a lien after close of escrow as a supplemental tax assessed pursuant to Chapter 3.5, commencing with Section 75 of the California Revenue and Taxation Code, for acts occurring prior to close of escrow shall be and remain the responsibility of Seller who shall promptly pay same upon notice from Buyer.

8. Payment of Costs. Escrow Holder is authorized and instructed by Seller to use the proceeds from the Purchase Price to pay the following: (i) all the escrow fees for Buyer and Seller; (ii) the premium for the Title Policy; (iii) the documentary transfer taxes, if any, in connection with the Grant Deed; (iv) recording fees for the Grant Deed, if any; (v) any costs or charges necessary so that title can be delivered to Buyer in the condition required in accordance with this Agreement; (vi) all reasonable costs not specifically referenced herein customarily allocated to Seller in Orange County, California; and (vii) the cost or charge of any other item not specified herein that may be authorized by Seller in a separate writing.

9. Time is of the Essence. Time is of the essence hereof; and if either party fails to perform any act when due, or if the conditions to the close of escrow referenced herein have not been satisfied or waived, then the non-breaching party may cancel this escrow by notice in writing to the other party deposited into escrow no later than the Closing Date (or any and all such objections or defaults shall be deemed waived or accepted), and, except as otherwise provided in this Agreement, both parties shall thereupon be released from their obligations with respect to the

Property unless the escrow is extended by mutual written agreement of the parties. Upon termination of this escrow as aforesaid, all documents deposited into escrow which have been executed by Seller shall be returned to Seller whether or not such papers have been executed by Buyer as well, and all documents executed by Buyer alone shall be returned to Buyer, and all funds deposited into escrow by Buyer shall be returned to Buyer.

10. Entry for Investigations. Seller grants to Buyer, its agents and employees the right to enter upon any portion of the Property for the purpose of conducting reasonable investigations, including without limitation, soils testing, engineering studies, geological analysis, environmental audits and studies, and all other physical inspections deemed necessary by Buyer. Any and all such investigations and entry shall be at the cost, expense and liability of Buyer. Buyer shall also have the right to investigate all matters relating to the zoning, use and compliance with applicable laws which relate to the use and occupancy of the Property. Seller shall cooperate fully to assist Buyer in completing such inspections and special investigations. Buyer agrees to indemnify, defend and hold Seller harmless from any and all loss, liability, damage, claims, demands, injury, costs or expenses, including reasonable attorney's fees, if any, directly arising or resulting from or relating to any physical inspection of the Property by Buyer or Buyer's agents pursuant hereto.

11. Grading & Site Improvements. Seller shall deliver the Property to Buyer at Closing in accordance with Section 8.4 of the SFF/Agreement, including storm drain connections stubbed out into the lower end of the Property with connections to the public storm drain system located within the adjacent streets both at the southeast corner and northeast corner of the Property. Any further onsite drainage coordination shall be the responsibility of Buyer to design, construct, own and maintain. Water quality for the Property will be handled by a water quality basin located within the Planning Area, which will be designed, constructed, owned and maintained by Seller, with ultimate ownership transferred to Rancho MMC. Notwithstanding the foregoing, Buyer shall retain responsibility for cleanup and damage to the water quality basin caused by any non-typical, specific hazardous materials spills into the drainage system originating from the Property.

12. Representations and Warranties.

(a) Seller hereby makes the following representations and warranties:

(i) To the best of Seller's knowledge (which, for purposes of this Agreement, shall be limited to the actual knowledge of Daniel Kelly without investigation or inquiry):

(1) There is no litigation or proceedings pending in connection with the Property; and

(2) There is no existing violation of any federal, state or local laws, ordinances or regulations concerning or affecting the Property.

(ii) Seller has full right, power and authority to enter into this Agreement and convey the Property pursuant to the Agreement or otherwise to perform any of its obligations hereunder.

(iii) To the best of Seller's knowledge, neither the execution of this Agreement or any documents referenced herein shall conflict with the terms of or result in a material breach of any bonds or other indebtedness, contract, indenture and/or deed of trust to which Seller is a party or which govern the use or development of the Property.

(iv) To the best of Seller's knowledge, Seller is not in default under any agreement or contract governing the use or development of the Property.

(v) To the best of Seller's knowledge, Seller has obtained, or otherwise will obtain all necessary governmental approvals and authorizations in order to construct and/or install all of the utilities, including roadways, necessary to develop the Property to a Superpad Condition as contemplated by this Agreement and the SFF/Agreement.

(vi) To the best of Seller's knowledge, Seller has not been advised or informed by any builder to whom Seller has sold any property (or otherwise with whom Seller is under contract to so sell any property) within the Planning Area 2 planned community that any such builder has any plan to develop any improvements other than residential improvements within 100 yards of the Property.

(vii) Seller has not submitted to the County any request to develop any area within 100 yards of the Property with a courthouse or liquor store; provided, Seller reserves the right, without qualification, to develop any and all property within the Planning Area 2 of the Ranch Plan in any manner permitted by applicable law and regulations.

(b) Buyer hereby makes the following representations and warranties:

(i) Buyer has full right, power and authority, subject to the provisions of the SFF/Agreement, to enter into this Agreement and acquire the Property pursuant to the Agreement or otherwise to perform any of its obligations hereunder.

(ii) Buyer has or will have obtained all necessary approval and authorization in order to perform its obligations in accordance with the terms of this Agreement.

(iii) Neither the execution of this Agreement or any documents referenced herein shall conflict with the terms of or result in a material breach of any contract to which Buyer is a party.

(iv) The closing of the transaction contemplated under this Agreement and the acquisition of the Property in accordance herewith is in conformance and compliance with that certain SFF/Agreement; and, in furtherance thereof, Seller shall be deemed to have satisfied the obligations of Seller to Buyer with respect to the delivery of the PA2 School contemplated and required under the SFF/Agreement upon the close of escrow hereunder and the completion of the improvements required under Section 8.4 of the SFF/Agreement and the School Housing Plan; provided, notwithstanding the foregoing, in the event Buyer exercises the rescission right under Section 13 of this Agreement, then Seller shall not have satisfied the foregoing referenced obligations with respect to the delivery of the PA2 School as contemplated and required under SFF/Agreement and Seller shall remain liable therefore in accordance with the SFF/Agreement.

(v) Neither Buyer nor Seller have any reporting, tax or other obligations, liabilities or requirements which arise from the transactions contemplated by this Agreement, including the purchase, ownership and development of the Property by Buyer as contemplated hereunder; and there are no disclosures, commitments, special tax forms and/or notices of special tax which Seller is required to obtain from Buyer and/or provide to any party, including Buyer, due to or arising from the transactions contemplated by this Agreement.

(c) The truth of the representations and warranties as stated above and elsewhere in this Agreement and the performance by each party of its covenants and obligations hereunder shall be conditions to the other party's obligations under this Agreement. All representations and warranties in this section or made in writing by Seller in connection with the transaction herein provided for shall be true and correct on the date hereof and on the close of escrow and the delivery of the Grant Deed and shall survive the close of escrow to the extent set forth in Section 13 of this Agreement or otherwise expressly provided in this Agreement.

13. "As Is, Where Is".

(a) Except as expressly set forth in this Agreement, Seller hereby specifically disclaims any warranty, guaranty or representation, oral or written, past, present or future, of, as to or concerning:

(i) The condition of the Property, including, but not by way of limitation, the water, soil, geology, environmental conditions (including the presence or absence of any hazardous or toxic materials), and the suitability thereof and of the Property for any and all activities and uses which Buyer may elect to conduct thereon;

(ii) The nature and extent of any right-of-way, lien, encumbrance, license, reservation, condition or otherwise; and

(iii) The compliance of the Property with any laws, ordinances or regulations of any government or other public or private body or agency.

(b) THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS, WHERE IS" BASIS, AND BUYER EXPRESSLY ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY PROVIDED HEREIN, IN CONSIDERATION OF THE AGREEMENTS OF SELLER HEREIN, SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY.

(c) To the extent that Seller has an existing general construction activities storm water permit that is applicable to the Property and that may be transferable to Buyer, Seller shall provide Buyer with such storm water permit and complete all appropriate documentation to effect such transfer; provided, however, that after such transfer, Buyer shall be solely responsible for satisfying (including the continuation of the satisfaction of) all requirements and conditions under the storm water permit as applicable to the Property and comply with any and all applicable

guidelines and regulations as otherwise issued and/or promulgated by the California State Water Resources Control Board as applicable to the Property.

14. Remedies: Rescission & Reimbursement.

(a) In the event of any breach, default or violation of any representation or warranty set forth herein, then on or before the earlier of (i) one (1) year from the date hereof or (ii) the commencement of Buyer's construction on the Property (and Buyer shall notify Seller upon such commencement of construction and Seller shall have an additional fifteen (15) days in which to make any claim hereunder from the date of such notice -- provided, such notice shall not extend the time in which Buyer shall be required to make any such claim in writing), each of Seller and Buyer shall notify the other party, in writing, as to the existence of, and the basis for, any and all claims of a breach, default or violation of any representation or warranty set forth herein.

(b) The failure to make, and/or identify any such claim and the basis therefor on or before such date shall be deemed a waiver and release of the same; and, in such event, the liability and obligation of each party with respect thereto as set forth herein shall terminate and be of no further force or effect with respect to any and all claims, liabilities, costs and expenses, at law or in equity, whether known or unknown, which are not made in writing to the other party.

(c) In the event of any such breach, default or violation, the party making such claim shall have the right to "unwind" the transaction contemplated under this Agreement within the sixty (60)-day period following such notice and claim such that (i) Buyer shall convey the Property to Seller by means of a grant deed in substantial conformance with the Grant Deed (and otherwise subject only to the Permitted Exceptions) in the condition delivered and conveyed by Seller (or otherwise including any work performed by Seller in accordance with this Agreement) and (ii) Seller shall return the Purchase Price and Special Obligation Note, if any, to Buyer concurrently therewith.

(d) In addition to the right to "unwind" the transaction contemplated under this Agreement as set forth in the immediately preceding subsection (c), in the event such remedy is elected, then, in addition, the defaulting party shall be liable (and shall reimburse the other party) for the sum of the following: the out-of-pocket due diligence and inspection costs and inspections paid to third party consultants and other professionals; legal fees for the negotiation and enforcement of this Agreement; and the costs of the planning for the development of the Property as contemplated under this Agreement.

(e) Notwithstanding anything to the contrary contained in this Agreement and including in the absence of any breach or violation under this Agreement by Seller, in the event that, on or before the earlier of (i) sixty (60) days from the date hereof or (ii) the commencement of Buyer's construction on the Property, Buyer shall discover or otherwise determine, in its reasonable discretion, that any environmental, toxic contamination or similar condition of the Property shall preclude or prevent the development of the Property (or otherwise materially increase the costs and expenses thereof in excess of the budgeted or anticipated costs thereof as contemplated prior to the date hereof) as contemplated under this Agreement due to any requirements of the State School Facility Program, then Buyer shall have the one time right, which must be exercised within ninety



(90) days from the date of this Agreement, to “unwind” the transaction contemplated under this Agreement.

(f) In the event that Buyer shall exercise the right provided under the immediately preceding subsection (e), then, upon not less than fifteen (15) days written notice, (i) Buyer shall convey the Property to Seller (by means of a grant deed in substantial conformance with the Grant Deed and otherwise subject only to the Permitted Exceptions) in the condition delivered and conveyed by Seller (or otherwise including any work performed by Seller in accordance with this Agreement) and (ii) Seller shall return the Purchase Price and Promissory Note, if any, to Buyer concurrently therewith.

(g) The sole remedies of Seller and Buyer with respect to this Agreement and the Property (whether under this Agreement, as a matter of law, under equitable principles or otherwise) shall be (i) an action for specific performance to require Seller to sell and convey the Property to Buyer in accordance with this Agreement and/or (ii) an action for specific performance by either Buyer or Seller to “unwind” the transaction contemplated under this Agreement in accordance with this Section 13 together with the reimbursement of the costs and expenses set forth in the immediately preceding subsection (d); and, the parties waive and release any other remedy, right, action or interest in the event of any default or breach under this Agreement, including any right to damages, payments or any other remedy permitted as a matter of law, equity or otherwise.

15. Restriction on Use and Development and Repurchase Option. Buyer acknowledges and agrees that the Property will be subject to use restrictions, repurchase option and other covenants and restrictions specified in the Covenant and Declaration of Restriction attached hereto as **Exhibit F**. The Covenant and Declaration of Restriction shall be a covenant running with the Property for the term specified therein, shall bind Buyer’s successors and assigns and shall be recorded at the Close of Escrow.

16. Notices. Any notices or other communications between the parties hereto shall be in writing and shall be personally delivered or sent by first class mail, postage prepaid, duly registered or certified, return receipt requested, addressed to the parties as follows:

If to Buyer: c/o CAPISTRANO UNIFIED SCHOOL DISTRICT  
33122 Valle Road  
San Juan Capistrano, California 92675  
Attn: \_\_\_\_\_

If to Seller: RMV PA2 Development, LLC  
c/o Rancho Mission Viejo, LLC  
P.O. Box 9  
San Juan Capistrano, California 92693  
Attn: Mr. Greg Edwards

Any party may, by written notice to the Escrow Holder and to the other party, designate a different address which shall be substituted for the one specified above. If any notice is deposited in the United States Mail in Orange County, California, as aforesaid, the same shall be deemed delivered seventy-two (72) hours after the mailing thereof.

17. Attorneys' Fees. In the event any action shall be instituted in connection with this Agreement, the party prevailing in such action shall be entitled to recover from the other party all of its costs and expenses incurred therein, including without limitation reasonable attorneys' fees.

18. Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any different or subsequent breach.

19. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but together they shall constitute one and the same instrument.

20. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County; California, and Buyer shall submit to the jurisdiction of such court.

21. Entire Agreement. This Agreement, together with its exhibits, contains all of the agreements of the parties hereto with respect to the matters contained herein and no prior contemporaneous agreement or understanding, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be modified, waived, amended or added except by writing executed by all parties hereto.

22. Severability. If any paragraph, section, clause, sentence or phrase contained in this Agreement shall become illegal, null or void against public policy or unenforceable for any reason whatsoever, the remainder of the Agreement shall not be affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written, its effective date.

“Buyer”

“Seller”

CAPISTRANO UNIFIED SCHOOL  
DISTRICT

RMV PA2 DEVELOPMENT, LLC  
a Delaware limited liability company

By: Rancho Mission Viejo, LLC,  
a Delaware limited liability company,  
as its authorized agent and manager

By: \_\_\_\_\_  
Clark Hampton  
Deputy Superintendent  
Business and Support Services

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly  
Senior Vice President –  
Corporate Communications  
and Marketing

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Bowie, Arneson, Wiles & Giannone  
Legal Counsel to Capistrano Unified  
School District

**EXHIBIT A**

**Property—Legal Description**

*[To Be Provided by Developers]*

**EXHIBIT B**

**Grant Deed**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

CAPISTRANO UNIFIED SCHOOL DISTRICT

33122 Valle Road

San Juan Capistrano, California 92675

Attn: \_\_\_\_\_

Deputy Superintendent

Business and Support Services

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(Space Above Line For Recorder's Use Only)

**GRANT DEED**

For valuable consideration, receipt of which is acknowledged, RMV PA2 Development, LLC, a Delaware limited liability company ("**Grantor**"), grants to CAPISTRANO UNIFIED SCHOOL DISTRICT ("**Grantee**") all that certain real property located in Orange County, California, and described on Exhibit A ("**Property**") attached hereto and by this reference incorporated herein.

23. EXCEPTIONS AND RESERVATIONS FROM GRANT. Grantor excepts from the grant of the Property (and reserves the right to assign or otherwise convey, grant, lease or license to any individuals and/or entities) the following:

(a) Oil and Mineral Rights. Without any right of surface entry, any and all oil, oil rights, minerals, mineral rights, natural gas rights and other hydrocarbons by whatsoever name known, geothermal steam and all products derived from any of the foregoing that may be within or under the Parcel, together with the perpetual right of drilling, mining, exploring and operating therefore and storing in and removing the same from the Parcel or any other land, including the right to whipstock or directionally drill and mine from lands other than the Parcel, oil or gas wells and borings into, through or across the subsurface of the Parcel and to bottom such whipstocked or directionally drilled wells and borings under and beneath or beyond the exterior limits thereof, and to redrill, equip, maintain, repair, deepen and operate any such wells or mines; but without, however, the right to enter the Parcel or the right to drill, mine, store, explore or operate through the surface or the upper five hundred (500) feet of the subsurface of the Parcel.

(b) Water Rights. Any and all riparian, appropriative, overlying or other water and water rights and any and all interests in such water, including surface water, subsurface underflow, and percolating groundwater appurtenant or relating to the Property, such rights and interests having previously been granted by RMV Community Development, LLC, to the Rancho

Mission Viejo Mutual Water Company ("MWC") in the Deed of Water Rights recorded on April 23, 2012, as Instrument No. 2012000230676 of Official Records.

(c) Surface Runoff & Cross Lot Drainage. Mutual, nonexclusive easements in gross on, over and under the turfed sports field portion of the Property and the adjoining property for the purpose of accepting minimal surface runoff (including runoff of reclaimed or other water used for irrigation, and including any requirement of the County of Orange), provided such easement shall not interfere with, or impact Grantee's development and use of the Property.

(d) Construction Easement. Temporary construction and access easements over portions of the Property for the construction, installation (including the right to connect to existing facilities), for the installation of street, sidewalk, landscaping, electric, gas, cable, telephone, communication, technology-related, water, sewer, drainage and other utility facilities, storm drain facilities, and other facilities serving PA2; provided, however, that the construction and access easements shall automatically terminate upon completion of construction of improvements by Grantor on the Property.

(e) Irrigation Easement. Permanent, nonexclusive easements in gross over portions of the Property generally depicted on Exhibit C, in order to permit the construction, installation, use, repair, replacement and maintenance of water sprinkler and irrigation system lines, and associated equipment and facilities including electrical and telecommunication facilities; provided the specific location of such facilities within such easement area shall be subject to the reasonable determination of Grantor upon consultation with Grantee; provided, Grantee shall not construct any improvements within or otherwise improve any area subject to this easement without the prior consent of Grantor, which shall not be unreasonably withheld. This easement shall be subject to any then existing security policies of Grantee and law applicable to Grantee as a public school district.

(f) Signal Transmission. Nonexclusive easements in gross within and through the airspace above and within the Property for the transmission, receipt or distribution of audio, video and any other data signals requisite for the transmission of intelligence by electrical, light wave and/or radio frequencies; provided, neither the transmission, receipt or distribution of audio, video and any other data signals shall unreasonably interfere with Grantee's development or use of the Property.

#### 24. COVENANT

(a) Grantee, for itself and on behalf of its successors and assigns, hereby declares, covenants and agrees that, to the fullest extent permitted by law, no Wireless Telecommunication Facilities shall be installed, located, maintained or permitted on or about the Property and/or the improvements constructed thereon, which serve the general public or are otherwise operated on a commercial, for-profit basis (or other similar basis in which Grantee receives economic benefits in exchange for permitting Wireless Telecommunication Facilities to be located on or about the Property and/or the improvements constructed thereon); provided, nothing contained herein shall restrict or preclude Grantee from installing, operating or using Wireless Telecommunication Facilities on or about the Property for Grantee's own, internal use

and enjoyment, or for School District communications to or from the Property. As used herein, **“Wireless Telecommunication Facilities”** shall mean improvements, equipment and facilities (including, but not limited to, tower cell sites, antennas, towers, broadcasting and receiving devices, conduits, junction boxes, wires, cables, fiber optics, and any other necessary or appropriate enclosures and connections) for (i) wireless telecommunications, (ii) wireless transfer of audio, video, data or any other signals used for transmission of intelligence by electrical, light wave, wireless frequencies or radio frequencies, and (iii) any other methods of communication and information transfer facilitated by means other than cables, wires, fiber optics or other such “hard-wired conduits, and (2) power generation serving the improvements, equipment and/or facilities described in subpart (1) of this sentence. The term **“Wireless Telecommunications Facilities”** shall be interpreted as broadly as possible and shall include relocated facilities, expansion of facilities and/or facilities used for any and all new technology that replaces the Wireless Telecommunications Facilities that are used when this Grant Deed is recorded. If there is a doubt as to whether an item fits within the definition of Wireless Telecommunications Facilities, the term is to be interpreted to include that item.

(b) The declaration, covenant and agreement set forth in Section 2(a) above (**“Covenant”**) shall benefit that certain real property owned by Grantor and described on Exhibit B attached hereto (**“Benefited Property”**). In the event that any portion of the Benefited Property is transferred by Grantor to a third party (each portion thereof so transferred is hereinafter referred to as a **“Transferred Parcel”**), the Covenant shall cease to benefit such Transferred Parcel unless Grantor expressly assigns to the transferee of the Transferred Parcel the benefits of all or a portion of the Covenant, either concurrently with conveyance of the Transferred Parcel or at any time thereafter, in either case, by a recorded assignment document executed by Grantor and specifically referencing this Covenant (and general references to appurtenances or rights related to the acquired land will not suffice). Any merger of Grantor with or into another entity or any acquisition of all or a portion of the equity of Grantor by a third party will not be deemed a transfer of the Benefited Property under this Section 2(b).

IN WITNESS WHEREOF, Grantor has executed this Grant Deed on  
\_\_\_\_\_, 2013.

“Grantor”

RMV PA2 DEVELOPMENT, LLC,  
a Delaware limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

By: \_\_\_\_\_  
Donald L. Vodra  
Chief Operating Officer

By: \_\_\_\_\_  
Dan Kelly, Senior VP -  
Corporate Communications and  
Marketing

MAIL ALL TAX STATEMENT TO:  
CAPISTRANO UNIFIED SCHOOL DISTRICT  
33122 Valle Road  
San Juan Capistrano, California 92675

Attn: \_\_\_\_\_,  
Deputy Superintendent Business and Support Services



ACCEPTANCE:

Grantee hereby accepts this Grant Deed on the terms and conditions herein stated.

“Grantee”

CAPISTRANO UNIFIED SCHOOL DISTRICT

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

\_\_\_\_\_  
Deputy Superintendent  
Business and Support Services

**EXHIBIT A TO GRANT DEED**

**Legal Description of Property**

*[To Be Provided by Developers When Exists]*

## **EXHIBIT B TO GRANT DEED**

### **Legal Description of Benefited Property**

The real property situated in the County of Orange, State of California and described as:

Parcels 38, 39, 43, 44, 45, 72 through 77, inclusive, 83, 84, 85, 96, 97, 98, 102, 103, 114 through 119, inclusive, 125, 126, 133, 138, 143, 144, and 145 of Certificate of Compliance CC 2001-01, in the Unincorporated Territory of the County of Orange, State of California, recorded July 26, 2001 as Instrument No. 20010508635 of Official Records, in the office of the County Recorder of said County.

Together with, Parcels 1 through 91, inclusive, of Certificate of Compliance CC 2010-01, in said Unincorporated Territory, recorded December 22, 2010 as Instrument No. 2010000690527 of said Official Records.

Together with, Parcels 1 through 128, inclusive, of Certificate of Compliance CC 2011-01, in said Unincorporated Territory, recorded December 27, 2011 as Instrument No. 2011000677171 of said Official Records.

Together with, Parcel 1 of Certificate of Compliance CC 2004-096, in the City of San Clemente, in said County, recorded December 21, 2004 as Instrument No. 2004001130448 of said Official Records.

Together with, Parcel 2 and portions of Parcels 3 and 4 of Certificate of Compliance CC 87-06, in said Unincorporated Territory, recorded August 7, 1987 as Instrument No. 87-449971 of said Official Records.

Together with, Parcel C of Lot Line Adjustment LL 2002-160, in said Unincorporated Territory, recorded July 9, 2003 as Instrument No. 2003000800031 of said Official Records.

Together with, Parcel 2 of Lot Line Adjustment LL 2003-004, in said Unincorporated Territory, recorded March 19, 2003 as Instrument No. 20030294469 of said Official Records.

Together with, Parcels 1, 2 and 3 of Lot Line Adjustment LL 2004-027, in said Unincorporated Territory, recorded September 7, 2004 as Instrument No. 2004000809240 of said Official Records.

Together with, Parcels 2 and 3 of Lot Line Adjustment LL 2004-028, in said Unincorporated Territory, recorded September 7, 2004 as Instrument No. 2004000809243 of said Official Records.

Together with, Parcel 2 of Lot Line Adjustment LL 2004-029, in said Unincorporated Territory, recorded September 7, 2004 as Instrument No. 2004000809246 of said Official Records.

Together with, Parcels 2 and 3 of Lot Line Adjustment LL 2004-030, in said Unincorporated Territory, recorded September 7, 2004 as Instrument No. 2004000809251 of said Official Records.

Together with, Parcel 1 of Lot Line Adjustment LL 2004-039, in said Unincorporated Territory, recorded October 21, 2004 as Instrument No. 2004000951825 of said Official Records.

Together with, Parcels 1, 2 and 3 of Lot Line Adjustment LL 2007-002, in said Unincorporated Territory, recorded June 22, 2007 as Instrument No. 2007000398904 of said Official Records.

Together with, Parcel 2, in said Unincorporated Territory, as shown on the map filed in Book 90, Pages 23 through 27, inclusive, of Parcel Maps, in the office of said County Recorder.

Together with, Parcel 1 of Parcel Map 93-159, in said Unincorporated Territory, as shown on the map filed in Book 280, Pages 49 and 50 of Parcel Maps, in the office of said County Recorder.

Together with, Parcel 1 of Parcel Map 94-153, in said Unincorporated Territory, as shown on the map filed in Book 287, Pages 9 and 10 of Parcel Maps, in the office of said County Recorder.

Together with, Parcel 1 of Parcel Map 95-161, in said Unincorporated Territory, as shown on the map filed in Book 296, Pages 11 and 12 of Parcel Maps, in the office of said County Recorder.

Together with, That land deeded to Last Round Up, Inc., by Grant Deed recorded September 4, 1987 as Instrument No. 87-504837 of said Official Records, in the office of said County Recorder.

Together with, That land deeded to Ortega Rock Land LLC, Inc., by Grant Deed recorded March 7, 2003 as Instrument No. 2003000254085 of said Official Records, in the office of said County Recorder.

Together with, Those portions of Section 24, Township 8 South, Range 7 West, of Rancho Mission Viejo, as shown on the map sectionizing Rancho Mission Viejo, in said Unincorporated Territory, filed in Book 9, Pages 15 through 22, inclusive, of Record of Surveys, in the office of said County Recorder, described as follows:

Bounded Southerly by the Northerly line of Parcel 56 of said Certificate of Compliance CC 2010-01, bounded Easterly by the Southwesterly line of Parcel 55 of said Certificate of Compliance, bounded Northerly by the Southerly line of Parcel 31 of said Certificate of Compliance and bounded Westerly and Northwesterly by the Southeasterly line of Parcel 2 of said Lot Line Adjustment LL 2004-030.

Bounded Easterly by the Westerly lines of Parcels 56 and 57 of said Certificate of Compliance CC 2010-01, and bounded Westerly and Southerly by the general Easterly line of Parcel 5, as shown said Certificate of Compliance No. CC 87-06.

**EXHIBIT C TO GRANT DEED**

**Depiction of Irrigation Easement Reservation**



STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

## **EXHIBIT C**

### **Basic Materials**

(Preliminary Draft – Subject to change)

#### **1. Ranch Wide Documents**

- 1.01 General Plan Amendment 01-01
  - GPA Resolution.pdf
  - GPA Map.pdf
- 1.02 Ranch Plan Planned Community Program Text
  - Final Approved PC Text GuidDoc.pdf
- 1.03 Development Agreement
  - Development Agreement 11-8-04.pdf
  - 101805 SCRIP.pdf
- 1.04 Final Program Environmental Impact Report No. 589
  - 1.04.1 Draft EIR
  - 1.04.2 Technical Appendices
  - 1.04.3 Responses to Comments
  - 1.04.4 Mitigation Monitoring and Reporting Program (MMRP)
  - 1.04.5 2006 PA1 Addendum 1.0
  - 1.04.6 2011 PA1 Addendum 1.1
- 1.05 Regulation Compliance Matrix (Ranch-wide Version)
  - Reg Compl Matrix (Ranchwide).pdf
- 1.06 Settlement Agreements
  - Exhibit A (Settlement Map).pdf
  - Settlement Agreement SummaryPA1.doc
- 1.07 Alternative Development Standards
  - 081208 Updated ADS.pdf
- 1.08 Fire Protection Program
  - 073107 Approved RPFPP.pdf
- 1.09 Local Park Implementation Plan
  - 031407 Approved LPIP.pdf
- 1.10 Affordable Housing Implementation Agreement
  - Afford Housing Impl Agreement.pdf
- 1.11 Open Space Agreement
  - 072506 Approved OS Agreement.pdf
- 1.12 Master Trail and Bikeways Implementation Plan
  - Revised Master Trails Plan.pdf
- 1.13 Solid Waste Management Plan
  - Approved Waste Mgmt Plan.pdf
- 1.14 Impact Mitigation Agreements
  - Sheriff Agreement.pdf
  - Secured Fire Prot Agreements.pdf

## **2. Planning Area 2 Documents**

- 2.1 PA2 Master Area Plan, Subarea Plans 2.1, 2.2, 2.3 and 2.4
  - Approved PA2 MAP / SAP.pdf
- 2.2 Vesting Tentative Tract Map 17561 (2.1) & 17562 (2.2)
  - Master Geometrics & Sidewalk Plan
  - 2.1 Fire Master Plan
- 2.3 Grading Plans
  - 2.1 (GA130004) Preliminary Grading
  - 2.2 (GA130006) Preliminary Grading
  - Geotechnical Studies
    - Review of Preliminary Grading Plans (2.1)
    - Review of Preliminary Grading Plans (2.2)
- 2.4 Improvement Plans (Street, Sewer & Water, Storm Drain)
  - Utility Master Plan
- 2.5 Water Quality Management Plan for PA1 Master Area Plan
  - Final Master Area Wtr Qlty Mgmt Plan (WQMP) Dec 2006.pdf
  - RMV PA-2 Conceptual WQMP 15-March-2013.pdf
- 2.6 Water Quality Management Plan for Subarea 2.1 & 2.2
  - Interim Grading WQMP
- 2.7 Regulation Compliance Matrix (PA2 Version)
  - Reg Compl Matrix (PA2).pdf
- 2.8 Builder Materials
  - PA2 ESA

## **3. Federal, Regional and State Environmental Entitlement Documents**

- 3.1 NEPA and CEQA Clearances
  - 2006 NCCP EIR Appendices
  - EIR EIS
  - HCP
  - Implementation Agreement
  - Mapbook
  - RefMapBook
- 3.2 State and Federal Permits
  - ACOE 404 Extension.pdf
  - ACOE 404.pdf
  - CDFG SAA.pdf
  - SDRWQCB 401&WDR.pdf
  - Special Purpose Permit Renewal.pdf
  - USFWS ITP.pdf



## EXHIBIT D

### Non-Foreign Status Affidavit

Section 1445 of the Internal Revenue Code provides that a buyer of a U.S. real property interest must withhold tax if the seller is a foreign person. To inform CAPISTRANO UNIFIED SCHOOL DISTRICT ("**Buyer**"), that withholding of tax is not required upon the disposition of a U.S. real property interest by RMV PA2 DEVELOPMENT, LLC, a Delaware limited liability company ("**Seller**"), the undersigned hereby certifies the following on behalf of Seller.:

1. Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Seller's U.S. employer identification number is 46-2664063; and
3. Seller's office address is 28811 Ortega Highway, San Juan Capistrano, California 92675.

The undersigned understands that this certification may be disclosed to the Internal Revenue Service by Buyer and that any false statement the undersigned has made here could be punished by fine, imprisonment, or both.

Under penalty of perjury, the undersigned declares that they have examined this certification and to the best of their knowledge and belief it is true, correct and complete, and the undersigned further declares that they have the authority to sign this document on behalf of Seller.

RMV PA2 DEVELOPMENT, LLC,  
a Delaware limited liability company

By: Rancho Mission Viejo, L.L.C.,  
a Delaware limited liability company,  
its authorized agent and manager

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

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

## **EXHIBIT E**

### **Covenant and Declaration of Restrictions**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

RMV PA2 DEVELOPMENT, LLC  
c/o Rancho Mission Viejo, LLC  
28811 Ortega Highway  
San Juan Capistrano, California 92675  
Attn: Donald L. Vodra

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FOR RECORDER'S OFFICE USE ONLY

### **COVENANT AND DECLARATION OF RESTRICTIONS AND REPURCHASE OPTION**

THIS COVENANT AND DECLARATION OF RESTRICTIONS AND REPURCHASE OPTION ("**Covenant**") is made and entered into as of \_\_\_\_\_, 20\_\_, by and between RMV PA2 DEVELOPMENT, LLC, a Delaware limited liability company ("**Seller**") and CAPISTRANO UNIFIED SCHOOL DISTRICT ("**Buyer**"), with reference to the following facts:

A. Seller is the seller of that certain real property situated in the County of Orange, State of California and legally described in **Exhibit A** attached hereto and incorporated herein by reference ("**Benefited Property**").

B. Concurrently herewith, Seller is conveying to Buyer fee title to that certain real property situated in the County of Orange, State of California that is contiguous with and/or in the vicinity of the Benefited Property, as described in **Exhibit B** attached hereto and incorporated herein by reference ("**Burdened Property**").

C. The parties desire to record this Covenant to put future owners on notice of the restrictions, conditions, covenants and reservations now or hereafter imposed by the provisions of this Covenant (collectively, "**Restrictions**").

NOW, THEREFORE, Buyer hereby covenants, agrees and declares that the Burdened Property shall be held, conveyed and transferred subject to the following restrictions:

1. **Permitted Use.** Buyer, for itself, and on behalf of its successors and assigns, hereby declares, covenants and agrees that the Burdened Property shall only be used as grades K-12 public school facilities ("**School Facilities**") for the term of this Covenant.

2. **Transfer.**

(a) Until such time as Buyer has completed construction of the PA 2 School as described in the SFF/Agreement, Buyer shall not voluntarily or by operation of law consummate a transfer to a third party without Seller's express prior consent in writing, which consent may be withheld by Seller in its sole and absolute discretion. Any attempted transfer made in violation of this Agreement shall be null and void. In the event Seller consents to a transfer, Buyer shall reimburse Seller for all costs and expenses incurred by Seller in connection with any such transfer, including, without limitation, all attorneys' fees and other costs incurred in preparing and/or reviewing assignment documentation.

(b) After Buyer has completed construction of the PA 2 School as described in the SFF/Agreement, Buyer may consummate a transfer as part of a lease financing and without Seller's consent, provided that following such transfer the Property remains subject to this Covenant and Declaration of Restrictions.

3. Repurchase Option. Buyer grants to Seller an option to repurchase the Property ("**Repurchase Option**") exercisable in the manner and on the terms and conditions hereafter set forth. Seller may exercise this Repurchase Option during the term of this Covenant upon the occurrence of any of the following: (1) if Buyer proposes a transfer of the Property to a third party; or (2) if Buyer fails to construct and open the PA 2 School as described in the SFF/Agreement by \_\_\_\_\_ 20\_\_\_\_. Upon the occurrence of any of the events specified above in this section, Seller may exercise this Repurchase Option by the delivery to Buyer of a notice ("**Notice of Repurchase**") within thirty (30) days of such occurrence. Seller's delivery of a Notice of Repurchase in accordance with the terms hereof shall create a binding contract for the purchase and sale of the Property. Upon the occurrence of the conditions specified in the subsection hereof entitled "**Transfer**" for the exercise of this Repurchase Option, if Seller fails to exercise this Repurchase Option by delivery of a Notice of Repurchase within the time periods specified above, then Buyer shall have sixty (60) days to consummate the transfer in strict accordance with the terms and conditions of a sale request notice or of which an officer of Seller had actual notice, free from this Repurchase Option. If Buyer does not so consummate such transfer within said sixty (60) days or if Buyer proposes, attempts or actually consummates such transfer on terms and conditions which are changed or modified from those of which Seller so received notice, then such transaction or any further transaction shall be deemed to be a new proposed, attempted or actual transfer and the provisions hereof shall again be applicable. In the event Buyer fails to construct and open the School Facilities prior to \_\_\_\_\_ 20\_\_\_\_, any failure by Seller to exercise this Repurchase Option by delivery of a Notice of Repurchase shall not be deemed or considered a waiver by Seller of the right to exercise this Repurchase Option based on a continuation of the failure to develop, which first gave Seller the right to exercise or based on succeeding failure(s); and such Repurchase Option shall continue in full force and effect in all such cases. If Seller exercises this Repurchase Option, Seller and Buyer shall immediately after delivery of the Notice of Repurchase by Seller open an escrow at Escrow Holder; provided, the parties shall execute such escrow instructions which are not inconsistent with the provisions hereof and which may be required by Escrow Holder in order to close the same. The purchase price paid by Seller therefor shall be equal to the original purchase price paid by Buyer to Seller. The purchase price paid by Seller shall be paid in cash upon the close of escrow; provided, the portion of the purchase price required to discharge any priority lien shall be paid through escrow to the holder or beneficiary of such lien. The Repurchase Option escrow shall close on or before the date which is sixty (60) days after the date of delivery of the Notice of Repurchase by Seller to Buyer. Upon the close of escrow, Buyer shall convey the Property to Seller by Escrow Holder's standard form grant deed subject only to the following (and all other exceptions

shall be removed by Buyer at its sole expense at or prior to such close of escrow): (i) nonmonetary covenants, conditions, restrictions, easements, reservations, rights and rights-of-way of record existing on the date on which this Covenant is recorded; (ii) nonmonetary encumbrances placed against the subject property by Buyer and to which Seller has subordinated its rights under this Repurchase Option; (iii) nondelinquent general, special and supplemental real property taxes and assessments; and (iv) matters shown as printed exceptions in the standard form California Land Title Association owner's policy of title insurance. Buyer shall cause to be delivered to Seller upon the close of escrow, at Buyer's sole cost and expense, a CLTA standard coverage policy of title insurance on the property transferred pursuant to this Repurchase Option issued by Escrow Holder with policy limits equal to the purchase price and insuring title to such property in the condition set forth above and otherwise vested in Seller and specifically insuring against mechanics' and materialmen's liens. All real property taxes and assessments shall be prorated as of the close of escrow.

4. Enforcement.

(a) General. Seller, any "**Successor Seller**" (as that term is defined below), and Rancho Mission Viejo LLC, a Delaware limited liability company and their successors alone shall have the right to enforce by proceedings at law or in equity, any and all of the Restrictions now or hereafter imposed by the provisions of this Covenant or any amendment thereto, including (i) the right to prevent the violation of any such Restrictions, (ii) the right to recover damages or other dues for such violation, and (iii) the right to exercise the Repurchase Option during the period which is thirty (30) years after the recording of this Covenant). Failure by Seller to enforce any Restriction in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any future breach of the same or any other Restriction by Buyer. All rights, options and remedies of Seller under this Covenant are cumulative; and no one of them shall be exclusive of any other; and Seller shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Covenant.

(b) Successor Seller. Seller may assign any of its rights and powers under this Covenant to any other person or entity who has acquired any portion of the Benefited Property so long as such person or entity in writing agrees to assume the duties of Seller pertaining to the particular rights and powers assigned; and, upon the recordation of such writing accepting such assignment and assuming such duties, such assignee ("**Successor Seller**"), to the extent of such assignment, shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Seller herein and Seller shall be released and relieved of such rights and obligations. Without limiting the generality of the foregoing, Seller may make such assignments as to the entire Benefited Property or to any portion thereof. If and to the extent specifically assigned in writing as provided in this subsection, the Successor Seller shall be a third party beneficiary of this Covenant.

5. Captions. The captions used herein are for convenience only and are not a part of this Covenant and do not in any way limit or amplify the terms and provisions hereof.

6. Governing Law and Venue. This Covenant shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Covenant, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and Buyer shall submit to the jurisdiction of such court.

7. Attorneys' Fees. In the event any action shall be instituted in connection with this Covenant, the party prevailing in such action shall be entitled to recover from the other party all of its costs and expenses incurred therein, including without limitation reasonable attorneys' fees.

8. Severability. In the event that any portion of this Covenant shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Covenant shall not be affected thereby and shall remain in force and effect to the full extent permissible by law.

9. Gender and Number. In this Covenant (unless the context requires otherwise), the masculine, feminine and neuter genders and the singular and the plural include one another.

10. Covenants to Run with the Land; Term

(a) Restrictions. The Burdened Property shall be held, developed, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the Restrictions. The Restrictions are intended and shall be construed as covenants and conditions running with and binding upon the Burdened Property and equitable servitudes thereupon and every part thereof; and all and each of the Restrictions shall be binding upon and burden all persons having or acquiring any right, title or interest in the Burdened Property (during their ownership of such interest), or any part thereof, and their successors and assigns. Subject to the provisions in the immediately following subsection below, the Restrictions shall inure to the benefit of the Benefited Property, the owners thereof and their successors and assigns; and the Restrictions shall be enforceable by Seller and its successors and assigns, all upon the terms, provisions and conditions set forth herein.

(b) Term. This Covenant shall continue in full force and effect for a term of thirty (30) years from the date the same is recorded in the Office of the County Recorder, at which point this Covenant shall automatically terminate and be of no further force or effect.

(c) Termination. Notwithstanding the foregoing:

(i) Notice of Termination. This Covenant, together with the Restrictions set forth or otherwise incorporated herein, shall, upon recordation in the Orange County Recorder's Office of a notice of termination executed by Seller, automatically terminate and be of no further force or effect as to any portion of the Burdened Property described in such notice of termination, but the Restrictions shall continue to apply as to the remainder of the Burdened Property.

(ii) Reacquired Property. This Covenant, together with the Restrictions set forth or otherwise incorporated herein, shall be of no further force or effect as to any portion of the Burdened Property reacquired by Seller (as to which Seller has not assigned its rights and obligations hereunder to a Successor Seller) whether by grant deed, lot line adjustment or otherwise, but the Restrictions shall continue to apply as to the remainder of the Burdened Property.

(d) Benefited Property. In the event that any portion of the Benefited Property is conveyed by Seller to a third party other than a Successor Seller (each parcel thereof so transferred is hereinafter referred to as a "**Transferred Parcel**"), the Restrictions shall cease to benefit such Transferred Parcel unless Seller expressly assigns to the transferee of the Transferred Parcel the benefits of all or a portion of the Restrictions, either concurrently with conveyance of the Transferred Parcel or at any time thereafter, in either case, by a recorded assignment document executed by Seller and specifically referencing this Covenant (and general references to

appurtenances or rights related to the acquired land will not suffice). Any merger of Seller with or into another entity or any acquisition of all or a portion of the equity of Seller by a third party will not be deemed a transfer of the Benefited Property subject hereto triggering the applicability of this subsection.

11. Notices. Any notice to be given or other document to be delivered by any party to the other or others hereunder, and any payments from Buyer to Seller, may be delivered in person to an officer of any party, or may be delivered by Federal Express, private commercial delivery or courier service for next business day delivery or may be deposited in the United States mail in the County of Orange, State of California, duly certified or registered, return receipt requested, with postage prepaid, and addressed to the party for whom intended at the address specified under each party's signature below. Notice may also be given by facsimile transmission ("Fax") to any party at the respective Fax number given under each party's signature and marked "RUSH - PLEASE DELIVER IMMEDIATELY," provided receipt of such transmission shall be confirmed by follow-up notice within seventy-two (72) hours by another method authorized above. Any party hereto may from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified. If any notice or other document is sent by mail as aforesaid, the same shall be deemed served or delivered seventy-two (72) hours after the mailing thereof as above provided. Notice by any other method shall be deemed served or delivered upon actual receipt at the address or Fax number listed above.

12. Effect of Covenant. This Covenant is made for the purposes set forth in the Recitals to this Covenant and Seller makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Covenant, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

13. Waiver of Jury Trial. SELLER AND BUYER HAVE EACH ACKNOWLEDGED THAT IT HAS HAD THE ADVICE OF COUNSEL OF ITS CHOICE WITH RESPECT TO RIGHTS TO TRIAL BY JURY UNDER THE CONSTITUTIONS OF THE UNITED STATES AND THE STATE OF CALIFORNIA. BOTH SELLER AND BUYER EXPRESSLY AND KNOWINGLY WAIVE AND RELEASE ALL SUCH RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS COVENANT, BUYER'S USE OR DEVELOPMENT OF THE BURDENED PROPERTY OR ANY ADJOINING PROPERTY AND/OR ANY CLAIM FOR INJURY OR DAMAGE.

IN WITNESS WHEREOF, the parties have caused this Covenant to be executed as of the day and year first written above.

“Seller”

RMV PA2 DEVELOPMENT, LLC,  
a Delaware limited liability company

By: RANCHO MISSION VIEJO, LLC,  
a Delaware limited liability company,  
its authorized agent and manager

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

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

Address for notices:

RMV PA2 Development, LLC.  
c/o Rancho Mission Viejo, LLC  
28811 Ortega Highway  
San Juan Capistrano, CA 92675  
Attn: Donald L. Vodra  
Fax: (949) 248-0810

“BUYER”

CAPISTRANO UNIFIED SCHOOL DISTRICT

By: \_\_\_\_\_  
Deputy Superintendent  
Business and Support Services

APPROVED AS TO FORM:

Address for notices:

BY: \_\_\_\_\_  
Bowie, Arneson, Wiles & Giannone  
Legal Counsel to Capistrano  
Unified School District

Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675  
Attn: Deputy Superintendent,  
Business and Support Services  
Fax: (949) 493-8729

## **EXHIBIT A TO COVENANT**

### **Legal Description of Benefited Property**

The real property situated in the County of Orange, State of California and described as:

Parcels 38, 39, 43, 44, 45, 72 through 77, inclusive, 83, 84, 85, 96, 97, 98, 102, 103, 114 through 119, inclusive, 125, 126, 133, 138, 143, 144, and 145 of Certificate of Compliance CC 2001-01, in the Unincorporated Territory of the County of Orange, State of California, recorded July 26, 2001 as Instrument No. 20010508635 of Official Records, in the office of the County Recorder of said County.

Together with, Parcels 1 through 91, inclusive, of Certificate of Compliance CC 2010-01, in said Unincorporated Territory, recorded December 22, 2010 as Instrument No. 2010000690527 of said Official Records.

Together with, Parcels 1 through 128, inclusive, of Certificate of Compliance CC 2011-01, in said Unincorporated Territory, recorded December 27, 2011 as Instrument No. 2011000677171 of said Official Records.

Together with, Parcel 1 of Certificate of Compliance CC 2004-096, in the City of San Clemente, in said County, recorded December 21, 2004 as Instrument No. 2004001130448 of said Official Records.

Together with, Parcel 2 and portions of Parcels 3 and 4 of Certificate of Compliance CC 87-06, in said Unincorporated Territory, recorded August 7, 1987 as Instrument No. 87-449971 of said Official Records.

Together with, Parcel C of Lot Line Adjustment LL 2002-160, in said Unincorporated Territory, recorded July 9, 2003 as Instrument No. 2003000800031 of said Official Records.

Together with, Parcel 2 of Lot Line Adjustment LL 2003-004, in said Unincorporated Territory, recorded March 19, 2003 as Instrument No. 20030294469 of said Official Records.

Together with, Parcels 1, 2 and 3 of Lot Line Adjustment LL 2004-027, in said Unincorporated Territory, recorded September 7, 2004 as Instrument No. 2004000809240 of said Official Records.

Together with, Parcels 2 and 3 of Lot Line Adjustment LL 2004-028, in said Unincorporated Territory, recorded September 7, 2004 as Instrument No. 2004000809243 of said Official Records.

Together with, Parcel 2 of Lot Line Adjustment LL 2004-029, in said Unincorporated Territory, recorded September 7, 2004 as Instrument No. 2004000809246 of said Official Records.



Together with, Parcels 2 and 3 of Lot Line Adjustment LL 2004-030, in said Unincorporated Territory, recorded September 7, 2004 as Instrument No. 2004000809251 of said Official Records.

Together with, Parcel 1 of Lot Line Adjustment LL 2004-039, in said Unincorporated Territory, recorded October 21, 2004 as Instrument No. 2004000951825 of said Official Records.

Together with, Parcels 1, 2 and 3 of Lot Line Adjustment LL 2007-002, in said Unincorporated Territory, recorded June 22, 2007 as Instrument No. 2007000398904 of said Official Records.

Together with, Parcel 2, in said Unincorporated Territory, as shown on the map filed in Book 90, Pages 23 through 27, inclusive, of Parcel Maps, in the office of said County Recorder.

Together with, Parcel 1 of Parcel Map 93-159, in said Unincorporated Territory, as shown on the map filed in Book 280, Pages 49 and 50 of Parcel Maps, in the office of said County Recorder.

Together with, Parcel 1 of Parcel Map 94-153, in said Unincorporated Territory, as shown on the map filed in Book 287, Pages 9 and 10 of Parcel Maps, in the office of said County Recorder.

Together with, Parcel 1 of Parcel Map 95-161, in said Unincorporated Territory, as shown on the map filed in Book 296, Pages 11 and 12 of Parcel Maps, in the office of said County Recorder.

Together with, That land deeded to Last Round Up, Inc., by Grant Deed recorded September 4, 1987 as Instrument No. 87-504837 of said Official Records, in the office of said County Recorder.

Together with, That land deeded to Ortega Rock Land LLC, Inc., by Grant Deed recorded March 7, 2003 as Instrument No. 2003000254085 of said Official Records, in the office of said County Recorder.

Together with, Those portions of Section 24, Township 8 South, Range 7 West, of Rancho Mission Viejo, as shown on the map sectionizing Rancho Mission Viejo, in said Unincorporated Territory, filed in Book 9, Pages 15 through 22, inclusive, of Record of Surveys, in the office of said County Recorder, described as follows:

Bounded Southerly by the Northerly line of Parcel 56 of said Certificate of Compliance CC 2010-01, bounded Easterly by the Southwesterly line of Parcel 55 of said Certificate of Compliance, bounded Northerly by the Southerly line of Parcel 31 of said Certificate of Compliance and bounded Westerly and Northwesterly by the Southeasterly line of Parcel 2 of said Lot Line Adjustment LL 2004-030.

Bounded Easterly by the Westerly lines of Parcels 56 and 57 of said Certificate of Compliance CC 2010-01, and bounded Westerly and Southerly by the general Easterly line of Parcel 5, as shown said Certificate of Compliance No. CC 87-06.

**EXHIBIT B TO COVENANT**

**Legal Description of Burdened Property**

The real property situated in the County of Orange, State of California and described as:

*[To Be Provided by Developers When Exists]*

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

## EXHIBIT F

### FORM OF SPECIAL OBLIGATION NOTE

#### CAPISTRANO UNIFIED SCHOOL DISTRICT SITE ACQUISITION SPECIAL OBLIGATION NOTE

U.S. \$ \_\_\_\_\_

Date \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned, Capistrano Unified School District (“**Maker**”) promises to pay to RMV PA2 Development, LLC (“**Payee**”) as a special obligation of Maker, at the address indicated in Section 11 below or such other place for the payment of this Special Obligation Note (“**S/O Note**”) as the Payee may from time to time designate in writing, the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), together with Default Interest, if any, thereon limited by, but earned at the rates and payable at the times set forth in Section 5 and in accordance with the terms of this S/O Note and that certain Purchase and Sale Agreement by and among School District, and Payee dated as of \_\_\_\_\_, 20\_\_ (“**P/S Agreement**”) and that certain School Facilities and Funding Agreement and Option to Purchase School Site, dated as of \_\_\_\_\_, 20\_\_ (“**SFF/Agreement**”). Capitalized terms not defined herein shall have the meaning set forth in the P/S Agreement or the SFF/Agreement. Maker promises to pay the principal and interest evidenced hereby as follows:

1. Purpose of S/O Note. This S/O Note is issued in exchange for the purchase from Payee of the PA2 School Site

2. Outstanding Amounts. The principal amount of this S/O Note is \$ \_\_\_\_\_. The unpaid principal, as of any date, is herein referred to as the “**Outstanding Principal Amount.**”

3. Interest Rate. Except as set forth in Section 5 below, the Outstanding Principal Amount of this S/O Note shall not bear interest from the date hereof until paid in full.

4. Payment of S/O Note.

(a) Source. Maker shall pay all amounts due hereunder from State Funds as described in the SFF/Agreement, in the event and to the extent it receives Land Grant State Funds for the acquisition of the PA2 School Site by the School District, or CFD Bond Funds, if applicable, for the acquisition of the PA2 School Site, and Local Funds for the PA2 School Site solely from funds on deposit in the Special Fund, School Facilities Account, and Treasury of the County of Orange as applicable to any State Funds for 50% of the Purchase Price of School Site No. 2. The sources of funds described in this Section 4(a) shall be referred to

herein as “**Available Funds.**” Maker shall pay all Available Funds to Payee within thirty (30) days of receipt by Maker until such time as the Outstanding Principal Amount is reduced to zero.

(b) **Maturity Date.** Notwithstanding anything contained herein to the contrary, the Outstanding Principal Amount of this S/O Note shall be due and payable only from Available Funds without notice or demand on or prior to the date which is thirty (30) years from the date of this S/O Note (“**Maturity Date**”), and if not paid from Available Funds by the Maturity Date shall terminate whether paid in full or not, and in such event, this S/O Note shall terminate without further act of any person or concern.

(c) **Scheduled Payments.** Principal of and Default Interest, if any, on this S/O Note shall be paid within thirty (30) business days of receipt by Maker of the Available Funds described in Section 4(A), to the extent that Available Funds are available to pay the Outstanding Principal Amount of this S/O Note (“**Payment Date**”).

(d) **Lawful Money.** Interest and principal shall be payable in lawful money of the United States.

5. **Default.**

(a) An “**Event of Default,**” subject to the following provisions hereof, shall occur hereunder (a) upon the failure of the Maker to pay all unpaid amounts due as herein provided to the extent of Available Funds, (b) upon the failure of Maker to pay, from and to the extent of Available Funds, any payment due hereunder within thirty (30) days of receipt by Maker of Available Funds when such payment is due, taking into account all applicable “Cure Periods.” Subject to the herein specified Cure Periods, upon occurrence of any Event of Default asserted by Payee, Payee may declare a “**Default Interest**” to be applicable to the Outstanding Principal Amount at the rate of ten percent (10%) to be paid from Available Funds.

(b) **Cure Period.** No Default Interest shall be applicable unless Payee gives ten (10) calendar days prior written notice and Maker fails to remedy any asserted Default within thirty(30) calendar days after receiving such notice from Payee or disputes such asserted Default and has initiated arbitration thereof pursuant to Section 10 of the SFF/Agreement. During the period of such arbitration, not to exceed sixty (60) calendar days, unless extended by the designated arbitrator, in their discretion, the running of such thirty (30) calendar day period described above shall be tolled.

6. **Prepayment.** Maker may prepay all or any part of the unpaid Outstanding Principal Amount due hereunder, together with accrued interest, in whole or in part, at any time during the term hereof without premium, penalty or charge from Available Funds.

7. **Costs of Collection.** Maker promises to pay only from the Available Funds as described in the SFF/Agreement, (a) all costs and expenses of collection, including without limitation reasonable attorneys' fees, in the event this S/O Note or any portion of this S/O Note is placed in the hands of attorneys for collection is effected without suit; (b) reasonable attorneys' fees, as determined by the judge of the court, and all other costs, expenses and fees incurred by Payee in the event suit is instituted to collect this S/O Note or any portion of this S/O Note; and (c) all costs and expenses, including without limitation reasonable attorneys' fees and costs incurred in making

any appearances in any such proceeding or in seeking relief from any stay or injunction issued in or arising out of any such proceeding.

8. Crediting of Payments. All payments made under this S/O Note shall be credited first to Default Interest, if any, and second to the Outstanding Principal Amount.

9. Waiver of Notice, Etc. Maker waives diligence, grace, demand, presentment for payment, exhibition of this S/O Note, protest, notice of protest, notice of dishonor, notice of demand, notice of nonpayment, and any and all exemption rights after the indebtedness evidenced by this S/O Note, to the fullest extent permitted by applicable laws.

10. No Waiver by Payee. Delay or failure by Payee to exercise any power, option or election herein shall not constitute a waiver of the right to subsequently exercise such power or option or any other power, option or election herein given to Payee.

11. Notices. Except as otherwise provided herein, all notices or communications required or permitted hereunder shall be in writing to the respective parties as follows:

If to Payee: RMV PA2 Development, LLC  
28811 Ortega Highway  
San Juan Capistrano, CA 92675  
Attention: Chief Financial Officer

and to:

Paskerian, Block, Martindale & Brinton LLC  
16A Journey, Suite 100  
Aliso Viejo, CA 92656

Attention: Devon W. Block

If to Maker: Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675  
Attention: Deputy Superintendent,  
Business and Support Services

and to:

Bowie, Arneson, Wiles & Giannone  
4920 Campus Drive  
Newport Beach, CA 92660  
Attention: Alexander Bowie

A notice or communication shall be effective on the date of personal delivery if personally delivered before 5:00 p.m., otherwise on the day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or when received, if transmitted by electronic facsimile transmission (with electronic confirmation of receipt) if transmitted before 5:00 p.m. on a normal business day, otherwise on the first business day following transmission; or on the day following delivery to the applicable overnight courier, if sent by overnight courier.

Either party may change the address to which notices are to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

12. Computation of Default Interest. The computation of and Default Interest, if any, hereunder shall be based on a year of three hundred sixty (360) days and a month of thirty (30) days. Notwithstanding any other provision of this S/O Note, if the the Default Rate shall exceed the maximum rate permitted by law, then such Interest Rate or Default Rate, as applicable, shall be reduced to the maximum rate permitted by law.

13. Assignment. This S/O Note may be assigned by Payee to any member of the Payee or affiliate of a member of the Payee provided Payee provides prior written notice to Maker of the name and address of the assignee. This S/O Note may not be assigned by Payee to an unrelated third party except with the prior written consent of the Maker. Subject to the foregoing, this Note may only be assigned in whole to a single assignee and no Payee may participate out interests in this S/O Note. This Note may not be assigned by the Maker without the written consent of the Payee.

14. Miscellaneous. This S/O Note shall be governed by and construed under the laws of the United States and the laws of the State of California. The use of the term “**Maker**” shall be deemed to include the successors and assigns of the undersigned, but only as to Available Funds thereof, as herein defined. Time is of the essence of the performance of each provision hereof. In the event that the final date for payment of any amount hereunder falls on a Saturday, Sunday or state or federal holiday, such payment may be made on the next succeeding business day. All payments due hereunder shall be sent to Payee at the address set forth above or to such other place as Payee or other legal holder of this S/O Note may designate in writing from time to time.

IN WITNESS WHEREOF, Maker has executed this S/O Note on the year and date first hereinabove set forth.

CAPISTRANO UNIFIED SCHOOL DISTRICT

By: \_\_\_\_\_  
Deputy Superintendent  
Business and Support Services

## **SCHEDULE 1**

### **PRE-APPROVED TITLE DOCUMENTS**

1. Rancho Mission Viejo Development Agreement with the County of Orange recorded December 6, 2004 as Instrument No. 2004001082094.
2. Notice of Settlement and Declaration of Restrictions recorded August 17, 2005 as Instrument No. 2005000648330.
3. Secured Fire Protection Agreements with the Orange County Fire Authority recorded April 4, 2007 as Instrument Nos. 2007000218114 and 2007000218115.





**EXHIBIT J**

**FORM OF SPECIAL OBLIGATION NOTE**

## EXHIBIT J

### FORM OF SPECIAL OBLIGATION NOTE

#### CAPISTRANO UNIFIED SCHOOL DISTRICT SPECIAL OBLIGATION NOTE (Owner State Funding Advance)

U.S. \$ \_\_\_\_\_

Date \_\_\_\_\_

FOR VALUE RECEIVED, the undersigned, Capistrano Unified School District ("Maker") promises to pay to \_\_\_\_\_ ("Payee") as a special obligation of Maker, at the address indicated in Section 11 below or such other place for the payment of this Special Obligation Note ("S/O Note") as the Payee may from time to time designate in writing, the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), together with Default Interest, if any, thereon limited by, but earned at the rates and payable at the times set forth in Section 5 and in accordance with the terms of this S/O Note and that certain School Facilities and Funding Agreement and Option to Purchase School Site, dated as of \_\_\_\_\_, 20\_\_ ("SFF/Agreement"). Capitalized terms not defined herein shall have the meaning set forth in the SFF/Agreement. Maker promises to pay the principal and interest evidenced hereby as follows:

1. Purpose of S/O Note. This S/O Note is issued in exchange for Payee's loan to Maker of funds in anticipation of Maker's imminent receipt of State, Federal or Local Funds for the construction, furnishing and equipping of the PA 2 School.

2. Outstanding Amounts. The principal amount of this S/O Note is \$ \_\_\_\_\_. The unpaid principal, as of any date, is herein referred to as the "Outstanding Principal Amount."

3. Interest Rate. Except as set forth in Section 5 below, the Outstanding Principal Amount of this S/O Note shall not bear interest from the date hereof until paid in full.

4. Payment of S/O Note.

(a) Source. Maker shall pay all amounts due hereunder from 50% of all State Funds received by the School District for the PA 2 School, excluding amount received for the PA 2 School Site. The sources of funds described in this Section 4(a) shall be referred to herein as "Available Funds." Maker shall pay all Available Funds to Payee within thirty (30) days of receipt by Maker, or by the County of Orange for the benefit of Maker until such time as the Outstanding Principal Amount is reduced to zero.

(b) Maturity Date. Notwithstanding anything contained herein to the contrary, the Outstanding Principal Amount of this S/O Note shall be due and payable only from Available Funds without notice or demand on or prior to the date which is thirty (30) years from the date of this S/O Note ("Maturity Date"), and if not paid from Available Funds by the Maturity Date shall terminate whether paid in full or not, and in such event, this S/O Note shall terminate without further act of any person or concern.

(c) Scheduled Payments. Principal of and Default Interest, if any, on this S/O Note shall be paid within thirty (30) business days of receipt by Maker of the Available Funds described in Section 4(A), to the extent that Available Funds are available to pay the Outstanding Principal Amount of this S/O Note ("**Payment Date**").

(d) Lawful Money. Interest and principal shall be payable in lawful money of the United States.

5. Default.

(a) An "**Event of Default**," subject to the following provisions hereof, shall occur hereunder (a) upon the failure of the Maker to pay all unpaid amounts due as herein provided to the extent of Available Funds, (b) upon the failure of Maker to pay, from and to the extent of Available Funds, any payment due hereunder within thirty (30) days of receipt by Maker of Available Funds when such payment is due, taking into account all applicable "**Cure Periods**." Subject to the herein specified Cure Periods, upon occurrence of any Event of Default asserted by Payee, Payee may declare a "**Default Interest**" to be applicable to the Outstanding Principal Amount at the rate of ten percent (10%) to be paid from Available Funds.

(b) Cure Period. No Default Interest shall be applicable unless Payee gives ten (10) calendar days prior written notice and Maker fails to remedy any asserted Default within thirty (30) calendar days after receiving such notice from Payee or disputes such asserted Default and has initiated arbitration thereof pursuant to Section 10 of the SFF/Agreement. During the period of such arbitration, not to exceed sixty (60) calendar days, unless extended by the designated arbitrator, in their discretion, the running of such thirty (30) calendar day period described above shall be tolled.

6. Payment. Maker may prepay all or any part of the unpaid Outstanding Principal Amount due hereunder, together with accrued interest, in whole or in part, at any time during the term hereof without premium, penalty or charge from available funds.

7. Costs of Collection. Maker promises to pay only from the Available Funds, (a) all costs and expenses of collection, including without limitation reasonable attorneys' fees, in the event this S/O Note or any portion of this S/O Note is placed in the hands of attorneys for collection is effected without suit; (b) reasonable attorneys' fees, as determined by the judge of the court, and all other costs, expenses and fees incurred by Payee in the event suit is instituted to collect this S/O Note or any portion of this S/O Note; and (c) all costs and expenses, including without limitation reasonable attorneys' fees and costs incurred in making any appearances in any such proceeding or in seeking relief from any stay or injunction issued in or arising out of any such proceeding.

8. Crediting of Payments. All payments made under this S/O Note shall be credited first to Default Interest, if any, and second to the Outstanding Principal Amount.

9. Waiver of Notice, Etc. Maker waives diligence, grace, demand, presentment for payment, exhibition of this S/O Note, protest, notice of protest, notice of dishonor, notice of demand, notice of nonpayment, and any and all exemption rights after the indebtedness evidenced by this S/O Note, to the fullest extent permitted by applicable laws.

10. No Waiver by Payee. Delay or failure by Payee to exercise any power, option or election herein shall not constitute a waiver of the right to subsequently exercise such power or option or any other power, option or election herein given to Payee.

11. Notices. Except as otherwise provided herein, all notices or communications required or permitted hereunder shall be in writing to the respective parties as follows:

If to Payee:

28811 Ortega Highway  
San Juan Capistrano, CA 92675  
Attention: Chief Financial Officer

and to:

Paskerian, Block, Martindale & Brinton LLC  
16A Journey, Suite 100  
Aliso Viejo, CA 92656  
Attention: Devon W. Block

If to Maker:

Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675  
Attention: Deputy Superintendent,  
Business and Support Services

and to:

Bowie, Arneson, Wiles & Giannone  
4920 Campus Drive  
Newport Beach, CA 92660  
Attention: Alexander Bowie

A notice or communication shall be effective on the date of personal delivery if personally delivered before 5:00 p.m., otherwise on the day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or when received, if transmitted by electronic facsimile transmission (with electronic confirmation of receipt) if transmitted before 5:00 p.m. on a normal business day, otherwise on the first business day following transmission; or on the day following delivery to the applicable overnight courier, if sent by overnight courier. Either party may change the address to which notices are to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

12. Computation of Default Interest. The computation of and Default Interest, if any, hereunder shall be based on a year of three hundred sixty (360) days and a month of thirty (30) days. Notwithstanding any other provision of this S/O Note, if the Default Rate shall exceed the maximum rate permitted by law, then such Interest Rate or Default Rate, as applicable, shall be reduced to the maximum rate permitted by law.

13. Assignment. This S/O Note may be assigned by Payee to any member of the Payee or affiliate of a member of the Payee provided Payee provides prior written notice to Maker of the name and address of the assignee. This S/O Note may not be assigned by Payee to an unrelated third party except with the prior written consent of the Maker. Subject to the foregoing, this Note may only be assigned in whole to a single assignee and no Payee may participate out interests in this S/O Note. This Note may not be assigned by the Maker without the written consent of the Payee.

14. Miscellaneous. This S/O Note shall be governed by and construed under the laws of the United States and the laws of the State of California. The use of the term "**Maker**" shall be deemed to include the successors and assigns of the undersigned, but only as to Available Funds thereof, as herein defined. Time is of the essence of the performance of each provision hereof. In the event that the final date for payment of any amount hereunder falls on a Saturday, Sunday or state or federal holiday, such payment may be made on the next succeeding business day. All payments due hereunder shall be sent to Payee at the address set forth above or to such other place as Payee or other legal holder of this S/O Note may designate in writing from time to time.

IN WITNESS WHEREOF, Maker has executed this S/O Note on the year and date first hereinabove set forth.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT

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

Deputy Superintendent  
Business and Support Services



**EXHIBIT K**  
**HYPOTHETICAL EXAMPLES**



## **EXHIBIT K**

### **HYPOTHETICAL EXAMPLES**

#### **SFF – Section 6.5**

##### **Paragraph 1: PA 2 School Site Acquisition – Note Amount Example**

|        |   |                    |
|--------|---|--------------------|
| (i)    | Purchase Price                                      | \$21,000,000       |
| (ii)   | State Funding Amount equal to 50% of Purchase Price | \$10,500,000       |
| minus  | State Funds Received                                | <u>\$5,000,000</u> |
| equals | Special Obligation Note Amount                      | <u>\$5,500,000</u> |

##### **Paragraph 2: PA 2 School Construction – Project Funding Amount Increase (funds not expected for at least five years)**

|        |  |                     |
|--------|--|---------------------|
| (i)    | Original Project Funding Amount                                | \$17,929,800        |
| (ii)   | Original Assumed State Funding Amount                          | \$11,500,000        |
| minus  | State Funds Then Available                                     | <u>\$5,000,000</u>  |
| equals | State Funds Shortfall  | \$6,500,000         |
| (iii)  | Project Funding Amount Increase (50% of State Funds Shortfall) | \$3,250,000         |
| plus   | Original Project Funding Amount                                | \$17,929,800        |
| equals | Revised Project Funding Amount                                 | <u>\$21,179,800</u> |

**Paragraph 2: PA 2 School Construction – Loan by Developer  
(funds expected within five years)**

|        |  |                    |
|--------|--|--------------------|
| (i)    | Original Project Funding Amount  | \$17,929,800       |
| (ii)   | Original Assumed State Funding Amount                                      | \$11,500,000       |
| minus  | State Funds Then Available   | <u>\$2,000,000</u> |
| equals | State Funds Shortfall  | <u>\$9,500,000</u> |
| (iii)  | Loan by Developer to School District equal to 50% of State Funds Shortfall | \$4,750,000        |

**SFF – Section 6.10 - Owner Advances**

|        |  |                    |
|--------|--|--------------------|
| (i)    | Original Project Funding Amount                                | \$17,929,800       |
| minus  | Available Project Funding Sources at time of Funding Threshold | \$9,000,000        |
| equals | Owner PA 2 School Advance                                      | <u>\$8,929,800</u> |



**EXHIBIT L**

**FORM OF SPECIAL OBLIGATION NOTE**

## EXHIBIT L

### FORM OF SPECIAL OBLIGATION NOTE

#### CAPISTRANO UNIFIED SCHOOL DISTRICT SPECIAL OBLIGATION NOTE (Owner PA 2 School Advance)

U.S. \$ \_\_\_\_\_

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

IN CONSIDERATION OF OWNER PA 2 SCHOOL ADVANCES, the undersigned, Capistrano Unified School District ("**Maker**") promises, subject to the provisions herein set forth and the SFF/Agreement (defined below) to refund such amounts by paying to \_\_\_\_\_ ("**Payee**") as a special obligation of Maker, at the address indicated in Section 11 below or such other place for the payment of this Special Obligation Note ("**S/O Note**") as the Payee may from time to time designate in writing, the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), together with Default Interest, if any, thereon limited by, but earned at the rates and payable at the times set forth in Section 5 and in accordance with the terms of this S/O Note and that certain School Facilities and Funding Agreement and Option to Purchase School Site, dated as of \_\_\_\_\_, 20\_\_ ("**SFF/Agreement**"). Capitalized terms not defined herein shall have the meaning set forth in the SFF/Agreement. Maker promises to pay the principal and interest evidenced hereby as follows:

1. Purpose of S/O Note. This S/O Note is issued to refund to Payee advance of School Payments, excluding High School Payments, to Maker for the construction, furnishing and equipping of the PA 2 School, subject to applicable law, including such provisions relating to issuance of and use of proceeds of tax-exempt bonds.

2. Outstanding Amounts. The principal amount of this S/O Note is \$ \_\_\_\_\_. The unpaid principal, as of any date, is herein referred to as the "Outstanding Principal Amount."

3. Interest Rate. Except as set forth in Section 5 below, the Outstanding Principal Amount of this S/O Note shall not bear interest from the date hereof until paid in full.

4. Payment of S/O Note.

(a) Source. Maker, subject to the foregoing provisions relating to use of proceeds of tax-exempt Bonds, shall pay all amounts due hereunder from CFD Bond Proceeds as described in the SFF/Agreement ("**Available Funds**") received by the School District for or from a CFD as described in the SFF/Agreement. Maker shall pay all Available Funds to Payee within thirty (30) days of receipt by Maker until such time as the Outstanding Principal Amount is reduced to zero.

(b) **Maturity Date.** Notwithstanding anything contained herein to the contrary, the Outstanding Principal Amount of this S/O Note shall be due and payable only from Available Funds without notice or demand on or prior to the date which is thirty (30) years from the date of this S/O Note ("**Maturity Date**"), and if not paid from Available Funds by the Maturity Date shall terminate whether paid in full or not, and in such event, this S/O Note shall terminate without further act of any person or concern.

(c) **Scheduled Payments.** Principal of and Default Interest, if any, on this S/O Note shall be paid within thirty (30) business days of receipt by Maker of the Available Funds described in Section 4(A), to the extent that Available Funds are available to pay the Outstanding Principal Amount of this S/O Note ("**Payment Date**").

(d) **Lawful Money.** Interest and principal shall be payable in lawful money of the United States.

5. **Default.**

(a) An "**Event of Default**," subject to the following provisions hereof, shall occur hereunder (a) upon the failure of the Maker to pay all unpaid amounts due as herein provided to the extent of Available Funds, (b) upon the failure of Maker to pay, from and to the extent of Available Funds, any payment due hereunder within thirty (30) days of receipt by Maker of Available Funds when such payment is due, taking into account all applicable "**Cure Periods**." Subject to the herein specified Cure Periods, upon occurrence of any Event of Default asserted by Payee, Payee may declare a "**Default Interest**" to be applicable to the Outstanding Principal Amount at the rate of ten percent (10%) to be paid from Available Funds.

(b) **Cure Period.** No Default Interest shall be applicable unless Payee gives ten (10) calendar days prior written notice and Maker fails to remedy any asserted Default within thirty (30) calendar days after receiving such notice from Payee or disputes such asserted Default and has initiated arbitration thereof pursuant to Section 10 of the SFF/Agreement. During the period of such arbitration, not to exceed sixty (60) calendar days, unless extended by the designated arbitrator, in their discretion, the running of such thirty (30) calendar day period described above shall be tolled.

6. **Payment.** Maker may prepay all or any part of the unpaid Outstanding Principal Amount due hereunder, together with accrued interest, in whole or in part, at any time during the term hereof without premium, penalty, or charge from any source of funds.

7. **Costs of Collection.** Maker promises to pay only from the Available Funds as described herein, (a) all costs and expenses of collection, including without limitation reasonable attorneys' fees, in the event this S/O Note or any portion of this S/O Note is placed in the hands of attorneys for collection is effected without suit; (b) reasonable attorneys' fees, as determined by the judge of the court, and all other costs, expenses and fees incurred by Payee in the event suit is instituted to collect this S/O Note or any portion of this S/O Note; and (c) all costs and expenses, including without limitation reasonable attorneys' fees and costs incurred in making any appearances in any

such proceeding or in seeking relief from any stay or injunction issued in or arising out of any such proceeding.

8. Crediting of Payments. All payments made under this S/O Note shall be credited first to Default Interest, if any, and second to the Outstanding Principal Amount. The dollar amount of Certificates of Compliance issued by reason of a PA 2 Owner Advance shall be credited, on a dollar for dollar basis, against an outstanding Principal Amount as of the date of issuance of each Certificate of Compliance.

9. Waiver of Notice, Etc. Maker waives diligence, grace, demand, presentment for payment, exhibition of this S/O Note, protest, notice of protest, notice of dishonor, notice of demand, notice of nonpayment, and any and all exemption rights after the indebtedness evidenced by this S/O Note, to the fullest extent permitted by applicable laws.

10. No Waiver by Payee. Delay or failure by Payee to exercise any power, option or election herein shall not constitute a waiver of the right to subsequently exercise such power or option or any other power, option or election herein given to Payee.

11. Notices. Except as otherwise provided herein, all notices or communications required or permitted hereunder shall be in writing to the respective parties as follows:

If to Payee:

28811 Ortega Highway  
San Juan Capistrano, CA 92675  
Attention: Chief Financial Officer

and to:

Paskerian, Block, Martindale & Brinton LLC  
16A Journey, Suite 100  
Aliso Viejo, CA 92656  
Attention: Devon W. Block

If to Maker:

Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675  
Attention: Deputy Superintendent,  
Business and Support Services

and to:

Bowie, Arneson, Wiles & Giannone  
4920 Campus Drive  
Newport Beach, CA 92660  
Attention: Alexander Bowie

A notice or communication shall be effective on the date of personal delivery if personally delivered before 5:00 p.m., otherwise on the day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or when received, if transmitted by electronic facsimile transmission (with electronic confirmation of receipt) if transmitted before 5:00 p.m. on a normal business day, otherwise on the first business day following transmission; or on the day following delivery to the applicable overnight courier, if sent by overnight courier. Either party may change the address to which notices are to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

12. Computation of Default Interest. The computation of and Default Interest, if any, hereunder shall be based on a year of three hundred sixty (360) days and a month of thirty (30) days. Notwithstanding any other provision of this S/O Note, if the Default Rate shall exceed the maximum rate permitted by law, then such Interest Rate or Default Rate, as applicable, shall be reduced to the maximum rate permitted by law.

13. Assignment. This S/O Note may be assigned by Payee to any member of the Payee or affiliate of a member of the Payee provided Payee provides prior written notice to Maker of the name and address of the assignee. This S/O Note may not be assigned by Payee to an unrelated third party except with the prior written consent of the Maker. Subject to the foregoing, this S/O Note may only be assigned in whole to a single assignee and no Payee may participate out interests in this S/O Note. This S/O Note may not be assigned by the Maker without the written consent of the Payee.

14. Miscellaneous. This S/O Note shall be governed by and construed under the laws of the United States and the laws of the State of California. The use of the term "**Maker**" shall be deemed to include the successors and assigns of the undersigned, but only as to Available Funds thereof, as herein defined. Time is of the essence of the performance of each provision hereof. In the event that the final date for payment of any amount hereunder falls on a Saturday, Sunday or state or federal holiday, such payment may be made on the next succeeding business day. All payments due hereunder shall be sent to Payee at the address set forth above or to such other place as Payee or other legal holder of this S/O Note may designate in writing from time to time.

IN WITNESS WHEREOF, Maker has executed this S/O Note on the year and date first hereinabove set forth.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT

By: \_\_\_\_\_  
Deputy Superintendent  
Business and Support Services





CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

**RESOLUTION NO. 1314-21**

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO  
UNIFIED SCHOOL DISTRICT APPROVING AMENDMENT NO. 1 TO  
FIRST AMENDED IMPACT MITIGATION AGREEMENT RELATED TO  
THE WHISPERING HILLS PROJECT AND COMMUNITY FACILITIES  
DISTRICT NO. 2005-1 AND DELEGATING AUTHORITY RELATED  
THERE TO**

*WHEREAS*, Rancho San Juan Development LLC (“Landowner”) is the successor owner to Whispering Hills LLC (“Prior Owner”) and assignee of the First Amended Impact Mitigation Agreement Related to the Whispering Hills Project and Community Facilities District No. 2005-1 dated as of July 13, 2011 (“F/A Agreement”), relative to the Whispering Hills Project (“Property”) and Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) (“CFD No. 2005-1”); and

*WHEREAS*, the Property was conveyed to the Landowner by the Prior Owner by grant deed recorded on April 6, 2009, as Instrument No. 09-000163909 in the Official Records of the County of Orange; and

*WHEREAS*, on July 26, 2005, the Board of Trustees of the Capistrano Unified School District (“Board”), acting as the legislative body of CFD No. 2005-1, adopted “RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 (WHISPERING HILLS) OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT DETERMINING THE NECESSITY TO INCUR BONDED INDEBTEDNESS IN AN AMOUNT NOT TO EXCEED \$30,000,000 WITHIN COMMUNITY FACILITIES DISTRICT NO. 2005-1 (WHISPERING HILLS) OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT AND CALLING AN ELECTION THEREON” (Resolution No. 0506-07) (“Bond Authorization”), which authorized the CFD No. 2005-1 to issue bonds secured by special taxes to finance authorized public facilities; and

*WHEREAS*, the F/A Agreement specifies the terms, conditions and manner of issuing bonds as authorized under the Bond Authorization resolution and the specified conditions contained therein are currently anticipated to be satisfied, requiring the issuance of bonds; and

*WHEREAS*, in order to issue the anticipated bond issuance, the Landowner, the District, and CFD No. 2005-1 have reached an understanding as to their respective rights and duties under the F/A Agreement and wish to amend the F/A Agreement to adopt an alternate process for selecting an underwriter in connection with the issuance of anticipated bonds; and

*WHEREAS*, the Board, acting on behalf of itself and CFD No. 2005-1, has reviewed and considered the Amendment No. 1 to First Amended Impact Mitigation Agreement Related to the Whispering Hills Project and Community Facilities District No. 2005-1 (“Amendment No. 1”), which is attached as Exhibit A and by this reference herein incorporated.

EXHIBIT 2

Page 1 of 5

**NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

1. That the above recitals are true and correct.
2. That the Board hereby approves the Amendment No. 1.
3. That the Board hereby authorizes and directs the Deputy Superintendent of Business & Support Services of the District ("Deputy Superintendent"), or designee, to sign and deliver Amendment No. 1 in substantially the forms described in the recitals above.
4. That the Deputy Superintendent and the District's legal counsel may authorize minor, non-substantive revisions to Amendment No. 1 prior to signature and delivery thereof.
5. That the Board hereby authorizes and directs the Deputy Superintendent, or their designees, to take all such further actions, and to execute such additional documents, as are necessary to implement the intent of this Resolution No. 1314-21 and the terms of the Amendment No. 1.

**ADOPTED, SIGNED AND APPROVED** this 25th day of September, 2013.

**BOARD OF TRUSTEES OF THE CAPISTRANO  
UNIFIED SCHOOL DISTRICT, ACTING ON  
BEHALF OF ITSELF AND AS THE  
LEGISLATIVE BODY OF COMMUNITY  
FACILITIES DISTRICT NO. 2005-1 OF THE  
CAPISTRANO UNIFIED SCHOOL DISTRICT**

By \_\_\_\_\_  
**JOHN M. ALPAY**, President, Board of Trustees  
of the Capistrano Unified School District

**ATTEST:**

\_\_\_\_\_  
**ANNA BRYSON**, Clerk, Board of Trustees of the  
Capistrano Unified School District

STATE OF CALIFORNIA    )  
                                      ) ss.  
COUNTY OF ORANGE    )

I, Anna Bryson, Clerk of the Board of Trustees of the Capistrano Unified School District, do hereby certify that the foregoing resolution was duly adopted by the Board of Trustees of said School District, acting on behalf of itself and as the Legislative Body of Community Facilities District No. 2005-1, at a meeting of said Board held on the 25<sup>th</sup> day of September, 2013, and that it was so adopted by the following vote

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

---

Clerk, Board of Trustees of the Capistrano Unified  
School District

STATE OF CALIFORNIA    )  
                                      ) ss.  
COUNTY OF ORANGE     )

I, Anna Bryson, Clerk, Board of Trustees of the Capistrano Unified School District, do hereby certify that the foregoing is a full, true and correct copy of Resolution No. 1314-21 of said Board of Trustees, and that the same has not been amended or repealed.

Dated: September 25, 2013

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Clerk, Board of Trustees of the Capistrano Unified  
School District

**EXHIBIT "A"**

**AMENDMENT NO. 1 TO FIRST AMENDED IMPACT MITIGATION AGREEMENT**  
**RELATED TO THE WHISPERING HILLS PROJECT AND COMMUNITY**  
**FACILITIES DISTRICT NO. 2005-1**



**AMENDMENT NO. 1 TO FIRST AMENDED IMPACT MITIGATION  
AGREEMENT RELATED TO THE WHISPERING HILLS PROJECT  
AND COMMUNITY FACILITIES DISTRICT NO. 2005-1**

THIS AMENDMENT NO. 1 ("Amendment No. 1") to the First Amended Impact Mitigation Agreement Related to the Whispering Hills Project and Community Facilities District No. 2005-1 Between Capistrano Unified School District, Community Facilities District No. 2005-1 by and between the Capistrano Unified School District, Community Facilities District No. 2005-1 of Capistrano Unified School District (Whispering Hills), Whispering Hills, LLC, and Rancho San Juan Development LLC ("F/A Agreement"), is made and entered into, effective as of the 25<sup>th</sup> day of September, 2013, ("Effective Date") by and between the Capistrano Unified School District ("School District") acting on behalf of itself and on behalf of Community Facilities District No. 2005-1 of the Capistrano Unified School District ("CFD No. 2005-1") and Whispering Hills, LLC's ("Whispering Hills LLC") successor-in-interest, Rancho San Juan Development LLC ("Rancho San Juan LLC").

**RECITALS**

*WHEREAS*, Rancho San Juan LLC has previously assumed all assignments of Whispering Hills LLC under the F/A Agreement dated June 8, 2011, therefore Rancho San Juan LLC is subject to and authorized to amend the F/A Agreement pursuant to Section 11.2 of the F/A Agreement.

NOW, THEREFORE, in consideration of the terms and conditions herein set forth, School District acting on behalf of itself and CFD No. 2005-1, and Whispering Hills LLC DO HEREBY AGREE AS FOLLOWS:

1. The term "Underwriter" as set forth in Section 2.0 of the F/A Agreement, entitled "Definitions" is hereby amended as follows:

"Underwriter" shall mean the underwriter selected by CFD No. 2005-1, following consultation with the School District and Landowner, for each series of Bonds, which underwriter shall have been among the top three underwriters, by initial principal amount sold, of land-secured, tax-exempt assessment district and community facilities district bonds in the State of California during the previous three-year period as determined by CFD No. 2005-1; provided, however, with respect to the first series of bonds, the underwriter may be selected, in consultation with the School District and Landowner, utilizing the Request for Proposal ("RFP"), a copy of which is on file at the School District, describing the selection process, which shall be submitted to at least three (3) underwriting firms. For the first series of bonds, the underwriter shall be determined by CFD No. 2005-1 based on its evaluation of criteria outlined in the RFP and in compliance with all applicable legal requirements. In selecting the underwriter, CFD No. 2005-1 intends to utilize recommendations set forth in Government Finance Officers Association's "Best Practice – Selecting Underwriters for Negotiated Bond Sales," as determined by CFD No. 2005-1 in consultation with the School District's financial advisor.

2. Subsection (a) of Section 8.2 entitled "Issuance of Bonds and Allocation of Bond Proceeds" is hereby amended as follows:

**Attachment 1**



Landowner may provide written notice ("L/O Notice") to School District and CFD No. 2005-1 of the date on which the 70<sup>th</sup> Dwelling Unit constructed within the Property is expected to close escrow to an individual, third-party owner. Following its receipt of such L/O Notice, and subject to the provisions of Sections 8.2 (c) and (d) below, CFD No. 2005-1 shall take all action necessary to offer for sale, sell, and upon such sale, issue a "First Series" of Bonds, as provided for in this F/A Agreement, by no later than the last to occur of (i) 180 days following School District's and CFD No. 2005-1's receipt of the L/O Notice and (ii) 90 days following the actual close of escrow for the 70<sup>th</sup> Dwelling Unit to a third-party owner. The L/O Notice shall include a deposit for non-contingent costs of sale of the First Series of Bonds in the amount of up to \$75,000, as reasonably determined by CFD No. 2005-1, the expended portion of which shall be reimbursed, without interest, from the proceeds of the First Series of Bonds. The unexpended portion of such deposit shall be returned to Landowner, without interest, upon issuance of the First Series of Bonds. The amount of the First Series of Bonds shall be based on the projected maximum Assigned Special Taxes for at least those first 70 Dwelling Units that have closed escrow to individual third-party owners, and will not include "Undeveloped Property." However, the Special Taxes as to the Undeveloped Property shall be available, if necessary, for interest and principal on the First Series of Bonds and administrative expenses of CFD No. 2005-1 to the extent permitted in the First Amended RMA. The Assigned Special Taxes for at least the first 70 Dwelling Units shall provide 110% debt service coverage on the First Series of Bonds plus the Priority Administrative Expense Requirement.

3. Except as expressly provided herein, the remaining provisions of the F/A Agreement shall remain in full force and effect.

*[Signature page follows]*

IN WITNESS OF THE FOREGOING, the undersigned have executed this Amendment to the Agreement on the day and year first written above.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT

COMMUNITY FACILITIES DISTRICT  
NO. 2005-1

By: \_\_\_\_\_  
Name: Clark Hampton  
Title: Deputy Superintendent, Business and  
Support Services

By: \_\_\_\_\_  
Name: Clark Hampton  
Title: Deputy Superintendent, Business and  
Services

APPROVED AS TO FORM:

Bowie, Arneson, Wiles & Giannone

By: \_\_\_\_\_  
Alexander Bowie, Esq.,  
Special Legal Counsel

RANCHO SAN JUAN DEVELOPMENT,  
LLC, a Delaware limited liability company

By: Woodbridge Builders, LLC, a Delaware  
limited partnership  
Its: Managing Member

By: Woodbridge Communities II, LLC,  
a Delaware limited liability company  
Its: Manager

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



CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

**RESOLUTION NO. 1314- 22**

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) AUTHORIZING THE ISSUANCE OF THE FIRST SERIES OF SPECIAL TAX BONDS OF COMMUNITY FACILITIES DISTRICT NO. 2005-1, SERIES 2013 SPECIAL TAX BONDS, IN THE NOT TO EXCEED AMOUNT OF \$10 MILLION, APPROVING A FISCAL AGENT AGREEMENT, APPROVING OTHER DOCUMENTS, AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

*WHEREAS*, the Board of Trustees ("Board") of the Capistrano Unified School District ("School District") located in Orange County, California, has heretofore undertaken proceedings and declared the necessity to issue bonds on behalf of Community Facilities District No. 2005-1 of the School District pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California ("Act"); and

*WHEREAS*, the Board previously adopted its "Statement of Local Goals and Policies Concerning the Use of the Mello-Roos Community Facilities Act of 1982, as Amended" ("Policy") on August 16, 1993; and

*WHEREAS*, Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) ("CFD No. 2005-1" or "District") was formed pursuant to the resolution entitled the "RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2005-1 (WHISPERING HILLS) OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, APPROVING THE FORMS OF JOINT COMMUNITY FACILITIES AGREEMENT AND MITIGATION AGREEMENT AND CALLING AN ELECTION" (Resolution No. 0506-06) adopted by the Board on July 26, 2005 ("Formation Resolution"); and

*WHEREAS*, on July 26, 2005, the Board adopted "RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 (WHISPERING HILLS) OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT DETERMINING THE NECESSITY TO INCUR BONDED INDEBTEDNESS IN AN AMOUNT NOT TO EXCEED \$30,000,000 WITHIN COMMUNITY FACILITIES DISTRICT NO. 2005-1 (WHISPERING HILLS) OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT AND CALLING AN ELECTION THEREON" (Resolution No. 0506-07) ("Bond Authorization"), which authorized the District to issue bonds secured by special taxes to finance authorized public facilities; and

*WHEREAS*, pursuant to the Formation Resolution and the Bond Authorization Resolution, an election ("Election") was duly and legally held and conducted on the 26<sup>th</sup> day of July, 2005, at which

EXHIBIT 4

Election there was submitted to the qualified voters of CFD No. 2005-1 certain propositions, which provided, in pertinent part, the following:

**PROPOSITION A:**

Shall Community Facilities District No. 2005-1 (Whispering Hills) of the Capistrano Unified School District (the "District") incur an indebtedness and issue bonds of the District in the maximum principal amount of \$30,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 0506-06 of the Board of Trustees of the Capistrano Unified School District?

**PROPOSITION B:**

Shall a special tax of the District with a rate and method of apportionment as provided in Resolution No. 0506-06 of the Board of Trustees of the Capistrano Unified School District be levied to pay for the Facilities, Incidental Expenses and other purposes described in Resolution No. 0506-06, including the payment of the principal of and interest on bonds issued by the District to finance the Facilities and Incidental Expenses?

*WHEREAS*, more than two-thirds of the votes cast at Election were cast in favor of incurring said indebtedness and issuing said special tax bonds and levying special taxes, and CFD No. 2005-1 is now authorized to issue bonds for the purpose set forth in the foregoing bond proposition and up to an aggregate principal amount as set forth above; and

*WHEREAS*, the Board, acting as the Legislative Body of CFD No. 2005-1 ("Legislative Body of CFD No. 2005-1"), subsequently conducted proceedings for the annexation of additional property into CFD No. 2005-1 upon petition by the property owner of such property, referred to under the annexation proceedings as "Annexation No. 1," and, after a duly called and validly conducted election on May 7, 2007, the Legislative Body of CFD No. 2005-1 adopted "RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) DECLARLING THE RESULTS OF A SPECIAL TAX ELECTION AND ANNEXING CERTAIN TERRITORY" (Resolution No. 0607-73), all such proceedings being referred to in this Resolution as the "Annexation Proceedings"; and

*WHEREAS*, the Legislative Body of CFD No. 2005-1, instituted proceedings to revise the rate and method of apportionment of special tax in March 2011, which proceedings and all related resolutions and other documents are further detailed in the following recitals hereof, and are collectively referred to as the "Modification Proceedings" in this Resolution; and

*WHEREAS*, on June 13, 2011, the Board adopted "RESOLUTION OF THE BOARD OF EDUCATION OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) ORDERING CERTAIN CHANGES AND MODIFICATIONS TO PROCEEDINGS TO ALTER THE RATE AND METHOD OF APPORTIONMENT AND REDUCING THE LEVY OF SPECIAL TAXES WITHIN

COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT” (Resolution No. 1011-60) which ordered changes to the authorized rate and method of special tax for CFD No. 2005-1 in accordance with the terms set forth in the “First Amended Rate and Method of Apportionment for Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills)” (“Amended RMA”), and thereafter conducted a public hearing thereon on such date; and

*WHEREAS*, pursuant to the Modification Proceedings, an election (“Subsequent Election”) was duly and legally held and conducted on the 13<sup>th</sup> day of June 2011, at which Subsequent Election there was submitted to the qualified voters of CFD No. 2005-1 a certain proposition, which provided, in pertinent part, the following:

**PROPOSITION A:**

Shall Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) be authorized to levy and collect a changed Special Tax on property within Community Facilities District No. 2005-1, which Special Tax is further described in the First Amended Rate and Method of Special Tax attached to Resolution Nos. 1011-60 and 1011-61 of the Community Facilities District No. 2005-1 of the Capistrano Unified School District?

*WHEREAS*, more than two-thirds of the votes cast at the Subsequent Election were cast in favor of levying special taxes according to the Amended RMA, resulting in CFD No. 2005-1’s authorization to issue bonds for the purpose set forth in Formation Resolution and Bond Authorization Resolution, supported by the security of the special taxes levied and collected under the Amended RMA; and

*WHEREAS*, on June 13, 2011, the Board adopted “RESOLUTION OF THE BOARD OF EDUCATION OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) ALTERING THE RATE AND METHOD OF APPORTIONMENT AND REDUCING THE LEVY OF SPECIAL TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO. 2005-1 AND TAKING RELATED ACTIONS” (Resolution No. 1011-63) approving the “First Amended Rate and Method of Apportionment for Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) (“Amended RMA”) for all purposes, and authorizing the recordation of an amendment of notice of special tax lien; and

*WHEREAS*, in accordance with Section 53340 of the California Government Code, the Board acting as the Legislative Body of CFD No. 2005-1 adopted Ordinance No. 1112-1 on July 11, 2011 (“Ordinance”), providing for the levy of the special taxes within CFD No. 2005-1 pursuant to the Amended RMA for specified purposes, including funding debt service on authorized and issued bonds of CFD No. 2005-1; and

*WHEREAS*, based upon the resolutions set forth above, the Election, the Modification Proceedings, the Subsequent Election and the Ordinance, CFD No. 2005-1 is now authorized to issue bonds pursuant to the Act in a total aggregate principal amount of \$30,000,000 for the purposes set forth in the Bond Authorization Resolution; and

WHEREAS, the Board, acting as the Legislative Body of CFD No. 2005-1, intends to issue the first series of bonds of CFD No. 2005-1 in an aggregate principal amount not-to-exceed \$10,000,000 designated as the "COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT SERIES 2013 SPECIAL TAX BONDS" ("2013 Bonds") as permitted by Section 53356 of the California Government Code and has determined that it would be prudent in the management of its fiscal affairs to issue the 2013 Bonds for financing school facilities of the School District, as well as certain roadway, water, sewer, storm drain or other public improvements, or capital facilities fees related thereto, of the City of San Juan Capistrano; and

WHEREAS, the Board, acting as the Legislative Body of CFD No. 2005-1, has determined, in accordance with Section 53360.4 of the Act that a negotiated sale of the 2013 Bonds to a bond underwriting firm ("Underwriter"), to be selected by a competitive proposal process in accordance with the terms of *Amendment No. 1 To First Amended Impact Mitigation Agreement Related To The Whispering Hills Project And Community Facilities District No. 2005-1*, and pursuant to the terms and conditions of the Bond Purchase Agreement relating to the 2013 Bonds as referenced below ("Purchase Agreement") will result in a lower overall cost to CFD No. 2005-1 than a public sale, along with other terms; and

WHEREAS, the Board, acting as the Legislative Body of CFD No. 2005-1, desires to authorize or ratify, as applicable, the retention of consultants and attorneys to assist the School District and CFD No. 2005-1 in the issuance, sale and delivery of the 2013 Bonds; and

WHEREAS, the Board, acting as the Legislative Body of CFD No. 2005-1, has been presented with various documents relating to the issuance and sale of the 2013 Bonds (each as further defined herein) including, but not limited to: the Fiscal Agent Agreement, the Preliminary Official Statement, including the form of the Continuing Disclosure Certificate set forth as an appendix thereto, and the Purchase Agreement, which are incorporated herein by this reference; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to the issuance of the Bonds and for the levy, collection of the special taxes upon taxable property within CFD No. 2005-1 and the pledge of the Net Taxes thereof as security for the Bonds, as contemplated by this Resolution and the documents referred to herein, exists, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act.

NOW THEREFORE BE IT RESOLVED that the Board of Trustees of the Capistrano Unified School District, acting in its capacity as the Legislative Body of Community Facilities District No. 2005-1, does hereby resolve, determine, and order as follows:

Section 1. Recitals. Each of the above recitals is true and correct and is hereby incorporated herein.

Section 2. Existing Authorization. Reference is hereby made to the Formation Resolution, the Bond Authorization Resolution, the Election, the Annexation Proceedings, the Modification Proceedings, the Subsequent Election and the Ordinance pursuant to which CFD No. 2005-1 is authorized to issue the 2013 Bonds for the purposes set forth in said documents and proceedings and to levy the special tax under the Amended RMA authorized by the Modification Proceedings, the Subsequent Election and the Ordinance.

Section 3. Financial Advisor. Government Financial Strategies, inc., as Financial Advisor, is authorized and directed to assist the School District with the proceedings for the issuance, sale and delivery of the 2013 Bonds by CFD No. 2005-1.

Section 4. Authorization of 2013 Bonds; Fiscal Agent Agreement. The issuance of the 2013 Bonds in an aggregate principal amount not to exceed \$10,000,000 is hereby authorized pursuant to the proceedings referenced herein and the Act. The 2013 Bonds shall mature on the dates and pay interest at the rates set forth in the Purchase Agreement for the 2013 Bonds and otherwise shall be substantially in the form set forth in the Fiscal Agent Agreement ("Agreement") hereinafter referred to. All other provisions of the 2013 Bonds shall be governed by the terms and conditions set forth in the Agreement as executed by the Superintendent or the Deputy Superintendent, Business and Support Services, of the School District, or their designees or other officers of the School District designated in writing (acting individually or collectively, the "Authorized Representative(s)"). The Agreement in the form attached hereto as Exhibit A incorporated herein by this reference, is hereby approved, and the Authorized Representatives are hereby authorized and directed for and in the name of CFD No. 2005-1 to execute the Agreement in the form hereby approved, with such additions thereto and changes therein as are approved by Authorized Representatives upon the advice of Bond Counsel (Bowie, Arneson, Wiles & Giannone), subject to provisions of Section 6 hereof, with such approval to be conclusively evidenced by the execution and delivery of the Agreement. Capitalized terms used in this Resolution which are not defined herein shall have the meaning(s) set forth in the form of the Agreement attached hereto as Exhibit A.

The Legislative Body of CFD No. 2005-1 hereby determines that it is prudent in the management of the fiscal affairs of CFD No. 2005-1 to issue the 2013 Bonds. In satisfaction of the requirements of Section 53356 of the Act, the Legislative Body of CFD No. 2005-1 hereby determines: (i) the form of the 2013 Bonds, execution of the 2013 Bonds and expenditure of the proceeds of the 2013 Bonds (including federal rebate requirements), the date, place of repayment, denominations, form and registration and redemption provisions of the 2013 Bonds shall be set forth in the final form of the Agreement; (ii) the final par amount of the 2013 Bonds, their maturities and interest rate(s) shall conform to the terms of the Purchase Agreement (discussed below), shall conform to the limitations of Sections 5 and 6 hereof and shall be set forth in the final form of the Agreement; and (iii) the initial Fiscal Agent for the 2013 Bonds is set forth in Section 13 hereof.

Section 5. Selection of Underwriter; Approval of Purchase Agreement; Negotiated Sale Findings. The Authorized Representatives are authorized for and in the name of CFD No. 2005-1 to select the Underwriter pursuant to the competitive proposal process described above in consultation with, and upon the advice of, the Financial Advisor. The proposed form of the Purchase Agreement presented at this meeting and the sale of the 2013 Bonds pursuant thereto upon the terms and conditions set forth therein is approved and, subject to the provisions of this Section and Sections 4 and 6 hereof, an Authorized Representative is authorized and directed for and in the name of the CFD No. 2005-1 to execute the Purchase Agreement in the form hereby approved, with such additions thereto and changes therein as are recommended or approved by the representative executing the same in consultation with the Financial Advisor, such approval to be conclusively evidenced by the execution and delivery thereof.

The Legislative Body of CFD No. 2005-1 finds and determines after consultation with the Financial Advisor, subject to the provisions of Section 53363.5 of the Act, and in accordance with Section 53360.4 of the Act, that a negotiated sale of the 2013 Bonds to the Underwriter in accordance



with the terms and conditions of the Purchase Agreement will, along with other terms, result in a lower overall cost to CFD No. 2005-1 than a public sale.

Section 6. Authorized Representatives to Establish Final Terms of Sale of 2013 Bonds With Financial Advisor. The Authorized Representative(s), upon the advice of the Financial Advisor, are hereby authorized and directed to act on behalf of CFD No. 2005-1 to establish and determine: (i) the final principal amount of the 2013 Bonds, which amount shall not exceed \$10,000,000, (ii) the final amounts of the various maturities of the 2013 Bonds, the final maturity which shall be no later than September 1, 2043, (iii) the final interest rates on the 2013 Bonds, with the true interest cost not to exceed 8%, (iv) the maximum underwriting discount, which shall not exceed 3% (excluding any original issue discount/premium), and (v) the time for the sale and delivery of the 2013 Bonds. Upon determining the final terms and conditions of the sale of the 2013 Bonds, the Authorized Representative(s), or any of them, are hereby further authorized to insert such terms and conditions in and approve the final form of the Purchase Agreement upon advice of the Financial Advisor.

Section 7. Community Facilities District Continuing Disclosure. The proposed form of the Continuing Disclosure Certificate of CFD No. 2005-1 related to the 2013 Bonds attached as an appendix to the Preliminary Official Statement and presented to the Board at this meeting, is hereby approved. An Authorized Representative is hereby authorized and directed to execute such certificate in substantially the form hereby approved with such additions thereto and changes therein as are approved by the Authorized Representatives upon the advice of Disclosure Counsel and consultation with the Financial Advisor, such approval to be conclusively evidenced by the execution and delivery thereof prior to, or concurrently with, the delivery of the 2013 Bonds.

Section 8. Preliminary Official Statement; Form of Official Statement. The Preliminary Official Statement relating to the 2013 Bonds is hereby approved in substantially the form presented at this meeting to the Legislative Body of CFD No. 2005-1, and the use and distribution of the Preliminary Official Statement and the preparation, execution and delivery of the final Official Statement in connection with the sale of the 2013 Bonds is hereby authorized by the Legislative Body of CFD No. 2005-1. An Authorized Representative is hereby authorized to deliver copies of the Preliminary Official Statement and the final Official Statement with such changes therein as such representative shall approve upon the advice of Disclosure Counsel as being in the best interests of CFD No. 2005-1, such approval to be conclusively evidenced by the execution and delivery thereof. Upon approval of such changes by an Authorized Representative, the Preliminary Official Statement shall be deemed final as of its date except for the omission of certain information as provided in and pursuant to Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

Section 9. Execution of 2013 Bonds. The 2013 Bonds shall be executed on behalf of CFD No. 2005-1 by the manual or facsimile signature of the President of the Legislative Body of CFD No. 2005-1 (or, in the absence of the President, the Vice-President or other member of the Legislative Body on behalf of the President) and attested with the manual or facsimile signature of the Clerk, or Secretary, of the Legislative Body of CFD No. 2005-1, and the seal of CFD No. 2005-1, or a facsimile thereof, may be impressed or imprinted thereon.

Section 10. Covenants. The covenants set forth in the Agreement to be executed in accordance with Section 4 above are hereby approved and shall, upon the execution and delivery of the Agreement, be deemed to be covenants of the Board in its capacity as the Legislative Body of

CFD No. 2005-1 and shall be complied with by CFD No. 2005-1 and its officers. The Agreement shall, upon the execution and delivery thereof, constitute a contract between CFD No. 2005-1 and the Owners of the 2013 Bonds.

Section 11. Compliance with Valuation Requirements. In accordance with the requirements of Section 53345.8(a) of the Act, the Board, acting as the Legislative Body of CFD No. 2005-1, and based on the advice of the Financial Advisor, hereby finds and determines the value of the real property subject to the Special Taxes to be used to pay debt service on the 2013 Bonds is at least three times the principal amount of the 2013 Bonds and the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act or a special assessment levied on property. As required by State law, this determination is based upon the Report and conclusions of a state certified real estate appraiser, as defined in Business and Professions Code Section 11340(c), and made in a manner consistent with the Policy, which determined the value of taxable property within CFD No. 2005-1. The Report is on file with the School District and the Legislative Body of CFD No. 2005-1, and is presented to the Legislative Body of CFD No. 2005-1 as part of these proceedings.

Section 12. Conformance with CFD Finance Policy. The Legislative Body of CFD No. 2005-1 hereby finds and determines that the issuance and sale of the 2013 Bonds is consistent with the School District's Policy currently in effect with respect to community facilities district financings.

Section 13. Fiscal Agent. U.S. Bank National Association is hereby appointed to act as Fiscal Agent for the 2013 Bonds and an Authorized Representative is hereby authorized to enter into an agreement with the Fiscal Agent to provide such services to CFD No. 2005-1.

Section 14. Legal Counsel; Additional Consultants, Services. The Board previously appointed Bowie, Arneson, Wiles & Giannone to act as Bond Counsel to the School District relative to CFD No. 2005-1 and the issuance and sale of the 2013 Bonds. The Board hereby authorizes the retention of Quint & Thimmig LLP to act as Disclosure Counsel with respect to the 2013 Bonds, and approves and authorizes the execution of the Disclosure Counsel retention contract on file with the School District by the Superintendent or Deputy Superintendent, Business and Support Services. In addition to the consultants and legal counsel hereinbefore authorized and retained in connection with the issuance and sale of the 2013 Bonds, whose retention and service contracts on file with the Clerk of the Board are hereby ratified by the Legislative Body of CFD No. 2005-1, the Superintendent and Deputy Superintendent, Business and Support Services, of the School District are authorized and directed to contract for consultant services, including legal, financial, and related professional services, as specified herein, or as otherwise necessary so the School District may proceed with, and complete, the proposed issuance and sale of the 2013 Bonds. The Authorized Representatives, or their designees, are authorized to contract for all other services necessary to effect the issuance of the 2013 Bonds. Such services shall include, but not be limited to, printing the 2013 Bonds, the Preliminary Official Statement and the final Official Statement, obtaining fiscal or paying agent services and any other services deemed appropriate as determined by the Authorized Representatives. The Authorized Representatives, or their designees, are authorized to pay for the cost of such services, together with other costs of issuance of the 2013 Bonds, from the proceeds of the 2013 Bonds.

Section 15. Other Actions. All actions heretofore taken by officers and agents of the School District and CFD No. 2005-1 with respect to the sale and issuance of the 2013 Bonds are

hereby approved, confirmed and ratified, and the Authorized Representatives and other appropriate officials of the School District and CFD No. 2005-1 are hereby authorized and directed to take any actions and execute and deliver any and all documents as are necessary to accomplish the issuance, sale and delivery of the Bonds in accordance with the provisions and directives of this Resolution.

Section 16. Determination Under CEQA. The Board hereby confirms and ratifies (i) the Authorized Representatives' prior determination that the execution, delivery and sale of the Bonds is not a "project" for purposes the California Environmental Quality Act (CEQA), Division 13 (commencing with Section 21000) of the Public Resources Code, and (ii) the execution, posting and filing of the Notice of Exemption pursuant to the provisions and requirements of CEQA by the Authorized Representatives.

Section 17. Effective Date. This Resolution shall take effect upon adoption.

*[Remainder of this Page Blank]*

**APPROVED, ADOPTED AND SIGNED** this 25<sup>th</sup> day of September, 2013.

BOARD OF TRUSTEES OF THE CAPISTRANO  
UNIFIED SCHOOL DISTRICT, acting as the  
Legislative Body of Community Facilities District No.  
2005-1

By: \_\_\_\_\_  
John M. Alpay, President of the Board of  
Trustees of the Capistrano Unified School District

ATTEST

By: \_\_\_\_\_  
Anna Bryson, Clerk of the Board of Trustees of the  
Capistrano Unified School District

STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF ORANGE                    )

I, Anna Bryson, Clerk of the Board of Trustees of the Capistrano Unified School District, do hereby certify that the foregoing resolution was duly adopted by the Board of Trustees of said School District, acting as the Legislative Body of Community Facilities District No. 2005-1 of the Capistrano Unified School District, at a meeting thereof duly held at the regular meeting place thereof on September 25, 2013, of which meeting all of the members of said Board had due notice and at which a majority thereof were present; and that at said meeting said resolution was adopted by the following vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

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Anna Bryson, Clerk of the Board of Trustees of the  
Capistrano Unified School District

STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF ORANGE                    )

I, Anna Bryson, Clerk of the Board of Trustees of the Capistrano Unified School District, do hereby certify that the foregoing is a full, true and correct copy of Resolution No. 1314-22 of said Board and that the same has not been amended or repealed.

Dated this 25<sup>th</sup> day of September, 2013.

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Anna Bryson, Clerk of the Board of Trustees of the  
Capistrano Unified School District

**EXHIBIT A**

**FORM OF FISCAL AGENT AGREEMENT**  
(provided by Bond Counsel)

## **FISCAL AGENT AGREEMENT**

This Fiscal Agent Agreement ("Fiscal Agent Agreement") dated as of October 1, 2013, is approved and entered into by **COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS)** ("District" or "CFD No. 2005-1") and **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, as fiscal agent ("Fiscal Agent").

### **RECITALS**

1. The Board of Trustees ("Board" or "Board of Trustees") of the Capistrano Unified School District ("School District") located in Orange County, California, has heretofore undertaken proceedings and declared the necessity to issue bonds on behalf of Community Facilities District No. 2005-1 of the School District ("District") pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982," as amended, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California ("Act").

2. CFD No. 2005-1 was formed pursuant to the resolution entitled "RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2005-1 (WHISPERING HILLS) OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, APPROVING THE FORMS OF JOINT COMMUNITY FACILITIES AGREEMENT AND MITIGATION AGREEMENT AND CALLING AN ELECTION" (Resolution No. 0506-06) adopted by the Board of Trustees on July 26, 2005 ("Formation Resolution"), which resolution established the District and authorized the levy of special taxes for property within the District to fund school facilities of the School District and public facilities of the City of San Juan Capistrano ("City") (collectively "Project Facilities").

3. On July 26, 2005, the Board adopted "RESOLUTION OF THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 (WHISPERING HILLS) OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT DETERMINING THE NECESSITY TO INCUR BONDED INDEBTEDNESS IN AN AMOUNT NOT TO EXCEED \$30,000,000 WITHIN COMMUNITY FACILITIES DISTRICT NO. 2005-1 (WHISPERING HILLS) OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT AND CALLING AN ELECTION THEREON" (Resolution No. 0506-07) ("Bond Authorization Resolution"), which resolution authorized the District to issue bonds for financing the Project Facilities.

4. Pursuant to the Formation Resolution, an election ("Election") was duly and legally held and conducted within the District on the 26th day of July 2005, at which Election there was submitted to the qualified voters of the District certain propositions, which provided in pertinent part, the following:



**PROPOSITION A:**

Shall Community Facilities District No. 2005-1 (Whispering Hills) of the Capistrano Unified School District (the "District") incur an indebtedness and issue bonds of the District in the maximum principal amount of \$30,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 0506-06 of the Board of Trustees of the Capistrano Unified School District?

**PROPOSITION B:**

Shall a special tax of the District with a rate and method of apportionment as provided in Resolution No. 0506-06 of the Board of Trustees of the Capistrano Unified School District be levied to pay for the Facilities, Incidental Expenses and other purposes described in Resolution No. 0506-06, including the payment of the principal of and interest on bonds issued by the District to finance the Facilities and Incidental Expenses?

5. More than two-thirds of the votes cast at Election were cast in favor of incurring said indebtedness and issuing said special tax bonds and levying special taxes, and CFD No. 2005-1 is now authorized to issue Bonds for the purpose set forth in the foregoing bond proposition and up to an aggregate principal amount as set forth above.

6. The Board, acting as the Legislative Body of CFD No. 2005-1 ("Legislative Body of CFD No. 2005-1"), instituted proceedings to revise the rate and method of apportionment of special tax on March 8, 2011, which proceedings and related resolutions and other documents shall be collectively referred to as the "Modification Proceedings" in this Fiscal Agent Agreement.

7. In conjunction with the Modification Proceedings, the School District and the District entered into the: (i) "First Amended Joint Community Facilities Agreement" dated June 13, 2011, with the City, Whispering Hills, LLC, and Rancho San Juan Development LLC, to revise the funding for road, storm drain, water, sewer, and park facilities to be owned by the City of San Juan Capistrano and capital fees (collectively, the "City Facilities") from special taxes and bonds of CFD No. 2005-1, and the (ii) "First Amended Impact Mitigation Agreement Related to Proposed Community Facilities District No. 2005-1," dated June 13, 2011, with Whispering Hills, LLC, and Rancho San Juan Development LLC.

8. On June 13, 2011, the Board adopted "RESOLUTION OF THE BOARD OF EDUCATION OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) ORDERING CERTAIN CHANGES AND MODIFICATIONS TO PROCEEDINGS TO ALTER THE RATE AND METHOD OF APPORTIONMENT AND REDUCING THE LEVY OF SPECIAL TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT" (Resolution No. 1011-60) which ordered

changes to the authorized rate and method of special tax for CFD No. 2005-1 in accordance with the terms set forth in the "First Amended Rate and Method of Apportionment for Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills)" ("Amended RMA"), and thereafter conducted a public hearing thereon on such date.

9. Pursuant to the Modification Proceedings, an election ("Subsequent Election") was duly and legally held and conducted on the 13<sup>th</sup> day of June 2011, at which Subsequent Election there was submitted to the qualified voters of CFD No. 2005-1 a certain proposition, which provided, in pertinent part, the following.

**PROPOSITION A:**

Shall Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) be authorized to levy and collect a changed Special Tax on property within Community Facilities District No. 2005-1, which Special Tax is further described in the First Amended Rate and Method of Special Tax attached to Resolution Nos. 1011-60 and 1011-61 of the Community Facilities District No. 2005-1 of the Capistrano Unified School District?

10. More than two-thirds of the votes cast at the Subsequent Election were cast in favor of levying special taxes according to the Amended RMA, resulting in CFD No. 2005-1's authorization to issue Bonds for the purpose set forth in Formation Resolution and Bond Authorization Resolution, supported by the security of the special taxes levied and collected under the Amended RMA.

11. On June 13, 2011, the Board adopted "RESOLUTION OF THE BOARD OF EDUCATION OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) ALTERING THE RATE AND METHOD OF APPORTIONMENT AND REDUCING THE LEVY OF SPECIAL TAXES WITHIN COMMUNITY FACILITIES DISTRICT NO. 2005-1 AND TAKING RELATED ACTIONS" (Resolution No. 1011-63) approving the "First Amended Rate and Method of Apportionment for Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) ("Amended RMA") for all purposes, and authorizing the recordation of an amendment of notice of special tax lien.

12. In accordance with Section 53340 of the California Government Code, the Board acting as the Legislative Body of CFD No. 2005-1 adopted Ordinance No. 1112-1 on July 11, 2011 ("Ordinance"), providing for the levy of the special taxes within CFD No. 2005-1 pursuant to the Amended RMA for specified purposes, including funding debt service on authorized and issued bonds of CFD No. 2005-1.

13. Based upon the resolutions set forth above, the Election, the Modification Proceedings, the Subsequent Election and the Ordinance, CFD No. 2005-1 is now authorized to issue bonds pursuant to the Act in a total aggregate principal amount of \$30,000,000 for the purposes set forth in the Bond Authorization Resolution.

14. Under the provisions of the Act, on September 25, 2013, the Board, acting in the capacity as the Legislative Body of the District, adopted Resolution No. 1314-22 ("Resolution of Issuance"), which resolution, among other matters, authorized the issuance of the first series of bonds of CFD No. 2005-1, the Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Series 2013 Special Tax Bonds, in an aggregate principal amount not-to-exceed \$10,000,000 upon the security of the Net Taxes (as defined herein) and provided that said issuance would be in accordance with the Act and this Fiscal Agent Agreement, and authorized the execution hereof.

15. The Board, acting in its capacity as the Legislative Body of the District, has decided to proceed to issue the first series of authorized bonds in the aggregate principal amount of \$\_\_\_\_\_ designated as "Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Series 2013 Special Tax Bonds" ("Bonds") to provide financing for acquisition of school facilities of the School District and other Project Costs (as defined herein) for the City Facilities.

16. It is in the public interest and for the benefit of the School District and the District that the District enter into this Fiscal Agent Agreement to provide for the issuance of the Bonds, the disbursement of proceeds of the Bonds, the disposition of Net Taxes securing the Bonds and the administration and payment of the Bonds.

17. The District has determined that all things necessary to cause the Bonds, when executed by the District, authenticated by the Fiscal Agent and issued as provided in the Act, the Resolution of Issuance and this Fiscal Agent Agreement, to be legal, valid and binding special obligations of the District in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Fiscal Agent Agreement and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

**NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS AND PROVISIONS SET FORTH HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:**

## **ARTICLE I STATUTORY AUTHORITY AND DEFINITIONS**

**Section 1.01. Authority for this Fiscal Agent Agreement.** This Fiscal Agent Agreement is entered into pursuant to the provisions of the Act and the Resolution of Issuance and the findings and determinations of the resolution of issuance are incorporated herein as though fully set forth in this Fiscal Agent Agreement.

**Section 1.02. Definitions.** In addition to the definitions heretofore included in the Recitals, and unless the context otherwise requires, the following terms shall have the following meanings:

**“2013 Bond” or “2013 Bonds”** means the “\$\_\_\_\_\_ Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Series 2013 Special Tax Bonds.”

**“2013 Term Bond” or “2013 Term Bonds”** means the 2013 Bonds maturing on September 1, 20\_\_ and on September 1, 20\_\_.

**“Act”** means the Mello-Roos Community Facilities Act of 1982, as amended, being Section 53311, *et seq.*, of the Government Code of the State and any successor provisions thereto.

**“Administrative Expense Fund”** means the fund of that name established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.05 of this Fiscal Agent Agreement.

**“Administrative Expense Requirement”** means the amount of \$50,000.00 for Fiscal Year 2013-14, which escalates 2.00% each Fiscal Year thereafter, as further set forth in, and subject to the provisions and limitations of, Sections 3.03 and 3.05 of this Fiscal Agent Agreement.

**“Administrative Expenses”** means the administrative costs with respect to the calculation and collection of the Special Taxes and any other costs related to the Bonds, including the fees and expenses of the Fiscal Agent and any persons, parties, consultants or attorneys employed pursuant to Covenants 2, 3 or 12 of Sections 5.02 and 5.03 hereof, costs and legal expenses of foreclosure actions undertaken pursuant to the terms hereof to the extent not recovered pursuant to statutory authorization, costs otherwise incurred by the District in order to carry out the authorized purposes of the Bonds, including statutory disclosure and reporting requirements for the District and reporting requirements, rebate compliance and “Administrative Expenses” as defined in the Rate and Method.

**“Annual Debt Service”** means, with respect to the Outstanding Bonds, for each Bond Year, the sum of (a) the interest payable on such Bonds in such Bond Year, assuming the Bonds are retired as scheduled, and (b) the principal amount of the Outstanding Bonds scheduled to be paid in such Bond Year.

**“Authorized Investments”** means, subject to Section 3.12 hereof, any of the following investments, if and to the extent the same are at the time legal for investment of the School District’s funds:

(a) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, and which have a maximum term to maturity not to exceed three years.

(b) Obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America, and which have a maximum term to maturity not to exceed three years, including:

- Export-Import Bank
- Farm Credit System Financial Assistance Corporation
- Rural Economic Community Development Administration  
(formerly the Farmers Home Administration)
- General Services Administration
- U.S. Maritime Administration
- Small Business Administration
- Government National Mortgage Association (GNMA)
- U.S. Department of Housing & Urban Development (PHA's)
- Federal Housing Administration
- Federal Financing Bank.

(c) Direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the United States of America, and which have a maximum term to maturity not to exceed three years:

- Senior debt obligations rated "Aaa" by Moody's and "AAA" by Standard & Poor's issued by the Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC)
- Obligations of the Resolution Funding Corporation (REFCORP)
- Senior debt obligations of the Federal Home Loan Bank System.

(d) Registered state warrants or treasury notes or bonds of the State, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the State or by a department, board, agency, or authority of the State, which are rated in one of the two highest short-term or long-term rating categories by Moody's or Standard & Poor's.

(e) Registered bonds, notes, warrants or other evidences of indebtedness of any local agency of the State, including bonds payable solely out of revenues from a revenue-producing property owned, controlled, or operated by the local agency, where the interest on such local agency obligation is exempt from federal and State income taxes and which are rated in one of the two highest short-term or long-term rating categories by Moody's or Standard & Poor's.

(f) Deposit accounts, time certificates of deposit or negotiable certificates of deposit issued by a state or nationally chartered bank or trust company, which may include the Fiscal Agent or its affiliates, or a state or federal savings and loan association; provided, that the certificates of deposit shall be one or more of the following:

(1) Continuously and fully insured by the Federal Deposit Insurance Corporation.

(2) Continuously and fully secured by securities described in clause (a) or (b) above which shall have a market value, as determined on a marked-to-market basis calculated at

least weekly, and exclusive of accrued interest, or not less than 102% of the principal amount of the certificates of deposit.

(g) Commercial paper of “prime” quality of the highest ranking or of the highest letter and numerical rating as provided by Moody’s and Standard & Poor’s, which commercial paper is limited to issuing corporations that are organized and operating within the United States of America and that have total assets in excess of \$500,000,000 and that have an “A” or higher rating for the issuer’s debentures, other than commercial paper, by Moody’s and Standard & Poor’s, provided that purchases of eligible commercial paper may not exceed 180 days’ maturity nor represent more than 10% of the outstanding commercial paper of an issuing corporation. Purchases of commercial paper may not exceed 20% of the invested proceeds of the Bonds.

(h) A repurchase agreement with a state or nationally chartered bank or trust company or a national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York the long-term debt of which is rated at least “AA” by Standard & Poor’s or “Aa2” by Moody’s, provided that all of the following conditions are satisfied:

(1) (A) the agreement is secured by any one or more of the securities described in clause (a) above of this definition of Authorized Investments (“Underlying Securities”);

(B) the Underlying Securities are required by the repurchase agreement to be held by a bank, trust company, or primary dealer having a combined capital and surplus of at least \$100,000,000 and which is independent of the issuer of the repurchase agreement (“Holder of Collateral”) and the Underlying Securities have been transferred to the Holder of Collateral in accordance with applicable state and federal laws (other than by means of entries on the transferor’s books); and

(C) the Underlying Securities are maintained at a market value, as determined on a marked-to-market basis calculated at least weekly, of not less than 103% of the amount so invested and at such levels and additional conditions not otherwise in conflict with the terms above as would be acceptable to Standard & Poor’s or Moody’s so as to maintain, respectively, an “AA” or “Aa2” rating in an “AA” or “Aa2” rated structured financing (with a market value approach).

(2) The repurchase agreement shall provide that if during its term the provider’s rating by Moody’s and Standard & Poor’s is withdrawn or suspended or falls below “AA-” by Standard & Poor’s or “Aa3” by Moody’s, as appropriate, the provider must within 10 days of receipt of direction from the District, repurchase all collateral and terminate the agreement, with no penalty or premium to the District or Fiscal Agent.

(i) Any investment agreement or guaranteed investment contract with, or guaranteed by, a financial institution, the long-term unsecured obligations of which are rated “AA” or “Aa2” or better by Standard & Poor’s or Moody’s, respectively, at the time of initial investment

("Provider"). The investment agreement shall be subject to a downgrade provision with at least the following requirements:

(1) Within five Business Days after the Provider's long-term unsecured credit rating has been reduced below "AA-" by Standard & Poor's or below "Aa3" by Moody's (these events are called "Rating Downgrades"), the Provider shall give notice to the Fiscal Agent and the District and, within the five-day period, and for as long as the Rating Downgrade is in effect, shall deliver or transfer in the name of the District to the Fiscal Agent or a third party acceptable to the District acting solely as agent therefore (Holder of Collateral) (other than by means of entries on the Provider's books) federal securities allowed as investments under clause (a) above with aggregate current market value equal to at least 105% of the principal amount of the investment agreement invested with the Provider at that time, and shall deliver additional such federal securities as needed to maintain an aggregate current market value equal to at least 105% of the principal amount of the investment agreement within three days after each evaluation date, which shall be at least weekly.

(2) If the Provider's long-term unsecured credit rating is withdrawn, suspended, other than because of general withdrawal or suspension by Moody's or Standard & Poor's from the practice of rating that debt, or reduced below "A3" by Moody's or below "A-" by Standard & Poor's, the Provider shall give notice of the downgrade to the District and the Fiscal Agent and the District shall direct the Fiscal Agent to, upon five Business Days' written notice to the Provider, withdraw the investment agreement, with accrued but unpaid interest thereon to the date of withdrawal, and terminate such agreement.

(j) A taxable or tax exempt government money market portfolio mutual fund restricted to obligations with either maturities of one year or less or a dollar weighted average maturity of 120 days or less, and either issued, guaranteed or collateralized as to payment of principal and interest by the full faith and credit of the United States of America or rated in one of the three highest categories by Moody's or Standard & Poor's. Such money market funds may include funds for which the Fiscal Agent, its affiliates or subsidiaries provide investment advisory or other management services.

(k) The Local Agency Investment Fund referred to in Section 16429.1 of the Government Code of the State to the extent the Fiscal Agent may deposit and withdraw funds directly.

**"Authorized Representative(s)" or "District Representative(s)"** means an officer of the School District authorized to provide written directives on behalf of the District, which shall include the School District's Deputy Superintendent, Business and Support Services, and such other persons as shall be designated in writing by the Deputy Superintendent, Business and Support Services .

**"Board" or "Board of Trustees"** means the Board of Trustees of the Capistrano Unified School District.

**"Bond" or "Bonds"** means the 2013 Bonds and any Parity Bonds.

**“Bond Authorization Resolution”** has the meaning set forth in Recital 3.

**“Bond Counsel”** means a firm of nationally recognized bond attorneys, initially Bowie, Arneson, Wiles & Giannone.

**“Bond Fund”** means the fund of that name established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.06 of this Fiscal Agent Agreement.

**“Bond Register”** means the books which the Fiscal Agent shall keep or cause to be kept on which the registration and transfer of the Bonds shall be recorded.

**“Bond Year”** means each twelve month period extending from September 2 in one calendar year to September 1 of the succeeding calendar year, except in the case of the initial Bond Year which shall be the period from the Delivery Date to September 1, 2014, both dates inclusive.

**“Bondowner(s)”** or **“Owner(s)”** means the person or persons in whose name or names any Bond is registered.

**“Business Day”** means a day which is not a Saturday or a Sunday or a day on which banks in Los Angeles, California, and New York, New York, are not required or permitted to be closed.

**“Capitalized Interest Subaccount”** means the subaccount of that name within the Interest Account of the Bond Fund for deposit of a portion of bond proceeds, established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.06 of this Fiscal Agent Agreement.

**“City”** means the City of San Juan Capistrano.

**“City Facilities”** means public facilities of the City authorized to be constructed, acquired and financed under the Formation Resolution, the Bond Authorization Resolution and the Joint Community Facilities Agreement.

**“City Facilities Account”** means the account of that name within the Construction Fund established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.09(c) of this Fiscal Agent Agreement.

**“Code”** means the Internal Revenue Code of 1986, as amended, and any successor provisions thereto.

**“Completion Date”** means the date on which the Project, or portion thereof, is completed and all Project Costs have been paid as evidenced by a certificate to that effect delivered to the Fiscal Agent by the District.



**“Construction Fund”** means the fund of that name established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.09 of this Fiscal Agent Agreement.

**“Costs of Issuance”** means items of expense payable or reimbursable directly or indirectly by the District or School District and related to the formation of CFD No. 2005-1 and the authorization, sale and issuance of the Bonds, which items of expense shall include, but not be limited to, printing costs, cost of reproducing and binding documents, closing costs, appraisal costs, filing and recording fees, fees and expenses of counsel to the District or School District, initial fees and expenses of the Fiscal Agent, including its first annual administration fee and fees of its counsel, expenses incurred by the District and the School District in connection with the issuance of the Bonds and the establishment of the District, legal fees and charges, including Bond Counsel and Disclosure Counsel, special tax consultant’s fees, appraiser’s fees, market absorption consultant’s fees, financial consultants’ fees, charges for execution, transportation and safekeeping of the Bonds and other costs, charges and fees in connection with the foregoing, including any funds advanced by the Original Developer and Developer for the foregoing items of expense.

**“Costs of Issuance Account”** means the account of that name within the Construction Fund established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.09(f) of this Fiscal Agent Agreement.

**“Dated Date”** or **“Delivery Date”** means the date the 2013 Bonds are delivered, and with respect to Parity Bonds, the date such Parity Bonds are delivered.

**“Depository”** means any depository which holds Bonds pursuant to the terms of this Fiscal Agent Agreement, initially with respect to the Bonds, being DTC.

**“Developed Property”** shall have the same meaning set forth in the Rate and Method.

**“Developer”** means Rancho San Juan Development LLC, a Delaware limited liability company, and its successors to the Undeveloped Property or the Developed Property, or otherwise, and its assigns, excluding individual homeowners of residential assessor parcels within CFD No. 2005-1.

**“Dissemination Agent”** means David Taussig & Associates or any successor dissemination agent appointed by the District pursuant to the District Continuing Disclosure Certificate.

**“District”** means Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills).

**“District Continuing Disclosure Certificate”** shall mean a Community Facilities District Continuing Disclosure Certificate provided by the School District on behalf of the District, dated the Delivery Date, as originally executed and as it may be amended from time to time in accordance with the terms thereof, with respect to the 2013 Bonds or any Parity Bonds.

**“DTC”** means The Depository Trust Company, 55 Water Street, 25th Floor, New York, New York, 10041-0099, Attn: Call Notification Department, Fax (212) 855-5004.

**“Election”** has the meaning set forth in Recital 4.

**“Excess Investment Earnings”** shall mean an amount equal to the sum of:

(i) the excess of

(A) the aggregate amount earned from the Delivery Date on all Nonpurpose Investments in which Gross Proceeds are invested (other than amounts attributable to an excess described in this subparagraph (i)), over

(B) the amount that would have been earned if the yield on such Nonpurpose Investments (other than amounts attributable to an excess described in this subparagraph (i)) had been equal to the Yield on the Bonds,

plus

(ii) any income attributable to the excess described in subparagraph (i).

In determining the amount of Excess Investment Earnings, there shall be excluded any amount earned on any fund or account which is used primarily to achieve a proper matching of revenues and annual debt service on the Bonds during each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of one year's earnings on such fund or account or one-twelfth (1/12) of Annual Debt Service on the Bonds, as well as amounts earned on said earnings. The District intends that the Bond Fund, including the Principal Account and the Interest Account established therein, the Special Tax Fund and the Redemption Fund will be the type of funds described in the preceding sentence. The Fiscal Agent shall have no responsibility to determine Excess Investment Earnings and may rely on the calculations provided by the District or any arbitrage consultant retained by the District.

**“Federal Securities”** means any of the following which are non-callable and which at the time of investment are legal investments under the laws of the State for funds held by the Fiscal Agent:

(i) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the United States Department of the Treasury) and obligations, the payment of principal of and interest on which are directly or indirectly guaranteed by the United States of America, including, without limitation, such of the foregoing which are commonly referred to as “stripped” obligations and coupons; or

(ii) any of the following obligations of the following agencies of the United States of America: (a) direct obligations of the Export-Import Bank, (b) certificates of beneficial

ownership issued by the Farmers Home Administration, (c) participation certificates issued by the General Services Administration, (d) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, (e) project notes issued by the United States Department of Housing and Urban Development, and (f) public housing notes and bonds guaranteed by the United States of America.

**“Fiscal Agent”** means U.S. Bank National Association, a national banking association, and its successors and assigns or any and other fiscal agent which may be appointed pursuant to Section 7.01 herein.

**“Fiscal Agent Agreement”** means this Fiscal Agent Agreement, as amended or supplemented pursuant to the terms hereof.

**“Fiscal Year”** means the period from July 1 to June 30 in any year.

**“Formation Resolution”** has the meaning set forth in Recital 2.

**“Gross Proceeds”** means any proceeds of the Bonds and any funds (other than proceeds of the Bonds) that are part of a reserve or replacement fund for the Bonds within the meaning of Section 1.148-1(b) of the Regulations.

**“Gross Taxes”** means the amount of all Special Taxes collected within the District and proceeds from the sale of property collected pursuant to the foreclosure provisions of this Fiscal Agent Agreement for the delinquency of such Special Taxes.

**“Incremental Payment Obligation”** means the school site acquisition obligation of the School District as so defined in the Mitigation Agreement, and being paid in whole or in part from proceeds of the Bonds pursuant to Section 3.09 of this Fiscal Agent Agreement as Project Costs.

**“Incremental Payment Subaccount”** means the subaccount of that name within the School Facilities Account of the Construction Fund for deposit of the Incremental Payment Obligation, or portion thereof, established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.09 of this Fiscal Agent Agreement.

**“Independent Financial Consultant”** means a consultant or firm of such consultants generally recognized to be qualified in the field of implementation and administration of community facilities districts, or the financial consulting field, appointed and paid by the District or the School District and who, or each of whom:

(1) is independent of the District and the School District or any of the property owners within the District;

(2) does not have any substantial interest, direct or indirect, with the District, the School District, or any of the property owners within the District; and

(3) is not an officer or employee of the District or the School District, or an owner, officer or employee of any of the property owners within the District, but who may be regularly retained to make annual or other reports to the District or the School District.

**“Interest Account”** means the account of that name established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.06 of this Fiscal Agent Agreement.

**“Interest Payment Date”** means March 1 and September 1 of each year during which Bonds are Outstanding, commencing March 1, 2014.

**“Joint Community Facilities Agreement”** means the “First Amended Joint Community Facilities Agreement” dated of June 13, 2011, by and among the School District, the District, the City, the Original Landowner and the Developer

**“Legislative Body”** means the Board of Trustees acting as the Legislative Body of the District.

**“Mandatory Redemption Account”** means the account of that name within the Redemption Fund established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.08 of this Fiscal Agent Agreement.

**“Mandatory Sinking Payments”** means the amounts to be applied to the redemption of Term Bonds in accordance with the schedule set forth in Section 4.01(b) hereof and any future term bonds under a subsequent schedule set forth in any Supplement.

**“Maximum Annual Debt Service”** means the maximum sum obtained for any remaining Bond Year prior to the final maturity on the Bonds by totaling the following for each Bond Year:

(1) the principal amount of all Outstanding Bonds payable in such Bond Year whether at maturity or by redemption together with a premium thereon, if any premium is payable; and

(2) the interest payable on the aggregate principal amount of Bonds Outstanding in such Bond Year, assuming the Bonds are retired as scheduled.

**“Mitigation Agreement”** means the “First Amended Impact Mitigation Agreement Related to Proposed Community Facilities District No. 2005-1,” dated June 13, 2011, entered into by and among the School District, the District, the Original Landowner, and the Developer, including any further amendments.

**“Moody’s”** means Moody’s Investors Services and its successors.

**“Net Taxes”** means the amount of all Gross Taxes minus an amount equal to the Administrative Expense Requirement, as further set forth in Section 3.03 herein.

**“Nominee”** means the nominee of DTC, which may be Cede & Co., as determined from time to time pursuant to Section 2.08 hereof.

**“Nonpurpose Investments”** means any security, investment, obligation, annuity, investment-type property, specified private activity bond or any other type of investment property defined in Section 148 of the Code in which Gross Proceeds are invested (other than tax-exempt securities which are described in Section 103(a) of the Code) and which is not acquired to carry out the governmental purpose of the Bonds.

**“Optional Redemption Account”** means the account of that name within the Redemption Fund established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.08 of this Fiscal Agent Agreement.

**“Ordinance”** means Ordinance No. 1112-1 adopted by the Legislative Body on July 11, 2011.

**“Original Landowner”** means Whispering Hills, LLC, a Delaware limited liability company, and its successors to the Undeveloped Property or the Developed Property, or otherwise, and its assigns, but not Developer.

**“Outstanding”** means all Bonds theretofore issued by the District, except:

(1) Bonds theretofore canceled by the Fiscal Agent or surrendered to the Fiscal Agent for cancellation;

(2) Bonds for the transfer or exchange of or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Fiscal Agent pursuant to the terms hereof; and

(3) Bonds paid and discharged pursuant to Article IX hereof.

**“Parity Bonds”** means all bonds, notes or similar evidences of indebtedness hereafter issued, payable out of the Net Taxes and which, as provided for in this Fiscal Agent Agreement, rank on parity with the 2013 Bonds.

**“Participating Underwriter”** shall have the meaning ascribed thereto in the District Continuing Disclosure Certificate.

**“Prepaid Special Taxes”** means all Special Taxes prepaid to the District pursuant to the Rate and Method during the term hereof, less related Administrative Expenses.

**“Prepayment Account”** means the account of that name within the Special Tax Fund established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.04 of this Fiscal Agent Agreement.

**“Principal Account”** means the account of that name within the Bond Fund established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.06 of this Fiscal Agent Agreement.

**“Principal Corporate Trust Office”** means the corporate trust office of the Fiscal Agent, which, at the date of execution of this Fiscal Agent Agreement, is located at 633 W. Fifth Street, 24th Floor, Los Angeles, California 90071, or such other office(s) as the Fiscal Agent may designate from time to time.

**“Project”** means the “CFD Facilities,” or any portion thereof, as defined in the Formation Resolution and referred to in the Community Facilities District Report for the District dated July 26, 2005, which includes the School Facilities and the City Facilities.

**“Project Costs”** means the costs of design, acquisition, construction and installation of the Project and all costs related thereto. Project Costs may include the payment, or prepayment, of lease payments or installment payments necessary for the acquisition of all or part of the Project.

**“Purchase Price”** for the purpose of computation of the Yield of the Bonds, has the same meaning as the term “issue price” in Sections 1273 (b) and 1274 of the Code, and, in general, means the initial offering price to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of the Bonds are sold or, if the Bonds are privately placed, the price paid by the underwriter or the acquisition cost of the underwriter. The term “Purchase Price,” for the purpose of computation of the Yield of Nonpurpose Investments, means the “fair market value” of the Nonpurpose Investments on the date of use of Gross Proceeds for acquisition thereof, or, if later, on the date that Investment Property (as defined in Section 148(b)(2) and (3) of the Code) constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Bonds, as the case may be.

**“Rate and Method”** means the First Amended Rate and Method of Apportionment for Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills), as set forth in the Ordinance as such may be amended or interpreted from time to time.

**“Rating Agencies”** means S&P and Moody’s.

**“Rebate Fund”** means the fund of that name established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.10 of this Fiscal Agent Agreement.

**“Record Date”** means the 15th day of the calendar month preceding an Interest Payment Date whether or not such day is a Business Day.

**“Redemption Fund”** means the fund of that name established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.08 of this Fiscal Agent Agreement.

**“Regulations”** means any temporary, proposed or final regulations of the United States Department of Treasury with respect to obligations issued pursuant to Section 103 and Sections 141 to 150 of the Code.

**“Reserve Fund”** means the fund of that name established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.07 of this Fiscal Agent Agreement.

**“Reserve Requirement”** means with respect to the Bonds, an amount, as of any date of calculation, equal to the least of (i) 10% of the original principal amount of the Bonds, (ii) Maximum Annual Debt Service, or (iii) 125% of average Annual Debt Service on the Bonds.

**“Resolution of Issuance”** means Resolution No. 1314-22 of the School District dated September 25, 2013, authorizing the issuance of the 2013 Bonds and approving this Fiscal Agent Agreement.

**“Responsible Officer”** of the Fiscal Agent means and includes the president, every senior vice president, every vice president, every assistant vice president, every trust officer or any other Authorized Representative of the Fiscal Agent at its Principal Corporate Trust Office.

**“School District”** means the Capistrano Unified School District.

**“School Facilities”** means the facilities of the School District authorized to be constructed, acquired and financed under the Formation Resolution and Bond Authorization Resolution.

**“School Facilities Account”** means the account of that name within the Construction Fund established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.09(b) of this Fiscal Agent Agreement.

**“Securities Depository(ies)”** means initially DTC and, in accordance with then-current guidelines of the Securities and Exchange Commission, such other securities depositories as the District may designate in a certificate delivered to the Fiscal Agent.

**“Sinking Fund Redemption Account”** means the account of that name within the Redemption Fund established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.08 of this Fiscal Agent Agreement.

**“Special Tax Fund”** means the fund of that name established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.03 of this Fiscal Agent Agreement.

**“Special Taxes”** means the special taxes levied by the Legislative Body in accordance with the Rate and Method within CFD No. 2005-1 pursuant to the Act, the Formation Resolution, the Election and the Ordinance.

**“Standard & Poor’s” or “S&P”** means Standard & Poor’s Ratings Group and its successors.

**“State”** means the State of California.

**“Subsequent Election”** has the meaning set forth in Recital 8.

**“Surplus School Facilities Fund”** means the fund of that name established under, and held by the Fiscal Agent pursuant to, Sections 3.01 and 3.11 of this Fiscal Agent Agreement

**“Supplement”** means any supplemental agreement amending or supplementing this Fiscal Agent Agreement.

**“Tax Certificate”** means the certificate of that name to be executed by an Authorized Representative of the District on the Delivery Date to establish certain facts and expectations and which contains certain covenants relevant to compliance with the Code.

**“Taxable Property”** has the meaning set forth in the Rate and Method.

**“Underwriter”** means \_\_\_\_\_.

**“Undeveloped Property”** has the meaning set forth in the Rate and Method.

**“Yield”** means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Bonds produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, as the case may be, all computed as prescribed in the applicable Regulations.

### **Section 1.03. Interpretation.**

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural, and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to mean and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to “Articles,” “Sections” and other subdivisions are to be corresponding Articles or subdivisions of this Fiscal Agent Agreement; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Fiscal Agent Agreement as a whole and not to any particular Article, Section or subdivision thereof.



## ARTICLE II GENERAL AUTHORIZATION AND BOND TERMS

**Section 2.01. Amount and Purpose of 2013 Bonds.** Under and pursuant to the Act, the 2013 Bonds in the amount of \$\_\_\_\_\_ authorized pursuant to the Act and issued in accordance with Article II hereof, shall be issued for the purposes of financing the Incremental Payment Obligation, or a portion thereof, and certain City Facilities, and funding the Reserve Requirement for the 2013 Bonds, and paying Administrative Expenses and Costs of Issuance.

**Section 2.02. Limited Obligation; Net Taxes.** The Bonds shall be and are limited obligations of the District and shall be payable as to the principal thereof and interest thereon and any premiums upon the redemption thereof solely from the Net Taxes and amounts in certain funds and accounts created hereunder as specified hereinafter. The Net Taxes are hereby pledged for the payment of the Bonds, subject to the terms hereof.

The Bonds and interest thereon are not payable from the general fund of the District or the School District. Except with respect to the Net Taxes, neither the credit nor the taxing power of the District, or the School District is pledged for the payment of the Bonds or interest thereon, and no Owner of the Bonds may compel the exercise of the taxing power by the District or the School District or the forfeiture of any of their property. The principal of and interest on the Bonds and premiums upon the redemption of any thereof are not a debt of the District (except to the limited extent set forth in this Fiscal Agent Agreement) or the School District, the State nor any of its political subdivisions within the meaning of any constitutional or statutory limitation or restriction. The Bonds are not a legal or equitable pledge, charge, lien or encumbrance, upon any property or income, receipts or revenues of the District or the School District, except the Net Taxes which are, under the terms of this Fiscal Agent Agreement, pledged for the payment of the Bonds and interest thereon. Neither the members of the Legislative Body or the Board nor any persons executing the Bonds are liable personally for the Bonds by reason of the issuance thereof.

**Section 2.03. Equality of Bonds; Pledge of Net Taxes.** Pursuant to the Act and this Fiscal Agent Agreement, the Bonds shall be equally payable from the Net Taxes without priority for number, date of the Bonds, date of sale, date of execution or date of delivery, and the payment of the interest on and principal of the Bonds and any premiums upon the redemption thereof shall be exclusively paid from the Net Taxes and amounts held in the following funds and accounts created hereunder: the Special Tax Fund, the Bond Fund, the Reserve Fund, and the Redemption Fund (and all accounts of the foregoing funds), which are hereby pledged for the payment of the Bonds, and such Net Taxes and any interest earned on the Net Taxes shall constitute a trust fund for the payment of the interest on and principal of the Bonds and so long as any of the Bonds or interest thereon are unpaid the Net Taxes and interest thereon shall not be used for any other purpose, except as permitted by the Fiscal Agent Agreement or any Supplement, and shall be held in trust for the benefit of the Bondowners and shall be applied pursuant to this Fiscal Agent Agreement, or any Supplement pursuant to provisions herein. Notwithstanding any provision contained in this Fiscal Agent Agreement to the contrary, Net Taxes deposited in the Administrative Expense Fund, the Rebate Fund and the Surplus Facilities Fund shall no longer be considered to be pledged to the Bonds and the Administrative Expense

Fund, the Construction Fund (and all accounts therein), the Rebate Fund and the Surplus Facilities Fund shall not be construed as trust funds held for the benefit of the Bondowners.

In the event that the Fiscal Agent lacks sufficient amounts to make timely payment of principal of and interest and premium upon redemption, if any, on the Bonds when due, such principal of and interest and premium on the Bonds shall be paid from available amounts held by the Fiscal Agent in the Special Tax Fund, Bond Fund, Reserve Fund, or Redemption Fund under the terms of this Fiscal Agent Agreement (including all accounts of the foregoing funds) (but not including those amounts deposited in the Construction Fund (and its accounts), Administrative Expense Fund, the Rebate Fund and the Surplus Facilities Fund) in accordance with such terms without preference or priority of interest over principal or principal over interest, or of any installment of principal or interest over any other installment of principal or interest, ratably to the aggregate amount of such principal and interest.

Nothing in this Fiscal Agent Agreement or any Supplement shall preclude the redemption of any Bonds subject to call and redemption prior to maturity, and payment of the Bonds from proceeds of refunding bonds issued under the Act as the same now exists or is hereafter amended, or under any other law of the State.

**Section 2.04. Description of 2013 Bonds; Interest Rates.** The 2013 Bonds shall be issued in fully registered form without coupons, in denominations of \$5,000 or any multiple thereof and shall be numbered consecutively from one upwards. The 2013 Bonds shall be originally dated the Dated Date, shall mature and be payable on September 1 in the aggregate principal amounts, and shall bear interest at the rates as set forth below:

| <u>Maturity Date</u><br><u>(September 1)</u> | <u>Principal</u><br><u>Amount</u> | <u>Interest</u><br><u>Rate</u> |
|--|-----------------------------------|--------------------------------|
|  | \$                                | %                              |

Maturity Date  
(September 1)

Principal  
Amount

Interest  
Rate

Interest on the Bonds shall be computed on the basis of a 360-day year comprised of twelve 30-day months. Interest shall be payable with respect to each Bond on each Interest Payment Date, commencing March 1, 2014, until the principal sum of that Bond has been paid; provided, however, that if, at the maturity date of any Bond (or if the same is redeemable and shall be duly called for redemption, then at the date fixed for redemption) funds are available for the payment or redemption thereof, in full accordance with the terms of this Fiscal Agent Agreement, such Bond shall then cease to bear interest.

“CUSIP” identification numbers shall be imprinted on the Bonds, but such numbers shall not constitute a part of the contract evidenced by the Bonds and any error or omission with respect thereto shall not constitute cause for refusal of the purchaser to accept delivery of and pay for the Bonds. In addition, failure on the part of the District to use such CUSIP numbers in any notice to Owners of the Bonds shall not constitute an event of default or any violation of the District’s contract with such Owners and shall not impair the effectiveness of any such notice.

**Section 2.05. Medium and Payment.** The Bonds shall be payable both as to principal and interest, and as to any premiums upon the redemption thereof, in lawful money of the United States of America. The principal of the Bonds and any premiums due upon the redemption thereof shall be payable upon presentation thereof at the Principal Corporate Trust Office of the Fiscal Agent. Interest on any Bonds shall be payable from the Interest Payment Date next preceding the date of authentication, unless: (i) such date of authentication is an Interest Payment Date, in which event interest shall be payable from such date of authentication; (ii) the date of authentication is after a Record Date but prior to the immediately succeeding Interest Payment Date, in which event interest will be payable from such Interest Payment Date; or (iii) the date of authentication is prior to the close of business on the first Record Date, in which event interest will be payable from the Delivery Date; provided, however, that if at the time of authentication of a Bonds, interest is in default, interest on that Bonds shall be payable from the last date on which the interest has been paid or made available for payment, or if no interest has been paid or made available for payment, interest shall be payable from the Dated Date. Interest on any Bonds shall be paid to the person whose name shall appear in the Bond Register as the Owner of such Bonds as of the close of business on the Record Date. Such interest shall be paid by check of the Fiscal Agent mailed on the Interest Payment Date to such Bondowner by first class mail, postage prepaid, at his or her address as it appears on the Bond Register as of the Record Date; provided that, in the case of an Owner of \$1,000,000 or more in aggregate principal amount of the Bonds, upon the Fiscal Agent’s receipt of written request of such Owner prior to the Record Date accompanied by wire transfer instructions, such interest shall be paid on the Interest Payment Date in immediately available funds by wire transfer to an account in the United States.

**Section 2.06. Form of 2013 Bond and Certificate of Authentication.** The definitive Bonds shall be in typewritten form. The 2013 Bonds and the certificate of authentication shall be substantially in the form attached hereto as **Exhibit A**, which form is hereby approved and adopted as the form of the 2013 Bonds and of the certificate of authentication. Any Bond issued under this Fiscal Agent Agreement, or any Supplement, may be initially issued in temporary form exchangeable for definitive Bond. The temporary Bond may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the District and may contain such reference to any of the provisions of this Fiscal Agent Agreement as may be appropriate. Every temporary Bond shall be executed and sealed by the District in substantially the same manner as provided in this Section 2.06. If the District issues temporary Bonds, it will execute and furnish definitive Bonds without delay and thereupon the temporary Bond may be surrendered for cancellation at the Principal Corporate Trust Office of the Fiscal Agent, and the District shall deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of the same interest rates and maturities. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Fiscal Agent Agreement as definitive Bonds issued hereunder.

**Section 2.07. Execution and Authentication.** The Bonds shall be signed on behalf of the District by the manual or facsimile signature of the President or Vice-President of the Board (or in their absence, another member of the Board) and attested by the manual or facsimile signature of the Clerk or Secretary of the Board of the School District. In case any one or more of the officers who shall have signed any of the Bonds shall cease to be such officer before the Bonds so signed have been authenticated and delivered by the Fiscal Agent (including new Bonds delivered pursuant to the provisions hereof with reference to the transfer and exchange of Bonds or to lost, stolen, destroyed or mutilated Bonds), such Bond may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed such Bond had not ceased to hold such offices.

The Bonds shall bear thereon a certificate of authentication, in the form set forth in **Exhibit A** hereto, executed manually by the Fiscal Agent. Only such Bonds bearing such certificate of authentication shall be entitled to any right or benefit under this Fiscal Agent Agreement, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Fiscal Agent.

**Section 2.08. Registration Books/Book Entry.** Subject to the provisions of this Fiscal Agent Agreement relating to book-entry Bonds, the Fiscal Agent will keep or cause to be kept, at the Principal Corporate Trust Office of the Fiscal Agent, sufficient records for the registration and transfer of ownership of the Bonds, which shall be open to inspection during regular business hours and upon reasonable notice by the District; and, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the Bonds as hereinbefore provided.

With respect to the Bonds registered in the Bond Register in the name of the Nominee, neither the District nor the Fiscal Agent shall have any responsibility or obligation to any broker-dealers, banks and other financial institutions from time to time for which the Depository holds

Bonds as securities depository ("Participant") or to any person on behalf of which such a Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, neither the District nor the Fiscal Agent shall have any responsibility or obligation (unless the District is at such time the Depository) with respect to: (i) the accuracy of the records of the Depository, the Nominee, or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other person, other than an Owner of a Bond as shown in the Bond Register, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository and its Participants of the beneficial interests in the Bonds to be redeemed in the event the District redeems the Bonds in part, or (iv) the payment to any Participant or any other person, other than an Owner of a Bond as shown in the Bond Register, of any amount with respect to principal of or interest on the Bonds. The District and the Fiscal Agent may treat and consider the person in whose name each Bond is registered in the Bond Registrar as the holder and absolute Owner of such Bond for the purpose of payment of principal of, interest, and premium, if any, with respect to such Bond, for the purpose of giving notices of redemption, if applicable, and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The District shall pay all principal of, interest, and premium, if any, on the Bonds only to or upon the order of the respective Owner of a Bond, as shown in the Bond Register, or his respective attorney duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the District's obligations with respect to payment of principal of, interest, and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than an Owner of a Bond, as shown in the Bond Register, shall receive a Bond evidencing the obligation of the District to make payments of principal of, interest, and premium, if any, pursuant to this Fiscal Agent Agreement. Upon delivery by the Depository to the Fiscal Agent, the Owners of the Bonds, and the District of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Date, the word Nominee in this Fiscal Agent Agreement shall refer to such nominee of the Depository.

In order to qualify the Bonds for the Depository's book-entry system, the District is executing and delivering to the Depository a Representation Letter in the form prescribed by Depository. The execution and delivery of the Representation Letter shall not in any other way limit the provisions of this Section or in any other way impose upon the District any obligation whatsoever with respect to persons having interests in the Bonds other than the owners of the Bonds, as shown on the Bond Register. In addition to the execution and delivery of the Representation Letter, the District shall take such other actions, consistent with this Fiscal Agent Agreement, as are reasonably necessary to qualify the Bonds for the Depository's book-entry program.

In the event: (i) the Depository determines not to continue to act as a securities depository for the Bonds, or (ii) the Depository shall no longer so act and gives notice to the District of such determination, then the District will discontinue the book-entry system with the Depository. If the District determines to replace the Depository with another qualified securities depository, the District shall prepare or direct the preparation of a new single, separate, fully registered Bond, per maturity, registered in the name of such successor or substitute qualified securities depository or its nominee. If the District fails to identify another qualified securities depository to replace

the Depository then the Bonds shall no longer be restricted to being registered in the Bond Register in the name of the Nominee, but shall be registered in whatever name or names owners of the Bonds transferring or exchanging Bonds shall designate, in accordance with provisions of Section 2.09, hereof, and the District shall prepare and deliver Bonds to the owners thereof for such purposes.

In the event of a reduction in aggregate principal amount of Bonds Outstanding or an advance refunding of part of the Bonds outstanding, the Depository in its discretion: (a) may request the District to prepare and issue a new Bond, or (b) may make an appropriate notation on the Bond indicating the date and amounts of such reduction in principal, but in such event the Bond Register maintained by the Fiscal Agent shall be conclusive as to what amounts are outstanding on the Bond, except in the case of final maturity in which case the Bond must be presented to the Fiscal Agent prior to payment.

Notwithstanding any other provisions of this Fiscal Agent Agreement to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal of, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the Representation Letter or as otherwise instructed by the Depository and acceptable to the District.

The initial Depository under this Article shall be DTC. The initial Nominee shall be Cede & Co., as Nominee of DTC.

**Section 2.09. Registration of Exchange or Transfer.** Subject to the provisions in this Fiscal Agent Agreement relating to book-entry Bonds, the registration of any Bond may, in accordance with its terms, be transferred upon the Bond Register by the person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender of such Bond for cancellation at the Principal Corporate Trust Office of the Fiscal Agent, accompanied by delivery of a written instrument of transfer in a form approved by the Fiscal Agent and duly executed by the Bondowner or his or her duly authorized attorney. Bonds may be exchanged at the Principal Corporate Trust Office of the Fiscal Agent for a like aggregate principal amount and maturity of Bonds of other authorized denominations. The Fiscal Agent may charge the Bondowner any tax or other governmental charge required with respect to such transfer or exchange. Whenever any Bonds shall be surrendered for registration of transfer or exchange, the District shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond, for a like aggregate principal amount and maturity; provided, that the Fiscal Agent shall not be required to register transfers or make exchanges of: (i) Bonds for a period of 15 days next preceding the date established by the Fiscal Agent for selection of the Bonds to be redeemed, or (ii) any Bonds chosen for redemption.

**Section 2.10. Mutilated, Lost, Destroyed or Stolen Bonds.** If any Bond shall become mutilated, the District shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond of like tenor, date, maturity and amount in exchange and substitution for the Bond so mutilated. Every mutilated Bond so surrendered to the Fiscal Agent shall be destroyed and a certificate of destruction delivered to the District by the Fiscal Agent. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Fiscal Agent and, if such evidence is satisfactory to the Fiscal Agent and if an indemnity satisfactory to

the Fiscal Agent shall be given, the District, at the expense of the Bondowner, shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond of like tenor and maturity, numbered and dated as such Fiscal Agent shall determine in lieu of and in substitution for the Bond so lost, destroyed or stolen. Any Bond issued under the provisions of this Section 2.10 in lieu of any Bond alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits hereof with all other Bonds secured hereby. The Fiscal Agent shall not treat both the original Bond(s) and any replacement Bond(s) as being Outstanding for the purpose of determining the principal amount of Bonds for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and replacement Bond(s) shall be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of delivering a new Bond for a Bond which has been mutilated, lost, destroyed or stolen, and which has matured or been called for redemption, the Fiscal Agent may make payment with respect to such Bond upon receipt of an indemnity satisfactory to the Fiscal Agent.

### **ARTICLE III CREATION OF FUNDS AND APPLICATION OF PROCEEDS AND SPECIAL TAXES**

**Section 3.01. Funds and Accounts.** The following funds and accounts are hereby created and established and shall be maintained by the Fiscal Agent:

- (a) Community Facilities District No. 2005-1 Special Tax Fund ("Special Tax Fund") in which there is established a Prepayment Account;
- (b) Community Facilities District No. 2005-1 Administrative Expense Fund ("Administrative Expense Fund");
- (c) Community Facilities District No. 2005-1 Bond Fund ("Bond Fund") in which there is established an Interest Account (in which there is a "Capitalized Interest Subaccount") and a Principal Account;
- (d) Community Facilities District No. 2005-1 Reserve Fund ("Reserve Fund");
- (e) Community Facilities District No. 2005-1 Construction Fund ("Construction Fund"), in which there is established a Cost of Issuance Account, a School Facilities Account (in which there is a "Project Subaccount" and an "Incremental Payment Subaccount"), and a City Facilities Account;
- (f) Community Facilities District No. 2005-1 Redemption Fund ("Redemption Fund"), in which there is established an Optional Redemption Account, Sinking Fund Redemption Account, and Mandatory Redemption Account;
- (g) Community Facilities District No. 2005-1 Rebate Fund ("Rebate Fund"), as directed by the terms hereof; and

(h) Community Facilities District No. 2005-1 Surplus Facilities Fund, in which there is established a "Schools Account" and a "City Account."

The Fiscal Agent may establish additional accounts or subaccounts of the above-described funds and accounts as the Fiscal Agent shall deem necessary and prudent in furtherance of its duties pursuant to this Fiscal Agent Agreement upon written notification to the District; provided, the Fiscal Agent shall not establish additional accounts or subaccounts without a written consent of the District if such establishment will increase any fees charged by the Fiscal Agent to District or School District.

**Section 3.02. Disposition of 2013 Bond Proceeds.** The proceeds of the sale of the 2013 Bonds in the amount \$\_\_\_\_\_ (computed as the principal amount of \$\_\_\_\_\_, [less net original issue discount/plus net original issue premium of \$\_\_\_\_\_], and less Underwriter's discount of \$\_\_\_\_\_) shall be received by the Fiscal Agent and deposited as follows:

(a) \$\_\_\_\_\_ representing the Reserve Requirement for the 2013 Bonds shall be deposited in the Reserve Fund.

(b) the sum of \$\_\_\_\_\_, representing the capitalized interest on the Bonds through March, 1, 2014, shall be deposited in the Capitalized Interest Subaccount of the Interest Account of the Bond Fund.

(c) \$\_\_\_\_\_ shall be deposited in the Costs of Issuance Account of the Construction Fund.

(d) \$\_\_\_\_\_ shall be deposited in the Administrative Expense Fund.

(e) \$\_\_\_\_\_ shall be deposited in the Incremental Payment Subaccount of the School Facilities Account of the Construction Fund.

(f) \$\_\_\_\_\_ shall be deposited in the City Facilities Account of the Construction Fund.

The Fiscal Agent may, at its discretion, establish a temporary fund or account to facilitate the foregoing deposits.

**Section 3.03. Special Tax Fund.** The Special Taxes and other amounts constituting Gross Taxes collected by the District at any time (exclusive of Prepaid Special Taxes received which shall be deposited into the Prepayment Account of the Special Tax Fund) shall be transferred no later than 10 days after receipt thereof to the Fiscal Agent and shall be held in the Special Tax Fund (exclusive of the Administrative Expense Requirement) for the benefit of the Bondowners and shall, exclusive of the Prepaid Special Taxes held in the Prepayment Account, be transferred or applied to the funds and accounts set forth below, in the priority set forth below



and at the times and in the amounts and in accordance with paragraph (h) below and Sections 3.05, 3.06, 3.07 and 3.08 of this Fiscal Agent Agreement:

(a) To the Administrative Expense Fund, an amount specified in writing by the District, up to the Administrative Expense Requirement.

(b) To the Interest Account of the Bond Fund an amount such that the balance in the Interest Account one Business Day prior to each Interest Payment Date shall be equal to the installment of interest due on the Bonds on such Interest Payment Date. Monies in the Interest Account shall be used for the payment of interest on the Bonds as the same become due.

(c) To the Principal Account of the Bond Fund, an amount up to the amount needed to make the principal payment due on the Bonds during the current Bond Year.

(d) To the Sinking Fund Redemption Account of the Redemption Fund an amount up to the amount needed to make the Mandatory Sinking Payments due on the Bonds during the current Bond Year.

(e) To the Reserve Fund, the amount, if any, necessary to replenish the Reserve Fund to the Reserve Requirement.

(f) Provided all the amounts due in the current Bond Year are funded under (b), (c), (d) and (e) above, to the extent there are additional Administrative Expenses, to the Administrative Expense Fund in the amount specified in writing by the District required to bring the balance therein to the amount needed to pay such expenses.

(g) Any remaining Special Taxes and other amounts constituting Gross Taxes shall remain in the Special Tax Fund subject to the provisions of (h), below.

(h) Any remaining Special Taxes and other amounts constituting Gross Taxes, if any, shall remain in the Special Tax Fund until the end of the Bond Year. Provided there are no Special Taxes levied or projected to be levied on Undeveloped Property at the end of the Bond Year, any remaining funds in the Special Tax Fund which are not required to cure a delinquency in the payment of principal and interest on the Bonds (including payment of Mandatory Sinking Payments due during the current Bond Year), to restore the Reserve Fund as provided for in (e), above, or to pay current or pending Administrative Expenses as provided for in (a) and (f), above, shall be deposited in the accounts of the Surplus Facilities Fund as established and maintained pursuant to Section 3.11 hereof, and all such transferred amounts shall be free and clear of any lien thereon or hereunder, or pledge to the Bondholders, subject to the further requirements set forth as follows: (i) any funds which are required to cure any delinquency described above shall be retained in the Special Tax Fund and expended or transferred, at the earliest possible date, for such purpose, and (ii) prior to any transfers to the Surplus Facilities Fund the Fiscal Agent shall check that the Reserve Requirement level will be met as of the first day of the next Bond Year (September 2).

At the date of the redemption, defeasance or maturity of the last Bonds and after all principal and interest then due on any Bonds has been paid or provided for, all other covenants are complied with and all fees and expenses of the Fiscal Agent have been paid, monies in the Special Tax Fund will be transferred to the District by the Fiscal Agent and may be used by the District for any lawful purpose under the District proceedings.

Funds in the Special Tax Fund shall be invested in accordance with Section 3.12 herein. Investment earnings on amounts in the Special Tax Fund, if any, shall be retained therein.

**Section 3.04. Prepayment Account of the Special Tax Fund.** Prepaid Special Taxes collected by the District (net of any costs of collection) shall be transferred, no later than 10 days after receipt thereof, to the Fiscal Agent and the District shall direct the Fiscal Agent to deposit the Prepaid Special Taxes in the Prepayment Account of the Special Tax Fund. The Prepaid Special Taxes shall be held in the Prepayment Account for the benefit of the Bondowners and shall be transferred by the Fiscal Agent to the Mandatory Redemption Account of the Redemption Fund to call Bonds on the next date for which notice can be given in accordance with the special mandatory redemption provisions as set forth in Section 4.01(c) and shall be applied to call Bonds in accordance with Section 4.01(c). Monies representing the Prepaid Special Taxes shall be invested in accordance with Section 3.12 herein. Investment earnings on amounts in the Prepayment Account not needed to redeem the Bonds pursuant to special mandatory redemption provisions of Section 4.01(c) shall be transferred to the Special Tax Fund by the Fiscal Agent at the time of transfer of the Prepaid Special Taxes to the Mandatory Redemption Account of the Redemption Fund.

**Section 3.05. Administrative Expense Fund.** Upon receipt of Gross Taxes and the written direction of the District, the Fiscal Agent shall transfer from the Special Tax Fund to the Administrative Expense Fund the amount that the District has determined, and of which the District has notified the Fiscal Agent in writing prior to such transfer date, will be necessary to bring the balance in the Administrative Expense Fund to equal the amount specified by the District as necessary to meet Administrative Expenses until the collection of Special Taxes in the next Fiscal Year, subject to the maximum limit of the Administrative Expense Requirement. Additional Administrative Expenses may be funded from additional deposits to the Administrative Expense Fund in accordance with Section 3.03(f) and this Section 3.05. Upon receipt of a duly executed payment request in substantially the form attached hereto as **Exhibit B**, the Fiscal Agent shall pay Administrative Expenses from amounts in the Administrative Expense Fund directly to the contractor or such other person, corporation or entity designated as the payee on such form, which payee may include the District, or shall reimburse the District for Administrative Expenses paid by the District, from such amounts.

Monies in the Administrative Fund shall be invested in accordance with the terms of Section 3.12 herein. Investment earnings on amounts in the Administrative Expense Fund, if any, shall be retained therein.

### **Section 3.06. Bond Fund.**

(a) One Business Day prior to each Interest Payment Date, commencing with the March 1, 2014, Interest Payment Date, the Fiscal Agent shall withdraw from the Special Tax Fund or the Reserve Fund in the event that sufficient monies are unavailable in the Special Tax Fund and deposit in the Principal Account and the Interest Account of the Bond Fund an amount equal to all of the principal and all of the interest due and payable on Bonds on the ensuing Interest Payment Date, less amounts on hand in the Bond Fund (including funds available in the Capitalized Interest Subaccount) available to pay principal and/or interest on such Bonds. Notwithstanding the foregoing, amounts in the Bond Fund resulting from transfers from the Construction Fund pursuant to Section 3.09(b) (if any) shall be used to pay the principal of and interest on such Bonds prior to the use of any other amounts in the Bond Fund for such purpose. The Fiscal Agent shall apply monies in the Interest Account and Principal Account to the payment of interest and principal, respectively, on the Bonds on each Interest Payment Date.

(b) The Fiscal Agent shall, on the Delivery Date, deposit funds, as specified in Section 3.02, into the Capitalized Interest Subaccount. One Business Day prior to March 1, 2014, the Fiscal Agent shall withdraw \$\_\_\_\_\_ from the Capitalized Interest Subaccount and shall cause such amount to be deposited in the Interest Account of the Bond Fund for application on such Interest Payment Date. One Business Day prior to September 1, 2014, the Fiscal Agent shall withdraw the remainder of all monies from the Capitalized Interest Subaccount, if any, shall cause such amount to be deposited in the Interest Account of the Bond Fund for application on September 1, 2014, and shall thereupon close the Capitalized Interest Subaccount. The Fiscal Agent shall notify the District, in writing, of such closure. Upon transfer of said amounts to the Interest Account, said amounts shall be applied to payment of interest due on the Bonds on the March 1, 2014, and September 1, 2014, (if any) Interest Payment Dates as provided herein.

(c) Monies in the Bond Fund shall be invested in accordance with Section 3.12 hereof. All investment earnings and profits resulting from such investment shall be retained in the accounts established for the Bonds in the Bond Fund and used to pay principal of and interest on the Bonds. Upon final maturity of the Bonds and the payment of all principal of and interest on the Bonds, any monies remaining in the Bond Fund shall be transferred to the Special Tax Fund.

**Section 3.07. Reserve Fund.** There shall be maintained in the Reserve Fund an amount equal to the Reserve Requirement. Notwithstanding the foregoing, in the event of a redemption or partial defeasance of the Bonds, the Reserve Requirement shall thereafter be re-determined by the District and communicated to the Fiscal Agent in writing and any funds in excess of such re-determined Reserve Requirement shall be utilized as set forth in this Section 3.07. If Special Taxes are prepaid and Bonds are to be redeemed with the proceeds of such prepayment, a proportionate amount in the Reserve Fund (determined on the basis of the principal of Bonds to be redeemed and the original principal of the Bonds, but not in excess of the amount of funds available as a result of the re-determination of the Reserve Requirement) will be applied to the redemption of the Bonds as provided in Section 3.04 and 4.01(c).

(a) Except as provided in the next paragraph with respect to certain investment earnings, monies in the Reserve Fund shall be used solely for the purpose of: (i) making transfers to the Bond Fund or Redemption Fund to pay the principal of, including Mandatory Sinking Payments, and interest on Bonds when due to the extent that monies in the Interest Account (including the Capitalized Interest Subaccount therein) and the Principal Account of the Bond Fund or monies in the Sinking Fund Redemption Account are insufficient therefor; (ii) making any required transfer to the Rebate Fund pursuant to Section 3.10 upon written direction from the District, (iii) making any transfers to the Bond Fund or Redemption Fund in connection with prepayments of the Special Taxes; (iv) paying the principal and interest due on Bonds in the final Bond Year, and (v) application to the defeasance of Bonds in accordance with Article IX. If the amounts in the Interest Account or the Principal Account of the Bond Fund and the Sinking Fund Redemption Account of the Redemption Fund are insufficient to pay the principal of, including Mandatory Sinking Payments, or interest on the Bonds when due, the Fiscal Agent shall, one Business Day prior to an Interest Payment Date, withdraw from the Reserve Fund for deposit in the Interest Account and the Principal Account of the Bond Fund, or the Sinking Fund Redemption Account of the Redemption Fund, monies necessary for such purpose. Following any transfer to the Interest Account or the Principal Account of the Bond Fund, or the Sinking Fund Redemption Account of the Redemption Fund, the Fiscal Agent shall notify the District of the amount needed to replenish the Reserve Fund to the Reserve Requirement and the District shall include such amount as is required at that time to correct such deficiency in the next Special Tax levy to the extent of the permitted maximum Special Tax rates.

Monies in the Reserve Fund shall be invested in accordance with Section 3.12. Notwithstanding any provision herein to the contrary, monies in the Reserve Fund in excess of the Reserve Requirement (exclusive of Excess Investment Earnings identified in writing by the District) shall be withdrawn on or prior to 15 days prior to each Interest Payment Date and transferred to the Interest Account of the Bond Fund, and any remaining excess shall be transferred to the Principal Account of the Bond Fund or to the Sinking Fund Redemption Account of the Redemption Fund to the extent required to make any principal payment on the next following September 1. The Fiscal Agent shall transfer Excess Investment Earnings from the Reserve Fund to the Rebate Fund upon written direction of the District pursuant to Section 3.10.

(b) Notwithstanding anything herein to the contrary, the Fiscal Agent shall transfer to the Reserve Fund, from available monies in the Special Tax Fund, the amount needed to restore the Reserve Fund to the Reserve Requirement as specified in Section 3.03. Monies in the Special Tax Fund shall be deemed available for transfer to the Reserve Fund only if such amounts will not be needed to make the deposit required to be made to the Interest Account and the Principal Account of the Bond Fund or the Sinking Fund Redemption Account of the Redemption Fund for the next Interest Payment Date.

### **Section 3.08. Redemption Fund.**

(a) One Business Day prior to March 1 or September 1 of each Bond Year beginning March 1, 20\_\_, after the deposits have been made to the Bond Fund as required by Section 3.06, the Fiscal Agent shall next transfer into the Sinking Fund Redemption Account of the

Redemption Fund from the Special Tax Fund an amount equal to one-half of the Mandatory Sinking Payment due on the September 1 of that Bond Year. Monies so deposited in the Sinking Fund Redemption Account of the Redemption Fund shall be used and applied by the Fiscal Agent to call and redeem the Bonds, in accordance with the provisions of Section 4.01(b) hereof, or any other applicable terms set forth in any Supplement.

(b) At least one Business Day prior to September 1 of each year, after making the deposits to the Bond Fund pursuant to Section 3.06 above and to the Sinking Fund Redemption Account of the Redemption Fund for Mandatory Sinking Payments then due pursuant to subparagraph (a) of this section, and after making any deposits to the Reserve Fund to bring its balance to the Reserve Requirement, the District may elect to deposit money to the Redemption Fund to call Bonds for optional redemption as set forth in Section 4.01(a). The Fiscal Agent, at the written direction of the District, shall transfer from the Special Tax Fund, or from other monies transferred by the District to the Fiscal Agent, and deposit in the Optional Redemption Account of the Redemption Fund monies available for the purpose and sufficient to redeem, at the premiums payable as provided in Section 4.01(a), the Bonds called for optional redemption.

Monies set aside in the Optional Redemption Account of the Redemption Fund shall be used solely for the purpose of redeeming the Bonds and shall be applied on or after the redemption date to the payment of principal of and premium on the Bonds to be redeemed upon presentation and surrender of such Bonds.

Prior to any special mandatory redemption pursuant to Section 4.01(c), the Fiscal Agent, at the direction of the District, shall deposit in the Mandatory Redemption Account of the Redemption Fund monies from the Prepayment Account of the Special Tax Fund sufficient to redeem at the premiums, payable as provided in this Fiscal Agent Agreement, the Bonds designated in the notice of redemption. Monies set aside in the Mandatory Redemption Account shall be applied on the redemption date to the payment of, principal of, and premium, if any, on the Bonds to be redeemed upon presentation and surrender of such Bonds.

If there are monies remaining in the Redemption Fund after any of the Bonds so designated for redemption have been redeemed and canceled or paid and canceled, such monies shall be transferred to the Special Tax Fund; provided that, if such monies are part of the proceeds of refunding Bonds, such monies shall be transferred to the fund or account created for the payment of principal of and interest on such refunding Bonds. Monies held in any account of the Redemption Fund and its accounts shall be invested in accordance with Section 3.12 hereof. Investment earnings on amounts in the Redemption Fund, if any, shall be retained therein.

### **Section 3.09. Construction Fund.**

(a) The monies in the Construction Fund shall be used exclusively to pay: (i) the Project Costs, and (ii) the Costs of Issuance.

(b) School Facilities Account - Subaccounts. Monies deposited in the Incremental Payment Subaccount of the School Facilities Account shall be expended to pay the Incremental Payment Obligation, or portion thereof, pursuant to the Mitigation Agreement, except as

otherwise provided in this subsection (b); and, monies deposited into the Project Subaccount of the School Facilities Account shall be expended to pay the Project Costs for School Facilities except as otherwise provided in this subsection (b). Funds in each such subaccount shall be expended and paid at the direction of the District pursuant to a payment request form substantially in the forms attached hereto as, respectively, **Exhibit C**. All investment earnings on funds in such each such subaccount, other than Excess Investment Earnings, shall be retained therein and applied exclusively to pay the related Project Costs, subject to the provisions of the following paragraphs. The Fiscal Agent shall transfer Excess Investment Earnings from each such subaccount to the Rebate Fund upon written direction of the District pursuant to Section 3.10 hereof.

(i) Upon receipt of a duly executed payment request in substantially the form attached hereto as **Exhibit C**, the Fiscal Agent shall pay the Incremental Payment Obligation, or portion thereof, from amounts in the Incremental Payment Subaccount directly to the Developer as the designated payee on such form as the Incremental Payment Obligation, or portion thereof, is due. Upon receipt by the Fiscal Agent of a certification of a District Representative, along with written consent of an authorized Developer representative, that Incremental Payment Obligation has been paid in full, the Fiscal Agent shall, exclusive of Excess Investment Earnings identified in writing by the District, transfer monies remaining on deposit in the Incremental Payment Subaccount to the Project Costs Subaccount for use in accordance with (b)(ii).

(ii) Upon receipt of a duly executed payment request in substantially the form attached hereto as **Exhibit C**, the Fiscal Agent shall pay Project Costs for School Facilities from amounts on deposit in the Project Subaccount to the School District or District for such Project Costs. The District may request payment to be made to the contractor or such other party and another party jointly, in which case said Project Costs shall be paid by joint check delivered to the party specified by the District to the Fiscal Agent in writing.

(iii) The Fiscal Agent may rely on an executed payment request form as complete authorization for said payments and shall bear no responsibility for inquiring into the accuracy of, or underlying basis for, the information contained in the payment request forms. The Fiscal Agent shall be responsible for the safekeeping and investment (pursuant to written direction of the District) of the monies held in the subaccounts of the School Facilities Account and the disposition thereof in accordance with this Section 3.09(b).

(iv) Upon receipt by the Fiscal Agent of a certification of a District Representative of the final payment of all Project Costs for School Facilities, the Fiscal Agent shall, exclusive of Excess Investment Earnings identified in writing by the District, apply monies remaining on deposit in the Project Subaccount (1) first, for transfer to the City Facilities Account in the event such account is still open, and (2) second, for transfer to the Interest Account of the Bond Fund in an amount equal to the next interest payment due, with the balance to the Principal Account of the Bond Fund or, if applicable, the Sinking Fund Redemption Account of the Redemption Fund and apply the amount so transferred to the payment of the Bonds in accordance with Sections 3.06 and 3.08 hereof.

Upon the transfers under the foregoing paragraph, the School Facilities Account and the subaccounts therein shall be closed and a final accounting provided by the Fiscal Agent to District.

(c) City Facilities Account. Monies deposited in the City Facilities Account shall be expended to pay Project Costs for City Facilities as described in the Joint Community Facilities Agreement. Funds in such account shall be expended and paid at the direction of the District pursuant to a payment request form substantially in the forms attached hereto as **Exhibit D-Attachment 1** and **Exhibit D-Attachment 2**. All investment earnings on funds in such account, other than Excess Investment Earnings, shall be retained therein and applied exclusively to pay Project Costs for City Facilities, subject to the provisions of the following paragraphs. The Fiscal Agent shall transfer Excess Investment Earnings from such account to the Rebate Fund upon written direction of the District pursuant to Section 3.10.

(i) Upon receipt of a duly executed payment request in substantially the form attached hereto as **Exhibit D-Attachment 1**, or **Exhibit D-Attachment 2**, the Fiscal Agent shall pay Project Costs for City Facilities from amounts in the City Facilities Account to City for City Facilities. In addition to execution by a District Representative, all such payment requests shall be executed by both an authorized City representative and an authorized Developer representative. The Fiscal Agent may rely on an executed payment request form as complete authorization for said payments and shall bear no responsibility for inquiring into the accuracy of, or underlying basis for, the information contained in the payment request forms. The Fiscal Agent shall be responsible for the safekeeping and investment (pursuant to written direction of the District) of the monies held in the City Facilities Account and the disposition thereof in accordance with this Section 3.09(c).

(ii) Upon receipt by the Fiscal Agent of a certification of a District Representative, along with written consent of an authorized Developer representative, that all Project Costs for City Facilities have been paid in full, the Fiscal Agent shall, exclusive of Excess Investment Earnings identified in writing by the District, apply monies remaining on deposit in the City Facilities Account (1) first, for transfer to the Incremental Payment Subaccount of the School Facilities Account if the Incremental Payment Obligation has been fully paid (as set verified by the written direction of the District and Developer representative) and then to the Project Subaccount of the School Facilities Account if such subaccount is open and (2) second, for transfer to the Interest Account of the Bond Fund in an amount equal to the next interest payment due, with the balance to the Principal Account of the Bond Fund or, if applicable, the Sinking Fund Redemption Account of the Redemption Fund and apply the amount so transferred to the payment of the Bonds in accordance with Sections 3.06 and 3.08. hereof.

Upon the transfers under the foregoing paragraph, the City Facilities Account shall be closed and a final accounting provided by the Fiscal Agent to District.

(d) Notwithstanding anything herein to the contrary, if any funds remain on deposit in the School Facilities Account, including either of the subaccounts therein, or the City Facilities Account on a date which is three years from the Delivery Date for the any series of Bonds, the

Fiscal Agent shall invest such amounts in Authorized Investments the yield on which does not exceed the Yield on the applicable series of Bonds, unless in the opinion of Bond Counsel another use of such funds will not impair the exclusion of interest on any of the Bonds from gross income for federal income tax purposes.

(e) Costs of Issuance Account. Monies in the Costs of Issuance Account shall be disbursed from time to time to pay or reimburse Costs of Issuance. Upon receipt of a duly executed payment request in substantially the form attached hereto as Exhibit E, the Fiscal Agent shall pay the Costs of Issuance from amounts in the Costs of Issuance Account directly to the District or other person, corporation or entity designated as the payee on such form. The Fiscal Agent shall notify the District in the event any amounts remain in the Costs of Issuance Account on a date six months from the Delivery Date. Upon receipt of the Fiscal Agent's notice, a District Representative shall direct the Fiscal Agent to transfer the remaining amounts first, to the Incremental Payment Subaccount to the extent the Incremental Payment Obligation has not been paid in full; second, to the City Facilities Account to the extent the City Facilities have not been fully funded; and, third, to the Project Subaccount of the School Facilities Account if the City Facilities have been fully funded. The Fiscal Agent shall thereafter close the Costs of Issuance Account. All investment earnings on amounts in the Costs of Issuance Account shall be retained therein.

(f) Amounts in the accounts of the Construction Fund are subject to additional investment limitations set forth in Section 3.12 hereof.

### **Section 3.10. Rebate Fund.**

(a) Establishment. At such time as monies are to be deposited therein, the Fiscal Agent shall establish a Rebate Fund and separate accounts therein for each series of Bonds and shall maintain such fund and accounts for the Bonds. Absent an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the Bonds will not be adversely affected, the District shall cause to be deposited in the Rebate Fund accounts such amounts as are required to be deposited therein pursuant to this Section 3.10 and the Tax Certificate. All money at any time deposited in the Rebate Fund shall be held by the Fiscal Agent for payment to the United States Treasury. All amounts on deposit in the Rebate Fund shall be governed by this Section 3.10 and the Tax Certificate for such Bonds, unless and to the extent that the District delivers to the Fiscal Agent an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the Bonds will not be adversely affected if such requirements are not satisfied. Notwithstanding any other provision of this Fiscal Agent Agreement, the Fiscal Agent shall be deemed conclusively to have complied with this Section 3.10 and the Tax Certificate if it follows the directions set forth in any written directive of the District and shall be fully protected in so doing. The Fiscal Agent shall have no independent responsibility to, or liability resulting from its failure to, enforce compliance by the District with the terms of this Section 3.10 or the Tax Certificate.

(1) Rebate Requirements. The following requirements shall be satisfied with respect to the Rebate Fund:



(i) Fifth Year Computation. Within 55 days of the end of the fifth Bond Year and every fifth Bond Year thereafter, the District shall calculate or cause to be calculated the amount of rebatable arbitrage, in accordance with Section 148(f)(2) of the Code and Section 1.148-3 of the Regulations, for this purpose treating the last day of the fifth Bond Year as a computation date, within the meaning of Section 1.148-1(b) of the Regulations (the “rebatable arbitrage”). The District shall obtain expert advice as to the amount of the rebatable arbitrage to comply with this Section 3.10.

(ii) Payment to the Treasury. The Fiscal Agent shall pay, as directed by written directive of the District, to the United States Treasury, out of amounts in the Rebate Fund:

(X) Not later than 60 days after the end of: (A) the fifth Bond Year, and (B) each applicable fifth Bond Year thereafter, an amount equal to at least 90% of the rebatable arbitrage as set forth in a certificate of the District delivered to the Fiscal Agent calculated as of the end of such Bond Year; and

(Y) Not later than 60 days after the payment of all Bonds, an amount equal to 100% of the rebatable arbitrage as set forth in a certificate of the District delivered to the Fiscal Agent calculated as of the end of such applicable Bond Year, and any income attributable to the rebatable arbitrage, as set forth in a certificate of the District delivered to the Fiscal Agent computed in accordance with Section 148(f) of the Code.

In the event that, prior to the time of any payment required to be made from the Rebate Fund, the amount in the Rebate Fund is not sufficient to make such payment when such payment is due, the District shall calculate or cause to be calculated the amount of such deficiency and deposit with the Fiscal Agent an amount received from any legally available source equal to such deficiency prior to the time such payment is due. Each payment required to be made pursuant to this subsection (a)(1) shall be made to the Internal Revenue Service Center, Ogden, Utah 84201 (or such other address as required) on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T (which form shall be completed and provided by the District to the Fiscal Agent), or shall be made in such other manner as provided under the Code, in each case as specified in a written request of the District delivered to the Fiscal Agent.

(b) Disposition of Unexpended Funds. Any funds remaining in the Rebate Fund for the Bonds after redemption and payment of the Bonds and the payments of all amounts described in subsection (a)(1)(ii), shall be withdrawn by the Fiscal Agent and remitted to the District and utilized in any manner by the District.

(c) Survival of Defeasance. Notwithstanding anything in this Section 3.10 to the contrary, the obligation to comply with the requirements of this Section shall survive the defeasance of the Bonds.

(d) Modifications. Notwithstanding the foregoing, if the District shall obtain an opinion of Bond Counsel that any specified action under this Section 3.10 is no longer required

or that some further or different action is required to maintain the exclusion from federal income tax of interest with respect to the Bonds, the District and the Fiscal Agent may conclusively rely on such opinion in complying with the requirements hereunder, and the terms of this Section 3.10 shall be deemed modified to that extent.

**Section 3.11. Surplus Facilities Fund.**

(a) The Surplus Facilities Fund and the accounts therein as described in subsection (b) below shall be funded from surplus Special Taxes transferred to the Surplus Facilities Fund from the Special Tax Fund pursuant to Section 3.03(h); provided, prior to any such transfer to the accounts of the Surplus Facilities Fund, the Fiscal Agent shall check that the Reserve Requirement level will be met as of the first day of the next Bond Year (September 2), and will transfer any surplus Special Taxes for such purpose to the Reserve Fund, as applicable, prior to deposit in the accounts of the Surplus Facilities Fund. Monies on deposit in the Surplus Facilities Fund and the accounts thereof are not pledged for payment of the principal of, or interest or premium on, the Bonds, and are not subject to any Bondowner's lien.

(b) The School Account and the City Account shall each be maintained in the Surplus Facilities Fund, and an Authorized Representative will provide written direction to the Fiscal Agent for transfers and deposits to those designated accounts in accordance with the terms of Section 3.03(h) and pursuant to the requirements set forth in the Mitigation Agreement and the Joint Community Facilities Agreement and the terms hereof.

(i) Monies in the School Account of the Surplus Facilities Fund may be used, by the District pursuant to written direction of an Authorized Representative to the Fiscal Agent and in accordance with the Mitigation Agreement and Joint Community Facilities Agreement: for the Incremental Payment Obligation until paid in full, and then for acquisition and/or construction of School Facilities; to make deposits to the Rebate Fund under Section 3.10 hereof for the purposes of paying rebatable arbitrage as and when such is due in accordance with the Tax Certificate and the Regulations; for the optional redemption of any of the Bonds under Section 4.01(a) of this Fiscal Agent Agreement, or any other optional redemption terms under a Supplement as to Parity Bonds; or, for deposit to the Interest and/or Principal Account of the Bond Fund under Section 3.06(a) for payment of principal of, including Mandatory Sinking Payments, or interest on the Bonds. Disbursements from the School Account for expenditures on the School Facilities shall be made by the Fiscal Agent upon receipt of an Authorized Representative's payment request form in substantially the form attached hereto as **Exhibit D.**

(ii) Monies in the City Account of the Surplus Facilities Fund may be used, pursuant to written direction to the Fiscal Agent by an Authorized Representative that is also approved and executed by a City representative, for acquisition and/or construction of City Facilities/Additional City Facilities, and for no other purpose once deposited therein. Disbursements from the City Account of the Surplus Facilities Fund for expenditures on the City Facilities shall be made by the Fiscal Agent upon receipt of a payment request form in substantially the form attached hereto as **Exhibit D-1.**

(c) Moneys on deposit in the accounts of the Surplus Facilities Fund shall be invested in Authorized Investments in accordance with Section 3.12. Monies in the Surplus Facilities Fund are not subject to the rebate requirements set forth in this Fiscal Agent Agreement. Interest earnings and profits from such investment and deposit shall remain therein and be applied in the manner provided in subsection (b) above.

**Section 3.12. Investments.** The Fiscal Agent shall maintain separate books and records regarding the investment of monies in any of the funds, accounts or subaccounts established pursuant to this Fiscal Agent Agreement. Authorized Investments shall be deemed at all times to be a part of such funds, accounts or subaccounts. Any loss resulting from such Authorized Investments shall be charged to such funds, accounts or subaccount. Subject to limitations set forth as to each of the following funds or accounts set forth in other sections of this Fiscal Agent Agreement and in Section 5.02 hereof, the limitations as to maturities set forth below and any additional limitations or requirements established by the District and consistent with the foregoing, the Fiscal Agent shall invest the amounts on deposit in all funds, accounts or subaccount in Authorized Investments as directed in writing by the District, subject to the following restrictions:

(a) monies in the accounts within the Construction Fund shall be invested in Authorized Investments which will by their terms mature as close as practicable to the date the District estimates the monies represented by the particular investment will be needed for withdrawal from such account or subaccount, and are subject to the additional yield restriction terms set forth in Section 3.09(d);

(b) monies in the Bond Fund, the Special Tax Fund, including the Prepayment Account, and the Optional and Mandatory Redemption Accounts of the Redemption Fund shall be invested only in Authorized Investments which will by their terms mature as close as practicable to the date the monies therein will be needed for withdrawal so as to ensure the payment of principal, interest and redemption premium, if any, on the Bonds as the same become due or are redeemed, and in the case of the Special Tax Fund, so as to ensure the transfers to the other funds and to the accounts therein set forth in Section 3.03 hereof.

(c) monies in the Reserve Fund shall be invested in Authorized Investments which provide liquidity needed to satisfy any calls on funds in the Reserve Fund. Such liquidity shall provide that at least one half of the monies in the Reserve Fund shall be available for draw in advance of any Interest Payment Date, except in the case of guaranteed investment contracts which may have a longer term. Such Authorized Investments shall not have a final maturity of greater than three years (except for guaranteed investment contracts). No such investment shall mature later than 15 days prior to the final maturity of the Bonds; and

(d) monies in the Rebate Fund shall be invested only in Authorized Investments of the type described in clause (a) of the definition thereof which by their terms will mature, as nearly as practicable, on the dates such amounts are needed to be paid to the United States Treasury pursuant to Section 3.10.

Absent direction from the District, AND SUBJECT TO ANY LIMITATIONS ON INVESTMENT YIELD OR OTHER LIMITATIONS SET FORTH IN THIS FISCAL AGENT AGREEMENT, the Fiscal Agent shall invest monies in any of the funds or accounts created by this Fiscal Agent Agreement solely in Authorized Investments described in clause (j) of the definition thereof. The Fiscal Agent shall present for redemption any Authorized Investments so purchased whenever it may be necessary to do so in order to provide monies to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such Authorized Investment is credited. The Fiscal Agent may purchase or sell to itself or any affiliate, as principal or agent, such investments. For the purpose of determining at any given time the balance in any such fund or account, any Authorized Investments constituting a part of such funds or accounts shall be valued by the Fiscal Agent at the lower of cost or market value. Subject to Section 7.02, the Fiscal Agent shall not be responsible for any loss from any investment authorized pursuant to this Fiscal Agent Agreement. For investment purposes only, the Fiscal Agent may commingle the funds and accounts established hereunder, but shall account for each separately. Authorized Investments that are registerable securities shall be registered in the name of the Fiscal Agent. The District acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the District the right to receive brokerage confirmations of security transactions as they occur, the District specifically waives receipt of such confirmations to the extent permitted by law. The Fiscal Agent will furnish the District periodic cash transaction statements (including brokerage confirmations of security transactions as requested in writing by the District) that include detail for all investment transactions made by the Fiscal Agent hereunder.

#### **ARTICLE IV REDEMPTION OF BONDS**

##### **Section 4.01. Redemption of Bonds.**

(a) Optional Redemption. The Bonds may be redeemed prior to maturity at the option of the District on any date on or after September 1, 2023, in whole, or in part, from such maturities as are selected by the District in writing in accordance with Section 4.02 hereof, and by lot within a maturity, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest to the date fixed for redemption, without premium.

In the event the District shall elect to redeem the Bonds as provided in this Section 4.01(a), the District shall give written notice to the Fiscal Agent of its election to so redeem, the redemption date and the principal amount of the Bonds to be redeemed. Such notice shall be given to the Fiscal Agent at least 45 but no more than 90 days prior to the redemption date unless such notice or time period is waived by Fiscal Agent.

(b) Special Mandatory Redemption from Prepaid Special Taxes. The Bonds are subject to special mandatory redemption prior to their stated maturities on any Interest Payment Date for which timely notice can be given, in whole or in part, from such maturities as are selected by the District in writing in accordance with Section 4.02 hereof, and by lot within a maturity, in integral multiples of \$5,000, from monies on deposit in the Prepayment Account of the Special Tax Fund that are transferred to the Mandatory Redemption Account of the

Redemption Fund, at the redemption prices set forth below, which are expressed as a percentage of the principal amount thereof, together with accrued interest to the date fixed for redemption.

| <b>Redemption Date</b>                                      | <b>Redemption Price</b> |
|---|-------------------------|
| Any Interest Payment Date through March 1, 20__             | 103%                    |
| September 1, 20__, and March 1, 20__                        | 102                     |
| September 1, 20__, and March 1, 20__                        | 101                     |
| September 1, 20__, and any Interest Payment Date thereafter | 100                     |

(c) **Mandatory Sinking Fund Redemption.** The 20\_\_ Term Bond maturing on September 1, 20\_\_, is subject to mandatory redemption in part commencing on September 1, \_\_\_\_, and on each September 1 thereafter to maturity, by lot, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption, without premium, from Mandatory Sinking Payments as follows:

| <b>Sinking Fund Redemption Date</b><br><b><u>(September 1)</u></b> | <b>Mandatory Sinking</b><br><b><u>Payments</u></b><br>\$ |
|--|--|
|--|--|

20\_\_

In the event of a partial redemption of the 20\_\_ Term Bond pursuant to Section 4.01(a) or (b) hereof, Mandatory Sinking Payments for the 20\_\_ Term Bond set forth in this Section 4.01(c) shall be reduced, as nearly as practicable, on a pro rata basis, in integral multiples of \$5,000, pursuant to calculations made by the Fiscal Agent and approved in writing by the District.

**Section 4.02. Selection of Bonds for Redemption.** If less than all of the Outstanding Bonds are to be redeemed, the Bonds to be redeemed shall be from such maturities selected by the District, as provided in writing to the Fiscal Agent. Bonds within a single maturity shall be redeemed by lot in any manner that the Fiscal Agent deems appropriate. The portion of any such Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or a multiple thereof, and, in selecting portions of such Bonds for redemption, the Fiscal Agent shall treat such Bond as representing that number of Bonds of \$5,000 denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by \$5,000. In the event that Bonds are to be redeemed pursuant to Optional Redemption and Mandatory Sinking Fund Redemption on the same date, or Special Mandatory Redemption from Prepaid Special Taxes and Mandatory Sinking Fund Redemption on the same date, the Bonds to be redeemed pursuant to Mandatory Sinking Fund Redemption shall be selected first and Bonds to be redeemed pursuant to either Optional Redemption or Special Mandatory Redemption from Prepaid Special Taxes shall be selected thereafter.

The Fiscal Agent shall promptly notify the District of the Bonds, or portions thereof, selected for redemption by sending the District a copy of the notice required pursuant to Section 4.03 hereof.

Purchase in Lieu of Redemption. In lieu of, or partially in lieu of, any Optional Redemption or Special Mandatory Redemption from Prepaid Special Taxes, monies deposited in an account of the Redemption Fund may be used to purchase the Outstanding Bonds that were to be redeemed with such funds in the manner hereinafter provided. Purchases of Outstanding Bonds may be made by the District prior to the selection of Bonds for redemption by the District and Fiscal Agent, at public or private sale as and when and at such prices as the District may in its discretion determine but only at prices (including brokerage or other expenses) not more than par plus accrued interest, and, in the case of funds in the Optional Redemption Account or the Mandatory Redemption Account, the applicable premium to be paid in connection with the proposed redemption. Any accrued interest payable upon the purchase of Bonds may be paid from the Interest Account of the Bond Fund for payment of interest on the next following Interest Payment Date.

**Section 4.03. Notice of Redemption.** When the Fiscal Agent shall receive notice from the District of its election to redeem Bonds, or when the Fiscal Agent is required to redeem Bonds, the Fiscal Agent shall give notice in the name of the District of the redemption of such Bonds. Such notice of redemption shall: (a) specify the CUSIP numbers and serial numbers of the Bonds selected for redemption, except that where all the Bonds or all Bonds of a single maturity are subject to redemption, the serial numbers thereof need not be specified; (b) state the original issue date, the interest rate and the maturity date of the Bond selected for redemption; (c) state the date fixed for redemption; (d) state the redemption price; (e) state the place or places where the Bonds are to be redeemed; and (f) in the case of Bonds to be redeemed only in part, state the portion of such Bond which is to be redeemed. Such notice shall further state that, on the date fixed for redemption, there shall become due and payable on each Bond or portion thereof called for redemption the principal thereof, together with any premium, and interest accrued to the redemption date, and that, from and after such date, interest thereon shall cease to accrue and be payable. At least 30 days but no more than 60 days prior to the redemption date, the Fiscal Agent shall mail by first class mail a copy of such notice, postage prepaid, to the respective Owners thereof at their addresses appearing on the Bond Register. The actual receipt by the Owner of any Bond of notice of such redemption shall not be a condition precedent thereto, and neither failure to receive such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such Bond, or the cessation of interest on the redemption date. A certificate by the Fiscal Agent that notice of such redemption has been given as herein provided shall be conclusive as against all parties, and it shall not be open to any Owner to show that he or she failed to receive notice of such redemption.

Additional Notice. In addition to the foregoing notice, further notice shall be given by the Fiscal Agent as set out below, but neither defect in such further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as prescribed above.

1. Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus: (i) the date of issue of the Bonds as originally issued; (ii) the rate of interest borne by each Bond being redeemed; and (iii) any other descriptive information needed to identify accurately the Bonds being redeemed.

2. Each further notice of redemption shall be sent at least 30 days before the redemption date to the Depository and, upon written request of the District, to any other registered Depository then in the business of holding substantial amounts of obligations of types comprising the Bonds and to the National Information Service or at the request of the District, any other information services that disseminate notice of redemption of obligations such as the Bonds.

Upon the payment of the redemption price of any Bonds being redeemed, each check or other transfer of funds issued to a registered securities depository for such purpose shall bear the CUSIP number identifying, by issue and maturity, or otherwise be identified to the satisfaction of such Depository and the Fiscal Agent, the Bonds being redeemed with the proceeds of such check or other transfer.

**Section 4.04. Partial Redemption of Bonds.** Upon surrender of any Bond, to be redeemed in part only, the District shall execute and the Fiscal Agent shall authenticate and deliver to the Bondowner, at the expense of the District, a new Bond or 2 Bonds of authorized denominations equal in aggregate principal amount and maturity to the unredeemed portion of the Bond surrendered.

**Section 4.05. Effect of Notice and Availability of Redemption Money.** Notice of redemption having been duly given, as provided in Section 4.03, and the amount necessary for the redemption having been made available for that purpose and being available therefor on the date fixed for such redemption:

(1) the Bonds, or portions thereof, designated for redemption shall, on the date fixed for redemption, become due and payable at the redemption price thereof as provided in this Fiscal Agent Agreement, anything in this Fiscal Agent Agreement, or in the Bonds, to the contrary notwithstanding;

(2) upon presentation and surrender thereof at the Principal Corporate Trust Office of the Fiscal Agent, or such other location as may be designated by the Fiscal Agent, such Bond shall be redeemed at the said redemption price;

(3) from and after the redemption date, the Bonds or portions thereof so designated for redemption shall be deemed to be no longer Outstanding and such Bonds or portions thereof shall cease to bear further interest; and

(4) from and after the date fixed for redemption, no Owner of any of the Bonds or portions thereof so designated for redemption shall be entitled to any of the benefits of this Fiscal Agent Agreement, or to any other rights, except with respect to payment of the redemption price and interest accrued to the redemption date from the amounts so made available.

**Section 4.06. Contingent Redemption; Rescission.** Any notice of optional redemption may specify that redemption of the Bonds designated for redemption on the specified date will be subject to the receipt by the District and/or the Fiscal Agent, as applicable, of moneys sufficient to cause such redemption, and neither the District nor the Fiscal Agent will have any

liability to the Owners of any Bonds, or any other party, as a result of the District's failure to redeem the Bonds designated for redemption as a result of insufficient moneys therefor.

Any notice of an optional redemption under 4.01 may be cancelled and annulled if for any reason funds are not, or will not, be available on the date fixed for redemption for the payment in full of the Bonds then called for redemption. Such cancellation and annulment is not a default under this Fiscal Agent Agreement. The District will not have any liability to the Bondowners, or any other party, as a result of the District's failure to redeem the Bonds designated for redemption as a result of insufficient monies therefore.

Additionally, the District may rescind any optional redemption of the Bonds, and notice thereof, for any reason on any date prior to the date fixed for such redemption by causing written notice of the rescission to be given to the Owners of the Bonds so called for redemption. Notice of rescission of redemption shall be given in the same manner in which notice of redemption was originally given. The actual receipt by the Owner of any Bond of notice of such rescission shall not be a condition precedent to rescission, and failure to receive such notice or any defect in such notice shall not affect the validity of the rescission. Neither the District nor the Fiscal Agent shall have any liability to the Owners of any Bonds, or any other party, as a result of the District's decision to rescind redemption of any Bonds pursuant to the provisions of this subsection.

## **ARTICLE V COVENANTS AND WARRANTY**

**Section 5.01. Warranty.** The District shall preserve and protect the security of the Bonds and the rights of the Owners and warrant and defend their rights against all claims and demands of all persons.

**Section 5.02. Covenants.** So long as any of the Bonds issued hereunder are Outstanding and unpaid, the District makes the following covenants with the Owners under the provisions of the Act and this Fiscal Agent Agreement and all Supplements (to be performed by the District or its proper officers, agents or employees), which covenants are necessary, convenient and desirable to secure the Bonds; provided, however, that said covenants do not require the District to expend any funds or monies other than the Net Taxes or any monies deposited in the funds and accounts created hereunder and legally available therefor.

**Covenant 1. Punctual Payment.** The District will duly and punctually pay, or cause to be paid, the principal of and interest on every Bond issued hereunder, together with the premium thereon, if any be payable, on the date, at the place and in the manner mentioned in the Bonds and in accordance with this Fiscal Agent Agreement and any Supplement to the extent Net Taxes are available therefor, and that the payments into the Bond Fund and the Reserve Fund will be made, all in strict conformity with the terms of the Bonds and this Fiscal Agent Agreement, and that it will faithfully observe and perform all of the conditions, covenants and requirements of this Fiscal Agent Agreement and any Supplement and of the Bonds issued



hereunder, and that time of such payment and performance is of the essence of the District's contract with the Bondowners.

Covenant 2. Levy and Collection of Special Taxes. Subject to the maximum Special Tax rates, the District will comply with all requirements of the Act so as to assure the timely collection of the Special Taxes, including without limitation, the enforcement of delinquent Special Taxes. The District shall fix and levy the amount of Special Taxes within CFD No. 2005-1 required for the payment of principal of and interest on Outstanding Bonds becoming due and payable during the ensuing year including any necessary replenishment or expenditure of the Reserve Fund for the Bonds, an amount equal to the Administrative Expense Requirement and any additional amounts necessary for expenses incurred in connection with administration or enforcement of delinquent Special Taxes.

On or before each June 1, commencing June 1, 2014, the Fiscal Agent shall provide a written notice to the District stating the amounts then on deposit in the various funds and accounts established by this Fiscal Agent Agreement. The receipt of such notice by the District shall in no way affect the obligations of the District under the following paragraphs. Upon receipt of a copy of such notice, the District shall communicate with the Orange County Assessor or other appropriate official of the County of Orange to ascertain the relevant parcels on which the Special Taxes are to be levied, taking into account any parcel splits during the preceding and then current year.

The District shall retain an Independent Financial Consultant to assist in the levy of the Special Taxes each Fiscal Year, commencing Fiscal Year 2013-2014, in accordance with the Ordinance, such that the computation of the levy is complete before the final date on which the Orange County Auditor-Controller will accept the transmission of the Special Tax amounts for the parcels within CFD No. 2005-1 for inclusion on the next secured tax roll. Upon the completion of the computation of the amounts of the levy, and approval by the Legislative Body, the District shall prepare or cause to be prepared, and shall transmit to the Orange County Auditor-Controller, such data as the Orange County Auditor-Controller requires to include the levy of the Special Taxes on the next secured tax roll.

The Special Taxes shall be payable and collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same priority, become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property; provided, the Legislative Body may provide for direct collection of the Special Taxes in certain circumstances.

The fees and expenses of the Independent Financial Consultant retained by the District to assist in computing the levy of the Special Taxes hereunder and any reconciliation of amounts levied to amounts received, as well as the costs and expenses of the District (including a charge for District staff time) in conducting its duties hereunder, shall be an Administrative Expense hereunder.

Covenant 3. Commence Foreclosure Proceedings. The District covenants for the benefit of the Owners of the Bonds that it: (i) will commence judicial foreclosure proceedings against parcels with delinquent Special Taxes in excess of \$25,000 by the October 1 following the close of each Fiscal Year in which such Special Taxes were due and (ii) will commence judicial foreclosure proceedings against all parcels with delinquent Special Taxes by the October 1 following the close of each Fiscal Year in which it receives Special Taxes in an amount which is less than 95% of the total Special Tax levied or the amount on deposit in the Reserve Fund is at less than its required balance, and (iii) will diligently pursue such foreclosure proceedings until the delinquent Special Taxes are paid; provided that, notwithstanding the foregoing and provided that the County of Orange is then including the District in the County's "Teeter Plan" method of apportionment and distribution of community facilities district special taxes, the District may elect to defer foreclosure proceedings on any parcel which is owned by a delinquent property owner whose property is not, in the aggregate, delinquent in the payment of Special Taxes in excess of \$25,000 so long as (1) the amount in the Reserve Fund is at least equal to the Reserve Requirement, and (2) with respect to the Bonds, the District is not in default in the payment of the principal of or interest on the Bonds. The District may, but shall not be obligated to, advance funds from any source of legally available funds in order to maintain the Reserve Fund at the Reserve Requirement or to avoid a default in payment on the Bonds.

The District covenants that it will deposit the net proceeds of any foreclosure in the Special Tax Fund and will apply such proceeds remaining after the payment of Administrative Expenses to make current payments of principal and interest on the Bonds, to bring the amount on deposit in the Reserve Fund up to the Reserve Requirement, and to pay any delinquent installments of principal or interest due on the Bonds.

Covenant 4. Against Encumbrances. The District will not encumber, pledge or place any charge or lien upon any of the Net Taxes or other amounts pledged to the Bonds superior to, or on a parity with, the pledge and lien herein created for the benefit of the Bonds, except as permitted by this Fiscal Agent Agreement.

Covenant 5. Modification of Maximum Authorized Special Tax. The District covenants that no modification of the maximum authorized Special Taxes in CFD No. 2005-1 shall be approved by the District prior to the issuance of all Parity Bonds and payment in full of the Incremental Payment Obligation and thereafter only if it is confirmed in writing, by an Independent Financial Consultant, that, immediately subsequent to such modifications the amount of the maximum Special Taxes on Developed Property (as defined in the Rate and Method), pursuant to the Act and the applicable resolutions and ordinances of the District is at least 1.10 times Maximum Annual Debt Service plus Administrative Expenses on all Outstanding Bonds.

The District further covenants that in the event an ordinance is adopted by initiative pursuant to Section 3 of Article XIII C of the California Constitution, which purports to reduce or otherwise alter the maximum authorized Special Taxes, it will, to the extent of available District funds therefore, commence and pursue legal action seeking to preserve its ability to comply with its covenant contained in the preceding paragraph.

Covenant 6. Protection of Security and Rights of Owners. The District will preserve and protect the security of the District and the rights of the Owners, and will warrant and defend their rights against all claims and demands of all persons. From and after the delivery of any of the Bonds by the District, the Bonds shall be incontestable by the District.

Covenant 7. Compliance with Law, Completion of Project. The District will comply with all applicable provisions of the Act and law in completing the acquisition and construction of the Project; provided, that the District shall have no obligation to advance any funds to complete the Project in excess of the amounts available therefore in the Construction Fund.

Covenant 8. Books and Accounts. The District will keep, or cause to be kept, proper books of records and accounts, separate from all other records and accounts of the Bonds, in which complete and correct entries shall be made of all transactions relating to the Bonds, the levy of the Special Tax and the deposits to the Special Tax Fund including the Prepayment Account. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Fiscal Agent (who shall have no duty to inspect) or of the Owners of not less than 10% of the principal amount of the Bonds then Outstanding or their representatives authorized in writing.

Covenant 9. Tax Covenant. The District hereby covenants and represents that until the last Bonds shall have been fully paid or redeemed, the District will comply with all requirements of the Tax Certificate, the Code and all applicable Regulations, such that the interest on the Bonds will remain excluded from gross income for federal income tax purposes.

Covenant 10. Additional Tax Covenants. The District hereby covenants, without limiting the generality of Covenant 9, that:

(a) the District will make no use of the proceeds of the Bonds or the School Facilities, City Facilities or other public facilities refinanced with the proceeds of the Bonds, which at any time will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and applicable Regulations;

(b) the District will ensure that the payment of principal and interest on the Bonds shall not be directly or indirectly guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof) and no portion of the monies contained in any of the funds or accounts created herein shall be: (i) used in making loans guaranteed by the United States (or any agency or instrumentality thereof); (ii) invested directly or indirectly in deposits or accounts insured by the Federal Deposit Insurance Corporation, National Credit Union Administration or any other similar federally chartered corporation; (iii) otherwise invested directly or indirectly in obligations guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof); except (a) investments of amounts in the Construction Fund during any temporary period under Section 148 of the Code; (b) investment of amounts held in the Reserve Fund, or other reserve funds satisfying Section 148(d) of the Code; (c) investment of amounts held in the Special Tax Fund, Bond Fund and other bona fide debt service funds; (d) for investments in obligations issued by the United States Treasury; (e) for investments in

obligations guaranteed by the Federal National Mortgage Association, Government National Mortgage Association or Federal Home Loan Mortgage Corporation; or, (f) investments permitted under Regulations issued pursuant to Section 149(b)(3)(B) of the Code;

(c) the District will ensure that no portion of the monies contained in any of the funds or accounts created herein, or any of the School Facilities, City Facilities or other public facilities funded from proceeds of the Bonds, shall be used so as to cause any of the Bonds to meet the “private activity bond” tests of Section 141 of the Code and any Regulations issued thereunder;

(d) the District agrees that there shall be paid from time to time all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and the applicable Regulations and this Fiscal Agent Agreement (including, but not limited to, Section 3.10 hereof) and any further documents executed in connection with the Bonds. This covenant shall survive payment in full or defeasance of the Bonds. The District specifically covenants to pay or cause to be paid to the United States at the times and in the amounts determined above the amounts required to be so paid by this Fiscal Agent Agreement and further documents executed in connection with the Bonds, the Code and the Regulations;

(e) the District: (i) shall neither invest Gross Proceeds nor cause Gross Proceeds to be invested in Nonpurpose Investments if the Yield on such Nonpurpose Investments would be less than the Yield that would have resulted in an arm’s length transaction; (ii) will not sell or otherwise dispose of or cause to be sold or otherwise disposed of Nonpurpose Investments if such sale or disposition would result in a smaller profit or larger loss than would have resulted from a sale at fair market value arrived at in an arm’s length transaction; and (iii) shall keep a detailed accounting of all transactions contemplated under this Fiscal Agent Agreement or in any way relating to the receipt or disbursement of any of the Gross Proceeds of the Bonds for a period of six years after the later of the date of payment of all Excess Investment Earnings to the United States or the date the District disburses the last of the Gross Proceeds of the Bonds; and

(f) notwithstanding any provision of this Fiscal Agent Agreement, if the District shall provide to the Fiscal Agent an opinion of Bond Counsel that any specified action required under this Fiscal Agent Agreement is no longer required or that some further or different action is required to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds, the Fiscal Agent may conclusively rely on such opinion in complying with the requirements of this Fiscal Agent Agreement, and the covenants hereunder shall be deemed to be modified to that extent notwithstanding the provisions of Article VI hereof.

**Covenant 11. Further Assurances.** The District will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the obligations and covenants under this Fiscal Agent Agreement and any Supplement, and for the better assuring and confirming unto the Owners of the rights and benefits provided in this Fiscal Agent Agreement and in any Supplement.

Covenant 12. Additional Opinion(s). The District will not make any change in requirements or procedures or take any action, as to which change or action this Fiscal Agent Agreement or related documents require an opinion of Bond Counsel, unless it obtains an opinion of Bond Counsel to the effect that (a) interest on the Bonds was excluded from gross income for federal income tax purposes from their date of issuance until the date of such change, assuming compliance with the covenants in this Fiscal Agent Agreement as they were in effect prior to the change (except that such opinion need not be given as to any interest for which a similar opinion has previously been given and remains in effect subsequent to such change), and (b) assuming continued compliance by the District with the covenants as changed, interest on the Bonds is excluded from gross income for purposes of federal income taxation.

Covenant 13. Tender of Bonds. The District will not, in collecting the Special Taxes or in processing any such judicial foreclosure proceedings, exercise any authority which it has pursuant to Sections 53340, 53344.1, 53356.1 and 53356.5 of the California Government Code in any manner which would be inconsistent with the interests of the Owners and, in particular, will not permit the tender of Bonds in full or partial payment of Special Taxes except upon receipt of a certificate of an Independent Financial Consultant that to accept such tender will not result in the District having insufficient Net Taxes to pay the principal of and interest on the Bonds remaining Outstanding following such tender.

Covenant 14. Conditions for Issuance of Parity Bonds. The District may, at any time after the issuance and delivery of the 2013 Bonds, issue Parity Bonds payable from the Net Taxes and amounts deposited in the Reserve Fund, or accounts thereof, and secured by a lien and charge upon such amounts equal to the lien and charge securing the Outstanding Bonds hereunder as hereinafter provided. Parity Bonds may be issued subject to the following additional specific conditions, which are hereby made conditions precedent to the issuance of any Parity Bonds; provided, Parity Bonds may be issued at any time to refund the Outstanding Bonds, in whole or in part, without limitation on the \$30,000,000 principal amount limitation set forth in clause (a) below, and without satisfying the requirements under clauses (d), (e) and (f) below.

(a) Maximum Total Parity Bond Issuance. The aggregate original principal amount of the 2013 Bonds and all Parity Bonds issued may not exceed \$30,000,000; provided, however, that, notwithstanding the foregoing, Parity Bonds may be issued at any time to refund the Outstanding Bonds without limitation on the foregoing \$30,000,000 principal amount limitation.

(b) Compliance with Covenants. The District shall be in compliance with all covenants set forth in this Fiscal Agent Agreement and any Supplement then in effect and a certificate of the District to that effect shall have been filed with the Fiscal Agent; provided, however, that Parity Bonds may be issued notwithstanding that the District is not in compliance with all such covenants so long as immediately following the issuance of such Parity Bonds, the District will be in compliance with all such covenants.

(c) Supplemental Fiscal Agent Agreement. The issuance of Parity Bonds shall have been duly authorized pursuant to the Act and all applicable laws, and the issuance of Parity Bonds shall have been provided for by a Supplement duly adopted by the District which shall specify the following:

(1) the purpose for which the Parity Bonds are to be issued and the fund or funds into which the proceeds thereof are to be deposited including payment of all costs incidental to or connected therewith;

(2) the authorized principal amount of the Parity Bonds;

(3) the date and the maturity date or dates of the Parity Bonds; provided that

(i) each maturity date shall fall on September 1 and shall pay interest on the Interest Payment Dates,

(ii) all such Parity Bonds of like maturity shall be identical in all respects, except as to number, and

(iii) fixed serial maturities or Mandatory Sinking Payments, or any combination thereof, shall be established if necessary to provide for the retirement of all Parity Bonds on or before their respective maturity dates;

(4) the description of the Parity Bonds, the place of payment thereof and the procedure for execution and authentication;

(5) the denominations and method of numbering of such Parity Bonds;

(6) the amount and due date of each Mandatory Sinking Payment, if any, for the Parity Bonds;

(7) the amount, if any, to be deposited from the proceeds of the Parity Bonds in the Reserve Fund;

(8) the form of the Parity Bonds;

(9) the terms of redemption for the Parity Bonds, which shall be consistent with the terms (other than dates for redemption, premium rates and amounts) specified in Article IV hereof; and

(10) such other provisions as are necessary or appropriate and not inconsistent with this Fiscal Agent Agreement.

(d) Minimum Debt Service Coverage. The District must receive one or more certificates from one or more Independent Financial Consultants which, when taken together, certify that the amount of the maximum Special Taxes that may be levied in each remaining Bond Year on all parcels of Developed Property that are not known by the District to be delinquent in the payment of any Special Taxes, assessments or *ad valorem* property taxes then due and owing is at least the sum of (i) the Administrative Expense Requirement, plus (ii) 1.10 times the Annual Debt Service for each corresponding Bond Year on all Outstanding Bonds and the Parity Bonds proposed to be issued (less any amounts in the Capitalized Interest Subaccount that may be available in a Bond Year). For purposes of making this certification, the Independent Financial Consultants may rely on any reports or certificates as may be acceptable to the District and the underwriter of the proposed Parity Bonds.

(e) Minimum Value-to-Lien Ratio. The “Developed Property Value” (as defined below) shall be at least six (6) times the sum of:

(i) the principal amount of all Outstanding Bonds allocable to Developed Property\*, plus

\* For purposes of this section (e), there will be allocated to the Developed Property the largest principal amount of Bonds and Parity Bonds that results in the maximum Special Taxes that may be levied on Developed Property (not including any parcels of Developed Property with delinquent Special Taxes and assuming taxation as “Developed Property” as defined in the RMA) in each Fiscal Year being at least equal to the sum of 110% of Annual Debt Service on such Bonds and Parity Bonds in the Bond Year ending on the September 1 following the end of such Fiscal Year of taxation plus the share of Administrative Expenses allocable to the Developed Property for such Fiscal Year of taxation. Administrative Expenses in each Fiscal Year shall be deemed to be equal to the Administrative Expense Requirement and the portion of the total Administrative Expenses allocable to Developed Property shall be the same portion that Special Taxes on Developed Property represent of the total Special Taxes levied in the District in the then current Fiscal Year.

(ii) the principal amount of the Parity Bonds allocable to Developed Property proposed to be issued, plus

(iii) the principal amount of any fixed assessment liens on Developed Property in CFD No. 2005-1; plus

(iv) a Proportionate Share of the outstanding principal amount of all other special tax bonds payable at least partially from Special Taxes to be levied on the Developed Property in CFD No. 2005-1 (“Overlapping Bonds”), determined by multiplying the outstanding principal amount of the Overlapping Bonds by the following fraction: the amount of special taxes securing the Overlapping Bonds levied on the Developed Property in CFD No. 2005-1, divided by the total amount of special taxes securing the Overlapping Bonds (in

each case to be determined based upon the maximum special taxes that could be levied in the year in which estimated annual debt service on the Overlapping Bonds occurs).

The term "Developed Property Value" for purposes of this subparagraph means the value (including both land and improvements) of all parcels of Developed Property that are not known by the District to be delinquent in the payment of any Special Taxes, assessments or *ad valorem* property taxes then due and owing. Developed Property Value will be determined by reference to either or some combination of (i) an appraisal prepared by an MAI appraiser selected by the District, with a date of value no earlier than 90 days before the date the proposed Parity Bonds would be issued, or (ii) the assessed values shown on the last equalized County assessor's property tax rolls.

Neither the School District nor the District shall be liable to the Owners or any other person or entity with respect to any appraisal provided for purposes of meeting this requirement or by reason of any exercise of discretion made by any appraiser in connection with this requirement.

(f) Deposit to Reserve Fund. The Supplement may provide for the establishment of separate funds and accounts, and shall provide for a deposit in the Reserve Fund so that the balance in the Reserve Fund, including the account established for the Parity Bonds, shall be equal to the Reserve Requirement on the Delivery Date for the Outstanding Bonds and the Parity Bonds.

(g) District Certification. The District shall file with the Fiscal Agent a certificate of a District Representative certifying that the conditions precedent to the issuance of the Parity Bonds set forth in this Covenant 14 have been satisfied. The District Representative executing this certificate may conclusively rely upon such certificates of the Fiscal Agent, the Independent Financial Consultant, appraisers, owners of property within the District and others selected with due care, without the need for independent inquiry or certification.

#### Covenant 15. Annual Reports.

(a) Annual Reports to the California Debt and Investment Advisory Commission. Not later than October 30 of each year, commencing October 30, 2013, and until the October 30 following the final maturity of the Bonds, the District shall supply to the California Debt and Investment Advisory Commission the information required to be provided thereto pursuant to Section 53359.5(b) of the Act. Such information shall be made available to any Owner upon written request to the District accompanied by a fee determined by the District to pay the costs of the District in connection therewith. The District shall in no event be liable to any Owner or any other person or entity in connection with any error in any such information.

(b) If at any time the Fiscal Agent fails to pay principal or interest due on any scheduled payment date for the Bonds, or if funds are withdrawn from the Reserve Fund to pay principal or interest on the Bonds, the Fiscal Agent shall notify the District in writing of such



failure or withdrawal, and the District shall notify the California Debt and Investment Advisory Commission of such failure or withdrawal within 10 days of the failure to make such payment or the date of such withdrawal.

(c) The reporting requirements of this Covenant 15 shall be amended from time to time, without action by the District or the Fiscal Agent to reflect any amendments to Section 53359.5(b) or Section 53359.5(c) of the Act. The District shall provide the Fiscal Agent with a copy of any such amendment. Notwithstanding the foregoing, any such amendment shall not, in itself, affect the District's obligations under any continuing disclosure documentation relating to the Bonds.

(d) None of the District, its officers, agents, employees or Authorized Representatives, or the Fiscal Agent, shall be liable to any person or party for any inadvertent error in reporting the information contained in this Covenant 15.

**Section 5.03. Continuing Disclosure Covenant.** The District hereby covenants and agrees that it will comply with and carry out all of its obligations under the [District] Continuing Disclosure Certificate. Notwithstanding any other provision of this Fiscal Agent Agreement, failure of the District to comply with its obligations under the Continuing Disclosure Certificate shall not be considered an event of default under this Fiscal Agent Agreement, and the sole remedy, in the event of any failure of the District to comply with the Continuing Disclosure Certificate, shall be an action to compel performance thereof. The Fiscal Agent shall, at the written request of any Participating Underwriter or the Owners of at least 25% aggregate principal amount of Outstanding Bonds and upon receipt of reasonable indemnification acceptable to it, or any Bondowner or Beneficial Owner may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the District to comply with its obligations under this Covenant. For purposes of this Section, "Beneficial Owners" means any person which: (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the Owner of any Bonds for federal income tax purposes.

## **ARTICLE VI AMENDMENTS TO FISCAL AGENT AGREEMENT**

**Section 6.01. Supplemental Agreement or Amendments.** The District may from time to time, and at any time, without notice to or consent of any of the Owners, adopt Supplements hereto for any of the following purposes:

(a) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein or therein, or to make any other provision with respect to matters or questions arising under this Fiscal Agent Agreement, or in any Supplement, provided that such action shall not materially adversely affect the interests of the Bondowners;

(b) to add to the covenants and agreements of and the limitations and the restrictions upon the District contained in this Fiscal Agent Agreement which are not contrary to or inconsistent with this Fiscal Agent Agreement as theretofore in effect;

(c) to modify, alter, amend or supplement this Fiscal Agent Agreement in any other respect which is not materially adverse to the Bondowners including, but not limited to, providing for the rating or insuring of any of the Bonds; and

(d) to provide for the issuance of Parity Bonds in accordance with the terms of this Fiscal Agent Agreement.

Exclusive of amendments supplemental hereto covered by the first paragraph of this Section 6.01, the Owners of not less than 60% in aggregate principal amount of the Bonds then Outstanding shall have the right to consent to and approve the adoption by the District of such amendments or orders supplemental hereto as shall be deemed necessary or desirable by the District for the purpose of waiving, modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Fiscal Agent Agreement; provided, however, that nothing herein shall permit, or be construed as permitting: (a) an extension of the maturity date of the principal of, or the payment date of interest on, any Bonds, (b) a reduction in the principal amount of, or redemption premium on, any Bonds or the rate of interest thereon, (c) a preference or priority of any Bonds over any other Bonds, or (d) a reduction in the aggregate principal amount of the Bonds the Owners of which are required to consent to such Supplement, without, in the case of (a) or (b), the consent of the affected Owner, or, in the case of (c) or (d), the consent of the Owners of all Bonds then Outstanding.

**Section 6.02. Supplements Requiring Owner Consent.** If at any time the District shall desire to adopt a Supplement hereto which, pursuant to the terms of this Section 6.02, shall require the consent of the Owners, the District shall so notify the Fiscal Agent and shall deliver to the Fiscal Agent a copy of the proposed Supplement to be mailed, postage prepaid, to all Owners at their addresses as they appear in the Bond Register. Such notice shall briefly set forth the nature of the proposed Supplement and shall state that a copy thereof is on file at the Principal Corporate Trust Office of the Fiscal Agent for inspection by all Owners. The failure of any Owner to receive such notice shall not affect the validity of such Supplement when consented to and approved as provided in this Section 6.02. Whenever at any time within one year after the date of the first mailing of such notice the Fiscal Agent shall receive an instrument or instruments purporting to be executed by the Owners of not less than 60% in aggregate principal amount of the Bonds then Outstanding affected by such Supplement, which instrument or instruments shall refer to the proposed Supplement described in such notice, and shall specifically consent to and approve the adoption thereof by the District substantially in the form of the copy thereof referred to in such notice as on file with the Fiscal Agent, such proposed Supplement, when duly adopted by District, shall thereafter become a part of the proceedings for the issuance of the Bonds as referred to in Section 10.03. In determining whether the Owners of 60% of the aggregate principal amount of the Bonds affected by such Supplement have consented to the adoption of any Supplement, Bonds which the Fiscal Agent knows are owned by the District or by any person directly or indirectly controlling or controlled by or under the

direct or indirect common control with the District, shall be disregarded and shall be treated as though they were not Outstanding for the purpose of any such determination.

Upon the adoption of any Supplement hereto and the receipt of consent to any such amendment from the Owners of the appropriate aggregate principal amount of Bonds in instances where such consent is required pursuant to the provisions of this Section 6.02, this Fiscal Agent Agreement shall be, and shall be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Fiscal Agent Agreement of the District and all Owners of Bonds then Outstanding affected thereby shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments. Notwithstanding anything herein to the contrary, no Supplement shall be entered into which would modify the duties of the Fiscal Agent hereunder, without the prior written consent of the Fiscal Agent.

## **ARTICLE VII FISCAL AGENT**

### **Section 7.01. Fiscal Agent.**

(a) Initial Appointment of Fiscal Agent. U.S. Bank National Association is the initial Fiscal Agent for the Bonds.

(b) Duties of Fiscal Agent. The Fiscal Agent is hereby authorized to and shall make interest payments to the Owners, select Bonds for redemption pursuant to the terms of this Fiscal Agent Agreement, give notice of meetings of Owners, maintain the Bond Register and maintain and administer the funds and accounts established pursuant to this Fiscal Agent Agreement, and perform all other acts authorized or directed of the Fiscal Agent by this Fiscal Agent Agreement. The Fiscal Agent is hereby authorized to pay from the Net Taxes, or from amounts in accounts or funds as provided in this Fiscal Agent Agreement, the principal and premium, if any of on the Bonds when the same are duly presented to it for payment at maturity, to provide for the registration of transfer and exchange of Bonds presented to it for such purposes, to provide for the cancellation of Bonds, all as provided in this Fiscal Agent Agreement, and to provide for the authentication of Bonds, and shall perform all other duties assigned to or imposed on it as provided in this Fiscal Agent Agreement. The Fiscal Agent shall keep accurate records of all funds administered by it and all Bonds paid and discharged by it.

(c) Removal or Resignation and Replacement of Fiscal Agent and Appointment of Successor. The Fiscal Agent initially appointed, and any successor thereto, may be removed by the District upon 30 days' prior written notice except during the continuance of an event of default and a successor or successors may be appointed. So long as any Bonds are Outstanding and unpaid, the Fiscal Agent and any successor or successors thereto shall continue to be the Fiscal Agent of the Bonds for all of said purposes.

The Fiscal Agent may at any time resign by giving 60 days' written notice of such resignation by mail to the District and to the Bondowners at the address shown on the Bond

Register. Upon receiving notice of such resignation, the District shall promptly appoint a successor Fiscal Agent by an instrument in writing. Any resignation or removal of the Fiscal Agent and appointment of a successor Fiscal Agent shall become effective upon acceptance of appointment by the successor Fiscal Agent.

A successor Fiscal Agent appointed by the District shall be a bank, corporation or trust company located in or organized under the laws of the State and subject to examination by federal or state authority, having capital stock and surplus aggregating at least \$75,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Fiscal Agent Agreement. Such successor Fiscal Agent shall signify the acceptance of its duties and obligations hereunder by executing and delivering to the District a written acceptance thereof. Resignation or removal of the Fiscal Agent shall be effective only upon appointment and acceptance of a successor Fiscal Agent.

If the District does not appoint a successor within 60 days following the giving of any notice of removal or receipt of any notice of resignation, the removed or resigning Fiscal Agent or any Owner on behalf of himself and all other Owners may petition any appropriate court having jurisdiction to appoint a successor Fiscal Agent.

Any company or association into which the Fiscal Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company or association to which the Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided that such company or association shall be eligible under this Section 7.01(c), shall be the successor to the Fiscal Agent and vested with all of the title to the trust estate and all of the trust, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding. All costs associated with the Fiscal Agent's merger or consolidation with another bank, corporation or trust company shall be paid by the successor Fiscal Agent. No expense resulting from such merger or consolidation shall be billed to the District.

**Section 7.02. Liability of Fiscal Agent.** The recitals of fact and all promises, covenants and agreements contained herein and in the Bonds shall be taken as statements, promises, covenants and agreements of the District, and the Fiscal Agent assumes no responsibility for the correctness of the same and makes no representations as to the validity or sufficiency of this Fiscal Agent Agreement or of the Bonds, and shall incur no responsibility in respect thereof, other than in connection with its duties or obligations herein or in the Bonds or in the certificate of authentication of the Fiscal Agent. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

No provision in this Fiscal Agent Agreement shall require the Fiscal Agent to risk or expend its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, including, but not limited to, the payment of principal of, premium, if any, or interest on the Bonds.

The Fiscal Agent shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, facsimile transmission, electronic mail, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Fiscal Agent may consult with counsel authorized by the District with regard to legal questions arising from the terms set forth in this Fiscal Agent Agreement, and the written opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered hereunder in good faith and in accordance therewith.

The District agrees to pay the Fiscal Agent compensation for its services and to reimburse the Fiscal Agent for all its fees and expenses. The District further agrees to indemnify and hold the Fiscal Agent harmless from any loss, liability or expense, including attorneys' fees, not arising from the Fiscal Agent's negligence or willful misconduct, which the Fiscal Agent may incur in the exercise and performance of its duties hereunder. The rights to compensation, reimbursement and indemnity in this paragraph shall survive the satisfaction or defeasance of the Bonds and resignation or removal of the Fiscal Agent hereunder.

The District and the Fiscal Agent may treat the Owner of the Bonds whose name appears on the Bond Register as the absolute Owner of the Bonds for any and all purposes, and the Bonds and the Fiscal Agent shall not be affected by any notice to the contrary. The District and the Fiscal Agent may rely on the address of the Owner as it appears in the Bond Register for any and all purposes. It shall be the duty of the Owner to give written notice to the Fiscal Agent of any change in the Owner's address so that the Bond Register may be revised accordingly.

The Fiscal Agent shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Fiscal Agent, or exercising any trust or power conferred upon the Fiscal Agent under this Fiscal Agent Agreement. The permissive right of the Fiscal Agent to do things enumerated in this Fiscal Agent Agreement shall not be construed as a duty.

The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Fiscal Agent Agreement at the request, order or direction of any of the Owners pursuant to the provisions of this Fiscal Agent Agreement unless such Owners shall have offered to the Fiscal Agent reasonable security or indemnity against the costs, expenses, and liabilities which may be incurred therein or thereby.

The Fiscal Agent makes no representation or warranty, express or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose for the use contemplated by the District or the School District of the School Facilities. In no event shall the Fiscal Agent be liable for incidental, indirect, special or consequential damages in connection with or arising from this Fiscal Agent Agreement for the existence, furnishing or use of the School Facilities.

The Fiscal Agent shall have no responsibility with respect to any information, statement or recital whatsoever in any official statement, offering memorandum or other disclosure material prepared or distributed with respect to the Bonds. The Fiscal Agent shall not be deemed to have knowledge of any event of default unless and until the officer at the Fiscal Agent's corporate trust office responsible for the administration of its duties hereunder shall have actual knowledge thereof or the Fiscal Agent shall have received written notice thereof at its corporate trust office. Whenever in the administration of the duties imposed upon it by this Agreement the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a written certificate of the District, and such written certificate shall be full warrant to the Fiscal Agent for any action taken or suffered in good faith under the provisions of this Fiscal Agent Agreement in reliance upon such written certificate, but in its discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

## **ARTICLE VIII EVENTS OF DEFAULT, REMEDIES**

**Section 8.01. Events of Default.** Any one or more of the following events shall constitute an "event of default:"

(a) default in the due and punctual payment of the principal of any Bond when and as the same shall become due and payable, at maturity as therein expressed;

(b) default in the due and punctual payment of the interest on any Bond when and as the same shall become due and payable; or

(c) default by the District in the observance of any of the other agreements, conditions or covenants on its part in this Fiscal Agent Agreement or in the Bonds, and the continuation of such default for a period of 30 days after the District shall have been given notice in writing of such default by the Fiscal Agent, provided that if within 30 days the District has commenced curing of the default and diligently pursues elimination thereof, such period shall be extended to permit such default to be eliminated; provided, any noncompliance with the terms of Section 5.03 shall not be an event of default under this Article VIII.

**Section 8.02. Remedies of Owners.** Following the occurrence of an event of default, any Owner shall have the right for the equal benefit and protection of all Owners similarly situated:

(a) by mandamus or other suit or proceeding at law or in equity to enforce his or her rights against the District and any of the members, officers and employees of the District, and to compel the District or any such members, officers or employees to perform and carry out their duties under the Act and their agreements with the Owners as provided in this Fiscal Agent Agreement;

(b) by suit in equity to enjoin any actions or things which are unlawful or violate the rights of the Owners; or

(c) upon the happening of an event of default (as defined in Section 8.01), by a suit in equity to require the District and its members, officers and employees to account as the trustee of an express trust.

Nothing in this Article VIII or in any other provision of this Fiscal Agent Agreement, or in the Bonds, shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the interest on and principal of the Bonds to the respective Owners of the Bonds at the respective dates of maturity, as herein provided, out of the Net Taxes pledged for such payment, or affect or impair the right of action, which is also absolute and unconditional, of such Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds and in this Fiscal Agent Agreement.

A waiver of any default or breach of duty or contract by any Owner shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission by any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners by the Act or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners.

If any suit, action or proceeding to enforce any right or exercise any remedy is abandoned or determined adversely to the Owners, the District and the Owners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the Act or any other law.

**Section 8.03. Application of Net Taxes After Default.** If an Event of Default shall occur and be continuing, all Net Taxes and any other funds thereafter received by the Fiscal Agent under any of the provisions of this Fiscal Agent Agreement shall be applied by the Fiscal Agent as follows and in the following order:

(a) to the payment of any expenses necessary in the opinion of the Fiscal Agent to protect the interests of the Owners of the Bonds and payment of reasonable fees, charges and expenses of the Fiscal Agent (including reasonable fees and disbursements of its counsel) incurred in and about the performance of its powers and duties under this Fiscal Agent Agreement;

(b) to the payment of the principal of and interest then due with respect to the Bonds (upon presentation of the Bonds to be paid, and stamping thereon of the payment if only partially paid, or surrender thereof if fully paid) subject to the provisions of this Fiscal Agent Agreement, as follows:

First: To the payment to the Owners entitled thereto of all installments of interest then due in the order of the maturity of such installments and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the Owners entitled thereto, without any discrimination or preference; and

Second: To the payment to the Owners entitled thereto of the unpaid principal of any Bonds which shall have become due, whether at maturity or by call for redemption, with interest on the overdue principal at the rate borne by the respective Bonds on the date of maturity or redemption, and, if the amount available shall not be sufficient to pay in full all the Bonds, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the Owners entitled thereto, without any discrimination or preference.

Any remaining funds shall be transferred by the Fiscal Agent to the Special Tax Fund.

**Section 8.04. Limitation on Bondowners' Right to Sue.** Except as expressly provided for herein, no Owner of any Bonds shall have the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Fiscal Agent Agreement, the Act or any other applicable law with respect to such Bonds, unless (a) such Owner shall have given to the Fiscal Agent written notice of the occurrence of an Event of Default, (b) the Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have made written request upon the Fiscal Agent to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name, (c) such Owner or said Owners shall have tendered to the Fiscal Agent indemnity against the costs, expenses and liabilities to be incurred in compliance with such request, and (d) the Fiscal Agent shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and such tender of indemnity shall have been made to, the Fiscal Agent.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Bonds of any remedy hereunder or under law; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Fiscal Agent Agreement or the rights of any other Owners of Bonds, or to enforce any right under the Bonds, this Fiscal Agent Agreement, the Act or other applicable law with respect to the Bonds, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Owners of the Outstanding Bonds, subject to the provisions of this Fiscal Agent Agreement.



## ARTICLE IX DEFEASANCE

**Section 9.01. Defeasance.** If the District shall pay or cause to be paid, or there shall otherwise be paid, to the Owner of an Outstanding Bond the interest due thereon, the principal and premium, if any, thereof, at the times and in the manner stipulated in this Fiscal Agent Agreement or any Supplement, then the Owner of such Bond shall cease to be entitled to the pledge of Net Taxes and other amounts pledged under this Fiscal Agent Agreement to the repayment of such Bond, and, other than as set forth below, all covenants, agreements and other obligations of the District to the Owner of such Bond under this Fiscal Agent Agreement and any Supplement shall thereupon cease, terminate and become void and be discharged and satisfied; provided that the covenants set forth in Section 3.11(a), (b) and (c), and Covenants 9 and 10 set forth in Section 5.02 shall survive the defeasance or payment of the Bonds. In the event of a defeasance of all Outstanding Bonds pursuant to this Section, the Fiscal Agent shall execute and deliver to the District all such instruments as may be desirable to evidence such discharge and satisfaction, and, after payment of any amounts due the Fiscal Agent hereunder, the Fiscal Agent shall pay over or deliver to the District's general fund all money or securities other than that required for the payment of the interest due on, the principal, and premium, if any, of such Bonds.

Any Outstanding Bond(s) shall be deemed to have been paid within the meaning expressed in the first paragraph of this Section if such Bond is paid in any one or more of the following ways:

(a) by paying or causing to be paid the principal of, premium, if any, and interest due on such Bond, as and when the same become due and payable;

(b) by depositing with the Fiscal Agent, or a designated bank or trust company as escrow holder, in trust, at or before maturity, money which, together with the amounts then on deposit in the Special Tax Fund, the Bond Fund, the Redemption Fund and the Reserve Fund and available for such purpose, is fully sufficient to pay the principal of and interest on such Bond as and when the same shall become due and payable; or

(c) by depositing with the Fiscal Agent, or a designated bank or trust company as escrow holder, in trust, direct, noncallable Federal Securities, in such amount as certified by a nationally recognized certified public accountant which will, together with the interest to accrue thereon and monies then on deposit in the Special Tax Fund, the Bond Fund, the Redemption Fund and the Reserve Fund available for such purpose, together with the interest to accrue thereon, be fully sufficient to pay and discharge the principal of and interest and any premium on such Bond as and when the same shall become due and payable;

then, notwithstanding that any such Bond shall not have been surrendered for payment, all obligations of the District under this Fiscal Agent Agreement, and any Supplement, with respect to such Bond shall cease and terminate, except for the obligation of the Fiscal Agent to pay or cause to be paid to the Owners of any such Bonds not so surrendered and paid, all sums

due thereon and except for the covenants of the District contained in Sections 3.11(a), (b) and (c) and Covenants 9 and 10 of Section 5.02 hereof.

In connection with a defeasance under (c) above, there shall be provided to the District and the Fiscal Agent a certificate of a certified public accountant stating its opinion as to the sufficiency of the Federal Securities deposited with the Fiscal Agent, or the designated escrow holder, to pay and discharge the principal of, premium, if any, and interest on the Outstanding Bonds to be defeased in accordance with this section, as and when the same shall become due and payable, and an opinion of Bond Counsel (which may rely upon the opinion of the certified public accountant) to the effect that the Bonds being defeased have been legally defeased in accordance with this Fiscal Agent Agreement. Each such verification and defeasance opinion required herein shall be acceptable in form and substance to the District and addressed to the District and the Fiscal Agent.

To accomplish a defeasance, the District shall also cause to be delivered an escrow deposit agreement or escrow instructions, or similar document.

Upon a defeasance, the Fiscal Agent shall release the rights of the Owners of such Bonds which have been defeased under this Fiscal Agent Agreement and execute and deliver to the District all such instruments as may be desirable to evidence such release, discharge and satisfaction. In the case of a defeasance hereunder of all Outstanding Bonds, the Fiscal Agent shall pay over or deliver to the District any funds held by the Fiscal Agent at the time of a defeasance, which are not required for the purpose of paying and discharging the principal of, and premium, if any, or interest on the Bonds when due. The Fiscal Agent shall, at the written direction and expense of the District, mail, first class, postage prepaid, a notice to the Owners whose Bonds have been defeased, in the form directed by the District, stating that the defeasance has occurred.

The Bonds shall be deemed "Outstanding" under this Fiscal Agent Agreement unless and until they are in fact paid and retired or the above criteria are met.

## **ARTICLE X MISCELLANEOUS**

**Section 10.01. Cancellation of Bonds.** All Bonds surrendered to the Fiscal Agent for payment upon maturity or for redemption shall upon payment therefor be destroyed at the request of the District and a certificate of cancellation returned immediately by the Fiscal Agent to the District. Any Bonds purchased by the District as authorized herein shall be delivered to the Fiscal Agent and canceled forthwith as provided herein, and shall not be reissued.

**Section 10.02. Execution of Documents and Proof of Ownership.** Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Fiscal Agent Agreement to be signed or executed by Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys appointed by an instrument in writing for that purpose, or by any

commercial bank, trust company or other depository for such Bond. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, and of the ownership of such Bond shall be sufficient for the purposes of this Fiscal Agent Agreement (except as otherwise herein provided), if made in the following manner:

(a) The fact and date of the execution by any Owner or his attorney of any such instrument and of any instrument appointing any such attorney may be proved by a signature guarantee of any bank or trust company located within the United States of America. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such signature guarantee shall also constitute sufficient proof of this authority; provided, however, that nothing contained in this Fiscal Agent Agreement shall be construed as limiting the Fiscal Agent to such proof, it being intended that the Fiscal Agent may accept any other evidence of the matters herein stated which the Fiscal Agent may deem sufficient. Any request or consent of the Owner of any Bond shall bind every future Owner of the same Bond in respect to anything done or suffered to be done by the Fiscal Agent in pursuance of such request or consent; and

(b) As to any Bond, the person in whose name the same shall be registered in the Bond Register shall be deemed and regarded as the absolute Owner thereof for all purposes, and payment of or on account of the principal of any such Bond, and the interest thereon, shall be made only to or upon the order of the registered Owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond and the interest thereon to the extent of the sum or sums so paid. The Fiscal Agent shall not be affected by any notice to the contrary.

**Section 10.03. Provisions Constitute Contract.** The provisions of this Fiscal Agent Agreement, including any Supplements thereto, and the Bonds shall constitute a contract between the District and the Owners ("Contract") and the provisions hereof and thereof shall be enforceable by any Owner for the equal benefit and protection of all Owners similarly situated by mandamus, accounting, mandatory injunction or any other suit, action or proceeding at law or in equity that is now or may hereafter be authorized under the laws of the State in any court of competent jurisdiction. The Contract is made under and is to be construed in accordance with the laws of the State.

No remedy conferred hereby upon any Owner is intended to be exclusive of any other remedy, but each such remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by the Act or any other law of the State. No waiver of any default or breach of duty or contract by any Owner shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies on said subsequent default or breach. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed as a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners may be enforced and exercised as often as may be deemed expedient. In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and the Owner shall prevail, said Owner shall be entitled to receive from the Net Taxes reimbursement for reasonable costs, expenses, outlays and attorneys'

fees and should said suit, action or proceeding be abandoned, or be determined adversely to the Owners then, and in every such case, the District's positions, rights and remedies shall be construed in a manner as if such suit, action or proceeding had not been brought or taken.

After the issuance and delivery of the Bonds, this Fiscal Agent Agreement shall not be subject to repeal, but shall be subject to modification to the extent and in the manner provided in this Fiscal Agent Agreement, but to no greater extent and in no other manner.

**Section 10.04. Unclaimed Monies.** Anything in this Fiscal Agent Agreement to the contrary notwithstanding, to the extent permitted by law and subject to the applicable escheat laws of the State, any money held by the Fiscal Agent in trust for the payment and discharge of any of the Bonds which remains unclaimed for two years after the date when such Bonds have become due and payable, if such money was held by the Fiscal Agent at such date, or for two years after the date of deposit of such money if deposited with the Fiscal Agent after the date when such monies become due and payable, shall be repaid by the Fiscal Agent to the District, as its absolute property and free from trust, and the Fiscal Agent shall thereupon be released and discharged with respect thereto and the Owners shall look thereafter only to the District for the payment of such Bonds. The Fiscal Agent shall give notice to the District of the amount of any unclaimed monies that are available for transfer to the District. However, before being required to make any such payment to the District, the Fiscal Agent shall, at the expense of the District, cause to be mailed to the registered owners of such Bonds, at their addresses as they appear on the Bond Register, a notice that said money remains unclaimed and that, after a date named in said notice, which date shall not be less than 30 days after the date of the mailing of such notice, the balance of such money then unclaimed will be returned to the District.

**Section 10.05. Severability.** If any covenant, agreement or provision, or any portion thereof, contained in this Fiscal Agent Agreement, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid or unenforceable, the remainder of this Fiscal Agent Agreement and the application of any such covenant, agreement or provision, or portion thereof, to other persons or circumstances, shall be deemed severable and shall not be affected thereby, and this Fiscal Agent Agreement and the Bonds issued pursuant hereto shall remain valid and the Owners shall retain all valid rights and benefits accorded to them under this Fiscal Agent Agreement and the Constitution and laws of the State.

**Section 10.06. General Authorization.** The President and Clerk of the Legislative Body and the Superintendent of the School District, or the Superintendent's designee, and all other officers of the School District or their deputies are hereby each respectively authorized to do and perform from time to time any and all acts and things consistent with this Fiscal Agent Agreement necessary or appropriate to carry the same in effect and accomplish the issuance, sale and delivery of the Bonds.

**Section 10.07. Notices.** Any notices required to be given to the District with respect to the Bonds or this Fiscal Agent Agreement shall be mailed, first class mail, by facsimile with prompt written confirmation, or personally delivered to the Superintendent and the Clerk of the Board at 33122 Valle Road, San Juan Capistrano, California 92675, and all notices to the Fiscal Agent shall be mailed, first class, or personally delivered to the Fiscal Agent at 633 W. Fifth

Street. 24<sup>th</sup> Floor, Los Angeles, CA 90071, Attention: Corporate Trust Services. Notices may also be given by personal or courier delivery, registered or certified mail, facsimile transmission or electronic communication, provided that delivery by facsimile transmission or electronic communication must be confirmed by the sender.

**Section 10.08. Limitation of Rights; No Third Party Beneficiary.** Nothing in this Fiscal Agent Agreement or in the Bonds expressed or implied is intended or shall be construed to give to any Person other than the Fiscal Agent, the District and the Bondowners any legal or equitable right, remedy or claim under or in respect to this Fiscal Agent Agreement or any covenant, condition or provision therein or herein contained, and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Fiscal Agent, the District and the Bondowners.

**Section 10.09. Successor is Deemed Included in All References to Predecessor.** Whenever in this Fiscal Agent Agreement either the District or the Fiscal Agent is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Fiscal Agent Agreement contained by, or on behalf of, the District or the Fiscal Agent shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**Section 10.10. Payment on Non-Business Days.** In the event any payment is required to be made hereunder on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day with the same effect as if made on such non-Business Day.

**Section 10.11. Counterparts.** This Fiscal Agent Agreement may be executed in counterparts, each of which shall be an original and which together shall constitute one instrument.

*[Remainder of Page Left Blank.]*

**IN WITNESS WHEREOF**, the parties have entered into this Fiscal Agent Agreement as of the date first written above.

COMMUNITY FACILITIES DISTRICT NO.  
2005-1 OF THE CAPISTRANO UNIFIED  
SCHOOL DISTRICT

By: \_\_\_\_\_  
Deputy Superintendent, Business and Support  
Services

U.S. BANK NATIONAL ASSOCIATION,  
as Fiscal Agent

By: \_\_\_\_\_  
Vice-President

*[CFD 2005-1 Fiscal Agent Agreement Signature Page]*

**EXHIBIT A**

**FORM OF SPECIAL TAX BOND**

REGISTERED  
No.

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF CALIFORNIA  
COUNTY OF ORANGE

**COMMUNITY FACILITIES DISTRICT NO. 2005-1  
OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT  
(WHISPERING HILLS)  
SERIES 2013 SPECIAL TAX BOND**

| <u>INTEREST RATE</u> | <u>MATURITY DATE</u> | <u>DATED DATE</u> | <u>CUSIP NO.</u> |
|----------------------|----------------------|-------------------|------------------|
| -----%               | September 1, 20--    | October 31, 2013  | _____            |

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \$ \_\_\_\_\_ **DOLLARS**

COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) ("District") situated in the County of Orange, State of California, FOR VALUE RECEIVED, hereby promises to pay, solely from the Net Taxes (as hereinafter defined) and amounts in certain funds or accounts held under the Fiscal Agent Agreement (as hereinafter defined), to the Registered Owner named above, or registered assigns, on the Maturity Date set forth above, unless redeemed prior thereto as hereinafter provided, the Principal Amount set forth above, and to pay interest on such Principal Amount, calculated on the basis of a 360-day year comprised of twelve 30-day months, semi-annually on March 1 and September 1 of each year, commencing March 1, 2014, at the Interest Rate set forth above, until the Principal Amount hereof is paid or made available for payment. Interest shall be payable on this Bond from the Interest Payment Date next preceding the date of authentication hereof, unless (i) such date of authentication is an Interest Payment Date, in which event interest shall be payable from such date of authentication, (ii) the date of authentication is after a Record Date (as defined herein) but prior to the immediately succeeding Interest Payment Date, in which event interest will be payable from such Interest Payment Date, or (iii) the date of authentication is prior to the close of business on the first Record Date, in which event interest will be payable from the Dated Date; provided, however, that if at the time of authentication of this Bond, interest is in default, interest on this Bond shall be payable from the last date on which the interest has been paid or made available for payment, or if no interest has been paid or made available for payment, interest shall be payable from the Dated Date.

The principal of and premium, if any, on this Bond are payable to the Registered Owner hereof in lawful money of the United States of America upon presentation of this Bond at the Principal Corporate Trust Office of U.S. Bank National Association ("Fiscal Agent"). Interest on this Bond shall be paid by check of the Fiscal Agent mailed on the Interest Payment Date by first class mail by the Fiscal Agent to the Registered Owner hereof as of the 15th day of the calendar month preceding the Interest Payment Date whether or not such date is a Business Day ("Record Date") at such Registered Owner's address as it appears on the Bond Register maintained by the Fiscal Agent; provided, however, that in the case of a Registered Owner of \$1,000,000 or more in aggregate principal amount of the Bonds, upon the Fiscal Agent's receipt of written request of such Registered Owner prior to the Record Date accompanied by wire transfer instructions, such interest shall be paid on the Interest Payment Date in immediately available funds by wire transfer to an account in the United States.

This Bond is one of a duly authorized issue of "Community Facilities District No. 2005-1 of the Capistrano Unified School District Series 2013 Special Tax Bonds" ("Bonds") issued in the aggregate principal amount of \$\_\_\_\_\_ pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (Section 53311 *et seq.* of the Government Code of the State of California) ("Act"), for the purpose of financing certain public improvements, funding a reserve fund, and paying costs of issuing the Bonds. The issuance of the Bonds and the terms and conditions thereof are provided for by Resolution No. 1314-22 adopted by the Board of Trustees of the Capistrano Unified School District ("School District"), acting in its capacity as the Legislative Body of the District on September 25, 2013, and the Fiscal Agent Agreement executed in connection therewith (collectively, "Fiscal Agent Agreement"). The terms of the Fiscal Agent Agreement are by this reference incorporated herein, and by acceptance hereof the owner of this Bond assents to said terms and conditions. The Fiscal Agent Agreement has been adopted under, and this Bond is issued under, the laws of the State of California, and both are to be construed in accordance therewith.

Pursuant to the Act and the Fiscal Agent Agreement, the principal of, premium, if any, and interest on this Bond are payable solely from, and shall be secured by a pledge, charge and lien upon, the annual special taxes authorized to be levied within the District ("Special Taxes"), and proceeds of the redemption or sale of property collected pursuant to the foreclosure provisions of the Fiscal Agent Agreement for the delinquency of the Special Taxes, less certain administrative expenses of the District (collectively, "Net Taxes") and from certain funds and accounts held under the Fiscal Agent Agreement. The Net Taxes have been pledged equally to repay the Bonds without priority or preference of one Bond over another. The Board of Trustees has covenanted for the benefit of the Owners of the Bonds that it will commence and diligently pursue to completion appropriate foreclosure actions, in accordance with all applicable laws, in the event of certain delinquencies in the payment of Special Taxes levied for payment of principal of and interest on the Bonds.

ANY TAX FOR THE PAYMENT HEREOF SHALL BE LIMITED TO THE NET TAXES. THE BONDS DO NOT CONSTITUTE OBLIGATIONS OF THE DISTRICT OR THE SCHOOL DISTRICT FOR WHICH THE DISTRICT OR THE SCHOOL DISTRICT IS OBLIGATED TO LEVY OR PLEDGE, OR HAS LEVIED OR PLEDGED, GENERAL OR SPECIAL TAXES OTHER THAN THE NET TAXES. THE BONDS ARE LIMITED OBLIGATIONS OF THE DISTRICT PAYABLE FROM THE NET TAXES BUT ARE NOT A



DEBT OF THE SCHOOL DISTRICT, OR THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OR RESTRICTION.

### **Optional Redemption**

The Bonds may be redeemed prior to maturity at the option of the District on any date on or after September 1, 2023, in whole, or in part, from such maturities as are selected by the District in writing in accordance with the Fiscal Agent Agreement, and by lot within a maturity, at redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest to the date fixed for redemption, without premium.

### **Special Mandatory Redemption from Prepaid Special Taxes**

The Bonds are subject to special mandatory redemption prior to their stated maturities, in whole, or in part, on any Interest Payment Date for which timely notice can be given, among maturities as are selected by the District in writing and by lot within a maturity, in integral multiples of \$5,000 from monies on deposit in the Prepayment Account of the Special Tax Fund, upon payment of the redemption prices set forth below, which are expressed as a percentage of the principal amount thereof, plus accrued interest to the date of redemption:

| <b>Redemption Date</b>                                      | <b>Redemption Price</b> |
|---|-------------------------|
| Any Interest Payment Date through March 1, ____             | 103%                    |
| September 1, 20__, and March 1, 20__                        | 102                     |
| September 1, 20__, and March 1, 20__                        | 101                     |
| September 1, 20__, and any Interest Payment Date thereafter | 100                     |

### **Mandatory Sinking Fund Redemption**

The Term Bond maturing on September 1, 20\_ (“20\_Term Bond”), is subject to mandatory redemption before maturity on September 1, 20\_, and on each September 1 thereafter to and including September 1, 20\_. The 20\_ Term Bond shall be redeemed from Mandatory Sinking Payment amounts that have been deposited one Business Day prior to each March 1 and September 1, commencing, September 1, 20\_, into the Sinking Fund Redemption Account of the Redemption Fund pursuant to the Fiscal Agent Agreement, in accordance with the schedule set forth below:

| <b>Sinking Fund Redemption Date<br/>(September 1)</b> | <b>Mandatory Sinking<br/>Payments</b> |
|---|---------------------------------------|
|---|---------------------------------------|

20\_\_

The 20\_\_ Term Bond to be so redeemed shall be determined by lot, and shall be redeemed at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium.

In the event of a partial redemption of the 20\_\_ Term Bond pursuant to the Fiscal Agent Agreement, Mandatory Sinking Payments for the 20\_\_ Term Bond shall be reduced, as nearly as practicable, on a pro rata basis, in integral multiples of \$5,000, pursuant to calculations made by the Fiscal Agent and approved in writing by the District.

Notice of redemption with respect to the Bonds to be redeemed shall be mailed to the Registered Owners thereof not less than 30 nor more than 60 days prior to the redemption date by first class mail, postage prepaid, to the address set forth in the Bond Register maintained by the Fiscal Agent. Neither the failure of the Registered Owner hereof to receive such notice nor any defect in such notice will affect the validity of the proceedings for redemption. All Bonds or portions thereof so called for redemption will cease to accrue interest on the specified redemption date; provided, the funds for the redemption are on deposit with the Fiscal Agent on the redemption date. Thereafter, the Registered Owners of such Bonds shall have no rights hereunder or pursuant to the Fiscal Agent Agreement except to receive payment of the redemption price upon the surrender of the Bonds.

Any notice of optional redemption under the Fiscal Agent Agreement may be cancelled and annulled if for any reason funds are not, or will not, be available on the date fixed for redemption for the payment in full of the Bonds then called for redemption. Such cancellation and annulment is not a default under the Fiscal Agent Agreement. The District will not have any liability to the Bondowners, or any other party, as a result of the District's failure to redeem the Bonds designated for redemption as a result of insufficient monies therefore.

The District has the right to provide a conditional notice of optional redemption to any Bondowner, and to rescind any optional redemption for any reason on any date prior to the redemption date by written notice to the Bondowner of any Bond previously called for optional redemption. Additionally, the District may rescind any such optional redemption of the Bonds, and notice thereof, for any reason on any date prior to the date fixed for such redemption by causing written notice of the rescission to be given to the Owners of the Bonds so called for redemption. Notice of rescission of redemption shall be given in the same manner in which notice of redemption was originally given. The actual receipt by the Owner of any Bond of notice of such rescission shall not be a condition precedent to rescission, and failure to receive such notice or any defect in such notice shall not affect the validity of the rescission. Neither the District nor the Fiscal Agent will have any liability to the Owners of any Bonds, or any other party, as a result of the District's decision to rescind redemption of any Bonds pursuant to the provisions of the Fiscal Agent Agreement.

This Bond shall be registered in the name of the Registered Owner hereof, as to both principal and interest, and the District and the Fiscal Agent may treat the Registered Owner hereof as the absolute owner for all purposes and shall not be affected by any notice to the contrary.

The Bonds are issuable only in fully registered form in the denomination of \$5,000 or any integral multiple of \$5,000 and may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations, and of like maturity all as more fully set forth in the Fiscal Agent Agreement. This Bond is transferable by the Registered Owner hereof, in person or by the Registered Owner's attorney duly authorized in writing, at the Principal Corporate Trust Office of the Fiscal Agent, but only in the manner, subject to the limitations and upon payment of the charges provided in the Fiscal Agent Agreement, upon surrender and cancellation of this Bond. Upon such transfer, a new registered Bond or Bonds of authorized denominations for the same aggregate principal amount of the same issue and maturity will be issued to the transferee in exchange. The Fiscal Agent shall not be required to register transfers or make exchanges of: (i) Bonds for a period of 15 days next preceding the date established by the Fiscal Agent for selection of the Bonds to be redeemed, or (ii) any Bonds chosen for redemption.

The Fiscal Agent may charge the Registered Owner a reasonable fee for the costs of any transfer or exchange of this Bond and the Fiscal Agent may require the Registered Owner requesting such transfer or exchange to pay any tax or other governmental charge required to be paid with respect to such transfer or exchange.

The Fiscal Agent Agreement provides that the occurrence of certain events constitute Events of Default and prescribes the remedies available to the Owners. An Event of Default and its consequences may be waived or limited as provided in the Fiscal Agent Agreement. Bondowners may enforce their rights under the terms and conditions of the Fiscal Agent Agreement. The Fiscal Agent may refuse to enforce the terms and conditions of the Fiscal Agent Agreement or the Bonds unless it receives indemnity satisfactory to it.

The rights and obligations of the District and of the Registered Owners of the Bonds may be amended at any time, and in certain cases without the consent of the Registered Owners to the extent and upon the terms and conditions provided in the Fiscal Agent Agreement.

The Fiscal Agent Agreement contains provisions permitting the District to make provision for the payment of the interest on, and the principal and premium, if any, of any of the Bonds so that such Bonds shall no longer be deemed to be outstanding under the terms of the Fiscal Agent Agreement.

This Bond shall not become valid or obligatory for any purpose until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the Fiscal Agent.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this Bond have existed, happened and been performed in due time, form and manner, and this Bond together with all other indebtedness of the District, does not exceed any debt limit prescribed by the laws or Constitution of the State of California.

*[Remainder of this page intentionally blank]*

IN WITNESS WHEREOF, Community Facilities District No. 2005-1 has caused this Bond to be dated as of the 31st day of October, 2013, to be signed by the President of the Board of Trustees of the School District by manual signature and attested by the Clerk of the Board of Trustees of the School District by manual signature.

ATTEST

COMMUNITY FACILITIES DISTRICT  
NO. 2005-1 OF THE CAPISTRANO  
UNIFIED SCHOOL DISTRICT

***-EXHIBIT-***

---

Clerk of the Board of Trustees of the  
Capistrano Unified School District for Community  
Facilities District No. 2005-1 of said  
School District

***-EXHIBIT-***

---

President of the Board of Trustees of the  
Capistrano Unified School District for  
Community Facilities District No. 2005-1 of  
said School District

**CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

This is one of the Bonds referred to in the within-mentioned Fiscal Agent Agreement.

Date of Registration and Authentication: October 31, 2013

\_\_\_\_\_, Fiscal Agent, as authenticating agent

***-EXHIBIT-***

By \_\_\_\_\_  
Authorized Signatory

## ASSIGNMENT

For value received, the undersigned sells, assigns and transfers  
unto\_\_\_\_\_

(print/type name, address, zip code, tax identification or Social Security number of assignee)

the within Bond and do(es) irrevocably constitute and appoint \_\_\_\_\_ attorney, to transfer the same on the registration books of the Fiscal Agent, with full power of substitution in the premises.

\_\_\_\_\_  
Registered Owner

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

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or any change whatever.

**Signature Guaranteed:**

Notice: Signature must be guaranteed by an eligible guarantor institution.

Unless this Bond is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment, and any Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

[FORM OF BOND COUNSEL OPINION]

I hereby certify that the following is a full true and correct copy of a signed legal opinion of Bowie, Arneson, Wiles & Giannone, a Partnership including Professional Corporations, on file in my office, which opinion is dated the date the Bonds referred to therein were delivered and paid for.

***-EXHIBIT-***

---

Clerk of the Board of Trustees of the Capistrano  
Unified School District for Community Facilities  
District No. 2005-1 of said School District

**EXHIBIT B**

**CAPISTRANO UNIFIED SCHOOL DISTRICT CFD NO. 2005-1(WHISPERING HILLS)**

Series\_\_\_\_\_ Bonds

**PAYMENT REQUEST FORM - ADMINISTRATIVE EXPENSE FUND**

[Attach duplicate original of Payee's statement(s) or invoice(s); all such payments shall be made by check or wire transfer in accordance with payment instructions submitted with this form and the Fiscal Agent shall have no duty or obligation to authenticate such payment instructions or the authorization thereof.]

(                      )

PROGRESS PAYMENT

(                      )

FULL/FINAL PAYMENT

The Fiscal Agent is hereby requested to pay from the Administrative Expense Fund established by Resolution No.1213- \_\_ of the Legislative Body of the District, adopted on June 26, 2013, and the Fiscal Agent Agreement dated as of October 1, 2013, executed in accordance therewith, [as supplemented by the Supplement dated as of \_\_\_\_] to the person, corporation, or other entity designated below as Payee, the sum set forth below such designation, in payment or reimbursement of the Administrative Expenses described below. The amount shown below is due and payable under a purchase order, contract or other authorization with respect to the Administrative Expenses described below and has not formed the basis of any prior request for payment.

Payee: \_\_\_\_\_

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

Amount:        \$ \_\_\_\_\_

Description of Administrative Expense(s) or portion thereof accepted by Community Facilities District No. 2005-1 and authorized to be paid to the Payee:

Administrative Expenses: \_\_\_\_\_

Executed by District's Representative for Community  
Facilities District No. 2005-1:

***-EXHIBIT-***

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

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

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Payment Request No.: \_\_\_\_\_



**CAPISTRANO UNIFIED SCHOOL DISTRICT CFD NO. 2005-1 (WHISPERING HILLS)**  
**Series \_\_\_\_\_ Bonds**

[Attach copies of Payee's statement(s) or invoice(s); all such payments shall be made by check or wire transfer in accordance with payment instructions submitted with this form and the Fiscal Agent shall have no duty or obligation to authenticate such payment instructions or the authorization thereof.]

( ) FULL/FINAL PAYMENT

Payment Request No.: \_\_\_\_\_

**EXHIBIT D [Attachment 1/Attachment 2]**

**CAPISTRANO UNIFIED SCHOOL DISTRICT CFD NO. 2005-1 (WHISPERING HILLS)**

Series \_\_\_\_\_ Bonds

**PAYMENT REQUEST FORM - CITY FACILITIES ACCOUNT  
OF THE CONSTRUCTION FUND**

[Attach copies of Payee's statement(s) or invoice(s); all such payments shall be made by check or wire transfer in accordance with payment instructions submitted with this form and the Fiscal Agent shall have no duty or obligation to authenticate such payment instructions or the authorization thereof.]

( \_\_\_\_\_ )

PROGRESS PAYMENT

( \_\_\_\_\_ )

FULL/FINAL PAYMENT

The Fiscal Agent is hereby requested to pay from the City Facilities Account of the Construction Fund established by Resolution No. 1213- \_\_ of the Legislative Body of the District, adopted on June 23, 2013, and the Fiscal Agent Agreement dated as of July 1, 2013, executed in accordance therewith, [as supplemented by the Supplement dated as of \_\_\_\_] to the person, corporation, or other entity designated below as Payee, the sum set forth below such designation, in payment of the Project Costs for school facilities described below. The amount shown below is due and payable under a purchase order, contract or other authorization with respect to the Project Costs for City Fees described below, or a reimbursement of such Project Costs previously paid by the City Facilities and has not formed the basis of any prior request for payment.

Payee: See attached *Verification and Certification*

Amount: See attached *Verification and Certification*

Project Costs: See attached *Verification and Certification*

Executed by Authorized Representative for Community  
Facilities District No. 2005-1:

***-EXHIBIT-***

Signature \_\_\_\_\_

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

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Payment Request No.: \_\_\_\_\_

**ATTACHMENT 1 TO EXHIBIT D**

**CAPISTRANO UNIFIED SCHOOL DISTRICT CFD NO. 2005-1 (WHISPERING HILLS)**

Series \_\_\_\_\_ Bonds

**PAYMENT REQUEST FORM - CITY FACILITIES ACCOUNT OF THE CONSTRUCTION  
FUND:**

**DISBURSEMENT REQUEST FORM, VERIFICATION AND CERTIFICATION**

Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) ("CFD No. 2005-1") is hereby requested to pay from the City Facilities Account established by the Fiscal Agent Agreement dated as of July 1, 2013, [as supplemented by the Supplement dated as of \_\_\_\_], to the City of San Juan Capistrano ("City"), as Payee, the sum set forth below in payment of City Facilities described below.

The undersigned certifies that the amount requested has been expended or encumbered for the purposes of constructing and completing City Facilities. The amount requested is due and payable under, or is encumbered for the purpose of funding, a purchase order, contract or other authorization with respect to the project costs described below and has not formed the basis of prior request or payment. The City agrees to trace and remit to CFD No. 2005-1 all earnings, if any, in excess of the Yield on the Bonds accruing from the investment of the amounts requested herein, from the date of receipt by the City of such amounts to the date of expenditure of such amounts by payment thereof to a third party for the costs set forth below. Such remittance, if any, shall be made each year on the earlier of the expenditure of such amounts or the anniversary date of the transfer of the requested amounts by CFD No. 2005-1 to the City.

Description of corresponding City Facilities:

Amount requested:     \$\_\_\_\_\_.

The amount of \$\_\_\_\_\_ is authorized and payable pursuant to the terms of the First Amended and Restated Joint Community Facilities Agreement among Capistrano Unified School District, Community Facilities District No. 2005-1, the City of San Juan Capistrano, Rancho San Juan Development LLC and Whispering Hills LLC, dated as of June 13, 2011.

Verified and certified by an authorized representative of the City of San Juan Capistrano:

By:     **-EXHIBIT-**

Dated: \_\_\_\_\_

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

Request No.: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

**ATTACHMENT 2 TO EXHIBIT D**

**CAPISTRANO UNIFIED SCHOOL DISTRICT CFD NO. 2005-1 (WHISPERING HILLS)  
Series \_\_\_\_\_ Bonds**

**PAYMENT REQUEST FORM - CITY FACILITIES ACCOUNT OF THE CONSTRUCTION  
FUND:**

**ACQUISITION FACILITY(IES) PAYMENT REQUEST VERIFICATION AND  
CERTIFICATION**

The undersigned, hereby requests payment in the total amount of \$\_\_\_\_\_ as the Acquisition Price of the Acquisition Facility(ies) (as defined in the First Amended and Restated Joint Community Facilities Agreement by and among Capistrano Unified School District Community Facilities District No. 2005-1 (Whispering Hills) ("CFD"), City of San Juan Capistrano ("City"), Rancho San Juan Development LLC, and Whispering Hills, LLC dated as of June 13, 2011 ("JCFA") more fully described in Attachment A hereto. In connection with this Payment Request, the undersigned hereby represents and warrants to the CFD as follows:

1. He (she) is a duly authorized officer of the undersigned, qualified to execute this Payment Request for payment on behalf of the undersigned and is knowledgeable as to the matters set forth herein.
2. All costs of the Acquisition Facility(ies) for which payment is requested hereby are actual costs and have not been inflated at any respect. The actual costs for which payment is requested have not been the subject of any prior disbursement request submitted to the CFD.
3. Supporting documentation (such as third party invoices, lien releases and cancelled checks or other evidence of payment) is attached with respect to each cost for which payment is requested.
4. The Acquisition Facility(ies) for which payment is requested was constructed in accordance with the requirements of the JCFA, including the payment of prevailing wages where required for public works.
5. The undersigned is in compliance with the term and provisions of the JCFA and no portion of the amount being requested to be paid was previously paid.
6. The Acquisition Price for the Acquisition Facility(ies) has been calculated in conformance with the terms of the JCFA.
7. Please authorize payment of the Acquisition Price by the CFD to the following entity(ies), if other than the undersigned, in the amounts or percentages indicated:

*[Insert names of payees and amounts or percentages]*

Each of the signatories hereto declares under penalty of perjury that the above representations and warranties are true and correct.

RANCHO SAN JUAN DEVELOPMENT LLC

Dated: \_\_\_\_\_

***-EXHIBIT-***

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

Title: \_\_\_\_\_

CITY OF SAN JUAN CAPISTRANO

Dated: \_\_\_\_\_

Payment Request Approved for Submission to  
CFD

***-EXHIBIT-***

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

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT E**

**CAPISTRANO UNIFIED SCHOOL DISTRICT CFD NO. 2005-1 (WHISPERING HILLS)**

Series \_\_\_\_\_ Bonds

**PAYMENT REQUEST FORM - COSTS OF ISSUANCE ACCOUNT  
OF THE CONSTRUCTION FUND**

[Attach duplicate original of Payee's statement(s) or invoice(s); all such payments shall be made by check or wire transfer in accordance with payment instructions submitted with this form and the Fiscal Agent shall have no duty or obligation to authenticate such payment instructions or the authorization thereof.]

( \_\_\_\_\_ )

PROGRESS PAYMENT

( \_\_\_\_\_ )

FULL/FINAL PAYMENT

The Fiscal Agent is hereby requested to pay from the Costs of Issuance Account of the Construction Fund, as established by Resolution No. 1314- \_\_ of the Legislative Body of the District, adopted on June 23, 2013, and the Fiscal Agent Agreement dated as of July 1, 2013, executed in accordance therewith, [as supplemented by the Supplement dated as of \_\_\_\_] to the person, corporation, or other entity designated below as Payee, the sum set forth below such designation, in payment or reimbursement of the Costs of Issuance described below. The amount shown below is (i) due and payable under a purchase order, contract or other authorization with respect to the Costs of Issuance described below or (ii) payable to reimburse the Developer for Costs of Issuance advanced by the Developer as described below, and, in any case, has not formed the basis of any prior request for payment.

Payee: \_\_\_\_\_

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

Amount: \$ \_\_\_\_\_

Description of Costs of Issuance or portion thereof accepted by Community Facilities District No. 2005-1 and authorized to be paid to the Payee:

Costs of Issuance: \_\_\_\_\_

Executed by Authorized Representative for  
Community Facilities District No. 2005-1:

***-EXHIBIT-***

Signature \_\_\_\_\_

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

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Payment Request No.: \_\_\_\_\_

**EXHIBIT F**  
**CAPISTRANO UNIFIED SCHOOL DISTRICT CFD NO. 2005-1 (WHISPERING HILLS)**  
**Series\_\_\_ Bonds**

**PAYMENT REQUEST FORM – [ SCHOOL ACCOUNT] [CITY FACILITIES ACCOUNT] OF**  
**THE SURPLUS FACILITIES FUND**

**[Attach copies of Payee's statement(s) or invoice(s)]**

(                      )

PROGRESS PAYMENT

(                      )

FULL/FINAL PAYMENT

The Fiscal Agent is hereby requested to pay from the [School Account] [City Facilities Account] of the Surplus Facilities Fund established by Resolution No. 1314- \_\_ of the Legislative Body of the District, adopted on June 23, 2013, and the Fiscal Agent Agreement, dated as of July 1, 2013, executed in accordance therewith, [as supplemented by the Supplement dated as of \_\_\_\_] to the person, corporation, or other entity designated below as Payee, the sum set forth below such designation, in payment or reimbursement of the Project Costs described below. The amount shown below is due and payable under a purchase order, contract or other authorization with respect to the Project Costs described below and has not formed the basis of any prior request for payment.

Payee: \_\_\_\_\_

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

Amount:        \$ \_\_\_\_\_

Description of Project Costs(s) or portion thereof accepted by Community Facilities District No. 2005-1 and authorized to be paid to the Payee:

Executed by Authorized Representative for  
Community Facilities District No. 2005-1:

**-EXHIBIT-**

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

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

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Payment Request No.: \_\_\_\_\_

---

**FISCAL AGENT AGREEMENT**

**By and Between**

**COMMUNITY FACILITIES DISTRICT NO. 2005-1  
OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT  
(WHISPERING HILLS)**

**AND**

**U.S.BANK NATIONAL ASSOCIATION,  
AS FISCAL AGENT**

**\$ \_\_\_\_\_  
SERIES 2013 SPECIAL TAX BONDS**

**Dated as of October 1, 2013**

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**FISCAL AGENT AGREEMENT**  
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\$ \_\_\_\_\_  
**COMMUNITY FACILITIES DISTRICT NO. 2005-1  
OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT  
(WHISPERING HILLS)  
SERIES 2013 SPECIAL TAX BONDS**

**BOND PURCHASE AGREEMENT**

October \_\_, 2013

Board of Trustees of the  
Capistrano Unified School District,  
as legislative body of Community Facilities District No. 2005-1  
of the Capistrano Unified School District (Whispering Hills)  
33122 Valle Road  
San Juan Capistrano, CA 92675

Dear Members of the Board of Trustees:

The undersigned, \_\_\_\_\_, as underwriter (the "Underwriter"), offers to enter into this Bond Purchase Agreement (the "Bond Purchase Agreement") with Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) (the "District") which, upon acceptance, will be binding upon the District and upon the Underwriter. This offer is made subject to the District's acceptance hereof on the date hereof, and if not so accepted will be subject to withdrawal by the Underwriter upon notice delivered to the District at any time prior to the acceptance hereof by the District.

1. **Purchase and Sale of the Bonds.** Subject to the terms and conditions and in reliance upon the representations, warranties and agreements herein set forth, the Underwriter hereby agrees to purchase from the District, and the District hereby agrees to sell to the Underwriter, all (but not less than all) of the Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Series 2013 Special Tax Bonds (the "Bonds"), dated October 31, 2013, in the aggregate principal amount of \$\_\_\_\_\_ bearing interest payable commencing March 1, 2014, and semiannually thereafter on each September 1 and March 1 in each year at the rates of interest and maturing on the dates and in the amounts as set forth in **Exhibit A** attached hereto and incorporated herein by this reference.

2. **Purchase Price.** The purchase price for the Bonds shall be equal to \$\_\_\_\_\_, representing the principal amount of the Bonds (\$\_\_\_\_\_), plus (less) a net original issue premium (discount) of \$\_\_\_\_\_, less an underwriting discount of \$\_\_\_\_\_.

3. **Closing.** Except as the District and the Underwriter may otherwise agree, the District will deliver to the Underwriter, through The Depository Trust Company ("DTC"), the Bonds in definitive form (bearing CUSIP numbers) duly executed by the District and authenticated by U.S. Bank National Association (the "Fiscal Agent"), and, at the offices of Bowie, Arneson, Wiles & Giannone ("Bond Counsel"), in Newport Beach, California, or at such other location as may be designated by the Underwriter and agreed to by the District, the other documents herein mentioned at 8:00 a.m. local time, on October 31, 2013 (the "Closing Date"). The Underwriter will accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 by a federal funds wire or check in immediately available funds to the order of the Fiscal Agent (such delivery and payment being herein referred to as the "Closing"). The Bonds shall be made available to the Underwriter for checking at the offices of Bond Counsel not later

Attachment 2

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than 24 hours prior to the Closing Date. The Bonds shall be in fully registered form and shall be registered in the name of DTC.

4. **Terms of the Bonds.** The issuance of the Bonds is authorized pursuant to the Mello-Roos Community Facilities Act of 1982, constituting sections 53311 *et seq.* of the California Government Code, as amended (the "Law"). The Bonds shall be substantially in the form described in, shall be issued and secured under the provisions of, and shall be payable and subject to redemption as provided in the Fiscal Agent Agreement, dated as of October 1, 2013, by and between the District and the Fiscal Agent (the "Agreement") and Resolution No. 1314-22 (the "Bond Resolution") adopted by the Board of Trustees of the Capistrano Unified School District (the "School District"), acting as the legislative body of the District (the "Board"), on September 25, 2013. Interest on and principal of the Bonds will be payable from the net proceeds of the special taxes (the "Special Taxes") to be levied in the District that were approved by more than two-thirds of the votes cast by the qualified electors of the District at elections held on July 26, 2005 and June 13, 2011 (collectively, the "Election"). Proceeds of the sale of the Bonds will be used in accordance with: (a) the Agreement, (b) the Bond Resolution, (c) the Law, (d) the First Amended Impact Mitigation Agreement Related to the Whispering Hills Project and Community Facilities District No. 2005-1, dated June 13, 2011, and the Amendment No. 1 to First Amended Impact Mitigation Agreement Related to the Whispering Hills Project and Community Facilities District No. 2005-1, dated September 25, 2013 (collectively, the "Mitigation Agreement"), each among the School District, acting on behalf of itself and the District, Whispering Hills, LLC and Rancho San Juan Development LLC, and (e) the First Amended and Restated Joint Community Facilities Agreement, dated June 13, 2011 (the "Joint Community Facilities Agreement"), among the School District, the District, the City of San Juan Capistrano, California, Rancho San Juan Development LLC and Whispering Hills, LLC, all in order to fund school facilities of the School District and certain public facilities of the City of Capistrano, California.

5. **Public Offering of the Bonds.** The Underwriter agrees to make a bona fide public offering of all of the Bonds at prices not in excess of the initial public offering prices set forth in **Exhibit A** hereto. The Underwriter reserves the right to change, subsequent to the initial public offering, such initial offering prices or yields. The Underwriter may offer and sell the Bonds to certain dealers (including dealers depositing Bonds into investment trusts) at prices lower (or yields higher) than such initial public offering prices or yields. The Underwriter also reserves the right (a) to over-allot or effect transactions that stabilize or maintain the market prices of the Bonds at levels above those that might otherwise prevail in the open market and (b) to discontinue such stabilizing, if commenced, at any time without prior notice.

6. **Official Statement.**

a. **Final Official Statement.** The District shall deliver or cause to be delivered to the Underwriter, promptly after the District's acceptance of this Bond Purchase Agreement, copies of its Official Statement relating to the Bonds, dated the date hereof, substantially in the form of the Preliminary Official Statement dated October \_\_, 2013 (the "Preliminary Official Statement"), with only such changes therein as have been accepted by the Underwriter (the Preliminary Official Statement with such changes, and including the cover page and all appendices thereto, being referred to as the "Official Statement"), signed on behalf of the District by the Superintendent of the School District.

b. **Preliminary Official Statement.** The District hereby ratifies, confirms, and approves the use and distribution of the Preliminary Official Statement by the Underwriter, and hereby authorizes the Underwriter to use and distribute the Official Statement, the Agreement and the Bond Resolution in connection with the offer and sale of the Bonds.

c. The District confirms that the Preliminary Official Statement was deemed final for purposes of Rule 15c2-12 adopted under the Securities Exchange Act of 1934, as amended ("Rule 15c2-12"), as of its date, except for final information as to the offering prices, interest rates, selling compensation, amount of proceeds, delivery dates, other terms depending on such factors, and other information permitted to be omitted under Rule 15c2-12.

d. Delivery of Official Statement. The District agrees to deliver to the Underwriter as many copies (not to exceed 150 copies) of the Official Statement (and any supplements or amendments thereto as have been approved by the Underwriter) as the Underwriter shall reasonably request to enable the Underwriter to meet its obligations under Rule 15c2-12 and under Rule G-32 and all other applicable rules of the Municipal Securities Rulemaking Board. The District agrees to deliver such Official Statements within seven business days after the execution hereof (or earlier if necessary to accompany confirmations sent by the Underwriter to the initial purchasers of the Bonds).

e. End of the Underwriting Period. The Underwriter shall give notice to the District on the date after which no participating underwriter, as such term is defined in Rule 15c2-12, remains obligated to deliver final Official Statement pursuant to paragraph (b)(4) of Rule 15c2-12.

f. Amendments or Supplements to Official Statement. If at any time prior to the receipt of notice from the Underwriter pursuant to Section 6(d) hereof that final Official Statements are no longer required to be delivered under Rule 15c2-12, any event occurs as a result of which it may be necessary to supplement or amend the Official Statement in order to make the statements therein, in light of the circumstances existing at such time, not misleading, the District shall forthwith notify the Underwriter in writing of any such event of which it has knowledge and, if in the opinion of the Underwriter such event requires an amendment or supplement to the Official Statement, the District will at its expense amend or supplement the Official Statement in a form and manner approved by the Underwriter, which approval will not be unreasonably delayed or withheld. Any information supplied by the District for inclusion in any amendments or supplements to the Official Statement will not contain any untrue or misleading statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

7. Continuing Disclosure. The District will undertake, pursuant to the Agreement and a Continuing Disclosure Certificate (the "Continuing Disclosure Certificate"), to provide certain annual financial information and notices of the occurrence of certain significant events. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

8. Representations, Warranties, and Agreements of the District. The District hereby represents and warrants to, and agrees with, the Underwriter that:

a. Valid Existence. The District is a community facilities district duly formed and validly existing under and pursuant to the Law.

b. Authority. The District has full power and authority to issue the Bonds, to enter into this Bond Purchase Agreement, and to carry out, give effect to, and consummate the transactions on its part contemplated by (i) the Agreement, (ii) the



Bonds, (iii) the Continuing Disclosure Certificate, (iv) this Bond Purchase Agreement, (v) the Mitigation Agreement, and (vi) the Joint Community Facilities Agreement (collectively, the "District Documents"), and the Bond Resolution and the Official Statement.

c. Official Action. By official action of the Board prior to or concurrently with the acceptance hereof, the District has duly authorized the distribution of the Preliminary Official Statement, approved and authorized the distribution of the Official Statement, approved and authorized the execution and delivery of the District Documents, approved and authorized the performance by the District of the obligations on its part contained in the District Documents, and approved and authorized the consummation of all other transactions on its part contemplated by the Official Statement.

d. Validity of Documents. Assuming due authorization, execution, and delivery by the other parties thereto, this Bond Purchase Agreement is in full force and effect as of the date hereof and the other District Documents, as executed or upon execution thereof, as applicable, will each constitute valid and binding agreements or obligations of the District, enforceable in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles.

e. Compliance with Agreements. The District has complied, or at Closing will have complied, in all material respects, with its obligations under this Bond Purchase Agreement and the other District Documents.

f. No Violation of Law or Breach of Contract. The adoption of the Bond Resolution, the execution and delivery of the District Documents by the District, and compliance with the provisions thereof will not, to the current actual knowledge (after reasonable investigation) of the officer of the District executing this Bond Purchase Agreement, (i) violate any applicable provision of statutory law or regulation, (ii) breach or otherwise violate any existing obligation of the District under any court order or administrative decree to which the District is subject, or (iii) breach, or result in a default under, any loan agreement, note, resolution, indenture, contract, agreement, or other instrument to which the District is a party or is otherwise subject or bound.

g. Governmental Approvals. Except as described in the Official Statement, all approvals, consents, authorizations, permits, and orders of or filings or registrations with any governmental authority, board, agency, or commission having jurisdiction that would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the District of its obligations under the Bond Resolution or the District Documents have been obtained and are in full force and effect.

h. Conformity with Description. The Bonds when issued will conform to the description thereof contained in the Official Statement.

i. Accuracy of Official Statement. The Preliminary Official Statement did not as of its date and the Official Statement will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading (provided that no representation is made with respect to information about the Insurer or The Depository Trust Company).

j. Accuracy of Supplemented Official Statement. If the Official Statement is supplemented or amended pursuant to Section 6(f) (Amendments or Supplements to Official Statement), at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such Section) at all times subsequent thereto up to and including the end of the underwriting period as described in Section 6(e) (End of the Underwriting Period), the Official Statement as so supplemented or amended (except for any information about the Insurer or DTC) will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

k. No Litigation. Except as disclosed in the Official Statement, to the current actual knowledge (after reasonable investigation) of the officer of the District executing this Bond Purchase Agreement, no action, suit, proceeding, inquiry, or investigation, at law or in equity, before or by any court, regulatory agency, or public board or body is pending or has been overtly threatened in writing that in any way seeks to affect the existence of the District, or the titles of the District's officers to their respective offices or seeks to restrain or to enjoin the execution, sale, or delivery of the Bonds, the application of the proceeds thereof in accordance with the Bond Resolution, the Agreement, the Mitigation Agreement and the Joint Community Facilities Agreement, or in any way contests or seeks to affect the validity or enforceability of the Bond Resolution or the District Documents or any action of the District or the School District contemplated by any of said documents, or that in any way contests the completeness or accuracy of the Official Statement or the powers of the District or its authority with respect to the Bonds, the Bond Resolution or the other District Documents, or any action of the District contemplated by any of said documents, or that would adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds or the exemption of such interest from California personal income taxation.

l. "Blue Sky" Qualification; Investment Eligibility. The District will furnish such information, execute such instruments, and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request (i) to qualify the Bonds for offer and sale under the "blue sky" or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate, and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions; provided that in connection therewith the District shall not be required to file or execute a general or special consent to service of process or qualify to do business in any jurisdiction or to pay any filing or similar fees.

m. Continuing Disclosure Compliance. In connection with prior undertakings under the Rule, the School District did not file annual reports and notices of rating downgrades of certain debt issues in a timely manner. The School District has developed procedures to ensure that future annual reports and notices of significant events are filed in a timely manner. As of the date of the Official Statement, all required filings have been made.

n. No Debt Issues. Between the date hereof and the Closing Date, without the prior written consent of the Underwriter, the District will not issue any bonds, notes, or other obligations for borrowed money or entered into any other obligations, except as may be described in or contemplated by the Official Statement.

o. Officials' Certificates. Any certificate signed by an official of the District authorized to do so shall be deemed a representation and warranty by the District to the Underwriter as to the statements made therein.

p. No Arbitrage. The District shall not take any action or fail to take any action, or permit any action or omission with regard to which the District may exercise control, with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bonds would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, including the Treasury Regulations with respect thereto.

q. The Bonds; Pledge of Net Taxes. When delivered to the Underwriter, the Bonds will have been duly authorized by the Board and duly executed, issued and delivered by the District and will constitute legal, valid and binding obligations of the District enforceable against the District in accordance with their respective terms, except as enforceability thereof may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally. The Agreement creates a valid pledge of, first lien upon and security interest in, the Net Taxes (as defined in the Agreement), except as otherwise explicitly provided in the Agreement, and a valid pledge of, first lien upon and security interest in the amounts in the Special Tax Fund, the Bond Fund, the Reserve Fund and the Redemption Fund established pursuant to the Agreement, on the terms and conditions set forth in the Agreement.

r. No Other Debt. Except as disclosed in the Official Statement, to the best of the District's knowledge, no other public debt secured by a tax or assessment levied by the School District on the land in the District is in the process of being authorized and no assessment districts or community facilities district have been or are in the process of being formed by the School District which include any portion of the land within the District.

s. No Listing. The District has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

t. Special Taxes; Ordinance. The Special Taxes may lawfully be levied in accordance with the first amended rate and method of apportionment of special taxes for the District (the "Rate and Method") and the Ordinance (as defined in the Agreement), and, when levied, the Special Taxes so levied will be secured by a lien on the property on which they are levied. The Ordinance is in full force and effect and has not been amended or supplemented.

u. Agreement With Underwriter. The District acknowledges and agrees that (i) the purchase and sale of the Bonds pursuant to this Bond Purchase Agreement is an arm's length commercial transaction between the District and the Underwriter, (ii) in connection with such transaction, the Underwriter is acting solely as a principal and not as an agent or a fiduciary of the District, (iii) the Underwriter has not assumed a fiduciary responsibility in favor of the District with respect to the offering of the Bonds or the process leading thereto (whether or not any Underwriter, or any affiliate of an Underwriter, has advised or is currently advising the District or the School District on other matters) or any other obligation to the District except the obligations expressly set forth in this Bond Purchase Contract, (iv) the Underwriter has financial interests that differ from those of the District, and (v) the District has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Bonds.

9. **Closing Conditions.** The Underwriter has entered into this Bond Purchase Agreement in reliance upon the representations and warranties of the District contained herein, upon the representations and warranties to be contained in the documents and instruments to be delivered at the Closing, and upon the performance by the District of its obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the obligations of the Underwriter under this Bond Purchase Agreement to accept delivery of and to pay for the Bonds on the Closing Date shall be conditioned upon the accuracy in all material respects of the representations and warranties on the part of the District contained herein as of the date hereof and as of the Closing Date, upon the accuracy in all material respects of the statements of the officers and other officials of the District made in any certificates or other documents furnished pursuant to the provisions hereof, and upon the performance by the District of its obligations to be performed hereunder at or prior to the Closing Date, and also shall be subject to the following additional conditions:

a. **Representations and Warranties.** The representations and warranties of the District contained herein shall be true and correct in all material respects on the date hereof and on and as of the Closing Date, as if made on the Closing Date.

b. **District Documents and Official Statement.** At the Closing Date, the District Documents shall be in full force and effect, and, together with the Official Statement, shall be in the form previously submitted to the Underwriter, and shall not have been amended, modified, or supplemented, except as may have been agreed to by the Underwriter, and the District shall perform or have performed all of its obligations required under or specified in the District Documents, the Official Statement and the Bond Resolution to be performed at or prior to the Closing.

c. **Other Documents and Opinions.** At or prior to the Closing Date, the Underwriter shall have received copies of the following documents, in each case satisfactory in form and substance to the Underwriter:

(1) **Official Statement.** The Official Statement and each supplement or amendment thereto, if any, executed on behalf of the District by the Superintendent or other authorized officer of the District;

(2) **Ordinance and Resolutions.** The Ordinance, the Bond Resolution and the resolutions:

(A) establishing the District,

(B) annexing territory to the District;

(C) altering the Rate and Method in and approving the Mitigation Agreement and the Joint Community Facilities Agreement;

(the Bond Resolution and the resolutions referred to in the preceding clause (A), (B) and (C) being collectively referred to below as the "Resolutions"), together with certificates of the Secretary of the Board dated as of the Closing Date, to the effect that each such resolution is a true, correct, and complete copy of the one duly adopted by the Board and that it has not been amended, modified, or rescinded (except by a subsequent Resolution) and is in full force and effect as of the Closing Date;

(3) **Final Approving Opinion of Bond Counsel and Reliance Letter.** The approving opinion of Bowie, Arneson, Wiles & Giannone, Bond Counsel,

dated the Closing Date and addressed to the District in the form set forth in the Official Statement, together with a letter dated the Closing Date and addressed to the Underwriter to the effect that such opinion may be relied upon by the Underwriter to the same extent as if such opinion were addressed to it;

(4) Supplemental Opinion of Bond Counsel. A supplemental opinion of Bowie, Arneson, Wiles & Giannone, Bond Counsel, dated the Closing Date and addressed to the Underwriter, to the effect that:

(A) Validity of Bond Purchase Agreement. This Bond Purchase Agreement has been duly authorized, executed, and delivered by the District and, assuming its due authorization, execution, and delivery by and enforceability against the Underwriter, constitutes a valid and binding agreement of the District enforceable in accordance with its terms, except as such enforceability may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other similar laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases, and to the limitations on legal remedies against community facilities districts in the State of California;

(B) Exemptions from Registration/Qualification. The Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;

(C) Accuracy of Summaries. The statements contained in the Official Statement under the captions "INTRODUCTION," "THE BONDS" (excluding the subcaption "DTC Book-Entry-Only"), "PLAN OF FINANCING," "SECURITY AND SOURCE OF PAYMENT" (excluding the subcaption "Alternative Method of Tax Apportionment" ), "LEGAL MATTERS - Tax Exemption," and in APPENDIX C- SUMMARY OF CERTAIN PROVISIONS OF THE FISCAL AGENT AGREEMENT and APPENDIX F -- PROPOSED FORM OF OPINION OF BOND COUNSEL" (excluding any material that may be treated as included under such captions by cross-reference insofar, and further excluding any financial, statistical and economic data, forecasts, numbers, charts, graphs, estimates, projections, assumptions as to which no opinion or view need be expressed), as such statements purport to summarize certain provisions of the Law, the Agreement, the Bonds, and Bond Counsel's opinion concerning certain federal and state tax matters relating to the Bonds, are accurate in all material respects; and

(D) Special Taxes. The Special Taxes and the levy thereof have been duly and validly authorized in accordance with the provisions of the Law;

(5) Disclosure Counsel Letter. A letter of Quint & Thimmig LLP, as disclosure counsel to the District ("Disclosure Counsel"), addressed to the Underwriter and the District, to the effect that nothing has come to such counsel's attention that would lead them to believe that the Official Statement, as of its date and as of the Closing Date (but excluding therefrom the appendices thereto, financial statements and statistical data, and information regarding the DTC and its book entry system, as to which no opinion need be expressed)

contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(6) District Counsel Opinion. An opinion of Bond Counsel, in its capacity as special counsel to the District, dated the Closing Date and addressed to the Underwriter, to the effect that:

(A) the District is a community facilities district duly organized and validly existing under and by virtue of the Law;

(B) each of the Resolutions was duly adopted at a meeting of the Board that was called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout;

(C) the District has full right and lawful authority to adopt or enter into and perform its obligations under the District Documents;

(D) the Bond Resolution has been duly adopted, and the District Documents have been duly authorized, executed, and delivered by the District, and assuming due authorization, execution, and delivery by and enforceability of the District Documents against the other parties thereto, the District Documents constitute valid and binding obligations of the District enforceable against the District in accordance with their respective terms, subject to any limitations on enforcement due to any law affecting the enforceability of creditors' rights generally, by the application of equitable principles, by the possible unavailability of specific performance or injunctive relief, and by the limitations on legal remedies imposed on actions by or against community facilities districts in the State of California;

(E) to such counsel's current actual knowledge and after reasonable investigation (which did not include a search of federal, state, or other court or forum records), other than as disclosed in the Official Statement, there are no actions or proceedings against the District pending (service of process having been accomplished) or overtly threatened in writing, before any court, governmental agency, or arbitrator that (i) seek to restrain or enjoin the execution and delivery of the Bonds (ii) seek to affect the collection or application of the Net Taxes to pay the principal of, and interest on, the Bonds, or (iii) seek to affect the validity of any of the District Documents; and

(F) the adoption of the Bond Resolution, the execution and delivery of the District Documents by the District, and compliance by the District with the provisions thereof, under the circumstances contemplated thereby, do not to such counsel's current actual knowledge after reasonable investigation constitute a material breach of the terms, conditions, or provisions of or constitute a default under any other material contract, undertaking, indenture, or other agreement by which the District is bound;

(7) District Certificate. A certificate, dated the Closing Date and signed by the Superintendent, Deputy Superintendent, Business and Support

Services or such other officer of the District as the Underwriter may approve, to the effect that:

(A) the representations and warranties of the District contained in this Bond Purchase Agreement are true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date;

(B) to the best knowledge of said officer, no event has occurred since the date of the Official Statement that should be disclosed in the Official Statement for the purpose for which it is to be used or that it is necessary to disclose in the Official Statement so that the Official Statement is not untrue or misleading in any material respect; and

(C) the District has satisfied all the conditions on its part to be performed or satisfied under the Agreement and this Bond Purchase Agreement at and prior to the Closing Date;

(8) Fiscal Agent Certificate. A certificate dated the Closing Date of an authorized officer of the Fiscal Agent to the effect that:

(A) the Fiscal Agent has duly accepted the duties of the Fiscal Agent under the Agreement;

(B) the Bonds were duly authenticated in the name and on behalf of the Fiscal Agent by authorized signatories of the Fiscal Agent; and

(C) there are no actions or proceedings against the Fiscal Agent pending (service of process having been accomplished) or, to the best of the Fiscal Agent's knowledge, overtly threatened in writing, before any court, governmental agency, or arbitrator that (i) seek to restrain or enjoin the authentication or delivery of the Bonds, or (ii) seek to affect the validity of the Bonds;

(9) District Documents. An original of each of the District Documents duly executed by the respective parties thereto;

(10) Tax Certificate. A tax certificate of the District in form and substance acceptable to Bond Counsel;

(11) Form 8038-G. An executed Internal Revenue Service Form 8038-G;

(12) Financial Advisor Certificate. A certificate of the Financial Advisor, dated as of the Closing Date, in form and substance satisfactory to Disclosure Counsel, Bond Counsel and the Underwriter, including certifications as to the net present value savings requirement under the Law, and to the effect that nothing has come to their attention that would lead them to believe that the Official Statement, including the cover page as of its date and as of the Closing Date contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(13) Underwriter's Reoffering Price Certificate, Other Tax Matters. A certificate of the Underwriter, dated as of the Closing Date, in form and substance satisfactory to Bond Counsel, concerning the reoffering prices of the Bonds and such other matters as Bond Counsel may request;

(14) Certificate Verifying Continuing Disclosure Compliance. A Certificate of the Financial Advisor, dated the Closing Date and in form and substance acceptable to Disclosure Counsel and the Underwriter, to the effect that the District and the School District are in compliance with all of their prior continuing disclosure undertakings entered into pursuant to Rule 15c2-12 and have not failed to comply with any such undertakings during the preceding five years, except as described in Section 8m. and as otherwise disclosed in the Official Statement;

(15) Certificate of Special Tax Consultant. A certificate dated the Closing Date from the Special Tax Consultant substantially in the form set forth in Exhibit B hereto;

(16) Notice of Special Tax Lien. Evidence of recordation in the real property records of the County of Orange of the Notice of Special Tax Lien in the form required by the Law and of recordation of the Amendment to Notice of Special Tax Lien in the real property records of the County of Orange;

(17) Opinion of Counsel to Fiscal Agent. An opinion of counsel to the Fiscal Agent in form and substance satisfactory to the Underwriter dated the Closing Date and addressed to the District and the Underwriter to the effect that the U.S. Bank National Association has duly authorized the execution and delivery of the Fiscal Agent Agreement and that such document is a valid and binding obligation of U.S. Bank National Association enforceable in accordance with its terms;

(18) Letter of Appraiser. A letter from Harris Realty Appraisal (the "Appraiser") to the effect that it has prepared the appraisal report (the "Appraisal Report") for the property located within the District and that:

- (A) summaries of the Appraisal Report in, and the Appraisal Report contained in an appendix to, the Preliminary Official Statement and the Official Statement, may be included in the Preliminary Official Statement and the Official Statement,
- (B) the information under the captions "SECURITY AND SOURCE OF PAYMENT—Property Values" and "SPECIAL RISK FACTORS—Appraised Values" does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading,
- (C) no events or occurrences have been ascertained by it or have come to its attention that would materially change its opinion of value set forth in the Appraisal Report, and
- (D) the value of the property in the District described in the Appraisal Report, as of the Closing Date, is not less than the value of such property as of August 15, 2013;



(19) Appraisal Report. The Appraisal Report, dated August 30, 2013;

(20) Developer Certificate. A certificate of Rancho San Juan Development, LLC ("Rancho San Juan"), dated the Closing Date, in a form acceptable to Disclosure Counsel and the Underwriter, to the effect that:

(A) all information provided by Rancho San Juan to the Appraiser in connection with the Appraisal Report was true and accurate;

(B) the statements in the Official Statement relating to Rancho San Juan, its proposed development of property in the District, its property ownership and its contractual and financial arrangements with respect thereto under the caption "THE DISTRICT—General" are accurate in all material respects and do not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(C) there is no action, suit, proceeding or investigation at law or in equity before or by any court or governmental agency or body pending for which Rancho San Juan has received services of process, or to the actual knowledge of Rancho San Juan, threatened in writing against the Rancho San Juan in any way (i) in which Rancho San Juan may be adjudicated as bankrupt, or discharged from all or a portion of its debts or obligations or granted an extension of time to pay its debts or obligations, or be allowed to reorganize to readjust its debts or obligations, (ii) if determined adversely to Rancho San Juan, would have a material adverse effect on the financial position or operations of Rancho San Juan or would have a materially adverse effect on Rancho San Juan's ability to develop property in the District or pay special taxes prior to delinquency, or (iii) seeks to restrain or to enjoin the continuation or completion of Rancho San Juan's proposed development of its property in the District as described in the Official Statement;

(D) to the actual knowledge of Rancho San Juan, there is no consent, approval, authorization or other order of, or filing with, or certification by, any governmental authority, board, agency or commission or other regulatory authority having jurisdiction over Rancho San Juan, required for the consummation by Rancho San Juan of the transactions on its part described in or contemplated by the Official Statement; and

(E) to the actual knowledge of Rancho San Juan, Rancho San Juan (or its predecessor in interest) has obtained all environmental permits required for the development of Rancho San Juan's property in the District as described in the Official Statement and none of the parcels which constitute land within the District owned by Rancho San Juan are delinquent in the payment of any taxes or assessments;

(21) Developer's Counsel Opinion. An opinion addressed to the Underwriter and the District by counsel to Rancho San Juan, to the effect that:

a. based upon its experience as counsel to Rancho San Juan and its review of the Official Statement, no facts came to its attention that would lead it to believe that, as of the date of the Official Statement and as of the Closing Date, the statements contained in the Official Statement relating to Rancho San Juan under the caption "THE DISTRICT—General" contained or contain any untrue statement of a material fact or omitted or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

b. there is no litigation pending or threatened against or affecting Rancho San Juan (i) in which Rancho San Juan may be adjudicated as bankrupt or discharged from any or all of its debts or obligations or granted an extension of time to pay its debts or a reorganization or readjustment of its debts, or (ii) which seeks to grant an extension of time to pay Rancho San Juan's debts, or (iii) seeks to effect a reorganization or readjustment of Rancho San Juan's debts;

(22) Agreement of Rancho San Juan. An agreement of Rancho San Juan to provide information regarding the status of development of the properties in the District owned by it and sales by it of homes in the District to homebuyers, with such information to be included by the District in the Continuing Disclosure Agreement; and

(23) Other Opinions and Certificates. Such additional legal opinions, certificates and other documents as the Underwriter may reasonably request to evidence the truth and accuracy, as of the Closing Date, of the representations and warranties contained in this Bond Purchase Agreement and of the statements and information contained in the Official Statement, and to evidence the due performance or satisfaction by the District at or prior to the Closing Date of all agreements then to be performed and all conditions then to be satisfied by the District in connection with the transactions contemplated hereby and by the Official Statement.

All the opinions, letters, certificates, instruments, and other documents mentioned in this section or elsewhere in this Bond Purchase Agreement shall be deemed to be in compliance with the terms hereof if, but only if, they are in form and substance satisfactory to the Underwriter.

If any of the conditions to the obligations of the Underwriter contained in this Bond Purchase Agreement shall not have been satisfied when and as required herein, or if the obligations of the Underwriter to purchase, to accept delivery of, and to pay for the Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement may be terminated by the Underwriter at, or at any time prior to, the Closing Date by written notice to the District. In such event, all obligations of the Underwriter and the District hereunder shall be terminated, except that the respective obligations of the District and the Underwriter set forth in Section 12 (Expenses) shall continue in full force and effect.

10. Conditions to the Obligations of the District. The obligation of the District to issue and deliver the Bonds on the Closing Date shall be subject, at the option of the District, to the Underwriter's performance of its obligations hereunder at or prior to the Closing Date and to the following additional conditions (any of which conditions may be waived by the District):

a. No order, decree, injunction, ruling, or regulation of any court, regulatory agency, public board, or body shall have been issued, nor shall any legislation have been enacted, with the purpose or effect, directly or indirectly, of prohibiting the offering, sale, or delivery of the Bonds as contemplated hereby or by the Official Statement; and

b. The opinion and letter contemplated by Sections 9(c)(3) and (5), respectively, shall have been delivered substantially in the forms described herein.

11. **Termination.** The Underwriter shall have the right to terminate its obligations under this Bond Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds by notifying the District of its election to do so if, after the execution hereof and prior to the Closing, the market price or marketability of the Bonds at the initial offering prices set forth in Exhibit A hereto shall have been materially adversely affected, in the judgment of the Underwriter, because of:

a. legislation introduced in or enacted by the House of Representatives or the Senate of the Congress of the United States, or recommended to the Congress of the United States for passage by the President of the United States, or favorably reported for passage to either the House of Representatives or the Senate by any committee of either such body to which such legislation has been referred for consideration, a decision by a court established under Article III of the Constitution of the United States, or by the Tax Court of the United States, or a ruling, regulation, or order of the Treasury Department of the United States or the Internal Revenue Service made or proposed having the purpose or effect of imposing federal income taxation, or any other event that has occurred that resulted in the imposition of federal income taxation upon interest received on obligations of the general character of the Bonds;

b. any legislation, ordinance, rule, or regulation introduced in, or enacted by, any governmental body, department, or agency in the State of California, or a decision by any court of competent jurisdiction within the State of California that, in the Underwriter's judgment, materially adversely affects the market price of the Bonds;

c. a stop order, ruling, regulation or official statement by, or on behalf of the Securities and Exchange Commission proposed or made to the effect that the issuance, offering, or sale of the Bonds or obligations of the general character of the Bonds is in violation or would be in violation unless registered or otherwise qualified under any provisions of the Securities Act of 1933, as amended and as then in effect (the "Securities Act"), or the Bonds are required to be registered under the Securities Exchange Act of 1934, as amended and as then in effect (the "Exchange Act"), or the Agreement is required to be qualified under the Trust Indenture Act of 1939, as amended and as then in effect (the "Trust Indenture Act");

d. legislation introduced in or enacted by the House of Representatives or the Senate of the Congress of the United States of America, or a decision by a court of the United States of America, or a ruling, regulation, or official statement by or on behalf of the Securities and Exchange Commission (including a no-action or interpretive letter of the staff thereof) or other governmental agency having jurisdiction of the subject matter made or proposed to the effect that the Bonds or an obligation or obligations of the general character of the Bonds are not exempt from registration, qualification or other requirements of the Securities Act, the Exchange Act, or the Trust Indenture Act;

e. declaration of a general banking moratorium by federal, State of California, or State of New York authorities;

- f. a general suspension of trading on the New York Stock Exchange;
- g. an outbreak of hostilities or an escalation of existing hostilities or occurrence of any other national or international calamity or crisis;
- h. imposition by the New York Stock Exchange or other national securities exchange, or any governmental authority, as to the Bonds or similar obligations, of any material restrictions not now in force, or material increase in those now in force, with respect to the extension of credit by or the charge to the net capital requirements of underwriters;
- i. any litigation instituted, pending, or threatened to restrain or enjoin the issuance or sale of the Bonds, in any way contesting or affecting any authority for or the validity of the Bonds or the existence or powers of the District or the validity or enforceability of any of the District Documents; or
- j. any requirement, in the opinion of counsel to the Underwriter, that the contemplated distribution of the Bonds must be registered under the Securities Act or the Agreement must be qualified under the Trust Indenture Act.

12. **Expenses.**

a. **District's Expenses.** Whether or not the Underwriter accepts delivery of and pays for the Bonds as set forth herein, the Underwriter shall be under no obligation to pay and the District shall pay or cause to be paid (out of the proceeds of the Bonds or any other legally available funds of the District):

- (1) all expenses incident to the delivery of the Bonds, including, but not limited to, the cost of preparing and delivering the Bonds to the Underwriter;
- (2) the cost of preparation, printing (and/or word processing and reproduction), distribution, and delivery of the Bond Resolution, the Agreement, the Preliminary Official Statement, and the Official Statement and drafts of any thereof in reasonable quantities as requested by the Underwriter; and
- (3) subject to the terms of any fee agreement with such parties, the fees and disbursements of the Financial Advisor, the Fiscal Agent, Bond Counsel, Disclosure Counsel, the special tax consultant and any other experts or consultants the District has retained in connection with the issuance of the Bonds.

b. **Underwriter's Expenses.** Whether or not the Underwriter accepts delivery of and pays for the Bonds as set forth herein, the District shall be under no obligation to pay and the Underwriter shall pay:

- (1) the fees and expenses of Underwriter's counsel, if any;
- (2) all expenses incurred by the Underwriter in connection with the public offering and distribution of the Bonds, including all advertising expenses and "blue sky" filing fees;
- (3) the cost of preparation and printing (and/or word processing and reproduction) of the "blue sky" and legal investment memoranda, if any;

(4) the expense of providing immediately available funds in accordance with Section 3 (Closing) hereof, whether by wire transfer or federal funds check;

(5) the fees of CUSIP and CDIAAC in connection with the Bonds;

(6) any MSRB or PSA fees in connection with the Bonds; and

(7) the fees of The Depository Trust Company.

13. **Notices.** Any notices, requests, directions, instruments or other communications required or permitted to be given hereunder, shall be in writing and shall be given when delivered, against a receipt, or mailed certified or registered, postage prepaid, to the District and the Underwriter at their respective addresses below:

If to District: Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675  
Attn: Clark Hampton, Deputy Superintendent,  
Business and Support Services  
Tel. (949) 234-9211

If to Underwriter: [to come]

provided, however, that all such notices, requests or other communications may be made by the telephone and promptly confirmed by writing. The District and the Underwriter may, by notice given as aforesaid, specify a different address for any such notices, requests or other communications.

14. **Survival of Representations and Warranties.** The representations and warranties of the District set forth in or made pursuant to this Bond Purchase Agreement, shall not be deemed to have been discharged, satisfied or otherwise rendered void by reason of the Closing or termination of this Bond Purchase Agreement and regardless of any investigations made concerning such representations and statements of the District and regardless of delivery of and payment for the Bonds.

15. **Parties In Interest; Non-Assignability.** This Bond Purchase Agreement is made solely for the benefit of the District and the Underwriter (including successors or assigns of the Underwriter) and no other person shall acquire or have any rights hereunder or by virtue hereof. This Bond Purchase Agreement shall not be assigned by the District or the Underwriter.

16. **Applicable Law.** This Bond Purchase Agreement shall be governed by the laws of the State of California applicable to contracts made and performed in California.

17. **No Prior Agreements; Entire Agreement.** This Bond Purchase Agreement supersedes and replaces all prior negotiations, agreements and understandings between the parties hereto in relation to the sale of the Bonds and represents the entire agreement of the parties as to the subject matter herein.

18. **Counterparts.** This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same agreement.

19. **Effective.** This Bond Purchase Agreement shall become effective and binding upon the respective parties hereto upon the execution of the acceptance hereof by the District and shall be valid and enforceable each of the time of such acceptance.

Very truly yours,

[insert name of Underwriter]

By \_\_\_\_\_  
Authorized Representative

Terms and Conditions of this Bond  
Purchase Agreement  
Approved and Accepted on October \_\_,  
2013.

COMMUNITY FACILITIES DISTRICT NO.  
2005-1 OF THE CAPISTRANO UNIFIED  
SCHOOL DISTRICT (WHISPERING  
HILLS)

By \_\_\_\_\_  
Deputy Superintendent,  
Business and Support Services

03069.03:J12294

## EXHIBIT A

The Bonds mature and bear interest as set forth in the following schedule:

| <u>Maturity Date<br/>(September 1)</u> | <u>Principal<br/>Amount</u> | <u>Interest<br/>Rate</u> | <u>Yield</u> | <u>Price</u> |
|--|-----------------------------|--------------------------|--------------|--------------|
|--|-----------------------------|--------------------------|--------------|--------------|

The Bonds maturing on or after September 1, \_\_\_\_ are callable at the District's option at par on any date on or after September 1, \_\_\_\_ from any source of funds.

The Bonds maturing on September 1, \_\_\_\_, shall be subject to mandatory sinking fund redemption on the dates and in the amounts set forth in the following schedule:

| <u>Sinking Fund<br/>Redemption Date<br/>(September 1)</u> | <u>Principal Amount</u> |
|---|-------------------------|
|---|-------------------------|

**EXHIBIT B**

**COMMUNITY FACILITIES DISTRICT NO. 2005-1  
OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT  
(WHISPERING HILLS) SERIES 2013 SPECIAL TAX BONDS**

**CERTIFICATE OF SPECIAL TAX CONSULTANT**

Community Facilities District No. 2005-1 of the  
Capistrano Unified School District (Whispering Hills)

[Underwriter]

The undersigned hereby states and certifies:

1. That the undersigned is an authorized officer of David Tausig & Associates, Inc. (the "Special Tax Consultant") and as such is familiar with the facts herein certified and is authorized and qualified to certify the same.
2. That the Special Tax Consultant has been retained as special tax consultant for Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) (the "District"), and has reviewed the First Amended Rate and Method of Apportionment for the District (the "Rate and Method"), a copy of which is set forth in Appendix B to the Official Statement, dated October \_\_, 2013 (the "Official Statement") relating to the above-captioned bonds (the "Bonds").
3. That, based upon our review of the Rate and Method, the Special Tax, if levied and collected at the Assigned Special Tax rates pursuant to the Rate and Method on the date hereof, and after deduction annually of the Administrative Expense Requirement (as such term is defined in the Fiscal Agent Agreement referred to in the Official Statement), would generate at least 120% of the gross annual debt service on the Bonds, provided that the annual debt service figures set forth in the table under the heading "PLAN OF FINANCING – Debt Service Schedule" in the Official Statement, which were relied upon by Special Tax Consultant, are true and correct (however, although the Special Tax if levied and collected at the Assigned Special Tax rates pursuant to the Rate and Method will generate at least 120% of the gross annual debt service payable with respect to the Bonds each year, no representation is made herein as to actual amounts that will be collected in future years).
4. That all information with respect to the Rate and Method in the Official Statement and all other information in the Official Statement sourced to the Special Tax Consultant (including the tables on pages \_\_, \_\_ and \_\_ therein) is true and correct as of the date of the Official Statement and as of the date hereof, and a true and correct copy of the Rate and Method is attached to the Official Statement as Appendix B.

Dated: October \_\_, 2013

DAVID TAUSIG & ASSOCIATES, INC.

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





This Preliminary Official Statement and the information contained herein are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

## PRELIMINARY OFFICIAL STATEMENT DATED AS OF OCTOBER \_\_, 2013

NEW ISSUE  
DTC BOOK-ENTRY ONLY

NOT RATED

In the opinion of Bowie, Arneson, Wiles & Giannone, Newport Beach, California, Bond Counsel, subject however, to certain qualifications described herein, under existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). In the further opinion of Bond Counsel, interest on the Bonds is not an item of tax preference for purposes of federal alternative minimum taxes imposed on individuals and corporations, although Bond Counsel observes that such interest is included as an adjustment in the calculation of federal corporate alternative minimum taxable income and may therefore affect a corporation's alternative minimum tax liabilities. In the further opinion of Bond Counsel, interest on the Bonds is exempt from State of California personal income taxation. Bond Counsel expresses no other opinion regarding or concerning any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds. See "LEGAL MATTERS - Tax Exemption."

**\$7,425,000\***

### COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) SERIES 2013 SPECIAL TAX BONDS

Dated: Date of Delivery

Due: September 1, as shown below

The bonds captioned above (the "Bonds") are being issued under the Mello-Roos Community Facilities Act of 1982 (the "Law"), the Resolution (as defined herein), and a Fiscal Agent Agreement dated as of October 1, 2013 (the "Fiscal Agent Agreement"), by and between the Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) (the "District") and U.S. Bank National Association (the "Fiscal Agent"), to pay a portion of the cost of the acquisition by the Capistrano Unified School District of property on which the San Juan Hills High School has been constructed, and to finance certain public improvements for the City of San Juan Capistrano, California. See "PLAN OF FINANCING" herein.

The Bonds are payable from the proceeds of an annual Special Tax being levied on and collected from certain property within the District according to the rate and method of apportionment (see "SECURITY AND SOURCE OF PAYMENT—The Special Tax" and "APPENDIX B—FIRST AMENDED RATE AND METHOD OF APPORTIONMENT" herein). The Bonds are secured by a first pledge of the Net Taxes (as defined herein) and the moneys on deposit in certain funds held under the Fiscal Agent Agreement.

THE BONDS, THE INTEREST THEREON, AND ANY PREMIUMS PAYABLE ON THE REDEMPTION OF ANY OF THE BONDS, ARE NOT AN INDEBTEDNESS OF CAPISTRANO UNIFIED SCHOOL DISTRICT (THE "SCHOOL DISTRICT"), THE STATE OF CALIFORNIA (THE "STATE") OR ANY OF ITS POLITICAL SUBDIVISIONS, AND NEITHER THE SCHOOL DISTRICT, THE DISTRICT (EXCEPT TO THE LIMITED EXTENT DESCRIBED IN THIS OFFICIAL STATEMENT), THE STATE NOR ANY OF ITS POLITICAL SUBDIVISIONS IS LIABLE ON THE BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE SCHOOL DISTRICT, THE DISTRICT (EXCEPT TO THE LIMITED EXTENT DESCRIBED IN THIS OFFICIAL STATEMENT), OR THE STATE OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE BONDS. OTHER THAN THE NET TAXES, NO TAXES ARE PLEDGED TO THE PAYMENT OF THE BONDS. THE BONDS ARE NOT A GENERAL OBLIGATION OF THE DISTRICT, BUT ARE LIMITED OBLIGATIONS OF THE DISTRICT PAYABLE SOLELY FROM THE NET TAXES AS MORE FULLY DESCRIBED IN THIS OFFICIAL STATEMENT.

The Bonds are being issued as fully registered bonds, without coupons, and when delivered will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the Bonds. Individual purchases of the Bonds will be made in book-entry-only form and only in authorized denominations, as described in this Official Statement. So long as Cede & Co. is the registered owner of the Bonds, principal of and interest and any premium on the Bonds will be made by the Fiscal Agent to DTC for subsequent disbursement to DTC Participants who will remit such payments to the Beneficial Owners of the Bonds. See "THE BONDS—DTC Book-Entry-Only" herein.

Interest on the Bonds is first payable on March 1, 2014, and semiannually thereafter on March 1 and September 1 of each year. The Bonds are subject to redemption prior to maturity (see "THE BONDS—Redemption Provisions").

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT INTENDED TO BE A SUMMARY OF ALL INFORMATION RELEVANT TO AN INVESTMENT IN THE BONDS. INVESTORS SHOULD READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION.

#### MATURITY SCHEDULE

(See Inside Cover)

The Bonds are being purchased for reoffering by \_\_\_\_\_ as Underwriter of the Bonds. The Bonds are offered when, as and if issued by the District and received by the Underwriter, subject to approval as to legality by Bowie, Arneson, Wiles & Giannone, Newport Beach, California, Bond Counsel and subject to certain other conditions. Certain legal matters related to the Bonds will be passed upon by Bowie, Arneson, Wiles & Giannone, Newport Beach, California, in its capacity as special counsel to the School District, and by Quint & Thimmig LLP, Larkspur, California, Disclosure Counsel to the School District with respect to the Bonds. It is anticipated that the Bonds, in definitive form, will be available for delivery through the facilities of DTC in New York, New York on or about October 31, 2013.

This Official Statement is dated October \_\_, 2013

\*Preliminary, subject to change.

Attachment 3

\$7,425,000\*  
**COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE  
 CAPISTRANO UNIFIED SCHOOL DISTRICT  
 (WHISPERING HILLS)  
 SERIES 2013 SPECIAL TAX BONDS**

**MATURITY SCHEDULE**

\$ \_\_\_\_\_ Serial Bonds

| Maturity Date<br>(September 1) | Principal<br>Amount | Interest Rate | Yield | Price | CUSIP* |
|--------------------------------|---------------------|---------------|-------|-------|--------|
|--------------------------------|---------------------|---------------|-------|-------|--------|

\$ \_\_\_\_\_ % Term Bonds due September 1, \_\_\_\_ Yield \_\_\_\_ % Price \_\_\_\_ % CUSIP\* \_\_\_\_\_

\* Preliminary, subject to change.

+ CUSIP is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, managed by Standard & Poor's Financial Services LLC on behalf of The American Bankers Association. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP Services. Neither the District nor the Underwriter is responsible for the selection or correctness of the CUSIP numbers set forth herein.

THIS OFFICIAL STATEMENT IS SUBMITTED WITH RESPECT TO THE SALE OF THE BONDS REFERRED TO HEREIN AND MAY NOT BE REPRODUCED OR USED, IN WHOLE OR IN PART, FOR ANY OTHER PURPOSE. THIS OFFICIAL STATEMENT IS NOT TO BE CONSTRUED AS A CONTRACT WITH THE PURCHASERS OF THE BONDS.

THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, IN RELIANCE UPON EXCEPTIONS THEREIN FOR THE ISSUANCE AND SALE OF MUNICIPAL SECURITIES. THE BONDS HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAW OF ANY STATE.

THIS OFFICIAL STATEMENT DOES NOT CONSTITUTE AN OFFER TO SELL NOR THE SOLICITATION OF AN OFFER TO BUY NOR SHALL THERE BE ANY SALE OF THE BONDS BY A PERSON IN ANY JURISDICTION IN WHICH IT IS UNLAWFUL FOR SUCH PERSON TO MAKE AN OFFER, SOLICITATION OR SALE.

NO DEALER, BROKER, SALESPERSON OR OTHER PERSON HAS BEEN AUTHORIZED BY THE DISTRICT TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS, OTHER THAN THOSE CONTAINED HEREIN, AND IF GIVEN OR MADE, SUCH OTHER INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE DISTRICT.

THE INFORMATION SET FORTH HEREIN HAS BEEN FURNISHED BY THE DISTRICT AND OTHER SOURCES THAT ARE BELIEVED TO BE RELIABLE, BUT IS NOT GUARANTEED AS TO ACCURACY OR COMPLETENESS. THE INFORMATION AND EXPRESSIONS OF OPINION HEREIN ARE SUBJECT TO CHANGE WITHOUT NOTICE AND NEITHER DELIVERY OF THIS OFFICIAL STATEMENT NOR ANY SALE MADE HEREUNDER SHALL, UNDER ANY CIRCUMSTANCES, CREATE ANY IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE AFFAIRS OF THE DISTRICT OR SCHOOL DISTRICT SINCE THE DATE HEREOF.

ALL SUMMARIES OF THE DOCUMENTS REFERRED TO IN THIS OFFICIAL STATEMENT ARE QUALIFIED BY THE PROVISIONS OF THE RESPECTIVE DOCUMENTS SUMMARIZED AND DO NOT PURPORT TO BE COMPLETE STATEMENTS OF ANY OR ALL OF SUCH PROVISIONS.

THE UNDERWRITER HAS REVIEWED THE INFORMATION IN THIS OFFICIAL STATEMENT IN ACCORDANCE WITH, AND AS PART OF, ITS RESPONSIBILITIES UNDER FEDERAL SECURITIES LAWS, AS APPLIED TO THE FACTS AND CIRCUMSTANCES OF THIS TRANSACTION, BUT THE UNDERWRITER DOES NOT GUARANTEE THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

CERTAIN STATEMENTS INCLUDED OR INCORPORATED BY REFERENCE IN THIS OFFICIAL STATEMENT CONSTITUTE "FORWARD-LOOKING STATEMENTS" WITHIN THE MEANING OF THE UNITED STATES PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995, SECTION 21E OF THE UNITED STATES SECURITIES EXCHANGE ACT OF 1934, AS AMENDED, AND SECTION 27A OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED. SUCH STATEMENTS ARE GENERALLY IDENTIFIABLE BY TERMINOLOGY USED SUCH AS "PLAN," "EXPECT," "ESTIMATE," "PROJECT," "BUDGET" OR SIMILAR WORDS. THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVES KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE DISTRICT DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED CHANGE.

IN CONNECTION WITH THE OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS OFFERED HEREBY AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME. THE UNDERWRITER MAY OFFER AND SELL THE BONDS TO CERTAIN DEALERS, INSTITUTIONAL INVESTORS, BANKS OR OTHERS AT PRICES LOWER OR HIGHER THAN THE PUBLIC OFFERING PRICES STATED ON THE INSIDE COVER PAGE HEREOF AND SAID PUBLIC OFFERING PRICES MAY BE CHANGED FROM TIME TO TIME BY THE UNDERWRITER.

THE SCHOOL DISTRICT MAINTAINS AN INTERNET WEBSITE, BUT THE INFORMATION ON THE WEBSITE IS NOT INCORPORATED IN THIS OFFICIAL STATEMENT.

**\$7,425,000\***  
**COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE**  
**CAPISTRANO UNIFIED SCHOOL DISTRICT**  
**(WHISPERING HILLS)**  
**SERIES 2013 SPECIAL TAX BONDS**

SCHOOL DISTRICT BOARD OF TRUSTEES

John M. Alpay, President  
Lynn Hatton, Vice President  
Anna Bryson, Clerk  
Ellen M. Addonizio, Member  
Amy Hanacek, Member  
Dr. Gary Pritchard, Member  
Jim Reardon, Member

SCHOOL DISTRICT ADMINISTRATION

Dr. Joseph M. Farley, Superintendent  
Clark Hampton, Deputy Superintendent, Business & Support Services

Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, California 92675  
(949) 234-9200

BOND COUNSEL

Bowie, Arneson, Wiles & Giannone  
4920 Campus Drive  
Newport Beach, California 92660

DISCLOSURE COUNSEL

Quint & Thimmig LLP  
900 Larkspur Landing Circle, Suite 270  
Larkspur, California 94939

FINANCIAL ADVISOR

Government Financial Strategies inc.  
1228 N Street, Suite 13  
Sacramento, California 95814

SPECIAL TAX CONSULTANT

David Taussig & Associates, Inc.  
5000 Birch Street, Suite 6000  
Newport Beach, California 92660

FISCAL AGENT

U.S. Bank National Association  
633 West Fifth Street, 24<sup>th</sup> Floor  
Los Angeles, CA 90071

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\* Preliminary, subject to change.

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## OFFICIAL STATEMENT

\$7,425,000\*

### COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS) SERIES 2013 SPECIAL TAX BONDS

## INTRODUCTION

### General

The purpose of this Official Statement is to provide certain information concerning the sale and delivery of an issue of bonds designated as the Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Series 2013 Special Tax Bonds (the "Bonds").

This introduction is not a summary of this Official Statement. It is only a brief description of and guide to this Official Statement and is qualified by more complete and detailed information contained in this entire Official Statement, which includes the cover page, inside cover page and appendices hereto, and the documents summarized or described herein. A full review should be made of this entire Official Statement by persons interested in investing in the Bonds. The offering of the Bonds to potential investors is made only by means of this entire Official Statement.

Capitalized terms used but not defined in this Official Statement have the meanings given them in the Fiscal Agent Agreement (as defined below).

### The School District

The Capistrano Unified School District (the "School District") is a political subdivision of the State of California (the "State") and is governed by a seven member Board of Trustees (the "Board"). Founded in 1965, the School District encompasses 195 square miles in seven cities and a portion of the unincorporated area of Orange County (the "County"). The jurisdiction of the School District includes all or part of the cities of San Clemente, Dana Point, San Juan Capistrano, Laguna Niguel, Aliso Viejo, Mission Viejo and Rancho Santa Margarita, and the communities of Las Flores, Coto de Caza, Dove Canyon, Ladera Ranch, and Wagon Wheel.

The School District provides kindergarten through 12<sup>th</sup> grade public education to more than 49,000 students on 55 campuses. See "THE SCHOOL DISTRICT" herein.

### The District

Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) (the "District") is a community facilities district first established by the Board in 2005 pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, constituting Sections 53311 et seq. of the State Government Code (the "Law"). Pursuant to the Law, the seven members of the Board serve as the legislative body of the District (the "Legislative Body") by virtue of their election to the Board.

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\* Preliminary, subject to change.

The District consists of approximately 272 gross acres of land located in the southeasterly portion of Orange County, including approximately 60 acres being developed with single family detached homes. The District contains 140 lots for single family homes and an additional area expected to be developed with 15 custom homes. As of August 15, 2013, 68 of the 140 lots have been improved with completed homes (56 of which have been sold to homeowners, 5 of which were in escrow for sale to homeowners and 7 of which are being used as sales models), and homes are under construction on 6 lots. San Juan Development LLC (the "Developer") owns all of the property in the District, other than the 56 lots with completed homes that have been sold to homeowners. See "THE DISTRICT" herein.

#### **District Proceedings; Authority for Issuance**

Pursuant to the Law, the Legislative Body adopted resolutions on April 25, 2005 expressing its intention to form the District and to incur bonded indebtedness of the District. On July 26, 2005, at a special election held pursuant to the Law, the then owner of the land in the District voted to authorize the District to incur up to \$30,000,000 principal amount of special tax bonds for the purpose of financing school facilities and public improvements for the City of Capistrano (the "City") (the "2005 Authorization"), and approved the levy of special taxes on certain real property in the District (the "Special Taxes") pursuant to the Rate and Method of Apportionment of Special Taxes for the Capistrano Unified School District Community Facilities District No. 2005-1 (Whispering Hills) (the "Original Rate and Method").

In 2007, proceedings were conducted by the Legislative Body to annex certain additional territory to the District.

In 2011, the Legislative Body conducted proceedings with respect to the modification of the Original Rate and Method in connection with the settlement of a lawsuit with the owner of the property in the District. On June 13, 2011, at a special election held pursuant to the Law, the then qualified voter of the District approved a First Amended Rate and Method of Apportionment for Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) (the "Amended Rate and Method").

The Bonds in the principal amount of \$\_\_\_\_\_ are now being issued pursuant to a resolution adopted by the Legislative Body on September 25, 2013 (the "Resolution") and a fiscal agent agreement (the "Fiscal Agent Agreement") dated as of October 1, 2013, between the District and U.S. Bank National Association (the "Fiscal Agent").

#### **Purpose of Issue**

Proceeds of the Bonds will be applied (i) to make a deposit to a Reserve Fund for the Bonds, (ii) to pay costs of issuance of the Bonds, (iii) to fund interest on the Bonds through March 1, 2014, (iv) to reimburse the Developer for amounts it (or its predecessor in interest) advanced in connection with the formation of the District and a related mitigation agreement with the School District and in connection with the proceedings for the Amended Rate and Method, as well as to reimburse it for costs related to the issuance of the Bonds, (v) to make an incremental payment towards the purchase by the School District of land on which the San Juan Hills High School has been constructed, and (vi) to finance costs of the City of San Juan Capistrano (the "City") of certain public improvements. See "PLAN OF FINANCE" herein.

#### **Source of Payment**

The Legislative Body annually levies the Special Taxes in accordance with the Amended Rate and Method. Payments of principal of and interest on the Bonds are secured by and



payable from a first pledge of the net proceeds of the Special Taxes (as more specifically defined in the Fiscal Agent Agreement, the "Net Taxes"). See "SECURITY AND SOURCE OF PAYMENT—The Special Tax" and "APPENDIX B—AMENDED RATE AND METHOD OF APPORTIONMENT" herein.

The Bonds will additionally be secured by certain funds and accounts established and held under the Fiscal Agent Agreement. See "SECURITY AND SOURCE OF PAYMENT" herein.

### **Land Valuation**

Harris Realty Appraisal, Newport Beach, California (the "Appraiser"), has prepared an appraisal dated August 30, 2013 (the "Appraisal") estimating the market value of the parcels in the District which are subject to the levy of the Special Taxes securing the Bonds with a valuation date of August 15, 2013. The Appraiser has determined that the aggregate "Minimum Market Value" of the 56 parcels in the District that have been sold to homeowners is \$51,000,000, the "Minimum Market Value" of 18 parcels in the District owned by the Developer and on which homes have been completed (12 parcels) or are under construction (6 parcels) is \$15,375,000, the "Market Value" of the 66 finished lots in the District that have not yet been improved with homes is \$26,400,000, and the aggregate "Assessed Value" of the 15 custom lots owned by the Developer is \$1,030,000. See "SECURITY AND SOURCE OF PAYMENT—Property Value," "THE DISTRICT—General," "SPECIAL RISK FACTORS—Appraised Values" and "APPENDIX G—APPRAISAL REPORT." Neither the District nor the Underwriter make any representation as to the accuracy or completeness of the Appraisal.

### **Limited Obligations**

Neither the faith and credit nor the general taxing power of the District (except to the limited extent described in this Official Statement), the School District, the County, the State nor any political subdivision thereof is pledged for the payment of the Bonds. The Bonds are not general obligations of the District or the School District, but are limited obligations of the District payable solely from Net Taxes and other sources pledged therefor under the Fiscal Agent Agreement. See "SPECIAL RISK FACTORS—Not a General Obligation of the District or School District" herein.

### **Description of the Bonds**

The Bonds will be dated their date of delivery and will be issued as fully registered bonds, without coupons, in book-entry form only. The Bonds will be initially issued and registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"). Payments of the principal of and interest on the Bonds will be made by the Fiscal Agent as paying agent, registrar and transfer agent for the Bonds to DTC for subsequent disbursement to the Beneficial Owners (as defined herein) of the Bonds. See "THE BONDS—DTC Book-Entry-Only" herein.

The Bonds are issued as current interest bonds in denominations of \$5,000 principal amount, or any integral multiple thereof, and mature on September 1 in each of the years and in the amounts set forth on the inside cover page hereof. Interest on the Bonds is payable on March 1 and September 1 of each year, commencing March 1, 2014. Interest on the Bonds is computed on the basis of a 360-day year comprised of twelve 30-day months. See "THE BONDS" herein.

## **Risk Factors**

Investment in the Bonds involves risks that may not be appropriate for some investors. See "SPECIAL RISK FACTORS" for a discussion of certain risk factors which should be considered, in addition to the other matters set forth in this Official Statement, in considering the investment quality of the Bonds.

## **Professionals Involved**

Government Financial Strategies inc., Sacramento, California has acted as financial advisor (the "Financial Advisor") with respect to the issuance, sale and delivery of the Bonds. See "FINANCIAL ADVISOR" herein. All proceedings in connection with the issuance of the Bonds are subject to the approving legal opinion of Bowie, Arneson, Wiles & Giannone, Newport Beach, California ("Bond Counsel"). Quint & Thimmig LLP, Larkspur, California ("Disclosure Counsel") is acting as disclosure counsel to the School District with respect to the District. U.S. Bank National Association is acting as Fiscal Agent for the Bonds. David Taussig & Associates, Inc., Newport Beach, California acts as special tax consultant with respect to the District. Bond Counsel, Disclosure Counsel, Fiscal Agent and Escrow Agent will receive compensation from the District contingent upon the sale and delivery of the Bonds.

## **Other Information**

This Official Statement may be considered current only as of its date on the cover page hereof, and the information contained herein is subject to change. Descriptions of the Bonds, the District and the School District, together with descriptions of certain provisions of the Resolution and the Fiscal Agent Agreement, are included in this Official Statement. The descriptions herein do not purport to be comprehensive or definitive. All references herein to the Bonds, the Resolution and the Fiscal Agent Agreement are qualified in their entirety by reference to the complete texts of such documents.

Copies of the Resolution, the Fiscal Agent Agreement, audited financial statements and any other information which may be considered informative regarding the sale and delivery of the Bonds and which is generally available to the School District will be made available for public inspection by contacting the School District through the office of the Deputy Superintendent, Business & Support Services at the address and telephone set forth on page "iv" of this Official Statement, or by contacting the Financial Advisor at the address set forth on page "iv" of this Official Statement. Charges may be made for the duplication and mailing of documents.

## **THE BONDS**

### **Authority for Issuance**

The Law was enacted by the State Legislature to provide an alternative method of financing certain public capital facilities and services. Once duly established by the legislative body of a local agency, a community facilities district is a legally constituted governmental entity within defined boundaries, with the governing board or legislative body of the local agency acting on its behalf. Subject to approval by a two-thirds vote of qualified electors and compliance with the provisions of the Law, a legislative body of a local agency may issue bonds for a community facilities district and may levy and collect a special tax within such district to repay such indebtedness.

Pursuant to the Law, the Legislative Body adopted resolutions on April 25, 2005 expressing the intention to form the District and to issue bonds for the District. On July 26, 2005, at a special election held pursuant to the Law, the then owner of the land in the District, as the sole qualified elector for the District, approved the 2005 Authorization. In 2007, the Legislative Body conducted proceedings to annex territory to the District. In 2011, the Legislative Body conducted proceedings to modify the Original Rate and Method resulting in the approval of the Amended Rate and Method, as well as certain agreements with the Developer and the City of San Juan Capistrano related to the use of the proceeds of bonds issued for the District. See "PLAN OF FINANCING."

On September 25, 2013, the Legislative Body adopted the Resolution authorizing the issuance of a first series of bonds for the District and approving related documents, including the Fiscal Agent Agreement. The Bonds are being issued under and pursuant to the provisions of the Law, the Resolution and Fiscal Agent Agreement to fund a Reserve Fund for the Bonds, pay the costs of issuance of the Bonds, fund capitalized interest on the Bonds to March 1, 2014, reimburse the Developer for certain expenditures related to the District formation and other District proceedings, to make an incremental payment towards the purchase by the School District of land from the Developer's predecessor in interest, and to finance costs of the City of certain public improvements authorized to be funded by the District. See "PLAN OF FINANCING."

#### **Form and Registration**

The Bonds will be dated their date of delivery and will be issued as fully registered bonds, without coupons, in book-entry form only. Pursuant to the Fiscal Agent Agreement, the Fiscal Agent will keep and maintain for and on behalf of the District at the Fiscal Agent's corporate trust office, books and records (herein referred to as the "Bond Register") for recording the names and addresses of the owners (the "Registered Owners"), the transfer, exchange, and replacement of the Bonds, and the payment of the principal of and interest on the Bonds to the Registered Owners and containing such other information as may be reasonably required by the District and subject to such reasonable regulations as the District and the Fiscal Agent may prescribe. All transfers, exchanges, and replacement of Bonds shall be noted in the Bond Register.

The Bonds will be initially issued and registered in the name of Cede & Co. as nominee of DTC. Purchases of Bonds under the DTC book-entry system must be made by or through a DTC participant, and ownership interests in Bonds will be recorded as entries on the books of said participants. Except in the event that use of this book-entry system is discontinued for the Bonds, Beneficial Owners (as defined herein) will not receive physical certificates representing their ownership interests. See "THE BONDS—DTC Book-Entry-Only" herein.

In the event (i) DTC determines not to continue to act as a securities depository for the Bonds, or (ii) DTC shall no longer so act and gives notice to the District of such determination, then the District will discontinue the book-entry system with DTC. If the District determines to replace DTC with another qualified securities depository, the District will prepare or direct the preparation of a new single, separate, fully registered Refunding Bond, per maturity, registered in the name of such successor or substitute qualified securities depository or its nominee. If the District fails to identify another qualified securities depository to replace DTC, then the Bonds will no longer be restricted to being registered in the Bond Register in the name of the Cede & Co., but shall be registered in whatever name or names owners of the Bonds transferring or exchanging Bonds shall designate, and the District will prepare and deliver Bonds to the owners thereof for such purposes.

So long as the Bonds are registered in the name of Cede & Co., as nominee for DTC, references in this Official Statement to the owners of the Bonds or the Bondowners shall mean Cede & Co., and shall not mean the purchasers or beneficial owners of the Bonds.

### **Payment of Principal and Interest**

The Bonds are issued as current interest bonds in denominations of \$5,000 principal amount, or any integral multiple thereof, and mature on September 1 in each of the years and in the amounts set forth on the inside cover page hereof. Interest on the Bonds is payable on March 1 and September 1 of each year (each, an "Interest Payment Date"), commencing March 1, 2014. Interest on the Bonds is computed on the basis of a 360-day year comprised of twelve 30-day months.

The principal of and interest on the Bonds will be paid in lawful money of the United States of America by the Fiscal Agent to DTC, who will, in turn, disburse such payment to direct and indirect participants of DTC for subsequent disbursement to Beneficial Owners. The principal of the Bonds is payable upon maturity or prior redemption of a Refunding Bond upon its surrender at the principal office of the Fiscal Agent.

Interest on the Bonds is payable from the Interest Payment Date next preceding the date of their authentication, unless (i) such date of authentication is an Interest Payment Date, in which event interest shall be payable from such date of authentication, (ii) the date of authentication is after 15th day of the calendar month preceding an Interest Payment Date, whether or not such day is a business day (the "Record Date") but prior to the immediately succeeding Interest Payment Date, in which event interest will be payable from such Interest Payment Date, or (iii) the date of authentication is prior to the close of business on the first Record Date, in which event interest will be payable from the Dated Date; provided, however, that if at the time of authentication of the Bonds, interest is in default, interest on the Bonds shall be payable from the last date on which the interest has been paid or made available for payment, or if no interest has been paid or made available for payment, interest shall be payable from the Dated Date. Interest on the Bonds shall be paid to the person whose name shall appear in the Bond Register as the Registered Owner of such Bonds as of the close of business on the Record Date for the applicable Interest Payment Date. Such interest shall be paid by check of the Fiscal Agent mailed on the Interest Payment Date to such Registered Owner by first class mail at his or her address, postage prepaid, as it appears on the Bond Register as of the Record Date; provided that, in the case of an Registered Owner of \$1,000,000 or more in aggregate principal amount of the Bonds, upon the Fiscal Agent's receipt of written request of such Registered Owner prior to the Record Date accompanied by wire transfer instructions, such interest shall be paid on the Interest Payment Date in immediately available funds by wire transfer to an account in the United States.

So long as Cede & Co. or its registered assignee is the Registered Owner of the Bonds, payments of principal of and interest on the Bonds shall be made by wire transfer.

### **Transfer and Exchange**

In the event that the book-entry system as described above is no longer used with respect to the Bonds, the following provisions will govern the transfer and exchange of the Bonds.

The Bonds may be transferred upon the Bond Register by the person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender of such Refunding Bond for cancellation at the principal office of the Fiscal Agent, accompanied by delivery of a written instrument of transfer in a form approved by the Fiscal Agent and duly

executed by the Registered Owner or his or her duly authorized attorney. Bonds may be exchanged at the principal office of the Fiscal Agent for a like aggregate principal amount and maturity of Bonds of other authorized denominations. The Fiscal Agent may charge the Registered Owner any tax or other governmental charge required with respect to such transfer or exchange. The cost of printing the Bonds and any services rendered or expenses incurred by the Fiscal Agent in connection with any transfer or exchange thereof shall be paid by the District.

Whenever any Bonds shall be surrendered for registration of transfer or exchange, the District shall execute, and the Fiscal Agent shall authenticate and deliver, a new Refunding Bond, for a like aggregate principal amount and maturity; provided, that the Fiscal Agent shall not be required to register transfers or make exchanges of (i) Bonds for a period of 15 days next preceding the date established by the Fiscal Agent for selection of the Bonds to be redeemed, or (ii) any Refunding Bond chosen for redemption.

**Redemption Provisions**

*Optional Redemption.* The Bonds may be redeemed prior to maturity at the option of the District on any date on or after September 1, 2023, in whole, or in part, from such maturities as are selected by the District in accordance with the Fiscal Agent Agreement, and by lot within a maturity, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest to the date fixed for redemption, without premium.

*Special Mandatory Redemption from Prepaid Special Taxes.* The Bonds are subject to special mandatory redemption prior to their stated maturities on any Interest Payment Date for which timely notice of redemption can be given under the Fiscal Agent Agreement, in whole or in part, from such maturities as are selected by the District in writing in accordance with the Fiscal Agent Agreement, and by lot within a maturity, in integral multiples of \$5,000, from monies on deposit in the Prepayment Account of the Special Tax Fund that are transferred to the Mandatory Redemption Account of the Redemption Fund (each as established under the Fiscal Agent Agreement), at the redemption prices set forth below, which are expressed as a percentage of the principal amount of the Bonds to be redeemed, together with accrued interest to the date fixed for redemption.

| Redemption Date   | Redemption Price |
|---|------------------|
| any Interest Payment Date through March 1, 20__             | 103%             |
| September 1, 20__, and March 1, 20__                        | 102              |
| September 1, 20__, and March 1, 20__                        | 101              |
| September 1, 20__, and any Interest Payment Date thereafter | 100              |

*Mandatory Sinking Fund Redemption.* The Bonds maturing on September 1, 20\_\_ (the "Term Bonds"), are subject to mandatory redemption in part commencing on September 1, \_\_\_\_\_, and on each September 1 thereafter to maturity, by lot, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption, without premium, from Mandatory Sinking Payments as follows:

| Sinking Fund<br>Redemption Date<br>(September 1) | Mandatory<br>Sinking Payments |
|--|-------------------------------|
|--|-------------------------------|

20\_\_

In the event of a partial redemption of the Term Bonds pursuant to the optional redemption or special mandatory redemption from prepaid special taxes provisions of the Fiscal Agent Agreement described above, the sinking fund payments for the Term Bonds set forth above shall be reduced, as nearly as practicable, on a pro rata basis, in integral multiples of \$5,000, pursuant to calculations made by the Fiscal Agent and approved in writing by the District.

*Selection of Bonds for Redemption.* If less than all of the Outstanding Bonds are to be redeemed, the Bonds to be redeemed shall be from such maturities selected by the District, as provided in writing to the Fiscal Agent. Bonds within a single maturity shall be redeemed by lot in any manner that the Fiscal Agent deems appropriate. The portion of any such Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or a multiple thereof, and, in selecting portions of such Bonds for redemption, the Fiscal Agent shall treat such Bond as representing that number of Bonds of \$5,000 denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by \$5,000. In the event that Bonds are to be redeemed pursuant to Optional Redemption and Mandatory Sinking Fund Redemption on the same date, or Special Mandatory Redemption from Prepaid Special Taxes and Mandatory Sinking Fund Redemption on the same date, the Bonds to be redeemed pursuant to Mandatory Sinking Fund Redemption shall be selected first and Bonds to be redeemed pursuant to either Optional Redemption or Special Mandatory Redemption from Prepaid Special Taxes shall be selected thereafter.

*Purchase in Lieu of Redemption.* In lieu of, or partially in lieu of, any Optional Redemption or Special Mandatory Redemption from Prepaid Special Taxes, monies deposited in an account of the Redemption Fund may be used to purchase the Outstanding Bonds that were to be redeemed with such funds in the manner set forth in the Fiscal Agent Agreement. Purchases of Outstanding Bonds may be made by the District prior to the selection of Bonds for redemption by the District and Fiscal Agent, at public or private sale as and when and at such prices as the District may in its discretion determine but only at prices (including brokerage or other expenses) not more than par plus accrued interest, and, in the case of funds in the Optional Redemption Account or the Mandatory Redemption Account, the applicable premium to be paid in connection with the proposed redemption. Any accrued interest payable upon the purchase of Bonds may be paid from the Interest Account of the Bond Fund for payment of interest on the next following Interest Payment Date.

*Notice of Redemption.* When the Fiscal Agent receives notice from the District of its election to redeem Bonds, or when the Fiscal Agent is required to redeem Bonds under the provisions of the Fiscal Agent Agreement, the Fiscal Agent shall give notice in the name of the District of the redemption of such Bonds to the owners of the Bonds to be redeemed. Such notice of redemption shall: (a) specify the CUSIP numbers and serial numbers of the Bonds selected for redemption, except that where all the Bonds or all Bonds of a single maturity are subject to redemption, the serial numbers thereof need not be specified; (b) state the original issue date, the interest rate and the maturity date of the Bond selected for redemption; (c) state the date fixed for redemption; (d) state the redemption price; (e) state the place or places where the Bonds are to be redeemed; and (f) in the case of Bonds to be redeemed only in part, state the portion of such Bond which is to be redeemed. Such notice shall further state that, on the date fixed for redemption, there shall become due and payable on each Bond or portion thereof called for redemption the principal thereof, together with any premium, and interest accrued to the redemption date, and that, from and after such date, interest thereon shall cease to accrue and be payable.

At least 30 days but no more than 60 days prior to the redemption date, the Fiscal Agent shall mail by first class mail a copy of such notice, postage prepaid, to the respective Owners thereof at their addresses appearing on the Bond Register. The actual receipt by the Owner of any Bond of notice of such redemption shall not be a condition precedent thereto, and neither failure to receive such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such Bond, or the cessation of interest on the redemption date. A certificate by the Fiscal Agent that notice of such redemption has been given as provided in the Fiscal Agent Agreement shall be conclusive as against all parties, and it shall not be open to any Owner to show that he or she failed to receive notice of such redemption.

*Additional Notice.* In addition to the foregoing notice, further notice shall be given by the Fiscal Agent as described below, but neither any defect in such further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as described under "Notice of Redemption" above. Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (i) the date of issue of the Bonds as originally issued; (ii) the rate of interest borne by each Bond being redeemed; and (iii) any other descriptive information needed to identify accurately the Bonds being redeemed. Each further notice of redemption shall be sent at least 30 days before the redemption date to the Depository and, upon written request of the District, to any other registered Depository then in the business of holding substantial amounts of obligations of types comprising the Bonds and to the National Information Service or at the request of the District, any other information services that disseminate notice of redemption of obligations such as the Bonds.

#### **Defeasance**

If the District shall pay or cause to be paid, or there shall otherwise be paid, the interest due thereon, the principal and premium, if any, of a Bond, at the times and in the manner stipulated in the Fiscal Agent Agreement, then the Registered Owner of such Bond shall cease to be entitled to the pledge of Net Taxes (as defined herein) and other amounts pledged under the Fiscal Agent Agreement to the repayment of such Bond, and, other than certain rebate and tax covenants, all covenants, agreements and other obligations of the District to the Registered Owner shall thereupon cease, terminate and become void and be discharged and satisfied.

Any Bond shall be deemed to have been paid within the meaning expressed in the Fiscal Agent Agreement if such Bond is paid in any one or more of the following ways:

(a) by paying or causing to be paid the principal of, premium, if any, and interest due on such Bond, as and when the same become due and payable;

(b) by depositing with the Fiscal Agent, or a designated bank or trust company as escrow holder, in trust, at or before maturity, money which, together with the amounts then on deposit and available for such purpose, is fully sufficient to pay the principal of and interest on such Bond as and when the same shall become due and payable; or

(c) by depositing with the Fiscal Agent, or a designated bank or trust company as escrow holder, in trust, direct, non-callable federal securities, in such amount as certified by a nationally recognized certified public accountant which will, together with the interest to accrue thereon and monies then on deposit and available for such purpose, together with the interest to accrue thereon, be fully sufficient to pay and discharge the principal of and interest and any premium on such Bond as and when the same shall become due and payable.

The Fiscal Agent shall, at the written direction and expense of the District, mail, first class, postage prepaid, a notice to the Registered Owners whose Bonds have been defeased, in the form directed by the District, stating that the defeasance has occurred.

#### **DTC Book-Entry-Only**

*The information below has been provided by DTC for use in securities offering documents, and the District does not take responsibility for the accuracy or completeness thereof. The District can not and does not give any assurances that DTC, DTC Participants or DTC Indirect Participants will distribute to the beneficial owners of the Bonds (the "Beneficial Owners") either (a) payments of interest, principal or premium, if any, with respect to the Bonds, or (b) certificates representing ownership interest in or other confirmation of ownership interest in the Bonds, or that they will so do in a timely basis or that DTC, DTC Direct Participants or DTC Indirect Participants will act in the manner described in this Official Statement.*

*The following description of DTC, its procedures and record-keeping with respect to beneficial ownership interests in the Bonds, payment of principal and interest, other payments with respect to the Bonds registered in the name of DTC to Direct Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interests in such Bonds, notices to Beneficial Owners and other related transactions by and between DTC, the participants, and the Beneficial Owners. However, DTC, the participants, and the Beneficial Owners should not rely on the following information with respect to such matters, but should instead confirm the same with DTC or the Direct Participants, as the case may be.*

*Neither the District nor the Fiscal Agent takes any responsibility for the information contained in this Section.*

DTC, New York, NY, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Refunding Bond certificate will be issued for the Bonds, in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and



Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com). The information contained on this Internet site is not incorporated herein by reference.

Purchases of the Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Refunding Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all the Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Refunding Bond documents. For example, Beneficial Owners of the Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the District as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the District or Fiscal Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments

by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Fiscal Agent, or the District, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the District or Fiscal Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the District or Fiscal Agent. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The District may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the District believes to be reliable, but the District takes no responsibility for the accuracy thereof.

## **PLAN OF FINANCING**

In 2005, in connection with the prospective development of the land in the District, Whispering Hills, LLC, the Developer's predecessor in interest as owner of the land in the District, and the School District entered into an Impact Mitigation Agreement Related to Proposed Community Facilities District No. 2005-1, as well as a Reimbursement Agreement and a Purchase and Sale Agreement and Escrow Agreement Instruction (the "School Site Purchase Agreement"), each dated as of July 1, 2013 (the "Initial Agreements"). The District was formed by the Legislative Body pursuant to the Law and the Initial Agreements in order to finance the purchase of land by the School District (on which the San Juan Hills High School was subsequently constructed) from Whispering Hills, LLC, to finance facilities for the School District and to finance certain public improvements for the City. In 2007, the Legislative Body conducted proceedings to add certain territory to the District.

Certain disputes arose between Whispering Hills, LLC and the School District regarding the interpretation of provisions of the Initial Agreements, and in order to settle certain litigation filed by Whispering Hills, LLC in connection with such disputes, the School District, the Developer and Whispering Hills, LLC entered into a Settlement Agreement and General Releases, dated as of June 13, 2011 (the "Settlement Agreement"). In furtherance of the provisions of the Settlement Agreement, (i) the School District, the District, Whispering Hills, LLC and the Developer entered into a First Amended Impact Mitigation Agreement Related to the Whispering Hills Project and Community Facilities District No. 2005-1, dated June 13, 2011 (as amended by an Amendment No. 1 thereto, dated September 25, 2013, the "Mitigation Agreement"), (ii) the City, the School District, the District, the Developer and Whispering Hills, LLC entered into a First Amended and Restated Joint Community Facilities Agreement, dated as of June 13, 2011 (the "Joint Community Facilities Agreement"), and (iii) the Legislative Body conducted proceedings to approve the Amended Rate and Method. The Mitigation Agreement and the Joint Community Facilities Agreement supersede in their entirety the Initial Agreements, other than the School Site Purchase Agreement.

The Mitigation Agreement and the Joint Community Facilities Agreement specify various matters related to the issuance of bonds by the District and the disposition of the proceeds of such bonds. Under the Mitigation Agreement, the District is obligated to sell a first series of the bonds authorized to be issued by the District following the date on which the 70<sup>th</sup> dwelling unit has been constructed in the District. The District is obligated to issue a second series of bonds following the date on which the 140<sup>th</sup> dwelling unit has been constructed in the District. Certain proceeds of the second series of bonds may be deposited to an escrow account based on the effect that the then development status of the 15 custom lots in the District has on the interest rate for those bonds. The Bonds represent the first series of the bonds required to be issued under the Mitigation Agreement.

The Mitigation Agreement and the Joint Community Facilities Agreement specify the disposition of the proceeds of bonds issued by the District. Those agreements require that District bond proceeds be used: first, to fund costs of issuance of the bonds, a reserve fund for the bonds and any necessary capitalized interest for the bonds; second (with respect to the first series of bonds only), to reimburse the Developer for amounts it provided in connection with the negotiation of the Initial Agreements and the formation of the District, and the District proceedings conducted in 2011 in connection with the Mitigation Agreement and the Joint Community Facilities Agreement; third (with respect to the second series of bonds only), to reimburse the Developer for certain amounts it may advance in connection with the issuance of the second series of bonds; fourth, (a) with respect to the first series of the bonds, 60% of the remaining proceeds plus certain proceeds of Special Tax levies collected prior to the issuance of any bonds, are to be deposited to a School Facilities Account, with any remaining proceeds deposited to a City Facilities Account, and (b) with respect to the second series of the bonds, 60% of the remaining proceeds plus certain proceeds of Special Tax levies collected following the issuance of the first series of the bonds (and not needed to pay debt service on the Bonds and Administrative Expenses of the District), to the School Facilities Account and the remaining proceeds to the City Facilities Account.

Proceeds of bonds deposited to the School Facilities Account will be placed into an Incremental Payment Subaccount to be used to make incremental payments to the Developer in respect of the purchase price of the school site authorized to be funded by the District in an amount of \$6,000,000 and possible interest thereon under certain circumstances, and once that obligation has been satisfied, bond proceeds will be deposited to a Project Subaccount to be used to pay costs of facilities of the School District authorized to be funded by the District. Proceeds of bonds deposited to the City Facilities Account will be used by the City to pay costs of certain public improvements authorized to be funded by the District and in accordance with the provisions of the Joint Community Facilities Agreement. See "PLAN OF FINANCING—Sources and Uses of Funds" for the expected uses of the proceeds of the Bonds. The District is unable to predict when the second series of the bonds will be issued and the principal amount of the second series that will be issued, but in any event it is expected that such second series of bonds will be Parity Bonds issued in accordance with the parity bond provisions of the Fiscal Agent Agreement. See "SECURITY AND SOURCE OF PAYMENT—Parity Bonds."

## Sources and Uses of Funds

The sources and uses of funds in connection with the sale and delivery of the Bonds are set forth below.

Community Facilities District No. 2005-1 of the  
Capistrano Unified School District  
(Whispering Hills)  
Series 2013 Special Tax Bonds  
Sources and Uses of Funds

|   |          |
|---|----------|
| SOURCES OF FUNDS  |          |
| Par Amount of Bonds   | \$       |
| Original Issue Premium (Discount)                             |          |
| TOTAL SOURCES OF FUNDS  | <hr/> \$ |
| USES OF FUNDS   |          |
| Reserve Fund <sup>1</sup>                                     | \$       |
| Costs of Issuance Fund <sup>2</sup>                           |          |
| Underwriter's Discount  |          |
| Capitalized Interest Subaccount of the Interest               |          |
| Account of the Bond Fund <sup>3</sup>                         |          |
| Incremental Payment Subaccount of School                      |          |
| Facilities Account of Construction Fund <sup>4</sup>          |          |
| City Facilities Account of the Construction Fund <sup>5</sup> |          |
| TOTAL USES OF FUNDS   | <hr/> \$ |

<sup>1</sup> Equal to the initial Reserve Requirement. See "SECURITY AND SOURCE OF PAYMENT—Reserve Fund."

<sup>2</sup> Costs of issuance includes the fees and expenses of Bond Counsel, Disclosure Counsel, Financial Advisor, special tax consultant and other expenses related to the issuance of the Bonds.

<sup>3</sup> To be used to pay interest on the Bonds to March 1, 2014.

<sup>4</sup> To be applied to the Incremental Payment Obligation under and as defined in the Mitigation Agreement, related to the acquisition of a school site by the School District.

<sup>5</sup> To be used to pay costs of the City related to public improvements authorized to be funded by the District, pursuant to the Joint Community Facilities Agreement.

**Debt Service Schedule**

Scheduled debt service on the Bonds is shown in the table below, assuming no redemption of Bonds prior to maturity by reason of the optional redemption or special mandatory redemption from prepaid special taxes provisions of the Fiscal Agent Agreement.

Community Facilities District No. 2005-1 of the  
Capistrano Unified School District  
(Whispering Hills)  
Series 2013 Special Tax Bonds  
Scheduled Debt Service

| <u>Date</u> | <u>Principal<br/>Amount</u> | <u>Interest</u> | <u>Semi-Annual<br/>Debt Service</u> | <u>Annual<br/>Debt Service</u> |
|-------------|-----------------------------|-----------------|-------------------------------------|--------------------------------|
|-------------|-----------------------------|-----------------|-------------------------------------|--------------------------------|

## SECURITY AND SOURCE OF PAYMENT

### General

The Legislative Body annually levies the Special Taxes on certain real property in the District in accordance with the Rate and Method. The payments of the principal of and interest and any premium on the Bonds are secured by a first pledge of the Net Taxes, and available amounts held by the Fiscal Agent in the Bond Fund, Reserve Fund, Redemption Fund, and after disbursement of amounts to the Administrative Expense Fund (up to the amount of the Administrative Expense Requirement), the Special Tax Fund (including any accounts of the foregoing funds).

All of the Net Taxes are pledged for the payment of the Bonds, and such Net Taxes and any interest earned on the Net Taxes will constitute a trust fund for the payment of the interest on and principal of the Bonds, and so long as any of the Bonds or interest thereon are unpaid, the Net Taxes and interest thereon will not be used for any other purpose, except as permitted by the Fiscal Agent Agreement, and will be held in trust for the benefit of the Bondowners and will be applied pursuant to the Fiscal Agent Agreement.

Net Taxes deposited in the Administrative Expense Fund, the Surplus School Facilities Fund and the Rebate Fund will no longer be considered to be pledged to the Bonds, and amounts in the Administrative Expense Fund, the Surplus School Facilities Fund, and the Rebate Fund are not pledged as security for the Bonds.

"Net Taxes" are defined in the Fiscal Agent Agreement as the amount of all "Gross Taxes" (defined as the amount of all Special Taxes collected within the District and net proceeds from the sale of property collected pursuant to the foreclosure provisions of the Fiscal Agent Agreement for the delinquency of the Special Taxes) minus the "Administrative Expense Requirement" (which is \$50,000.00 for Fiscal Year 2013-14, and increases at 2% per Fiscal Year thereafter).

### Limited Obligation

The Bonds and interest thereon are not payable from the general funds of the District or the School District. Except with respect to the Net Taxes, neither the credit nor the taxing power of the District or the School District is pledged for the payment of the Bonds or interest thereon, and no Bondowner may compel the exercise of the taxing power by the District (except with respect to the Net Taxes) or the School District or the forfeiture of any of their property for the payment thereof.

The principal of and interest on the Bonds and premiums upon the redemption of any thereof are not a debt of the District (except to the limited extent described in this Official Statement) or the School District, the State or any of its political subdivisions within the meaning of any constitutional or statutory limitation or restriction. The Bonds are not a legal or equitable pledge, charge, lien or encumbrance, upon any property or income, receipts or revenues of the District or the School District, except the Net Taxes which are, under the terms of the Fiscal Agent Agreement, pledged for the payment of the Bonds and interest thereon, and the amounts in certain funds and accounts held under the Fiscal Agent Agreement. Neither the members of the Legislative Body or the Board nor any persons executing the Bonds are liable personally on the Bonds by reason of their issuance.

## The Special Tax

*Covenant to Levy Special Taxes to Meet Special Tax Requirement.* Subject to the Maximum Special Tax, the District has agreed in the Fiscal Agent Agreement that it will comply with all requirements of the Law so as to assure the timely collection of the Special Taxes, including without limitation, the enforcement of delinquent Special Taxes.

The District has agreed in the Fiscal Agent Agreement that it will fix and levy the amount of Special Taxes within the District required for the payment of principal of and interest on Outstanding Bonds becoming due and payable during the ensuing year, including any necessary replenishment or expenditure of the Reserve Fund for the Bonds, an amount equal to the Administrative Expense Requirement and any additional amounts necessary for expenses incurred in connection with administration or enforcement of delinquent Special Taxes.

The Fiscal Agent Agreement provides that, on or before each June 1, commencing June 1, 2014, the Fiscal Agent will provide a written notice to the District stating the amounts then on deposit in the various funds and accounts established by the Fiscal Agent Agreement. The receipt of such notice by the District will in no way affect the obligations of the District under the Fiscal Agent Agreement. Upon receipt of a copy of such notice, the District will communicate with the County Assessor or other appropriate official of the County to ascertain the relevant parcels on which the Special Taxes are to be levied, taking into account any parcel splits during the preceding and then current year.

The District has agreed in the Fiscal Agent Agreement that it will retain an Independent Financial Consultant to assist in the levy of the Special Taxes each Fiscal Year, commencing with Fiscal Year 2013-14, in accordance with the Ordinance, such that the computation of the levy is complete before the final date on which the County Auditor-Controller will accept the transmission of the Special Tax amounts for the parcels within the District for inclusion on the next secured tax roll. Upon the completion of the computation of the amounts of the levy, and approval by the Legislative Body, the District will prepare or cause to be prepared, and shall transmit to the County Auditor-Controller, such data as the County Auditor-Controller requires to include the levy of the Special Taxes on the next secured tax roll.

*Manner of Collection.* The Fiscal Agent Agreement provides that the Special Taxes will be payable and collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same priority, become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property; provided, the Legislative Body may provide for direct collection of the Special Taxes in certain circumstances.

**Because the Special Tax levy is limited to the Maximum Special Tax rates set forth in the Amended Rate and Method, no assurance can be given that, in the event of Special Tax delinquencies, the receipts of Special Taxes will, in fact, be collected in sufficient amounts in any given year to pay debt service on the Bonds. See "SPECIAL RISK FACTORS—Maximum Special Tax" herein.**

As long as the Teeter Plan (defined herein) remains in effect in the County, the District will be credited with the full amount of the Special Tax levy no matter the delinquency rate within the District (see "SECURITY AND SOURCE OF PAYMENT—Alternative Method of Tax Apportionment" herein).

See "THE DISTRICT" herein for additional information regarding the Special Tax.

### **Alternative Method of Tax Apportionment**

As an alternative method of property tax allocation for the County, the County Board of Supervisors approved on September 28, 1993, implementation of the Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (the "Teeter Plan") pursuant to sections 4701 through 4717 of the State's Revenue & Taxation Code. The Teeter Plan guarantees distribution of 100% of the *ad valorem* taxes and assessments levied to the taxing entities within the County, with the County retaining all penalties and interest affixed upon delinquent properties and redemptions of subsequent collections.

The County Treasurer's cash position is protected by a special fund, known as the "Tax Loss Reserve Fund," which accumulates moneys from tax and penalty collections. Amounts exceeding the amount required to be maintained in the tax loss reserve fund may be credited to the County's general fund. Amounts required to be maintained in the tax loss reserve fund may be drawn on to the extent of the amount of uncollected taxes credited to each agency in advance of receipt.

The Teeter Plan is to remain in effect unless the County Board of Supervisors orders its discontinuance or unless, prior to the commencement of any fiscal year of the County (which commences on July 1), the Board of Supervisors receives a petition for its discontinuance from two-thirds of the participating revenue districts in the County. The Board of Supervisors may also, after holding a public hearing on the matter, discontinue the procedures with respect to any tax levying agency or assessment levying agency in the County if the rate of secured tax delinquency in that agency in any year exceeds 3% of the total of all taxes and assessments levied on the secured rolls in that agency.

As long as the Teeter Plan remains in effect in the County, the District will be credited with the full amount of the Special Tax levy no matter the delinquency rate within the District. No assurance can be given that the Teeter Plan will remain in place for the District until the final maturity of the Bonds.

### **Covenant to Foreclose**

*Sale of Property for Nonpayment of Taxes.* The Fiscal Agent Agreement provides that the Special Taxes are to be collected in the same manner as ordinary *ad valorem* property taxes are collected and, except as provided in the special covenant for foreclosure (described below) and in the Law, is to be subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for *ad valorem* property taxes. Under these procedures, if taxes are unpaid for a period of five years or more, the property is subject to sale by the County. The District can, however, levy Special Taxes by direct billing of property owners under certain circumstances.

*Foreclosure Under the Law.* Under Section 53356.1 of the Law, if any delinquency occurs in the payment of the Special Tax, the District may order the institution of a Superior Court action to foreclose the lien therefor within specified time limits. In such an action, the real property subject to the unpaid amount may be sold at judicial foreclosure sale.

Such judicial foreclosure action is not mandatory. However, the District has covenanted in the Fiscal Agent Agreement that it (i) will commence judicial foreclosure proceedings against parcels with delinquent Special Taxes in excess of \$25,000.00 by the October 1 following the close of each Fiscal Year in which such Special Taxes were due, (ii) will



commence judicial foreclosure proceedings against all parcels with delinquent Special Taxes by the October 1 following the close of each Fiscal Year in which it receives Special Taxes in an amount which is less than 95% of the total Special Tax levied or the amount on deposit in the Reserve Fund is at less than its required balance, and (iii) will diligently pursue such foreclosure proceedings until the delinquent Special Taxes are paid.

Notwithstanding the foregoing, however, if the County is then including the District in the Teeter Plan, the District may elect to defer foreclosure proceedings on any parcel which is owned by a delinquent property owner whose property is not, in the aggregate, delinquent in the payment of Special Taxes in excess of \$25,000.00 so long as (i) the amount in the Reserve Fund is at least equal to the Reserve Requirement, and (ii) with respect to the Bonds, or any Parity Bonds, the District is not in default in the payment of the principal of or interest on the Bonds or any such Parity Bonds. While it does not intend to, the District may, but shall not be obligated to, advance funds from any source of legally available funds in order to maintain the Reserve Fund at the Reserve Requirement or to avoid a default in payment on the Bonds.

The District has agreed in the Fiscal Agent Agreement that it will deposit the net proceeds of any foreclosure in the Special Tax Fund and will apply such proceeds remaining after the payment of Administrative Expenses, up to the Administrative Expense Requirement, to make current payments of principal and interest on the Bonds and any Parity Bonds, to bring the amount on deposit in the Reserve Fund up to the Reserve Requirement, and to pay any delinquent installments of principal or interest due on the Bonds and any Parity Bonds.

*Sufficiency of Foreclosure Sale Proceeds; Foreclosure Limitations and Delays.* No assurances can be given that the real property subject to a judicial foreclosure sale will be sold or, if sold, that the proceeds of sale will be sufficient to pay any delinquent Special Tax installment (see "SPECIAL RISK FACTORS—Collection of Special Taxes"). The Law does not require the District to purchase or otherwise acquire any lot or parcel of property foreclosed upon if there is no other purchaser at such sale.

Section 53356.6 of the Law requires that property sold pursuant to foreclosure under the Law be sold for not less than the amount of judgment in the foreclosure action, plus post-judgment interest and authorized costs, unless the consent of the owners of 75% of the outstanding Bonds is obtained. However, under Section 53356.5 of the Law, the District, as judgment creditor, is entitled to purchase any property sold at foreclosure using a "credit bid," where the District could submit a bid crediting all or part of the amount required to satisfy the judgment for the delinquent amount of the Special Taxes. If the District becomes the purchaser under a credit bid, the District must pay the amount of its credit bid into the redemption fund established for the Bonds, but this payment may be made up to 24 months after the date of the foreclosure sale. The District is not required, and has no intention, to be a bidder at any foreclosure sale.

Foreclosure by court action is subject to normal litigation delays, the nature and extent of which are largely dependent on the nature of the defense, if any, put forth by the debtor and the Superior Court calendar. In addition, the ability of the District to foreclose the lien of delinquent unpaid Special Taxes may be limited in certain instances and may require prior consent of the property owner if the property is owned by or in receivership of the Federal Deposit Insurance Corporation (the "FDIC"). See "SPECIAL RISK FACTORS—Bankruptcy."

## Special Tax Fund

Under the Fiscal Agent Agreement, the Special Taxes and other amounts constituting Gross Taxes collected by the District will be transferred, no later than 10 days after receipt thereof, to the Fiscal Agent and will be held in trust in the Special Tax Fund for the benefit of the Bondowners (exclusive of the Administrative Expense Requirement) and will, exclusive of the Prepaid Special Taxes (which shall be deposited into the Prepayment Account of the Special Tax Fund), be transferred from the Special Tax Fund in the following order of priority:

(a) To the Administrative Expense Fund, an amount specified in writing by the District, up to the Administrative Expense Requirement.

(b) To the Interest Account of the Bond Fund an amount such that the balance in the Interest Account one Business Day prior to each Interest Payment Date equals the installment of interest due on the Bonds on that Interest Payment Date. Moneys in the Interest Account will be used for the payment of interest on the Bonds as it becomes due.

(c) To the Principal Account of the Bond Fund, an amount up to the amount needed to make the principal payment due on the Bonds during the current Bond Year.

(d) To the Sinking Fund Redemption Account of the Redemption Fund an amount up to the amount needed to make the Mandatory Sinking Payments due on the Bonds during the current Bond Year.

(e) To the Reserve Fund, the amount, if any, necessary to replenish the Reserve Fund to the Reserve Requirement.

(f) Provided all the amounts due in the current Bond Year are funded under (b), (c), (d) and (e) above, to the extent there are additional Administrative Expenses, to the Administrative Expense Fund in the amount specified in writing by the District required to bring the balance therein to the amount needed pay such Administrative Expenses.

(g) Any remaining Special Taxes and other amounts constituting Gross Taxes will remain in the Special Tax Fund, subject to the provisions of (h), below.

(h) Any remaining Special Taxes and other amounts constituting Gross Taxes, if any, will remain in the Special Tax Fund until the end of the Bond Year. Provided there are no Special Taxes levied or projected to be levied on Undeveloped Property (as defined in the Amended Rate and Method) at the end of the Bond Year, any remaining funds in the Special Tax Fund which are not required to cure a delinquency in the payment of principal and interest on the Bonds (including payment of Mandatory Sinking Payments due during the current Bond Year), to restore the Reserve Fund as provided for in (e) above, or to pay current or pending Administrative Expenses as provided for in (a) and (f) above, will be deposited in the accounts of the Surplus Facilities Fund and used in accordance with the Fiscal Agent Agreement and will be free and clear of any lien thereon or pledge under the Fiscal Agent Agreement; provided, (i) any funds required to cure any delinquency described above will be retained in the Special Tax Fund and expended or transferred, at the earliest possible date, for such purpose, and (ii) prior to any transfers to the Surplus Facilities Fund the Fiscal Agent shall check that the Reserve Requirement level will be met as of the first day of the next Bond Year (September 2).

At the date of the redemption, defeasance or maturity of the last Bonds and any Parity Bonds and after all principal and interest then due on any Bonds and any Parity Bonds has been paid or provided for, all other covenants are complied with and all fees and expenses of the Fiscal Agent have been paid, moneys in the Special Tax Fund will be transferred to the District by the Fiscal Agent and may be used by the District for any lawful purpose under the District proceedings.

#### **Bond Fund**

One Business Day prior to each Interest Payment Date, the Fiscal Agent will withdraw from the Special Tax Fund, or the Reserve Fund if moneys are unavailable in the Special Tax Fund, and deposit in the Principal Account and the Interest Account of the Bond Fund an amount equal to all of the principal and all of the interest due and payable on the Bonds on the ensuing Interest Payment Date, less amounts on hand in the Bond Fund (including funds available in the Capitalized Interest Subaccount) available to pay principal of or interest on such Bonds. The Fiscal Agent will apply moneys in the Interest Account and Principal Account to the payment of interest and principal, respectively, on the Bonds on each Interest Payment Date.

The Fiscal Agent shall, on the date of issuance of the Bonds, deposit funds, as specified in the Fiscal Agent Agreement, into the Capitalized Interest Subaccount. One Business Day prior to March 1, 2014, the Fiscal Agent shall withdraw \$\_\_\_\_\_ from the Capitalized Interest Subaccount and shall cause such amount to be deposited in the Interest Account of the Bond Fund for application on such Interest Payment Date. One Business Day prior to September 1, 2014, the Fiscal Agent shall withdraw the remainder of all monies from the Capitalized Interest Subaccount, if any, shall cause such amount to be deposited in the Interest Account of the Bond Fund for application on September 1, 2014, and shall thereupon close the Capitalized Interest Subaccount. Upon transfer of said amounts to the Interest Account, said amounts shall be applied to payment of interest due on the Bonds on the March 1, 2014, and September 1, 2014, (if any) Interest Payment Dates as provided in the Fiscal Agent Agreement.

#### **Reserve Fund**

On the Closing Date, proceeds of the Bonds in an amount equal to the initial Reserve Requirement will be deposited in the Reserve Fund, which will be held in trust by the Fiscal Agent for the benefit of the Bondowners as a reserve for the payment of principal of, and interest and any premium on, the Bonds and will be subject to a lien in favor of the Bondowners. If Special Taxes are prepaid and Bonds are to be redeemed with the proceeds of such prepayment, a proportionate amount in the Reserve Fund (determined on the basis of the principal of Bonds to be redeemed and the original principal of the Bonds, but not in excess of the amount of funds available as a result of the re-determination of the Reserve Requirement) will be applied to the redemption of the Bonds as provided in the Fiscal Agent Agreement.

Except as otherwise provided in the Fiscal Agent Agreement, moneys in the Reserve Fund shall be used solely for the purpose of:

(a) making transfers to the Bond Fund or Redemption Fund to pay the principal of, including Mandatory Sinking Payments, and interest on Bonds when due to the extent that moneys in the Interest Account (including the Capitalized Interest Subaccount therein) and the Principal Account of the Bond Fund or moneys in the Sinking Fund Redemption Account are insufficient therefor,

(b) making any required transfer to the Rebate Fund pursuant to the Fiscal Agent Agreement upon written direction from the District,

(c) making any transfers to the Bond Fund or the Redemption Fund in connection with prepayments of Special Taxes,

(d) paying the principal and interest due on the Bonds in the final Bond Year, and

(e) application to the defeasance of such Bonds in accordance with the Fiscal Agent Agreement.

The "Reserve Requirement" is defined in the Fiscal Agent Agreement to mean, as of any date of calculation, an amount equal to the least of (i) 10% of the original principal amount of the Bonds and any Parity Bonds, (ii) Maximum Annual Debt Service, or (iii) 125% of average Annual Debt Service on the Bonds and any Parity Bonds. As of the Closing Date, the Reserve Requirement is \$\_\_\_\_\_. See "APPENDIX C—SUMMARY OF CERTAIN PROVISIONS OF THE FISCAL AGENT AGREEMENT" for a complete description of the timing, purpose and manner of disbursements from the Reserve Fund.

### **Investment of Moneys in Funds**

Moneys in any fund or account created or established by the Fiscal Agent Agreement and held by the Fiscal Agent will be invested by the Fiscal Agent in Authorized Investments, as directed in writing by the District. See "APPENDIX C—SUMMARY OF CERTAIN PROVISIONS OF THE FISCAL AGENT AGREEMENT" for a definition of "Authorized Investments" and other restrictions on the investment of moneys in the funds and accounts held under the Fiscal Agent Agreement.

### **Parity Bonds**

Pursuant to the Law and under the authority of the Fiscal Agent Agreement, additional series of bonds on parity with the Bonds ("Parity Bonds") may be issued in the future by the District which Parity Bonds will be payable from the Net Taxes and amounts deposited in the Reserve Fund, or accounts thereof, and secured by a lien and charge upon such amounts equal to the lien and charge securing the Outstanding Bonds. See "PLAN OF FINANCING" for a description of the District's obligation under the Mitigation Agreement to issue a second series of bonds that are expected to be Parity Bonds.

Parity Bonds may be issued subject to the following specific conditions set forth in the Fiscal Agent Agreement and described below; provided, Parity Bonds may be issued at any time to refund the Outstanding Bonds, in whole or in part, without limitation on the \$30,000,000 principal amount limitation set forth in clause (a) below, and without satisfying the requirements described in clauses (d) and (e) below.

The requirements of the Fiscal Agent Agreement for the issuance of Parity Bonds include:

(a) *Maximum Total Parity Bond Issuance.* The aggregate original principal amount of the Bonds and all Parity Bonds issued may not exceed \$30,000,000; provided, however, that, notwithstanding the foregoing, Parity Bonds may be issued at any time to refund the Outstanding Bonds without limitation on the foregoing \$30,000,000 principal amount limitation.

(b) *Compliance with Covenants.* The District shall be in compliance with all covenants set forth in the Fiscal Agent Agreement and any Supplement then in effect and a certificate of the District to that effect shall have been filed with the Fiscal Agent; provided, however, that Parity Bonds may be issued notwithstanding that the District is not in compliance with all such covenants so long as immediately following the issuance of such Parity Bonds, the District will be in compliance with all such covenants.

(c) *Supplemental Fiscal Agent Agreement.* The issuance of Parity Bonds shall have been duly authorized pursuant to the Law and all applicable laws, and the issuance of Parity Bonds shall have been provided for by a Supplement duly adopted by the District which shall contain the matters required by the Fiscal Agent Agreement.

(d) *Minimum Debt Service Coverage.* The District must receive one or more certificates from one or more Independent Financial Consultants which, when taken together, certify that the amount of the maximum Special Taxes that may be levied in each remaining Bond Year on all parcels of Developed Property that are not known by the District to be delinquent in the payment of any Special Taxes, assessments or ad valorem property taxes then due and owing is at least the sum of (i) the Administrative Expense Requirement, plus (ii) 1.10 times the Annual Debt Service for each corresponding Bond Year on all Outstanding Bonds and the Parity Bonds proposed to be issued (less any amounts in the Capitalized Interest Subaccount that may be available in a Bond Year). For purposes of making this certification, the Independent Financial Consultants may rely on any reports or certificates as may be acceptable to the District and the underwriter of the proposed Parity Bonds.

(e) *Minimum Value-to-Lien Ratio.* The "Developed Property Value" (as defined below) shall be at least 6 times the sum of: (i) the principal amount of all Outstanding Bonds allocable to Developed Property, plus (ii) the principal amount of the Parity Bonds allocable to Developed Property proposed to be issued, plus (iii) the principal amount of any fixed assessment liens on Developed Property in the District; plus (iv) a Proportionate Share of the outstanding principal amount of all other special tax bonds payable at least partially from Special Taxes to be levied on the Developed Property in the District ("Overlapping Bonds"), determined by multiplying the outstanding principal amount of the Overlapping Bonds by the following fraction: the amount of special taxes securing the Overlapping Bonds levied on the Developed Property in the District, divided by the total amount of special taxes securing the Overlapping Bonds (in each case to be determined based upon the maximum special taxes that could be levied in the year in which estimated annual debt service on the Overlapping Bonds occurs). For purposes of the foregoing clause (i) there will be allocated to the Developed Property the largest principal amount of Bonds and Parity Bonds that results in the maximum Special Taxes that may be levied on Developed Property (not including any parcels of Developed Property with delinquent Special Taxes and assuming taxation as "Developed Property" as defined in the Amended Rate and Method) in each Fiscal Year being at least equal to the sum of 110% of Annual Debt Service on such Bonds and Parity Bonds in the Bond Year ending on the September 1 following the end of such Fiscal Year of taxation plus the share of Administrative Expenses allocable to the Developed Property for such Fiscal Year of taxation. Administrative Expenses in each Fiscal Year shall be deemed to be equal to the Administrative Expense Requirement and the portion of the total Administrative Expenses allocable to Developed Property shall be the same portion that Special Taxes

on Developed Property represent of the total Special Taxes levied in the District in the then current Fiscal Year.

The term "Developed Property Value" for purposes of the foregoing paragraph means the value (including both land and improvements) of all parcels of Developed Property that are not known by the District to be delinquent in the payment of any Special Taxes, assessments or ad valorem property taxes then due and owing. Developed Property Value will be determined by reference to either or some combination of (i) an appraisal prepared by an MAI appraiser selected by the District, with a date of value no earlier than 90 days before the date the proposed Parity Bonds would be issued, or (ii) the assessed values shown on the last equalized County assessor's property tax rolls. The Fiscal Agent Agreement provides that neither the School District nor the District shall be liable to the Owners or any other person or entity with respect to any appraisal provided for purposes of meeting the foregoing requirement or by reason of any exercise of discretion made by any appraiser in connection with the foregoing requirement.

(f) *Deposit to Reserve Fund.* The Supplement may provide for the establishment of separate funds and accounts, and shall provide for a deposit in the Reserve Fund so that the balance in the Reserve Fund, including the account established for the Parity Bonds, shall be equal to the Reserve Requirement on the Delivery Date for the Outstanding Bonds and the Parity Bonds.

(g) *District Certification.* The District shall file with the Fiscal Agent a certificate of a District Representative certifying that the conditions precedent to the issuance of the Parity Bonds described above have been satisfied. The District Representative executing this certificate may conclusively rely upon such certificates of the Fiscal Agent, the Independent Financial Consultant, appraisers, owners of property within the District and others selected with due care, without the need for independent inquiry or certification.

## THE DISTRICT

### General

The District is located at the east end of the City, approximately 1-1/2 miles south of Ortega Highway, and west of La Pata Avenue. To the northeast of the District is the La Pata Green Waste Facility. San Juan Hills High School is located north of the District on Vista Montana. In general, undeveloped land surrounds the District.

The District was first established in 2005, and territory was added to the District in 2007. The District includes approximately 272 gross acres, of which approximately 60 acres are being developed with single family detached homes that were subject to the levy of Special Taxes by the District. Those 60 acres include 140 parcels for development with two product types of homes, the Valinda plan and the Mirador plan, and an additional area with 15 lots expected to be developed with custom homes. See "INTRODUCTION—District Proceedings; Authority for Issuance" for additional information regarding the proceedings of the Legislative Body with respect to the District.

According to the Developer, construction of in-tract infrastructure in the District began in December 2008. At that time, the property was already massgraded. In September 2011, the in-tract infrastructure was completed and construction of the model homes began on

November 1, 2011. The model homes were complete and the first phase of development was opened for sales on May 15, 2012. Construction of the additional model homes of a second home product began in January 2013, and they are expected to be complete in September 2013. As of August 15, 2013, 56 Valinda production homes have closed escrow to individual homeowners and 10 production homes are in escrow. Four of the escrows are scheduled to close by the end of August 2013. There is one production home and the 3 model homes that remain available for sale within the first phase of the development.

### **Amended Rate and Method**

The Special Taxes will be levied and collected according to the Amended Rate and Method, which provides the means by which the Board may annually levy the Special Taxes within the District, up to the maximum Special Tax rates, and to determine the amount of the Special Taxes that will need to be collected each Fiscal Year from the "Taxable Property" within the District.

The following is a synopsis of the provisions of the Amended Rate and Method, which should be read in conjunction with the complete text of the Amended Rate and Method which is included in "APPENDIX B." Capitalized terms used but not defined in this section have the meanings given them in the Amended Rate and Method. This section provides only a summary of the Amended Rate and Method, and is qualified by more complete and detailed information contained in the entire Amended Rate and Method included in APPENDIX B.

The Amended Rate and Method defines two categories of taxable property: "Developed Property," and "Undeveloped Property." The category of Developed Property is in turn divided into two separate special tax classifications consisting of Custom Lot Property and Taxable Property (exclusive of Religious Property, Taxable Property Owner Association Property and Taxable Public Property).

Developed Property is distinguished from Undeveloped Property by the issuance of a building permit. Specifically, property for which a building permit was issued as of January 1 will be classified as Developed Property in the following fiscal year.

The Special Tax is levied each year as follows:

*First:* The Special Tax shall be levied proportionately on each parcel of Developed Property in the District up to 100% of the applicable Assigned Special Tax;

*Second:* If additional funds are needed, the Special Tax will be levied Proportionally on each parcel of Undeveloped Property in the District up to 100% of the Maximum Special Tax for such property;

*Third:* If additional monies are needed, the levy of the Special Tax on each parcel of Developed Property in the District whose Maximum Special Tax is determined through the application of the Backup Special Tax will be increased Proportionately from the Assigned Special Tax up to the Maximum Special Tax for each such parcel;

*Fourth:* If additional monies are needed, the Special Tax will be levied Proportionately on all Taxable Public Property, Taxable Property Owner Association Property and Taxable Religious Property at up to 100% of the Maximum Special Tax for each such category of property.

The Special Tax may be levied on parcels of Taxable Property in the District in each fiscal year in an amount sufficient to pay (i) debt service on the Bonds (as such term is defined in the Amended Rate and Method), (ii) Bond related expenses, (iii) the administrative expenses of the District, (iv) any amount required to replenish the Reserve Fund, (v) directly for construction of facilities authorized to be funded by the District, and (vi) an amount equal to the estimated delinquencies expected in payment of Special Taxes. It is expected that the Special Tax will be levied at the maximum permissible amounts on Developed Property with any Special Taxes collected and not needed for purposes described in the preceding clauses (i), (ii), (iii) and (iv) to be used for purposes described in the preceding clause (v). The Special Tax levy for fiscal year 2013-14 is the first Special Tax levy in the District.

Under no circumstance will the Special Tax levied on any assessor's parcel of residential property for which an occupancy permit for private residential use has been issued be increased by more than ten percent as a consequence of delinquency or default by the owner of any other assessor's parcel within the District.

### Special Tax Rates

The following table identifies the Assigned/Maximum Special Tax rates for fiscal year 2013-14, along with actual tax rates. The Assigned/Maximum Special Tax rates increase by 2% annually.

#### Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Fiscal Year 2013-14 Assigned/Maximum and Actual Tax Rates

| Land Use Class | Residential Floor Area | Description              | FY 2013-14 Assigned/Maximum Special Tax <sup>1</sup> |          | FY 2013-14 Actual Special Tax Levy |                       |
|----------------|------------------------|--------------------------|--|----------|------------------------------------|-----------------------|
| 1              | NA                     | Custom Lot Property      | \$14,463.64  | per Unit | \$0.00                             | per Unit <sup>2</sup> |
| 2              | SFD > 4,600 SF         | Residential Property     | \$8,952.64   | per Unit | \$0.00                             | per Unit <sup>2</sup> |
| 3              | SFD 4,301 - 4,600 SF   | Residential Property     | \$8,172.34   | per Unit | \$0.00                             | per Unit <sup>2</sup> |
| 4              | SFD 3,901 - 4,300 SF   | Residential Property     | \$7,946.58   | per Unit | \$0.00                             | per Unit <sup>2</sup> |
| 5              | SFD 3,701 - 3,900 SF   | Residential Property     | \$7,392.04   | per Unit | \$7,392.04                         | per Unit              |
| 6              | SFD 3,401 - 3,700 SF   | Residential Property     | \$7,263.03   | per Unit | \$7,263.03                         | per Unit              |
| 7              | SFD 2,901 - 3,400 SF   | Residential Property     | \$6,909.30   | per Unit | \$6,909.30                         | per Unit              |
| 8              | SFD < 2,901 SF         | Residential Property     | \$6,426.55   | per Unit | \$6,426.55                         | per Unit              |
| 9              | NA                     | Non-Residential Property | \$21,848.40  | per Acre | \$0.00                             | per Acre <sup>2</sup> |
| NA             | NA                     | Undeveloped Property     | \$22,352.99  | per Acre | \$0.00                             | per Acre              |

<sup>1</sup> Assigned Special Tax rates increase by an amount equal to two percent (2%) per year. The Maximum Special Tax for Developed Property is the greater of (a) the applicable Assigned Special Tax, or (b) the Backup Special Tax. The Backup Special Tax for Custom Lot Property (Land Use Class 1) is \$14,463.64 per Unit for Fiscal Year 2013-14, and for Residential Property (Land Use Classes 2-8) is \$22,352.99 per Acre for Fiscal Year 2013-14, which in each case increases by an amount equal to two percent (2%) per year. The Maximum Special Tax for Undeveloped Property is \$22,352.99 per Acre for Fiscal Year 2013-14, which increases by an amount equal to two percent (2%) per year.

<sup>2</sup> No units/acres in these tax classes.

Source: David Taussig & Associates, Inc.



## Current Status of Development

The following table identifies the categories of Taxable Property in the District for purposes of the Fiscal Year 2013-14 Special Tax Levy, their respective Assigned Special Taxes and actual Special Tax levy, and their pro rata share of the principal of the Bonds.

### Capistrano Unified School District Community Facilities District No. 2005-1 (Whispering Hills) Fiscal Year 2013-14 Development Summary

| Property Classification <sup>1</sup>        | Number of<br>Taxable<br>Lots/Units/Acres | FY 2013-14<br>Assigned<br>Special<br>Taxes <sup>2</sup> | FY 2013-14<br>Actual<br>Special Tax<br>Levy <sup>3</sup> | Percent of<br>FY 2013-<br>14 Actual<br>Special<br>Tax Levy | Pro Rate<br>Share of<br>Bonds <sup>4</sup> |
|---|--|---|--|--|--|
| Developed Property                          |  |   |  |  |  |
| Custom Lot Property                         | 0 Lots                                   | \$0.00 <sup>5</sup>                                     | \$0.00 <sup>5</sup>                                      | 0.00%  | \$0.00                                     |
| Residential Property (SFD > 4,600 SF)       | 0 Units                                  | 0.00 <sup>5</sup>                                       | 0.00 <sup>5</sup>  | 0.00   | 0.00                                       |
| Residential Property (SFD 4,301 - 4,600 SF) | 0 Units                                  | 0.00 <sup>5</sup>                                       | 0.00 <sup>5</sup>  | 0.00   | 0.00                                       |
| Residential Property (SFD 3,901 - 4,300 SF) | 0 Units                                  | 0.00 <sup>5</sup>                                       | 0.00 <sup>5</sup>  | 0.00   | 0.00                                       |
| Residential Property (SFD 3,701 - 3,900 SF) | 20 Units                                 | 147,840.80  | 147,840.80   | 32.46  | 2,409,855.00                               |
| Residential Property (SFD 3,401 - 3,700 SF) | 24 Units                                 | 174,312.72  | 174,312.72   | 38.27  | 2,841,356.00                               |
| Residential Property (SFD 2,901 - 3,400 SF) | 10 Units                                 | 69,093.00   | 69,093.00  | 15.17  | 1,126,239.00                               |
| Residential Property (SFD < 2,901 SF)       | 10 Units                                 | 64,265.50   | 64,265.50  | 14.11  | 1,047,549.00                               |
| Non-Residential Property                    | 0 Units                                  | 0.00 <sup>5</sup>                                       | 0.00 <sup>5</sup>  | 0.00   | 0.00                                       |
| Undeveloped Property                        | 36.562 Acres                             | 0.00  | 0.00   | 0.00   | 0.00                                       |
| Total                                       | 64 Units                                 | \$455,512.02  | \$455,512.02   | 100.00%  | \$7,425,000.00                             |

<sup>1</sup> Classification to Developed and Undeveloped categories pursuant to the Amended Rate and Method.

<sup>2</sup> Based on the Assigned Special Tax rates.

<sup>3</sup> Based on the actual Special Tax levy.

<sup>4</sup> Based on the estimated principal amount of the Bonds; preliminary, subject to change. Allocated based on fiscal year 2013-2014 Special Tax levy.

<sup>5</sup> No units/acres in these tax classes.

Source: David Taussig & Associates, Inc.

The following table identifies the categories of Taxable Property and their expected Special Tax levies and share of principal of the Bonds for Fiscal Year 2014-15, based on the development status in the District as of August 15, 2013 (thereby including a Special Tax levy on parcels for which a building permit was issued after January 1, 2013 but before August 16, 2013).

**Capistrano Unified School District  
Community Facilities District No. 2005-1 (Whispering Hills)  
Hypothetical Fiscal Year 2014-15 Development Summary**

| Property Classification <sup>1</sup> |                        | Number of<br>Taxable<br>Lots/Units/Acres | FY 2014-15<br>Assigned<br>Special<br>Taxes <sup>2</sup> | FY 2014-15<br>Hypothetical<br>Special Tax<br>Levy <sup>3</sup> | Percent of<br>Levy FY<br>2014-15<br>Hypothetical<br>Special Tax | Pro Rate<br>Share of<br>Bonds <sup>4</sup> |
|--------------------------------------|------------------------|--|---|--|---|--|
| Developed Property                   |                        |  |   |  |   |  |
| Custom Lot Property                  |                        | 0 Lots                                   | \$0.00 <sup>5</sup>                                     | \$0.00 <sup>5</sup>  | 0.00%   | \$0  |
| Residential Property                 | (SFD > 4,600 SF)       | 2 Units                                  | 18,263.38   | 18,263.38  | 3.36  | 249,467                                    |
| Residential Property                 | (SFD 4,301 - 4,600 SF) | 0 Units                                  | 0.00 <sup>5</sup>                                       | 0.00 <sup>5</sup>  | 0.00  | 0  |
| Residential Property                 | (SFD 3,901 - 4,300 SF) | 2 Units                                  | 16,211.02   | 16,211.02  | 2.98  | 221,433                                    |
| Residential Property                 | (SFD 3,701 - 3,900 SF) | 23 Units                                 | 173,417.24  | 173,417.24   | 31.90   | 2,368,782                                  |
| Residential Property                 | (SFD 3,401 - 3,700 SF) | 26 Units                                 | 192,615.54  | 192,615.54   | 35.43   | 2,631,020                                  |
| Residential Property                 | (SFD 2,901 - 3,400 SF) | 11 Units                                 | 77,522.28   | 77,522.28  | 14.26   | 1,058,911                                  |
| Residential Property                 | (SFD < 2,901 SF)       | 10 Units                                 | 65,550.80   | 65,550.80  | 12.06   | 895,387                                    |
| Non-Residential Property             |                        | 0 Units                                  | 0.00 <sup>5</sup>                                       | 0.00 <sup>5</sup>  | 0.00  | 0  |
| Undeveloped Property                 |                        | 33.914 Acres                             | 0.00  | 0.00   |   | 0.00                                       |
| Total                                |                        | 74 Units                                 | \$543,580.26  | \$543,580.26   | 100.00%   | \$7,425,000                                |

<sup>1</sup> Classification to developed and undeveloped categories pursuant to the Rate and Method of Apportionment.

<sup>2</sup> Based on the fiscal year 2014-2015 Assigned Special Tax rates.

<sup>3</sup> Based on the hypothetical fiscal year 2014-2015 Special Tax levy. Based on development as of August 15, 2013. Actual cutoff for determination as Developed Property under the Amended Rate and Method is January 1, 2014.

<sup>4</sup> Based on the estimated principal amount of the Bonds; preliminary, subject to change. Allocated based on hypothetical fiscal year 2014-2015 Special Tax levy.

<sup>5</sup> No units/acres in these tax classes.

Source: David Taussig & Associates, Inc.

## Coverage Ratios

The following table illustrates projected debt service coverage ratios for the Bonds, based on projected Special Tax revenues from Developed Property and assuming that the Special Tax is levied at 100% of the Assigned Special Tax rate.

### Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Projected Debt Service Coverage Ratios

| Bond<br>Year<br>Ending<br>1-Sep | Residential<br>Developed<br>Special Tax<br>Revenues <sup>1</sup> | Annual<br>Administrative<br>Expenses <sup>2</sup> | Net<br>Special Tax<br>Revenues | Bond Debt<br>Service <sup>3</sup> | Coverage<br>from<br>Developed<br>Property <sup>5</sup> |
|---------------------------------|--|---|--------------------------------|-----------------------------------|--|
| 2014                            | \$455,512  | \$50,000  | \$405,512                      | \$368,465 <sup>4</sup>            | 110.05%  |
| 2015                            | 543,580  | 51,000  | 492,580                        | 443,085                           | 111.17   |
| 2016                            | 554,452  | 52,020  | 502,432                        | 453,085                           | 110.89   |
| 2017                            | 565,541  | 53,060  | 512,480                        | 462,878                           | 110.72   |
| 2018                            | 576,851  | 54,122  | 522,730                        | 472,384                           | 110.66   |
| 2019                            | 588,388  | 55,204  | 533,184                        | 481,520                           | 110.73   |
| 2020                            | 600,156  | 56,308  | 543,848                        | 490,232                           | 110.94   |
| 2021                            | 612,159  | 57,434  | 554,725                        | 503,447                           | 110.19   |
| 2022                            | 624,403  | 58,583  | 565,820                        | 510,912                           | 110.75   |
| 2023                            | 636,891  | 59,755  | 577,136                        | 522,815                           | 110.39   |
| 2024                            | 649,628  | 60,950  | 588,679                        | 533,936                           | 110.25   |
| 2025                            | 662,621  | 62,169  | 600,452                        | 543,696                           | 110.44   |
| 2026                            | 675,873  | 63,412  | 612,461                        | 552,504                           | 110.85   |
| 2027                            | 689,391  | 64,680  | 624,710                        | 565,309                           | 110.51   |
| 2028                            | 703,179  | 65,974  | 637,205                        | 576,830                           | 110.47   |
| 2029                            | 717,242  | 67,293  | 649,949                        | 587,048                           | 110.71   |
| 2030                            | 731,587  | 68,639  | 662,948                        | 600,913                           | 110.32   |
| 2031                            | 746,219  | 70,012  | 676,207                        | 613,109                           | 110.29   |
| 2032                            | 761,143  | 71,412  | 689,731                        | 623,654                           | 110.60   |
| 2033                            | 776,366  | 72,841  | 703,525                        | 637,508                           | 110.36   |
| 2034                            | 791,893  | 74,297  | 717,596                        | 649,358                           | 110.51   |
| 2035                            | 807,731  | 75,783  | 731,948                        | 664,228                           | 110.20   |
| 2036                            | 823,886  | 77,299  | 746,587                        | 676,817                           | 110.31   |
| 2037                            | 840,364  | 78,845  | 761,519                        | 687,137                           | 110.82   |
| 2038                            | 857,171  | 80,422  | 776,749                        | 705,167                           | 110.15   |
| 2039                            | 874,314  | 82,030  | 792,284                        | 715,311                           | 110.76   |
| 2040                            | 891,801  | 83,671  | 808,130                        | 732,863                           | 110.27   |
| 2041                            | 909,637  | 85,344  | 824,292                        | 747,181                           | 110.32   |
| 2042                            | 927,829  | 87,051  | 840,778                        | 763,307                           | 110.15   |
| 2043                            | 946,386  | 88,792  | 857,594                        | 775,917                           | 110.53   |

<sup>1</sup> Developed Special Tax Revenues for Fiscal Year 2013-14 are equal to 100% of the Assigned Special Tax, based on development as of January 1, 2013 (64 units). Developed Special Tax Revenues for Fiscal Year 2014-15 and thereafter are equal to 100% of the Assigned Special Tax, based on development as of August 15, 2013 (74 units). The Assigned Special Tax rates escalate at two percent per year.

<sup>2</sup> Based on the Administrative Expense Requirement which initially is \$50,000, and which escalates at two percent per year beginning July 1, 2014.

<sup>3</sup> Based on estimated Bond principal of \$7,425,000; preliminary, subject to change.

<sup>4</sup> Net debt service after capitalized interest payment of \$2,003.

<sup>5</sup> Preliminary, subject to change.

Source: David Taussig & Associates, Inc.

## Major Taxpayers

The following table lists the property owners on which the Special Tax levy fiscal year 2013-14 is being levied, and their respective estimated apportionment of the total Special Tax levy for such fiscal year.

### Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Fiscal Year 2013-14 Taxpayers

| Owner <sup>1</sup>               | Number of<br>Parcels Taxed | Actual FY 2013-14<br>Special Tax Levy | Percent of<br>Total Levy |
|----------------------------------|----------------------------|---------------------------------------|--------------------------|
| Rancho San Juan Development, LLC | 8                          | \$ 57,301                             | 12.58%                   |
| Individual Owners                | 56                         | 398,211                               | 87.42                    |
| Total                            | 64                         | 455,512                               | 100.00                   |

<sup>1</sup> Based on the Appraisal.

Source: David Taussig & Associates, Inc.

## Direct and Overlapping Debt

Contained within the District's boundaries are numerous overlapping local entities providing public services. These local entities may have outstanding bonds issued in the form of general obligation, lease revenue and special assessment bonds. The first column in the table below names the public agencies that have outstanding debt as of August 2, 2013 and whose boundaries overlap the District, while the remaining columns identify the amount of tax levy in the District, the percentage of each overlapping entity's tax levy in the boundaries of the District, the total debt outstanding for the overlapping entity, and the corresponding portion of each overlapping entity's existing debt allocable to property within the District.

### Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Direct and Overlapping Debt Summary

| Overlapping District                                | Actual FY<br>2013-14 Total<br>Levy | Amount of<br>Levy on<br>Parcels in<br>District | Percent of<br>Levy on<br>Parcels in<br>District | Total Debt<br>Outstanding <sup>3</sup> | District<br>Share of<br>Total Debt<br>Outstanding |
|---|------------------------------------|--|---|--|---|
| Metropolitan Water District                         | \$94,962,540                       | \$1,138  | 0.0012%   | \$165,085,000                          | \$1,978   |
| City of San Juan Capistrano Series 1990 Bonds       | 222,526 <sup>1</sup>               | 1,223  | 0.5494  | 1,825,000                              | 10,027  |
| City of San Juan Capistrano Series 2008 Bonds       | 1,976,692 <sup>1</sup>             | 10,860   | 0.5494  | 28,140,000                             | 154,603   |
| Capistrano Unified SFID No. 1 Series 2001B          | 2,261,178 <sup>2</sup>             | 1,649  | 0.0729  | 12,124,930                             | 8,841   |
| Capistrano Unified SFID No. 1 Series 2012 Refunding | 2,073,861 <sup>2</sup>             | 1,512  | 0.0729  | 22,985,000                             | 16,756  |

Estimated Share of Overlapping Debt Allocable to the District \$192,204

Plus the Bonds<sup>4</sup> \$7,425,000

Estimated Share of Direct and Overlapping Debt Allocable to the District \$7,617,204

<sup>1</sup> Estimated based on fiscal year 2013-14 assessed value provided by the County of Orange Auditor-Controller, multiplied by the fiscal year 2013-14 ad valorem rate provided by the City.

<sup>2</sup> Estimated based on fiscal year 2013-14 assessed value provided by the County of Orange Auditor-Controller, multiplied by the fiscal year 2013-14 ad valorem rate provided by the County of Orange Auditor-Controller.

<sup>3</sup> As of August 2, 2013.

<sup>4</sup> Based on estimated Bond principal of \$7,425,000; preliminary, subject to change.

Source: David Taussig & Associates, Inc.

In addition to the foregoing, property owners within the District may be subject to other special taxes and assessments levied by other taxing authorities that provide services within the District. Such non-*ad valorem* special taxes and assessments are not represented in this statement of direct and overlapping debt. See "THE DISTRICT – Tax Burden on Single-Family Home" for more information.

#### **Tax Burden on Single-Family Home**

The base property tax rate on property in the District is 1%; the levy of special *ad valorem* property taxes in excess of the 1% levy is permitted as necessary to provide for debt service payments on school bonds and other voter-approved indebtedness. Additionally, property in the District is also subject to certain annual charges and assessments.

The following tables set forth an estimated sample tax bill of a single-family home of Valida Plan 1 in the District and of Mirador Plan 3 in the District for fiscal year 2013-14, and are representative of the applicable annual charges and assessments in the District.

**Capistrano Unified School District  
Community Facilities District No. 2005-1 (Whispering Hills)  
Estimated FY 2013-2014 Sample Tax Bill  
Residential Property  
Valinda Plan 3 (Tax Class 8)**

| Assessed Value and Property Taxes                              |           | Percent of<br>Net AV | Expected<br>Amount | Maximum<br>Amount |
|--|-----------|----------------------|--------------------|-------------------|
| TOTAL PRICE <sup>1</sup>                                       | \$739,000 |                      |                    |                   |
| NET ASSESSED VALUE <sup>1</sup>                                | \$732,000 |                      |                    |                   |
| Unit Size for Residential Property <sup>2</sup>                | 2,804     |                      |                    |                   |
| Lot Size for Residential Property <sup>3</sup>                 | 12,510    |                      |                    |                   |
| AD VALOREM PROPERTY TAXES <sup>4</sup>                         |           |                      |                    |                   |
| Basic Levy   |           | 1.00000%             | \$7,320.00         |                   |
| Metropolitan Water District G.O. Bonds                         |           | 0.00350              | 25.62              |                   |
| City of San Juan Capistrano Series 1990 Bonds                  |           | 0.00376              | 27.52              |                   |
| City of San Juan Capistrano Series 2008 Bonds                  |           | 0.03334              | 244.05             |                   |
| Capistrano Unified SFID No. 1 Series 2001B                     |           | 0.00507              | 37.11              |                   |
| Capistrano Unified SFID No. 1 Series 2012                      |           | 0.00465              | 34.04              |                   |
| Refunding  |           |                      |                    |                   |
| Total General Property Taxes and Overrides                     |           | 1.05032%             | \$7,688.34         |                   |
| ASSESSMENTS, SPECIAL TAXES AND PARCEL CHARGES                  |           |                      |                    |                   |
| Mosquito & Fire Ant Assessment <sup>5</sup>                    |           |                      | \$5.02             |                   |
| Vector Control Charge <sup>6</sup>                             |           |                      | 1.92               |                   |
| Metropolitan Water District West Standby Charge <sup>7</sup>   |           |                      | 10.08              |                   |
| Capistrano Unified School District CFD No. 2005-1 <sup>8</sup> |           |                      | 6,426.55           | \$6,426.55        |
| Total Assessments and Parcel Charges                           |           |                      | \$6,443.57         | \$6,443.57        |
| PROJECTED TOTAL PROPERTY TAXES                                 |           |                      | \$14,131.91        | \$14,131.91       |
| Projected Total Effective Tax Rate as % of Assessed Value      |           |                      | 1.91230%           | 1.91230%          |

<sup>1</sup> Based on minimum base sales price for Plan 1 units from the Appraisal with a date of value of August 15, 2013. Net Assessed Value based on sales price less \$7,000 homeowner's exemption. Total Price used to determine the Total Effective Tax Rate.

<sup>2</sup> Based on unit size for Plan 1.

<sup>3</sup> Based on the average lot size for 10 Plan 1 units with building permits as of August 15, 2013.

<sup>4</sup> Based on actual fiscal year 2013-2014 ad valorem rates.

<sup>5</sup> Based on the fiscal year 2013-2014 rate of \$5.02 per benefit unit. Detached residential parcels are assessed at 1 benefit unit.

<sup>6</sup> Based on the fiscal year 2013-2014 rate of \$1.92 per benefit unit. Residential parcels are assessed at 1 benefit unit.

<sup>7</sup> Estimated based on the fiscal year 2012-2013 rate of \$10.08 per parcel or per acre, whichever is greater.

<sup>8</sup> Expected amount based on the Capistrano Unified School District CFD No. 2005-1 fiscal year 2013-2014 Assigned Special Tax rate of \$6,426.65 per unit for Tax Class 8 property. Maximum amount based on the greater of fiscal year 2013-14 Assigned Special Tax or the fiscal year 2013-14 Backup Special Tax, where the fiscal year 2013-14 Backup Special Tax rate is \$22,352.99 per lot acre. The Assigned and Backup Special Tax rates escalate at two percent per year.

Source: David Taussig & Associates, Inc.

**Capistrano Unified School District  
Community Facilities District No. 2005-1 (Whispering Hills)  
Estimated FY 2013-2014 Sample Tax Bill  
Residential Property  
Mirador Plan 3 (Tax Class 4)**

| Assessed Value and Property Taxes                              |             | Percent of<br>Net AV | Expected<br>Amount | Maximum<br>Amount  |
|--|-------------|----------------------|--------------------|--------------------|
| TOTAL PRICE <sup>1</sup>                                       | \$1,095,000 |                      |                    |                    |
| NET ASSESSED VALUE <sup>1</sup>                                | \$1,088,000 |                      |                    |                    |
| Unit Size for Residential Property <sup>2</sup>                | 4,014       | Square Feet          |                    |                    |
| Lot Size for Residential Property <sup>3</sup>                 | 14,578      | Square Feet          |                    |                    |
| <b>AD VALOREM PROPERTY TAXES<sup>4</sup></b>                   |             |                      |                    |                    |
| Basic Levy   |             | 1.00000%             | \$10,880.00        |                    |
| Metropolitan Water District G.O. Bonds                         |             | 0.00350              | 38.08              |                    |
| City of San Juan Capistrano Series 1990 Bonds                  |             | 0.00376              | 40.91              |                    |
| City of San Juan Capistrano Series 2008 Bonds                  |             | 0.03334              | 362.74             |                    |
| Capistrano Unified SFID No. 1 Series 2001B                     |             | 0.00507              | 55.16              |                    |
| Capistrano Unified SFID No. 1 Series 2012                      |             | 0.00465              | 50.59              |                    |
| <u>Refunding</u>   |             |                      |                    |                    |
| Total General Property Taxes and Overrides                     |             | 1.05032%             | \$11,427.48        |                    |
| <b>ASSESSMENTS, SPECIAL TAXES AND PARCEL CHARGES</b>           |             |                      |                    |                    |
| Mosquito & Fire Ant Assessment <sup>5</sup>                    |             |                      | \$5.02             |                    |
| Vector Control Charge <sup>6</sup>                             |             |                      | 1.92               |                    |
| Metropolitan Water District West Standby Charge <sup>7</sup>   |             |                      | 10.08              |                    |
| Capistrano Unified School District CFD No. 2005-1 <sup>8</sup> |             |                      | 7,946.58           | 7,946.58           |
| Total Assessments and Parcel Charges                           |             |                      | \$7,963.60         | \$7,963.60         |
| <b>PROJECTED TOTAL PROPERTY TAXES</b>                          |             |                      | <b>\$19,391.08</b> | <b>\$19,391.08</b> |
| Projected Total Effective Tax Rate as % of Assessed Value      |             |                      | 1.77088%           | 1.77088%           |

<sup>1</sup> Based on minimum base sales price for Plan 3 units from the draft Appraisal with a date of value of August 15, 2013. Net Assessed Value based on sales price less \$7,000 homeowner's exemption. Total Price used to determine the Total Effective Tax Rate.

<sup>2</sup> Based on unit size for Plan 3.

<sup>3</sup> Based on the average lot size for 70 Mirador units.

<sup>4</sup> Based on actual fiscal year 2013-2014 ad valorem rates.

<sup>5</sup> Based on the fiscal year 2013-2014 rate of \$5.02 per benefit unit. Detached residential parcels are assessed at 1 benefit unit.

<sup>6</sup> Based on the fiscal year 2013-2014 rate of \$1.92 per benefit unit. Residential parcels are assessed at 1 benefit unit.

<sup>7</sup> Estimated based on the fiscal year 2012-2013 rate of \$10.08 per parcel or per acre, whichever is greater.

<sup>8</sup> Expected amount based on the Capistrano Unified School District CFD No. 2005-1 fiscal year 2013-2014 Assigned Special Tax rate of \$7,946.58 per unit for Tax Class 4 property. Maximum amount based on the greater of fiscal year 2013-14 Assigned Special Tax or the fiscal year 2013-14 Backup Special Tax, where the fiscal year 2013-14 Backup Special Tax rate is \$22,352.99 per lot acre. The Assigned and Backup Special Tax rates escalate at two percent per year.

Source: David Taussig & Associates, Inc.

## Value-to-Lien

The following table sets forth the value-to-Bonds allocable principal and other overlapping debt ratios among parcels subject to the Special Tax levy, based on the values per the Appraisal, the fiscal year 2013-14 Special Tax levy and the initial principal amount of the Bonds.

### Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) Value-to-Debt Burden of Special Tax Bonds

| Property Classification/Owner/<br>Construction Status <sup>1</sup> | Number<br>of<br>Parcels | District<br>Actual<br>FY 2013-<br>2014<br>Levy | District<br>Bonds<br>Outstand-<br>ing <sup>2</sup> | MWD<br>Bonds<br>Outstand-<br>ing <sup>3</sup> | San Juan<br>Capistrano<br>Bonds<br>Outstand-<br>ing <sup>3</sup> | CUSD<br>SFID No.<br>1 Bonds<br>Outstand-<br>ing <sup>3</sup> | Total Direct<br>and<br>Overlapping<br>Debt | Appraised<br>Value <sup>1</sup> | Estimated<br>Appraised<br>Value-to-<br>Lien<br>Ratio <sup>6</sup> |
|--|-------------------------|--|--|---|--|--|--|---------------------------------|---|
| <b>Developed Property<sup>4</sup></b>                              |                         |  |  |   |  |  |  |                                 |   |
| Individual Owners  |                         |  |  |   |  |  |  |                                 |   |
| Valinda  |                         |  |  |   |  |  |  |                                 |   |
| Completed/Sold   | 56                      | \$398,211                                      | \$6,490,973  | \$1,544                                       | \$128,488  | \$19,978   | \$6,640,984                                | \$51,000,000                    | 7.68  |
| Rancho San Juan<br>Development, LLC                                |                         |  |  |   |  |  |  |                                 |   |
| Valinda  |                         |  |  |   |  |  |  |                                 |   |
| Completed/Unsold   | 5                       | 35,737   | 582,520  | 15  | 1,232  | 191  | 583,958                                    | 4,475,000                       | 7.66  |
| Model Homes  | 3                       | 21,564   | 351,507  | 132   | 10,967   | 1,705  | 364,311                                    | 3,240,000                       | 8.89  |
| Subtotal Developed<br>Property                                     | 64                      | \$455,512                                      | \$7,425,000  | \$1,691                                       | \$140,687  | \$21,875   | \$7,589,253                                | \$58,715,000                    | 7.74  |
| <b>Undeveloped Property<sup>4</sup></b>                            |                         |  |  |   |  |  |  |                                 |   |
| Rancho San Juan<br>Development, LLC                                |                         |  |  |   |  |  |  |                                 |   |
| Valinda  |                         |  |  |   |  |  |  |                                 |   |
| Under Construction <sup>5</sup>                                    | 6                       | \$0  | \$0  | \$18  | \$1,478  | \$230  | \$1,726                                    | \$2,760,000                     | 1,599.37  |
| Mirador  |                         |  |  |   |  |  |  |                                 |   |
| Finished Lots  | 66                      | 0  | 0  | 195   | 16,260   | 2,528  | 18,982                                     | 26,400,000                      | 1,390.76  |
| Model Homes <sup>5</sup>   | 4                       | 0  | 0  | 12  | 985  | 153  | 1,150                                      | 4,900,000                       | 4,259.20  |
| Custom Lots  | 15                      | 0  | 0  | 63  | 5,219  | 812  | 6,093                                      | 1,030,000 <sup>1</sup>          | 169.04  |
| Subtotal Undeveloped<br>Property                                   | 91                      | 0  | 0  | 287   | 23,942   | 3,722  | 27,952                                     | 35,090,000                      | 1,255.37  |
| <b>Total</b>   | 155                     | \$455,512                                      | \$7,425,000  | \$1,978                                       | \$164,629  | \$25,597   | \$7,617,204                                | \$93,805,000                    | 12.31   |

<sup>1</sup> Unless otherwise noted, based on draft Appraisal with the date of value of August 15, 2013.

<sup>2</sup> Based on estimated Bond principal of \$7,425,000; preliminary, subject to change. Allocated based on fiscal year 2013-2014 levy.

<sup>3</sup> As of August 2, 2013. Allocated based on actual or estimated fiscal year 2013-2014 levy.

<sup>4</sup> Classification to developed and undeveloped categories pursuant to the Rate and Method of Apportionment. Developed Property is property for which a building permit has been issued as of January 1, 2013. Undeveloped Property is property for which a building permit has not been issued as of January 1, 2013.

<sup>5</sup> Building permits issued after January 1, 2013 cutoff pursuant to the Amended Rate and Method.

<sup>6</sup> Preliminary, subject to change.

Source: David Taussig & Associates, Inc.

The following table presents data similar to the preceding table, but for the expected Special Tax levy for fiscal year 2014-15 based on building permits issued after January 1, 2013 but before August 16, 2013. The fiscal year 2014-15 Special Tax levy will include as Developed Property all parcels for which building permits have been issued as of January 1, 2014.



| Property Classification/Owner/Construction Status <sup>1</sup> | Number of Parcels | District Hypothetical FY 2013-2014 Levy <sup>2</sup> | District Bonds Outstanding <sup>3</sup> | MWD Bonds Outstanding <sup>4</sup> | San Juan Capistrano Bonds Outstanding <sup>4</sup> | CUSD SFID No. 1 Bonds Outstanding <sup>4</sup> | Total Direct and Overlapping Debt | Appraised Value <sup>1</sup> | Estimated Appraised Value-to-Lien Ratio <sup>6</sup> |
|--|-------------------|--|---|------------------------------------|--|--|-----------------------------------|------------------------------|--|
| <b>Developed Property<sup>5</sup></b>                          |                   |  |   |                                    |  |  |                                   |                              |  |
| Individual Owners  |                   |  |   |                                    |  |  |                                   |                              |  |
| Valinda  |                   |  |   |                                    |  |  |                                   |                              |  |
| Completed/Sold   | 56                | \$406,175  | \$5,548,123                             | \$1,544                            | \$128,488  | \$19,978                                       | \$5,698,133                       | \$51,000,000                 | 8.95   |
| Rancho San Juan Development, LLC                               |                   |  |   |                                    |  |  |                                   |                              |  |
| Valinda  |                   |  |   |                                    |  |  |                                   |                              |  |
| Under Construction   | 6                 | 44,484   | 607,622                                 | 18                                 | 1,478  | 230  | 609,348                           | 2,760,000                    | 4.54   |
| Completed/Unsold   | 5                 | 36,451   | 497,906                                 | 15                                 | 1,232  | 191  | 499,344                           | 4,475,000                    | 8.97   |
| Model Homes  | 3                 | 21,996   | 300,448                                 | 132                                | 10,967   | 1,705  | 313,252                           | 3,240,000                    | 10.35  |
| Mirador  |                   |  |   |                                    |  |  |                                   |                              |  |
| Model Homes  | 4                 | 34,474   | 470,901                                 | 12                                 | 985  | 153  | 472,051                           | 4,900,000                    | 10.37  |
| Subtotal Developed Property                                    | 74                | \$543,580  | \$7,425,000                             | \$1,720                            | \$143,151  | \$22,257                                       | \$7,592,129                       | \$66,375,000                 | 8.74   |
| <b>Undeveloped Property<sup>5</sup></b>                        |                   |  |   |                                    |  |  |                                   |                              |  |
| Rancho San Juan Development, LLC                               |                   |  |   |                                    |  |  |                                   |                              |  |
| Mirador  |                   |  |   |                                    |  |  |                                   |                              |  |
| Finished Lots  | 66                | \$0  | \$0                                     | \$195                              | \$16,260   | \$2,528  | \$18,982                          | \$26,400,000                 | 1,390.76   |
| Custom Lots  | 15                | 0  | 0                                       | 63                                 | 5,219  | 812  | 6,093                             | 1,030,000 <sup>5</sup>       | 169.04   |
| Subtotal Undeveloped Property                                  | 81                | 0  | 0                                       | 258                                | 21,478   | 3,339  | 25,076                            | 27,430,000                   | 1,093.88   |
| Total  | 155               | \$543,580  | \$7,425,000                             | \$1,978                            | \$164,629  | \$25,597                                       | \$7,617,204                       | \$93,805,000                 | 12.31  |

<sup>1</sup> Unless otherwise noted, based on draft Appraisal with the date of value of August 15, 2013.

<sup>2</sup> Based on development as of August 15, 2013. Actual cutoff is January 1, 2014.

<sup>3</sup> Based on estimated Bond principal of \$7,425,000; preliminary, subject to change. Allocated based on hypothetical fiscal year 2014-2015 levy.

<sup>4</sup> As of August 2, 2013. Allocated based on actual or estimated fiscal year 2013-2014 levy.

<sup>5</sup> Classification to developed and undeveloped categories pursuant to the Rate and Method of Apportionment. Developed Property is property for which a building permit has been issued as of August 15, 2013. Undeveloped Property is property for which a building permit has not been issued as of August 15, 2013. Actual cutoff is January 1, 2014.

<sup>6</sup> Preliminary, subject to change.

Source: David Taussig & Associates, Inc.

Although the Special Tax constitutes a lien on parcels subject to taxation within the District, it does not constitute a personal indebtedness of the owners of property within the District. There is no assurance that the owners will be financially able to pay the annual Special Tax or that they will pay such tax even if financially able to do so. The risk of the property owners not paying the annual Special Tax is more fully described in "SPECIAL RISK FACTORS."

## SPECIAL RISK FACTORS

### Not a General Obligation of the District or School District

The Bonds are special tax obligations of the District; the interest on, principal of, and redemption premiums, if any, upon the Bonds are payable solely from the proceeds of the Special Tax, as provided in the Fiscal Agent Agreement, and from amounts in certain funds and accounts held under the Fiscal Agent Agreement, and the District and School District are not obligated to pay the Bonds except from the proceeds of the Special Tax and other sources identified in the Fiscal Agent Agreement. Neither the general fund of the District nor of the School District is liable and the full faith and credit of neither the District nor School District is pledged for the payment of the interest on or principal of or redemption premiums, if any, on

the Bonds, and no tax or assessment other than the Special Tax will ever be levied or collected to pay the interest on, or principal of, or redemption premiums, if any, upon the Bonds.

### **Levy of the Special Tax**

The principal source of payment of debt service on the Bonds is the proceeds of the annual levy and collection of the Special Tax. The annual levy of the Special Tax is subject to the Maximum Rates authorized. The levy cannot be made at a higher rate even if the failure to do so means that the estimated proceeds of the levy and collection of the Special Tax, together with other available funds, will not be sufficient to pay principal and interest on the Bonds. Under no circumstance will the Special Tax levied on any assessor's parcel of residential property for which an occupancy permit for private residential use has been issued be increased by more than ten percent as a consequence of delinquency or default by the owner of any other assessor's parcel within the District. Other funds that might be available include funds derived from the payment of delinquent Special Taxes and funds derived from the tax sale or foreclosure and sale of parcels on which levies of the Special Tax are delinquent.

The levy of the Special Tax will rarely, if ever, result in a uniform relationship between the value of particular taxed parcels and the amount of the levy of the Special Tax, and the Special Tax is expressly prohibited by the Law and the State Constitution from being based on assessed valuation. Thus, there will rarely, if ever, be a uniform relationship between the value of such parcels and the proportionate share of the debt service on the Bonds, and certainly not a direct relationship.

The Special Tax levied in any particular tax year on a taxed parcel will be based upon the revenue needs and the application of the Amended Rate and Method. Application of the Amended Rate and Method will, in turn, be dependent upon certain development factors with respect to each taxed parcel by comparison with similar development factors with respect to the other taxed parcels within the District. Thus, the following are some of the factors which might cause the levy of the Special Tax on any particular taxed parcel to vary from the Special Tax that might otherwise be expected:

- Reduction in the number of taxed parcels, for such reasons as acquisition of taxed parcels by a government and failure of the government to pay the Special Tax based upon a claim of exemption or, in the case of the federal government or an agency thereof, immunity from taxation, thereby resulting in an increased tax burden on the remaining taxed parcels (if the Special Tax is not already being levied at the Maximum Rates).
- Failure of the owners of taxed parcels to pay the Special Tax and delays in the collection of or inability to collect the Special Tax by tax sale or foreclosure and sale of the delinquent parcels, thereby resulting in an increased tax burden on the remaining parcels (if the Special Tax is not already being levied at the Maximum Rates). Under no circumstance will the Special Tax levied on any assessor's parcel of residential property for which an occupancy permit for private residential use has been issued be increased by more than ten percent as a consequence of delinquency or default by the owner of any other assessor's parcel within the District.

### **Billing of Special Taxes**

The authorization to levy special taxes in a given area can result in a substantially heavier property tax burden being imposed upon properties within a community facilities district than elsewhere in a city or county, and this in turn can lead to problems in the

collection of the special tax. In some community facilities districts the taxpayers have refused to pay the special tax and have commenced litigation challenging the special tax, the community facilities district, and the bonds issued by such district.

Under provisions of the Law, special taxes are to be billed to the properties within a community facilities district which were entered on the assessment roll of the county assessor by January 1 of the previous fiscal year on the regular property tax bills sent to owners of such properties. Such special tax installments are due and payable, and bear the same penalties and interest for non-payment, as do regular property tax installments. These special tax installment payments cannot be made separately from property tax payments. Therefore, the unwillingness or inability of a property owner to pay regular property tax bills as evidenced by property tax delinquencies may also indicate an unwillingness or inability to make regular property tax payments and installment payments of special taxes in the future. See "SECURITY AND SOURCE OF PAYMENT—Covenant to Foreclose" for a discussion of the provisions which apply, and procedures which the District is obligated to follow, in the event of delinquency in the payment of installments of Special Taxes. See also "SECURITY AND SOURCE OF PAYMENT—Alternative Method of Tax Apportionment" herein.

### **Collection of Special Taxes**

In order to pay debt service on the Bonds, it is necessary that the Special Tax levied against land within the District be paid in a timely manner. The Fiscal Agent Agreement provides that the Special Tax is to be collected in the same manner as ordinary *ad valorem* property taxes are collected and, except as provided in the special covenant for foreclosure described below and in the Law, is to be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for *ad valorem* property taxes (however, the District can directly bill property owners in certain circumstances). Pursuant to these procedures, if taxes are unpaid for a period of five years or more, the property is deeded to the State and then is subject to sale by the County Treasurer. See "SECURITY AND SOURCE OF PAYMENT—Alternative Method of Tax Apportionment" herein.

Pursuant to the Law, in the event of any delinquency in the payment of the Special Tax, the District may order the institution of a superior court action to foreclose the lien therefor within specified time limits. In such an action, the real property subject to the unpaid amount may be sold at judicial foreclosure sale. Such judicial foreclosure action is not mandatory. However, the District has covenanted for the benefit of the owners of the Bonds that it will commence foreclosure proceedings as authorized by the Law in order to enforce the lien of the delinquent installments of the Special Tax against each separate lot or parcel of land in the District under conditions specified in the Fiscal Agent Agreement, and will diligently prosecute and pursue such foreclosure proceedings to judgment and sale. In addition, the District covenants that if the District determines on the basis of its review that any single property owner in the District is delinquent by more than \$25,000 in his or her obligation to pay the Special Tax for such fiscal year, then it will institute, prosecute, and pursue such foreclosure proceedings in the time and manner provided in the Fiscal Agent Agreement against such property owner.

In the event that sales or foreclosures of property are necessary, there could be a delay in payments to holders of the Bonds pending such sales or the prosecution of foreclosure proceedings and receipt by the District of the proceeds of sale. See "SECURITY AND SOURCE OF PAYMENT—Covenant to Foreclose."

### **Discontinuance of Advancement of the Special Tax**

The County implemented its Teeter Plan as an alternate procedure for the distribution of certain property tax and assessment levies on the secured roll. Pursuant to its Teeter Plan, the County has elected to provide local agencies and taxing areas, including the District, with full tax and assessment levies instead of actual tax and assessment collections. In return the County is entitled to retain all delinquent tax and assessment payments, penalties and interest. Thus, the County's Teeter Plan may help protect owners from the risk of delinquencies in the payment of special taxes. However, the County is entitled, and under certain circumstances could be required, to terminate its Teeter Plan with respect to all or part of the local agencies and taxing areas covered thereby. A termination of the Teeter Plan with respect to a community facilities district would eliminate such protection from delinquent special taxes for such community facilities district. See "SECURITY AND SOURCE OF PAYMENT—Alternative Method of Tax Apportionment."

### **Maximum Special Tax**

Within the limits of the Special Tax, the District may adjust the Special Tax levied on all property within the District to provide an amount required to pay principal of and interest and any premiums on the Bonds, and the amount, if any, necessary to replenish the Reserve Fund to the Reserve Requirement, and to pay the Administrative Expense Requirement. However, the amount of the Special Tax that may be levied against particular categories of property within the District is subject to the Maximum Special Tax. Under no circumstance will the Special Tax levied on any assessor's parcel of residential property for which an occupancy permit for private residential use has been issued be increased by more than ten percent as a consequence of delinquency or default by the owner of any other assessor's parcel within the District. There is no assurance that the Maximum Special Tax will at all times be sufficient to pay the amounts required to be paid by the Fiscal Agent Agreement. See "SECURITY AND SOURCE OF PAYMENT—The Special Tax" and "THE DISTRICT."

### **Concentration of Property Ownership**

Failure of any significant landowner to pay the annual Special Taxes when due could result in the rapid, total depletion of the Reserve Fund prior to replenishment from the resale of the property upon a foreclosure or otherwise or prior to delinquency redemption after a foreclosure sale, if any. In that event, there could be a default in payments of the principal of and interest on the Bonds. See "THE IMPROVEMENT AREA—Major Taxpayers" for a table showing the top taxpayers of the Special Tax.

The only asset of each owner which constitutes security for the Bonds is his or her property holdings located within the District. See "SPECIAL RISK FACTORS—Bankruptcy" and "SECURITY AND SOURCE OF PAYMENT—Covenant to Foreclose" for further discussion.

### **Exempt Properties**

Certain properties are exempt from the Special Tax in whole or in part, in accordance with the approved formula. See "APPENDIX B—AMENDED RATE AND METHOD OF APPORTIONMENT." In addition, the Law provides that properties or entities of the state, federal, or local government are exempt from the Special Tax; provided, however, that property within the District acquired by a public entity through a negotiated transaction, or by gift or devise, which is not otherwise exempt from the Special Tax, will continue to be subject to the Special Tax. In addition, the Law provides that if property subject to the Special Tax is acquired through eminent domain proceedings, the obligation to pay the Special Tax with

respect to that property is to be treated as if it were a special assessment. The constitutionality and operation of these provisions of the Law have not been tested.

The Law further provides that no other properties or entities are exempt from the Special Tax unless the properties or entities are expressly exempted in a resolution of consideration to levy a new special tax or to alter the rate or method of apportionment of an existing special tax. The Law would prohibit the Legislative Body from adopting a resolution to reduce the rate of the Special Tax or terminate the levy of the Special Tax unless the Legislative Body determined that the reduction or termination of the Special Tax "would not interfere with the timely retirement" of the Bonds.

### **Appraised Values**

The Appraisal was prepared for the purpose of estimating the Minimum Market Value of the property in the District (other than the value of the 15 custom lots, which was based on County assessed values) as of August 15, 2013 on the basis of certain assumptions. See the Appraisal included in Appendix G hereto for a description of the analysis used and assumptions made by the Appraiser.

No assurance can be given that the market values of property in the District set forth in the Appraisal will be maintained during the period of time the Bonds are Outstanding. The market values of the property in the District can be adversely affected by a variety of factors, including, but not limited to, the occurrence of one or more of the special risk events discussed herein. A decrease in the market values of property in the District may lessen the ability or willingness of the owners of such property to pay Special Taxes when due. Prospective purchasers of the Bonds should not assume that the land within the District could be sold for the appraised amount described in the Appraisal at the present time or at a foreclosure sale for delinquent Special Taxes.

### **Hazardous Substances**

One of the most serious risks in terms of the potential reduction in the value of Taxable Property is a claim with regard to a hazardous substance. In general, the owners and operators of Taxable Property may be required by law to remedy conditions of the parcel relating to releases or threatened releases of hazardous substances. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as "CERCLA" or the "Superfund Act," is the most well-known and widely applicable of these laws, but State laws with regard to hazardous substances are also stringent and similar. Under many of these laws, the owner or operator is obligated to remedy a hazardous substance condition of property whether or not the owner or operator has anything to do with creating or handling the hazardous substance. The effect, therefore, should any of the Taxable Property be affected by a hazardous substance, is to reduce the marketability and value of the parcel by the costs of remedying the condition, because the purchaser, upon becoming owner, will become obligated to remedy the condition just as is the seller.

Further, it is possible that liabilities may arise in the future with respect to any of the Taxable Property resulting from the existence, currently, on the parcel of a substance presently classified as hazardous but that has not been released or the release of which is not presently threatened, or may arise in the future resulting from the existence, currently on the parcel of a substance not presently classified as hazardous but that may in the future be so classified. Such liabilities may arise not simply from the existence of a hazardous substance but from the method of handling it. All of these possibilities could significantly affect the value of Taxable Property that is realizable upon a delinquency and subsequent institution of foreclosure proceedings. See "SECURITY AND SOURCE OF PAYMENT" for more information.

## **Bankruptcy**

The payment of the Special Tax and the ability of the District to foreclose the lien of a delinquent unpaid Special Tax installment may be limited by bankruptcy, insolvency, or other laws generally affecting creditors' rights or by the laws of the State of California relating to foreclosure.

The various legal opinions to be delivered concurrently with the delivery of the Bonds (including Bond Counsel's approving legal opinion) will be qualified as to the enforceability of the various legal instruments by bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights and by the application of equitable principles and by the exercise of judicial discretion in appropriate cases. Although bankruptcy proceedings would not cause the liens to become extinguished, bankruptcy of a property owner could result in a delay in prosecuting superior court foreclosure proceedings. Such delay could increase the likelihood of a delay or default in payment of the principal of and interest on the Bonds and the possibility of delinquent Special Tax installments not being paid in full.

## **No Acceleration Provision**

The Bonds do not contain a provision allowing for the acceleration of the debt service of the Bonds in the event of a payment default or other default under the terms of the Bonds or the Fiscal Agent Agreement.

## **Proceedings to Reduce or Terminate Special Tax**

Pursuant to the Law, proceedings could be initiated to reduce or terminate the levy of the Special Tax. However, the Law would prohibit the Board from adopting a resolution to reduce the rate of the Special Tax or terminate the levy of the Special Tax unless the Board determined that the reduction or termination of the Special Tax "would not interfere with the timely retirement" of any outstanding indebtedness secured by the Special Tax.

## **Parity Taxes and Special Assessments**

The Special Tax and any penalties thereon will constitute a lien against the lots and parcels of land on which they will be annually imposed until they are paid. Such lien is on a parity with all special taxes and special assessments currently levied or which may be levied in the future by other agencies and is co-equal to and independent of the lien for general property taxes regardless of when they are imposed upon the same property. The Special Tax has priority over all existing and future private liens imposed on the property. The District, however, has no control over the ability of other entities and districts to issue indebtedness secured by a special tax or assessments payable from all or a portion of the property within the District. Taxes imposed against property within the District established by the Metropolitan Water District and the Santa Margarita Water District are on parity with the Special Tax, as are numerous special assessments imposed against property within the District. See "THE DISTRICT—Direct and Overlapping Debt."

## **Disclosures to Future Purchasers**

The willingness or ability of an owner of a parcel of Taxable Property to pay the Special Tax even if the value is sufficient may be affected by whether or not the owner was given due notice of the Special Tax authorization at the time the owner purchased the parcel, was informed of the amount of the Special Tax on the parcel should the Special Tax be levied at the maximum tax rate and the risk of such a levy and, at the time of such a levy, has the ability to

pay it as well as pay other expenses and obligations. The District has caused a notice of the Special Tax to be recorded in the Office of the Recorder for the County against each parcel of Taxable Land. While title companies normally refer to such notices in title reports, there can be no guarantee that such reference will be made or, if made, that a prospective purchaser or lender will consider such Special Tax obligation in the purchase of a property within the District or lending of money thereon.

The Law requires the subdivider (or its agent or representative) of a subdivision to notify a prospective purchaser or long-term lessor of any lot, parcel, or unit subject to a Mello-Roos special tax of the existence and maximum amount of such special tax using a statutorily prescribed form. California Civil Code Section 1102.6b requires that in the case of transfers other than those covered by the above requirement, the seller must at least make a good faith effort to notify the prospective purchaser of the special tax lien in a format prescribed by statute. Failure by an owner of the property to comply with the above requirements, or failure by a purchaser or lessor to consider or understand the nature and existence of the Special Tax, could adversely affect the willingness and ability of the purchaser or lessor to pay the Special Tax when due.

### **Loss of Tax Exemption**

As discussed under "LEGAL MATTERS – Tax Exemption," interest on the Bonds could become includable in gross income for purposes of federal income taxation retroactive to the date of issuance, as a result of acts or omissions of the District or School District subsequent to the issuance of the Bonds in violation of the District's covenants with respect to the Bonds. Should interest become includable in gross income, the Bonds are not subject to redemption by reason thereof and will remain outstanding until maturity unless earlier redeemed pursuant to optional or mandatory redemption or redemption upon prepayment of the Special Tax. See "THE BONDS – Redemption Provisions" herein.

### **IRS Audit of Tax-Exempt Bond Issues**

The Internal Revenue Service (the "IRS") has initiated an expanded program for the auditing of tax-exempt bond issues, including both random and targeted audits. It is possible that the Bonds will be selected for audit by the IRS. It is also possible that the market value of such Bonds might be affected as a result of such an audit of such Bonds (or by an audit of similar bonds or securities).

### **Proposition 218**

On November 5, 1996, the voters of the State approved Proposition 218, the so-called "Right to Vote on Taxes Act." (See "CONSTITUTIONAL & STATUTORY PROVISIONS AFFECTING SCHOOL DISTRICT REVENUES & EXPENDITURES – Limitations on Revenues" for more information.) Proposition 218 added Articles XIIIC and XIID to the State Constitution, which contain a number of provisions affecting the ability of local agencies to levy and collect both existing and future taxes, assessments, fees and charges. Among other things, Article XIIIC establishes that every tax is either a "general tax" (imposed for general governmental purposes) or a "special tax." Article XIII also states that "...the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge." The Law provides for a procedure which includes notice, hearing, protest and voting requirements to alter the rate and method of apportionment of an existing special tax. However, the Law prohibits a legislative body from adopting any resolution to reduce the rate of any special tax or terminate the levy of any special tax pledge to repay special tax debt, unless such legislative body determines that the reduction or termination of the special tax would not interfere with the timely retirement of that debt. Accordingly,

although the matter is not free from doubt, it is likely that Proposition 218 has not conferred on the voters the power to repeal or reduce the Special Taxes through the initiative process, if such reduction would interfere with the timely retirement of the Bonds.

The interpretation and application of Proposition 218 will ultimately be determined by the courts, and it is not possible at this time to predict with certainty the outcome of such determination or the timeliness of any remedy afforded by the courts.

## **THE SCHOOL DISTRICT**

*The information in this section concerning the operations of the School District and its finances are provided as supplementary information only, and it should not be inferred from the inclusion of this information in this Official Statement that the principal of or interest on the Bonds is payable from the general fund of the School District. The Bonds are payable from the proceeds of the Special Tax and amounts in certain funds and accounts held under the Fiscal Agent Agreement. See "SECURITY AND SOURCE OF PAYMENT" herein.*

### **General Information**

Founded in 1965, the School District encompasses 195 square miles in seven cities and a portion of the unincorporated area of the County. The School District includes all or part of the cities of San Clemente, Dana Point, San Juan Capistrano, Laguna Niguel, Aliso Viejo, Mission Viejo and Rancho Santa Margarita, and the communities of Las Flores, Coto de Caza, Dove Canyon, Ladera Ranch, and Wagon Wheel.

The School District provides public education within the boundaries of its jurisdiction for kindergarten through 12<sup>th</sup> grade in 55 campuses. Additionally, there are five charter schools operating within the School District.

### **The Board of Trustees and Key Administrative Personnel**

The Board governs all activities related to public education within the jurisdiction of the School District. The Board consists of seven members who are publicly elected from within the boundaries of the School District according to specific area. Each Board member is elected by the public for a four-year term of office and elections for the Board are staggered every two years. The Board has the decision-making authority and is accountable for all fiscal matters relating to the School District.

The current members of the Board are set forth in the following table.

**Board of Trustees  
Capistrano Unified School District**

| Name               | Title          | Term Expires  |
|--------------------|----------------|---------------|
| John M. Alpay      | President      | December 2016 |
| Lynn Hatton        | Vice President | December 2014 |
| Anna Bryson        | Clerk          | December 2014 |
| Ellen M. Addonizio | Member         | December 2014 |
| Amy Hanacek        | Member         | December 2016 |
| Dr. Gary Pritchard | Member         | December 2016 |
| Jim Reardon        | Member         | December 2016 |

The Superintendent of the School District is appointed by the Board and reports to the Board. The Superintendent is responsible for managing the School District's day-to-day



operations and supervising the work of other key School District administrators. Key members of the School District's staff are set forth on page 'iv' of this Official Statement.

### **Financial Statements**

The June 30, 2012 Annual Financial Report of the School District, which includes its audited financial statements for its fiscal year ending June 30, 2012, can be accessed at the following internet site: <http://emma.msrb.org/EA546727-EA425933-EA822870.pdf>. Please note, however, that the foregoing link to the Annual Financial Report of the School District is provided solely to comply with the Securities Exchange Commission staff's interpretation of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. No funds or assets of the School District are pledged, or otherwise required to be used, to pay the debt service on the Bonds. Investors should not rely on the financial condition of the School District in evaluating whether to buy, hold or sell the Bonds.

## **LEGAL MATTERS**

### **Legal Opinion**

The legal opinion of Bowie, Arneson, Wiles & Giannone, Newport Beach, California, Bond Counsel, approving the validity of the Bonds will be made available to purchasers at the time of original delivery and is attached in substantially final form as "APPENDIX F—PROPOSED FORM OF OPINION OF BOND COUNSEL." A copy of the legal opinion will be attached to each Refunding Bond.

Quint & Thimmig LLP, Larkspur, California will pass upon certain legal matters for the District as disclosure counsel for the Bonds. Bowie, Arneson, Wiles & Giannone, Newport Beach, California, will pass upon certain legal matters for the District as special counsel to the School District.

### **Tax Exemption**

In the opinion of Bowie, Arneson, Wiles & Giannone, Newport Beach, California, Bond Counsel, subject however, to certain qualifications described herein, under existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). In the further opinion of Bond Counsel, interest on the Bonds is not an item of tax preference for purposes of federal alternative minimum taxes imposed on individuals and corporations, although Bond Counsel observes that such interest is included as an adjustment in the calculation of federal corporate alternative minimum taxable income and may therefore affect a corporation's alternative minimum tax liabilities.

The opinions of Bond Counsel set forth in the preceding paragraph are subject to the condition that the District complies with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that such interest be, or continue to be, excluded from gross income for federal income tax purposes. The District has covenanted to comply with each such requirement.

Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds. The Fiscal Agent Agreement and other related documents refer to certain requirements, covenants and procedures which may be changed and certain actions

that may be taken, upon the advice or with an opinion of nationally recognized bond counsel. No opinion is expressed by Bond Counsel as to the effect on any Refunding Bond or interest thereon if such change is made or action is taken upon the advice or approval of counsel other than Bond Counsel. Bond Counsel expresses no other opinion regarding or concerning any other tax consequences related to the ownership or disposition of the accrual or receipt of interest on the Bonds.

In the further opinion of Bond Counsel, interest on the Bonds is exempt from State of California personal income taxation. Owners of the Bonds should be aware that the ownership or disposition of, or the accrual or receipt of interest on the Bonds may have federal or state tax consequences other than as described above. Bond Counsel expresses no opinion regarding or concerning any other tax consequences related to the ownership or disposition of the accrual or receipt of interest on the Bonds other than as expressly set forth above. See "APPENDIX F—PROPOSED FORM OF OPINION OF BOND COUNSEL."

Bond Counsel's engagement with respect to the Bonds ends with the issuance of the Bonds, and, unless separately engaged, Bond Counsel is not obligated to defend the School District or the District, as applicable, or the Owners regarding the tax-exempt status of the Bonds in the event of an audit examination by the Internal Revenue Service. Under current procedures, parties other than the School District or the District, as applicable, and their respective appointed counsel, including the Owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt Bonds is difficult, obtaining an independent review of Internal Revenue Service positions with which the District legitimately disagrees may not be practicable. Any action of the Internal Revenue Service, including but not limited to selection of the Bonds for audit, or the course or result of such audit, or an audit of Bonds presenting similar tax issues may affect the market price for, or the marketability of, the Bonds, and may cause the District, School District, as applicable, or the Owners to incur significant expense.

*Original Issue Discount; Premium Bonds.* To the extent the issue price of any maturity of the Bonds is less than the amount to be paid at maturity of such Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Bonds), the difference constitutes "original issue discount," the accrual of which, to the extent properly allocable to each owner thereof, is treated as interest on the Bonds which is excluded from gross income for federal income tax purposes and State personal income taxes. For this purpose, the issue price of a particular maturity of the Bonds is the first price at which a substantial amount of such maturity of the Bonds is sold to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents or wholesalers). The original issue discount with respect to any maturity of the Bonds accrues daily over the term to maturity of such Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates).

The accruing original issue discount is added to the adjusted basis of such Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such Bonds. Owners of the Bonds should consult their own tax advisors with respect to the tax consequences of ownership of the Bonds with original issue discount, including the treatment of purchasers who do not purchase such Bonds in the original offering to the public at the first price at which a substantial amount of such Bonds is sold to the public.

The Bonds purchased, whether at original issuance or otherwise, for an amount greater than their principal amount payable at maturity (or, in some cases, at their earliest call date)

("Premium Bonds") will be treated as having amortizable bond premium. No deduction is allowable for the amortizable bond premium in the case of bonds, like the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, a purchaser's basis in a Premium Bond, and under United States Treasury Regulations, the amount of tax-exempt interest received, will be reduced by the amount of amortizable bond premium property allocable to such purchaser. Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

*Impact of Legislative Proposals, Clarifications of the Code and Court Decisions on Tax Exemption.* Future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent Owners of the Bonds from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislative proposals, clarification of the Code or court decisions may also affect the market price for, or marketability of, the Bonds. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation as to which Bond Counsel expresses no opinion.

#### **No Litigation**

At the time of delivery of the Bonds, the District will certify that there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending with respect to which the District has been served with process or threatened, which:

- in any way questions the powers of the Board or the School District, or
- in any way questions the validity of any proceeding taken by the Board in connection with the issuance of the Bonds, or
- wherein an unfavorable decision, ruling or finding could materially adversely affect the transactions contemplated by the purchase contract with respect to the Bonds, or
- which, in any way, could adversely affect the validity or enforceability of the resolutions of the Board adopted in connection with the formation of the District or the issuance of the Bonds, the Fiscal Agent Agreement, the Escrow Agreement, the Continuing Disclosure Certificate or the purchase contract with respect to the Bonds, or
- to the knowledge of the District, which in any way questions the exclusion from gross income of the recipients thereof of the interest on the Bonds for federal income tax purposes, or
- in any other way questions the status of the Bonds under State tax laws or regulations.

#### **NO RATING**

The District has not made and does not contemplate making an application to any rating agency for the assignment of a rating to the Bonds. There can be no guarantee that there will be a secondary market for the Bonds or, if a secondary market exists, that such Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary

marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon then prevailing circumstances. Such prices could be substantially different from the original purchase price.

#### FINANCIAL ADVISOR

Government Financial Strategies inc. has been employed by the School District to perform financial advisory services in relation to the sale and delivery of the Bonds. Government Financial Strategies inc., in its capacity as financial advisor, has participated in drafting this Official Statement. Government Financial Strategies inc. has not, however, independently verified nor confirmed all of the information contained within this Official Statement. Government Financial Strategies inc. will not participate in the underwriting of the Bonds. Fees charged by Government Financial Strategies inc. related to the Bonds are not contingent upon the sale of the Bonds.

#### UNDERWRITING

The Bonds were sold to \_\_\_\_\_ (the "Underwriter") pursuant to a bond purchase agreement by and between the District and the Underwriter for \$\_\_\_\_\_, an amount equal to the principal amount of the Bonds, plus (less) an original issue premium (discount) of \$\_\_\_\_\_, less an underwriting discount of \$\_\_\_\_\_, at a true interest cost to the District of \_\_\_\_\_%.

The Underwriter has certified the initial offering prices or yields stated on the inside cover page to this Official Statement. The Underwriter may offer and sell the Bonds to certain dealers (including dealers depositing Bonds into investment trusts), dealer banks, banks acting as agents and others at prices lower than said public offering prices. The reoffering prices may be changed from time to time by the Underwriter.

#### CONTINUING DISCLOSURE

The District has covenanted for the benefit of the holders and Beneficial Owners of the Bonds to provide certain financial information and operating data relating to the School District and the District (the "Annual Report"), by not later than nine months after the end of the fiscal year, commencing with the report for the 2012-13 fiscal year (which is due no later than March 30, 2014), and to provide notices of the occurrence of certain enumerated events. The Annual Report and notices of certain enumerated events will be filed by the School District with the MSRB through its EMMA system. The specific nature of the information to be contained in the Annual Report or the notices are set forth in "APPENDIX E—FORM OF CONTINUING DISCLOSURE CERTIFICATE." These covenants have been made in order to assist the Underwriter in complying with S.E.C. Rule 15c2-12(b)(5) (the "Rule").

In connection with prior undertakings under the Rule, the School District did not file annual reports and notices of rating downgrades of certain debt issues in a timely manner. The School District has developed procedures to ensure that future annual reports and notices of significant events are filed in a timely manner. As of the date of this Official Statement, all required filings have been made in connection with prior undertakings.

#### ADDITIONAL INFORMATION

Additional information concerning the District, the School District, the Bonds or any other matters concerning the sale and delivery of the Bonds may be obtained from the School District by contacting the School District at the address and telephone number set forth on

page "iii" of this Official Statement, or by contacting the Financial Advisor, Government Financial Strategies inc., 1228 N Street, Suite 13, Sacramento, California 95814-5609, telephone (916) 444-5100, facsimile telephone (916) 444-5109.

The execution and delivery of this Official Statement by the District has been duly authorization by the Board of the Capistrano Unified School District, acting as the legislative body of the District.

CAPISTRANO UNIFIED SCHOOL DISTRICT

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

APPENDIX A  
LOCATION MAP FOR THE DISTRICT



## APPENDIX B

### FIRST AMENDED RATE AND METHOD OF APPORTIONMENT FOR COMMUNITY FACILITIES DISTRICT NO. 2005-1 OF THE CAPISTRANO UNIFIED SCHOOL DISTRICT (WHISPERING HILLS)

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills) ("CFD No. 2005-1") and collected each Fiscal Year commencing in Fiscal Year 2011-12, in an amount determined by the Board through the application of the appropriate Special Tax for "Developed Property," "Taxable Property Owner Association Property," "Taxable Public Property," "Religious Property," and "Undeveloped Property" as described below. All of the real property in CFD No. 2005-1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

#### A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**"Acre or Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2005-1: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the School District or designee thereof or both); the costs of collecting the Special Taxes (whether by the School District or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the School District, CFD No. 2005-1 or any designee thereof of complying with arbitrage rebate requirements; the costs to the School District, CFD No. 2005-1 or any designee thereof of complying with disclosure requirements of the School District, CFD No. 2005-1 or obligated persons associated with applicable federal and state securities laws and the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the School District, CFD No. 2005-1 or any designee thereof related to an appeal of the Special Tax; the costs associated with the release of funds from an escrow account; and the School District's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated by the CFD Administrator or advanced by the School District or CFD No. 2005-1 for any other administrative purposes of CFD No. 2005-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Assessor's Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's parcel number.

**"Assessor's Parcel Map"** means an official map of the Assessor of the County designating parcels by Assessor's Parcel number.



**"Assigned Special Tax"** means the Special Tax for each Land Use Class of Developed Property, as determined in accordance with Section C below.

**"Backup Special Tax"** means the Special Tax applicable to each Assessor's Parcel of Developed Property, as determined in accordance with Section C below.

**"Board"** means the Board of Trustees of the Capistrano Unified School District, acting as the legislative body of CFD No. 2005-1.

**"Bonds"** means any bonds or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued by CFD No. 2005-1 under the Act.

**"CFD Administrator"** means an official of the School District, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

**"CFD No. 2005-1"** means Community Facilities District No. 2005-1 of the Capistrano Unified School District (Whispering Hills).

**"County"** means the County of Orange.

**"Custom Lot Property"** means, for each Fiscal Year, any Assessor's Parcel of Taxable Property (i) for which (a) escrow has closed prior to January 1 of the prior Fiscal Year to an owner other than Rancho San Juan Development LLC or (b) a building permit for new construction was issued prior to January 1 of the prior Fiscal Year; and (ii) that includes one or more of the following lots: lots 141 through 155 of Tract No. 16634 recorded with the County on October 12, 2006. Notwithstanding any future lot line adjustments or consolidations, each of the fifteen lots specified above shall be considered a "custom lot" for purposes of the levy of both the Assigned Special Tax and Backup Special Tax. However, if all or a portion of the geographic area described as lots 141 through 155 of Tract No. 16634 is remapped and a new tract map is recorded for such area, each buildable lot in such new tract shall be considered a "custom lot" for purposes of the levy of both the Assigned Special Tax and Backup Special Tax.

**"Developed Property"** means, for each Fiscal Year, all (i) Custom Lot Property, and (ii) Taxable Property, exclusive of Religious Property, Taxable Property Owner Association Property, or Taxable Public Property, for which a building permit for new construction was issued prior to January 1 of the prior Fiscal Year.

**"Fiscal Year"** means the period starting July 1 and ending on the following June 30.

**"Indenture"** means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**"Land Use Class"** means any of the classes listed in Table 1.

**"Maximum Special Tax"** means the maximum Special Tax, determined in accordance with Section C below, that can be levied in any Fiscal Year on any Assessor's Parcel.

**“Non-Residential Property”** means all Assessor’s Parcels of Developed Property for which a building permit(s) was issued for a non-residential use.

**“Outstanding Bonds”** means all Bonds which are deemed to be outstanding under the Indenture.

**“Property Owner Association Property”** means any property within the boundaries of CFD No. 2005-1 that is owned in fee or by easement, or dedicated to, a property owner association, including any master or sub-association.

**“Proportionately”** means for Undeveloped Property that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is equal for all Assessor’s Parcels of Undeveloped Property in CFD No. 2005-1. For Taxable Property Owner Association Property, Taxable Public Property or Taxable Religious Property **“Proportionately”** means that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is equal for all Assessor’s Parcels of Taxable Property Owner Association Property, Taxable Public Property or Taxable Religious Property in CFD No. 2005-1.

**“Public Property”** means any property within the boundaries of CFD No. 2005-1 that is transferred to a public agency on or after the date of formation of CFD No. 2005-1 and is used for rights-of-way or any other purpose and is owned by or dedicated to the federal government, the State of California, the County or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified in accordance with its use.

**“Religious Property”** means all property within the boundaries of CFD No. 2005-1 which is used primarily as a place of worship and is exempt from *ad valorem* property taxes because it is owned by a religious organization. Religious Property, without limitation, does not include any Assessor’s Parcels used primarily for religious schools, day care centers, or congregate care facilities.

**“Residential Property”** means (i) Custom Lot Property, and (ii) all Assessor’s Parcels of Developed Property for which a building permit has been issued for purposes of constructing one or more residential dwelling units.

**“Residential Floor Area”** means all of the square footage of living area within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be made by reference to the building permit(s) issued for such Assessor’s Parcel.

**“School District”** means the Capistrano Unified School District.

**“Single Family Property”** means all Assessor’s Parcels of Residential Property for which building permits have been issued for residential units, excluding Custom Lot Property.

**“Special Tax”** means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Developed Property, Religious Property, Taxable Property Owner Association Property, Taxable Public Property, and Undeveloped Property to fund the Special Tax Requirement.

**"Special Tax Requirement"** means that amount required in any Fiscal Year for CFD No. 2005-1 to: (i) pay debt service on all Outstanding Bonds; (ii) pay periodic costs on the Bonds, including but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay reasonable Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds; (v) pay directly for construction of facilities eligible under the Act to the extent that the inclusion of such amount does not increase the Special Tax levy on Undeveloped Property; and (vi) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; (vii) less a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator pursuant to the Indenture.

**"State"** means the State of California.

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of CFD No. 2005-1 which are not exempt from the Special Tax pursuant to law or Section E below.

**"Taxable Property Owner Association Property"** means all Assessor's Parcels of Property Owner Association Property that are not exempt pursuant to Section E below.

**"Taxable Public Property"** means all Assessor's Parcels of Public Property that are not exempt pursuant to Section E below.

**"Taxable Religious Property"** means all Assessor's Parcels of Religious Property that are not exempt pursuant to Section E below.

**"Trustee"** means the trustee, fiscal agent, or paying agent under the Indenture.

**"Undeveloped Property"** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Taxable Property Owner Association Property, Taxable Public Property, or Taxable Religious Property.

**B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, all Taxable Property within CFD No. 2005-1 shall be classified as Developed Property, Taxable Public Property, Taxable Property Owner Association Property, Taxable Religious Property, or Undeveloped Property, and shall be subject to Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. Residential Property shall be assigned to Land Use Classes 1 through 8, and Non-Residential Property shall be assigned to Land Use Class 9.

The Assigned Special Tax for Residential Property shall be based on whether it is Custom Lot Property or Single Family Property. The Assigned Special Tax for Custom Lot Property shall be based on the number of lots located within the Assessor's Parcel, as determined by the CFD Administrator. The Assigned Special Tax for Single Family Property shall be based on the Residential Floor Area of the dwelling unit(s) located on the Assessor's Parcel, as specified in Table 1 below. The Assigned Special Tax for Non-Residential Property shall be based on the Acreage of the Assessor's Parcel.

**C. MAXIMUM SPECIAL TAX RATE**

**1. Developed Property**

**a. Maximum Special Tax**

The Maximum Special Tax for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Assigned Special Tax or (ii) the amount derived by application of the Backup Special Tax.

**b. Assigned Special Tax**

The Assigned Special Tax for each Land Use Class for Fiscal Year 2011-12 is shown below in Table 1.

**TABLE 1**

**Assigned Special Taxes for Developed Property  
For Fiscal Year 2011-12  
Community Facilities District No. 2005-1**

| <b>Land Use Class</b> | <b>Residential Floor Area</b> | <b>Description</b>       | <b>Assigned Special Tax</b> |
|-----------------------|-------------------------------|--------------------------|-----------------------------|
| 1                     | NA                            | Custom Lot Property      | \$13,902 per lot            |
| 2                     | > 4,600 SF                    | Residential Property     | \$8,605 per unit            |
| 3                     | 4,301 –4,600 SF               | Residential Property     | \$7,855 per unit            |
| 4                     | 3,901 –4,300 SF               | Residential Property     | \$7,638 per unit            |
| 5                     | 3,701 –3,900 SF               | Residential Property     | \$7,105 per unit            |
| 6                     | 3,401 –3,700 SF               | Residential Property     | \$6,981 per unit            |
| 7                     | 2,901 –3,400 SF               | Residential Property     | \$6,641 per unit            |
| 8                     | ≤ 2,900 SF                    | Residential Property     | \$6,177 per unit            |
| 9                     | N/A                           | Non-Residential Property | \$21,000 per Acre           |

**c. Increase in the Assigned Special Tax**

The Assigned Special Taxes in Table 1 shall be applicable for Fiscal Year 2011-12, and shall increase thereafter, commencing on July 1, 2012 and on July 1 of each Fiscal Year thereafter, by an amount equal to two percent (2%) of the Assigned Special Tax for the previous Fiscal Year.

**d. Multiple Land Use Classes**

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Assigned Special Tax levied on an Assessor's Parcel shall be the sum of the Assigned Special Taxes for all Land Use Classes located on that Assessor's Parcel. The Maximum Special Tax that can be levied on an Assessor's Parcel shall be the sum of the Maximum Special Taxes that can be levied for all Land

Use Classes located on that Assessor's Parcel. For an Assessor's Parcel that contains both Residential Property and Non-Residential Property, the Acreage of such Assessor's Parcel shall be allocated to each type of property based on the amount of Acreage designated for each land use as determined by reference to the site plan approved for such Assessor's Parcel. The CFD Administrator's allocation to each type of property shall be final.

e. Backup Special Tax

(1) Residential Property (Excluding Custom Lot Property)

The Backup Special Tax for Residential Property excluding Custom Lot Property, shall equal \$21,485 per Acre for Fiscal Year 2011-12. The Backup Special Tax shall increase thereafter, commencing on July 1, 2012 and on July 1 of each Fiscal Year thereafter, by an amount equal to two percent (2%) of the Backup Special Tax for the previous Fiscal Year.

(2) Custom Lot Property

The Backup Special Tax for Custom Lot Property shall equal \$13,902 per lot for Fiscal Year 2011-12. The Backup Special Tax shall increase thereafter, commencing on July 1, 2012 and on July 1 of each Fiscal Year thereafter, by an amount equal to two percent (2%) of the Backup Special Tax for the previous Fiscal Year.

Notwithstanding the foregoing, if all or any portion of the Custom Lot Property is subsequently changed or modified in a manner that results in fewer than 15 custom lots, the Backup Special Tax for each Assessor's Parcel of Custom Lot Property that is changed or modified shall be a rate per Acre calculated as follows:

1. Determine the total Backup Special Tax anticipated to apply to the changed or modified portion of the Custom Lot Property prior to the change or modification.
2. Divide the amount determined pursuant to paragraph 1 above by the taxable Acreage of the Custom Lot Property which is expected to be located in such changed or modified area, as determined by the CFD Administrator.
3. The resulting quotient is the Backup Special Tax per Acre, which shall be applicable to Assessor's Parcels of Custom Lot Property in such changed or modified area.

The Backup Special Tax per Acre shall increase thereafter on each July 1, by an amount equal to two percent (2%) of the Backup Special Tax per Acre for the previous Fiscal Year.

2. **Undeveloped Property, Taxable Property Owner Association Property, Taxable Public Property and Taxable Religious Property**

a. Maximum Special Tax

The Maximum Special Tax for Undeveloped Property, Taxable Property Owner Association Property, Taxable Public Property and Taxable Religious Property in CFD No. 2005-1 shall be \$21,485 per Acre for Fiscal Year 2011-12, and shall increase thereafter, commencing on July 1, 2012 and on July 1 of each Fiscal Year thereafter, by an amount equal to two percent (2%) of the Maximum Special Tax for the previous Fiscal Year.

D. **METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2011-12 and for each following Fiscal Year, the Board shall levy the Special Tax as follows:

First: The Special Tax shall be levied on each Assessor's Parcel of Developed Property at 100% of the applicable Assigned Special Tax;

Second: If additional monies are needed to satisfy the Special Tax Requirement after the first step has been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property at up to 100% of the Maximum Special Tax for Undeveloped Property;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, then the levy of the Special Tax on each Assessor's Parcel of Developed Property whose Maximum Special Tax is determined through the application of the Backup Special Tax shall be increased Proportionately from the Assigned Special Tax up to the Maximum Special Tax for each such Assessor's Parcel;

Fourth: If additional monies are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Property Owner Association Property, Taxable Public Property or Taxable Religious Property at up to the Maximum Special Tax for Taxable Property Owner Association Property, Taxable Public Property or Taxable Religious Property.

Notwithstanding the above, under no circumstances will the Special Tax levied against any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased by more than ten percent as a consequence of delinquency or default by the owner of any other Assessor's Parcel within CFD No. 2005 1.

E. **EXEMPTIONS**

No Special Taxes shall be levied on Public Property, Religious Property, and Property Association Property, so long as the Acreage of Taxable Property within CFD No. 2005-1 is at least 58.71 Acres. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Property Owner Association Property, Public Property or Religious Property. However, should an

Assessor's Parcel no longer be classified as Property Owner Association Property, Public Property or Religious Property, its tax-exempt status will be revoked.

To the extent that the exemption of an Assessor's Parcel of Public Property, Religious Property, or Property Association Property would reduce the Acreage of Taxable Property within CFD No. 2005-1 below 58.71 Acres, such Assessor's Parcel shall be classified as Taxable Public Property, Taxable Religious Property, or Taxable Property Association Property, as applicable, and shall be subject to the levy of the Special Tax and shall be taxed as part of the fourth step in Section D above, at up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property, Taxable Public Property or Taxable Religious Property.

**F. REVIEW/APPEAL COMMITTEE**

The Board shall establish as part of the proceedings and administration of CFD No. 2005-1 a special three-member Review/Appeal Committee. Any landowner or resident who feels that the amount of the Special Tax levied on their Assessor's Parcel is in error may file a notice with the Review/Appeal Committee appealing the amount of the Special Tax levied on such Assessor's Parcel. The Review/Appeal Committee shall interpret this Rate and Method of Apportionment and make determinations relative to the annual administration of the Special Tax and any landowner or resident appeals, as herein specified. The decision of the Review/Appeal Committee shall be final and binding as to all persons.

**G. MANNER OF COLLECTION**

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2005-1 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels as permitted by the Act.

**H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**"CFD Public Facilities"** means either \$15.8 million in 2011 dollars, which shall increase by the Construction Inflation Index on July 1, 2012, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to provide the public facilities to be provided by CFD No. 2005-1 under the authorized financing program for CFD No. 2005-1, or (ii) shall be determined by the Board concurrently with a covenant that it will not issue any more Bonds to be supported by Special Taxes levied under this Rate and Method of Apportionment as described in Section D.

**"Construction Fund"** means an account specifically identified in the Indenture to hold funds which are currently available for expenditure to acquire or construct public facilities eligible under the Act.

**"Construction Inflation Index"** means the annual percentage change in the Engineering News Record Building Cost Index for the City of Los Angeles, measured as of the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Construction Inflation Index shall be another index as determined by

the CFD Administrator that is reasonably comparable to the Engineering News Record Building Cost Index for the City of Los Angeles.

**“Future Facilities Costs”** means the CFD Public Facilities minus (i) public facility costs previously paid from the Construction Fund; (ii) moneys currently on deposit in the Construction Fund; and (iii) moneys currently on deposit in an escrow fund, if any, that are expected to be available to finance public facilities costs.

**“Outstanding Bonds”** means all Previously Issued Bonds which are deemed to be outstanding under the Indenture after the first interest and/or principal payment date following the current Fiscal Year.

**“Previously Issued Bonds”** means all Bonds that have been issued by CFD No. 2005-1 prior to the date of prepayment.

**1. Prepayment in Full**

All Assessor’s Parcels of Developed Property and Assessor’s Parcels of Undeveloped Property for which a building permit has been issued may be prepaid. The Special Tax obligation applicable to such Assessor’s Parcel in CFD No. 2005-1 may be fully prepaid and the obligation of the Assessor’s Parcel to pay the Special Tax permanently satisfied as described herein; provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Assessor’s Parcel or any other Assessor’s Parcel owned by such owner at the time of prepayment. An owner of an Assessor’s Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount of such Assessor’s Parcel. The CFD Administrator will charge a fee to the owner requesting prepayment for providing this figure. Prepayment must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

The Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

|               |                                    |
|---------------|------------------------------------|
|               | Bond Redemption Amount             |
| plus          | Redemption Premium                 |
| plus          | Future Facilities Amount           |
| plus          | Defeasance Amount                  |
| plus          | Administrative Fees and Expenses   |
| less          | Reserve Fund Credit                |
| less          | <u>Capitalized Interest Credit</u> |
| Total: equals | Prepayment Amount                  |

As of the proposed date of prepayment, the Prepayment Amount (defined below) shall be calculated as follows:

**Paragraph No.:**

1. Confirm that no Special Tax delinquencies apply to such Assessor’s Parcel.



2. For Assessor's Parcels of Developed Property compute the Assigned Special Tax and Backup Special Tax applicable for the Assessor's Parcel to be prepaid. For Assessor's Parcels of Undeveloped Property (for which a building permit has been issued), compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to paragraph 2 by the total estimated Assigned Special Taxes for the entire CFD No. 2005-1 based on the Developed Property Special Taxes which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 2005-1, excluding any Assessor's Parcels which have been prepaid, and  
  
(b) Divide the Backup Special Tax computed pursuant to paragraph 2 by the estimated Backup Special Taxes at buildout of CFD No. 2005-1 using the Backup Special Tax amount for the current Fiscal Year, excluding any Assessor's Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to paragraph 4 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the current Future Facilities Costs.
7. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Taxes levied on the Assessor's Parcel in the current Fiscal Year which have not yet been paid.
10. Compute the minimum amount the CFD Administrator reasonably expects to derive from the reinvestment of the Prepayment Amount less the Future Facilities Amount and the Administrative Fees and Expenses from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.
11. Add the amounts computed pursuant to paragraphs 8 and 9 and subtract the amount computed pursuant to paragraph 10 (the "Defeasance Amount").

12. Verify the administrative fees and expenses of No. 2005-1, including the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").
13. The reserve fund credit (the "Reserve Fund Credit") shall equal the lesser of: (a) the expected reduction in the reserve requirement (as defined in the Indenture), if any, associated with the redemption of Outstanding Bonds as a result of the prepayment, or (b) the amount derived by subtracting the new reserve requirement (as defined in the Indenture) in effect after the redemption of Outstanding Bonds as a result of the prepayment from the balance in the reserve fund on the prepayment date, but in no event shall such amount be less than zero.
14. If any capitalized interest for the Outstanding Bonds will not have been expended at the time of the first interest and/or principal payment following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the "Capitalized Interest Credit").
15. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 4, 5, 7, 11 and 12, less the amounts computed pursuant to paragraphs 13 and 14 (the "Prepayment Amount").
16. From the Prepayment Amount, the amounts computed pursuant to paragraphs 4, 5, 11, 13 and 14 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to paragraph 7 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 12 shall be retained by CFD No. 2005-1.

The Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of Bonds. In such cases, the increment above \$5,000 or integral multiple thereof will be retained in the appropriate fund established under the Indenture to be used with the next prepayment of bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year's Special Tax levy as determined under paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year's Special Tax levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid, the Board shall cause a suitable notice to be recorded in compliance with the Act, to indicate the prepayment of Special Taxes and the release of the Special Tax lien on such Assessor's Parcel, and the obligation of such Assessor's Parcel to pay the Special Tax shall cease.

## 2. Prepayment in Part

The Maximum Special Tax on an Assessor's Parcel of Developed Property or an Assessor's Parcel of Undeveloped Property for which a building permit has been issued may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1; except that a partial prepayment shall be calculated according to the following formula:

$$PP = (PE - A) \times F + A$$

These terms have the following meaning:

PP = the partial prepayment

PE = the Prepayment Amount calculated according to Section H.1

F = the percent by which the owner of the Assessor's Parcel(s) is partially prepaying the Maximum Annual Special Tax.

A = the Administration Fees and Expenses from Section H.1

The owner of an Assessor's Parcel who desires to partially prepay the Maximum Special Tax shall notify the CFD Administrator of such owner's intent to partially prepay the Maximum Special Tax and the percentage by which the Maximum Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Maximum Special Tax for an Assessor's Parcel within 30 days of the request and will charge a fee to the owner requesting prepayment for providing this figure.

With respect to any Assessor's Parcel that is partially prepaid, the School District shall (i) distribute the funds remitted to it according to Paragraph 16 of Section H.1. and (ii) indicate in the records of CFD No. 2005-1 that there has been a partial prepayment of the Maximum Special Tax and that a portion of the Maximum Special Tax equal to the outstanding percentage  $(1.00 - F)$  of the remaining Maximum Special Tax shall continue to be authorized to be levied on such Assessor's Parcel pursuant to Section D.

Notwithstanding the foregoing, no full or partial Special Tax prepayment shall be allowed unless the amount of Assigned Special Taxes that may be levied on Taxable Property within CFD No. 2005-1 both prior to and after the proposed prepayment, less expected Administrative Expenses, is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

### I. TERM OF SPECIAL TAX

The Special Tax shall be levied for the period necessary to fully satisfy the Special Tax Requirement, but in no event shall it be levied after Fiscal Year 2051-52.

**APPENDIX C**  
**SUMMARY OF CERTAIN PROVISIONS OF THE FISCAL AGENT AGREEMENT**

[to come]

## APPENDIX D

### ORANGE COUNTY ECONOMIC PROFILE

*The boundaries of the District are within Orange County (the "County"). The information in this section concerning the County is provided as supplementary information only, and it should not be inferred from the inclusion of this information in this Official Statement that the Bonds are a debt of such entity. The Bonds are payable from the proceeds of the Special Tax and amounts in certain funds and accounts held under the Fiscal Agent Agreement. See "SECURITY AND SOURCE OF PAYMENT" herein.*

The County is one of 58 counties in the State and is located in the southwestern corner of the State.

Based on data compiled by DataQuick Information Systems, the median sale price of a single-family home in the County was \$537,000 in April 2013, an increase of approximately 27.9% from \$420,000 in April 2012. The median sale price of a single-family home in the City of San Clemente was \$735,250 in April 2013, an increase of approximately 12.8% from \$651,750 in April 2012.

#### Population

The following table displays population data from the 2010 census along with estimated population as of January 1 for the past three years for the County.

Historical Population  
Orange County

|               | <u>2010</u> | <u>2011</u> | <u>2012</u> | <u>2013</u> |
|---------------|-------------|-------------|-------------|-------------|
| Orange County | 3,010,232   | 3,028,846   | 3,057,879   | 3,081,804   |

Source: State Department of Finance

#### Unemployment

The following table contains a summary of the County's unemployment data seasonally unadjusted.

Historical Unemployment  
Orange County

|                   | <u>Annual<br/>2009</u> | <u>Annual<br/>2010</u> | <u>Annual<br/>2011</u> | <u>Annual<br/>2012</u> | <u>April<br/>2013<sup>1</sup></u> |
|-------------------|------------------------|------------------------|------------------------|------------------------|-----------------------------------|
| Total Labor Force | 1,588,800              | 1,591,000              | 1,603,700              | 1,618,700              | 1,630,800                         |
| # Employed        | 1,448,200              | 1,440,400              | 1,464,400              | 1,496,000              | 1,538,300                         |
| # Unemployed      | 140,600                | 150,700                | 139,300                | 122,700                | 92,500                            |
| Unemployment Rate | 8.8%                   | 9.5%                   | 8.7%                   | 7.6%                   | 5.7%                              |

<sup>1</sup>Preliminary

Source: State Employment Development Department

## Major Employers

The following table provides a listing of 25 major employers in the County, listed by number of employees.

### Major Employers Orange County

| <u>Rank</u> | <u>Company</u>                         | <u>Employees<br/>in County</u> | <u>Operations in the County</u>                                |
|-------------|--|--------------------------------|--|
| 1           | Walt Disney Co.                        | 22,000                         | Disneyland Park, Disney California Adventure Park              |
| 2           | University of California, Irvine       | 21,291                         | University California, Irvine, UCI Medical Center              |
| 3           | St. Joseph Health System               | 12,048                         | St. Joseph Health System Headquarters, St. Joseph Hospital     |
| 4           | Boeing Co.                             | 7,700                          | Boeing Defense, Space and Security                             |
| 5           | Bank of America Corp.                  | 6,300                          | Bank of America credit card servicing center, bank branches    |
| 5           | Yum Brands Inc.                        | 6,300                          | Taco Bell headquarters; Taco Bell, KFC, Pizza Hut              |
| 7           | Kaiser Permanente                      | 5,968                          | Kaiser Permanente hospitals, medical offices, regional offices |
| 8           | Target Corp.                           | 5,527                          | Target stores, distribution center                             |
| 9           | Cedar Fair LP                          | 5,200                          | Knott's Berry Farm, Knott's Soak City Water Park               |
| 10          | California State University, Fullerton | 5,173                          | California State University, Fullerton                         |
| 11          | MemorialCare Health System             | 5,096                          | MemorialCare Health System headquarters                        |
| 12          | Supervalu Inc.                         | 5,008                          | Albertsons, Sav-on Pharmacy, distribution centers              |
| 13          | Hoag Memorial Hospital Presbyterian    | 4,923                          | Hoag Memorial Hospital Presbyterian, Hoag Hospital Irvine      |
| 14          | Wells Fargo & Co.                      | 4,414                          | Wells Fargo banks, regional offices                            |
| 15          | Kroger Co.                             | 4,200                          | Ralphs, Food 4 Less  |
| 16          | Wal-Mart Stores Inc.                   | 4,000                          | Wal-Mart, Sam's Club stores                                    |
| 17          | UnitedHealth Group Inc.                | 3,800                          | PacificCare, UnitedHealthcare                                  |
| 18          | Marriott International Inc.            | 3,720                          | Marriott Hotels & Resorts, Ritz-Carlton                        |
| 19          | Allergan Inc.                          | 3,700                          | Corporate headquarters, R&D                                    |
| 19          | Edison International                   | 3,700                          | Southern California Edison, Edison Mission Energy              |
| 21          | Tenet Healthcare Corp.                 | 3,650                          | Fountain Valley Regional Hospital, Garden Grove Hospital       |
| 22          | Costco Wholesale Corp.                 | 3,637                          | Costco stores  |
| 23          | CVS Caremark Corp.                     | 3,600                          | CVS Pharmacy stores  |
| 24          | AT&T Inc.                              | 3,500                          | AT&T, AT&T Wireless  |
| 25          | Home Depot Inc.                        | 3,500                          | Home Depot stores, regional offices                            |

Source: 2012 Orange County Business Journal.

### Taxable Sales

Total taxable sales reported during the calendar year 2011 in the County were approximately \$51,731,139 an 8.5% increase from the total taxable sales of approximately \$47,667,179,000 reported during calendar year 2010. Data for calendar year 2012 is not yet available.

The number of establishments selling merchandise subject to sales tax and the valuation of taxable transactions in the County is presented in the following table, rounded to the nearest thousand.

#### Taxable Retail Sales Orange County

|                       | <u>2007</u>  | <u>2008</u>  | <u>2009</u>  | <u>2010</u>  | <u>2011</u>  |
|-----------------------|--------------|--------------|--------------|--------------|--------------|
| Sales Tax Permits     | 99,088       | 97,612       | 90,231       | 92,047       | 92,207       |
| Taxable Sales (000's) | \$57,293,471 | \$53,606,829 | \$45,712,784 | \$47,667,179 | \$51,731,139 |

Source: State Board of Equalization

**APPENDIX E**  
**FORM OF CONTINUING DISCLOSURE CERTIFICATE**

[to come]



**APPENDIX F**  
**PROPOSED FORM OF OPINION OF BOND COUNSEL**

[to come]

**APPENDIX G**  
**APPRAISAL REPORT**



## Common Core Expenditure Plan for One Time Funds

Capistrano Unified School District  
September 11, 2013

### Common Core Expenditure Plan

- \$1 billion in one-time Prop 98 dollars to be apportioned statewide to local educational agencies based on 2012-2013 ADA.
- CUSD will receive approximately \$1 million to be spent between 2013-2015.

## CCSS Expenditure Plan

### • Professional Development \$5 million

*...for teachers, administrators, and paraprofessional educators or other classified employees involved in the direct instruction of pupils that is aligned to the academic content standards adopted pursuant to California Education Code (EC) sections 60605.8, 60605.11*

### • Instructional Materials \$1 million


*...aligned to the academic content standards adopted pursuant to EC sections 60605.8, 60605.85, 60605.11, and 60811.3 including, but not limited to, supplemental instructional materials as provided in sections 60605.86, 60605.87, and 60605.88.*

### • Technology \$4 million

*...integrated throughout instruction for purposes of improving the academic performance of pupils, including expenditures to support the administration of computer-based assessments and provide high-speed, high-bandwidth Internet connectivity for the purpose of administration of computer-based assessments.*

| Category                 | Goals for Implementation  |
|--------------------------|---|
| Professional Development | Provide targeted teacher and paraprofessional training and coaching to support: <ul style="list-style-type: none"> <li>• Knowledge of CCSS standards</li> <li>• Instructional strategies</li> <li>• Curricular tools to support implementation</li> </ul> 2013-14: Oct. 3, Jan. 6, April 21<br>2014-15: TBD |
| Instructional Materials  | Purchase "bridge" materials that: <ul style="list-style-type: none"> <li>• Enable teachers to address new standards</li> <li>• Reflect effective instructional approaches, and</li> <li>• Align with the rigor and structure of CCSS assessments</li> </ul>   |
| Technology               | Evaluate and purchase technology tools that will: <ul style="list-style-type: none"> <li>• Enable students to access digital information and</li> <li>• Complete Smarter-Balanced assessments</li> </ul>  |

# CCSS Implementation Plan

|   | 2012-13  | 2013-14   | 2014-15  |
|---|--|---|--|
|  <p><b>Implementation of Common Core State Standards</b></p> <p><b>End in Mind</b></p> | <p>All teams will become familiar with the common core state standards and begin to incorporate strategies in support of their implementation. Teachers will engage in professional learning within a variety of contexts to support the following instructional shifts:</p> <ul style="list-style-type: none"> <li>• Building knowledge through content-rich nonfiction across disciplines, including primary source documents</li> <li>• Reading, writing, and speaking grounded in evidence from text (both literary and informational)</li> <li>• Regular practice with complex text and its academic language across disciplines</li> </ul> | <p>All teachers will teach a minimum of 2 CCSS-aligned units developed or adopted by teams. Professional development will focus on continued work in literacy and mathematics, including:</p> <ul style="list-style-type: none"> <li>• Drawing textual evidence from multiple sources</li> <li>• Range of writing within extended and shorter timeframes (across the disciplines)</li> <li>• Integration of aligned formative and summative assessments that require student reasoning and applied problem-solving</li> </ul> | <p>All teachers will fully implement CCSS-aligned instruction. Professional learning will focus on continued work in extended literacy and writing. Expanded focus will be placed on inquiry-based/project-based learning that incorporates the 21<sup>st</sup> century skills of:</p> <ul style="list-style-type: none"> <li>• Collaboration</li> <li>• Communication</li> <li>• Critical thinking</li> <li>• Creativity/innovation</li> </ul> <p>In concert with this emphasis, there will be increased use of performance tasks as assessments.</p> |

| Goal Areas                                 | 2012-13 Actions  | 2013-14 Actions   | 2014-15 Actions   |
|--|--|---|---|
| <b>Capacity building and collaboration</b> | <ul style="list-style-type: none"> <li>• Build background knowledge of key staff and teacher leaders</li> <li>• Establish and train Middle School Task Force</li> <li>• Establish and train Elementary Advisory Committee</li> <li>• Advance STEM teacher leadership &amp; partnerships</li> </ul>   | <ul style="list-style-type: none"> <li>• Appoint CCSS Liaisons for Elementary and conduct year-long training series</li> <li>• Continue secondary CCSS Task Force</li> <li>• Expand math TOSA capacity K-12</li> <li>• Advance STEM activities &amp; partnerships</li> <li>• Provide seed training for Project-based Learning to selected teacher leaders</li> </ul>  | <ul style="list-style-type: none"> <li>• Utilize teacher leaders in a variety of training and support activities geared toward leading their colleagues in CCSS transition at their sites and districtwide, conducted through in-person, online, and on-demand formats.</li> <li>• Advance STEM activities and partnerships</li> </ul>  |
| <b>Resource Development</b>                | <ul style="list-style-type: none"> <li>• Update Educator Support website to organize resources in accessible fashion</li> <li>• Create CCSS Toolkits for Grades K-5</li> <li>• Refine standards-based report card to reflect CCSS</li> <li>• Create and/or identify exemplary units for integration of emphasized literacy shifts</li> </ul> | <ul style="list-style-type: none"> <li>• Continue unit development across disciplines and grade levels</li> <li>• Refine districtwide rubrics and identify exemplars/anchor papers</li> <li>• Refine Curriculum Alignment Guides based on feedback/data</li> </ul>  | <ul style="list-style-type: none"> <li>• Expand exemplary units across disciplines and grade levels, with increased emphasis on embedded performance tasks</li> </ul>   |
| <b>Administrator Training and Support</b>  | <ul style="list-style-type: none"> <li>• Provide literacy training to administrators (separate sessions for elementary and secondary)</li> </ul>   | <ul style="list-style-type: none"> <li>• Provide continued training in literacy, with expansion in the area of writing</li> <li>• Provide training on CCSS-aligned assessments</li> </ul>   | <ul style="list-style-type: none"> <li>• Provide continued training in literacy, with expansion in the area of writing</li> <li>• Provide training on quality, project-based learning and performance tasks</li> </ul>  |
| <b>Teacher Training</b>                    | <ul style="list-style-type: none"> <li>• Release all elementary teachers for full day to receive overview on CCSS literacy shifts</li> <li>• Secondary CCSS Task force and Dept. chairs train on key features of CCSS at the school site</li> <li>• Organize teaching videos for on-demand access</li> </ul>                                 | <ul style="list-style-type: none"> <li>• <b>August Academy:</b> Provide targeted training focused on specific instructional practices aligned to CCSS.</li> <li>• <b>CCSS Professional Days</b> <ul style="list-style-type: none"> <li>• Oct. 4, Jan. 6, &amp; April 21                             <ul style="list-style-type: none"> <li>○ Support for implementing aligned instruction in all grades and content areas</li> </ul> </li> </ul> </li> <li>• <b>Targeted Training and Support</b> <ul style="list-style-type: none"> <li>○ Specific Grades/Content areas</li> </ul> </li> <li>• Design and deliver teacher training on adopted online learning solutions and curriculum to support development of CCSS units (i.e. My Big Campus, Google tools, Information literacy/Digital Citizenship, Discovery Plus).</li> </ul> | <ul style="list-style-type: none"> <li>• Design and deliver embedded and direct PD focused on the use of project-based learning and performance tasks</li> <li>• Continue to support implementation of quality practices in support of the CCSS through professional development and coaching</li> <li>• Continue to design and deliver teacher training on adopted online learning solutions and curriculum to support development of CCSS units (i.e. My Big Campus, Google tools, Information literacy/Digital Citizenship, Discovery Plus, etc).</li> </ul> |

# CCSS Implementation Plan

| Goal Areas                           | 2012-13 Actions   | 2013-14 Actions   | 2014-15 Actions   |
|--------------------------------------|---|---|---|
| <b>Support for implementation</b>    | <ul style="list-style-type: none"> <li>• Create professional development modules across a variety of contexts (i.e. on-demand, in-person, team protocols)</li> <li>• ADD/SIOP training will embed a focus on the CCSS and strategies (i.e. literacy)</li> <li>• Utilize Edmodo communities, Discovery, WebEx, Show &amp; Share to support implementation</li> </ul> | <ul style="list-style-type: none"> <li>• Provide protocols for team processes</li> <li>• Provide Sample IPGs for teachers</li> <li>• Conduct administrator support sessions (i.e. bring artifacts of implementation, etc.)</li> <li>• Utilize Teaching Channel, My Big Campus, Google tools, Discovery Plus and other online communities/resources and delivery systems to support implementation.</li> <li>• Design and deliver training for the 1:1 pilot sites.</li> </ul> | <ul style="list-style-type: none"> <li>• Conduct administrator support sessions (i.e. collaborative sharing of strategies, evidence of effectiveness)</li> <li>• Utilize Teaching Channel, My Big Campus, Google tools, Discovery Plus and other online communities/resources and delivery systems to support implementation</li> <li>• Continue to refine and deliver training for the 1:1 sites.</li> </ul> |
| <b>Technology and Infrastructure</b> | <ul style="list-style-type: none"> <li>• Initial core infrastructure and wireless network upgrades at all 56 campuses</li> <li>• Complete pilot testing of SBAC computer based assessment.</li> <li>• Establish Mobile Technology Advisory Committee and identify preferred school and classroom mobile devices for evaluation.</li> </ul>                          | <ul style="list-style-type: none"> <li>• Further testing of selected mobile devices for 1:1 initiatives (i.e. Chromebook, Windows tablet, iPad, etc).</li> <li>• Select and implement pilot 1:1 initiative at various sites.</li> <li>• Assess additional infrastructure needs based on pilot results and testing.</li> <li>• Acquire and deploy technology to sites for computer based assessments.</li> <li>• Evaluate sustainability of technology initiatives.</li> </ul> | <ul style="list-style-type: none"> <li>• Complete infrastructure upgrades based on program and future needs.</li> <li>• Expand 1:1 initiative.</li> <li>• Continue to evaluate sustainability of technology initiatives.</li> </ul>   |
| <b>Preparation for Assessments</b>   | <ul style="list-style-type: none"> <li>• Engage in pilot SBAC administration</li> <li>• Examine released items</li> <li>• Identify potential item bank for use by teacher teams to create aligned formative and summative assessments</li> </ul>  | <ul style="list-style-type: none"> <li>• Engage in pilot SBAC administration</li> <li>• Examine released items</li> <li>• Purchase CCSS item bank for use by teacher teams to create aligned formative and summative assessments</li> </ul>   | <ul style="list-style-type: none"> <li>• Engage in SBAC administration</li> <li>• Examine aligned formative and summative assessments</li> <li>• Provide data protocols for evaluating CCSS Assessment data</li> </ul>  |

**EMERGENCY DRILLS****EVACUATION/FIRE DRILL**

The principal of each school shall hold fire drills at least once a month in all elementary, ~~and~~ four times per year at the middle schools and at least twice each school year in all high schools (Code of Regulations, Title 5, Section 550).

1. All students, teachers, and other employees shall be required to leave the school building in an orderly and rapid manner. Teachers shall ascertain that no student remains in the building.
2. Teachers shall be prepared to select alternate exits and direct their classes to these exits in the event the designated escape route is blocked.
3. A record shall be kept in the principal's office of each drill conducted. A copy of the record shall also be filed in the office of the Superintendent or designee. (Form # 100052 - B-50)

In the event that fire is discovered in any part of the school, the fire department shall be called immediately after the signal is given to evacuate the building.

Principals and teachers shall recognize that it is essential in any emergency to prevent panic by giving students clear direction and supervision.

In case of an actual fire emergency, the following actions will be taken:

1. Sound fire signals.
2. Call police and fire departments.
3. Students and adults evacuate the building to outside assembly areas.
4. In outside assembly areas, teachers shall take roll, report missing students, and provide assistance to injured students.
5. If the fire is serious, students shall be taken to an alternate location for protective custody until parents/guardians can pick them up or until they can be safely transported to their homes.

**NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) DRILL**

The principal of each school shall hold a National Incident Management System (NIMS) drill at least once a year in all elementary, middle, and high schools.

1. Drop, cover and hold procedures will be implemented in response to a simulated earthquake.



**EMERGENCY DRILLS (continued)**

2. All students, teachers and employees will evacuate the school buildings to an assembly area, after it has been established that the evacuation route is safe.
3. All areas of the NIMS incident command system will be activated and simulated. These areas include: Command, Operations, Logistics and Administration/Finance and Planning.
4. A record shall be kept in the principal's office of each drill conducted. A copy of the record shall also be filed in the office of the Superintendent or designee. (Form # 100052 - B-50)

**LOCKDOWN DRILLS**

The principal of each school shall hold ~~a~~ lockdown drills ~~once~~ twice a year in all elementary, middle, and high schools.

1. All students, teachers, and other employees will initiate lockdown mode as outlined in the ~~CUSD~~ District Emergency Management Plan.
2. If feasible, the lockdown drill will be conducted in coordination with local law enforcement.
3. A record shall be kept in the principal's office of each drill conducted. A copy of the record shall also be filed in the office of the Superintendent or designee. (Form # 100052 - B-50)

**DISTRICT EMERGENCY OPERATIONS CENTER (EOC) DRILLS**

The superintendent or designee shall conduct an activation of the Emergency Operations Center (EOC) a minimum of once a year.

1. The activation shall include deployment of all NIMS Incident Command positions.
2. Actual or simulated contact shall be made with each ~~CUSD~~ District School Site. Status of each site must be documented.
3. A record shall be kept in the principal's office of each drill conducted. A copy of the record shall also be filed in the office of the Superintendent or designee. (Form # 100052 - B-50)

*Legal Reference:*EDUCATION CODE

32000-32004 *Uniform fire signals (with requirement that every school building with capacity of 50 or more students be provided with a fire warning system)*

32040 *Duty to equip school with first aid kit*

CODE OF REGULATIONS, TITLE 5

550 *Fire drills*

## Policy

Adopted: February 9, 1999

Revised: October 2008

Revised:

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

San Juan Capistrano, California

CAPISTRANO UNIFIED SCHOOL DISTRICT  
BOARD OF TRUSTEES  
MINUTES – REGULAR MEETING  
SEPTEMBER 11, 2013  
EDUCATION CENTER – BOARD ROOM

President Alpay called the meeting to order at 5:30 p.m. The Board recessed to closed session to: discuss a Complaint Against an Unrepresented Public Employee and/or Public Employee Discipline/Dismissal/Release; confer with Legal Counsel regarding Anticipated Litigation; confer with Legal Counsel regarding Existing Litigation; and confer with Labor Negotiators.

Closed session recessed at 6:25 p.m.

The regular meeting of the Board reconvened to open session and was called to order by President Alpay at 7:02 p.m.

The Pledge of Allegiance was led by San Clemente High School Principal Michael Halt.

Present: Trustees Addonizio, Alpay, Bryson, Hanacek, Hatton, Pritchard, Reardon, and Student Advisor Leilah Rodriguez

**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 Bryson, seconded by Trustee Addonizio, and motion carried by a 7-0 vote to adopt the Board agenda.

**Adoption of the Board Agenda**

ROLL CALL: AYES: Trustees Addonizio, Alpay, Bryson, Hanacek, Hatton, Pritchard, Reardon, and Student Advisor Leilah Rodriguez  
NOES: None  
ABSENT: None  
ABSTAIN: None

President Alpay reported the following action taken during closed session:

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

**Agenda Item #3 A – Complaint Against an Unrepresented Public Employee and/or Public Employee Discipline/Dismissal/Release:**

The Board gave direction to staff.

**Agenda Item #3 B – Conference with Legal Counsel – Anticipated Litigation:**

The Board gave direction to staff.

**Agenda Item #3 C – Conference with Legal Counsel – Existing Litigation:**

The Board voted by a 7-0 vote to approve the settlement agreement.

AYES: Trustees Addonizio, Alpay, Bryson, Hanacek, Hatton, Pritchard, and Reardon  
NOES: None

### Agenda Item #3 D – Conference with Labor Negotiators:

No action was taken. President Alpay announced Attorney Jon Pearl was not present in closed session.

Kyra Brandt, a senior at San Clemente High School, was recognized for her role in saving the life of a surfer this summer.

**Special  
Recognitions**

Trustee Bryson shared she had visited Marian Bergeson Elementary School, Newhart Middle School, and Dana Hills High School on the first day of school and thanked the principals for sharing their time with her on the opening day of school.

**Board and  
Superintendent  
Comments**

Trustee Hanacek shared the following quote, "Education is the transmission of civilization. Civilization is not inherited; it has to be learned again by each new generation," and then thanked the principals, teachers, and staff for rising to the challenge of educating children.

Trustee Addonizio welcomed Student Advisor Leilah Rodriguez to her first meeting.

Trustee Alpay introduced Leilah Rodriguez, share some of her personal and academic accomplishments, and congratulated her on being selected as the Student Advisor to the Board.

Student Advisor Leilah Rodriguez introduced her family and stated she is looking forward to serving on the Board representing her peers.

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:

- *Kevin Draper stated his objections to statements made by a speaker, at a January Board meeting, against the Fair Education Act (SB 48) and stated the District is required by law to comply and provide instructional materials with accurate historical information of the contributions of Lesbian, Bisexual, Gay, and Transgender (LGBT) people into existing social studies lessons.*
- *Christie Draper stated the Board has an obligation to uphold Board Policy 6161.4, Selection and Evaluation of Instructional Materials, and stated her disapproval of the selection of Dr. Wasbin as a member of the Instructional Materials Review Committee due to his statements against the implementation of SB 48 at the January Board meeting.*

### DISCUSSION/ACTION

President Alpay announced the Public Hearing open at 7:20 p.m. regarding the expenditure plan for one-time funds for Common Core State Standards.

**Public Hearing:  
Expenditure Plan  
for One-Time  
Funds for CCSS  
Agenda Item 1**

The following speakers addressed the Board:

- Austin Turner, Ariel Bustamante, Barbara Pisetsky, Lisa Richardson, Michael Richardson, and Colin Gibson spoke in regards to the District's responsibility to comply with the law and the benefits for LBGT students by including SB 48 requirements in the social study curriculum to address diversity, acceptance, equality, and a safer school environment for all students.

President Alpay declared the Public Hearing closed at 7:40 p.m.

Superintendent Farley stated the Common Core goal should be viewed as a natural extension of what has already been accomplished in the State Standards and that all the District's initiatives will continue. Dr. Farley added professional development is the first step, followed by training of appropriate classified staff, parents, and the community. Assistant Superintendents Julie Hatchel and Michelle Le Patner provided a PowerPoint presentation on the Common Core State Standards (CCSS), new assessments, difference between California State Standards and CCSS, and suggested expenditure plan regarding the \$10 million in categorical funding. Following the presentation, Trustees discussed and asked staff questions regarding the implementation of CCSS. *(The PowerPoint is posted on the District website: [www.capousd.org](http://www.capousd.org))*

**Expenditure Plan  
for One-Time  
Funds for CCSS  
Agenda Item 2**

This item was pulled from the agenda on September 6, 2013, and will be placed on a future agenda.

**CSEA Tentative  
Agreement  
Agenda Item 3**

Deputy Superintendent Clark Hampton provided the Board with a brief update on the 2012-2013 actuals and the revisions to the 2013-2014 budget. Mr. Hampton stated the unaudited actuals reflect a better than expected 2012-2013 ending fund balance of \$1.8 million. Changes to the 2013-2014 budget, since the budget was adopted in June, include reallocating carryover funds, beginning balance adjustments, Local Control Funding Formula funding above COLA, and new Common Core funding. These changes will be incorporated into the First Interim report, presented in December, along with final school staffing adjustments, ADA changes, additional information on grants or other funding sources, and any unforeseen expenditure changes.

**Preliminary  
Financial  
Statements  
Agenda Item 4**

The following speaker addressed the Board:

- *Dawn Urbanek requested the budget information on the website be updated and made a formal records request regarding the approval of the District's 2013-2014 budget by the Orange County Department of Education.*

It was moved by Trustee Pritchard, seconded by Trustee Reardon, and motion carried by a 6-1 vote to approve Resolution No. 1314-17, Preliminary 2012-2013 Financial Statements (Unaudited Actuals).

ROLL CALL: AYES: Trustees Alpay, Bryson, Hanacek, Hatton, Pritchard, Reardon, and Student Advisor Leilah Rodriguez  
NOES: Trustee Addonizio  
ABSENT: None  
ABSTAIN: None

President Alpay asked Trustees for items they wished to pull from the Consent Calendar. No items were pulled.

**Items Pulled from  
the Consent  
Calendar**

### **CONSENT CALENDAR**

It was moved by Trustee Bryson, seconded by Trustee Reardon, and motion carried by a 7-0 vote to approve the following Consent Calendar items:

Minutes of the August 28, 2013, regular Board meeting.

**Minutes  
Agenda Item 5**

Purchase orders, warrants, and previously Board-approved bids and contracts as listed.

**Purchase  
Orders/Warrants  
Agenda Item 6**

|  |  |
|--|--|
| Donations of funds and equipment.  | <b>Donations<br/>Agenda Item 7</b>   |
| Ratification of District standardized Independent Contractor, Master Contract, and Professional Services Agreements.   | <b>Professional<br/>Services<br/>Agreements<br/>Agenda Item 8</b>                                      |
| Ratification of special education Informal Dispute Resolution Agreement Case #066413 and Case #070213.   | <b>Informal Dispute<br/>Resolution<br/>Agreement<br/>Agenda Item 9</b>                                 |
| Ratification of special education Settlement Agreement Case #2013070190.   | <b>Settlement<br/>Agreement<br/>Agenda Item 10</b>   |
| Resolution No. 1314-18 Authorizing the Increase and Decrease in Appropriations for the Fiscal Year ending 2012-2013.   | <b>Increase/Decrease<br/>in Appropriations<br/>Agenda Item 11</b>                                      |
| Resolution No. 1314-19 adopting the 2012-2013 actual Gann Limit and the 2013-2014 estimated Gann Limit.  | <b>Gann Limit<br/>Agenda Item 12</b>   |
| Resolution No. 1314-20 Authorizing the Reappropriation of Carryover Funds.   | <b>Reappropriation of<br/>Carryover Funds<br/>Agenda Item 13</b>                                       |
| Ratification of Independent Contractor Agreement for Special Services with Reliance Communications, LLC to provide the SchoolMessenger mass notification system to support the District in its ability to generate more than one million messages annually via phone, text, and e-mail to the community. | <b>SchoolMessenger<br/>Mass Notification<br/>System<br/>Agenda Item 14</b>                             |
| Ratification of Income Agreement No. 39534 with Orange County Superintendent of Schools to furnish a Special Circumstance Assistance instructor to provide intensive instruction behavioral services for District students attending TEC/Canal Street, a non-public school.                              | <b>Income Agreement<br/>with OC Supt. of<br/>Schools<br/>Agenda Item 15</b>                            |
| Award of Request for Proposals No. 2-1314, High School Products and Senior Services to Jostens.  | <b>HS Products and<br/>Senior Services<br/>Agenda Item 16</b>  |
| Amendment to Agreement Bid No. 1112-10 for tree trimming maintenance service with West Coast Arborists, Incorporated increasing the not-to-exceed amount to \$250,000 for additional services as requested by the District.  | <b>Tree Trimming<br/>Maintenance<br/>Service<br/>Agenda Item 17</b>                                    |
| Resignations, retirements, and employment of classified personnel.   | <b>Resignations/<br/>Retirements/<br/>Employment<br/>(Classified<br/>Personnel)<br/>Agenda Item 18</b> |

Resignations, retirements, and employment of certificated personnel.

**Resignations/  
Retirements/  
Employment  
(Certificated  
Personnel)  
Agenda Item 19**

ROLL CALL: AYES: Trustees Addonizio, Alpay, Bryson, Hanacek, Hatton,  
Pritchard, Reardon, and Student Advisor Leilah Rodriguez  
NOES: None  
ABSENT: None  
ABSTAIN: None

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

**Adjournment**

President Alpay announced the meeting adjourned at 8:44 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*





## **SUPERVISED FIELDWORK AND STUDENT TEACHING AGREEMENT**

- **Multiple Subject**
- **Single Subject**
- **Special Education**

THIS AGREEMENT is made and entered into by and between Chapman University hereinafter called the "UNIVERSITY," and the Capistrano Unified School District, hereinafter called "FIELDWORK SITE."

### **I. RESPONSIBILITIES OF THE UNIVERSITY**

- A. The UNIVERSITY will assure that the student shall have completed the necessary educational prerequisites, to be eligible for supervised fieldwork including proof of negative TB test current within one year of supervised fieldwork and issuance of finger print clearance.
- B. The UNIVERSITY shall designate a faculty or staff member to coordinate, consult, and collaborate with the classroom teacher or district designee of the FIELDWORK SITE, the activities of each student assigned to FIELDWORK SITE and student fieldwork experience.
- C. The UNIVERSITY shall complete periodic observations and/or evaluations of the student regarding his/her performance at the FIELDWORK SITE as per arrangement between the UNIVERSITY faculty or staff member and the FIELDWORK SITE supervisor.
- D. The UNIVERSITY may provide monetary compensation for services rendered by the FIELDWORK SITE in an amount not to exceed the actual cost of the services rendered by the FIELDWORK SITE per Appendix A, as attached and incorporated by reference.

### **II. RESPONSIBILITIES OF THE FIELDWORK SITE**

- A. The FIELDWORK SITE shall provide students with experiences with a student population that is diverse in terms of ethnicity, culture, language, socio-economics and/or special needs.
- B. The FIELDWORK SITE staff will promptly and thoroughly investigate any complaint by any participating student of unlawful discrimination or harassment at the FIELDWORK SITE or involving employees or agents of the FIELDWORK SITE, take prompt and effective remedial action when discrimination or harassment is found to have occurred, and promptly notify the UNIVERSITY of the existence and outcome of any complaint of harassment by, against, or involving any participating student.
- C. The FIELDWORK SITE staff will provide, upon request by any participating student, such reasonable accommodations at the FIELDWORK SITE as required by law in order to allow qualified disabled students to participate in the program.



- D. To provide for emergency health care of the student in case of accident at the expense of the student.
- E. To provide all participating students with a copy of the FIELDWORK SITE'S rules, regulations, policies, and procedures with which the students are expected to comply and notify the UNIVERSITY of any change in its personnel, operation, or policies which may affect the field education experience.
- F. Comply with all federal, state and local statutes and regulations applicable to the operation of the program, including without limitation, laws relating to the confidentiality of student records.
- G. The FIELDWORK SITE staff shall comply with APPENDIX B regarding the FIELDWORK SITE'S supervision of UNIVERSITY students, as attached and incorporated by reference.

### **III. THE PARTIES MUTUALLY AGREE**

- A. The FIELDWORK SITE shall provide field experiences in such schools or classes of the FIELDWORK SITE and under the direct supervision and instruction of such employees of the FIELDWORK SITE, as specified by the duly authorized representatives of the FIELDWORK SITE and the UNIVERSITY.
- B. The FIELDWORK SITE may, for good cause, refuse to accept for field experiences, or terminate the field experience assignment of any student of the UNIVERSITY assigned to the FIELDWORK SITE in writing. Prior to removal of a student, the FIELDWORK SITE shall consult with the UNIVERSITY about its concerns and proposed course of action. The UNIVERSITY may terminate the field experience assignment or student teaching assignment of any student of the UNIVERSITY at the FIELDWORK SITE at any time, and may do so if the FIELDWORK SITE so requests in writing with a statement of reasons why the FIELDWORK SITE desires to have the student withdrawn.
- C. Neither party shall discriminate in the assignment of students on the basis of race, color, disability, sex, religion, national origin, ancestry, sexual orientation, or any other basis prohibited by law.
- D. The UNIVERSITY agrees to indemnify, hold harmless, and defend the FIELDWORK SITE, its agents, and employees from and against all loss or expense (including costs and attorney fees) resulting from liability imposed by law upon the FIELDWORK SITE because of bodily injury to or death of any person or on account of damages to property, including loss of use thereof, arising out of or in connection with this Agreement and due or claimed to be due to the negligence of the UNIVERSITY, its trustees, agents, or employees.
- E. The FIELDWORK SITE agrees to indemnify, hold harmless, and at the UNIVERSITY'S request, defend the UNIVERSITY, its trustees, agents, and employees from and against all loss or expenses (including costs and attorney fees) resulting from liability imposed by law upon the UNIVERSITY because of bodily injury to or death of any person or on account of damages to property, including loss of use thereof, arising out of or in connection with this Agreement, and due or claimed to be due to the negligence of the FIELDWORK SITE, its agents, or employees.
- F. University and Fieldwork Site each agree to maintain insurance or a program of self insurance throughout the term of this Agreement as follows:
  - i. General liability coverage, written on an occurrence form, with limits of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate, and
  - ii. Professional liability insurance written on a claims-made form or Occurrence form, with limits of One Million Dollars (\$1,000,000) per claim/occurrence and Two Million Dollars (\$2,000,000) in the aggregate. University shall provide coverage for students under school's professional liability

policy or shall ensure that all students maintain individual professional liability insurance coverage with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in aggregate, and

iii. University and Fieldwork Site shall maintain statutory Workers' Compensation coverage on their respective employees working at Fieldwork Site pursuant to this Agreement. The parties agree that the students are considered learners who are fulfilling specific requirements for field experiences as part of a degree and/or credential requirement. Therefore, regardless of the nature or extent of the acts performed by them, students are not to be considered employees or agents of either the UNIVERSITY or the FIELDWORK SITE for any purpose including Workers' Compensation or any other employee benefit programs. The students shall not be entitled to any monetary remuneration for services performed by them in the course of their training, and

iv. University and Fieldwork Site shall provide certificates of insurance evidencing all coverage described herein, naming the other party as a Certificate Holder with policy endorsements for Waiver of Subrogation against the other party and naming the other party as an Additional Insured. Such evidence will be provided on a basis consistent with the effective date of this Agreement and annually thereafter. Each party shall provide the other party with written notice at least thirty (30) days in advance of any material modification or cancellation of such coverage. With respect to individual policies of insurance maintained by students, such evidence will be provided prior to the date when any new student commences participation in the Program(s).

- G. Both parties acknowledge they are independent contractors, and nothing contained in this Agreement shall be deemed to create an agency, joint venture, franchise or partnership relation between the parties and neither party shall so hold itself out. Neither party shall have the right to obligate or bind the other party in any manner whatsoever, and nothing contained in this Agreement shall give or is intended to give any right of any kind to third persons.
- H. Any failure of a party to enforce that party's right under any provision of this Agreement shall not be construed or act as a waiver of said party's subsequent right to enforce any provisions contained herein.
- I. Notices required or permitted to be provided under this Agreement shall be in writing and shall be deemed to have been duly given if mailed first class to the parties that signed this agreement and to the addresses below.

**INFORMATION ON SCHOOL DISTRICT:**

Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675

**UNIVERSITY CONTACT INFORMATION:**

Attn: Harold Hewitt, VP & COO  
Chapman University  
One University Drive  
Orange, CA 92866

- J. If any term or provision of this Agreement is for any reason held to be invalid, such invalidity shall not affect any other term or provision, and this Agreement shall be interpreted as if such term or provision had never been contained in this Agreement.
- K. In the event of any material default under this Agreement, which default remains uncured for a period of twenty-one (21) days after receipt of written notice of such default, or in the event of the loss of WASC accreditation by the UNIVERSITY, this Agreement may be immediately terminated by the non-defaulting party.
- L. This Agreement fully supersedes any and all prior agreements or understandings between the parties or any of their respective affiliates with respect to the subject matter hereof. No change, modification, addition, amendment, or supplement to this Agreement shall be valid unless set forth in writing and signed and dated by both parties hereto subsequent to the execution of this Agreement.

- M. This Agreement shall be construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement. Should either party institute legal action to enforce any obligation contained herein, it is agreed that the proper venue of such suit or action shall be Orange County, California.
- N. This Agreement may be executed in one or more counterparts, each of which shall constitute one and the same agreement. Further, the parties may execute this Agreement via fax or electronic mail transmission. A true and correct copy of this Agreement, as executed by the parties, may be used in lieu of an original for all purposes permitted by law.

#### **IV. TERM AND TERMINATION OF AGREEMENT**

- A. THE TERM of this Agreement shall be effective September 1, 2013 and shall continue in full force and effect through August 31, 2018. This Agreement may be renewed for one (1) additional term of the contract by mutual written consent of the parties.
- B. THIS AGREEMENT may be terminated by either the UNIVERSITY or the FIELDWORK SITE with or without cause upon thirty (30) days written notice provided that (subject to the other terms of this Agreement) all students performing fieldwork at the time of notice of termination are given the opportunity to complete their fieldwork at the Fieldwork Site.

#### **SIGNATURES:**

FIELDWORK SITE:      Signature: \_\_\_\_\_

                                 Name:      Joseph M. Farley, Ed. D.

                                 Title:      Superintendent

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

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

                                 Name:      Harold W. Hewitt, Jr.

                                 Title:      Executive Vice President & COO

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

**Appendix A**  
**Payment for Master Teachers for Teacher Education**

**SPECIAL PROVISIONS – RATES and PAYMENTS**

- (a) \$ 250.00 Master Teacher stipend per twelve (12) week session of full-time student teaching consisting of 6 units for Multiple Subject Credential candidates.  
  
\$ 300.00 Master Teacher stipend per sixteen (16) week session of full-time student teaching consisting of 6 units for Single Subject Credential candidates.
- (b) \$ 250.00 Master Teacher stipend per sixteen (16) week session of full-time student teaching consisting of 6 units for Education Specialist Instruction Credential (Special Education) candidates;
- (c) Faculty Associate semester stipend of \$50 for each School of Education student completing Praxis course requirements in his/her class;
- (d) Subject Matter Faculty semester stipend of \$400 for the first School of Education student assigned to his/her classroom and \$300 for each additional School of Education student assigned to his/her classroom.

METHOD OF PAYMENT: With respect to the FIELDWORK SITE'S policy of requiring direct compensation of master teachers, the master teacher within thirty (30) days following the close of each semester or academic session of the UNIVERSITY, the MASTER TEACHER shall submit an invoice, in triplicate, to the Chapman University College of Educational Studies for payment at the rate provided therein for all field experiences provided by the FIELDWORK SITE under and in accordance with this agreement during said session. This process may be altered according to individual districts procedures as to the manner in which the invoicing will proceed so long as the parties mutually agree to such alteration in advance.

In the event the assignment of a UNIVERSITY student is terminated by the UNIVERSITY and/or the FIELDWORK SITE for any reason after the student has been in student teaching and has been at the assignment for a minimum of two weeks, FIELDWORK SITE shall receive payment for one assignment on account of each student as though there had been no termination of the assignment. Said payment to exceed no more than six (6) units per session of terminated assignment. In the event the field experience of a UNIVERSITY student is terminated by the UNIVERSITY and/or the FIELDWORK SITE for any reason after the student has been in the field experience for a minimum of two weeks, FIELDWORK SITE shall receive payment for one assignment on account of each student as though there had been no termination of the assignment.

## **Appendix B**

### **Specific Supervision Requirements**

#### **Teacher Education Fieldwork:**

- A. "Field Experience" as used herein and elsewhere in this agreement means active participation in the duties and function of classroom under the direct supervision and instruction of employees of the FIELDWORK SITE who hold valid teaching credentials issued by the California Commission on Teacher Credentialing, authorizing them to serve as classroom teachers in the schools or classes in which the field experience is provided, and have completed a minimum of three years successful teaching experience. "Student Teaching" is used herein and elsewhere in this agreement means participation in the duties and function of classroom teaching under the direct supervision and instruction of employees of the FIELDWORK SITE who hold valid, teaching credentials issued by the California Commission on Teacher Credentialing, authorizing them to serve as classroom teachers in the schools or classes in which the student teaching experience is provided, and have completed a minimum of three years successful teaching experience.
- B. The UNIVERSITY'S Teacher Education Policy provides that student teachers without substitute permits may not be asked by the school districts to serve and be compensated for substitute teaching as, under California law, student teachers are not certificated personnel and as they require full-time supervision. Those holding substitute permits may substitute for their master teacher only (a maximum of four (4) days only): when s/he is ill; when it is determined by the principal that this is in the best interest of the students in the classroom as well as the candidate; after the first four weeks of the first assignment; and/or when the candidate is paid.
- C. "Session of Student Teaching," for Multiple Subject and Single Subject Credential candidates as used herein and elsewhere in this agreement is considered to be a full day of student teaching daily for five (5) days a week for a minimum of twelve (12) weeks for elementary credential candidates (for this, the elementary credential candidate receives six (6) semester units of practice teaching credit), and three periods a day for five (5) days a week for a minimum of sixteen (16) weeks for secondary credential candidates (for this, the secondary credential candidate receives six (6) semester units of practice teaching credit).
- D. "Session of Student Teaching," for Education Specialist Instruction Credential (Special Education) candidates as used herein and elsewhere in this agreement is considered to be a full day of student teaching daily for five (5) days a week for a minimum of sixteen (16) weeks for elementary credential candidates (for this, the elementary credential candidate receives three to six (3-6) semester units of practice teaching credit), and three periods a day for five (5) days a week for a minimum of sixteen (16) for secondary credential candidates (for this, the secondary credential candidate receives three to six (3-6) semester units of practice teaching credit).
- E. An assignment of a Multiple Subject and Single Subject Credential candidate of the UNIVERSITY to student teaching in classes of schools of the FIELDWORK SITE shall be for a single sixteen (16) week session as mutually agreed between the UNIVERSITY and FIELDWORK SITE.
- F. An assignment of an Education Specialist Instruction Credential (Special Education) candidate of the UNIVERSITY to student teaching in classes of schools of the FIELDWORK SITE shall be for a single for a single sixteen (16) week session as mutually agreed between the UNIVERSITY and FIELDWORK SITE.
- G. The assignment of a UNIVERSITY student to field experiences and student teaching at FIELDWORK SITE shall be deemed to be effective for the purposes of this agreement as of the date the student presents to the proper FIELDWORK SITE officials the assignment papers or other documents provided by the UNIVERSITY effecting such assignment, but not earlier than the date of such assignment as shown on such card or other document.

Board of Trustees Purchase Order Listing

\*===== Fiscal Year: 2013-14 =====\*

Board of Trustees Meeting.....SEPTEMBER 25, 2013

MELLO ROOS

The following purchase orders have been issued in accordance with the District's Purchasing Policy and authorization of the Board of Trustees. It is recommended that the following Purchase Orders be approved and that payment be authorized upon delivery and acceptance of the items ordered.

| PO No.            | Fund | Vendor                      | Description             | Amount      |
|-------------------|------|-----------------------------|-------------------------|-------------|
| 5279              | 98   | COMMERCIAL AQUATIC SERVICES | NonCapEq/Fac Acq /SJHHS | 9,139.00    |
| 5280              | 87   | GUIDA SURVEYING INC.        | BI:CTest/Fac Acq /CVHS  | 26,400.00   |
| 5281              | 98   | GUIDA SURVEYING INC.        | BI:CTest/Fac Acq /SJHHS | 800.00      |
| 5282              | 87   | CULVER-NEWLIN INC           | NonCapEq/Fac Acq /CVHS  | 7,135.53    |
| 5283              | 87   | GENERAL BINDING CORP        | SplsNonI/Fac Acq /CVHS  | 548.96      |
| 5284              | 87   | CAL STAGE & LIGHTING        | NonCapEq/Fac Acq /CVHS  | 5,343.22    |
| 6 Purchase Orders |      |                             |                         | \$49,366.71 |

EXHIBIT 9

Attachment 1

Board of Trustees Purchase Order Listing

\*----- Fiscal Year: 2013-14 -----\*

Board of Trustees Meeting.....SEPTEMBER 25, 2013

The following purchase orders have been issued in accordance with the District's Purchasing Policy and authorization of the Board of Trustees. It is recommended that the following Purchase Orders be approved and that payment be authorized upon delivery and acceptance of the items ordered.

| PO No. | Fund | Vendor                         | Description                 | Amount     |
|--------|------|--------------------------------|-----------------------------|------------|
| 331098 | 1    | WARDS NATURAL SCIENCE          | InstMtls/Instrctn/Tesoro    | 612.91     |
| 331099 | 1    | MOBILE COMMUNICATION REPAIR    | Rntl:Oth/PuplTran/Dstrctwd  | 21,000.00  |
| 331100 | 13   | FOOD SAFETY SPECIALTIES INC.   | OpSupp /FoodServ/Dstrctwd   | 168.40     |
| 331101 | 1    | MC ILVAIN, PATRICK & STEPHANIE | NPS /NPS /Dstrctwd          | 8,062.00   |
| 331102 |      | VOID                           | VOID                        | 0.00       |
| 331103 | 1    | PACIFIC ROOFING SYSTEMS        | Rntl:Oth/RR:Bldgs/SCHS      | 25,259.70  |
| 331104 | 12   | LAKESHORE LEARNING MATERIALS   | InstMtls/Instrctn/Dstrctwd  | 6,000.00   |
| 331105 | 1    | KNORR POOL SYSTEMS INC         | Rntl:Oth/RR:Bldgs/Dstrctwd  | 3,439.87   |
| 331106 | 1    | GANAHL LUMBER                  | SpplsNonI/RR:Bldgs/Dstrctwd | 2,562.44   |
| 331107 | 1    | HOME DEPOT                     | Rntl:Oth/RR:Bldgs/Dstrctwd  | 2,327.24   |
| 331108 | 12   | LAKESHORE LEARNING MATERIALS   | InstMtls/Instrctn/Dstrctwd  | 6,000.00   |
| 331109 | 1    | CULVER-NEWLIN                  | NonCapEq/Oper:O/H/VdelMarE  | 1,702.17   |
| 331110 | 1    | FISHER SCIENTIFIC              | InstMtls/Instrctn/Dstrctwd  | 2,917.86   |
| 331111 | 1    | THE ECOLOGY CENTER             | InstMtls/Instrctn/Dstrctwd  | 400.00     |
| 331112 | 1    | ORANGE COUNTY DEPT OF EDUC     | Serv& Op/HlthServ/Dstrctwd  | 1,178.24   |
| 331113 | 1    | SOLIANT HEALTH INC             | CnsltSvs/Aid:Inst/Dstrctwd  | 24,999.00  |
|        |      |                                | SubInCon/Aid:Inst/Dstrctwd  | 15,001.00  |
| 331114 | 1    | SOLIANT HEALTH INC             | CnsltSvs/Aid:Inst/Dstrctwd  | 24,999.00  |
|        |      |                                | SubInCon/Aid:Inst/Dstrctwd  | 15,001.00  |
| 331115 | 1    | CENTER FOR AUTISM RESEARCH     | NPA /NPA /Dstrctwd          | 24,999.00  |
|        |      |                                | Sub NPA /NPA /Dstrctwd      | 15,646.80  |
| 331116 | 1    | DEPARTMENT OF GENERAL SERVICES | Serv& Op/Prsnl:HR/Dstrctwd  | 368.00     |
| 331117 | 1    | DEVEREUX TEXAS TREATMENT       | Residtl /NPS /Dstrctwd      | 670.35     |
| 331118 | 1    | WERTHEIMER-GALE & ASSOCIATES   | NPA /NPA Hlth/Dstrctwd      | 468.00     |
| 331119 | 1    | BANK OF AMERICA NATIONAL       | Debt Ser/Dbt Serv/Dstrctwd  | 41,201.65  |
|        |      |                                | Debt-Int/Dbt Serv/Dstrctwd  | 8,613.95   |
| 331120 | 13   | ULINE                          | OffFdSrv/FoodServ/Dstrctwd  | 172.92     |
| 331121 | 1    | CR&R INCORPORATED              | Op&Hskpg/Opr:Util/Dstrctwd  | 300,000.00 |
| 331122 | 68   | CULVER-NEWLIN                  | SpplsNonI/Enterprs/Dstrctwd | 10,100.00  |
| 331123 | 1    | CINTAS DOCUMENT MANAGEMENT     | Serv& Op/Warehse /Dstrctwd  | 7,800.00   |
| 331124 | 1    | YORK INDUSTRIES                | SpplsNonI/Custodil/Dstrctwd | 8,000.00   |
| 331125 | 14   | BENS ASPHALT                   | Rntl:Oth/RR:Bldgs/Tijeras   | 13,236.00  |
| 331126 | 14   | BENS ASPHALT                   | Rntl:Oth/RR:Bldgs/ArroyoEl  | 15,176.00  |
| 331127 | 14   | BENS ASPHALT                   | Rntl:Oth/RR:Bldgs/Marblehd  | 20,964.10  |
| 331128 | 1    | SECTOR POINT INC.              | Serv& Op/M&OUnrOH/Dstrctwd  | 14,657.00  |
| 331129 | 1    | PACIFIC ROOFING SYSTEMS        | Rntl:Oth/RR:Bldgs/Dstrctwd  | 150,000.00 |
| 331130 | 1    | CINTAS                         | SpplsNonI/RR:Bldgs/Dstrctwd | 5,000.00   |
| 331131 | 1    | CINTAS CORP                    | Rntl:Oth/Custodil/Dstrctwd  | 3,500.00   |
| 331132 | 1    | CINTAS                         | Serv& Op/RR:Bldgs/Dstrctwd  | 45,000.00  |
| 331133 | 1    | STUTZ ARTIANO SHINOFF & HOLTZ  | Legal /Supt /Dstrctwd       | 250,000.00 |
| 331134 | 1    | SUNDEK                         | Rntl:Oth/RR:Bldgs/DHHS      | 48,338.00  |
| 331135 | 1    | TANDUS FLOORING INC.           | Rntl:Oth/RR:Bldgs/Dstrctwd  | 20,000.00  |
| 331136 | 1    | WATERLINES TECHNOLOGIES INC    | SpplsNonI/RR:Bldgs/Dstrctwd | 150,000.00 |
| 331137 | 14   | TANDUS FLOORING INC.           | Rntl:Oth/RR:Bldgs/Concordi  | 2,781.48   |
| 331138 | 1    | RUSCO INC                      | SpplsNonI/RR:Bldgs/Dstrctwd | 15,093.00  |

Board of Trustees Purchase Order Listing  
\*----- Fiscal Year: 2013-14 -----\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| PO No. | Fund | Vendor                        | Description                 | Amount    |
|--------|------|-------------------------------|-----------------------------|-----------|
| 331139 | 1    | MOBILE COMMUNICATION REPAIR   | Rntl:Oth/RR:Bldgs/Dstrctwd  | 15,000.00 |
| 331140 | 1    | PROMOTE                       | Rntl:Oth/RR:Bldgs/HankeyES  | 891.00    |
| 331141 | 1    | SUBURBAN PROPANE              | SpplsNonI/RR:Bldgs/Dstrctwd | 515.00    |
| 331142 | 1    | CREATIVE CONTRACTORS          | Rntl:Oth/RR:Bldgs/LF Elem   | 550.00    |
| 331143 | 1    | CREATIVE CONTRACTORS          | Rntl:Oth/RR:Bldgs/Dstrctwd  | 10,000.00 |
| 331144 |      | VOID                          | VOID                        | 0.00      |
| 331145 | 1    | CULVER-NEWLIN                 | NonCapEq/Oper:O/H/Concordi  | 1,654.88  |
| 331146 | 1    | WAXIE                         | SpplsNonI/Custodil/Dstrctwd | 50,000.00 |
| 331147 | 1    | CBT NUGGETS LLC               | Serv& Op/TIS /Dstrctwd      | 3,998.00  |
| 331148 | 1    | AMS.NET INC                   | Serv& Op/TIS /Dstrctwd      | 7,500.00  |
| 331149 | 1    | CAMCOR INC                    | NonCapEq/Instrctn/SJHHS     | 2,854.06  |
| 331150 | 1    | PC MALL GOV                   | SpplsNonI/TIS /Dstrctwd     | 103.38    |
| 331151 | 1    | PATHWAY COMMUNICATIONS LTD.   | NonCapEq/Instrctn/DHHS      | 883.22    |
| 331152 | 1    | SCHOLASTIC EDUCATION INC      | Serv& Op/TIS /Dstrctwd      | 11,999.00 |
| 331153 | 1    | INSIGHT SYSTEMS EXCHANGE      | SpplsNonI/RR:Bldgs/Dstrctwd | 306.72    |
| 331154 | 12   | SMART & FINAL IRIS #399       | InstMtls/Instrctn/Dstrctwd  | 1,000.00  |
| 331155 | 12   | SMART & FINAL IRIS #399       | InstMtls/Instrctn/Dstrctwd  | 1,000.00  |
| 331156 | 12   | WAL MART L.N.                 | InstMtls/Instrctn/Dstrctwd  | 2,000.00  |
| 331157 | 12   | WAL MART L.N.                 | InstMtls/Instrctn/Dstrctwd  | 2,000.00  |
| 331158 | 12   | OFFICE DEPOT                  | SpplsNonI/SupvAdmn/Dstrctwd | 1,000.00  |
| 331159 | 12   | OFFICE DEPOT                  | SpplsNonI/SupvAdmn/Dstrctwd | 1,000.00  |
| 331160 | 12   | SOUTHWEST SCHOOL SUPPLY       | InstMtls/Instrctn/Dstrctwd  | 7,000.00  |
| 331161 | 1    | PATHWAY COMMUNICATIONS LTD.   | NonCapEq/Instrctn/LFMS      | 883.22    |
| 331162 | 12   | SOUTHWEST SCHOOL SUPPLY       | InstMtls/Instrctn/Dstrctwd  | 7,000.00  |
| 331163 | 12   | STAPLES ADVANTAGE             | SpplsNonI/SupvAdmn/Dstrctwd | 1,000.00  |
| 331164 | 12   | STAPLES ADVANTAGE             | SpplsNonI/SupvAdmn/Dstrctwd | 1,000.00  |
| 331165 | 1    | PATHWAY COMMUNICATIONS LTD.   | NonCapEq/Instrctn/VDMMS     | 883.22    |
| 331166 | 1    | ORANGE COUNTY DEPT OF EDUCAT  | Conf:Ins/Instrctn/Dstrctwd  | 150.00    |
| 331167 | 1    | PATHWAY COMMUNICATIONS LTD.   | NonCapEq/Instrctn/ANHS      | 2,649.67  |
| 331168 | 1    | PATHWAY COMMUNICATIONS LTD.   | NonCapEq/Instrctn/Tesoro    | 883.22    |
| 331169 | 1    | PATHWAY COMMUNICATIONS LTD.   | NonCapEq/Instrctn/ANHS      | 4,416.12  |
| 331170 | 1    | PATHWAY COMMUNICATIONS LTD.   | InstMtls/Instrctn/LRMS      | 1,766.45  |
| 331171 | 1    | PATHWAY COMMUNICATIONS LTD.   | NonCapEq/Instrctn/LFMS      | 2,649.67  |
| 331172 | 1    | PATHWAY COMMUNICATIONS LTD.   | InstMtls/Instrctn/Benedict  | 321.41    |
| 331173 | 1    | PATHWAY COMMUNICATIONS LTD.   | InstMtls/Instrctn/ANHS      | 803.52    |
| 331174 | 1    | FLINN SCIENTIFIC INC          | InstMtls/Instrctn/VDMMS     | 600.00    |
| 331175 | 1    | NASCO WEST                    | InstMtls/Instrctn/VDMMS     | 600.00    |
| 331176 | 1    | PATHWAY COMMUNICATIONS LTD.   | InstMtls/Instrctn/SMS       | 160.70    |
| 331177 | 1    | WARDS NATURAL SCIENCE         | InstMtls/Instrctn/VDMMS     | 100.00    |
| 331178 | 1    | SCHOOL SERVICES OF CALIFORNIA | CnfrNonI/SupvAdmn/Dstrctwd  | 175.00    |
| 331179 | 1    | PATHWAY COMMUNICATIONS LTD.   | InstMtls/Instrctn/Las Palm  | 482.11    |
| 331180 | 1    | SCHOOL SERVICES OF CALIFORNIA | CnfrNonI/SupvAdmn/Dstrctwd  | 175.00    |
| 331181 | 1    | PATHWAY COMMUNICATIONS LTD.   | InstMtls/Instrctn/San Juan  | 642.82    |
| 331182 | 1    | PATHWAY COMMUNICATIONS LTD.   | InstMtls/Instrctn/SJHHS     | 803.52    |
| 331183 | 1    | OFFICE DEPOT                  | InstMtls/Instrctn/DHHS      | 923.02    |
| 331184 | 11   | FOLLETT EDUCATIONAL SERVICES  | InstMtls/Instrctn/Dstrctwd  | 1,980.61  |
| 331185 | 1    | FOLLETT LIBRARY RESOURCES     | Bks&Ref /Libr&Med/Del Obis  | 246.00    |
| 331186 | 1    | FOLLETT LIBRARY RESOURCES     | Bks&Ref /Libr&Med/RH Dana   | 267.00    |
| 331187 | 1    | FOLLETT LIBRARY RESOURCES     | Bks&Ref /Libr&Med/Crn Vlly  | 201.00    |
| 331188 | 1    | FOLLETT LIBRARY RESOURCES     | Bks&Ref /Libr&Med/Castille  | 594.00    |



Board of Trustees Purchase Order Listing

\*===== Fiscal Year: 2013-14 =====\*

Board of Trustees Meeting.....SEPTEMBER 25, 2013

| PO No. | Fund | Vendor                       | Description                | Amount     |
|--------|------|------------------------------|----------------------------|------------|
| 331189 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/CanVistE | 430.00     |
| 331190 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Bergeson | 355.00     |
| 331191 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Benedict | 328.00     |
| 331192 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Don Juan | 216.00     |
| 331193 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Ambuehl  | 165.00     |
| 331194 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/ArroyoEl | 223.00     |
| 331195 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Wagon Wh | 162.00     |
| 331196 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/GrgWhite | 239.00     |
| 331197 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Wood Cyn | 108.00     |
| 331198 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Las Palm | 145.00     |
| 331199 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/LF Elem  | 140.00     |
| 331200 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Concordi | 438.00     |
| 331201 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/VdelMarE | 416.01     |
| 331202 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Lgna Nig | 181.00     |
| 331203 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Viejo    | 117.00     |
| 331204 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Tijeras  | 273.00     |
| 331205 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/San Juan | 528.00     |
| 331206 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Reilly   | 135.00     |
| 331207 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Palisade | 301.00     |
| 331208 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/OsoGrand | 597.00     |
| 331209 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Chaparal | 525.00     |
| 331210 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Bathgate | 314.00     |
| 331211 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/HankeyES | 230.00     |
| 331212 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Oak Grv  | 413.00     |
| 331213 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Moulton  | 212.00     |
| 331214 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Marblehd | 182.00     |
| 331215 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Malcom   | 158.00     |
| 331216 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Lobo     | 212.00     |
| 331217 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Kinoshta | 527.00     |
| 331218 | 1    | FOLLETT LIBRARY RESOURCES    | Bks&Ref /Libr&Med/Hiddn Hl | 50.00      |
| 331219 | 1    | JOSHUA AND CAROL CONDIE      | Serv& Op/SE0thIns/Dstrctwd | 25,000.00  |
| 331220 | 1    | HAWORTH, MARK & JENNIFER     | Serv& Op/SE0thIns/Dstrctwd | 2,500.00   |
| 331221 | 1    | ORANGE COUNTY PROBATION DEPT | Rntl:Oth/Op:Grnds/Dstrctwd | 20,000.00  |
| 331222 | 1    | DOMINO EVENTS                | CnfrNonI/SupvAdmn/Dstrctwd | 650.00     |
| 331223 | 1    | SPORT CHALET                 | InstMtls/CurAthlt/CVHS     | 421.20     |
| 331224 | 1    | PRINT & FINISHING SOLUTIONS  | Rntl:Oth/Grph Art/Dstrctwd | 2,500.00   |
| 331225 | 1    | AV WINDOW PROS               | Rntl:Oth/RR:Bldgs/Dstrctwd | 1,595.00   |
| 331226 | 1    | PREMIERE WATER SERVICES      | Rntl:Oth/RR:Bldgs/Dstrctwd | 15,000.00  |
| 331227 | 1    | VORTEX                       | Rntl:Oth/PuplTran/Dstrctwd | 5,000.00   |
| 331228 | 1    | TREBRON COMPANY INC.         | Serv& Op/TIS /Dstrctwd     | 84,657.50  |
| 331229 | 14   | VANGUARD FLOORING INC        | Rntl:Oth/RR:Bldgs/Concordi | 1,492.70   |
| 331230 | 1    | VANGUARD FLOORING INC        | Rntl:Oth/RR:Bldgs/Concordi | 4,478.10   |
| 331231 | 1    | VANGUARD FLOORING INC        | Rntl:Oth/RR:Bldgs/Dstrctwd | 10,000.00  |
| 331232 | 1    | WHISPERING HILLS LLC         | Legal /FacPlann/Dstrctwd   | 107,550.25 |
| 331233 | 1    | PACIFIC MH CONSTRUCTION INC. | Rntl:Oth/RR:Bldgs/Dstrctwd | 10,000.00  |
| 331234 | 1    | BEE MAN                      | Rntl:Oth/RR:Bldgs/Dstrctwd | 15,000.00  |
| 331235 | 1    | AUTISM SPECTRUM CONSULTANTS  | NPA /NPA /Dstrctwd         | 2,260.00   |
| 331236 | 1    | SPORTS FACILITIES GROUP INC  | Rntl:Oth/RR:Bldgs/Dstrctwd | 50,000.00  |
| 331237 | 1    | ABOVE ALL NAMES CONSTRUCTION | Rntl:Oth/RR:Bldgs/Dstrctwd | 15,000.00  |

Board of Trustees Purchase Order Listing  
\*===== Fiscal Year: 2013-14 =====\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| PO No. | Fund | Vendor                         | Description                 | Amount     |
|--------|------|--------------------------------|-----------------------------|------------|
| 331238 | 1    | SMOG EXPRESS                   | Serv& Op/PuplTran/Dstrctwd  | 1,500.00   |
|        |      |                                | Serv& Op/Dist Veh/Dstrctwd  | 3,500.00   |
| 331239 | 1    | SPORTS FACILITIES GROUP INC    | Serv& Op/Enterprs/CVHS      | 32,325.00  |
| 331240 | 1    | MR CLEAN MAINTENANCE SYSTEMS   | Rntl:Oth/Custodil/Dstrctwd  | 31,854.97  |
| 331241 | 13   | CSNA                           | Dues&Mmb/FoodServ/Dstrctwd  | 55.00      |
| 331242 | 1    | WORLD OF AWNINGS & CANOPIES    | Rntl:Oth/RR:Bldgs/LRMS      | 4,198.00   |
| 331243 | 1    | SOUTH COAST FIRE PROTECTION    | Rntl:Oth/RR:Bldgs/Dstrctwd  | 35,000.00  |
| 331244 | 1    | WARDS NATURAL SCIENCE          | InstMtls/Instrctn/LFMS      | 156.98     |
| 331245 | 1    | SOUTH COAST FIRE PROTECTION    | Rntl:Oth/RR:Bldgs/Dstrctwd  | 15,000.00  |
| 331246 | 1    | SOUTH COAST FIRE PROTECTION    | Rntl:Oth/RR:Bldgs/Dstrctwd  | 30,000.00  |
| 331247 | 1    | VIRTUAL WATER SERVICES         | Serv& Op/RR:Bldgs/Dstrctwd  | 9,309.60   |
| 331248 | 1    | LOOSE IN THE LAB               | InstMtls/Enterprs/NHMS      | 221.04     |
| 331249 | 1    | HUFCOR AIR WALL                | Rntl:Oth/RR:Bldgs/GrgWhite  | 10,986.00  |
| 331250 | 1    | CONCRETE COATING SPECIALITS    | Rntl:Oth/RR:Bldgs/Dana ENF  | 7,800.00   |
| 331251 | 1    | ORANGE COUNTY DEPT OF EDUC     | CnsltNon/HlthServ/Dstrctwd  | 4,500.00   |
| 331252 | 1    | INSIGHT SYSTEMS EXCHANGE       | InstMtls/Instrctn/LFMS      | 13,116.60  |
| 331253 | 1    | COMPLETE OFFICE OF CA          | SpplsNonI/SupvAdmn/Dstrctwd | 1,500.00   |
| 331254 | 1    | PC MALL GOV                    | SpplsNonI/SuppSvcs/Dstrctwd | 74.31      |
| 331255 | 1    | SCIENCE @ OC                   | CnfrNonI/SupvAdmn/Dstrctwd  | 1,475.00   |
| 331256 | 1    | NATIONAL STUDENT CLEARINGHOUSE | Serv& Op/PuplTest/Dstrctwd  | 2,550.00   |
| 331257 | 1    | CASC                           | CnfrNonI/Board /Dstrctwd    | 95.00      |
| 331258 | 1    | AMERICAN LOGISTICS COMPANY LLC | Serv& Op/PuplTran/Dstrctwd  | 150,000.00 |
| 331259 | 1    | ACCELERATE EDUCATION           | K-8Textb/Instrctn/Dstrctwd  | 8,100.00   |
| 331260 | 1    | NATIONAL NETWORK OF DIGITAL    | K-8Textb/Instrctn/Dstrctwd  | 43,000.00  |
| 331261 | 1    | PACIFIC MH CONSTRUCTION INC.   | Rntl:Oth/RR:Bldgs/NHMS      | 1,341.00   |
| 331262 | 1    | PACIFIC PLUMBING COMPANY OF    | Rntl:Oth/RR:Bldgs/Dstrctwd  | 150,000.00 |
| 331263 | 1    | PACIFIC PLUMBING COMPANY OF    | Rntl:Oth/RR:Bldgs/CVHS      | 3,680.00   |
| 331264 |      | VOID                           | VOID                        | 0.00       |
| 331265 | 1    | SHAMROCK SUPPLY CO INC         | St Rcpts/Undesig /Dstrctwd  | 103.03     |
| 331266 | 1    | SEHI COMPUTER                  | InstMtls/Instrctn/MFMS      | 291.12     |
| 331267 | 1    | TEACHLOGIC INC                 | SpplsNonI/HlthServ/Dstrctwd | 322.92     |
| 331268 | 1    | CULVER-NEWLIN                  | NonCapEq/Libr&Med/CanViste  | 4,713.12   |
| 331269 | 1    | VISUAL AID SERVICES INC        | InstMtls/SEOthIns/Dstrctwd  | 4,963.20   |
| 331270 | 1    | CINTAS DOCUMENT MANAGEMENT     | Serv& Op/Sch Adm /Dana ENF  | 400.00     |
| 331271 | 1    | WENGER CORPORATION             | InstMtls/Instrctn/San Juan  | 1,025.40   |
| 331272 | 1    | MOBILE COMMUNICATION REPAIR    | SpplsNonI/Sch Adm /Hiddn Hl | 816.48     |
| 331273 | 1    | MOBILE COMMUNICATION REPAIR    | SpplsNonI/Sch Adm /BAMS     | 816.48     |
| 331274 | 1    | MOBILE COMMUNICATION REPAIR    | SpplsNonI/Sch Adm /ANHS     | 1,020.60   |
| 331275 | 11   | WEST-LITE SUPPLY CO INC        | SpplsNonI/Sch Adm /Dstrctwd | 25.96      |
| 331276 | 1    | MOBILE COMMUNICATION REPAIR    | InstMtls/Instrctn/LF Elem   | 612.36     |
| 331277 | 1    | PACIFIC MH CONSTRUCTION INC.   | SpplsNonI/RR:Bldgs/SMS      | 3,900.00   |
| 331278 | 70   | ORANGE COUNTY HEALTH AGENCY    | Serv& Op/Enterprs/Dstrctwd  | 2,816.00   |
| 331279 | 1    | CITY OF SAN CLEMENTE           | Op&Hskpg/Opr:Util/Dstrctwd  | 18,266.59  |
| 331280 |      | VOID                           | VOID                        | 0.00       |
| 331281 | 1    | WESTERN GRAPHIX                | Rntl:Oth/RR:Bldgs/Dstrctwd  | 5,000.00   |
| 331282 | 1    | MUSIC AND ARTS CENTER          | Rnt&Repr/Instrctn/Dstrctwd  | 4,800.00   |
| 331283 | 1    | SOUND IMAGE                    | Rntl:Oth/RR:Bldgs/Dstrctwd  | 3,000.00   |
| 331284 | 13   | TUTTLE-CLICK FORD              | LrgeEquip/FoodServ/Dstrctwd | 66,313.86  |
| 331285 | 1    | CAPISTRANO CRANE SERVICE       | Rntl:Oth/RR:Bldgs/Dstrctwd  | 5,000.00   |

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\*----- Fiscal Year: 2013-14 -----\*  
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| PO No. | Fund | Vendor                         | Description                 | Amount    |
|--------|------|--------------------------------|-----------------------------|-----------|
| 331286 | 1    | UNITRAX                        | Rntl:Oth/PuplTran/Dstrctwd  | 9,900.00  |
|        |      |                                | Rntl:Oth/Dist Veh/Dstrctwd  | 5,100.00  |
| 331287 | 1    | AUTO SHOP EQUIP CO INC         | Rntl:Oth/PuplTran/Dstrctwd  | 10,000.00 |
| 331288 | 1    | PACIFIC MH CONSTRUCTION INC.   | Rntl:Oth/RR:Bldgs/Journey   | 5,935.00  |
| 331289 | 1    | MAIER INTERNATIONAL INC        | Rntl:Oth/RR:Bldgs/AVMS      | 5,892.80  |
| 331290 | 1    | SOUTHWEST SCHOOL SUPPLY        | InstMtls/Instrctn/CanViste  | 4,500.00  |
| 331291 | 1    | STORAGE CONTAINER.COM          | Rntl:Oth/Custodil/FNMS      | 9,500.00  |
| 331292 | 1    | DAY LITE MAINTENANCE           | Rntl:Oth/RR:Bldgs/Dstrctwd  | 25,000.00 |
| 331293 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/Crn Vlly  | 3,667.81  |
| 331294 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/Wagon Wh  | 1,462.01  |
| 331295 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/RH Dana   | 1,609.28  |
| 331296 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/Bathgate  | 3,034.02  |
| 331297 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/VdelMarE  | 1,462.01  |
| 331298 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/ArroyoEl  | 5,330.30  |
| 331299 | 1    | SOUTHWEST SCHOOL SUPPLY        | InstMtls/Instrctn/Castille  | 3,000.00  |
| 331300 | 1    | EMPLOYMENT DEVELOPMENT DEPT    | SUI : CE/DW Unrst/Dstrctwd  | 5,170.26  |
| 331301 | 1    | BARRETT-ROBINSON INC           | SpplsNonI/RR:Bldgs/Dstrctwd | 5,843.23  |
| 331302 | 1    | BARRETT-ROBINSON INC           | SpplsNonI/RR:Bldgs/Dstrctwd | 10,000.00 |
| 331303 | 1    | COSTCO S.J.C.                  | St Rcpts/Undesig /Dstrctwd  | 62,025.26 |
| 331304 | 1    | BENS ASPHALT                   | Rntl:Oth/RR:Bldgs/CVHS      | 57,803.00 |
| 331305 | 1    | BENS ASPHALT                   | Rntl:Oth/RR:Bldgs/SCHS      | 6,236.50  |
| 331306 | 1    | BENS ASPHALT                   | Rntl:Oth/RR:Bldgs/VDMMS     | 14,805.40 |
| 331307 | 1    | BENS ASPHALT                   | Rntl:Oth/RR:Bldgs/Wood Cyn  | 31,596.50 |
| 331308 | 1    | DEWEYS HOME APPLIANCES         | NonCapEq/PuplTran/Dstrctwd  | 1,938.60  |
| 331309 | 1    | VERNON LIBRARY SUPPLIES INC    | SpplsNonI/Libr&Med/Dstrctwd | 731.15    |
| 331310 | 1    | FOLLETT EDUCATIONAL SERVICES   | 9-12Text/Instrctn/Dstrctwd  | 1,574.64  |
| 331311 | 1    | FOLLETT EDUCATIONAL SERVICES   | 9-12Text/Instrctn/Dstrctwd  | 1,180.98  |
| 331312 | 1    | PEARSON EDUCATION              | 9-12Text/Instrctn/Dstrctwd  | 3,123.73  |
| 331313 | 1    | HAWORTH, MARK OR JENNIFER      | NPS /NPS /Dstrctwd          | 5,500.00  |
| 331314 | 1    | MICHELLE ORTEGA, LAW OFFICE OF | Serv& Op/SEOthIns/Dstrctwd  | 12,000.00 |
|        |      |                                | Legal /SupvAdmn/Dstrctwd    | 12,000.00 |
| 331315 | 1    | BENS ASPHALT                   | Serv& Op/Enterprs/Dstrctwd  | 36,826.25 |
| 331316 | 1    | BENS ASPHALT                   | Rntl:Oth/RR:Bldgs/Malcom    | 12,042.05 |
| 331317 | 1    | CULVER-NEWLIN                  | Rntl:Oth/RR:Bldgs/SMS       | 3,701.16  |
| 331318 | 1    | BENS ASPHALT                   | Rntl:Oth/RR:Bldgs/Barcelon  | 63,594.75 |
| 331319 | 1    | DEWEYS HOME APPLIANCES         | SpplsNonI/RR:Bldgs/Concordi | 538.92    |
| 331320 | 1    | TANDUS FLOORING INC.           | SpplsNonI/RR:Bldgs/Concordi | 8,187.18  |
| 331321 | 1    | RICKS TRAILER SUPPLY           | Rntl:Oth/Dist Veh/Dstrctwd  | 12,000.00 |
| 331322 | 1    | TANDUS FLOORING INC.           | SpplsNonI/RR:Bldgs/Dstrctwd | 2,034.92  |
| 331323 | 1    | SKYLINE PEST CONTROL           | Rntl:Oth/RR:Bldgs/SMS       | 660.00    |
| 331324 |      | VOID                           | VOID                        | 0.00      |
| 331325 | 1    | GOLDEN STAR TECHNOLOGY INC.    | InstMtls/Instrctn/VarSites  | 287.19    |
| 331326 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/Dstrctwd  | 1,464.25  |
| 331327 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/Benedict  | 2,653.52  |
| 331328 | 1    | PATHWAY COMMUNICATIONS LTD.    | InstMtls/Instrctn/VarSites  | 917.57    |
| 331329 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/CVHS      | 16,789.00 |
| 331330 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/Oak Grv   | 1,380.01  |
| 331331 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/Chaparal  | 995.80    |
| 331332 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/Journey   | 2,882.50  |
| 331333 | 1    | VANGUARD FLOORING INC          | Rntl:Oth/RR:Bldgs/ANHS      | 5,858.39  |

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| PO No. | Fund | Vendor                       | Description                 | Amount    |
|--------|------|------------------------------|-----------------------------|-----------|
| 331334 | 1    | CAMCOR INC                   | InstMtls/Instrctn/VarSites  | 3,111.63  |
| 331335 | 1    | VANGUARD FLOORING INC        | Rntl:Oth/RR:Bldgs/Concordi  | 8,532.00  |
| 331336 | 1    | VANGUARD FLOORING INC        | Rntl:Oth/RR:Bldgs/Wagon Wh  | 1,380.01  |
| 331337 | 1    | TUTTLE-CLICK FORD            | Ppl Tran/PuplTran/Dstrctwd  | 12,350.00 |
|        |      |                              | Rntl:Oth/PuplTran/Dstrctwd  | 20,150.00 |
|        |      |                              | SpplsNonI/Dist Veh/Dstrctwd | 6,500.00  |
|        |      |                              | Rntl:Oth/Dist Veh/Dstrctwd  | 26,000.00 |
| 331338 | 1    | CINTAS CORPORATION #640      | Serv& Op/PuplTran/Dstrctwd  | 25,000.00 |
| 331339 | 70   | EXECUTIVE ENVIRONMENTAL SVCS | Serv& Op/Enterprs/Dstrctwd  | 631.35    |
| 331340 | 1    | STORMWATER INDUSTRIES INC.   | Rntl:Oth/RR:Bldgs/Dstrctwd  | 1,049.25  |
| 331341 | 1    | PAC TYPEWRITER & COMM        | Rntl:Oth/RR:Bldgs/Dstrctwd  | 7,000.00  |
| 331342 | 1    | STORMWATER INDUSTRIES INC.   | Rntl:Oth/RR:Bldgs/SJHHS     | 1,335.00  |
| 331343 | 1    | CALIFORNIA WESTERN VISUALS   | NonCapEq/Instrctn/Bergeson  | 8,842.71  |
| 331344 | 1    | SCHOOL SPECIALTY             | InstMtls/Instrctn/VarSites  | 19,185.01 |
| 331345 | 1    | CAL SCHOOL PUBLIC RELATIONS  | Dues&Mmb/Pub Info/Dstrctwd  | 99.00     |
| 331346 | 1    | WARDS NATURAL SCIENCE        | InstMtls/Instrctn/ANHS      | 237.91    |
| 331347 | 1    | SMART & FINAL IRIS #399      | SpplsNonI/Sch Adm /RH Dana  | 250.00    |
| 331348 | 1    | COMPLETE OFFICE OF CA        | SpplsNonI/Supt /Dstrctwd    | 1,500.00  |
| 331349 | 1    | COMPLETE OFFICE OF CA        | InstMtls/Instrctn/Dstrctwd  | 1,000.00  |
| 331350 | 1    | STAPLES ADVANTAGE            | InstMtls/Instrctn/Castille  | 1,000.00  |
| 331351 | 1    | N-SYNCH TECHNOLOGIES         | SpplsNonI/TIS /Dstrctwd     | 2,807.55  |
| 331352 | 1    | AMS.NET INC                  | Serv& Op/TIS /Dstrctwd      | 24,731.05 |
| 331353 | 1    | SCHOOL LOOP                  | Serv& Op/TIS /Dstrctwd      | 69,276.67 |
| 331354 | 1    | COLLEGE BOARD                | Serv& Op/PuplTest/Dstrctwd  | 200.00    |
| 331355 | 1    | CARD INTEGRATORS             | NonCapEq/PuplTran/Dstrctwd  | 3,642.60  |
| 331356 |      | VOID                         | VOID                        | 0.00      |
| 331357 | 1    | ARTURO J. ADDEMAN            | NonCapEq/Instrctn/Bergeson  | 1,050.00  |
| 331358 | 1    | STAPLES ADVANTAGE            | InstMtls/Instrctn/Malcom    | 5,000.00  |
| 331359 | 13   | PCH SHEET METAL & AIR        | BuipRpr /FoodServ/FNMS      | 10,890.00 |
| 331360 | 1    | LAKESHORE LEARNING MATERIALS | InstMtls/Instrctn/VarSites  | 10,453.99 |
| 331361 | 1    | BIO RAD LABORATORIES         | InstMtls/Instrctn/Tesoro    | 212.52    |
| 331362 | 1    | CULVER-NEWLIN                | InstMtls/Instrctn/VarSites  | 2,643.02  |
| 331363 | 1    | CULVER-NEWLIN                | InstMtls/Instrctn/VarSites  | 2,048.33  |
| 331364 | 1    | CULVER-NEWLIN                | InstMtls/Instrctn/VarSites  | 751.17    |
| 331365 | 1    | CULVER-NEWLIN                | InstMtls/Instrctn/VarSites  | 2,010.04  |
| 331366 | 1    | BRISTOW, JEFFREY             | CnsltNon/PuplTran/Dstrctwd  | 38,000.00 |
| 331367 | 1    | CULVER-NEWLIN                | InstMtls/Instrctn/VarSites  | 821.69    |
| 331368 | 1    | CULVER-NEWLIN                | InstMtls/Instrctn/VarSites  | 1,046.80  |
| 331369 | 1    | ETS - CAHSEE                 | InstMtls/Instrctn/FNMS      | 52.00     |
| 331370 | 1    | DAVIS PUBLICATIONS INC       | 9-12Text/Instrctn/Dstrctwd  | 1,424.41  |
|        |      |                              | K-12Text/Instrctn/ANHS      | 1,424.41  |
| 331371 | 1    | WAYSIDE PUBLISHING           | 9-12Text/Instrctn/Dstrctwd  | 1,111.75  |
| 331372 | 1    | FOLLETT EDUCATIONAL SERVICES | 9-12Text/Instrctn/Dstrctwd  | 1,147.39  |
| 331373 | 1    | VERNON LIBRARY SUPPLIES INC  | SpplsNonI/Libr&Med/Dstrctwd | 294.02    |
| 331374 | 1    | BAYSCAN                      | SpplsNonI/Libr&Med/Dstrctwd | 721.98    |
| 331375 | 1    | OFFICE DEPOT                 | InstMtls/Instrctn/Serra     | 1,500.00  |
| 331376 | 1    | RUSCO INC                    | Rntl:Oth/RR:Bldgs/LFMS      | 6,800.00  |
| 331377 |      | VOID                         | VOID                        | 0.00      |
| 331378 | 12   | CONSTRUCTIVE PLAYTHINGS      | InstMtls/Instrctn/Dstrctwd  | 223.92    |
| 331379 | 1    | ESTRELLITA PUBL              | InstMtls/Instrctn/Viejo     | 879.60    |

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| PO No. | Fund | Vendor                        | Description                 | Amount       |
|--------|------|-------------------------------|-----------------------------|--------------|
| 331380 | 1    | MOBILE COMMUNICATION REPAIR   | SpplsNonI/Enterprs/DHHS     | 1,224.72     |
| 331381 | 1    | DAKTRONICS INC                | Rntl:Oth/Sch Adm /SMS       | 480.00       |
| 331382 | 1    | SOUTHWEST SCHOOL SUPPLY       | SpplsNonI/Sch Adm /SMS      | 88.56        |
| 331383 | 1    | ORANGE COUNTY PUMP CO         | Rntl:Oth/RR:Bldgs/Dstrctwd  | 3,920.00     |
| 331384 | 1    | ORANGE COUNTY PUMP CO         | Rntl:Oth/RR:Bldgs/Dstrctwd  | 25,000.00    |
| 331385 | 1    | STAPLES ADVANTAGE             | SpplsNonI/Sch Adm /Dstrctwd | 118.72       |
| 331386 | 1    | SOUTHWEST SCHOOL SUPPLY       | InstMtls/Instrctn/SMS       | 42.11        |
| 331387 | 1    | FOLLETT EDUCATIONAL SERVICES  | 9-12Text/Instrctn/Dstrctwd  | 3,610.98     |
| 331388 |      | VOID                          | VOID                        | 0.00         |
| 331389 | 1    | WESTGROUP MANAGEMENT INC      | Serv& Op/FacPlann/Dstrctwd  | 45,000.00    |
| 331390 |      | VOID                          | VOID                        | 0.00         |
| 331391 | 1    | VEX ROBOTICS INC              | InstMtls/Instrctn/AVMS      | 3,392.51     |
| 331392 |      | VOID                          | VOID                        | 0.00         |
| 331393 | 1    | GOPHER ATHLETIC               | InstMtls/Instrctn/Del Obis  | 150.17       |
| 331394 | 1    | IMAGE 2000                    | SpplsNonI/Enterprs/Bathgate | 829.08       |
| 331395 | 1    | SMART & FINAL IRIS #399       | SpplsNonI/Sch Adm /Del Obis | 400.00       |
| 331396 | 12   | LAKESHORE LEARNING MATERIALS  | InstMtls/Instrctn/Dstrctwd  | 5,000.00     |
| 331397 | 1    | SOUTHWEST SCHOOL SUPPLY       | InstMtls/Instrctn/Ambuehl   | 2,500.00     |
| 331398 | 1    | OFFICE DEPOT                  | SpplsNonI/Sch Adm /Ambuehl  | 750.00       |
| 331399 | 1    | SOUTHWEST SCHOOL SUPPLY       | SpplsNonI/Sch Adm /Del Obis | 2,500.00     |
| 331400 | 1    | ORANGE COUNTY DEPT OF EDUCAT  | CnfrNonI/SupvAdmn/Dstrctwd  | 150.00       |
| 331401 | 1    | CASBO                         | Dues&Mmb/Bus/Fisc/Dstrctwd  | 732.00       |
| 331402 | 1    | IMAGE 2000                    | InstMtls/Instrctn/Castille  | 200.00       |
| 331403 | 1    | ENET COMPONENTS INC           | SpplsNonI/TIS /Dstrctwd     | 3,181.68     |
| 331404 | 1    | CETPA                         | CnfrNonI/TIS /Dstrctwd      | 2,485.00     |
| 331405 | 1    | LAKESHORE LEARNING MATERIALS  | InstMtls/Instrctn/Del Obis  | 1,278.35     |
| 331406 | 1    | FOLLETT EDUCATIONAL SERVICES  | 9-12Text/Instrctn/Dstrctwd  | 380.75       |
| 331407 | 1    | ETS - GED ESSAY SCORING       | Serv& Op/Sch Adm /AVMS      | 52.00        |
| 331408 | 1    | CULVER-NEWLIN                 | NonCapEq/Sch Adm /SCHS      | 968.87       |
| 331409 | 1    | ALPEN SPRUCE LLC              | Serv& Op/TIS /Dstrctwd      | 9,657.39     |
| 331410 | 1    | ORANGE COUNTY DEPT OF EDUC    | Tui:Cnty/IntrAgnc/Dstrctwd  | 508,066.36   |
| 331411 | 1    | SUSANNE SMITH ROLEY DBA       | CnsltNon/HlthServ/Dstrctwd  | 800.00       |
| 331412 | 1    | ORANGE COUNTY DEPT OF EDUC    | Tui:Cnty/IntrAgnc/Dstrctwd  | 4,363,633.00 |
| 331413 | 1    | ORANGE COUNTY DEPT OF EDUC    | Serv& Op/SupvAdmn/Dstrctwd  | 7,267.82     |
| 331414 | 1    | LEISURE CARE NURSES REGISTRY  | NPA /NPA Hlth/Dstrctwd      | 5,652.50     |
| 331415 | 1    | MARDAN SCHOOL                 | NPS /NPS /Dstrctwd          | 18,748.00    |
| 331416 | 1    | PARADIGM HEALTH CARE SERVICES | Serv& Op/SupvAdmn/Dstrctwd  | 86,000.00    |
| 331417 | 1    | MEET THE MASTERS INC          | Serv& Op/Instrctn/Bathgate  | 5,169.12     |
| 331418 | 1    | MEET THE MASTERS INC          | CnsltSvs/Instrctn/Viejo     | 2,733.64     |
| 331419 | 1    | ART MASTERS                   | CnsltSvs/Instrctn/Viejo     | 4,402.00     |
| 331420 | 1    | MEET THE MASTERS INC          | CnsltSvs/Instrctn/LadraElm  | 6,998.60     |
| 331421 | 1    | ART MASTERS                   | CnsltSvs/Instrctn/Marblehd  | 6,444.00     |
| 331422 | 1    | CAPO-LAGUNA BEACH ROP         | OthTsJPA/IntrAgnc/Dstrctwd  | 2,934,088.00 |
| 331423 | 69   | STROUD, KEITH R               | Serv& Op/Enterprs/Dstrctwd  | 3,612.00     |
| 331424 | 1    | US BANK                       | PARS /Undesig /Dstrctwd     | 140,000.00   |
| 331425 | 1    | PARADIGM HEALTH CARE SERVICES | Serv& Op/SupvAdmn/Dstrctwd  | 12,421.98    |
| 331426 |      | VOID                          | VOID                        | 0.00         |
| 331427 | 1    | ORANGE COUNTY DEPT OF EDUC    | Op&Hskpg/Opr:Util/Dstrctwd  | 60,000.00    |
| 331428 | 1    | MEET THE MASTERS INC          | CnsltSvs/Instrctn/Marblehd  | 5,715.00     |
| 331429 | 1    | PEARSON EDUCATION             | K-8Textb/Instrctn/Dstrctwd  | 5,075.35     |

Board of Trustees Purchase Order Listing  
\*===== Fiscal Year: 2013-14 =====\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| PO No. | Fund | Vendor                       | Description                 | Amount    |
|--------|------|------------------------------|-----------------------------|-----------|
| 331430 | 1    | FOLLETT EDUCATIONAL SERVICES | K-8Textb/Instrctn/Dstrctwd  | 1,076.76  |
| 331431 | 1    | TRIPLE A PUMPING & JETTING   | Rntl:Oth/RR:Bldgs/Dstrctwd  | 5,295.00  |
| 331432 | 1    | DEWEYS HOME APPLIANCES       | SpplsNonI/Sch Adm /Las Palm | 2,396.52  |
| 331433 |      | VOID                         | VOID                        | 0.00      |
| 331434 | 1    | SAFETY KLEEN CORP            | Serv& Op/Saf&Trng/Dstrctwd  | 1,261.23  |
| 331435 |      | VOID                         | VOID                        | 0.00      |
| 331436 | 1    | BARRETT-ROBINSON INC         | SpplsNonI/Sch Adm /Serra    | 216.00    |
| 331437 | 70   | CARLOS GUZMAN INC            | Serv& Op/Enterprs/Dstrctwd  | 1,628.64  |
| 331438 | 1    | MUSIC AND ARTS CENTER        | Rnt&Repr/Instrctn/Dstrctwd  | 2,000.00  |
| 331439 | 1    | STENHOUSE PUBLISHERS         | InstMtls/Instrctn/Viejo     | 2,058.52  |
| 331440 | 1    | KNORR POOL SYSTEMS INC       | Rntl:Oth/RR:Bldgs/Dstrctwd  | 40,000.00 |
| 331441 | 1    | RINCON TRUCK PARTS           | Ppl Tran/PuplTran/Dstrctwd  | 30,000.00 |
| 331442 | 1    | PROGRESS PUBLICATIONS        | InstMtls/Instrctn/Palisade  | 461.70    |
| 331443 | 1    | GOLDEN STAR TECHNOLOGY INC.  | InstMtls/Instrctn/Tesoro    | 287.19    |
| 331444 | 1    | R & M ELECTRICAL CONTRACTING | Rntl:Oth/RR:Bldgs/Dstrctwd  | 4,282.00  |
| 331445 | 1    | BARRETT-ROBINSON INC         | InstMtls/Instrctn/Viejo     | 718.20    |
| 331446 | 1    | CAPISTRANO GOLF CARS         | Rntl:Oth/Custodil/Dstrctwd  | 30,000.00 |
| 331447 | 1    | CAPISTRANO GOLF CARS         | Rntl:Oth/RR:Bldgs/Dstrctwd  | 15,000.00 |
| 331448 | 1    | CAPISTRANO GOLF CARS         | Rntl:Oth/Sch Adm /ANHS      | 500.00    |
| 331449 | 14   | BENS ASPHALT                 | Rntl:Oth/RR:Bldgs/San Juan  | 26,707.95 |
| 331450 | 13   | THE PLATINUM PACKAGING GROUP | Food Sup/FoodServ/Dstrctwd  | 48,000.00 |
| 331451 | 13   | CAL TROPIC                   | Amerisrv/FoodServ/Dstrctwd  | 10,000.00 |
| 331452 | 13   | SUPERIOR FOODS               | OpSupp /FoodServ/Dstrctwd   | 141.38    |
| 331453 | 1    | EDUPOINT EDUCATIONAL SYSTEMS | CnfrNonI/SupvAdmn/Dstrctwd  | 523.00    |
| 331454 |      | VOID                         | VOID                        | 0.00      |
| 331455 | 1    | TARGETSUCCESS INC            | Serv& Op/Prsnl:HR/Dstrctwd  | 5,872.74  |
| 331456 | 1    | SOUTHWEST SCHOOL SUPPLY      | InstMtls/Instrctn/SMS       | 91.52     |
| 331457 | 1    | DELL COMPUTER                | NonCapEq/Sch Adm /VdelMarE  | 747.38    |
| 331458 | 1    | GOV CONNECTION INC           | SpplsNonI/PuplTran/Dstrctwd | 501.25    |
| 331459 | 1    | GOV CONNECTION INC           | InstMtls/Instrctn/ANHS      | 61.30     |
| 331460 | 1    | CULVER-NEWLIN                | SpplsNonI/Sch Adm /Las Palm | 644.65    |
| 331461 | 1    | CULVER-NEWLIN                | NonCapEq/Sch Adm /Las Palm  | 1,054.08  |
| 331462 | 1    | BARRETT-ROBINSON INC         | Rntl:Oth/RR:Bldgs/Dstrctwd  | 25,000.00 |
| 331463 | 1    | STAPLES ADVANTAGE            | SpplsNonI/HlthServ/Dstrctwd | 42.09     |
| 331464 | 1    | SCOTT FORESMAN               | K-8Textb/Instrctn/Dstrctwd  | 281.52    |
| 331465 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,365.45  |
| 331466 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,286.47  |
| 331467 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,718.06  |
| 331468 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,141.35  |
| 331469 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,975.35  |
| 331470 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,074.95  |
| 331471 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,892.35  |
| 331472 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,157.95  |
| 331473 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,817.66  |
| 331474 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,556.34  |
| 331475 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,091.55  |
| 331476 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 995.98    |
| 331477 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,029.18  |
| 331478 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,178.57  |
| 331479 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,286.47  |

Board of Trustees Purchase Order Listing  
\*===== Fiscal Year: 2013-14 =====\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| PO No. | Fund | Vendor                       | Description                 | Amount    |
|--------|------|------------------------------|-----------------------------|-----------|
| 331480 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,369.47  |
| 331481 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,074.95  |
| 331482 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,548.04  |
| 331483 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,742.96  |
| 331484 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,543.76  |
| 331485 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,078.97  |
| 331486 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,323.94  |
| 331487 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,228.37  |
| 331488 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,216.05  |
| 331489 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,016.86  |
| 331490 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 3,386.32  |
| 331491 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,535.47  |
| 331492 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,410.97  |
| 331493 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,261.57  |
| 331494 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,427.57  |
| 331495 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 290.50    |
| 331496 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 3,070.93  |
| 331497 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,801.06  |
| 331498 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,543.76  |
| 331499 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,319.67  |
| 331500 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,128.77  |
| 331501 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 1,369.47  |
| 331502 | 1    | HANDWRITING W/O TEARS        | K-8Textb/Instrctn/Dstrctwd  | 2,489.94  |
| 331503 | 1    | CULVER-NEWLIN                | InstMtls/Instrctn/Las Palm  | 535.68    |
| 331504 | 1    | CULVER-NEWLIN                | InstMtls/Instrctn/Las Palm  | 660.68    |
| 331505 | 1    | DPF FILTERS INC.             | Serv& Op/PuplTran/Dstrctwd  | 34,650.00 |
|        |      |                              | Serv& Op/Dist Veh/Dstrctwd  | 10,350.00 |
| 331506 | 1    | GOPHER ATHLETIC              | InstMtls/Instrctn/MFMS      | 1,827.47  |
| 331507 | 12   | SOFTWARE INC                 | Serv& Op/Sch Adm /Dstrctwd  | 180.00    |
| 331508 | 1    | MEDCO SCHOOL FIRST AID       | InstMtls/CurAthlt/ANHS      | 3,334.75  |
| 331509 | 1    | ORANGE COUNTY DEPT OF EDUCAT | FieldTrp/Instrctn/Castille  | 46,645.50 |
| 331510 | 1    | SOUTHWEST SCHOOL SUPPLY      | InstMtls/Instrctn/Del Obis  | 392.07    |
| 331511 | 1    | SOUTHWEST SCHOOL SUPPLY      | InstMtls/Instrctn/Palisade  | 5,000.00  |
| 331512 | 1    | SOUTHWEST SCHOOL SUPPLY      | InstMtls/Instrctn/VdelMarE  | 8,500.00  |
| 331513 | 1    | SMART & FINAL IRIS #399      | InstMtls/Instrctn/Las Palm  | 5,000.00  |
| 331514 | 1    | DENAULT'S HARDWARE           | InstMtls/Instrctn/Las Palm  | 5,000.00  |
| 331515 | 1    | IMAGE 2000                   | SpplsNonI/Sch Adm /VdelMarE | 2,500.00  |
| 331516 | 1    | SMART & FINAL IRIS #399      | InstMtls/Instrctn/Serra     | 1,000.00  |
| 331517 | 1    | OFFICE DEPOT                 | InstMtls/Instrctn/DHHS      | 7,000.00  |
|        |      |                              | SpplsNonI/Sch Adm /DHHS     | 3,000.00  |
| 331518 | 1    | ORANGE COUNTY DEPT OF EDUCAT | CnfrNonI/Sch Adm /Kinoshita | 150.00    |
| 331519 | 1    | PC MALL GOV                  | InstMtls/Instrctn/Del Obis  | 215.65    |
| 331520 | 1    | DELL COMPUTER                | InstMtls/Instrctn/Chaparal  | 831.37    |
| 331521 | 1    | INSIGHT SYSTEMS EXCHANGE     | SpplsNonI/Sch Adm /ANHS     | 680.40    |
| 331522 | 1    | APPLE COMPUTER INC           | NonCapEq/TIS /Dstrctwd      | 3,365.28  |
| 331523 | 1    | DELL COMPUTER                | InstMtls/Instrctn/SMS       | 48.59     |
| 331524 | 1    | INSIGHT SYSTEMS EXCHANGE     | SpplsNonI/Sch Adm /NHMS     | 2,721.60  |
| 331525 | 1    | INSIGHT SYSTEMS EXCHANGE     | InstMtls/Instrctn/Kinoshita | 1,020.60  |
| 331526 | 1    | ORANGE COUNTY DEPT OF EDUCAT | CnfrNonI/SupvAdmn/Dstrctwd  | 300.00    |
| 331527 | 1    | SOUTHWEST SCHOOL SUPPLY      | SpplsNonI/Sch Adm /SMS      | 105.06    |

Board of Trustees Purchase Order Listing  
\*===== Fiscal Year: 2013-14 =====\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| PO No. | Fund | Vendor                        | Description                 | Amount    |
|--------|------|-------------------------------|-----------------------------|-----------|
| 331528 | 1    | DELL COMPUTER                 | NonCapEq/InstTech/Serra     | 2,900.87  |
| 331529 | 1    | INSIGHT SYSTEMS EXCHANGE      | SpplsNonI/TIS /Dstrctwd     | 3,510.00  |
| 331530 | 1    | BULBTRONICS INC.              | SpplsNonI/M&OUUnrOH/SJHHS   | 478.44    |
| 331531 | 1    | TRIPLE A PUMPING & JETTING    | Rntl:Oth/RR:Bldgs/Dstrctwd  | 10,000.00 |
| 331532 | 1    | GOLDEN RULE BINDERY           | 9-12Text/Instrctn/Dstrctwd  | 2,673.49  |
| 331533 | 1    | GOLDEN RULE BINDERY           | K-8Textb/Instrctn/Dstrctwd  | 1,018.93  |
| 331534 | 1    | GOLDEN RULE BINDERY           | K-8Textb/Instrctn/Dstrctwd  | 764.96    |
| 331535 | 1    | GOLDEN RULE BINDERY           | K-8Textb/Instrctn/Dstrctwd  | 490.32    |
| 331536 | 1    | GOLDEN RULE BINDERY           | K-8Textb/Instrctn/Dstrctwd  | 1,484.68  |
| 331537 | 1    | GOLDEN RULE BINDERY           | 9-12Text/Instrctn/Dstrctwd  | 2,111.89  |
| 331538 | 1    | CITY OF SAN CLEMENTE          | Op&Hskpg/Opr:Util/Dstrctwd  | 18,266.59 |
| 331539 | 1    | BOYCE INDUSTRIES              | Rntl:Oth/PuplTran/Dstrctwd  | 10,000.00 |
| 331540 | 1    | PRINT & FINISHING SOLUTIONS   | Rntl:Oth/Grph Art/Dstrctwd  | 2,000.00  |
| 331541 | 1    | ABATEC INC                    | Rntl:Oth/RR:Bldgs/Dstrctwd  | 18,470.00 |
| 331542 | 1    | CA ASSOC EDUC YOUNG CHILDREN  | CnfrNonI/SupvAdmn/Dstrctwd  | 155.00    |
| 331543 |      | VOID                          | VOID                        | 0.00      |
| 331544 | 1    | LEARNING ALLY                 | InstMtls/SE0thIns/Dstrctwd  | 395.00    |
| 331545 | 1    | SIEMENS HEARING INST          | SpplsNonI/HlthServ/Dstrctwd | 424.00    |
| 331546 | 1    | MR CLEAN MAINTENANCE SYSTEMS  | Rntl:Oth/Custodil/Dstrctwd  | 425.00    |
| 331547 | 1    | SPORTS FACILITIES GROUP INC   | Rntl:Oth/RR:Bldgs/DHHS      | 3,950.00  |
| 331548 | 1    | MAIER INTERNATIONAL INC       | Rntl:Oth/RR:Bldgs/Bergeson  | 12,769.50 |
| 331549 |      | VOID                          | VOID                        | 0.00      |
| 331550 | 1    | IMAGE 2000                    | Rntl:Oth/RR:Bldgs/Dstrctwd  | 40,000.00 |
| 331551 | 1    | DEWEYS HOME APPLIANCES        | Rntl:Oth/RR:Bldgs/Dstrctwd  | 5,000.00  |
| 331552 | 1    | MAIER INTERNATIONAL INC       | Rntl:Oth/RR:Bldgs/Dstrctwd  | 10,000.00 |
| 331553 | 1    | EXPRESS PIPE & SUPPLY         | Ppl Tran/PuplTran/Dstrctwd  | 18.83     |
| 331554 | 1    | LA HABRA FENCE CO INC         | Rntl:Oth/RR:Bldgs/SCHS      | 1,127.00  |
| 331555 | 1    | LA HABRA FENCE CO INC         | Serv& Op/Enterprs/Dstrctwd  | 4,863.00  |
| 331556 | 1    | INTERSTATE BATTERIES          | Ppl Tran/PuplTran/Dstrctwd  | 15,075.00 |
|        |      |                               | SpplsNonI/Dist Veh/Dstrctwd | 7,425.00  |
| 331557 | 1    | FACTORY MOTOR PARTS           | Ppl Tran/PuplTran/Dstrctwd  | 10,500.00 |
|        |      |                               | SpplsNonI/Dist Veh/Dstrctwd | 10,500.00 |
| 331558 | 1    | CAL-STATE AUTO PARTS INC      | Ppl Tran/PuplTran/Dstrctwd  | 10,500.00 |
|        |      |                               | SpplsNonI/Dist Veh/Dstrctwd | 10,500.00 |
| 331559 | 1    | A Z BUS SALES INC             | Rntl:Oth/PuplTran/Dstrctwd  | 20,000.00 |
| 331560 | 1    | UNIQUE SWEEPING               | Rntl:Oth/PuplTran/Dstrctwd  | 4,000.00  |
| 331561 | 1    | WESTERN PUMP                  | Rntl:Oth/PuplTran/Dstrctwd  | 10,000.00 |
| 331562 | 1    | TONY'S LOCKSMITH SERVICE      | Rntl:Oth/RR:Bldgs/Dstrctwd  | 5,000.00  |
| 331563 | 1    | MILLER MECHANICAL             | Rntl:Oth/RR:Bldgs/Dstrctwd  | 15,000.00 |
| 331564 | 1    | ORANGE COAST PETRO EQUIP      | Rntl:Oth/PuplTran/Dstrctwd  | 2,000.00  |
| 331565 | 1    | QUALITY TOWING                | Serv& Op/PuplTran/Dstrctwd  | 5,000.00  |
|        |      |                               | Serv& Op/Dist Veh/Dstrctwd  | 5,000.00  |
| 331566 | 1    | P A THOMPSON ENGINEERING CO   | Rntl:Oth/RR:Bldgs/Dstrctwd  | 20,000.00 |
| 331567 | 1    | GILBERT & STEARNS INC         | Rntl:Oth/RR:Bldgs/Dstrctwd  | 10,000.00 |
| 331568 | 1    | GMF SOUND INC                 | Rntl:Oth/RR:Bldgs/Dstrctwd  | 5,000.00  |
| 331569 | 1    | McKENDRY DOOR SALES & SERVICE | Rntl:Oth/RR:Bldgs/Dstrctwd  | 25,000.00 |
| 331570 | 1    | DENAULT'S HARDWARE            | InstMtls/Instrctn/Serra     | 1,300.00  |
| 331571 | 1    | ORANGE COUNTY DEPT OF EDUCAT  | CnfrNonI/SupvAdmn/Las Palm  | 500.00    |
| 331572 | 1    | LAWNMOWERS ETC                | Rntl:Oth/Op:Grnds/Dstrctwd  | 75,000.00 |
| 331573 | 1    | PACIFIC MH CONSTRUCTION INC.  | Rntl:Oth/RR:Bldgs/Crn Vlly  | 3,274.00  |



Board of Trustees Purchase Order Listing

\*===== Fiscal Year: 2013-14 =====\*

Board of Trustees Meeting.....SEPTEMBER 25, 2013

| PO No. | Fund | Vendor                        | Description                 | Amount    |
|--------|------|-------------------------------|-----------------------------|-----------|
| 331574 | 1    | VIRTUAL WATER SERVICES        | Rntl:Oth/RR:Bldgs/Dstrctwd  | 2,700.00  |
| 331575 | 1    | ADVANTAGE RADIATOR            | Rntl:Oth/PuplTran/Dstrctwd  | 16,750.00 |
|        |      |                               | Rntl:Oth/Dist Veh/Dstrctwd  | 8,250.00  |
| 331576 | 1    | BADEN SPORTS INC              | InstMtls/Instrctn/Del Obis  | 117.07    |
| 331577 | 1    | SCHOOL SPECIALTY              | SpplsNonI/Sch Adm /Bergeson | 78.19     |
| 331578 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331579 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331580 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 150.00    |
| 331581 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331582 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331583 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331584 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331585 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331586 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331587 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331588 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 165.00    |
| 331589 | 1    | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 250.00    |
| 331590 | 1    | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 1,500.00  |
| 331591 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 150.00    |
| 331592 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331593 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 150.00    |
| 331594 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 150.00    |
| 331595 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 120.00    |
| 331596 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 150.00    |
| 331597 | 12   | SPARKLETTS                    | SpplsNonI/Sch Adm /Dstrctwd | 224.00    |
| 331598 | 1    | GRAPHIC SYSTEMS/PRINTERS MAIL | SpplsNonI/Grph Art/Dstrctwd | 4,000.00  |
| 331599 | 1    | IMAGE 2000                    | InstMtls/Instrctn/Marblehd  | 254.88    |
| 331600 | 1    | THOUSAND PINES OUTDOOR SCHOOL | FieldTrp/Instrctn/Bergeson  | 13,939.20 |
| 331601 | 1    | SPARKLETTS                    | SpplsNonI/Sch Adm /CapoHome | 750.00    |
| 331602 | 1    | ORANGE COUNTY DEPT OF EDUCAT  | Conf:Ins/Instrctn/ANHS      | 300.00    |
| 331603 | 1    | PC MALL GOV                   | Serv& Op/Instrctn/CVHS      | 3,868.56  |
| 331604 | 1    | VISTA HIGHER LEARNING         | 9-12Text/Instrctn/Dstrctwd  | 3,464.37  |
| 331605 | 1    | PEARSON EDUCATION             | K-8Textb/Instrctn/Dstrctwd  | 1,384.78  |
| 331606 | 1    | VISTA HIGHER LEARNING         | K-12Text/Instrctn/ANHS      | 1,587.60  |
| 331607 | 1    | VISTA HIGHER LEARNING         | K-12Text/Instrctn/SJHHS     | 1,587.60  |
| 331608 | 1    | VISTA HIGHER LEARNING         | K-12Text/Instrctn/SCHS      | 2,579.85  |
| 331609 | 1    | VISTA HIGHER LEARNING         | K-12Text/Instrctn/DHHS      | 1,786.05  |
| 331610 | 1    | VISTA HIGHER LEARNING         | K-12Text/Instrctn/CVHS      | 1,389.15  |
| 331611 | 1    | VISTA HIGHER LEARNING         | K-12Text/Instrctn/Tesoro    | 1,587.60  |
| 331612 | 1    | VISTA HIGHER LEARNING         | 9-12Text/Instrctn/Dstrctwd  | 2,948.40  |
| 331613 | 1    | VISTA HIGHER LEARNING         | 9-12Text/Instrctn/Dstrctwd  | 6,928.74  |
| 331614 | 1    | VISTA HIGHER LEARNING         | 9-12Text/Instrctn/Dstrctwd  | 4,791.15  |
| 331615 | 1    | VISTA HIGHER LEARNING         | 9-12Text/Instrctn/Dstrctwd  | 9,582.30  |
| 331616 | 1    | VISTA HIGHER LEARNING         | 9-12Text/Instrctn/Dstrctwd  | 2,948.40  |
| 331617 | 1    | SCOTT FORESMAN                | InstMtls/Instrctn/San Juan  | 371.95    |
| 331618 | 1    | HANDWRITING W/O TEARS         | K-8Textb/Instrctn/Dstrctwd  | 414.99    |
| 331619 | 1    | HANDWRITING W/O TEARS         | K-8Textb/Instrctn/Dstrctwd  | 3,801.31  |
| 331620 | 1    | SCOTT FORESMAN                | K-8Textb/Instrctn/Dstrctwd  | 8,245.55  |
| 331621 | 1    | BAVCO                         | Rntl:Oth/Op:Grnds/Dstrctwd  | 6,000.00  |
| 331622 | 1    | LEARNING A-Z                  | Serv& Op/Instrctn/Viejo     | 1,122.58  |

Board of Trustees Purchase Order Listing

\*===== Fiscal Year: 2013-14 =====\*

Board of Trustees Meeting.....SEPTEMBER 25, 2013

| PO No. | Fund | Vendor                       | Description                | Amount   |
|--------|------|------------------------------|----------------------------|----------|
| 331623 | 1    | PACIFIC MH CONSTRUCTION INC. | Rntl:Oth/RR:Bldgs/ArroyoEl | 8,185.00 |
| 331624 | 1    | CALIF STEEPLEJACK & PAINTING | Rntl:Oth/RR:Bldgs/Concordi | 959.15   |
| 331625 | 1    | ABOVE ALL NAMES CONSTRUCTION | Rntl:Oth/RR:Bldgs/SJHHS    | 7,176.50 |
| 331626 | 1    | CALIFORNIA TRANSPORT         | Rntl:Oth/Dist Veh/Dstrctwd | 3,000.00 |
| 331627 | 1    | ABOVE ALL NAMES CONSTRUCTION | Rntl:Oth/RR:Bldgs/Bathgate | 5,111.50 |
| 331628 | 1    | DFS FLOORING                 | Rntl:Oth/RR:Bldgs/Dstrctwd | 880.00   |

515 Purchase Orders \$12,716,510.27



Board of Trustees Warrant Listing  
\*===== Fiscal Year: 2013-14 =====\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| Warrant<br>Number | Name of Payee                  | Reference<br>Number | Amount     |
|-------------------|--------------------------------|---------------------|------------|
| 189222            | BEUTIN, ERIN                   | PV-140360           | 160.46     |
| 189223            | BRADLEY, JUDITH S              | PV-140361           | 36.16      |
| 189224            | CARLISLE, TERESA               | PV-140362           | 23.73      |
| 189225            | CLIFT, LYNNETTE I              | PV-140363           | 85.88      |
| 189226            | DAVIS, DANIELLE                | PV-140364           | 98.88      |
| 189227            | DENOEWER, LORI                 | PV-140365           | 29.38      |
| 189228            | DIXON, AURORA                  | PV-140366           | 33.90      |
| 189229            | DYE, JANETTE                   | PV-140367           | 101.70     |
| 189230            | EATON, ANDREA                  | PV-140368           | 13.00      |
| 189231            | ENGELSON, EMILY                | PV-140369           | 18.08      |
| 189232            | FLYNN, MARGARET                | PV-140370           | 81.36      |
| 189233            | GILL, ARVINDER                 | PV-140371           | 45.20      |
| 189234            | HIGHTOWER, SHERI               | PV-140372           | 123.17     |
| 189235            | JIMENEZ, DENISE                | PV-140373           | 61.02      |
| 189236            | KENNEY, VALERIE                | PV-140374           | 50.29      |
| 189237            | KERINS, TRACY                  | PV-140375           | 29.38      |
| 189238            | MCKEE, DANISE                  | PV-140376           | 79.10      |
| 189239            | NAPORA, NOELLE                 | PV-140377           | 38.42      |
| 189240            | NGUYEN, PAUL                   | PV-140378           | 118.65     |
| 189241            | RASHIDI, AKRAM KIM             | PV-140379           | 76.84      |
| 189242            | SELIKSON, DEBBIE               | PV-140380           | 126.56     |
| 189243            | SHAH, RANA                     | PV-140381           | 96.62      |
| 189244            | SOLTIS, PAMELA                 | PV-140382           | 54.24      |
| 189245            | STONE, LOU HANES               | PV-140383           | 40.68      |
| 189246            | STURDEVANT-BROWN, LORI         | PV-140384           | 96.05      |
| 189247            | WESTON, KELLY                  | PV-140385           | 20.34      |
| 189248            | YSLAS, BOBBIE SUE              | PV-140387           | 37.29      |
| 189249            | WILBUR, SANDRA S               | PV-140386           | 122.04     |
| 189250            | CORVEL CORPORATION             | PO-330313           | 119,715.75 |
| 189251            | CAPISTRANO UNIFIED SCHOOL DIST | CL-130941           | 550.40     |
|                   |                                | PO-330320           | 84,912.43  |
| 189252            | AZZOLLINI, CHERYL              | PV-140390           | 275.61     |
| 189253            | CARRILLO, MARCELLA             | PV-140389           | 137.27     |
| 189254            | UC REGENTS                     | PV-140391           | 550.00     |
| 189255            | HARBOTTLE LAW GROUP            | PO-330824           | 1,634.00   |
| 189256            | JOSHUA AND CAROL CONDIE        | PO-331219           | 22,860.00  |
| 189257            | MITCHEL D. PERLMAN PHD INC.    | CL-131586           | 2,625.00   |
|                   |                                | PO-330480           | 2,362.50   |
| 189258            | SHACK-LAPPIN, CAROL            | PO-330751           | 881.25     |
| 189259            | ATKINSON ANDELSON LOYA         | CL-131573           | 2,741.69   |
| 189260            | SCHOOL SERVICES OF CALIF       | PO-330661           | 3,300.00   |
| 189261            | ACETEC SECURITY SYSTEMS        | PO-330242           | 200.00     |
| 189262            | ALPHA SOUND AND LIGHTING       | PO-330239           | 2,641.51   |
| 189263            | BARRETT-ROBINSON INC           | CL-131695           | 5,789.15   |

Board of Trustees Warrant Listing  
\*===== Fiscal Year: 2013-14 =====\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| Warrant<br>Number | Name of Payee                 | Reference<br>Number | Amount    |
|-------------------|-------------------------------|---------------------|-----------|
| 189264            | BATTERY SYSTEMS               | CM-140042           | 102.00-   |
|                   |                               | PO-330947           | 822.26    |
| 189265            | BEACH CITIES GLASS            | PO-330234           | 574.20    |
| 189266            | BEE MAN                       | PO-331234           | 934.00    |
| 189267            | CLEAN ENERGY                  | PO-330853           | 7,911.39  |
| 189268            | COASTAL BLUE                  | PO-330203           | 675.76    |
| 189269            | COLLEGE BOARD PUBLICATIONS    | PO-331354           | 200.00    |
| 189270            | CPR SAVERS & FIRST AID SUPPLY | CL-130209           | 484.09    |
| 189271            | CREATIVE CONTRACTORS CORP     | PO-323453           | 650.00    |
| 189272            | DUNN-EDWARDS CORP             | PO-330229           | 4,423.57  |
| 189273            | FISHER SCIENTIFIC             | PO-322849           | 306.72    |
| 189274            | GANAHL LUMBER                 | PO-330225           | 166.69    |
| 189275            | HIRSCH PIPE & SUPPLY          | PO-330166           | 572.81    |
| 189276            | HYDRO-SCAPE PRODUCTS INC      | PO-330416           | 144.73    |
| 189277            | JOHNSTONE SUPPLY              | PO-330418           | 7,605.28  |
| 189278            | EXECUTIVE ENVIRONMENTAL SVCS  | PO-331339           | 631.34    |
| 189279            | MAIL FINANCE                  | PO-330502           | 1,103.73  |
| 189280            | MOBILE COMM REPAIR INC        | PO-331276           | 612.36    |
| 189281            | MOORE'S SEWING MACHINE        | PO-330544           | 65.24     |
| 189282            | OFFICE DEPOT                  | PO-331183           | 32.24     |
| 189283            | ORANGE COUNTY REGISTER        | PO-331044           | 133.44    |
| 189284            | ORANGE CTY HEALTH AGENCY      | PO-330857           | 1,198.00  |
| 189285            | PRINT & FINISHING SOLUTIONS   | PO-331224           | 162.01    |
| 189286            | RINCON TRUCK PARTS            | PO-330886           | 3,174.93  |
|                   |                               | PO-331441           | 4,380.46  |
| 189287            | SEHI COMPUTER                 | PO-331266           | 291.12    |
| 189288            | SKYLINE PEST CONTROL          | PO-331323           | 660.00    |
| 189289            | SOUTHWEST SCHOOL SUPPLY       | PO-330326           | 1,039.12  |
|                   |                               | PO-330699           | 396.36    |
| 189290            | SPICERS PAPER CO              | PO-330152           | 2,568.00  |
| 189291            | STAPLES ADVANTAGE             | PO-330279           | 238.13    |
|                   |                               | PO-330496           | 490.23    |
|                   |                               | PO-330514           | 32.89     |
| 189292            | UNITED RENTALS                | PO-330175           | 820.75    |
| 189293            | VERIZON WIRELESS              | PO-330161           | 2,845.30  |
| 189294            | VORTEX                        | PO-331227           | 610.00    |
| 189295            | WATERLINES TECHNOLOGIES INC   | PO-331136           | 415.85    |
| 189296            | STAPLES ADVANTAGE             | PO-330523           | 215.98    |
| 189297            | ORANGE CTY HEALTH AGENCY      | PO-331278           | 2,816.00  |
| 189298            | CONSOLIDATED ELECT DISTR      | PO-330433           | 1,254.28  |
| 189299            | E. STEWART AND ASSOCIATES     | PO-330434           | 50,362.92 |
| 189300            | KEY GOVERNMENT FINANCE INC    | PO-330437           | 25,734.94 |
| 189301            | MOULTON NIGUEL WATER          | PO-330245           | 4,720.60  |
| 189302            | PACIFIC PLUMBING COMPANY OF   | PO-331262           | 12,964.01 |
| 189303            | SAN DIEGO GAS & ELECTRIC      | PO-330248           | 49,979.95 |

Board of Trustees Warrant Listing  
\*----- Fiscal Year: 2013-14 -----\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| Warrant<br>Number | Name of Payee                  | Reference<br>Number | Amount    |
|-------------------|--------------------------------|---------------------|-----------|
| 189304            | SANTA MARGARITA WATER          | PO-330247           | 16,578.31 |
| 189305            | SO CAL GAS CO                  | PO-330249           | 6,502.67  |
| 189306            | SO COAST WATER DIST            | PO-330224           | 9,334.58  |
| 189307            | SOUTHERN CALIFORNIA EDISON     | PO-330250           | 2,152.26  |
| 189308            | WEST COAST ARBORISTS INC.      | PO-330432           | 40,333.00 |
| 189309            | TANDUS FLOORING INC.           | PO-325035           | 1,442.57  |
|                   |                                | PO-325038           | 4,140.90  |
| 189310            | W W GRAINGER INC               | -                   |           |
|                   |                                | PO-330190           | 4,213.98  |
|                   |                                | PO-330499           | 30,891.07 |
| 189311            | W W GRAINGER INC               | -                   |           |
|                   |                                | PO-330499           | 17,761.04 |
| 189312            | W W GRAINGER INC               | -                   |           |
|                   |                                | PO-330499           | 16,255.24 |
| 189313            | W W GRAINGER INC               | PO-330499           | 5,465.88  |
| 189314            | A Z BUS SALES INC              | PO-330865           | 2,123.51  |
| 189315            | AMS.NET INC                    | PO-330929           | 316.70    |
| 189316            | APPERSON                       | PO-330551           | 191.76    |
| 189317            | APPLE COMPUTER INC             | PO-331092           | 7,583.04  |
| 189318            | ARROW RESTAURANT EQUIPMENT     | PO-324863           | 4,906.40  |
| 189319            | BADEN SPORTS INC               | PO-330867           | 299.35    |
| 189320            | BARRETT-ROBINSON INC           | PO-331462           | 459.90    |
| 189321            | BIOMETRICS4ALL INC             | PO-330767           | 35.25     |
| 189322            | BOYCE INDUSTRIES               | PO-330547           | 1,664.75  |
| 189323            | CAMCOR INC                     | PO-331334           | 518.60    |
| 189324            | CAROLINA BIOLOGICAL SUPPLY CO  | PO-330880           | 69.24     |
| 189325            | COMMERCE PRINTING              | PO-330959           | 3,996.00  |
|                   |                                | PO-330961           | 3,996.00  |
|                   |                                | PO-331057           | 3,996.00  |
| 189326            | COMPLETE OFFICE OF CA          | PO-330088           | 63.68     |
|                   |                                | PO-330330           | 370.29    |
|                   |                                | PO-330362           | 25.24     |
| 189327            | CURRICULUM ASSOCIATES          | PO-330304           | 52.90     |
| 189328            | DELL MARKETING L P             | PO-330970           | 1,377.76  |
|                   |                                | PO-331003           | 1,558.87  |
| 189329            | DITCH WITCH CENTRAL CALIFORNIA | PO-330412           | 203.09    |
| 189330            | DM COLOR EXPRESS               | PO-330185           | 5,735.08  |
| 189331            | DUNN-EDWARDS CORP              | PO-330229           | 3,612.74  |
| 189332            | EAI EDUCATION                  | PO-330560           | 102.30    |
| 189333            | EDGEWOOD PRESS INC             | PO-330342           | 405.00    |
| 189334            | EXCEPTIONAL TEACHING INC       | PO-330736           | 173.04    |
|                   |                                | PO-330737           | 224.45    |

Board of Trustees Warrant Listing  
\*===== Fiscal Year: 2013-14 =====\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| Warrant<br>Number | Name of Payee                  | Reference<br>Number | Amount    |
|-------------------|--------------------------------|---------------------|-----------|
| 189335            | FOLLETT EDUCATIONAL SVC        | PO-330586           | 1,281.85  |
|                   |                                | PO-330609           | 1,574.64  |
|                   |                                | PO-330611           | 313.20    |
|                   |                                | PO-330615           | 1,910.53  |
|                   |                                | PO-330618           | 2,755.63  |
|                   |                                | PO-331079           | 1,356.48  |
| 189336            | FOLLETT LIBRARY RESOURCES      | PO-331190           | 354.57    |
|                   |                                | PO-331207           | 297.90    |
| 189337            | FRICTION MATERIALS CO.         | PO-330870           | 324.91    |
| 189338            | FUN AND FUNCTION               | PO-330766           | 61.94     |
| 189339            | GANAHL LUMBER                  | PO-330225           | 257.49    |
| 189340            | GOPHER ATHLETIC/SPORTS         | PO-330896           | 373.79    |
|                   |                                | PO-330897           | 253.43    |
| 189341            | ADMINISTRATIVE SOFTWARE        | PO-330704           | 1,194.60  |
| 189342            | CARLOS GUZMAN INC              | PO-331437           | 1,628.64  |
| 189343            | ALVAREZ, SAL                   | FV-140404           | 89.00     |
| 189344            | BERTINI, CARRIE                | FV-140405           | 146.28    |
| 189345            | BRENTLINGER, JODEE             | FV-140406           | 24.55     |
| 189346            | GARMAN, JAIME                  | FV-140409           | 58.00     |
| 189347            | FLEMING, KRISTIN               | FV-140407           | 483.00    |
| 189348            | FOX, VALERIE                   | FV-140408           | 224.00    |
| 189349            | HAGEN, ZACH                    | FV-140410           | 315.00    |
| 189350            | LORIEGA, ALICIA                | FV-140411           | 330.00    |
| 189351            | AMERICAN LOGISTICS COMPANY LLC | PO-331258           | 17,296.50 |
| 189352            | DEPARTMENT OF JUSTICE          | PO-330691           | 2,047.00  |
| 189353            | ORANGE COUNTY DEPT OF EDUCATIO | PO-331509           | 46,645.50 |
| 189354            | OPPORTUNITY FOR LEARNING       | CM-140045           | 6,822.21- |
|                   |                                | CM-140046           | 8,139.00- |
|                   |                                | FV-140403           | 43,840.74 |
| 189355            | CULVER-NEWLIN                  | CL-130935           | 6,007.18  |
|                   |                                | PO-324781           | 1,129.68  |
| 189356            | HIRSCH PIPE & SUPPLY           | PO-330166           | 85.27     |
| 189357            | HOUGHTON MIFFLIN HARCOURT      | PO-330614           | 6,108.10  |
|                   |                                | PO-330619           | 825.33    |
| 189358            | HYDRO-SCAPE PRODUCTS INC       | PO-330416           | 1,134.85  |
| 189359            | IMAGE 2000                     | PO-330900           | 670.44    |
|                   |                                | PO-330901           | 616.44    |
|                   |                                | PO-330902           | 1,925.40  |
| 189360            | JOHN DEERE LANDSCAPES          | PO-330417           | 4,772.42  |
| 189361            | JOHNSTONE SUPPLY               | PO-330418           | 2,971.17  |
| 189362            | KELLY PAPER COMPANY            | PO-330151           | 3,921.32  |
| 189363            | LAKESHORE LEARNING MATLS       | PO-330090           | 1,307.12  |
|                   |                                | PO-330698           | 243.16    |
| 189364            | LAKESHORE LEARNING MATLS       | PO-330887           | 1,014.96  |
| 189365            | MATTHEW & KATIE FERREN         | CL-130856           | 382.50    |

Board of Trustees Warrant Listing  
\*===== Fiscal Year: 2013-14 =====\*  
Board of Trustees Meeting.....SEPTEMBER 25, 2013

| Warrant<br>Number | Name of Payee                  | Reference<br>Number | Amount       |
|-------------------|--------------------------------|---------------------|--------------|
| 189366            | MENDE PSY.D, SYLVIA            | CL-130374           | 3,742.53     |
|                   |                                | CL-130375           | 2,495.02     |
| 189367            | BHAUMIK, ISHITA                | PV-140413           | 459.00       |
| 189368            | GREEN, JUSTIN                  | PV-140415           | 745.00       |
| 189369            | KERINS, TRACY                  | PV-140414           | 399.00       |
| 189370            | ORANGE COUNTY DEPT OF EDUCATIO | PO-330312           | 200.00       |
|                   |                                | PO-330374           | 150.00       |
| 189371            | SCHOOL SERVICES OF CALIF       | PO-330461           | 195.00       |
| 189372            | SCIENCE@OC                     | PO-331255           | 1,475.00     |
| 189373            | THE ECOLOGY CENTER             | CL-131718           | 500.00       |
| 189374            | THINKING MAPS INC              | CL-131603           | 1,440.00     |
|                   |                                | PO-324338           | 960.00       |
| 189375            | ASSA ABLOY ENTRANCE SYSTEM INC | CL-131766           | 210.70       |
|                   |                                | CL-131767           | 438.76       |
| 189376            | COMPLETE OFFICE OF CA          | PV-140412           | 8.41         |
| 189377            | CULVER-NEWLIN                  | CL-130605           | 1,165.75     |
|                   |                                | CL-130722           | 1,793.89     |
| 189378            | THE ECOLOGY CENTER             | PO-331111           | 400.00       |
| 157 Warrants      |                                |                     | \$807,898.46 |





**Capistrano Unified School District  
Bids/RFP-Qs/Piggyback Bids**

| <b>VENDOR</b>   | <b>TITLE</b>  | <b>BOARD APPROVAL DATE</b> |
|---|---|----------------------------|
| A&R Wholesale Distributors, Inc.                          | Bid No. 1011-14 Grocery Products  | 5/9/2011                   |
| A&R Wholesale Distributors, Inc.                          | Bid No. 1011-13 Snack and Beverage Products   | 5/9/2011                   |
| A&R Wholesale Distributors, Inc.                          | Bid No. 1314-02 Frozen Food Products  | 6/26/2013                  |
| Above All Names Construction Services, Incorporated       | Bid No. 1112-11, Concrete Maintenance & Repair  | 10/26/2011                 |
| Advantage Imaging Supply, Inc.                            | Bid No. 1314-04 Audio Visual Equipment  | 7/10/2013                  |
| American Logistics Co., LLC                               | Bid No. 1112-04 - Outsource Transportation Service  | 7/27/2011                  |
| AMS.NET Inc.  | California Multiple Award Schedule Contract No. 3-09-70-0291Q, Electronic Data Processing (EDP) Equipment and Service   | 4/13/2010                  |
| AMS.NET Inc.  | Western State Contracting Alliance (WSCA) WSCA 7-08-70-13, CA Participating Addendum AR-233 Cisco Networking Communications and Maintenance   | 11/9/2010                  |
| AMS.NET Inc.  | California Multiple Award Schedule (CMAS) Contract No. 3-11-70-0291U, Purchase and Warranty of Hardware, Software, Software Maintenance, Installation, Maintenance and Repair   | 5/25/2011                  |
| AMS.NET Inc.  | State of Minnesota, Department of Administration, National Association of State Procurement Officials, and Western States Contracting Alliance Contract No. B27161 awarded to EMC Corp., California Participating addendum, Computer Equipment, peripherals, and related services | 3/28/2012                  |
| Architectural Roofing Systems dba Pacific Roofing Systems | Bid No. 1011-10, Roofing Repairs and Maintenance  | 3/8/2011                   |
| Atkinson, Andelson, Loya, Rudd & Romo                     | RFQ No. 10-0809 General Legal Services  | 12/15/2009                 |
| AVES Audio Visual Systems, Inc.                           | Bid No. 1314-04 Audio Visual Equipment  | 7/10/2013                  |
| Barrett-Robinson, Inc.                                    | Bid No. 1314-04 Audio Visual Equipment  | 7/10/2013                  |
| B&H Foto & Electronics Corp. dab B&H Photo Video          | Bid No. 1314-04 Audio Visual Equipment  | 7/10/2013                  |
| Ben's Asphalt, Inc.                                       | Bid No. 1213-03 Asphalt Paving, Seal coating and Repair   | 5/22/2013                  |
| Bergman Dacey Goldsmith                                   | RFQ No. 10-0809 General Legal Services  | 12/15/2009                 |
| Bowie, Arneson, Wiles, and Giannone                       | RFQ No. 10-0809 General Legal Services  | 12/15/2009                 |
| CA Track & Engineering                                    | CMAS 4-09-78-0048A - Advanced Polymer Playground Surface Rubberized Sport Surface, Synthetic Track  | 9/12/2011                  |
| California Western Visuals                                | CMAS 3-08-70-2515A, GSA No GS-35F-0087U, Smart Technologies Interactive Shite Boards Hardware and Software  | 6/12/2013                  |
| California Western Visuals                                | Bid No. 1314-04 Audio Visual Equipment  | 7/10/2013                  |
| Camcor, Inc   | Bid No. 1314-04 Audio Visual Equipment  | 7/10/2013                  |
| Campus Foods  | Bid 1011-14 Grocery Products  | 5/9/2011                   |
| CDWG  | Western State Contracting Alliance (WSCA) Contract No. 7-08-70-13 Cisco Networking Communications and Maintenance   | 11/9/2010                  |

**Attachment 3**

**Capistrano Unified School District  
Bids/RFP-Qs/Piggyback Bids**

| <b>VENDOR</b>                                    | <b>TITLE</b>   | <b>BOARD APPROVAL DATE</b> |
|--|--|----------------------------|
| CDWG   | State of Minnesota, Department of Administration, National Association of State Procurement Officials, and Western States Contracting Alliance Contract No. B27161 awarded to EMC Corp., California Participating addendum, Computer Equipment, peripherals, and related services            | 3/28/2012                  |
| Certified Transportation Services, Inc.          | Bid No. 1011-07 Co-Curricular Bus Service  | 11/9/2010                  |
| Cintas Corporation                               | RFP No. 3-1011, Uniform Service  | 12/7/2010                  |
| Collins & Aikman Floor covering, Inc. C&A/Tandus | Santa Monica-Malibu Unified School District Bid No. 9.10 Flooring Material District wide   | 5/14/2012                  |
| Concepts School and Office Furnishings           | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment  | 8/8/2011                   |
| Concepts School and Office Furnishings           | Newport Mesa Unified School District, Bid No. 105-12, School Office Furniture  | 11/30/2011                 |
| Consolidated Electrical Distributors             | Bid No. 1112-05 Electrical Supplies and Materials  | 6/29/2011                  |
| Consulting & Inspection Services                 | RFQ No 4-1011, DSA Approved Inspector of Record  | 1/11/2011                  |
| CR&R   | Bid No. 1112-06 - Service to Collect, Recycle, and Dispose of Solid Waste District wide  | 8/8/2011                   |
| Contemporary Services Corporation                | RFP No. 5-1213, Event Security Services  | 2/27/2013                  |
| Culver-Newlin                                    | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment  | 8/8/2011                   |
| Culver-Newlin                                    | Newport Mesa Unified School District, Bid No. 105-12, School Office Furniture  | 11/30/2011                 |
| Dannis Woliver Kelley (DWK)                      | RFQ No. 10-0809 General Legal Services   | 12/15/2009                 |
| Dave Bang Associates, Inc.                       | Colton Joint USD Bid No. 09-01, Playground Equipment, Safety Surfacing, Outdoor Site Furnishings, DSA Shade Shelters   | 4/13/2010                  |
| David Taussig & Associates, Inc.                 | RFP No. 6-1011 Special Tax Consulting Services for Public Financing  | 4/11/2011                  |
| DecisionInsite                                   | RFQ No. 6-1213, Demographic Consultant Services  | 3/27/2013                  |
| Dell Computer (Dell Marketing LP)                | California Multiple Award Schedule Contract No. 3-94-70-0012, Purchase of Computer-Related Hardware, Software and Networking Equipment   | 7/21/2008                  |
| Dell Computer (Dell Marketing LP)                | State of Minnesota, Department of Administration, National Association of State Procurement Officials, and Western States Contracting Alliance Contract No. B27160 awarded to Dell Marketing L.P., California Participating addendum, Computer Equipment, peripherals, and related services. | 6/27/2012                  |
| Desert Business Interiors                        | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment  | 8/8/2011                   |
| Digital Networks Group, Inc.                     | California Multiple Award Schedule Contract No. 3-06-702070D, Purchase and Installation of Pole Mounted Systems for Video and Audio Switching, Control, and Projector Mounting   | 12/8/2008                  |

**Capistrano Unified School District  
Bids/RFP-Qs/Piggyback Bids**

| <b>VENDOR</b>                               | <b>TITLE</b>   | <b>BOARD APPROVAL DATE</b> |
|---|--|----------------------------|
| Digital Networks Group, Inc.                | California Multiple Award Schedule Contract No. 3-12-70-2070E, General Services Administration Schedule No. GS-35F-0563U, Resale of Cisco Products and Cisco Branded Service   | 1/23/2013                  |
| Diversified Metal                           | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment  | 8/8/2011                   |
| Dominos Pizza                               | Bid No. 1112-07 Pizza Service  | 8/24/2011                  |
| E. Stewart & Assoc, Inc.                    | Bid No. 1213-02 - Weed Abatement   | 5/23/2012                  |
| Edenco, Inc.                                | RFQ/P No. 2-1011, Construction Manager/District Representative   | 9/28/2010                  |
| Fieldman Rollapp & Associates               | RFQ No. 8-1011, Financial Advisory Services  | 1/9/2012                   |
| Fusionstorm                                 | State of Minnesota, Department of Administration, National Association of State Procurement Officials, and Western States Contracting Alliance Contract No. B27161 awarded to EMC Corp., California Participating addendum, Computer Equipment, peripherals, and related services. | 3/28/2012                  |
| Gold Star Foods                             | Bid No. 1011-14 Grocery Products   | 5/9/2011                   |
| Gold Star Foods                             | Bid No. 1112-03 Bakery Products  | 6/29/2011                  |
| Golden Star Technology, Inc dba GST         | Bid No. 1314-04 Audio Visual Equipment   | 7/10/2013                  |
| Government Financial Services               | RFQ No. 8-1011, Financial Advisory Services  | 1/9/2012                   |
| Great Western                               | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment  | 8/8/2011                   |
| Harbottle Law Group                         | RFQ No. 10-0809 General Legal Services   | 12/15/2009                 |
| Hertz Furniture                             | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment  | 8/8/2011                   |
| Hollandia Dairy                             | Bid No. 1011-08 Milk and Dairy Products  | 3/8/2011                   |
| Hot Dogger Tours, Inc. dba Gold Coast Tours | Bid No. 1011-07 Co-Curricular Bus Service  | 11/9/2010                  |
| Illuminate Education, Inc.                  | RFQ No. 7-1011 Student Assessment Data Management System   | 5/25/2011                  |
| Insight Systems Exchange                    | Bid No. 1112-15 Refurbished Computer Equipment   | 10/24/2012                 |
| IPC (USA), Inc.                             | Multi-District Cooperative Bid No. 108-13, Fuel (Gasoline and Diesel)  | 7/24/2013                  |
| JFK Transportation, Co., Inc.               | Bid No. 1011-07 Co-Curricular Bus Service  | 11/9/2010                  |
| Johnstone Supply                            | County of Orange Contract No. MA-080-1701016 - Air Conditioning, Refrigeration Equipment, Parts & Supplies   | 8/24/2011                  |
| Keenan & Associates                         | RFQ No. 12-0809 Insurance Broker for Capistrano Unified School District's Excess Worker's Compensation Insurance   | 5/11/2009                  |
| Knowland Construction Services              | RFQ No 4-1011, DSA Approved Inspector of Record  | 1/11/2011                  |
| MTGL, Inc.                                  | RFQ No. 5-1011 Special Inspections and Materials Testing   | 1/11/2011                  |
| Ninyo & Moore                               | RFQ No. 5-1011 Special Inspections and Materials Testing   | 1/11/2011                  |
| NvLS Professional Services, LLC             | RFQ No. 2-1213, E-Rate Consultant  | 6/27/2012                  |

**Capistrano Unified School District  
Bids/RFP-Qs/Piggyback Bids**

| <b>VENDOR</b>   | <b>TITLE</b>   | <b>BOARD APPROVAL DATE</b> |
|---|--|----------------------------|
| Office & Ergonomic Solutions                                      | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment                                  | 8/8/2011                   |
| Office Depot  | Newport-Mesa Unified School District Bid No. 109-12 Office & School Supplies and Equipment                             | 7/9/12                     |
| Office Depot  | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment                                  | 8/8/2011                   |
| P&R Paper Supply Co.  | Bid No. 1213-03 Paper and Plastic Products for Food and Nutrition Services   | 7/25/2012                  |
| Pacific Coast Sightseeing Tours & Charters                        | Bid No. 1011-07 Co-Curricular Bus Service  | 11/9/2010                  |
| Pacific Plumbing Co. of Santa Ana, Inc.                           | Bid No. 1213-01 - Plumbing Services  | 5/23/2012                  |
| Pacwest Air Filter  | Palo Verde Unified School District Bid No. 111201, HVAC Filters and Installation                                       | 6/27/2012                  |
| Paradigm Health Care Services                                     | RFP No. 6-0910 Medi-Cal Billing Services   | 6/15/2010                  |
| Pathway Communications, Limited                                   | Bid No. 1314-04 Audio Visual Equipment   | 7/10/2103                  |
| Piper Jaffrey & Co.   | RFQ No. 5-0910 Underwriter Services  | 12/15/2009                 |
| Prime Painting Contractors, Inc.                                  | Bid No. 1314-08, Concordia School  | 7/10/2013                  |
| Pritchard Supply, Inc. dba Johnstone Supply                       | County of Orange Contract No. MA-080-12010167 Air Conditioning, Refrigeration Equipment, Parts and Supplies            | 8/24/2011                  |
| Reliance Communications   | RFQ 3-1314 Mass Notification System  | 8/14/2013                  |
| Roadways International, Inc.                                      | Bid No. 1011-07 Co-Curricular Bus Service  | 11/9/2010                  |
| Safeco Insurance Co. of America, Liberty Mutual Insurance Company | Bid No. 1011-11, CVHS Theater  | 10/8/2012                  |
| School Space Solutions  | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment                                  | 8/8/2011                   |
| School Specialty  | Redlands Unified School District Bid No. 4-11 Furniture, Filing, and Office Equipment                                  | 8/8/2011                   |
| School Specialty  | Newport Mesa Unified School District, Bid No. 105-12, School Office Furniture  | 11/30/2011                 |
| Schools First Federal Credit Union                                | RFQ/P No. 1-0809 Third Party Administration Services (TPA) for Capistrano Unified School District's 403(b) Plan        | 2/9/2009                   |
| SectorPoint, Inc.   | CMAS Contract No. 4-11-03-0492A GSA Schedule No. GS-07F-0509W Non Information Technology Goods, Civic Permits Software | 8.20.12                    |
| SHI International Corp.   | Wasco Union Elementary School District RFP Project No. 059-12M.1 Microsoft Products                                    | 11/14/2012                 |
| South Orange County Community College District (Saddleback)       | RFP No. 1-1314, After School Enrichment Activities and Camps Program Provider  | 4/24/2013                  |
| Southwest School and Office Supply                                | Placentia Yorba Linda, Bid No. 211-12, Supplies  | 1/25/2012                  |
| Sparkletts  | County of Orange Master Agreement No. MA-017-13011174, Bottled Water   | 7/24/2013                  |
| Staples Advantage   | County of Orange Master Agreement No. MA-017-10011795 - Office Supplies  | 9/14/2010                  |
| Staples Advantage   | County of Orange Master Agreement No. MA-017-10011795 - Office Supplies  | 5/23/2012                  |
| Stradling Yocca Carlson & Rauth                                   | RFQ No. 10-0809 General Legal Services   | 12/15/2009                 |
| Stutz, Artiano, Shinoff and Holtz                                 | RFQ No. 10-0809 General Legal Services   | 12/15/2009                 |

**Capistrano Unified School District  
Bids/RFP-Qs/Piggyback Bids**

| <b>VENDOR</b>                                       | <b>TITLE</b>   | <b>BOARD APPROVAL DATE</b> |
|---|--|----------------------------|
| Sysco Food Services of L.A.                         | Bid No. 1011-14 Grocery Products   | 5/9/2011                   |
| Tel-Tec Security System                             | CMAS 4-11-84-0037A - Security Systems  | 9/12/2011                  |
| Transportation Charter Services, Inc.               | Bid No. 1011-07 Co-Curricular Bus Service  | 11/9/2010                  |
| Troxell Communications, Inc                         | Bid No. 1314-04 Audio Visual Equipment   | 7/10/2013                  |
| United Refrigeration Inc.                           | County of Orange Contract No. MA-080-12010167<br>Air Conditioning, Refrigeration Equipment, Parts and Supplies   | 8/24/2011                  |
| VCOM dba Valiant National AV Supply                 | Bid No. 1314-04 - Audio Visual Equipment   | 7/10/2013                  |
| Vavrinek, Trine, Day & Co., LLP                     | RFP No. 2-0708 Audit Services  | 4/21/2008                  |
| Vending +Plus                                       | RFP No. 4-1213, Snack & Beverage Vending Services  | 8/20/2012                  |
| Virco   | Redlands Unified School District Bid No. 4-11<br>Furniture, Filing, and Office Equipment   | 8/8/2011                   |
| Waterline Technologies, Inc.                        | LAUSD Bid No. IFB C-1030, Swimming Pool Chemicals  | 3/28/2012                  |
| Waxie's Enterprises, Inc. dba Waxie Sanitary Supply | San Diego Unified School District Bid No. GD-13-0006-64, Custodial and Janitorial Products   | 1/23/2013                  |
| West Coast Arborists, Inc.                          | Bid No. 1112-10 Tree Trimming Maintenance Service  | 9/26/2011                  |
| Williams Scotsman                                   | Los Alamitos Unified School District Bid No. 2010-0002, Relocation, Dismantle and Removal of DSA Portable Classroom  | 7/11/2011                  |
| WW Grainger, Incorporated                           | State of Nevada, Division of Purchasing, and Western States Contracting, Alliance Contract NO. 1862, Awarded to WW Grainger, California Participating Addendum No. 7-11-51-02                          | 10/26/2011                 |
| Xerox Corporation                                   | California Multiple Award Schedule Contract No. 3-01-36-0030A, Purchase and Warranty of Hardware and Software, Installation, Maintenance, Software Maintenance, License and Training on Xerox Products | 6/15/2010                  |

**VENDOR PAYMENTS OVER 250K AS OF 9/4/13****2013-14**

|                                       |               |
|---------------------------------------|---------------|
| 112173 ASCIP                          | 1,836,962.00  |
| 120141 CAPISTRANO UNIFIED SCHOOL DIST | 571,137.49    |
| 122828 CORVEL ENTERPRISE COMP INC     | 470,408.86    |
| 120832 METROPOLITAN EMPLOYEES         | 11,103,005.30 |
| 143679 NETWORK HARDWARE RESALE        | 255,592.96    |
| 113144 OPPORTUNITY FOR LEARNING       | 446,269.00    |
| 066570 ORANGE COUNTY DEPT OF EDUC     | 748,212.96    |
| 078255 SAN DIEGO GAS & ELECTRIC       | 1,150,695.05  |
| 122718 SOUTHERN CALIFORNIA EDISON     | 302,342.83    |
| 147868 US BANK                        | 2,450,920.72  |

| <b>DONATED BY</b>                        | <b>AMOUNT</b> | <b>PURPOSE</b>                                     | <b>SCHOOL</b>                   |
|--|---------------|--|---------------------------------|
| Vending Plus                             | \$2,496.49    | Instructional Supplies                             | Aliso Niguel High School        |
| Aliso Niguel High School PTSA            | \$384.48      | Refurbished Computer for Media Center              | Aliso Niguel High School        |
| Mr. and Mrs. Randy Culver                |               | Powermatic 14" Band Saw with Riser and Mobile Base | Aliso Niguel High School        |
| City of Aliso Viejo                      | \$1,000.00    | School Support Classes                             | Aliso Viejo Middle School       |
| Spreebird                                | \$64.43       | Technology   | Aliso Viejo Middle School       |
| Amazon Services                          | \$85.73       | Technology   | Aliso Viejo Middle School       |
| Communities for Cause, Inc.              | \$93.42       | Technology   | Aliso Viejo Middle School       |
| Kroger                                   | \$93.59       | Instructional Supplies                             | Bathgate Elementary School      |
| Spreebird                                | \$51.13       | Instructional Supplies                             | Bathgate Elementary School      |
| United Way Silicon Valley                | \$40.00       | Instructional Supplies                             | Bathgate Elementary School      |
| Pumpkin City                             | \$200.00      | Instructional Supplies                             | Castille Elementary School      |
| CR&R Incorporated                        | \$911.58      | Instructional Supplies                             | Castille Elementary School      |
| Edison                                   | \$143.75      | Instructional Supplies                             | Castille Elementary School      |
| Edison                                   | \$143.75      | Instructional Supplies                             | Castille Elementary School      |
| Chaparral Elementary School PTA          | \$10,000.00   | Technology   | Chaparral Elementary School     |
| CR&R Incorporated                        | \$1,193.30    | Non-Instructional Supplies                         | Clarence Lobo Elementary School |
| Planet Aid, Inc.                         | \$94.20       | Non-Instructional Supplies                         | Clarence Lobo Elementary School |
| Vending Plus                             | \$12.46       | Non-Instructional Supplies                         | Clarence Lobo Elementary School |
| Michael A. Shannon, D.D.S., M.S., Inc.   | \$210.00      | Instructional Supplies                             | Concordia Elementary School     |
| Concordia Elementary School PTA          | \$149.00      | Transportation                                     | Concordia Elementary School     |
| Vending Plus                             | \$12.67       | Instructional Supplies                             | Concordia Elementary School     |
| PG&E Corporate Foundation                | \$315.00      | Instructional Supplies                             | Concordia Elementary School     |
| PG&E Corporate Foundation                | \$302.40      | Instructional Supplies                             | Concordia Elementary School     |
| Verizon Foundation c/o Cybergrants, Inc. | \$750.00      | Instructional Supplies                             | Del Obispo Elementary School    |
| Kroger                                   | \$378.66      | Instructional Supplies                             | Del Obispo Elementary School    |
| Las Flores Elementary School PTA         | \$21,000.00   | Primary Music Teacher Salary                       | Las Flores Elementary School    |
| Aetna Foundation, Inc.                   | \$156.00      | Instructional Supplies                             | Las Flores Middle School        |
| Vending Plus                             | \$354.93      | Instructional Supplies                             | Las Flores Middle School        |
| Edison                                   | \$30.00       | Instructional Supplies                             | Las Palmas Elementary School    |
| Edison                                   | \$30.00       | Instructional Supplies                             | Las Palmas Elementary School    |
| Vending Plus                             | \$20.49       | Instructional Supplies                             | Moulton Elementary School       |
| Newhart Middle School PTA                | \$875.00      | ART Club Teacher's Salary                          | Newhart Middle School           |
| Newhart Middle School PTA                | \$1,320.00    | Instructional Supplies                             | Newhart Middle School           |
| Newhart Middle School PTA                | \$1,200.00    | Instructional Supplies                             | Newhart Middle School           |
| United Way Silicon Valley                | \$25.00       | Instructional Supplies                             | Palisades Elementary School     |
| United Way Silicon Valley                | \$25.00       | Instructional Supplies                             | Palisades Elementary School     |
| Vending Plus                             | \$7.60        | Instructional Supplies                             | Palisades Elementary School     |
| Palisades Elementary School PTA          | \$4,402.00    | 2013-2014 Art Master Program                       | Palisades Elementary School     |
| Reilly School Foundation                 | \$350.00      | Instructional Supplies                             | Philip Reilly Elementary School |
| United Way Silicon Valley                | \$184.61      | Intervention Teacher                               | Tijeras Creek Elementary School |
| United Way Silicon Valley                | \$46.16       | Intervention                                       | Tijeras Creek Elementary School |
| Wells Fargo Foundation Education Match   | \$240.00      | Intervention                                       | Tijeras Creek Elementary School |
| Absolute Green Electronics Recycling     | \$311.96      | Intervention                                       | Tijeras Creek Elementary School |
| Kroger                                   | \$26.70       | Intervention                                       | Tijeras Creek Elementary School |



September 25, 2013

| <b>DONATED BY</b>                      | <b>AMOUNT</b> | <b>PURPOSE</b>         | <b>SCHOOL</b>                   |
|--|---------------|------------------------|---------------------------------|
| Tijeras Creek PTA                      | \$1,000.00    | Meet the Masters       | Tijeras Creek Elementary School |
| United Way Silicon Valley              | \$46.15       | Intervention           | Tijeras Creek Elementary School |
| Vending Plus                           | \$25.14       | Intervention           | Tijeras Creek Elementary School |
| Wells Fargo Foundation Education Match | \$115.38      | Instructional Supplies | Vista del Mar Elementary School |
| Vending Plus                           | \$109.41      | Instructional Supplies | Vista del Mar Elementary School |
| Wagon Wheel Elementary School PTA      | \$1,000.00    | Instructional Supplies | Wagon Wheel Elementary School   |
| Vending Plus                           | \$34.22       | Instructional Supplies | Wood Canyon Elementary School   |
|  | \$52,061.79   |                        |                                 |

SEPTEMBER 25, 2013 BOARD MEETING  
DISTRICT STANDARDIZED

INDEPENDENT CONTRACTOR, PROFESSIONAL SERVICES, FIELD SERVICES AND MASTER CONTRACT AGREEMENTS

NEW AGREEMENTS

| TYPE | CONTRACT NO | PILLAR | FUNDING SOURCE             | VENDOR  | SERVICES  | CONTRACT TERM             | NOT TO EXCEED |
|------|-------------|--------|----------------------------|---|---|---------------------------|---------------|
| ICA  | 1314087     | 4      | BTSA                       | Jennifer Abrams                                       | Provide Interactive Workshop to Master the Art of Challenging Conversations to Administrators and Support Providers | 9/26/2013-9/25/2014       | \$ 4,000.00   |
| PSA  | 1314065     | 3      | Child Development          | The Regents of the University of California At Irvine | Provide Behavior Management Education for Teachers and Parents  | 9/26/2013-9/25/2014       | \$ 5,000.00   |
| ICA  | 1314090     | 3      | CHIEF                      | Conversa, Incorporated                                | Provide Spanish Language B Program to Carl Hankey Students  | 9/26/2013-9/25/2014       | \$ 15,380.00  |
| FSA  | 1314091     | 5      | Maintenance and Operations | Gammill Electric, Incorporated                        | Remove Existing and Install New Natural Gas 120/208 V Generator System, Niguel Hills Middle School                  | 9/26/2013-Upon Completion | \$ 21,900.00  |

TOTAL \$ 46,280.00

NEW AGREEMENT RATIFICATIONS

| TYPE  | CONTRACT NO | PILLAR | FUNDING SOURCE             | VENDOR   | SERVICES  | CONTRACT TERM             | NOT TO EXCEED |
|-------|-------------|--------|----------------------------|--|---|---------------------------|---------------|
| MCA * | 1314088     | 3      | Special Ed                 | E.C.E.4 Autism                                   | Behavior Intervention - Design or Planning and Behavior Intervention  | 7/1/2013-6/30/2014        | \$ 15,000.00  |
| FSA   | 1314085     | 5      | Food & Nutrition Services  | PCH Sheet Metal & Air Conditioning, Incorporated | Fabricate Six Stainless Countertops, Installation Over Existing Formica Counter Tops, Fred Newhart Middle School, Food Service/Kitchen Area | 8/6/2013-Upon Completion  | \$ 10,890.00  |
| FSA   | 1314088     | 5      | Maintenance and Operations | Knorr Pool Systems, Inc.                         | Supply and Install Natural Gas Swimming Pool Heater, Capistrano Valley High School  | 8/6/2013-Upon Completion  | \$ 27,111.80  |
| ICA   | 1314093     | 5      | Maintenance and Operations | Abetec, Incorporated                             | Semi-Annual Testing for Asbestos at Various Sites   | 8/28/2013-8/27/2014       | \$ 18,470.00  |
| FSA   | 1314092     | 5      | Maintenance and Operations | Concrete Coating Specialist, Incorporated        | Pool Deck Restoration, Dana Hills High School   | 9/4/2013- Upon Completion | \$ 48,338.00  |
| ICA   | 1314094     | 5      | Transportation             | Perseus Associates, LLC                          | Evaluation of the Transportation Vehicle Maintenance Facility to Implement the Trans Trak System  | 9/9/2013-9/08/2014        | \$ 5,805.00   |

TOTAL \$ 125,614.80

EXHIBIT 11

SEPTEMBER 25, 2013 BOARD MEETING  
DISTRICT STANDARDIZED  
INDEPENDENT CONTRACTOR, PROFESSIONAL SERVICES, FIELD SERVICES AND MASTER CONTRACT AGREEMENTS

**EXTENSIONS**

| TYPE | CONTRACT NO | PILLAR | FUNDING SOURCE       | VENDOR                     | SERVICES  | CONTRACT TERM        | NOT TO EXCEED |
|------|-------------|--------|----------------------|----------------------------|---|----------------------|---------------|
| PSA  | 1213157     | 3      | Special Ed           | Sunbelt Staffing, LLC      | Provide Speech Language Pathology Services to CUSD Students                           | 10/8/2013-10/07/2014 | \$ 20,000.00  |
| ICA  | 1213052     | 5      | Mello Roos & General | Westgroup Management, Inc. | Assisting Negotiation of a Mitigation Agreement with the Rancho Mission Viejo Company | 7/01/2013-10/31/2013 | \$ 30,000.00  |

TOTAL \$ 50,000.00

**EXTENSION RATIFICATIONS**

| TYPE | CONTRACT NO | PILLAR | FUNDING SOURCE | VENDOR                    | SERVICES  | CONTRACT TERM      | NOT TO EXCEED |
|------|-------------|--------|----------------|---------------------------|---|--------------------|---------------|
| PSA  | 1213010     | 3      | Special Ed     | Sharon Grandinette, Ph.D. | Consultation, Training Brain Injury, School Reintegration, Teaching and Compensatory Strategies, Curriculum | 7/1/2013-6/30/2014 | \$ 5,000.00   |

TOTAL \$ 5,000.00

**AMENDMENTS**

| TYPE | CONTRACT NO | PILLAR | FUNDING SOURCE | VENDOR              | SERVICES  | JUSTIFICATION                                      | FINANCIAL IMPACT |
|------|-------------|--------|----------------|---------------------|---|--|------------------|
| ICA  | 1213007     | 3      | Special Ed     | Sylvia Mende, PSY.D | Intervention Support to Autism Staff                          | To Pay for Additional Scheduled Services 2013-2014 | \$ 39,123.00     |
| PSA  | 1213037     | 3      | Special Ed     | Susan Berkowitz     | Augmentative /Alternative Communication Technology Evaluation | To Pay for Additional Scheduled Services 2013-2014 | \$ 2,000.00      |

TOTAL \$ 41,123.00

**AMENDMENT RATIFICATIONS**

| TYPE | CONTRACT NO | PILLAR | FUNDING SOURCE     | VENDOR                              | SERVICES  | JUSTIFICATION  | FINANCIAL IMPACT |
|------|-------------|--------|--------------------|-------------------------------------|---|--|------------------|
| ICA  | 1314063     | 3      | Special Ed         | New Haven Youth and Family Services | Basic Education Program/Special Education Instruction/Residential Mental health Services  | Revised Fee Schedule   | \$ -             |
| ICA  | 1314046     | 3      | Title II           | David Foster                        | Provide Math Training to CUSD Teachers  | New Contract Name Silicon Valley Mathematics Initiative, LLC | \$ -             |
| ICA  | 1213007     | 3      | Special Ed         | Sylvia Mende, PSY.D                 | Intervention Support to Autism Staff  | To Pay for Additional Rendered Services 2012-2013            | \$ 1,074.00      |
| PSA  | 1213039     | 5      | Various by Project | Bowie, Ameson, Wiles & Giannone     | Legal Services for School Facilities Needs, Surplus Properties and General School Matters | To Pay for Additional Rendered Services 2012-2013            | \$ 14,957.16     |

TOTAL \$ 16,031.16

SEPTEMBER 25, 2013 BOARD MEETING  
DISTRICT STANDARDIZED

INDEPENDENT CONTRACTOR, PROFESSIONAL SERVICES, FIELD SERVICES AND MASTER CONTRACT AGREEMENTS

ICA - Independent Contractors Agreement

PSA - Professional Services Agreement

MC- Master Contract

Pillar 1 Community Relations

Pillar 2 Safe & Healthy Schools

Pillar 3 Academic Achievement & Enrichment

Pillar 4 Character Development

Pillar 5 Effective Operations

\*No not to exceed" amount included in the master contract. The master contract agreements do not include a not to exceed dollars amount as it may limit the flexibility to place special education students in a timely manner.





## INDEPENDENT CONTRACTOR AGREEMENT

This Agreement for Contracted Services ("Agreement") is effective as of September 26, 2013, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the District") and the contractor listed below ("Contractor"). The District and Contractor may hereafter be referred to as ("Party") or collectively as ("Parties").

### JENNIFER ABRAMS

WHEREAS, DISTRICT is authorized by Section 4526 and 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, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Contracted Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Contractor shall perform the Contracted Services as set forth in Contractor's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Contracted Services provided for hereunder, Contractor shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Contractor under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$4000 annually in aggregate under this Agreement. This amount may be increased by mutual agreement of both parties by written amendment.

Term of Agreement. The term of this base Agreement is for one year commencing September 26, 2013 through September 25, 2014 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ General Conditions      ☐ Special Conditions      ☒ Required Documents and Certification      ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

**DISTRICT**

**CONTRACTOR**

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

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

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

Email Address: \_\_\_\_\_

FEIN/SSN: \_\_\_\_\_

EXHIBIT A  
**Fee Schedule**  
**Capistrano Unified School District**

Consultant:

Jennifer Abrams  
4290 Wilkie Way, #L  
Palo Alto, CA 94306  
650-858-0699  
jennifer@jenniferabrams.com

Session Topic:

Having Hard Conversations  
September 30, 2013  
8:30am-3:00pm

Session Description:

Consultant will provide a 6 hour interactive workshop to mastering the art of challenging conversations. The strategies in the workshop address a wide range of situations, including communications with supervisees, peers, and supervisors. The workshop helps educators at all levels speak with clarity and courage to directly address difficult situations within their schools.

Consulting Fee:

\$3500.00 not including expenses (transportation, flight, hotel, food)  
Expense receipts to be sent after session.

Signature:

Jennifer Abrams  
August 21, 2013



## PROFESSIONAL SERVICES AGREEMENT

This Agreement for Professional Services ("**Agreement**") is effective as of September 26, 2013, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the **District**") and the consultant listed below ("**Consultant**"). The District and Consultant may hereafter be referred to as ("Party") or collectively as ("Parties").

### THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AT IRVINE

WHEREAS, DISTRICT is authorized by Section 4526 and 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, CONSULTANT is specially trained, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Consulting Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Consultant shall perform the Consulting Services as set forth in Consultant's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Consulting Services provided for hereunder, Consultant shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Consultant under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$5,000 annually in aggregate under this Agreement. This amount may be increased by mutual agreement of both parties by written agreement.

Term of Agreement. The term of this base Agreement is for one year commencing September 26, 2013 to September 25, 2014 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Consultant acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ General Conditions      ☐ Special Conditions      ☒ Required Documents and Certifications      ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

#### DISTRICT

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

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date: \_\_\_\_\_

#### CONSULTANT

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

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

Title: \_\_\_\_\_

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

Email Address: \_\_\_\_\_

FEIN/SSN \_\_\_\_\_



**Pathways for Community Education and Outreach  
(Teacher Education):**

Recognizing that the behavioral patterns young children develop today will affect their opportunities to learn for the rest of their lives, Child Behavior Pathways offers training opportunities for teachers and early childcare providers. Teacher trainings offer:

- Up-to-date techniques for nurturing happy and successful students.
- Support the social and emotional development and classroom behavior
- Support a collaborative relationship between parents and schools.

**BEHAVIOR MANAGEMENT CURRICULUM FOR EDUCATORS**

The core behavior support curriculum begins with a prerequisite class entitled *Heading Difficult Behaviors off at the Pass: A Proactive Model*. This two- to three-hour seminar introduces effective prevention-based techniques designed to decrease behavioral problems in the preschool classroom. Topics include:

- Managing teacher frustration and anger
- Recognizing triggers that may cause challenging behaviors
- Using healthy relationships to manage behavior
- Establishing positive reinforcement systems in the classroom
- Effectively using program structure, transitional warnings and transitional activities

The second class in this series is entitled *Introduction To Functional Assessment: Changing Behavior Patterns In The Preschool Classroom*. This two-hour seminar provides preschool teachers with an effective, systematic model for assessing difficult behaviors and developing comprehensive intervention plans.

The seminar covers:

- Selecting appropriate target behaviors
- Defining target behaviors
- Collecting and evaluating behavioral data
- Determining why a behavior pattern is maintained
- Developing and implementing purposeful and feasible multi-level intervention plans

Teacher Training is at no cost due to parent referrals

**(Parent Outreach):**

Recognizing that the behavioral patterns young children develop today will affect their opportunities to learn for the rest of their lives, Child Behavior Pathways offers training opportunities for parents that assist them in achieving school success for their children.

### FEE Schedule

The fee schedule is \$175 per training hour for established curriculum offerings. This includes prep time and materials for up to 20 participants.

Proposed Teacher Trainings: (No Cost, honorarium - \$400.00)

October 29 – 4:30-7:30

November 19 – 4:30-7:30

Proposed Parent Trainings: (\$350/20 people, estimated \$700/class)

November 20 – 6:30-8:30

March 20 – 6:30-8:30

Proposed ECP Conference (\$1050.00 estimated 5 hours)

Possible additional classes

*Brett L. Patterson, Ph.D.*

*Psychologist/Clinical Director*

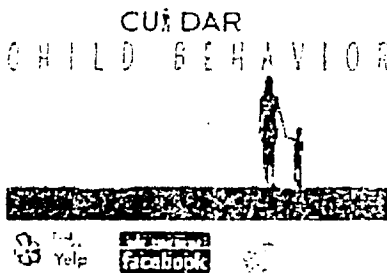
CUIDAR for Attention and Learning

19722 MacArthur Blvd

Irvine, CA 92612

Office: (949) 824 1804

Fax: (949) 824-3198







## INDEPENDENT CONTRACTOR AGREEMENT

This Agreement for Contracted Services ("Agreement") is effective as of September 26, 2013, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the District") and the contractor listed below ("Contractor"). The District and Contractor may hereafter be referred to as ("Party") or collectively as ("Parties").

### CONVERSA, INCORPORATED

WHEREAS, DISTRICT is authorized by Section 4526 and 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, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Contracted Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Contractor shall perform the Contracted Services as set forth in Contractor's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Contracted Services provided for hereunder, Contractor shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Contractor under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$15,380 annually in aggregate under this Agreement. This amount may be increased by mutual agreement of both parties by written amendment.

Term of Agreement. The term of this base Agreement is for one year commencing September 26, 2013 through September 25, 2014 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ General Conditions      ☐ Special Conditions      ☒ Required Documents and Certification ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

**DISTRICT**

**CONTRACTOR**

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

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date: \_\_\_\_\_

Signature \_\_\_\_\_

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

Title: \_\_\_\_\_

Address \_\_\_\_\_

Email Address: \_\_\_\_\_

FEIN/SSN \_\_\_\_\_

## EXHIBIT A



**CONVERSA**

SPANISH FOR LIFE

33 Flintridge Ave.

Ladera Ranch, CA 92694

(949 )887-4339

ana\_laura@conversaspanish.com

### FEE SCHEDULE

CONVERSA INC. will provide Carl Hankey K-8/IB Candidate School with an International Baccalaureate ("IB") Primary Years Program ("PYP") Language B Program in Spanish. As part of the program, students from Kindergarten to 5<sup>th</sup> grades will receive 30 minutes of in-classroom Spanish instruction one day a week as follows.

#### Kindergarten to 5<sup>th</sup> Grade:

- One 30-minute class a week for two Kindergarten classes of up to 32 students
- One 30-minute class a week for two 1<sup>st</sup> grade classes of up to 32 students
- One 30-minute class a week for two 2<sup>nd</sup> grade classes of up to 32 students
- One 30-minute class a week for three 3<sup>rd</sup> grade classes of up to 32 students
- One 30-minute class a week for two 4<sup>th</sup> grade classes of up to 32 students
- One 30-minute class a week for two 5<sup>th</sup> grade classes of up to 32 students

The price for providing the trained teacher, a one-year license for the use of student and teacher manuals, the management of the program and a limited number of supplies is **\$15,380**. The hourly rate is \$47.46 - 12 hours per week on Wednesdays and Fridays for 27 weeks based on the schedule below.


The in-curriculum program includes:

- **Student materials** – One-year license for two workbooks per student per grade for 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> grades and one book for 5<sup>th</sup> grades. Copies of the workbooks will be printed by Carl Hankey School.
- **Teacher materials** – Some supplies necessary for class, such as crayons, scissors, glue, music, reward stickers, props, flashcards etc.
- **Craft supplies** – Limited number of materials such as craft kits, stickers, craft and tissue paper, printouts, decorative items, etc. This may also include food items as we sometimes use the craft time to prepare a dish in class for the students to taste. This dish would compliment the culture we are teaching during the year.
- **Student and Parent Resources** – both students and parents will have access to an online catalog of resources such as information on T.V. shows in Spanish, links to educational web pages and cultural sites, foreign language methodologies etc.

- **Student and Parent Resources** – both students and parents will have access to an online catalog of resources such as information on T.V. shows in Spanish, links to educational web pages and cultural sites, foreign language methodologies etc.
- **Back to School Night and Open House** – Teacher will be present to explain our methodology (TPRS/CI) and answer any questions parents might have about learning a second language.
- **Payment:** In three installments due first day of classes, December 1<sup>st</sup> and March 1<sup>st</sup>.

The dates of classroom instruction are as follows and subject to CUSD School Board Approval and revisions in the CUSD school calendar:

|          |                             |
|----------|-----------------------------|
| October  | 2/4, 9/11, 16/18, 23/25     |
| November | 13/15, 20/22                |
| December | 4/6, 11/13, 18/20           |
| January  | 8/10, 15/17, 22/24, 29/31   |
| February | 5/7, 19/21, 26/28           |
| March    | 5/7, 12/14, 19/21           |
| April    | 2/4, 16/18, 23/25, 30/May 2 |
| May      | 21/23, 28/30                |
| June     | 4/6, 11/13                  |

Signature:  Date: 8/12/13

Typed or Printed Name: Ana L. Alfaro





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

**FIELD SERVICES AGREEMENT**

THIS CONTRACT is made and entered into this 26 day of September 2013, by and between Gammill Electric, Incorporated, hereinafter called the CONTRACTOR, and CAPISTRANO UNIFIED SCHOOL DISTRICT, hereinafter called the DISTRICT.

The CONTRACTOR and the DISTRICT do hereby contract and agree as follows:

1. The Contractor shall furnish the District for an amount not to exceed \$ 21,900.00 the following:  
Niguel Hills Middle School - Remove Existing and Install New Natural Gas 120/208V Generator System  
Complete Factory Start Up and Testing
2. The term of the Contract shall begin on September 26, 2013 and end Upon Completion.
3. Payment schedule: Payment is to be made upon satisfactory completion of and acceptance of work as well as receipt of labor and material releases and invoice.
4. Inspection shall be performed by the Director, Maintenance & Operations or Designee on behalf of District, who will, if appropriate, recommend acceptance to the Board of Trustees.
5. This contract includes the attached General Conditions which are incorporated herein by reference. Contractor, by executing this contract, agrees to comply with each and every such term and condition.
6. Contractor shall guarantee all labor and materials used in the performance of this contract for a period of 365 days (1 year) from the date of acceptance by District.



7. This Contract includes all Contract Documents as indicated below:

- ☒ W-9 Request for Taxpayer Identification Number and Certification
- ☒ Quote/Proposal, dated 5/13/2013
- ☐ Plans and Specifications/Scope of Work
- ☒ Worker's Compensation Certificate
- ☐ Purchase Order Number \_\_\_\_\_
- ☒ Liability Insurance Certificate
- ☒ Guarantee
- ☒ Certification by Contractor of Criminal Records Check
- ☒ Contractor's Certificate Regarding Non-Asbestos Containing Materials
- ☐ Payment Bond \$ \_\_\_\_\_
- ☐ Faithful Performance Bond \$ \_\_\_\_\_
- ☒ California State Contractor's License Number \_\_\_\_\_
- ☒ Drug-Free Workplace Certification
- ☒ Tobacco Use Policy
- ☒ Other Compliance With Safety Regulations

8. IN WITNESS WHEREOF, said parties have executed this Contract as of the date first written above.

CAPISTRANO UNIFIED SCHOOL 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, if Incorporated)

IN PACE WITH AUTOMATION



License #250076

**GAMMILL ELECTRIC, INC.**

**1311 West Foothill Blvd**

**Azusa, Ca. 91702**

**626 812-4515 Fax 626 812-5421**

**www.gammillelectric.com**

Capistrano Unified School District  
33122 Valle Rd  
San Juan Capistrano, Ca. 92675  
Attn: Ben Dewees, Maintenance Planner  
Reference:

May13, 2013



**NIGUEL HILLS**

Address: 29070 Paseo Escuela, Laguna Niguel 92677

Scope of work: replace existing stand by generator equipment

To include:

- One new 22KW natural gas 3 phase 120/208V generator system (please see attachment)
- One new ATS (Auto Transfer Switch)
- Removal and environmentally dispose existing generator system
- Install new system and connect to existing natural gas line.
- Provide all required rewiring of new ATS and installation of new control wiring and conduit to new generator per mfg. specs.
- Complete factory start up and testing

Total \$21,900.00

Price does not include: city permits

If you have any questions please do not hesitate to call.

Gammill Electric, Inc.  
Paul Rasmussen





## MASTER CONTRACT AGREEMENT \*

This MASTER CONTRACT AGREEMENT ("Agreement") is effective as of September 26, 2013, between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("LEA or District") and the contractor listed below ("Contractor").

### E.C.E. 4 AUTISM

WHEREAS, District is authorized under California Education Code sections 56157, 56361, and 56365 et. seq. and Title 5 of the California Code of Regulations section 3000 et. seq. AB490 (Chapter 862, Statutes of 2003) to contract for the purpose of providing special education and/or related services to LEA students with exceptional needs;

WHEREAS, District is in need of such services, and in collaboration with Orange County Department of Education, selected Contractor to provide nonpublic, nonsectarian school/agency services;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

Scope of Work. Contractor agrees to provide services as set forth in the Nonpublic, Nonsectarian School/Agency Services Master Contract.

Fees and Expenses. In consideration for the services provided by the Contractor under this Agreement, District agrees to pay fees and expenses at the rates as set forth in Exhibit A. The total amount of services requested by District and provided by Contractor under this agreement shall be authorized by Purchase Order. This amount may be increased by mutual agreement of both parties by written agreement.

Term of Agreement. The term of this Agreement is for one year beginning July 1, 2013 through June 30, 2014.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents as designated below titled Nonpublic, Nonsectarian School/Agency Services Master Contract, Special Conditions, and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ Master Contract    ☐ Special Conditions    ☒ Required Documents and Certifications    ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

**"DISTRICT"**

**"CONTRACTOR"**

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

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

Name: Terry Fluent

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

Title: Director, Purchasing

Title: \_\_\_\_\_

Board Approval Date:

Email address \_\_\_\_\_

FEIN/SSN \_\_\_\_\_

# EXHIBIT A: RATES

|  |                 |                      |   |           |
|--|-----------------|----------------------|---|-----------|
| CONTRACTOR   | E.C.E. 4 Autism | CONTRACTOR<br>NUMBER | 1A-30-075   | 2013-2014 |
| (NONPUBLIC SCHOOL OR AGENCY)                           |                 | (CONTRACT YEAR)      |   |           |
| Per CDE Certification, total enrollment may not exceed |                 | 24 Students          | If blank, the number shall be as determined by CDE Certification. |           |

**Rate Schedule.** This rate schedule limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

Payment under this contract may not exceed

Total LEA enrollment may not exceed

| Rate | Period |
|------|--------|
|      |        |
|      |        |
|      |        |

## A. Basic Education Program/Special Education Instruction

Basic Education Program/Dual Enrollment

Per diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally.

## B. Related Services

|      |   |         |          |
|------|---|---------|----------|
| (1)  | a. Transportation – Round Trip  |         |          |
|      | b. Transportation – One Way   |         |          |
|      | c. Transportation – Dual Enrollment                                   |         |          |
|      | d. Public Transportation  |         |          |
|      | e. Parent*  |         |          |
| (2)  | a. Educational Counseling – Individual                                |         |          |
|      | b. Educational Counseling – Group of ____                             |         |          |
|      | c. Counseling – Parent  |         |          |
| (3)  | a. Adapted Physical Education – Individual                            |         |          |
|      | b. Adapted Physical Education – Group of ____                         |         |          |
|      | c. Adapted Physical Education – Group of ____                         |         |          |
| (4)  | a. Language and Speech Therapy – Individual                           |         |          |
|      | b. Language and Speech Therapy – Group of 2                           |         |          |
|      | c. Language and Speech Therapy – Group of 3                           |         |          |
|      | d. Language and Speech Therapy – Per Diem                             |         |          |
|      | e. Language and Speech – Consultation Rate                            |         |          |
| (5)  | a. Additional Classroom Aide – Individual (must be authorized on IEP) |         |          |
|      | b. Additional Instructional Assistant – Group of 2                    |         |          |
|      | c. Additional Instructional Assistant – Group of 3                    |         |          |
| (6)  | Intensive Special Education Instruction**                             |         |          |
| (7)  | a. Occupational Therapy – Individual                                  |         |          |
|      | b. Occupational Therapy – Group of 2                                  |         |          |
|      | c. Occupational Therapy – Group of 3                                  |         |          |
|      | d. Occupational Therapy – Group of 4-7                                |         |          |
|      | e. Occupational Therapy – Consultation Rate                           |         |          |
| (8)  | Physical Therapy  |         |          |
|      | a. Behavior Intervention  | \$25.00 | Per hour |
|      | b. Behavior Intervention-Supervision                                  |         |          |
|      | Provided by: _____  |         |          |
| (9)  | Nursing Services  |         |          |
| (10) | Residential Board and Care  |         |          |
| (11) | Residential Mental Health Services                                    |         |          |

\*Parent transportation reimbursement rates are to be determined by the LEA.

\*\*By credentialed Special Education Teacher.



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

**FIELD SERVICES CONTRACT**

THIS CONTRACT is made and entered into this 6 day of August 2013, by and between PCH Sheet Metal & Air Conditioning, Inc., hereinafter called the CONTRACTOR, and CAPISTRANO UNIFIED SCHOOL DISTRICT, hereinafter called the DISTRICT.

The CONTRACTOR and the DISTRICT do hereby contract and agree as follows:

1. The Contractor shall furnish the District for an amount not to exceed \$10,890.00 the following:  
Fred Newhart Middle School, Food Service/Kitchen Area - 6 each of varying sizes; fabricate stainless countertops, installation over existing formica counter tops
2. The term of the Contract shall begin on Per Dawn Davey, Director, F.S. and end \_\_\_\_\_.
3. Payment schedule: Payment is to be made upon satisfactory completion of and acceptance of work as well as receipt of labor and material releases and invoice.
4. Inspection shall be performed by the Dawn Davey, Director, Food Services or Designee on behalf of District, who will, if appropriate, recommend acceptance to the Board of Trustees.
5. This contract includes the attached General Conditions which are incorporated herein by reference. Contractor, by executing this contract, agrees to comply with each and every such term and condition.
6. Contractor shall guarantee all labor and materials used in the performance of this contract for a period of 365 days (1 year) from the date of acceptance by District.

Field Service Agreement 1314085

7. This Contract includes all Contract Documents as indicated below:

- ☒ W-9 Request for Taxpayer Identification Number and Certification
- ☒ Quote/Proposal, dated 7/22/2013
- ☒ Plans and Specifications/Scope of Work
- ☒ Worker's Compensation Certificate
- ☐ Purchase Order Number \_\_\_\_\_
- ☒ Liability Insurance Certificate
- ☒ Guarantee
- ☒ Certification by Contractor of Criminal Records Check
- ☒ Contractor's Certificate Regarding Non-Asbestos Containing Materials
- ☐ Payment Bond \$ \_\_\_\_\_
- ☐ Faithful Performance Bond \$ \_\_\_\_\_
- ☒ California State Contractor's License Number \_\_\_\_\_
- ☒ Drug-Free Workplace Certification
- ☒ Tobacco Use Policy
- Other Compliance with Safety Regulations

8. IN WITNESS WHEREOF, said parties have executed this Contract as of the date first written above.

CAPISTRANO UNIFIED SCHOOL 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, if Incorporated)

# PCH Sheet Metal & Air Conditioning, Inc.

July 22, 2013

Bid # 1228-13

Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675

Att:  
Email: ddavey@capousd.org

RE: Newhart Middle School - Stainless Counters

PCH Sheet Metal and Air Conditioning, Inc. is pleased to submit our proposal for the sheet metal work at the above mentioned project. Bid broken down as follows:

## Scope of Work

### Base Bid

1. Fabricate 16 Gauge Stainless countertops 6 total as follows
  - #1 - 1 - 122" x 24" with backsplash and sink cutout.
  - #2 - 1 - 12 1/2" x 24" with back splash
  - #3 - 1 - 36" x 20"
  - #4 - 1 - 167" x 34 1/2" with backsplash (note: taper from 193" to 167")
  - #5 - 1 - corner piece 63" x 22" with backsplash
  - #6 - 1 - 109" x 24 1/2" with back splash

Total Price - \$10,890.00

### Alternate Pricing #1

#### Fabricate #1 and #2 as follows

- #1 - Fabricate one 122"x24" with backsplash and sink cut out #1
- #2 - Fabricate one 122 1/2 x 24" with backsplash and no sink
- #3 - Field install 2 counters

Total Price - \$4360.00

### Alternate Pricing #2

#### Fabricate #5 as follows

- #1 - Fabricate one 63"x 22 1/2"x 8" backsplash with one closed corner end
- Field install one counter

Note: Above pricing does not include prevailing wage for field labor.

120 Calle De Los Molinos • San Clemente, CA 92672  
Phone (949) 361-9905 • Fax (949) 369-9238 • Lic. # 807716

1







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

**FIELD SERVICES CONTRACT**

THIS CONTRACT is made and entered into this 6 day of August 2013, by and between Knorr Systems, Inc., hereinafter called the CONTRACTOR, and CAPISTRANO UNIFIED SCHOOL DISTRICT, hereinafter called the DISTRICT.

The CONTRACTOR and the DISTRICT do hereby contract and agree as follows:

1. The Contractor shall furnish the District for an amount not to exceed \$27,111.80 the following:  
Capistrano Valley High School - supply and install Lochinvar Model CPN2072  
natural gas swimming pool heater
2. The term of the Contract shall begin on Per direction of M&O Dept. and end \_\_\_\_\_.
3. Payment schedule: Payment is to be made upon satisfactory completion of and acceptance of work as well as receipt of labor and material releases and invoice.
4. Inspection shall be performed by the Director, Maintenance & Operations Dept. or Designee on behalf of District, who will, if appropriate, recommend acceptance to the Board of Trustees.
5. This contract includes the attached General Conditions which are incorporated herein by reference. Contractor, by executing this contract, agrees to comply with each and every such term and condition.
6. Contractor shall guarantee all labor and materials used in the performance of this contract for a period of 365 days (1 year) from the date of acceptance by District.

Field Service Agreement 1314088

7. This Contract includes all Contract Documents as indicated below:

- ☒ W-9 Request for Taxpayer Identification Number and Certification
- ☒ Quote/Proposal, dated 7/5/2013 & 7/11/201
- ☒ Plans and Specifications/Scope of Work
- ☒ Worker's Compensation Certificate
- ☐ Purchase Order Number \_\_\_\_\_
- ☒ Liability Insurance Certificate
- ☒ Guarantee
- ☒ Certification by Contractor of Criminal Records Check
- ☒ Contractor's Certificate Regarding Non-Asbestos Containing Materials
- ☐ Payment Bond \$ \_\_\_\_\_
- ☐ Faithful Performance Bond \$ \_\_\_\_\_
- ☒ California State Contractor's License Number \_\_\_\_\_
- ☒ Drug-Free Workplace Certification
- ☒ Tobacco Use Policy
- Other Compliance with Safety Regulations

8. IN WITNESS WHEREOF, said parties have executed this Contract as of the date first written above.

CAPISTRANO UNIFIED SCHOOL 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, if Incorporated)



KNORR SYSTEMS, INC.

www.knorrsystems.com

## EQUIPMENT QUOTATION

Date: July 5, 2013

To: Ben Dewes  
CAPISTRANO USD

From: Karl Schultz

Project: Capistrano High School

plus INSTAL

| SECTION              | QTY | DESCRIPTION   | PRICE EACH | EXTENDED TOTAL     |
|----------------------|-----|---|------------|--------------------|
| Pool Heater          | 1   | Lochinvar model CPN2072 natural gas swimming pool heater (1,999,000 Btu per hour input). Includes California code controls, pump delay with maintenance timer, pumped bypass (CPVC) and cupro nickel heat exchanger. Does not include Type B double wall venting material or flue to atmosphere. Includes factory start up and operator training. | 22,835.00  | 22,835.00          |
| Site Visit           | 1   | Site visit to provide installation instructions. <i>?-Needed if installing</i>  | 750.00     | -750.00            |
| Preliminary Subtotal |     |   |            | \$23,585.00        |
| Sales Tax (8.00%)    |     |   |            | \$1,826.80         |
| Estimated Freight    |     |   |            | \$850.00           |
| <b>Subtotal</b>      |     |   |            | <b>\$26,261.80</b> |
| <b>Energy Rebate</b> |     |   |            | <b>-\$4,000.00</b> |
| <b>Total</b>         |     |   |            | <b>\$22,261.80</b> |

*Materials*

*21,511.80*

**Please Note:** This pool heater qualifies for energy savings rebate in the amount of \$4,000. Please contact our office for any assistance you may need with the rebate process.

**Payment:** Net 30 days after date of invoice, subject to credit approval  
**Interest:** 18% APR is charged on all past due invoices  
**Freight:** F.O.B. ship point, refer to estimated freight costs above  
**Sales Tax:** Subject to sales tax rate as noted above  
**Notes:** Pricing is valid until August 31, 2013  
Pricing excludes plan check and Health Department permit fees  
Pricing excludes Bid / Payment / Performance bond fees  
**Start-Up:** Applicable equipment start-up is provided at no additional charge from KSI's Service department

*Material + Labor*  
*\$5,600 Labor*  
*\$58,861.80*  
*OR please Labor & material.*



**INDEPENDENT CONTRACTOR AGREEMENT**

This Agreement for Contracted Services ("Agreement") is effective as of September 26, 2013, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the District") and the contractor listed below ("Contractor"). The District and Contractor may hereafter be referred to as ("Party") or collectively as ("Parties").

**ABATEC, INCORPORATED**

WHEREAS, DISTRICT is authorized by Section 4526 and 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, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Contracted Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Contractor shall perform the Contracted Services as set forth in Contractor's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Contracted Services provided for hereunder, Contractor shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Contractor under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$18,470.00 annually in aggregate under this Agreement. This amount may be increased by mutual agreement of both parties by written amendment.

Term of Agreement. The term of this base Agreement is for one year commencing August 28, 2013 to August 27, 2014, with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ General Conditions      ☐ Special Conditions      ☒ Required Documents and Certification ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

**DISTRICT****CONTRACTOR**

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

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

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

Email Address: \_\_\_\_\_

FEIN/SSN: \_\_\_\_\_

## EXHIBIT A

ABATEC, INC.  
25422 Trabuco Rd. #105-332  
Lake Forest, CA 92630

Certified Asbestos Consultants  
Cal-OSHA 92-0016  
Certified Lead Inspectors I260  
949 380-8995

## PROPOSAL AND AGREEMENT

Capistrano Unified School District  
32975 Calle Perfecto  
San Juan Capistrano, CA  
Attn: Mr. Ben Dewees

DATE: 03-24-13  
PHONE: 949 2838343  
FAX: 949 2487104

SITE LOCATION: AHERA Periodic Surveillance - Various Sites, Semi-Annual  
For Time Period July 1, 2013 - June 30, 2014 to be  
Conducted during September 2013 and March-April 2014  
March-April 2014 to be 3 Year Reinspection

TYPE AND QUANTITY OF WORK

- \*As required by Federal Regulations, Periodic Surveillance each 6 months
- \*To be conducted by AHERA Certified Asbestos Building Inspector
- \*Review of Abatement Documentation since Previous 3 Year Reinspection or Periodic Surveillance
- \*Inspection of all sites active in the AHERA program for the District

## \*Relevant Sites Include:

## Elementary School Sites and COST PER INSPECTION:

| Cost             | Cost            | Cost               | Cost                |
|------------------|-----------------|--------------------|---------------------|
| Ambuehl \$360    | Barcelona \$360 | Crown Valley \$420 | Dana Handicap \$100 |
| Moulton \$100    | Concordia \$360 | Las Palmas \$270   |                     |
| Del Obispo \$360 | Hankey \$360    | Viejo \$360        |                     |
| Palisades \$620  | San Juan \$420  | R.H.Dana \$420     |                     |

## Middle or Intermediate School Sites and COST PER INSPECTION:

| Cost                | Cost               | Cost               | Cost              |
|---------------------|--------------------|--------------------|-------------------|
| Marco Forster \$100 | Fred Newhart \$325 | Niguel Hills \$420 | Shorecliffs \$360 |

## High School Sites and COST PER INSPECTION:

| Cost             | Cost               | Cost                | Cost          |
|------------------|--------------------|---------------------|---------------|
| Dana Hills \$800 | Capo Valley \$ 900 | San Clemente \$ 900 | SCHS-UC \$360 |
| J.Serra \$460    |                    |                     |               |

## Facility Sites and COST PER INSPECTION:

| Cost                |
|---------------------|
| Transport So. \$100 |

- \*EXCLUSIONS: LIMITED TO SCOPE OF WORK ABOVE. DISTRICT TO PROVIDE KEYS FOR ACCESS. WORK TO BE DONE DURING NORMAL BUSINESS HOURS DURING DAYS WHEN STUDENTS ARE NOT IN CLASS.

\*Costs Not to Exceed: \$ 9,235.00 Inspection Sept. 2013  
\$ 9,235.00 Inspection Mar. 2014

Fiscal Year Cost: \$18,470.00

TERMS OF PAYMENT: UPON COMPLETION OF PROJECT AND  
SUBMISSION OF DOCUMENTATION  
1% DISCOUNT IF PAID WITHIN 15 DAYS OF INVOICE

U  
PR 424608

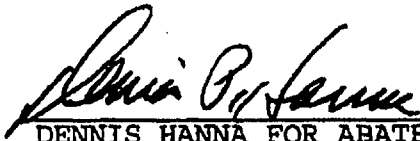
A B A T E C, I N C.

-2-

Capistrano Unified School District AHERA 6 Month Surveillance

PROPOSAL IS VALID FOR 20 DAYS FROM PROPOSAL DATE

A C C E P T E D



3-24-13

DENNIS HANNA FOR ABATEC, INC. DATE CLIENT, BUILDING OWNER OR AGENT DATE

DISPUTE BETWEEN PARTIES

IN THE EVENT OF A DISPUTE BETWEEN THE PARTIES RESULTING IN A LAWSUIT,  
PREVAILING PARTY SHALL BE ENTITLED TO THE REASONABLE ATTORNEY'S FEES







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

**FIELD SERVICES AGREEMENT**

THIS CONTRACT is made and entered into this 4 day of September 2013, by and between Concrete Coating Specialists, Incorporated, hereinafter called the CONTRACTOR, and CAPISTRANO UNIFIED SCHOOL DISTRICT, hereinafter called the DISTRICT.

The CONTRACTOR and the DISTRICT do hereby contract and agree as follows:

1. The Contractor shall furnish the District for an amount not to exceed \$ 48,338.00 the following:  
Dana Hills High School - pool deck restoration includes preparation of surface, epoxy prime, coat with Sundek Sun Sand Acrylic Color Coating, install rust treatment coating to vertical cantilever face, includes aggregate effects of three colors, clear coating
2. The term of the Contract shall begin on Per Direction of M&O Dept. and end Upon Completion.
3. Payment schedule: Payment is to be made upon satisfactory completion of and acceptance of work as well as receipt of labor and material releases and invoice.
4. Inspection shall be performed by the Director, Maintenance and Operations or Designee on behalf of District, who will, if appropriate, recommend acceptance to the Board of Trustees.
5. This contract includes the attached General Conditions which are incorporated herein by reference. Contractor, by executing this contract, agrees to comply with each and every such term and condition.
6. Contractor shall guarantee all labor and materials used in the performance of this contract for a period of 365 days (1 year) from the date of acceptance by District.

7. This Contract includes all Contract Documents as indicated below:

- ☒ W-9 Request for Taxpayer Identification Number and Certification
- ☒ Quote/Proposal, dated 5/7/2013
- ☒ Plans and Specifications/Scope of Work
- ☒ Worker's Compensation Certificate
- ☐ Purchase Order Number \_\_\_\_\_
- ☒ Liability Insurance Certificate
- ☒ Guarantee
- ☒ Certification by Contractor of Criminal Records Check
- ☒ Contractor's Certificate Regarding Non-Asbestos Containing Materials
- ☒ Payment Bond \$ 48,338.00
- ☒ Faithful Performance Bond \$ 48,338.00
- ☒ California State Contractor's License Number 942130
- ☒ Drug-Free Workplace Certification
- ☒ Tobacco Use Policy
- ☒ Other Compliance With Safety Regulations

8. IN WITNESS WHEREOF, said parties have executed this Contract as of the date first written above.

CAPISTRANO UNIFIED SCHOOL 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, if Incorporated)



**PROPOSAL AND CONTRACT**  
**CONCRETE COATING SPECIALISTS, INC.**  
 CALIFORNIA LIC. 942130



TOLL FREE  
 (877) 786-3351

A. This AGREEMENT is between:

Concrete Coating Specialists, Inc.

☐ 7728 Clairemont Mesa Blvd.  
 San Diego, CA 92111  
 877-786-3351

AND

☒ 1178 N. Grove St., Unit G  
 Anaheim, CA 92806  
 877-786-3351

Capistrano Unified School District

(Owner's Name)

32972 Calle Perfecto

(Owner's Address)

San Clemente, CA 92675

(City, State and Zip)

PROJECT: Dana Hills High School, 33333 Golden Lantern St., Dana Point, CA 92629-1899

(Name)

(E-Mail)

B. Description of the Work: Contractor will furnish all labor and materials to construct and complete in a workmanlike manner

Work Scope: Apply Sundek Sun Sand on pool decking inside existing chain link fence and walls.

Cover pool. Clean decking surface. Clean cracks on surface and fill with urethane caulking. Grind concrete divots to clean and fill with cement. Blend concrete at west exit gate, 4 feet long and 2 feet wide and approximately 2 inches deep. Remove joint sealant at pool walls to deck and replace. Horizontal Cantilever

Area: [area from edge of pool to slot drain]. 1. Epoxy Prime, 2. Coat with Sundek Sun Sand Acrylic Color

Coating. Vertical Cantilever Face: 1. Install rust treatment coating, NO Sundek Sun Sand installed. Install

Sundek Sun Sand Acrylic Color Coating on balance of decking. Includes aggregate effects: three colors. Clear coating on pool deck.

IMPORTANT NOTICE: Refer to "J" Guarantee below regarding rust, concrete deterioration, efflorescence and rust stains.

C. Liability and Warranty - Concrete Coating Specialists, Inc. is responsible for completion of work in compliance with contract documents and for quality of workmanship in accordance with standard specifications. Contractor is not responsible for delays or damages due to strikes, fire, accidents, weather, soil or sub soil conditions, or other causes beyond the contractor's reasonable control. However, during application, contractor accepts full responsibility for any weather damage to the SUNDEK® application.

D. Arbitration of Disputes: Any dispute arising out of or related to this contract or the interpretation or performance thereof shall be decided by arbitration under the Construction Industry Rules of the American Arbitration Association and judgment shall be entered on the award. If any party after due notice fails to appear at or participate in arbitration proceedings, the arbitrator shall make an award based upon evidence presented by the party or parties who do appear and participate.

E. Payment:

Total contract price to be \$ 48,338.00

Down Payment\* (if any) \$ None

Schedule of Payments shall be per Sec. 7159(e) and (f) of the California Business and Professions Code:

WHEN

AMOUNT

|          |          |
|----------|----------|
| 1. _____ | \$ _____ |
| 2. _____ | \$ _____ |
| 3. _____ | \$ _____ |

Payment to be made upon presentation of invoices as work progresses. Contractor has the right to stop work and to keep the job idle if payments are not made when due.

Upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish a full and unconditional release from any claim or mechanic's lien pursuant to section 3114 of the Civil Code, for that portion of the work for which payment has been made.

F. Commencement/Completion of Work (Weather Permitting)

1. The approximate date when the work will begin: To be determined

2. The approximate date when the work will be completed: 7 working days

3. Failure by the contractor, without lawful excuse and barring delays caused by the owner, or weather conditions, to commence work within twenty days of the approximate date specified is a violation of the Contractors License Law. Work shall be considered commenced when crew arrives to begin preparation work.

G. Terms and Conditions: The attached terms and conditions are expressly incorporated into this contract. This document including reverse side contains the entire agreement of the parties, including all pre-contract negotiations and understandings, and its execution binds all parties signing it, jointly and severally, as well as their respective heirs, representatives, successors and assigns. This contract is nontransferable.

H. Drainage: Contractor is not liable for any drainage improvements or surface run off causing inadequate drainage. Drainage improvement is not guaranteed and is not part of this contract.

I. Cracking: Due to the inherent movement in concrete, soil, and wooden structures, and to the possible lack of structural integrity of these substrates, no guarantee, either expressed or implied is granted concerning cracks or movement in substrate or; resulting cracks and damage to the Sundek application caused by these underlying cracks or movement.

J. Guarantee: Concrete Coating Specialists, Inc., hereby grants owner a two-year guarantee against defective material or workmanship, i.e. bond failure including chipping, flaking or peeling of the SUNDEK® application. Due to the many variables found in the placement of the original concrete slab, Concrete Coating Specialists, Inc. cannot guarantee against deterioration of the original concrete, separation of the concrete from itself, efflorescence or rust stains from the concrete that may rise to the coating surface.

K. Undetermined Conditions: Conditions not determinable until existing covering has been removed, i.e. concrete failure, painted surface, cracks, drainage, joint treatment, and similar conditions are not included in the price, unless specifically mentioned as included and will be charged for in a change order when a determination of the additional cost is known.

CONTRACTORS STATE LICENSE NUMBER 942130.

Name and State Registration Number of any salesperson who solicited or negotiated this contract:

NAME: Phil Huber

STATE REGISTRATION NUMBER: \_\_\_\_\_

BY: Phillip Huber

(Contractor or Agent Sign Here)

This proposal may be withdrawn by contractor if not accepted within 60 days.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIATING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE BUSINESS AND PROFESSIONS CODE OR OTHER APPLICABLE LAWS. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

I AGREE TO  
 ARBITRATION \_\_\_\_\_

(INITIALS OF OWNER)

I AGREE TO  
 ARBITRATION \_\_\_\_\_

(INITIALS OF CONTRACTOR)

YOU, THE OWNER (BUYER) HAVE THE RIGHT TO REQUIRE THAT YOUR CONTRACTOR, HAVE A PERFORMANCE AND PAYMENT BOND, AND THE EXPENSE OF THE BOND MAY BE BORN BY THE OWNER. YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY, AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

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

X

OWNER SIGN HERE - SEE AND READ NOTICE TO OWNER ON NEXT PAGE BEFORE SIGNING)

X

(If more than one owner, second owner sign here.)





**INDEPENDENT CONTRACTOR AGREEMENT**

This Agreement for Contracted Services ("Agreement") is effective as of September 26, 2013, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the District") and the contractor listed below ("Contractor"). The District and Contractor may hereafter be referred to as ("Party") or collectively as ("Parties").

**PERSEUS ASSOCIATES, LLC.**

WHEREAS, DISTRICT is authorized by Section 4526 and 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, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Contracted Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Contractor shall perform the Contracted Services as set forth in Contractor's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Contracted Services provided for hereunder, Contractor shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Contractor under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$5,805 annually in aggregate under this Agreement. This amount may be increased by mutual agreement of both parties by written amendment.

Term of Agreement. The term of this base Agreement is for one year commencing September 9, 2013, through September 8, 2014, with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

[ X ] General Conditions      [ ] Special Conditions      [ X ] Required Documents and Certification [ X ] Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

**DISTRICT**

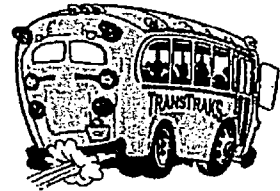
**CONTRACTOR**

By: \_\_\_\_\_  
Name: Terry Fluent  
Title: Director, Purchasing  
Board Approval Date: \_\_\_\_\_

Signature \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Email Address: \_\_\_\_\_  
FEIN/SSN \_\_\_\_\_

# TRANSTRAKS

## Transportation Data Management



Technology Integration ♦ Transportation Audits  
Vehicle Maintenance Software ♦ Student Routing and Mapping  
Transportation Software & Consulting ♦ In-Service Training

Greg A. Marvel  
President/Chief Executive Officer

August 29, 2013

Jeff Bristow, Interim Transportation Director  
Capistrano Unified School District  
2B Liberty  
Aliso Viejo, CA 92656

RE: Revised Transportation Study Proposal

Dear Mr. Bristow,

Thank you for the opportunity to outline our proposal for providing additional training and implementation services for the Capistrano Unified School District. I have seen the changes you are proposing and I am modifying the proposal accordingly. Based on our previous conversations with Merit and your email to me, we propose the following:

### Scope of Work:

#### Part A:

To evaluate the Capistrano Unified School District Transportation Vehicle Maintenance Facility up to and including:

- Make recommendations to fully implement TransTraks, the management software in place, and make recommendations for training needed.
- Assess methods of work assignments and tracking of the completed work including the vendor tracking, return shelf, refunds and rebates directly related to cost savings.
- The tracking and storage of parts and inventory
- The ordering and return process for parts.
- Provide training Vehicle Maintenance Facility personnel to assist in the day to day use of TransTraks if needed.
- Make recommendations regarding the Vehicle Maintenance Facility storage to improve staff break area, storage of tires, parts in bins, utilization of office space, computer stations for access by mechanics, storage of supplies for bus seat repair and other supplies.
- Make recommendations to maximize safety and efficiency practice and procedures including changes in the current interior configuration.

*A Division of Perseus Associates, LLC – Creative Solutions for Transportation*

125 Clover Hill Court, Danville, California 94526

□ Voice: 925-838-8514 □ Fax: 925-396-6046 □ E-Mail: gmarvel@transtraks.com □ Web: www.transtraks.com

**Part B (Optional):**

- To offer further consultation and/or training at the discretion of the District regarding the functionality and operational organization of the Transportation Department. If this option is exercised by the District, the scope of work and time involved shall be discussed and approved in writing prior to any billable expenditure of time or effort toward Part B.

**Expectations:**

To conduct an analysis on the current use of TransTraks in the shop, use and layout of the facility while interacting in a professional manner with all staff.

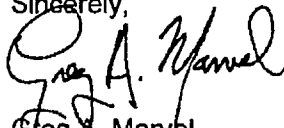
We will provide a "ready for publication" written summary at the conclusion of our analysis.

**Costs for Part A:**

We are offering to conduct the study for a price of \$135 per hour. This study/training project will take a minimum of 40 hours and a not to exceed maximum of 43 hours. Any hours needing to be committed over the estimates due to additional activities in Part B will require prior approval by you.

Thank you for the opportunity to conduct this training and study. We look forward to again working with you on a transportation project. Please feel free to give me a call if you have any questions related to our proposal.

Sincerely,



Greg A. Marvel  
President/CEO

*A Division of Perseus Associates, LLC – Creative Solutions for Transportation*

125 Clover Hill Court, Danville, California 94526

☐ Voice: 925-838-8514 ☐ Fax: 925-396-6046 ☐ E-Mail: gmarvel@transtraks.com ☐ Web: www.transtraks.com





**EXTENSION NO. 1 TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213157**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SUNBELT STAFFING, LLC**

The Professional Services Agreement PSA 1213157 with Capistrano Unified School District and Sunbelt Staffing, LLC. called for an original contract period of October 8, 2012, through October 7, 2013.

The contract with Capistrano Unified School District and Sunbelt Staffing, LLC., shall be extended an additional twelve (12) months, covering the period October 8, 2013, through October 7, 2014.

Except as set forth in this Extension Agreement, and Board approved on October 24, 2012, all other terms of the contract remain in full force and effect.

**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Sunbelt Staffing, LLC.**

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

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

Terry Fluent

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

Director, Purchasing

\_\_\_\_\_  
Title

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

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



## INDEPENDENT CONTRACTOR AGREEMENT

This Agreement for Contracted Services ("Agreement") is effective as of 10-25-12, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the District") and the contractor listed below ("Contractor"). The District and Contractor may hereafter be referred to as ("Party") or collectively as ("Parties").

### SUNBELT STAFFING, LLC

WHEREAS, DISTRICT is authorized by Section 4526 and 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, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Contracted Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Contractor shall perform the Contracted Services as set forth in Contractor's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Contracted Services provided for hereunder, Contractor shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Contractor under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$33,000.00 annually in aggregate under this Agreement. This amount may be increased by mutual agreement of both parties.

Term of Agreement. The term of this base Agreement is for one year commencing 10/08/12-10/07/13 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ General Conditions    ☐ Special Conditions    ☒ Required Documents and Certification    ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

**DISTRICT**

**CONTRACTOR**

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

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date: 10/24/12

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

Name: Jena Zander

Title: Director of Administration

Address: 3687 Tampa Road, Suite 200  
Oldsmar, FL 34677

Email Address: jena.zander@sunbeltstaffing.com

FEIN/SSN 59-3675910

EXHIBIT A

FEE SCHEDULE

Sunbelt Staffing, LLC  
3687 Tampa Road, Suite 200  
Oldsmar, FL 34677-3613  
(866)314-9240

Remit to: P O Box 1024640  
Atlanta, GA 30368-4640  
(800)659-1522

Speech Language Pathologist - \$75.00 per hour

Rate will increase by a minimum of \$4.00 per hour for each consecutive assignment.

Mileage: If assignment involves providing services at more than one facility, travel time between facilities will be billed at the regular hourly rate. Mileage between facilities will be billed at the current IRS reimbursement rate.

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

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

**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213157**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SUNBELT STAFFING, LLC.**

Professional Services Agreement No. PSA 1213157 called for services to be rendered at the rates shown in the agreement.

The Professional Services Agreement No. PSA 1213157 shall be changed to an Independent Contractor Agreement No. ICA 1213157, incorporating all general conditions of the new contract.

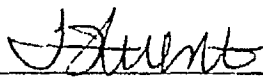
Except as set forth in this Amendment, and Board approved on October 24, 2012, all other terms of the contract remain in full force and effect.


**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Sunbelt Staffing, LLC.**

By:   
Signature

By:   
Signature

Terry Fluent

Jana Zander  
Print Name

Director, Purchasing

Dir of Admin  
Title

Date: 2/12/13

Date: 01/30/2013

**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213157**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SUNBELT STAFFING, LLC**

Professional Services Agreement No. PSA 1213157 called for services to be rendered at the rates shown in the agreement.

The contract with Sunbelt Staffing, LLC shall be amended to reflect the new rates as shown in Exhibit A to this amendment effective July 1, 2013.

Except as set forth in this Amendment, and Board approved on October 24, 2012 all other terms of the contract remain in full force and effect.

**DISTRICT**

**Capistrano Unified School District**

By:   
Signature

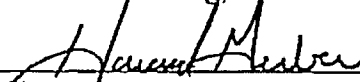
Terry Fluent

Director, Purchasing

Date: 7/2/13

**CONSULTANT**

**Sunbelt Staffing, LLC.**

By:   
Signature

Howard Gerber  
Print Name

Managing Director  
Title

Date: 6-20-13

EXHIBIT A

FEE SCHEDULE

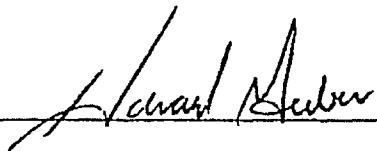
Sunbelt Staffing, LLC  
3687 Tampa Road, Suite 200  
Oldsmar, FL 34677-3613  
(866)314-9240

Remit to: P O Box 1024640  
Atlanta, GA 30368-4640  
(800)659-1522

Speech Language Pathologist - \$73.00 per hour

Mileage: If assignment involves providing services at more than one facility, travel time between facilities will be billed at the regular hourly rate. Mileage between facilities will be billed at the current IRS reimbursement rate.

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



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

6/24/13

**AMENDMENT NO. 7 TO INDEPENDENT CONTRACTOR AGREEMENT  
NO. ICA 1213052**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**WESTGROUP MANAGEMENT, INCORPORATED**

Independent Contractor Agreement No. ICA 1213052 called for services to be rendered at the amended contract term commencing June 1, 2012, through June 30, 2013.

The contract with Westgroup Management, Inc. shall be amended to increase the not to exceed amount to \$300,000 for additional services and extended until October 31, 2013 2013, as needed by the District. This amount may be increased by mutual agreement of both parties by written agreement.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Westgroup Management, Inc.**

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

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

Terry Fluent \_\_\_\_\_

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

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

\_\_\_\_\_  
Title

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

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





CAPISTRANO

**INDEPENDENT CONTRACTOR AGREEMENT**

This Agreement for Contracted Services ("Agreement") is effective as of 6/12/12, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the District") and the contractor listed below ("Contractor"). The District and Contractor may hereafter be referred to as ("Party") or collectively as ("Parties").

**WESTGROUP MANAGEMENT INC.**

WHEREAS, DISTRICT is authorized by Section 4526 and 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, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Contracting Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Contractor shall perform the Contracted Services as set forth in Contractor's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Contracted Services provided for hereunder, Contractor shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Contractor under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$25,000.00 in aggregate under this Agreement.

Term of Agreement. The term of this base Agreement is for one year commencing 7/01/12-6/30/13 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ General Conditions      ☐ Special Conditions      ☒ Required Documents and Certification ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

**DISTRICT**

By: Terry Fluent  
 Name: Terry Fluent  
 Title: Director, Purchasing  
 Board Approval Date: 6/11/12

**CONTRACTOR**

Signature: Timothy D. Hileman  
 Name: Timothy D. Hileman  
 Title: Principal  
 Address: 19500 Jambovic Road #100  
Irvine, CA. 92612.  
 Email Address: tim@westgroupdesigns.com  
 FEIN/SSN 20-0491451

WESTGROUP MANAGEMENT, INC.  
2012/13 SCHEDULE OF RATES  
FOR CAPISTRANO UNIFIED SCHOOL DISTRICT

| <u>Position</u>            | <u>Current Rate</u> | <u>Reduced Rate</u> |
|----------------------------|---------------------|---------------------|
| Principal                  | \$225/hour          | \$200/hour          |
| Program Manager            | \$190/hour          | \$170/hour          |
| Senior Project Manager     | \$175/hour          | \$155/hour          |
| Project Manager            | \$160/hour          | \$145/hour          |
| Project Support Specialist | \$135/hour          | \$120/hour          |
| Technical Specialist       | \$120/hour          | \$110/hour          |
| Project Engineer           | \$100/hour          | \$90/hour           |
| Clerk                      | \$60/hour           | \$55/hour           |

AMENDMENT TO INDEPENDENT CONTRACTOR AGREEMENT  
NO. ICA 1213052

BETWEEN

CAPISTRANO UNIFIED SCHOOL DISTRICT

AND

WESTGROUP MANAGEMENT, INC.

Independent Contractor Agreement No. ICA 1213052 called for services to be rendered commencing July 1, 2012 through June 30, 2013.

The contract with Westgroup Management, Inc. shall be amended to reflect the new contract start date of June 1, 2012.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

DISTRICT

CONSULTANT

Capistrano Unified School District

Westgroup Management, Inc.

By:

Signature

Terry Fluent

Director, Purchasing

Date: 7/1

By:

Signature

Timothy D. Holcomb  
Print Name

Principal  
Title

Date: 3 July 12

AMENDMENT NO. 2 TO INDEPENDENT CONTRACTOR AGREEMENT  
NO. ICA 1213052

BETWEEN

CAPISTRANO UNIFIED SCHOOL DISTRICT

AND

WESTGROUP MANAGEMENT, INC.

Independent Contractor Agreement No. ICA 1213052 called for services to be rendered at the amended contract term commencing June 1, 2012 through June 30, 2013.

The contract with Westgroup Management, Inc. shall be amended to increase the not to exceed amount to \$75,000 for additional services as needed by the District.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

DISTRICT

CONSULTANT

Capistrano Unified School District

Westgroup Management, Inc.

By:

By:

Signature

Signature

Terry Fluent

Print Name

Director, Purchasing

Title

Date:

Date:

AMENDMENT NO. 3 TO INDEPENDENT CONTRACTOR AGREEMENT  
NO. ICA 1213052

BETWEEN

CAPISTRANO UNIFIED SCHOOL DISTRICT

AND

WESTGROUP MANAGEMENT, INC.

Independent Contractor Agreement No. ICA 1213052 called for services to be rendered at the amended contract term commencing June 1, 2012 through June 30, 2013.

The contract with Westgroup Management, Inc. shall be amended to increase the not to exceed amount to \$125,000 for additional services as needed by the District. This amount may be increased by mutual agreement of both parties by written agreement.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

DISTRICT

CONSULTANT

Capistrano Unified School District

Westgroup Management, Inc.

By:

Signature

Terry Fluent

Director, Purchasing

Date: 11

By:

Signature

Timothy S. Halcant  
Print Name

Principal  
Title

Date: 17 DEC 2012

AMENDMENT NO. 4 TO INDEPENDENT CONTRACTOR AGREEMENT  
NO. ICA 1213052

BETWEEN

CAPISTRANO UNIFIED SCHOOL DISTRICT

AND

WESTGROUP MANAGEMENT, INC.

Independent Contractor Agreement No. ICA 1213052 called for services to be rendered at the amended contract term commencing June 1, 2012 through June 30, 2013.

The contract with Westgroup Management, Inc. shall be amended to increase the not to exceed amount to \$190,000 for additional services as needed by the District. This amount may be increased by mutual agreement of both parties by written agreement.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

DISTRICT

CONSULTANT

Capistrano Unified School District

Westgroup Management, Inc.

By: Terry Fluett

Signature

Terry Fluett

Director, Purchasing

Date: 3-14-13

By: [Signature]

Signature

Timothy D. Blean

Title

Date: 7 MAR 2013

**AMENDMENT NO. 5 TO INDEPENDENT CONTRACTOR AGREEMENT  
NO. ICA 1213052**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**WESTGROUP MANAGEMENT, INCORPORATED**

Independent Contractor Agreement No. ICA 1213052 called for services to be rendered at the amended contract term commencing June 1, 2012, through June 30, 2013.

The contract with Westgroup Management, Inc. shall be amended to increase the not to exceed amount to \$205,000 for additional services and extended until July 31, 2013, as needed by the District. This amount may be increased by mutual agreement of both parties by written agreement.


Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Westgroup Management, Inc.**

By:   
Signature

Terry Fluent

Director, Purchasing

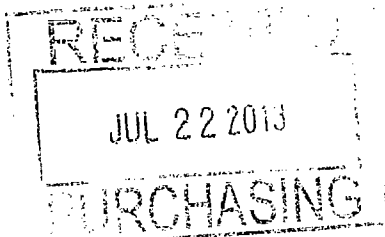
Date: 9/4/13

By:   
Signature

Timothy D. Holcomb

Principal

Date: 17 July 2013





**AMENDMENT NO. 6 TO INDEPENDENT CONTRACTOR AGREEMENT  
NO. ICA 1213052**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**WESTGROUP MANAGEMENT, INCORPORATED**

Independent Contractor Agreement No. ICA 1213052 called for services to be rendered at the amended contract term commencing June 1, 2012, through June 30, 2013.

The contract with Westgroup Management, Inc. shall be amended to increase the not to exceed amount to \$270,000 for additional services and extended until September 30, 2013, as needed by the District. This amount may be increased by mutual agreement of both parties by written agreement.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

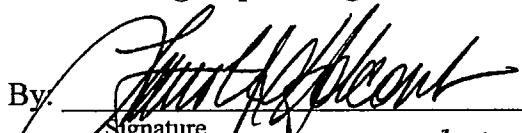
**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Westgroup Management, Inc.**

By:   
Signature

By:   
Signature

Terry Fluent

Timothy D. Hlemb  
Print Name

Director, Purchasing

Principal.  
Title

Date: 9/4/13

Date: 26 Oct 13.

**EXTENSION NO. 1 OF AGREEMENT NO. PSA 1213010**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**


**SHARON GRANDINETTE**

Professional Services Agreement PSA 1213010 called for an original contract period of July 1, 2012 through June 30, 2013.

The agreement with Sharon Grandinette shall be extended an additional 12 months, for the period July 1, 2013 through June 30, 2014, at the prices shown in Exhibit A to this Extension Agreement. Annual services under this contract are limited to \$5,000.

Except as set forth in this Extension Agreement, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**Capistrano Unified School District**

By:   
Signature

Terry Fluent

Director, Purchasing

Date: 8/1/13

**Sharon Grandinette**

By:   
Signature

Sharon Grandinette  
Print Name

Brain Injury Consultant  
Title

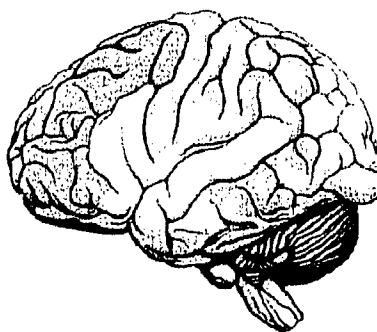
Date: 7/9/13

## Exceptional Educational Services

*Sharon Grandinette, M.S. Ed., CBIST*  
*Acquired Brain Injury Educational Consultant/Trainer*  
326 Via San Sebastian  
Redondo Beach, CA 90277

Office: 310-465-0201  
[Shargrand@aol.com](mailto:Shargrand@aol.com)

Mobile: 310-863-3160  
[www.helpingkidsbrains.com](http://www.helpingkidsbrains.com)



### **PROFESSIONAL FEE SCHEDULE: School Districts**

*Hourly Fee: \$275.00 hourly*

*School District Contracting Fee Discounted to: \$145.00 hourly*

- |   |  |
|---|--|
| <input type="checkbox"/> Observation                        | \$145.00 hour  |
| <input type="checkbox"/> Assessment                         | \$145.00 hour  |
| <input type="checkbox"/> Review of files                    | \$145.00 hour  |
| <input type="checkbox"/> Development of consultation report | \$145.00 hour  |
| <input type="checkbox"/> Attendance at IEP/other meetings   | \$145.00 hour  |
| <input type="checkbox"/> Daily rate (7.5-8 hours)           | \$1100.00 per day  |
| <input type="checkbox"/> Preparation for training           | \$145.00 hour  |
| <input type="checkbox"/> Training                           |  |
| <input type="checkbox"/> 4 hours or less                    | \$200.00 hr  |
| <input type="checkbox"/> Whole day (7-8 hours)              | \$ 1450.00 per day   |
| <input type="checkbox"/> Travel by personal vehicle:        |  |
| <input type="checkbox"/> Less than 2 hours total            | Mileage @.55 cents per mile                                  |
| <input type="checkbox"/> 2 or more hours                    | Hourly @\$90.00 per hour/no mileage                          |
| <input type="checkbox"/> Travel via other means             | Per ticketed receipt   |
| <input type="checkbox"/> Phone consultation                 | \$38.75 per 15 minutes or<br>fraction thereof                |
| <input type="checkbox"/> Email consultation                 | \$155.00 per hour billed in 3 minute<br>increments per email |



# 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

JOHN M. ALPAY  
PRESIDENT

LYNN HATTON  
VICE PRESIDENT

ANNA BRYSON  
CLERK

ELLEN M. ADDONIZIO

AMY HANACEK

GARY PRITCHARD, PH. D.

JIM REARDON

## SUPERINTENDENT

JOSEPH M. FARLEY, Ed.D.

April 22, 2013

Sent via e-mail [shargrand@aol.com](mailto:shargrand@aol.com)

Sharon Graninette  
326 Via San Sebastian  
Redondo Beach, CA 90277

**Subject: Extension of Contract No. PSA 1213010**

Dear Ms. Grandinette:

Your current contract for services to the Capistrano Unified School District, as referenced above, will expire on June 30, 2013.

As a result of the state's ongoing financial crisis and per the direction of the District's Board of Trustees, you are being asked to reduce your fees for services by 10% for the renewal period July 1, 2013 through June 30, 2014. A copy of your current contract pricing is enclosed for your review. Please provide a new fee schedule for the school year 2013-2014.

Please electronically return the fee schedule to me at [dmantifae@capousd.org](mailto:dmantifae@capousd.org) by Tuesday, April 30, 2013.

Financial consideration shall be part of the determination by the Board of Trustees for acceptance of this contract.

Your understanding and assistance in this matter is appreciated.

If you have any questions, please contact me at (949) 234-9444.

Sincerely,

Donna Antifae  
Buyer/Planner, Purchasing

SERVING THE COMMUNITIES OF:

ALISO VIEJO • COTO DE CAZA • DANA POINT • LADERA RANCH • LAGUNA NIGUEL • LAS FLORES • MISSION VIEJO  
RANCHO SANTA / AN CAPISTRANO



## PROFESSIONAL SERVICES AGREEMENT

This Agreement for Professional Services ("**Agreement**") is effective as of 6/12/12, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the **District**") and the consultant listed below ("**Consultant**"). The District and Consultant may hereafter be referred to as ("Party") or collectively as ("Parties").

### SHARON GRANDINETTE

WHEREAS, DISTRICT is authorized by Section 4526 and 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, CONSULTANT is specially trained, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Consulting Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Consultant shall perform the Consulting Services as set forth in Consultant's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Consulting Services provided for hereunder, Consultant shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Consultant under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$5,000.00 in aggregate under this Agreement.

Term of Agreement. The term of this base Agreement is for one year commencing 7/01/12-6/30/13 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Consultant acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

[ X ] General Conditions      [ X ] Special Conditions      [ X ] Required Documents and Certifications      [ X ] Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

#### DISTRICT

By: Terry Fluent

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date: 6/11/12

#### CONSULTANT

Signature: Sharon Grandinette

Name: Sharon Grandinette

Title: Acquired/Traumatic Brain Inj. C

Address: 326 Via San Sebastian

Redondo Beach, CA 90277

Email Address: Shargrand@aol.com

FEIN/SSN 131-54-2765

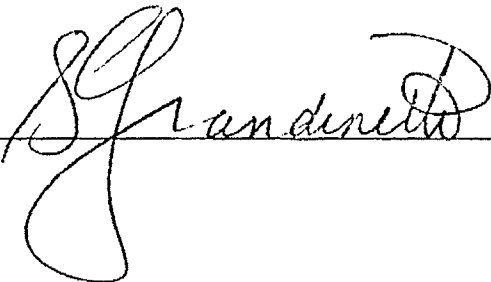
**EXHIBIT A**

**FEE SCHEDULE**

Sharon Grandinette  
326 Via San Sebastian  
Redondo Beach, CA 90277  
(310)465-0201

\$145.00 per hour or  
Daily (8 hour) rate of \$850.00 per day.

Mileage reimbursement at the current IRS District approved rate.

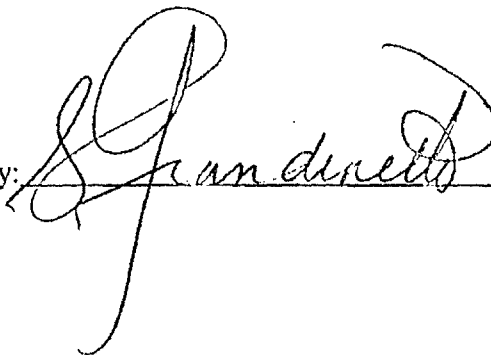
By:  Date: 5/15/12

**SPECIAL  
CONDITIONS**

**Scope of Practice and Release of Assessment Documentation**

Consultant is functioning solely as an independent educational evaluator. Consultant agrees that he/she will not recommend therapy or services within their own agency, company, or practice. Consultant agrees that during the performance of an independent educational evaluation at or on school district grounds, the consultant may be accompanied by a DISTRICT representative during the duration of the observation or interviews of staff and/or pupil.

Upon completion of the independent educational evaluation, the consultant agrees to release assessment documentation including assessment protocols and written report to the DISTRICT prior to receipt of payment for services.

By:  Date: 5/15/12

**AMENDMENT OF PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213007**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SYLVIA MENDE, PSY.D**

Professional Services Agreement No. PSA 1213007 called for services to be rendered at the rates shown in the agreement for contract term July 1, 2013, through June 30, 2014 for a "not to exceed" amount of \$40,000.

The "not to exceed" amount on Professional Services Agreement No. PSA 1213007 shall be amended to \$79,123 for additional services requested by the District.

Except as set forth in this Extension Agreement, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**Capistrano Unified School District**

**Sylvia Mende, Psy.D.**

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

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

Terry Fluent

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

Director, Purchasing

\_\_\_\_\_  
Title

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

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





## INDEPENDENT CONTRACTOR AGREEMENT

This Agreement for Contracted Services ("**Agreement**") is effective as of 6-12-12, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the **District**") and the contractor listed below ("**Contractor**"). The District and Contractor may hereafter be referred to as ("Party") or collectively as ("Parties").

### SYLVIA MENDE, PSY.D

WHEREAS, DISTRICT is authorized by Section 4526 and 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, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Contracted Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Contractor shall perform the Contracted Services as set forth in Contractor's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Contracted Services provided for hereunder, Contractor shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Contractor under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$20,000 annually in aggregate under this Agreement. This amount may be increased by mutual agreement of both parties.

Term of Agreement. The term of this base Agreement is for one year commencing 7-01-12-6-30-13 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ General Conditions      ☒ Special Conditions      ☒ Required Documents and Certification ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

### DISTRICT

By: Terry Fluert  
 Name: Terry Fluert  
 Title: Director, Purchasing  
 Board Approval Date: 6/12/12

### CONTRACTOR

Signature: Sylvia Mende, Psy.D.  
 Name: SYLVIA MENDE, PSY.D.  
 Title: CLINICAL PSYCHOLOGIST  
 Address: P.O. BOX 3315  
RANCHO SANTA FE, CA. 92067  
 Email Address: sy/mende@yahoo.com  
 FEIN/SSN: 563-49-5218

SPECIAL CONDITIONS

Contract ICA 1213007

Sylvia Mende Psy.D

Replace Article 7 Termination with Article 7 below.

7. Termination District and Contractor may terminate the Agreement at its convenience and without any breach by the District and Contractor upon ten (10) days' prior written notice to District and Contractor. District and Contractor may also terminate the Agreement immediately in its sole discretion for cause or upon District's and Contractor's breach of any provision of the Agreement. Cause means (a) any act of dishonesty or a plea of no contest to a felony or any crime involving moral turpitude; (b) negligence in the performance of duties under the Agreement, and (c) constant refusal to perform reasonable and lawful duties assigned under the Agreement. Contractor and District each agree to sign any documents reasonably necessary to complete Contractor's discharge or withdrawal. Upon termination of the Agreement for any reason, Contractor's fees will be prorated based on the work actually completed at the time of termination for work which is then in progress, to and including the effective date of such termination. Unless other terms are set forth in the Agreement, District will reimburse Contractor for previously approved expenses in compliance with the policies of the District.

**EXHIBIT A**  
**FEE SCHEDULE**

Sylvia Mende PSY.D  
P.O. Box 3315  
Rancho Santa Fe, CA 92067  
(858) 245-9706 phone  
(858) 759-5026 fax  
symende@capousd.org

Autism Supervision

\$135.00 per hour

Signature Sylvia Mende, Psy.D. Date 11/2/2012

Typed or Printed Name SYLVIA MENDE, PSY.D.

**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213007**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SYLVIA MENDE, PSY.D.**

Professional Services Agreement No. PSA 1213007 called for services to be rendered at the rates shown in the agreement.

The Professional Services Agreement No. PSA 1213007 shall be changed into an Independent Contractor Agreement No. ICA 1213007, incorporating all general and special conditions of the new contract.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Sylvia Mende, Psy.D.**

By: Terry Fluent  
Signature

By: Sylvia Mende, Psy.D.  
Signature

Terry Fluent

Sylvia Mende, Psy.D.  
Print Name

Director, Purchasing

Clinical Psychologist  
Title

Date: 2/13/13

Date: 1/22/13

**EXTENSION OF AGREEMENT NO. ICA 1213007**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SYLVIA MENDE, PSY.D**

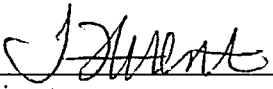
Independent Contractor Agreement No. ICA 1213007 called for an original contract period of July 1, 2012 through June 30, 2013.

The agreement with Sylvia Mende, PSY.D shall be extended an additional 12 months, for the period July 1, 2013 through June 30, 2014, at the prices shown in Exhibit A to this Extension Agreement. Annual services under this contract are limited to \$40,000.

Except as set forth in this Extension Agreement, and Board approved on June 12, 2012, all other terms of the contract remain in full force and effect.

**Capistrano Unified School District**

**Sylvia Mende, PSY.D**

By:   
Signature

By:   
Signature

Terry Fluent

SYLVIA MENDE, PSY.D.  
Print Name

Director, Purchasing

CLINICAL PSYCHOLOGIST  
Title

Date: 6/6/13

Date: 5/14/2013

Sylvia Mende, Psy.D.  
Clinical Psychologist  
PSY 15870

P.O. Box 3315  
Rancho Santa Fe, CA 92067

*phone* (858) 245-9706  
*fax* (858) 759-5026

---

April 29, 2013

**FEE SCHEDULE**

**Capistrano Unified School District Contract**

Behavioral / Autism Consultation: \$121.50 per hour



**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213037**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SUSAN BERKOWITZ**

Professional Services Agreement PSA 1213037 called for services to be rendered at the rates shown in the agreement.

The "not to exceed" amount on Professional Services Agreement No. PSA 1213037 shall be amended to \$4,000 for additional services requested by the District.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Susan Berkowitz**

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

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

Terry Fluent \_\_\_\_\_

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

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

\_\_\_\_\_  
Title

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

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





## PROFESSIONAL SERVICES AGREEMENT

This Agreement for Professional Services ("Agreement") is effective as of May 24, 2012, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the District") and the consultant listed below ("Consultant"). The District and Consultant may hereafter be referred to as ("Party") or collectively as ("Parties").

### SUSAN BERKOWITZ

WHEREAS, DISTRICT is authorized by Section 4526 and 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, CONSULTANT is specially trained, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Consulting Services"):

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Consultant shall perform the Consulting Services as set forth in Consultant's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Consulting Services provided for hereunder, Consultant shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Consultant under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$6,000.00 in aggregate under this Agreement.

Term of Agreement. The term of this base Agreement is for one year commencing 7/01/12-6/30/13 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Consultant acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ General Conditions    ☒ Special Conditions    ☒ Required Documents and Certifications    ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

DISTRICT

By: Terry Fluett

Name: Terry Fluett

Title: Director, Purchasing

Board Approval Date: 5/23/12

CONSULTANT

Signature: [Signature]

Name: SUSAN BERKOWITZ

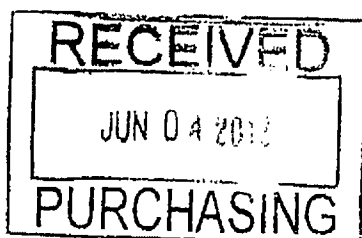
Title: SPED. LANGUAGE PROGRAM

Address: 11248 DUBOIS RD

SAN DIEGO CA 92127

Email Address: BERKOWITZ@GMAIL.COM

FEIN/SSN 197-36-3692



Professional Services Agreement Contract No. 1213037  
Capistrano Unified School District

**EXTENSION OF AGREEMENT NO. PSA 1213037**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SUSAN BERKOWITZ**

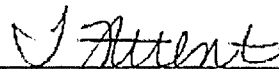
Professional Services Agreement No. PSA 1213037 called for an original contract period of July 1, 2012 through June 30, 2013.

The agreement with Susan Berkowitz shall be extended an additional 12 months, for the period July 1, 2013 through June 30, 2014, at the prices shown in Exhibit A to this Extension Agreement. Annual services under this contract are limited to \$2,000.

Except as set forth in this Extension Agreement, and Board approved on May 23, 2012, all other terms of the contract remain in full force and effect.

**Capistrano Unified School District**

**Susan Berkowitz**

By:   
Signature

By:   
Signature

Terry Fluent

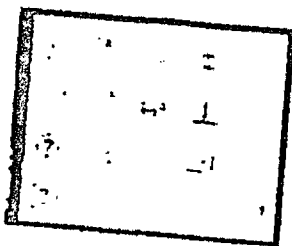
Susan Berkowitz  
Print Name

Director, Purchasing

Speech pathologist / Gak specialist  
Title

Date: 6/6/13

Date: 5-10-13



S.12

Susan Berkowitz, M.S.,  
M.Ed  
Speech-Language Pathologist

Fee Schedule 2011-12 and 2012-13 School Years\*

|  |             |
|--|-------------|
| Assessments, consultation, and IEP meeting attendance..... | \$130./hr** |
| Due Process Hearing testimony .....                        | \$150./hr   |

\* no fee increased

\*\* please note mileage reimbursement of \$.55 per mile in addition to hourly fee for services provided more than 40miles from office.

Effective July 1, 2012, all assessments will be at the reduced rate of \$120 an hour.

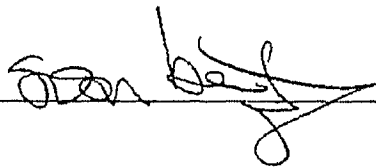
## SPECIAL CONDITIONS

### Scope of Practice and Release of Assessment Documentation

Consultant is functioning solely as an independent educational evaluator. Consultant agrees that he/she will not recommend therapy or services within their own agency, company or practice. Consultant agrees that during the performance of an independent educational evaluation at or on school district grounds, the consultant may be accompanied by a DISTRICT representative during the duration of the observation or interviews of staff and/or pupil.

Upon complete of the independent educational evaluation, the consultant agrees to release assessment documentation including assessment protocols and written report to the DISTRICT prior to receipt of payment for services.

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



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

05.21.12



**AMENDMENT TO MASTER CONTRACT AGREEMENT  
MCA 1314063**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**NEW HAVEN YOUTH AND FAMILY SERVICES**

Master Contract Agreement No. MCA 1314063 called for services to be rendered at the rates shown in the agreement.

The fee schedule on Master Contract Agreement No. MCA 1314063 shall be amended to include additional services as requested by the District, as shown in Exhibit A to this Amendment.

Except as set forth in this Amendment, and Board approved on August 14, 2013, all other terms of the contract remain in full force and effect.

**DISTRICT**

**Capistrano Unified School District**

**CONSULTANT**

**New Haven Youth and Family  
Services**

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

Terry Fluent \_\_\_\_\_

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

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

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

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

\_\_\_\_\_   
Title

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

# EXHIBIT A: RATES

|   |  |                          |   |                  |
|---|--|--------------------------|---|------------------|
| <b>CONTRACTOR</b>   | <b>New Haven Youth and Family Services</b> | <b>CONTRACTOR NUMBER</b> | <b>37-68452-7072713</b>   | <b>2013-2014</b> |
| <b>(NONPUBLIC SCHOOL OR AGENCY)</b>                           |  | <b>(CONTRACT YEAR)</b>   |   |                  |
| <b>Per CDE Certification, total enrollment may not exceed</b> |  | <b>7 Classrooms</b>      | <b>If blank, the number shall be as determine by CDE Certification.</b> |                  |

**Rate Schedule.** This rate schedule limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

Payment under this contract may not exceed  
Total LEA enrollment may not exceed

|   | Rate     | Period  |
|---|----------|---------|
| A. <u>Basic Education Program/Special Education Instruction</u>   | \$122.00 | Per Day |
| Basic Education Program/Special Education Instruction/Day Student | \$134.00 | Per Day |

Per diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally.

## B. Related Services

|      |   |            |           |
|------|---|------------|-----------|
| (1)  | a. Transportation – Round Trip- Current IRS reimbursement rate        |            |           |
|      | b. Transportation – One Way   |            |           |
|      | c. Transportation – Dual Enrollment                                   |            |           |
|      | d. Public Transportation  |            |           |
|      | e. Parent*  |            |           |
| (2)  | a. Educational Counseling – Individual                                |            |           |
|      | b. Educational Counseling – Group of ____                             |            |           |
|      | c. Counseling – Parent  |            |           |
| (3)  | a. Adapted Physical Education – Individual                            |            |           |
|      | b. Adapted Physical Education – Group of ____                         |            |           |
|      | c. Adapted Physical Education – Group of ____                         |            |           |
| (4)  | a. Language and Speech Therapy – Individual                           | \$100.00   | Per Hour  |
|      | b. Language and Speech Therapy – Group of 2                           |            |           |
|      | c. Language and Speech Therapy – Group of 3                           |            |           |
|      | d. Language and Speech Therapy – Per Diem                             |            |           |
|      | e. Language and Speech – Consultation Rate                            |            |           |
| (5)  | a. Additional Classroom Aide – Individual (must be authorized on IEP) | \$ 30.00   | Per Hour  |
|      | b. Additional Instructional Assistant – Group of 2                    |            |           |
|      | c. Additional Instructional Assistant – Group of 3                    |            |           |
| (6)  | Intensive Special Education Instruction**                             |            |           |
| (7)  | a. Occupational Therapy – Individual                                  | \$100.00   | Per Hour  |
|      | b. Occupational Therapy – Group of 2                                  |            |           |
|      | c. Occupational Therapy – Group of 3                                  |            |           |
|      | d. Occupational Therapy – Group of 4-7                                |            |           |
|      | e. Occupational Therapy – Consultation Rate                           |            |           |
| (8)  | Physical Therapy  |            |           |
|      | a. Behavior Intervention  |            |           |
|      | b. Behavior Intervention-Supervision                                  |            |           |
| (9)  | Vocational Services   | \$65.00    | Per Hour  |
| (10) | Residential Board and Care/Mental Health                              | \$8,529.00 | Per Month |
| (11) | Residential Mental Health Services                                    |            |           |

\*Parent transportation reimbursement rates are to be determined by the LEA.

\*\*By credentialed Special Education Teacher.



## MASTER CONTRACT AGREEMENT \*

This MASTER CONTRACT AGREEMENT ("Agreement") is effective as of August 15, 2013, between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("LEA or District") and the contractor listed below ("Contractor").

### NEW HAVEN YOUTH AND FAMILY SERVICES

WHEREAS, District is authorized under California Education Code sections 56157, 56361, and 56365 et. seq. and Title 5 of the California Code of Regulations section 3000 et. seq. AB490 (Chapter 862, Statutes of 2003) to contract for the purpose of providing special education and/or related services to LEA students with exceptional needs;

WHEREAS, District is in need of such services, and in collaboration with Orange County Department of Education, selected Contractor to provide nonpublic, nonsectarian school/agency services;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

Scope of Work. Contractor agrees to provide services as set forth in the Nonpublic, Nonsectarian School/Agency Services Master Contract.

Fees and Expenses. In consideration for the services provided by the Contractor under this Agreement, District agrees to pay fees and expenses at the rates as set forth in Exhibit A. The total amount of services requested by District and provided by Contractor under this agreement shall be authorized by Purchase Order. This amount may be increased by mutual agreement of both parties by written agreement.

Term of Agreement. The term of this Agreement is for one year beginning July 1, 2013 through June 30, 2014.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents as designated below titled Nonpublic, Nonsectarian School/Agency Services Master Contract, Special Conditions, and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ Master Contract    ☐ Special Conditions    ☒ Required Documents and Certifications    ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

"DISTRICT"

By: Terry Fluent

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date:

"CONTRACTOR"

By: Doreen Quinn

Name: DOREEN QUINN

Title: CEO

Email address: \_\_\_\_\_

FEIN/SSN 95-3161628



# EXHIBIT A: RATES

|  |  |                          |   |                  |
|--|--|--------------------------|---|------------------|
| <b>CONTRACTOR</b>                                      | <b>New Haven Youth and Family Services</b> | <b>CONTRACTOR NUMBER</b> | <b>37-68452-7072713</b>   | <b>2013-2014</b> |
| <b>(NONPUBLIC SCHOOL OR AGENCY)</b>                    |  | <b>(CONTRACT YEAR)</b>   |   |                  |
| Per CDE Certification, total enrollment may not exceed |  | 7 Classrooms             | If blank, the number shall be as determined by CDE Certification. |                  |

**Rate Schedule.** This rate schedule limits the number of LEA students that may be enrolled and the maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

Payment under this contract may not exceed  
Total LEA enrollment may not exceed

A. Basic Education Program/Special Education Instruction  
Basic Education Program/Dual Enrollment

| Rate     | Period  |
|----------|---------|
| \$122.00 | Per Day |

Per diem rates for LEA students whose IEPs authorize less than a full instructional day may be adjusted proportionally.

## B. Related Services

|      |   |            |           |
|------|---|------------|-----------|
| (1)  | a. Transportation – Round Trip- Current IRS reimbursement rate        |            |           |
|      | b. Transportation – One Way   |            |           |
|      | c. Transportation – Dual Enrollment                                   |            |           |
|      | d. Public Transportation  |            |           |
|      | e. Parent*  |            |           |
| (2)  | a. Educational Counseling – Individual                                |            |           |
|      | b. Educational Counseling – Group of ____                             |            |           |
|      | c. Counseling – Parent  |            |           |
| (3)  | a. Adapted Physical Education – Individual                            |            |           |
|      | b. Adapted Physical Education – Group of ____                         |            |           |
|      | c. Adapted Physical Education – Group of ____                         |            |           |
| (4)  | a. Language and Speech Therapy – Individual                           |            |           |
|      | b. Language and Speech Therapy – Group of 2                           |            |           |
|      | c. Language and Speech Therapy – Group of 3                           |            |           |
|      | d. Language and Speech Therapy – Per Diem                             |            |           |
|      | e. Language and Speech – Consultation Rate                            |            |           |
| (5)  | a. Additional Classroom Aide – Individual (must be authorized on IEP) |            |           |
|      | b. Additional Instructional Assistant – Group of 2                    |            |           |
|      | c. Additional Instructional Assistant – Group of 3                    |            |           |
| (6)  | Intensive Special Education Instruction**                             |            |           |
| (7)  | a. Occupational Therapy – Individual                                  |            |           |
|      | b. Occupational Therapy – Group of 2                                  |            |           |
|      | c. Occupational Therapy – Group of 3                                  |            |           |
|      | d. Occupational Therapy – Group of 4-7                                |            |           |
|      | e. Occupational Therapy – Consultation Rate                           |            |           |
| (8)  | Physical Therapy  |            |           |
|      | a. Behavior Intervention  |            |           |
|      | b. Behavior Intervention-Supervision                                  |            |           |
| (9)  | Vocational Services   | \$65.00    | Per Hour  |
| (10) | Residential Board and Care/Mental Health                              | \$8,309.00 | Per Month |
| (11) | Residential Mental Health Services                                    |            |           |

\*Parent transportation reimbursement rates are to be determined by the LEA.

\*\*By credentialed Special Education Teacher.

**AMENDMENT OF AGREEMENT NO. ICA 1314046**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**DAVID FOSTER**

Independent Contractor Agreement ICA 1314046 called for an original contract period of August 15, 2013 through August 14, 2014.

The agreement with David Foster shall be amended to reflect the new business name of Silicon Valley Mathematics Initiative, LLC. Annual services under this contract are limited to \$2,000.

Except as set forth in this Extension Agreement, and Board approved on August 14, 2013, all other terms of the contract remain in full force and effect.

**Capistrano Unified School District**

**Silicon Valley Mathematics Initiative,  
LLC.**

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

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

Terry Fluent \_\_\_\_\_

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

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

\_\_\_\_\_  
Title

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

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



EXHIBITTA

## Silicon Valley Mathematics Initiative



### Invoice

**Invoice #:** 308

**Billing Date:** August 31, 2013

**ICA:** #1314046

**Payment Request From:**

Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675

Donna Antifae, Buyer/Planner

949-234-9444 phone

949-493-4083 fax

[dmantifae@capousd.org](mailto:dmantifae@capousd.org) <<mailto:dmantifae@capousd.org>>

**Contact:**

Shanell Lockhart

**Services Rendered and Materials Provided:**

Provide planning, professional development facilitation for secondary math workshop on August 29, 2013 by David Foster. Compensation is \$1,000.00. Travel expenses for David totaling \$676.28.

**Total Invoice Request:** \$1,676.28

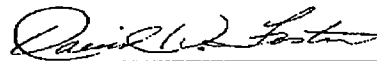
**Contractors Name:** David W. Foster, Silicon Valley Mathematics Initiative

**Make Payment to:** Silicon Valley Mathematics Initiative

**Mailing address for payment:** 17485 Monterey Road, Suite 205; Morgan Hill, CA 95037

**Telephone number:** 408 472-5706 **FAX number:** 408 776-1330

**Email:** [dfoster@svmimac.org](mailto:dfoster@svmimac.org)

**Signature of the contractor:**  **Date:** 8/31/2013

17485 Monterey Road, Suite 205 • Morgan Hill, CA 95037  
Phone (408) 776-1645 • Fax (408) 778-3246  
Email: [dfoster@svmimac.org](mailto:dfoster@svmimac.org) • Website: [www.svmimac.org](http://www.svmimac.org)



## INDEPENDENT CONTRACTOR AGREEMENT

This Agreement for Contracted Services ("**Agreement**") is effective as of August 15, 2013, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the **District**") and the contractor listed below ("**Contractor**"). The District and Contractor may hereafter be referred to as ("Party") or collectively as ("Parties").

### DAVID FOSTER

WHEREAS, DISTRICT is authorized by Section 4526 and 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, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Contracted Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Contractor shall perform the Contracted Services as set forth in Contractor's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Contracted Services provided for hereunder, Contractor shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Contractor under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$2,000. annually in aggregate under this Agreement. This amount may be increased by mutual agreement of both parties by written amendment.

Term of Agreement. The term of this base Agreement is for one year commencing August 15, 2013 – August 14, 2014 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ General Conditions      ☐ Special Conditions      ☒ Required Documents and Certification ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

### DISTRICT

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

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date: \_\_\_\_\_

### CONTRACTOR

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

Name: David Foster

Title: 17420 Montoya Circle

Address: Morgan Hill, CA 95037

CONSULTANT

Email Address: dfoster@svmimac.org

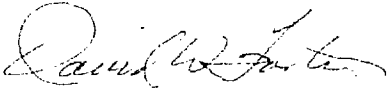
FEIN/SSN 545-78-4135

**EXHIBIT A**  
**FEE SCHEDULE**

David Foster  
17485 Monterey Road, Suite 205  
Morgan Hill, CA 95037  
Office Phone: 408-776-1645  
Fax Phone: 408-778-3246  
Cell Phone: 408-472-5706  
Email: [dfoster@svmimac.org](mailto:dfoster@svmimac.org)

Provide Math Training Workshops for Teachers

One full day of training August 29, 2013 not to exceed \$2,000



Signature \_\_\_\_\_ Date June 29, 2013

Typed or Printed Name David Foster

**AMENDMENT OF PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213007**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SYLVIA MENDE, PSY.D**

Professional Services Agreement No. PSA 1213007 called for an original contract period of July 1, 2012 through June 30, 2013 with a not to exceed amount of \$20,000, annually.

The agreement with Sylvia Mende, Psy.D. shall be amended to \$21,074 for additional services requested by the District.

Except as set forth in this Extension Agreement, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**Capistrano Unified School District**

**Sylvia Mende, Psy.D.**

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

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

Terry Fluent \_\_\_\_\_

\_\_\_\_\_

Print Name

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

\_\_\_\_\_

Title

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

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



## INDEPENDENT CONTRACTOR AGREEMENT

This Agreement for Contracted Services ("**Agreement**") is effective as of 6-12-12, by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the **District**") and the contractor listed below ("**Contractor**"). The District and Contractor may hereafter be referred to as ("Party") or collectively as ("Parties").

### SYLVIA MENDE, PSY.D

WHEREAS, DISTRICT is authorized by Section 4526 and 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, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Contracted Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Contractor shall perform the Contracted Services as set forth in Contractor's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Contracted Services provided for hereunder, Contractor shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Contractor under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$20,000 annually in aggregate under this Agreement. This amount may be increased by mutual agreement of both parties.

Term of Agreement. The term of this base Agreement is for one year commencing 7-01-12-6-30-13 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

[ X ] General Conditions      [ X ] Special Conditions      [ X ] Required Documents and Certification [ X ] Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

### DISTRICT

By: Terry Fluett  
 Name: Terry Fluett  
 Title: Director, Purchasing  
 Board Approval Date: 6/12/12

### CONTRACTOR

Signature: Sylvia Mende, Psy.D.  
 Name: SYLVIA MENDE, PSY.D.  
 Title: CLINICAL PSYCHOLOGIST  
 Address: P.O. BOX 3315  
RANCHO SANTA FE, CA. 92067  
 Email Address: sy/mende@yahoo.com  
 FEIN/SSN 563-49-5218

SPECIAL CONDITIONS

Contract ICA 1213007

Sylvia Mende Psy.D

Replace Article 7 Termination with Article 7 below.

7. Termination District and Contractor may terminate the Agreement at its convenience and without any breach by the District and Contractor upon ten (10) days' prior written notice to District and Contractor. District and Contractor may also terminate the Agreement immediately in its sole discretion for cause or upon District's and Contractor's breach of any provision of the Agreement. Cause means (a) any act of dishonesty or a plea of no contest to a felony or any crime involving moral turpitude; (b) negligence in the performance of duties under the Agreement, and (c) constant refusal to perform reasonable and lawful duties assigned under the Agreement. Contractor and District each agree to sign any documents reasonably necessary to complete Contractor's discharge or withdrawal. Upon termination of the Agreement for any reason, Contractor's fees will be prorated based on the work actually completed at the time of termination for work which is then in progress, to and including the effective date of such termination. Unless other terms are set forth in the Agreement, District will reimburse Contractor for previously approved expenses in compliance with the policies of the District.



**EXHIBIT A**  
**FEE SCHEDULE**

Sylvia Mende PSY.D  
P.O. Box 3315  
Rancho Santa Fe, CA 92067  
(858) 245-9706 phone  
(858) 759-5026 fax  
symende@capousd.org

Autism Supervision

\$135.00 per hour

Signature Sylvia Mende, Psy.D. Date 11/2/2012

Typed or Printed Name SYLVIA MENDE, PSY.D.

**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213007**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**SYLVIA MENDE, PSY.D.**

Professional Services Agreement No. PSA 1213007 called for services to be rendered at the rates shown in the agreement.

The Professional Services Agreement No. PSA 1213007 shall be changed into an Independent Contractor Agreement No. ICA 1213007, incorporating all general and special conditions of the new contract.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Sylvia Mende, Psy.D.**

By: Terry Fluent  
Signature

By: Sylvia Mende, Psy.D.  
Signature

Terry Fluent

Sylvia Mende, Psy.D.  
Print Name

Director, Purchasing

Clinical Psychologist  
Title

Date: 2/13/13

Date: 1/22/13

**AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213039**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**BOWIE, ARNESON, WILES, AND GIANNONE**

Professional Services Agreement No. PSA 1213039 called for services to be rendered at the rates shown in the agreement for July 1, 2012, through June 30, 2013.

The "not to exceed" amount on Independent Contractor Agreement No. PSA 1213039 shall be amended to \$119,957.16 for additional services requested by the District.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Bowie, Arneson, Wiles, and Giannone**

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

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

Terry Fluent

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

Director, Purchasing

\_\_\_\_\_  
Title

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

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



## PROFESSIONAL SERVICES AGREEMENT

This Agreement for Professional Services ("Agreement") is effective as of June 12, 2012 by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the District") and the consultant listed below ("Consultant"). The District and Consultant may hereafter be referred to as ("Party") or collectively as ("Parties").

### BOWIE, ARNESON, WILES & GIANNONE

WHEREAS, DISTRICT is authorized by Section 4526 and 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, CONSULTANT is specially trained, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Consulting Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Consultant shall perform the Consulting Services as set forth in Consultant's Proposal which is attached hereto, marked as Exhibit "A," and incorporated herein by this reference.

Fees and Expenses. For the Consulting Services provided for hereunder, Consultant shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Consultant under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$75,000.00 in aggregate under this Agreement.

Term of Agreement. The term of this base Agreement is for one year commencing 7/01/12-6/30/13 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Consultant acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

[ X ] General Conditions    [ X ] Special Conditions    [ X ] Required Documents and Certifications    [ X ] Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

#### DISTRICT

By: Terry Fluent

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date: 6/11/12

#### CONSULTANT

Signature: Alexander Bowie

Name: Alexander Bowie

Title: Managing Partner

Address: 4920 Campus Drive

Newport Beach, CA 92660

Email Address: abowie@bawg.com

FEIN/SSN 33-0219871

**Bowie, Arneson, Wiles & Giannone**

**2011-2012 Hourly Rates**

**FOR**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

|                   | <b>Current Pricing<br/>July 1, 2011- June 30,<br/>2012</b> | <b>Proposed Pricing<br/>July 1, 2012-June 30, 2013</b> |
|-------------------|--|--|
| Partners          | \$235.00   | \$235.00   |
| Senior Associates | \$205.00   | \$205.00   |
| Associates        | \$195.00   | \$195.00   |
| Law Clerks        | \$125.00   | \$125.00   |
| Paralegals        | \$ 75.00   | \$ 75.00   |
|                   |  |  |

**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213039**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**BOWIE, ARNESON, WILES, AND GIANNONE**

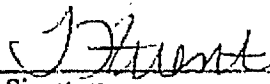
Professional Services Agreement No. PSA 1213039 called for services to be rendered at the rates shown in the agreement.

The "not to exceed" amount on Independent Contractor Agreement No. PSA 1213039 shall be amended to \$105,000 for additional services requested by the District.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**DISTRICT**

**Capistrano Unified School District**

By:   
Signature


Terry Fluent

Director, Purchasing

Date: 7/2/13

**CONSULTANT**

**Bowie, Arneson, Wiles, and Giannone**

By:   
Signature

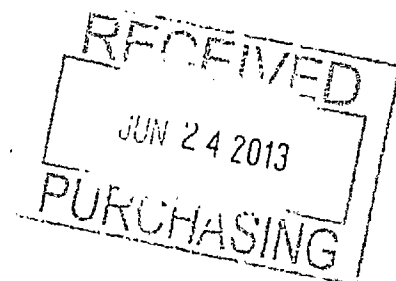
Alexander Bowie

Print Name

Managing Partner

Title

Date: June 18, 2013





**AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213039**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**BOWIE, ARNESON, WILES, AND GIANNONE**

Professional Services Agreement No. PSA 1213039 called for services to be rendered at the rates shown in the agreement for July 1, 2012, through June 30, 2013.

The "not to exceed" amount on Independent Contractor Agreement No. PSA 1213039 shall be amended to \$119,957.16 for additional services requested by the District.

Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Bowie, Arneson, Wiles, and Giannone**

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

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

Terry Fluent

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

Director, Purchasing

\_\_\_\_\_  
Title

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

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



**AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT  
NO. PSA 1213039**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**BOWIE, ARNESON, WILES, AND GIANNONE**

Professional Services Agreement No. PSA 1213039 called for services to be rendered at the rates shown in the agreement.

The "not to exceed" amount on Independent Contractor Agreement No. PSA 1213039 shall be amended to \$105,000 for additional services requested by the District.

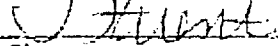
Except as set forth in this Amendment, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.


**DISTRICT**

**CONSULTANT**

**Capistrano Unified School District**

**Bowie, Arneson, Wiles, and Giannone**

By:   
Signature

By:   
Signature

Terry Fluent

Alexander Bowie

Print Name

Director, Purchasing

Managing Partner

Title

Date: 7/2/13

Date: June 18, 2013

RECEIVED  
24 2013  
Purchasing



## PROFESSIONAL SERVICES AGREEMENT

This Agreement for Professional Services ("Agreement") is effective as of June 12, 2012 by and between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("the District") and the consultant listed below ("Consultant"). The District and Consultant may hereafter be referred to as ("Party") or collectively as ("Parties").

### BOWIE, ARNESON, WILES & GIANNONE

WHEREAS, DISTRICT is authorized by Section 4526 and 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, CONSULTANT is specially trained, experienced, licensed, and competent to perform the special services required by the DISTRICT, and such services are needed on a limited basis (hereinafter referred to as "Consulting Services");

NOW, THEREFORE, the Parties agree as follows:

Scope of Work/Services. Consultant shall perform the Consulting Services as set forth in Consultant's Proposal which is attached hereto, marked as Exhibit "A." and incorporated herein by this reference.

Fees and Expenses. For the Consulting Services provided for hereunder, Consultant shall be compensated as set forth in Attachment "A." The total amount of services request by District and provided by Consultant under this agreement shall be authorized by Purchase Order (PO) and shall not exceed \$75,000.00 in aggregate under this Agreement.

Term of Agreement. The term of this base Agreement is for one year commencing 7/01/12-6/30/13 with the option to extend annually by mutual agreement and upon Board approval for a total contract term not to exceed a total of five (5) years as allowed by Education Code section 17596.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents titled General Conditions, Special Conditions and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Consultant acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

[ X ] General Conditions      [ X ] Special Conditions      [ X ] Required Documents and Certifications      [ X ] Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

DISTRICT

CONSULTANT

By:

Name: Terry Fluent

Title: Director, Purchasing

Board Approval Date:

Signature:

Name: Alexander Bowie

Title: Managing Partner

Address: 4920 Campus Drive

Newport Beach, CA 92660

Email Address: abowie@bawg.com

FEIN/SSN 33-0219871

Bowie, Arneson, Wiles & Giannone

2011-2012 Hourly Rates

FOR

CAPISTRANO UNIFIED SCHOOL DISTRICT

|                   | Current Pricing<br>July 1, 2011- June 30,<br>2012 | Proposed Pricing<br>July 1, 2012-June 30, 2013 |
|-------------------|---|--|
| Partners          | \$235.00  | \$235.00                                       |
| Senior Associates | \$205.00  | \$205.00                                       |
| Associates        | \$195.00  | \$195.00                                       |
| Law Clerks        | \$125.00  | \$125.00                                       |
| Paralegals        | \$ 75.00  | \$ 75.00                                       |
|                   |   |  |

**EXTENSION OF AGREEMENT NO. 1 PSA 1213039**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

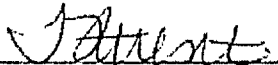
**BOWIE, ARNESON, WILES & GIANNONE**

Professional Services Agreement No. PSA 1213039 called for an original contract period of July 1, 2012 through June 30, 2013. The agreement with Bowie, Arneson, Wiles & Giannone shall be extended an additional 12 months, for the period July 1, 2013 through June 30, 2014, at the prices shown in Exhibit A to this Extension Agreement. Annual services under this contract are limited to \$100,000.

Except as set forth in this Extension Agreement, and Board approved on June 11, 2012, all other terms of the contract remain in full force and effect.

**Capistrano Unified School District**

**Bowie, Arneson, Wiles & Giannone**

By:   
Signature

By:   
Signature

Terry Fluent

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

Director, Purchasing

\_\_\_\_\_  
Title

Date: 7/10/13

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

**Fee Schedule for Fiscal Year 2013-2014 for  
Capistrano Unified School District**

**Contract No. PSA 1213039**

|                          | <b>Current<br/>Hourly Rates<br/>July 1, 2012 to June 30, 2013</b> | <b>Proposed<br/>Hourly Rates<br/>July 1, 2013 to June 30, 2014</b> |
|--------------------------|---|--|
| <b>Partners</b>          | \$235.00  | \$235.00   |
| <b>Senior Associates</b> | \$205.00  | \$205.00   |
| <b>Associates</b>        | \$195.00  | \$195.00   |
| <b>Law Clerks</b>        | \$125.00  | \$125.00   |
| <b>Paralegals</b>        | \$ 75.00  | \$ 75.00   |

**AMENDMENT TO CONSULTANT AGREEMENT NO. C1011052**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**ATKINSON, ANDELSON, LOYA, RUUD & ROMO**

The Agreement between Capistrano Unified School District and Atkinson, Andelson, Loya, Ruud & Romo was extended for the period of July 1, 2013, through June 30, 2014.

The total cost of services requested by the District and provided by the Consultant under this Agreement shall not exceed \$300,000 annually. This amount may be increased by mutual agreement of both parties by written amendment.

Except as set forth in this amendment, and Board approved on August 24, 2010, all other terms and conditions of the contract remain in full force and effect.

**Capistrano Unified School District**

**Atkinson, Andelson, Loya, Ruud & Romo**

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

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

Terry Fluent \_\_\_\_\_

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

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

\_\_\_\_\_  
Title

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

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



CONSULTANT NAME: Atkinson, Andelson, Loya, Ruud & Romo Contract No. C1011052



## Consultant Agreement

This AGREEMENT is hereby entered into between the Capistrano Unified School District, hereinafter referred to as "DISTRICT" and Atkinson, Andelson, Loya, Ruud & Romo

hereinafter referred to as "CONSULTANT."

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, CONSULTANT 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 CONSULTANT:** Legal services as required by District.

2. **Term:** CONSULTANT shall commence providing services under this AGREEMENT on July 1, 2010 and will diligently perform as required and complete performance by June 30, 2011.

3. **Compensation:** DISTRICT agrees to pay the CONSULTANT for services satisfactorily rendered pursuant to this AGREEMENT a total fee not to exceed amount specified by District purchase order as per attached fee schedule Exhibit A and/or proposal Exhibit N/A. DISTRICT shall pay CONSULTANT after receipt of consultant invoice and with approval of a District representative.



CONSULTANT NAME: Atkinson, Andelson, Loya, Ruud & Romo Contract No. C1011052

4. **Expenses:** DISTRICT shall not be liable to CONSULTANT for any costs or expenses paid or incurred by CONSULTANT in performing services for DISTRICT except as follows:  
N/A

5. **Independent Contractor:** CONSULTANT, in the performance of this AGREEMENT, shall be and act as an independent contractor. CONSULTANT understands and agrees that he/she and all 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 Worker's Compensation. CONSULTANT 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. CONSULTANT 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 CONSULTANT's employees.

6. **Materials:** CONSULTANT shall furnish, at his/her 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: N/A

CONSULTANT'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:** CONSULTANT agrees that all technologies, formulae, procedures, processes, methods, writings, and ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, submitted to the DISTRICT and/or used in connection with this AGREEMENT, shall be wholly original to CONSULTANT and shall not be copied in whole or in part from any other source, except that submitted to CONSULTANT by DISTRICT as basis for such services.

8. **Copyright/Trademark/Patent:** CONSULTANT 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. CONSULTANT consents to use of CONSULTANT'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 CONSULTANT only for services satisfactorily rendered to the date of termination. Written notice by DISTRICT shall be sufficient to stop further performance of services by CONSULTANT. Notice shall be deemed given when received by the CONSULTANT or no later than three days after the day of mailing, whichever is sooner.

DISTRICT may terminate this AGREEMENT upon written notice of intention to terminate for cause. Cause shall include: (a) material violation of the AGREEMENT by the CONSULTANT; or (b) any act by CONSULTANT exposing the DISTRICT to liability to others for personal injury or property damage; or (c) CONSULTANT is adjudged bankrupt, CONSULTANT makes a general assignment for the benefit of creditors or a receiver is appointed due to CONSULTANT'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 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 charged to and collected from the CONSULTANT. The foregoing provisions are in addition to, and not a limitation of, any other rights or remedies available to the DISTRICT. Written notice by DISTRICT shall be deemed given when received by the other party, or no later than three days after the day of mailing, whichever is sooner.

**10. Hold Harmless:** CONSULTANT agrees to and shall defend, indemnify and hold harmless the DISTRICT, its Governing Board, officers, agents, employees and volunteers from all claims, including active and passive claims, losses, costs, attorney fees and expenses arising out of any liability or claim of liability for personal injury, bodily injury to persons or death, furnishing or use of any copyrighted or uncopyrighted matter or patented or unpatented invention, contractual liability, and damage to property sustained or claimed to have been sustained arising out of activities/services provided by CONSULTANT or its subcontractors,

whether authorized by this Agreement or not. CONSULTANT further agrees to waive all rights of subrogation against the DISTRICT. The provisions of this article do not apply to any damage or losses caused solely by the negligence or willful misconduct of DISTRICT or any of its agents or employees.

11. **Insurance:** Pursuant to Section 10, CONSULTANT agrees to carry a commercial general liability insurance 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 CONSULTANT and DISTRICT against liability or claims of liability, which may arise out of the AGREEMENT. In addition, CONSULTANT 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, CONSULTANT 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. CONSULTANT agrees to name DISTRICT and its officers, agents and employees as additional insured's by separate endorsement under said policy.

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

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. CONSULTANT 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 CONSULTANT, CONSULTANT's business, and personnel engaged in operations covered by this AGREEMENT or accruing out of the performance of such operations.

14. **Permits/Licenses:** CONSULTANT and all CONSULTANT'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:** CONSULTANT, if an employee of another public agency, agrees that CONSULTANT 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.

CONSULTANT NAME: Atkinson, Andelson, Loya, Ruud & Romo Contract No. C1011052

16. **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.

17. **Nondiscrimination:** CONSULTANT agrees that it will not engage in unlawful discrimination in employment of persons because of race, color, religious creed, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such persons.

18. **Non-waiver:** The failure of DISTRICT or CONSULTANT 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 service or (b) 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:

| <u>DISTRICT</u>   | <u>CONSULTANT</u>  |
|---|--|
| Terry Fluent, Director of Purchasing<br>Capistrano Unified School District<br>33122 Valle Road<br>San Juan Capistrano, CA 92675<br>(949) 234-9441 | Atkinson, Andelson, Loya, Ruud & Romo<br>Ms. Karen E. Gilyard<br>12800 Center Court Drive, Suite 300<br>Cerritos, CA 90703 |

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.

CONSULTANT NAME: Atkinson, Andelson, Loya, Ruud & Romo Contract No. C1011052

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

22. **Governing Law:** The laws of the State of California shall govern the terms and conditions of this AGREEMENT with venue in Orange County, California.

23. **Exhibits:** This AGREEMENT incorporates by this reference, the following exhibits, which are attached hereto and incorporated herein: (if applicable)

- a. Exhibit A Fee Schedule/Agreement for Special Services
- b. Exhibit B Hold Harmless & Indemnification
- c. Exhibit C Insurance Requirements

CONSULTANT NAME: Atkinson, Andelson, Loya, Ruud & Romo Contract No. C1011052

This AGREEMENT is entered into this 25th Day of August 2010.

DISTRICT:

CONSULTANT:

By: Terry Flu  
Terry Fluent, Director of Purchasing

By: Karen E. Gilyard  
Signature

Karen E. Gilyard  
Printed Name

Partner  
Title

August 24, 2010  
Board Approval Date

95-3378600  
Social Security or Taxpayer Identification

## **AGREEMENT FOR SPECIAL SERVICES**

### **I. PARTIES**

This Agreement for Special Services (the "Agreement") is made this 1st day of July, 2010, between the law firm of ATKINSON, ANDELSON, LOYA, RUUD & ROMO, a Professional Law Corporation, hereinafter referred to as "Attorney" or the "Law Firm" and CAPISTRANO UNIFIED SCHOOL DISTRICT, hereinafter referred to as "District".

### **II. RECITALS; PURPOSE; MATTERS**

The District desires to retain and engage the Law Firm to perform legal services related to special education on District's behalf, and the Law Firm is willing to accept said engagement on the terms and conditions contained in this Agreement. Attorney agrees to provide legal services to the District, including representation in administrative and court proceedings, as requested by the District. The place and time for such services are to be designated by the Superintendent of the District or designee.

### **III. TERMS AND CONDITIONS**

A. The term of this Agreement shall be for one year, commencing July 1, 2010, through June 30, 2011. For the period July 1, 2010, through June 30, 2011, the District hereby agrees to pay the Law Firm in connection with the above-referenced services as authorized at the following hourly rates: Two Hundred Thirty Dollars (\$230.00) for Senior Partners, Two Hundred Twenty-Five Dollars (\$225.00) for Partners, Two Hundred Ten Dollars (\$210.00) for Senior Associates, Two Hundred Five Dollars (\$205.00) for Associates, One Hundred Thirty-Five Dollars (\$135.00) for Senior Paralegals, and One Hundred Thirty Dollars (\$130.00) for Paralegals and Legal Assistants (see Attachment A). The Law Firm shall bill in quarter-hour increments.

B. Agreements for legal fees at other than the hourly rates set forth above may be made by written mutual agreement for special projects or particular scopes of work. In the course of traveling to the District or while providing legal services at the District, it may be necessary for the Law Firm to provide billable services to other clients.

C. The Law Firm shall not be obligated to advance costs on behalf of the District; however, for purposes of convenience and in order to expedite matters, the Law Firm reserves the right to advance costs on behalf of the District with the Superintendent or designee's prior approval in the event a particular cost item exceeds \$2,000.00 in amount, and without the prior approval of the District in the event a particular cost item totals \$2,000.00 or less. Typical cost items include, by way of example and not limitation, document preparation and word processing, long distance telephone charges, fax/telecopy charges, copying charges, messenger fees, travel costs, bonds, witness fees, deposition and court reporter fees, transcript costs, expert witness

Exhibit A

fees, investigative fees, etc. If the Law Firm retains, with authorization from the District, experts or consultants for the benefit of the District, rather than the District contracting directly with any expert or consultant, it is agreed that the District shall pay a five percent (5%) fee ("consultant processing fee") on such expert and consultant costs paid by the Law Firm in order to offset certain costs to the Law Firm resulting from administering and initially paying such expert and consultant fees on behalf of the District.

D. A detailed description of the attorney work performed and the costs advanced by the Law Firm will be prepared on a monthly basis as of the last day of the month and will be mailed to the District on or about the 15th of the following month. Payment of the full amount due, as reflected on the monthly statements, will be due to the Law Firm from District by the 10th of each month, unless other arrangements are made. In the event there are retainer funds of the District in the Law Firm's Trust account at the time a monthly billing statement is prepared, funds will be transferred from the Law Firm's Trust Account to the Law Firm's General Account to the extent of the balance due on the monthly statement and a credit therefor will be reflected on the monthly statement. Any balance of fees or costs advanced remaining unpaid for a period of 30 days will be subject to a 1% per month service charge.

E. The District agrees to review the Law Firm's monthly statements promptly upon receipt and to notify the Law Firm, in writing, with respect to any disagreement with the monthly statement. Failure to communicate written disagreement with the Law Firm's monthly statement within thirty (30) days of the District's receipt thereof shall be deemed to signify the District's agreement that the monthly billing statement accurately reflects: (a) the legal services performed; and (b) the proper charge for those legal services.

F. The District agrees to fully cooperate with the Law Firm in connection with the Law Firm's representation of the District including, but not limited to, attending mandatory court hearings and other appearances and providing necessary information and documentation to enable the Law Firm to adequately represent the District.

G. The District has the right, at any time, and either with or without good cause, to discharge the Law Firm as the District's attorneys. In the event of such a discharge of the Law Firm by the District, however, any and all unpaid attorneys' fees and costs owing to the Law Firm from the District shall be immediately due and payable.

H. The Law Firm reserves the right to discontinue the performance of legal services on behalf of the District upon the occurrence of any one or more of the following events:

1. Upon order of Court requiring the Law Firm to discontinue the performance of said legal services;
2. Upon a determination by the Law Firm in the exercise of its reasonable and sole discretion, that state or federal legal ethical principles require it to discontinue legal services for the District;
3. Upon the failure of the District to perform any of the District's obligations hereunder as respects the payment of the Law Firm's fees and costs advanced; or



4. Upon the failure of the District to perform any of the District's obligations hereunder as respects cooperation with the Law Firm in connection with the Law Firm's representation of the District.

I. In the event that the Law Firm ceases to perform legal services for the District as hereinabove provided, the District agrees that it will promptly pay to the Law Firm any and all unpaid fees or costs advanced, and retrieve all of its files, signing a receipt therefor. Further, the District agrees that, with respect to any litigation where the Law Firm has made an appearance in Court on its behalf, the District will promptly execute an appropriate Substitution of Attorney form.

J. The Law Firm maintains errors and omissions insurance coverage applicable to the services to be rendered.

K. It is understood and agreed that the Law Firm, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and is not an employee of the District.

#### **IV. CONSENT TO LAW FIRM COMMUNICATION**

As part of our commitment to client service, the Law Firm will send the District periodic alerts on case developments and legislative changes, and notices of Breakfast Briefings, conferences, and other training opportunities designed to help the District with daily legal concerns. The Law Firm will send those and other additional service notices to the District via regular mail and/or electronic mail at the email address which you designate or the email used in your daily communications with us. These email notices are a convenient way to keep the District administrators apprised of important legal changes. By execution of this Agreement, the District and designated contact(s) consent to receive such communications by electronic mail subject to the right of unsubscribe at any time.

#### **V. ARBITRATION**

The parties agree that all disputes which arise between the District and the Law Firm, whether financial or otherwise regarding the attorney-client relationship, shall be resolved by binding arbitration. The parties agree to waive their right to a jury trial and to an appeal.

#### **VI. DURATION**

This Agreement shall be effective July 1, 2010, through June 30, 2011, and thereafter shall continue from month-to-month at the then current hourly rate set forth herein until modified in writing by mutual agreement or terminated by either party upon thirty (30) days' written notice.

**VII. EXECUTION DATE**

This Agreement is entered into this \_\_\_\_\_.

"Law Firm"

ATKINSON, ANDELSON, LOYA, RUUD &  
ROMO

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
KAREN E. GILYARD

"District"

CAPISTRANO UNIFIED SCHOOL DISTRICT

Dated: \_\_\_\_\_

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

**ATTACHMENT A****Atkinson, Andelson, Loya, Ruud & Romo****2010-2011 HOURLY RATES (SPECIAL EDUCATION)****FOR****CAPISTRANO UNIFIED SCHOOL DISTRICT**

|  |          |
|--|----------|
| <u>Senior Partners</u>                 | \$230.00 |
| <u>Partners</u>                        | \$225.00 |
| <u>Senior Associates</u>               | \$210.00 |
| <u>Associates</u>                      | \$205.00 |
| <u>Senior Paralegals</u>               | \$135.00 |
| <u>Paralegals and Legal Assistants</u> | \$130.00 |

Consultant Name: Atkinson, Andelson, Loya, Ruud & Romo  
Contract No. C1011052



#### **Hold Harmless and Indemnification**

Attorney agrees to and shall defend, indemnify and hold harmless the District, its Governing Board, officers, agents, employees and volunteers from all claims, including active and passive claims, losses, costs, attorney fees and expenses arising out of any liability or claim of liability for personal injury, bodily injury to persons or death, furnishing or use of any copyrighted or uncopyrighted matter, contractual liability, and damage to property sustained or claimed to have been sustained arising out of the activities/services rendered by Attorney, its officers, agents and employees or its subcontractors, whether authorized by this Agreement or not. Attorney further agrees to waive all rights of subrogation against the District. The provisions of this article do not apply to any damage or losses caused solely by the negligence or willful misconduct of District or any of its agents or employees.

Exhibit   B

Consultant Name: Atkinson, Andelson, Loya, Ruud & Romo Contract No. C1011052



### **Insurance**

Attorney shall procure and maintain, during the term of this Agreement, policies of insurance with insurers and coverage forms satisfactory to the District and with a minimum A.M. Best rating of A/VII as follows:

- Commercial General Liability      \$1,000,000 minimum limit per occurrence  
  incl. Contractual Liab., and      \$2,000,000 minimum general aggregate  
  Broad Form Property Damage
- Professional Liability:              \$1,000,000 minimum limit per occurrence  
  (Errors & Omissions)              \$2,000,000 minimum general aggregate
- Automobile Liability:              \$1,000,000 minimum limit per occurrence
- Workers' Compensation:            As required by the California Labor Code
- Employers' Liability:                \$1,000,000 minimum limit

Attorney shall provide to the District evidence of the required insurance by issuance of an original Certificate of Insurance at least ten days prior to the beginning of the term of this Agreement. Such certificate shall contain a 30 days written notice of cancellation or reduction in coverage. Any lapse of insurance coverage required by this Agreement shall be a breach of the Agreement and grounds for immediate termination of this Agreement by District.

Exhibit   C  

Page 1 of 2

Consultant Name: Atkinson, Andelson, Loya, Ruud & Romo Contract No. C1011052

The Capistrano Unified District, it's Board, officers, agents and employees shall be named an Additional Insured, by separate endorsement, to Attorney's Commercial General Liability (not Professional Liability) and Automobile Liability policies. Any insurance or self-insurance maintained by Attorney shall be primary and any insurance or self-insurance maintained by District shall be non-contributing.

The insurance coverage's and limits required shall not in any way limit the liability of Attorney.

#### **Governing Law**

This Agreement shall be governed by the laws of the State of California with venue to Orange County, California.

#### **Severability**

If any provisions of this Agreement are held by a court of law to be illegal, invalid or unenforceable, the remaining provisions of the Agreement shall be legal, valid and enforceable.

#### **Waiver**

The waiver by District of a breach of any provision of the Agreement by Attorney shall not operate or be construed as a waiver of any other or subsequent breach by Attorney.

Exhibit C

Page 2 of 2

**EXTENSION OF AGREEMENT**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**ATKINSON, ANDELSON, LOYA, RUUD & ROMO**

Contract C1011052 called for an original contract period of July 1, 2010 through June 30, 2011 with an option to extend the contract in two 12-month increments for an option period not to exceed 24 consecutive months as allowed by California Education code 17596.

The contract with Atkinson, Andelson, Loya, Ruud & Romo pursuant to Contract C1011052, shall be extended an additional 12 months, for the period July 1, 2011, through June 30, 2012 at the prices shown in Exhibit A to this Extension Agreement.

Except as set forth in this Amendment to Agreement, and Board approved on August 24, 2010, all other terms of the contract remain in full force and effect.

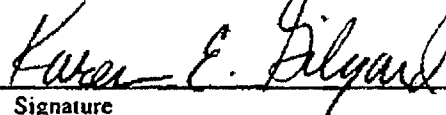
**DISTRICT**

**CONTRACTOR**

**Capistrano Unified School District**

**Atkinson, Andelson, Loya, Ruud & Romo**

By:   
Signature

By:   
Signature

Terry Fluent

Karen E. Gilyard  
Print Name

Director, Purchasing

Partner  
Title

Date: 8/9/11

Date: 5/31/2011

**ATTACHMENT A**

**Atkinson, Andelson, Loya, Ruud & Romo**

**2011-2012 HOURLY RATES (SPECIAL EDUCATION)**

**FOR**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

|  |          |
|--|----------|
| <u>Senior Partners</u>                 | \$230.00 |
| <u>Partners</u>                        | \$225.00 |
| <u>Senior Associates</u>               | \$210.00 |
| <u>Associates</u>                      | \$205.00 |
| <u>Senior Paralegals</u>               | \$135.00 |
| <u>Paralegals and Legal Assistants</u> | \$130.00 |



**EXTENSION OF CONSULTANT AGREEMENT NO. C1011052**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**ATKINSON, ANDELSON, LOYA, RUUD & ROMO**

The Consultant Agreement between Capistrano Unified School District and Atkinson, Andelson, Loya, Ruud & Romo, called for an original contract period of July 1, 2010 through June 30, 2011, with two (2) one year options to renew upon mutual written agreement of the Parties.

The contract with Atkinson, Andelson, Loya, Ruud & Romo shall be extended an additional 12 months for the period of July 1, 2012 through June 30, 2013, at the prices shown in Exhibit A to this Extension Agreement.

Except as set forth in this Extension Agreement, and Board approved on August 24, 2010, all other terms and conditions of the contract remain in full force and effect.

**Capistrano Unified School District**

**Atkinson, Andelson, Loya, Ruud & Romo**

By:   
Signature

By:   
Signature

Terry Fluent

Karen E. Gilyard  
Print Name

Director, Purchasing

Partner  
Title

Date: 7/17/12

Date: 6/26/2012

Exhibit A

**ATKINSON, ANDELSON, LOYA, RUUD & ROMO**  
**2012-2013 HOURLY RATES (SPECIAL EDUCATION)**

**FOR**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

|  |          |
|--|----------|
| <u>Senior Partners</u>                 | \$230.00 |
| <u>Partners</u>                        | \$225.00 |
| <u>Senior Associates</u>               | \$210.00 |
| <u>Associates</u>                      | \$205.00 |
| <u>Senior Paralegals</u>               | \$135.00 |
| <u>Paralegals and Legal Assistants</u> | \$130.00 |

**EXTENSION OF AGREEMENT NO. C1011052**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**ATKINSON, ANDELSON, LOYA, RUUD & ROMO**

Consultant Agreement No. C1011052 called for an original contract period of July 1, 2010 through June 30, 2011.


The agreement with Atkinson, Andelson, Loya, Ruud & Romo shall be extended an additional 12 months, for the period July 1, 2013 through June 30, 2014, at the prices shown in Exhibit A to this Extension Agreement. Annual services under this contract are limited to \$150,000.

Except as set forth in this Extension Agreement, and Board approved on August 24, 2010, all other terms of the contract remain in full force and effect.

**Capistrano Unified School District**

**Atkinson, Andelson, Loya, Ruud & Romo**

By:   
Signature

By:   
Signature

Terry Fluent

Karen E. Gilyard  
Print Name

Director, Purchasing

Partner  
Title

Date: 9/5/13

Date: 6-4-2013

Exhibit A  
ATKINSON, ANDELSON, LOYA, RUUD & ROMO

CERRITOS  
(562) 653-3200  
FAX (562) 653-3333

FRESNO  
(559) 225-6700  
FAX (559) 225-3416

PLEASANTON  
(925) 227-9200  
FAX (925) 227-9202

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
20 PACIFICA, SUITE 400  
IRVINE, CALIFORNIA 92618-3371  
(949) 453-4260

FAX (949) 453-4262  
WWW.AALRR.COM

RIVERSIDE  
(951) 683-1122  
FAX (951) 683-1144  
SACRAMENTO  
(916) 923-1200  
FAX (916) 923-1222  
SAN DIEGO  
(858) 485-9526  
FAX (858) 485-9412

OUR FILE NUMBER:  
005791.00001  
11184518.1

April 23, 2013

Donna Antifae  
Buyer/Planner, Purchasing  
Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, California 92675

**Re: Extension of Contract No. C1011052 - Legal Services**

Dear Ms. Antifae:

Your correspondence of April 16, 2013 regarding the extension of the legal services contract between the District and our firm was forwarded to us for review and response.

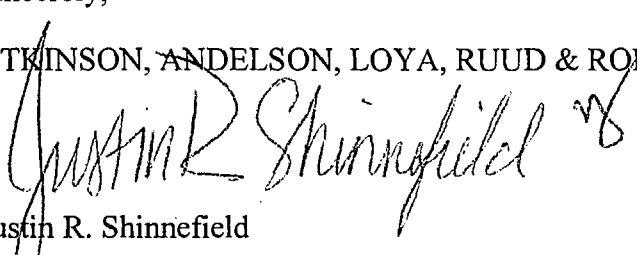
As you may know, our firm has worked with Capistrano Unified for several years. In light of the current fiscal crisis, and to demonstrate our commitment to the District, the firm has applied a 7% discount to each invoice received during the current 2012-2013 school year. Since receiving your correspondence, the attorneys who serve your District have interacted with various District administrators regarding their anticipated legal needs in the upcoming school year, as well as their expectations of AALRR attorneys. Based on these discussions, the firm's partners have decided to propose we extend our current arrangement for the 2013-2014 school year. Accordingly, the District would continue to receive a 7% discount on each invoice.


If you have any questions regarding our proposal, please do not hesitate to call. If any additional information is needed at this time, please let us know.

Thank you, and we look forward to working with Capistrano Unified.

Sincerely,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

  
Justin R. Shinnfield

  
Anthony P. De Marco

cc: Karen E. Gilyard

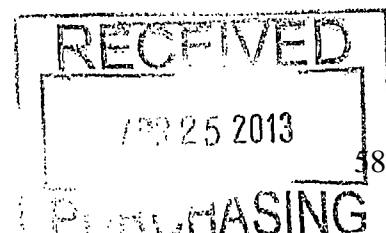


Exhibit A

ATKINSON, ANDELSON, LOYA, RUUD & ROMO  
**2012-2013 HOURLY RATES (SPECIAL EDUCATION)**  
FOR  
CAPISTRANO UNIFIED SCHOOL DISTRICT

|  |          |
|--|----------|
| <u>Senior Partners</u>                 | \$230.00 |
| <u>Partners</u>                        | \$225.00 |
| <u>Senior Associates</u>               | \$210.00 |
| <u>Associates</u>                      | \$205.00 |
| <u>Senior Paralegals</u>               | \$135.00 |
| <u>Paralegals and Legal Assistants</u> | \$130.00 |

## EXHIBIT A

### CONDITION OF CERTIFICATE OF COMPLIANCE

As a condition of this Certificate of Compliance, the Capistrano Unified School District ("District") and RMV Community Development, LLC ("Applicant") are currently negotiating the terms of a school facilities funding agreement ("Ranch Agreement") relating to "The Ranch Project," as approved by the County of Orange, and agree as follows: (i) the District's issuance of this Certificate of Compliance for homes within The Ranch Project shall not constitute a waiver of rights the District may assert in such negotiations, or any proceedings relating to the obligation of Applicant or its successors to provide school sites and fund school facilities to meet the needs of students resulting from development of The Ranch Project with respect to the preconditions for issuance of such Certificates of Compliances for The Ranch Project; and (ii) the District shall hold the funds paid by Applicant for this Certificate of Compliance and apply them as ultimately provided for in the Ranch Agreement, or as the District may determine is appropriate if no Ranch Agreement is reached **prior to October 15, 2013.**

CAPISTRANO UNIFIED SCHOOL  
DISTRICT

By: \_\_\_\_\_  
Clark D. Hampton,  
Deputy Superintendent, Business &  
Support Services

RMV COMMUNITY DEVELOPMENT,  
LLC, a California limited liability company

By: RMV COMMUNITY  
DEVELOPMENT COMPANY,  
INC., a California corporation,  
its sole member

By: \_\_\_\_\_  
Dan Kelly,  
Senior Vice President



**EXTENSION OF AGREEMENT FOR  
CONSTRUCTION MANAGEMENT SERVICES  
CONTRACT NO. C1011076**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**EDENCO, INCORPORATED**

The Agreement between Capistrano Unified School District and Edenco, Inc., called for an original contract period of September 29, 2010, through September 28, 2011, with two (2) one year options to renew upon mutual written agreement of the Parties.

The contract with Edenco, Inc., shall be extended for the period of September 29, 2013, through October 31, 2013, to complete the closeout process for the Capistrano Valley High School Performing Arts Theater project.

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

**Capistrano Unified School District**

**Edenco, Incorporated**

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

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

Terry Fluent \_\_\_\_\_

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

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

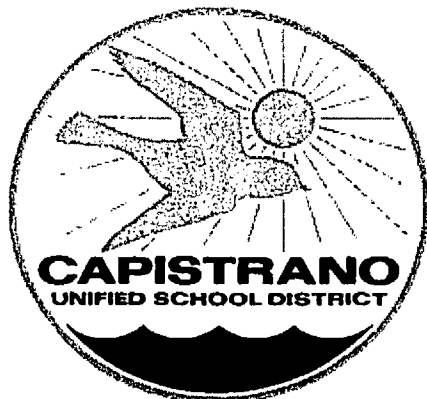
\_\_\_\_\_  
Title

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

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

EXHIBIT 16





### **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



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: RFD-P  
dl jf

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

### **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

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**

|           |                                 |             |
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## **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<br>\$4 MM       | Capo Valley - P.A.C.<br>\$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<br>(1Mon.)                  | 3/21/11<br>(5 Wks.)                                |
| 9        | Re- Bids Due  | 1/20/11<br>(1 Mon.)                  | 4/28/11<br>(1 Mon.)                                |
| 10       | Board Awards Contract   | 2/22/11<br>(3 Wks.)                  | 5/24/11<br>(5 Wks.)                                |
| 11       | Commence Construction   | 3/14/11<br>(8Mos.)                   | 6/27/11<br>Last Day of School<br>(18 Mos.)         |
| 12       | Finish Construction   | 11/11/11<br>(1 Mon.)                 | 1/3/13<br>First Day of Spring Semester<br>(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%).

**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.

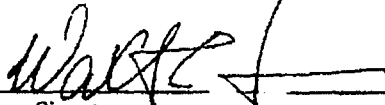
The contract with Edenco, Inc. pursuant to RFQ-P No. 2-1011, shall be extended an additional 12 months, for the period September 29, 2011, through September 28, 2012, at the reduced hourly rate of \$150 as shown in Exhibit A to this Extension Agreement, and Board approved on September 26, 2011.

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

WALT EDEN  
Print Name

Director, Purchasing

PRER  
Title

Date: 10/14/11

Date: 9/28/11

**EXTENSION OF AGREEMENT FOR  
CONSTRUCTION MANAGEMENT SERVICES  
CONTRACT NO. C1011076**

**BETWEEN**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**EDENCO, INCORPORATED**

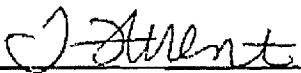
The Agreement between Capistrano Unified School District and Edenco, Inc., called for an original contract period of September 29, 2010 through September 28, 2011, with two (2) one year options to renew upon mutual written agreement of the Parties.

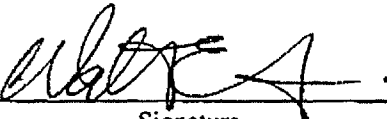
The contract with Edenco, Inc., shall be extended an additional 12 months for the period of September 29, 2012 through September 28, 2013. Annual expenditures under this contract are limited to \$460,000.

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

**Capistrano Unified School District**

**Edenco, Incorporated**

By:   
Signature

By:   
Signature

Terry Fluent

WALT EDEN  
Print Name

Director, Purchasing

PRESIDENT  
Title

Date: 9/14/12

Date: 9/14/12

**This is an ORIGINAL [This space is for recorder's use only]**

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NOTICE IS HEREBY GIVEN, That the CAPISTRANO UNIFIED SCHOOL DISTRICT of Orange County, California, as Owner of the property hereinafter described, caused improvements to be made to said property, to wit: Capistrano Valley High School Performing Arts Theater, Bid No. 1011-11, the contract, for the doing of which was heretofore entered into on the 14th day of June, 2011, which contract was made with Edge Development, Incorporated as Contractor; completion of contract pursuant to Takeover Agreement dated the 26<sup>th</sup> day of September, 2012 with Safeco Insurance Company of America and Liberty Mutual Insurance Company; that said improvements have been completed pursuant to said Contract and accepted on the 25th day of September 2013, by the Governing Board of said District; that title to said property vests in the CAPISTRANO UNIFIED SCHOOL DISTRICT of Orange County, California; that the surety for the above named project is Safeco Insurance Company of America and Liberty Mutual Insurance Company; that the property hereinafter referred to and on which said improvements were made is described as follows: Capistrano Valley High School Performing Arts Theater, Bid No. 1011-11.

By: \_\_\_\_\_  
Joseph M. Farley, Superintendent  
Capistrano Unified School District

That he is the Superintendent of CAPISTRANO UNIFIED SCHOOL DISTRICT of Orange County, California;

That the CAPISTRANO UNIFIED SCHOOL DISTRICT of Orange County, California, is the owner of said property described in the foregoing notice;

That he has read the foregoing notice and knows the contents thereof and that the facts stated therein are true.

633



August 16, 2013



VIA Hand Delivery  
VIA Email: [jgforney@capousd.org](mailto:jgforney@capousd.org)

John Forney, Facilities Executive Director  
Capistrano Unified School District  
33122 Valle Road  
San Juan Capistrano, CA 92675

**Subject: Edenco, Inc's Formal Recommendation to Capistrano Unified School District to Issue Notice of Completion for Capistrano Valley High School – Performing Arts Center (Bid No. 1011-11)**

Mr. Forney:

This letter shall serve as Edenco, Inc's formal notification to Capistrano Unified School District that the Capistrano Valley High School - Performing Arts Center (Bid No. 1011-11) Contractual Work has been completed and approved with no exceptions. As such, I am recommending that Capistrano Unified School District issue the formal Notice of Completion for the Performing Arts Center, and take possession and occupy the Performing Arts Center effective Friday, August 16, 2013 at 5:00 p.m. Pacific Standard Time.

Regards,

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

Walt Eden  
Owner's Representative  
Edenco, Inc., President

cc: Clark Hampton, CUSD  
Terry Fluent, CUSD  
Josie Monge, CUSD

**EXTENSION OF MASTER CONTRACT AGREEMENT  
NO. MCA 1213068**

**WITH**

**CAPISTRANO UNIFIED SCHOOL DISTRICT**

**AND**

**T.E.R.I. INC. & THE COUNTRY SCHOOL**

The Master Contract Agreement between Capistrano Unified School District and T.E.R.I. Inc. & The Country School called for an original contract period of July 1, 2012 through June 30, 2013.

The contract with T.E.R.I. Inc. & The Country School shall be extended for the period of July 1, 2013, through June 30, 2014, at the rates as shown in Exhibit A to this Extension Agreement.

Except as set forth in this Extension Agreement, and Board approved on June 27, 2012, all other terms and conditions of the contract remain in full force and effect.

**Capistrano Unified School District**

**T.E.R.I. Inc. & The Country School**

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

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

Terry Fluent

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

Director, Purchasing

\_\_\_\_\_  
Title

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

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

## **Exhibit A**

### **General Program Tuition Rate**

**Inclusive Education Program – (Includes Educational Counseling services, Speech & Language services, Behavior Intervention Planning, and Occupational Therapy as specified on the student's IEP.)**

**Basic Education 1:1 - \$241.24 per day**

**Basic Education 1:3 - \$169.89 per day**

**Basic Education 1:9 \$128.39 per day**



## MASTER CONTRACT AGREEMENT

This MASTER CONTRACT AGREEMENT ("Agreement") is effective as of June 28, 2012, between Capistrano Unified School District, located at 33122 Valle Road, San Juan Capistrano, California 92675 ("LEA or District") and the contractor listed below ("Contractor").

### T.E.R.I. INC. & THE COUNTRY SCHOOL

WHEREAS, District is authorized under California Education Code sections 56157, 56361, and 56365 et. seq. and Title 5 of the California Code of Regulations section 3000 et. seq. AB490 (Chapter 862, Statutes of 2003) to contract for the purpose of providing special education and/or related services to LEA students with exceptional needs;

WHEREAS, District is in need of such services, and in collaboration with Orange County Department of Education, selected Contractor to provide nonpublic, nonsectarian school/agency services;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

Scope of Work. Contractor agrees to provide services as set forth in the Nonpublic, Nonsectarian School/Agency Services Master Contract.

Fees and Expenses. In consideration for the services provided by the Contractor under this Agreement, District agrees to pay fees and expenses at the rates as set forth in Exhibit A. The total amount of services requested by District and provided by Contractor under this agreement shall be authorized by Purchase Order. This amount may be increased by mutual agreement of both parties.

Term of Agreement. The term of this Agreement is for one year beginning July 1, 2012 through June 30, 2013.

Additional Terms. This Agreement contains additional terms that are set forth in the attached documents as designated below titled Nonpublic, Nonsectarian School/Agency Services Master Contract, Special Conditions, and Required Documents and Certifications, and associated Purchase Order(s), which by this reference are incorporated herein. District and Contractor acknowledge, and agree to be bound by, the terms set forth in the attached documents as if such additional terms were set forth in full herein.

☒ Master Contract    ☐ Special Conditions    ☒ Required Documents and Certifications    ☒ Purchase Order(s)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

**"DISTRICT"**

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

Name: Clark D. Hampton

Title: Deputy Superintendent

Board Approval Date: 6-27-12

**"CONTRACTOR"**

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

Name: Krysti DeZonia, Ed.D.

Title: Director of Education

Email address: Krysti@teriinc.org

FEIN/SSN: 95-3532129

# NONPUBLIC, NONSECTARIAN SCHOOL SERVICES MASTER CONTRACT

CONTRACT YEAR 2012 - 2013

## A. AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

### 1. MASTER CONTRACT

This Master Contract is made and entered into

This 1st day of July, 2012 between the

Capistrano Unified School District

hereinafter sometimes referred to as the "LEA," and

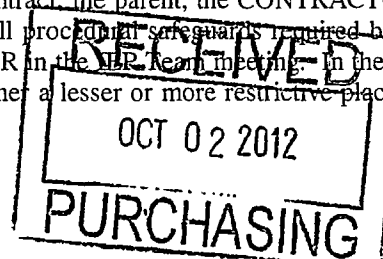
T.E.R.I. Inc. & The Country School  
(Nonpublic, nonsectarian school)

hereinafter referred to as "CONTRACTOR,"

for the purpose of providing special education and related services to individuals with exceptional needs under the authorization of Education Code sections 56157, 56361, and 56365-56366.5. It is understood that this Master Contract does not commit the LEA to payment for special education and related services provided to any individual unless and until an Individual Services Agreement is executed between the LEA and the CONTRACTOR on behalf of such individual or interim written approval is given to the CONTRACTOR by a representative of the LEA's Special Education Unit on terms acceptable to the LEA and CONTRACTOR. It is also understood that this contract does not commit the CONTRACTOR to provide special education and related services to any individual unless and until an Individual Services Agreement is executed between the LEA and the CONTRACTOR on behalf of such individual or interim written approval is given to the CONTRACTOR by an authorized representative of the LEA's Special Education Unit. This interim written approval shall be for a maximum period of 90 days, beginning with the anticipated student start date, during which time the contract and/or Individual Services Agreement shall be completed and executed by the LEA and CONTRACTOR. If an Individual Services Agreement is not completed and executed by the LEA and the CONTRACTOR within this ninety-day period, the LEA or CONTRACTOR may request an IEP meeting to be held as soon as possible to discuss a change in placement for the pupil. The LEA shall continue to reimburse the CONTRACTOR as set forth in the interim written approval, or as otherwise agreed by the parties in writing, pending any change in placement or subsequent execution of an Individual Services Agreement.

### 2. INDIVIDUAL SERVICES AGREEMENTS

The LEA and CONTRACTOR shall enter into an Individual Services Agreement for each pupil who is to receive special education and/or related services provided by the CONTRACTOR. The LEA is responsible for completing each pupil's Individual Services Agreement, which shall identify the provider of each service required by the pupil's Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) (CCR 3062(e)). Individual Services Agreements shall only be issued for those pupils enrolled with the approval of the LEA. Changes in any LEA pupil's educational program, including instruction, services, or instructional setting provided under this contract, may only be made on the basis of revisions to the pupil's IEP or IFSP. At any time during the term of this contract, the parent, the CONTRACTOR or LEA may request a review of the pupil's IEP/IFSP, subject to all procedural safeguards required by law, including notice given to and participation by the CONTRACTOR in the IEP team meeting. In the event that the CONTRACTOR recommends that the pupil requires either a lesser or more restrictive placement



than the CONTRACTOR can provide, the CONTRACTOR may request a review of the pupil's IEP/IFSP for the purposes of consideration of a change in the pupil's placement. The LEA shall expedite the review and/or the resulting change in placement, and shall modify the Individual Services Agreement as appropriate if there is a change in the instructional and/or other services provided.

3. NONPUBLIC SCHOOL CERTIFICATION OR WAIVER

A current copy of the CONTRACTOR'S California Department of Education Nonpublic School Certification or waiver of such certification issued by CDE pursuant to EC 56366.2 is attached hereto. This Master Contract shall be null and void if such certification is expired, revoked, rescinded, or otherwise nullified during the effective period of this contract.

4. TERM OF MASTER CONTRACT

Neither the CONTRACTOR nor the LEA is required to renew this contract in subsequent contract years. In the event that a pupil is enrolled with the CONTRACTOR during the term of this contract and said pupil continues to receive special education and/or related services by the CONTRACTOR as approved by the LEA in accordance with the pupil's IEP/IFSP and either (a) a new contract has not been fully executed or (b) the CONTRACTOR or the LEA chooses not to renew this contract, the terms of this contract shall apply to any and all special education and/or related services provided by CONTRACTOR and payment for those services by the LEA.

5. COMPLIANCE WITH APPLICABLE FEDERAL AND STATE LAWS

During the term of this contract, the CONTRACTOR and LEA shall comply with all applicable federal and state laws and regulations relating to the required special education and designated instruction and services and facilities for individuals with exceptional needs.

a. Nondiscrimination

The CONTRACTOR and the LEA shall not discriminate on the basis of race, religion, sex, national origin, age, sexual orientation or disability in employment or operation of its programs.

b. Sexual Harassment Policy

The CONTRACTOR shall have a written policy on sexual harassment in accordance with state and federal regulations and guidelines.

**B. ADMINISTRATION OF CONTRACT**

6. "DAYS"

For the purpose of the contract, "days" refers to calendar days unless otherwise specified.

7. SUPERSEDES PRIOR CONTRACTS

This contract and any exhibits or attachments hereto constitute the entire agreement between the parties to this contract and supersedes any prior contract, understanding, or agreement with respect to the terms set forth in this contract.

8. MODIFICATIONS AND AMENDMENTS

The LEA and CONTRACTOR agree that any amendments to the contract must be in writing and approved by the LEA's Governing Board and the Board of Trustees or authorized representative of CONTRACTOR. In implementing this Master Contract, any specific terms related to an individual pupil shall be reflected in the Individual Services Agreement.

9. NOTICES

Notices provided for by this contract shall be in writing, be delivered to the individual identified below in this section, and shall be delivered by certified, registered, or return receipt requested mail, postage prepaid, or by facsimile transmission, unless a specific section of this contract requires or allows notice or contact to be made in a different manner or to a different individual. The effective date of an invoice shall be the date of the receipt by the LEA. The effective date of all other notices shall be the date of the postmark or of the facsimile transmittal date identified in the document. In the event there is a change in the individual to be notified, the CONTRACTOR or the LEA shall provide written notice of the change and, after such notice is provided, all future notices shall be addressed to that individual. Notice may be provided under this section pursuant to regular United States mail if the LEA and CONTRACTOR agree in writing to notice by regular United States mail. If the LEA or CONTRACTOR does not identify an individual to be notified in this section, the person to be notified under this section shall be the LEA or CONTRACTOR representative that executes this contract.

Notices mailed to the LEA shall  
be addressed to:

Sara R. Jocham,  
Assistant Superintendent, SELPA  
Name/Title

Capistrano Unified School District  
Local Education Agency

33122 Valle Road  
Address

San Juan Capistrano CA 92675  
City State Zip

(949) 234-9270  
Phone

(949) 240-9047  
Facsimile

Notices to the CONTRACTOR shall  
be addressed to:

Krysti DeZonia, Senior Director  
Name/Title

T.E.R.I. Inc.  
Nonpublic School

251 Airport Road  
Address

Oceanside CA 92058  
City State

(760) 721-1706  
Phone

(760) 721- 721-9872  
Facsimile

10. INDEPENDENT CONTRACTOR STATUS

This contract is by and between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

11. SUBCONTRACT AND ASSIGNMENT

The CONTRACTOR shall not enter into an initial subcontract with any noncertified Nonpublic Agency (NPA) or provider, for any of the instructional or related services contemplated under this contract without first obtaining written approval by the Assistant Superintendent, SELPA of Capistrano Unified School District. Such approval shall not be unreasonably withheld. The LEA and CONTRACTOR shall maintain a copy of the written approval.

12. INDEMNIFICATION

The CONTRACTOR hereby indemnifies, defends, and holds harmless the LEA, its Board, officers, employees, agents, independent contractors, consultants and other representatives from and against any and all liabilities, claims, demands, costs, losses, damages, or expenses, including reasonable attorneys' fees

and costs, and including but not limited to consequential damages, loss of use, extra expense, cost of temporary classrooms, that arise out of or result from, in whole or in part, the negligent, wrongful or willful acts or omissions of the CONTRACTOR, its employees, agents, subcontractors, independent contractors, consultants, or other representatives.

The LEA hereby indemnifies, defends, and holds harmless the CONTRACTOR, its Board, officers, employees, agents, independent contractors, consultants and other representatives from and against any and all liabilities, claims, demands, costs, losses, damages, or expenses, including reasonable attorneys' fees and costs, and including but not limited to consequential damages, loss of use, extra expense, cost of temporary classrooms, that arise out of or result from, in whole or in part, the negligent, wrongful or willful acts or omissions of the LEA, its employees, agents, subcontractors, independent contractors, consultants, or other representatives.

The CONTRACTOR shall have no obligation to indemnify, defend, or hold harmless the LEA, its Board, officers, employees, agents, independent contractors, consultants, and other representatives for the LEA's sole negligence or willful misconduct; and the LEA shall have no obligation to indemnify, defend, or hold harmless the CONTRACTOR, its Board, officers, employees, agents, independent contractors, consultants and other representatives for the CONTRACTOR'S sole negligence or willful misconduct. This indemnity shall survive the termination of the Contract or final payment hereunder, and is in addition to any other rights or remedies that the CONTRACTOR or LEA may have under the law or this contract.

### 13. INSURANCE

During the entire term of this contract and any extension or modification thereof, the CONTRACTOR shall keep in effect a policy or policies of general liability insurance, including contractual liability coverage, professional liability, and auto liability coverage of owned and non-owned vehicles used by CONTRACTOR in relation to the performance of service(s) under this Master Contract, of at least \$ 1,000,000 combined single limit for all damages arising out of death or injury to, or death from, each accident or occurrence and \$1,000,000 combined single limit for all damages arising out of injury to or destruction of property for each accident or occurrence. Such insurance shall name LEA as an additional insured, and an endorsement evidencing such coverage shall be provided within 90 days, only as to matters arising out of this Master Contract for which CONTRACTOR has an obligation to indemnify the LEA, under the Indemnification clause, Section 12, of this Master Contract.

Not later than the effective date of this contract, the CONTRACTOR shall provide the LEA with satisfactory evidence of insurance. The insurance maintained by CONTRACTOR shall include a provision for the insurance provider to send written notice of cancellation or modification to the CONTRACTOR at least 30 calendar days before cancellation or adverse material change, or 10 days for nonpayment of premium. Such CONTRACTOR'S insurance may contain the same notice requirement for the LEA. If the insurance provider is only required to send such notice to the CONTRACTOR (but not the LEA) CONTRACTOR shall provide the LEA written notice of cancellation or adverse material modification within one business day after receiving such notice from the insurer. Such notice shall be provided pursuant to Section 9 (Notices) of this contract. The CONTRACTOR shall at its own cost and expense procure and maintain insurance under the applicable state's Workers' Compensation laws. Failure to maintain the above mentioned insurance coverage shall be cause for termination of this contract.

LEA warrants that it is self-insured in compliance with the laws of the State of California, that the self insurance covers persons acting on its behalf or under its control, that its self insurance covers LEA's indemnification obligations to CONTRACTOR under this contract, and that LEA agrees to provide coverage to CONTRACTOR pursuant to this self insurance in the event the indemnification obligations of Section 12 of this contract are triggered. The LEA further warrants that it shall notify the CONTRACTOR pursuant to Section 9 (Notices) of this contract, of any material insurance coverage changes at least thirty days prior to the change.

CONTRACTOR agrees that any subcontractor with which it contracts to provide services pursuant to any Individual Services Agreement, shall submit written proof of insurance in a minimum amount of \$1,000,000



per occurrence, including general, liability, auto liability (if applicable), and professional liability (if applicable). Such insurance shall be maintained by any subcontractor for the scope of duties performed and duration of time it provides services to LEA pupils. Proof of insurance shall be provided to the LEA prior to the beginning of transportation services by a subcontractor, and upon renewal of coverage thereafter. Transportation subcontractors shall submit copies of insurance policies upon request of the LEA; otherwise, certificates of insurance may be acceptable proof, provided that the information thereon is adequate and verifiable. Subcontractors shall be required to provide to the CONTRACTOR written notice of cancellation of insurance or adverse material change in such insurance at least 30 days prior to cancellation or adverse material change or within one business day after receiving such notice, whichever is earlier.

14. TRANSPORTATION

Transportation costs are the responsibility of the LEA unless otherwise agreed to in writing. The CONTRACTOR shall provide each pupil whom the CONTRACTOR transports with adequate supervision during transports and with instruction in school bus emergency procedures and passenger safety, as appropriate to the pupil's needs. The CONTRACTOR shall have in place a transportation safety plan containing procedures for school personnel to follow to ensure the safe transport of pupils.

In the event the CONTRACTOR transports students due to health, behavior, or other emergencies, or as otherwise agreed to between the CONTRACTOR and the LEA, the LEA shall reimburse CONTRACTOR at the rate specified in this Master Contract (Rate Schedule, Section 46 A or B).

15. WAIVERS

The LEA and/or CONTRACTOR may independently or jointly submit waivers of applicable state laws and regulations.

16. SUCCESSORS IN INTEREST

This contract binds the CONTRACTOR's successors and assignees.

17. SEVERABILITY

If any provision or portion of a provision of this contract is held in whole or in part to be unenforceable for any reason, the remainder of the provision and of the entire contract shall be severable and shall remain in effect.

18. CONFLICTS OF INTEREST

The CONTRACTOR agrees to furnish to the LEA a copy of its current bylaws and a current list of its Governing Board of Directors (or Trustees), if it is incorporated. LEA has the right to request a current list of the Board of Directors or Trustees at any time during the term of the Master Contract.

19. INABILITY TO MEET CONTRACT REQUIREMENTS

The CONTRACTOR shall notify the LEA in writing when the CONTRACTOR is unable to meet the requirements of this contract. The LEA shall notify CONTRACTOR in writing when the LEA is unable to meet the requirements of this contract.

20. DISPUTE RESOLUTION

Disagreements concerning the meaning, requirements or performance of this contract shall first be brought to the attention of the other party in writing, pursuant to the notice provisions (Section 9) of this contract, in an attempt to resolve the dispute at the lowest level. Any remaining disputes or disagreements may be resolved either 1) as voluntarily agreed to by the parties, 2) by equitable remedies, or 3) by other legal means.

21. VENUE AND GOVERNING LAW

This contract and conditions of this contract shall be governed by the laws of the State of California with venue in San Diego County, California.

22. RIGHT TO REPORT MASTER CONTRACT VIOLATIONS

The CONTRACTOR acknowledges and understands that the LEA may report to the CDE any violations of the provisions of this contract; and that may result in the suspension of the CDE nonpublic school certification pursuant to California EC section 56366.4(a).

23. TERMINATION OF MASTER CONTRACT AND/OR INDIVIDUAL SERVICES AGREEMENT

a. Master Contract

Either the LEA or the CONTRACTOR may terminate this Master Contract for cause as set forth in EC section 56366(a)(4), with twenty (20) days written notice pursuant to Section 9 of this contract, or immediately if the CONTRACTOR and LEA mutually agree that there are significant health or safety concerns. Cause shall include but not be limited to nonmaintenance of current nonpublic school certification, failure of either the LEA or the CONTRACTOR to maintain the standards required under the Master Contract and/or Individual Services Agreement, or material breach of the contract by CONTRACTOR or LEA. To terminate the contract either party shall give a minimum of 20 days written notice pursuant to the provisions of Section 9 (Notices) of this contract. Upon termination, the LEA shall pay within 45 days, without duplication, for all services performed and expenses incurred to date of termination according to the provisions set forth in Section 46 (Rate Schedule) and Section 48 (Billing and Payment) of this contract. CONTRACTOR shall provide to the LEA the IEP/IFSP and all related documents in its possession or under its control pertaining to its services, for all pupils of the LEA who were receiving services from the CONTRACTOR in accordance with applicable state and federal laws regarding student records.

b. Individual Services Agreement

The Individual Services Agreement may be terminated or suspended by the LEA or the CONTRACTOR for cause, as set forth in EC section 56366(a)(4), with twenty (20) days written notice pursuant to Section 9 (Notices) of this contract, or immediately if the CONTRACTOR and the LEA mutually agree that there are significant health or safety concerns.

Individual Services Agreements are null and void upon termination of the Master Contract.

The LEA shall not terminate Individual Services Agreements because of the availability of a public class initiated during the course of the contract unless the parent agrees to the transfer of a pupil to a public school program, which agreement must only be given in a duly called and held IEP/IFSP meeting at which the CONTRACTOR is present.

24. NONPUBLIC SCHOOLS ASSOCIATED WITH LICENSED CHILDREN'S INSTITUTIONS (LCIs)

When a nonpublic, nonsectarian school is owned, operated by, or associated with a licensed children's institution, that nonpublic, nonsectarian school shall provide documentation to the LEA that the LCI does not require as a condition of residential placement in the LCI, either of the following: that the student be identified as an individual with exceptional needs per EC 56062 (Health and Safety Code 1501.1(b), EC 56155.7), or that the student attend the nonpublic school associated with the LCI (EC 56366.9). Educational placement of a student in the NPS associated with the LCI may only take place if the LEA determines that alternative educational programs are not available (EC 56366.9).

## C. EDUCATIONAL PROGRAM

### 25. ADMISSION / ENROLLMENT PROCEDURE

Prior to the CONTRACTOR deciding whether or not to enroll a pupil, the LEA shall provide the CONTRACTOR a copy of the pupil's current IEP/IFSP and immunization records. The LEA shall facilitate an observation of the pupil, data gathering from the current or prior education providers, and any other reasonable information gathering CONTRACTOR wishes to undertake prior to making an enrollment decision. The CONTRACTOR retains the right to decline enrollment of any pupil and nothing in this contract shall be construed to limit this right.

If a pupil is being considered for enrollment, his or her IEP/IFSP shall be reviewed in collaboration with the LEA, CONTRACTOR, parents, and other invited participants, as appropriate.

The CONTRACTOR will make a good faith effort to notify the LEA of its decision to decline enrollment within 10 working days based on a review of the application packet. The CONTRACTOR shall notify the LEA of the effective date of enrollment, or decline of enrollment after gathering additional information, as soon as possible in accordance with Section 9 (Notices) of this contract.

### 26. GENERAL PROGRAM OF INSTRUCTION

The Contractor's educational materials, services, and programs will be consistent with the pupil's individualized education program in accordance with Education Code 56366.10. The pupil's IEP/IFSP shall be aligned with the state standards as appropriate to meet the individual pupil's needs. The CONTRACTOR shall utilize materials, methods and instructional time in accordance with the pupil's IEP/IFSP and the Individual Services Agreement. The NPS offers/provides students with access to the following educational materials: for K and grades 1 to 8 inclusive, state-adopted standards-based, core curriculum and instructional materials; for grades 9 to 12, inclusive, standards-based, core curriculum and instructional materials used by any local education agency that contracts with the NPS, nonsectarian school.

The CONTRACTOR's general program of instruction, including its technology plan and descriptions of courses leading to graduation with a diploma, shall be provided electronically and/or in writing and a copy provided to the LEA representative identified in Section 9 (Notices) of this contract prior to the effective date of this contract. The technology plan shall include, but not be limited to, a description of student access to technology as part of the general program of instruction and staff technology training as needed.

If a pupil is of secondary school age, the LEA shall provide a specific list of the course requirements to be satisfied by the CONTRACTOR leading toward the pupil's graduation with a diploma or certificate of completion, and specified performance standards. The CONTRACTOR shall have procedures for record keeping and documentation, and shall maintain high school records to ensure that appropriate high school credits are received, if applicable.

### 27. SUPPLIES AND EQUIPMENT

The CONTRACTOR shall be responsible for providing all standard and usual supplies and equipment it normally provides as part of its general program. A student who may require assistive technology to benefit from his/her special education program shall be referred for an assistive technology evaluation through the LEA. If an individual pupil's IEP/IFSP requires specialized equipment and/or supplies beyond the CONTRACTOR's general program they shall be provided by the LEA unless otherwise specified in the Individual Services Agreement. LEA shall provide the low incidence equipment assigned to the pupil through the IEP/IFSP unless CONTRACTOR specifically agrees in the Individual Services Agreement to provide the low incidence equipment. Supplies and/or equipment purchased and/or provided by the LEA remain the property of the LEA and supplies and/or equipment purchased and/or provided by CONTRACTOR remain the property of CONTRACTOR, if not specifically reimbursed by the LEA for that specific supply or equipment. If the CONTRACTOR provides DIS and/or related services, the

CONTRACTOR shall be responsible for providing usual and reasonable supplies and assessment tools necessary to implement the provision of services unless otherwise agreed in the Individual Services Agreement.

28. INDIVIDUALIZED EDUCATION PROGRAM (IEP) / INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)

When a pupil is accepted for enrollment in a nonpublic school, the CONTRACTOR shall provide the pupil a program of educational instruction and services within the nonpublic school, which is consistent with his or her IEP/IFSP as specified in each pupil's Individual Services Agreement.

The CONTRACTOR shall implement those responsibilities delegated to CONTRACTOR in the plan for transition services (per EC section 56445 and EC section 56462) as stated by the IEP/IFSP.

The CONTRACTOR shall provide an appropriate adult to pupil ratio for pupils with exceptional needs between three and five years of age, in accordance with EC 56441.5.

The LEA shall invite the CONTRACTOR and the CONTRACTOR shall participate in all IEP/IFSP meetings, including those related to placement and those called by the parent in accordance with EC section 56343.5, so long as the pupil is to be served by the CONTRACTOR pursuant to an Individual Services Agreement. The child's present teacher shall participate in the IEP meeting in accordance with EC 56341(b)(3). Every effort shall be made to schedule the meeting at a time and place that is mutually convenient to parents, CONTRACTOR's staff, and LEA's staff.

The local educational agency shall oversee and evaluate the pupil's placement in the NPS through the IEP process. The IEP team shall evaluate whether the pupil is making appropriate educational progress through a review of the student's progress toward IEP goals and, as appropriate, a review of the pupil's scores on state assessments. If the NPS staff or LEA will be making recommendation(s) for significant changes to the student's program, placement or services, the LEA Case Manager and representative of the NPS shall discuss the recommendation(s) prior to the IEP meeting. The IEP team will consider whether or not the needs of the pupil continue to be best met at the nonpublic school, whether changes to the pupil's IEP are necessary, and whether the pupil may be transitioned to a public school setting (EC 56366(a)(2)(B), EC 56343(d), EC 56043(h)). Partial day attendance at the NPS may be appropriate to support transition to a public school program.

29. CALENDAR

By June 1 of each year, the CONTRACTOR shall submit a school calendar to the CUSD Director of Special Education, including daily start and end times, with the total number of billable days not to exceed one hundred and eighty (180) in the regular school year, plus extended school year days as needed. The CONTRACTOR shall observe the following legal holidays including Independence Day, Veteran's Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, Dr. Martin Luther King Jr. Day, President's Day, and Memorial Day, as specified in the CONTRACTOR's official calendar. The CONTRACTOR's calendar may include alternative attendance days, which may be used as long as no pupil exceeds 180 billable days during the regular school year, or the number of days allotted for the extended school year, per that pupil's ISA. The CONTRACTOR shall arrange for transportation on the alternative attendance days.

The CONTRACTOR shall only provide designated instruction and services during: 1) the pupil's regular school year, 2) extended school year program, 3) while providing make-up classes or services, 4) alternative attendance days, and/or 5) as otherwise specified by the pupil's IEP/IFSP. Make-up sessions may be scheduled for other days of school vacations.

30. CREDITABLE DAYS OF ATTENDANCE / INSTRUCTIONAL MINUTES

Creditable days of attendance include days on the school calendar attached hereto, make-up classes or services, or alternative attendance days. Creditable days of attendance are those in which the instructional minutes of the CONTRACTOR meet or exceed those in comparable LEA programs, or those which are established by the pupil's IEP/IFSP, whichever is less (EC Section 46307). The instructional minutes should be reflected in the Individual Services Agreement.

31. FREE APPROPRIATE PUBLIC EDUCATION

No charge of any kind to parents shall be made by the CONTRACTOR for educational activities and related services specified on the pupil's IEP/IFSP, including screening or interviews which occur prior to or as a condition of a pupil's enrollment under the terms of the contract, except as specified in writing in a due process procedure that is signed by all relevant parties and attached to the relevant pupil's Individual Services Agreement, or for voluntary extracurricular activities conducted subsequent to written notification to parents as to the cost and the voluntary and extracurricular nature of the activity. Unless the activity (for example, field trips) takes place during a school vacation or holiday, pupils not participating in such activities shall continue to receive special education and/or related services as set forth in their IEP/IFSPs.

32. "PARENT"

For the purpose of the contract, a parent is the natural parent, adoptive parent, or legal guardian or any other adult granted educational decision-making rights by the natural or adoptive parent or a court of competent jurisdiction. A trained, certified surrogate parent, identified by the LEA, may act on behalf of the pupil if no parent, guardian or person acting as a parent can be located. The LEA shall be responsible for providing a translator for the parent if needed.

33. PARENT VISITS

The CONTRACTOR shall provide for reasonable parental visits to all of the school facilities including, but not limited to, the instructional setting attended by pupils, school and recreational activity areas, and pupil's living quarters for those parents whose pupil resides in the living quarters. The CONTRACTOR shall use its good faith efforts to provide that parental visits are in agreement with a court order, if any.

If CONTRACTOR operates a residential component, CONTRACTOR shall cooperate with parents' reasonable requests for pupil visits in the parents' home during, but not limited to, holidays and weekends. CONTRACTORS operating residential components make the final determination as to whether a request is reasonable and whether it shall be allowed.

34. PUPIL PROGRESS

The CONTRACTOR shall have written procedures in place for measuring progress utilizing on-going data collection in the goal areas identified on the IEP/IFSP.

The CONTRACTOR shall provide to parents and the LEA case manager written pupil progress reports on the goals in the IEP/IFSP, no less than quarterly. The CONTRACTOR shall submit an updated report if there is no current progress report when pupils are scheduled for a review by the IEP/IFSP team or when a pupil's enrollment is terminated.

The CONTRACTOR shall allow periodic review of each pupil's instructional program by the LEA. Representatives of the LEA shall have reasonable access to observe each pupil at work, observe the instructional setting, meet with the CONTRACTOR and review each pupil's progress, including the behavioral intervention plan, if any. LEA representatives making site visits shall initially report to the CONTRACTOR's site administrative office.

At the close of each semester, for a pupil in grades 9, 10, 11, and 12, the CONTRACTOR shall prepare transcripts and submit them to the pupil's LEA in accordance with the notice provisions of Section 9

(Notices) of this contract. The LEA shall monitor the progress of the pupil towards graduation with a diploma or certificate of completion.

35. ASSESSMENTS

a. STATE MANDATED TESTING

Standardized tests shall be administered pursuant to state requirements and local guidelines, as determined by the individual pupil's IEP. For pupils in grades one through twelve, inclusive, the CONTRACTOR shall permit the LEA to administer state and local mandated tests following the LEA testing schedule at the CONTRACTOR's site in accordance with the testing period. By October 1, the LEA shall notify the CONTRACTOR of the LEA testing schedule. By December 1, the CONTRACTOR shall notify the LEA of the designated testing period, which addresses most of the LEA testing schedules. State mandated testing outside the designated testing period shall be administered by the LEA at a location other than the NPS. LEA and CONTRACTOR shall collaborate to minimize the disruption to the educational programs for students caused by the administration of state and local mandated tests. The LEA shall share the results of the state mandated testing with the CONTRACTOR.

b. INDIVIDUAL STUDENT ASSESSMENT

If the CONTRACTOR receives a parent request for evaluation, the CONTRACTOR shall inform the parent of his or her ability to submit a written request for evaluation to the LEA in accordance with applicable law. The LEA shall collaborate with the CONTRACTOR to develop the evaluation plan and submit it to the parent for approval. The LEA retains the responsibility for conducting triennial evaluations (EC 56381(c)).

36. ACCOUNTABILITY

The nonpublic, nonsectarian school shall be subject to the alternative accountability system described in the Public School Performance Accountability Program in the same manner as public schools (EC 56366(a)(8)(A), EC 52052(h)). The NPS shall prepare a school accountability report card, in accordance with state guidelines and requirements (EC 56366(a)(9)). The nonpublic, nonsectarian school shall report the test results to the State Department of Education (EC 56366(a)(8)(A)).

37. STUDENT DISCIPLINE / SUSPENSION / POSITIVE BEHAVIORAL INTERVENTIONS

In accordance with Title 5, Section 3052(i)(2), the Special Education Local Plan Area approves of the policies established by CONTRACTOR on corporal punishment, pupil discipline (including suspensions and notification to LEA of offenses which constitute state-mandated reasons for expulsions), positive behavioral interventions, and emergency behavioral interventions. This approval is contingent upon the CONTRACTOR's policies being in compliance with applicable state and federal laws. This approval also includes the implementation of these policies.

The CONTRACTOR ensures that the site administrator of the nonpublic school is aware of his/her responsibilities and duties with respect to the suspension of pupils in accordance with EC sections 48911(h) and 48911.5. The CONTRACTOR shall send the LEA case manager notice of suspension for any LEA pupil issued such notice.

38. CONFIDENTIALITY OF RECORDS

All reports, records and other documents that CONTRACTOR is required to submit to LEA, the Special Education Local Plan Area, or otherwise, pursuant to this contract, shall be redacted to the extent necessary and appropriate to protect the confidentiality and privacy of pupils, employees, and subcontractors, as provided for pursuant to state and federal law.

39. FORWARDING OF EDUCATIONAL RECORDS

The CONTRACTOR agrees, in the event of school closure, to immediately forward pupil records to the LEA pertaining to the LEA's pupils enrolled in CONTRACTOR's educational program. These records shall include, but need not be limited to, current transcripts, IEP/IFSPs and results of performance testing.

#### **D. PERSONNEL**

##### **40. VERIFICATION OF CREDENTIALS, LICENSES AND OTHER QUALIFICATIONS**

The CONTRACTOR shall provide all contracted special education and/or related services required by the IEP/IFSP, Master Contract and Individual Services Agreement by appropriately qualified staff. The CONTRACTOR shall provide appropriately credentialed teachers and/or licensed personnel consistent with the California laws and regulations unless the California Department of Education has granted a written waiver. The CONTRACTOR shall be responsible for monitoring the status of waiver applications submitted to the state for all non-credentialed teachers and non-licensed service providers. All non-credentialed teachers and non-licensed service providers shall apply for a waiver.

The CONTRACTOR shall be responsible for verification of credentials and licenses held by its employees, agents and subcontractors. Once the CONTRACTOR has provided the LEA with a copy of the credential or license for all staff providing services to children with disabilities, the CONTRACTOR shall supply the LEA with copies of any changes in the credentials or licenses of staff within 45 days of the change in accordance with Title 5, Section 3062.

Where behavior intervention services are provided by a nonpublic school, the CONTRACTOR shall train staff in implementing the behavior support plan or Behavior Intervention Plan and pupils shall receive the level of supervision required in the pupil's IEP/IFSP.

The CONTRACTOR shall comply with all laws and regulations governing the licensed professions, including the provisions with respect to supervision.

##### **41. EMPLOYEE FINGERPRINTS AND TUBERCULOSIS TESTING**

The CONTRACTOR shall ensure that employee fingerprints have been processed in a manner required by EC section 44237. The CONTRACTOR shall maintain a file containing a current certificate of each person covered by Health and Safety Code Sections 121525-121555 (tuberculosis testing).

##### **42. QUALIFICATIONS OF INSTRUCTIONAL AIDES AND TEACHER ASSISTANTS**

Effective July 1, 2001 the CONTRACTOR shall ensure that newly hired instructional aides and teacher assistants have demonstrated proficiency in basic reading, writing, and mathematics skills, based on a test selected and administered by the CONTRACTOR.

##### **43. STAFF ABSENCES**

When a classroom teacher is absent, The CONTRACTOR shall provide appropriate coverage in the absent teacher's classroom in accordance with EC section 56061. The CONTRACTOR shall provide the LEA the documentation of such coverage upon request.

CONTRACTORS who provide nurses, 1:1 aides or 1:1 behavior intervention staff in accordance with an individual student's IEP/IFSP shall provide substitute coverage when the staff member is absent, unless other arrangements have been made with the LEA on a case by case basis.

#### **E. SAFETY**

##### **44. SAFE AND APPROPRIATE ENVIRONMENT**

a. Facilities

The CONTRACTOR shall be responsible for providing facilities in which it provides the services agreed to in the Individual Services Agreement, unless there is written agreement to the contrary. CONTRACTOR shall comply with applicable law with respect to the structural specifications of the facilities in which it provides services.

CONTRACTOR shall comply with all applicable local, county, and/or state ordinances and statutes relating to fire, health, sanitation and building safety.

b. Fire Drills

The CONTRACTOR shall assure that the school has a fire drill, not less than once every calendar month at the elementary and intermediate level and not less than twice yearly at the secondary level.

c. Earthquake Procedures

The CONTRACTOR'S nonpublic school buildings which have an occupant capacity of fifty or more pupils or more than one classroom shall have an established earthquake emergency procedure system including a school building disaster plan; a drop procedure; protective measures to be taken before, during, and following an earthquake; and a program to ensure that the pupils and the certificated and classified staff are aware of and properly trained in the earthquake emergency procedure system.

45. REQUIREMENT TO REPORT

a. Child Abuse or Molestation

The CONTRACTOR shall maintain a signed statement by all personnel required to sign such a statement under the child abuse reporting laws, acknowledging their understanding of the reporting requirements regarding observed or suspected cases of child abuse. When filing a child abuse report under the Child Abuse Reporting laws, the CONTRACTOR shall include in the report the name, telephone number and address of the LEA representative as identified in Section 9 (Notices) of this contract.

b. Missing Students

The CONTRACTOR shall provide that staff is aware of its responsibility and requirement to report to parents, and local law enforcement as appropriate, when a pupil leaves campus without permission, immediately upon confirmation that the pupil is missing, in accordance with EC 49370. The CONTRACTOR shall contact the LEA Case Manager by telephone no later than the end of the day in the event a pupil leaves campus without permission, does not return that school day, and is not located at his or her residence or in the custody of his or her parent or guardian.

c. Student Injury

The CONTRACTOR agrees to complete a written accident report when a pupil has suffered an injury that requires medical attention, and notify the LEA case manager within 48 hours.

The CONTRACTOR agrees to submit an incident report to the LEA case manager by the end of the following school day, in cases of injury resulting from physical restraint or the death of a student. The CONTRACTOR agrees to reasonably participate in any communications between a pupil's parents and the LEA regarding any injuries resulting from physical restraint.

d. Behavioral Emergency Reports

1. All "Emergency Behavior Reports" shall immediately be forwarded to, and reviewed by, a designated responsible administrator pursuant to California Code of Regulations Title 5 Section 3052 subsection (i)(6).



2. Anytime a "Behavioral Emergency Report" is written regarding an individual who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional analysis assessment, and to determine the necessity for an interim behavioral intervention plan (Ed Code Section 3052 (i)(7)). A summary of Behavioral Emergency Reports shall be submitted at least monthly to the LEA and the Director of the Special Education Local Plan Area of which the LEA is a member.

3. CONTRACTOR shall comply with the requirements of Title 5 of the California Code of Regulation sections 3001 (c)-(f) and 3052 (1)(1-8) regarding positive behavior interventions including, but not limited to: the completion of functional analysis assessments; the development, implementation, monitoring, supervision, modification, and evaluation of behavior intervention plans; and emergency interventions. CONTRACTOR shall not authorize, order, consent to, or pay for any of the following prohibited interventions, or any other intervention similar to or like the following: (a) any interventions that is designed to, or likely to, cause physical pain; (b) releasing noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the LEA student's face; (c) any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities; (d) any intervention which is designed to subject, used to subject, or likely to subject the LEA student to verbal abuse, ridicule, or humiliation, or which can be expected to cause excessive emotional trauma; (e) restrictive interventions which employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar technique may be used as a short term emergency intervention by CONTRACTOR's trained and qualified personnel as allowable by applicable law and regulations; (f) locked seclusion except as allowable by applicable law and regulations; (g) any interventions that precludes adequate supervision of individual; and (h) any intervention which deprives the LEA student of one or more of his or her senses, pursuant to California Code of Regulations 3052(1) (1-8).

#### F. FINANCIAL

##### 46. RATE SCHEDULE FOR CONTRACT YEAR

The CONTRACTOR: T.E.R.I. INC & THE COUNTRY SCHOOL

The CONTRACTOR CDS NUMBER: 37-73569-7105075 & 37-73791-6927644

Education service(s) offered by the CONTRACTOR and the charges for such service(s) during the term of this contract, as negotiated by the SDCOE on behalf of the LEAs, shall be as follows:

##### a. General Program Tuition Rate

| 1) <u>Inclusive Education Program -</u><br>(Includes Educational Counseling services,<br>Speech & Language services, Behavior Intervention<br>Planning, and Occupational Therapy as specified on the<br>student's IEP.) | <u>Rate</u>     | <u>Period</u>   |
|---|-----------------|-----------------|
| <u>Basic Education 1:1</u>  | <u>\$235.01</u> | <u>Per diem</u> |
| <u>Basic Education 1:3</u>  | <u>\$165.50</u> | <u>Per diem</u> |
| <u>Basic Education 1:9</u>  | <u>\$125.08</u> | <u>Per diem</u> |
| 2). Non Inclusive Education Program   |                 |                 |
| Describe: _____   | _____           |                 |

b. Individualized Related Services

(That may include, but not be limited to: Transportation, Transportation by the parent, Emergency Transportation, Bus Passes, One to one aide, Physical Therapy, Nursing services and other individualized related services as applicable).

|       |       |       |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

\*Parent transportation reimbursement rates to be set forth in Individual Services Agreements.

47. ATTENDANCE

The CONTRACTOR shall keep original records of each pupil's daily attendance in a register, report, or record with the pupil's absences clearly indicated. The CONTRACTOR shall report attendance monthly, including a cumulative total of excused and unexcused absences for the year to date. The CONTRACTOR shall file the signed copies of such attendance register, report, or record with monthly invoices to the LEA within thirty (30) days of the close of the school month. The CONTRACTOR shall submit separate attendance forms for any and all related services that are provided by the CONTRACTOR that are not a part of the inclusive rate as specified in IEPs/IFSPs. The documents and reports identified in this section shall be provided to LEA pursuant to the provisions in Section 9 (Notices) of this contract.

The CONTRACTOR is responsible for verifying accuracy of said attendance forms and for informing subcontractors of their personal responsibility for the completion and accuracy of said forms. The CONTRACTOR shall meet with LEA representatives, upon reasonable notice, for the purpose of discussing attendance reporting.

a. Excused Absences

The LEA shall be responsible for payment for days that verified pupil excused absence occurs because of the pupil's illness, visits to the doctor or dentist, death in the immediate family, or any other reason set forth in EC section 48205, up to the applicable percentage of the approved instructional days per the individual services agreement for each pupil. The applicable percentage shall be 3.333% of the approved instructional days during the term of this contract. The LEA may agree in writing to pay for additional days of excused absences on a case-by-case basis. LEA is not responsible for payment for a pupil's absences that occur for reasons other than those cited in EC section 48205. To the extent any provision of this section 47(a) conflicts with any other provision of this Agreement, this section 47(a) shall govern.

b. Excused Absences for Transferring Pupils

In the event a pupil transfers from one NPS to another during the term of this contract, that transfer shall not increase the total number of excused absence days to be paid by the LEA. To the extent a transferring pupil's reimbursed excused absences exceed the applicable percentage times the number of approved instructional days at CONTRACTOR's facility as of the effective date of the transfer, CONTRACTOR shall reimburse the LEA for the overpayment within 45 days of the transfer.

**Example.** Assume pupil Jane Doe attends NPS#1 from day 1 through day 113 and amasses 8 Excused Absences, and Jane Doe attends NPS#2 from day 114 through 200 and amasses 7 Excused

Absences. Based on the days of attendance, NPS #1 is only entitled to reimbursement for 3.76 days and therefore, must refund to the LEA any overpayment for excused absences beyond the 3.76 days. NPS#2 is entitled to a maximum of 2.9 days of excused absence reimbursement, and would not be permitted to bill for any amount over 2.9 days of excused absence.

c. Unexcused Absences

If a pupil's absences exceed more than ten unreimbursed days, the CONTRACTOR may notify the LEA of the intent to terminate the Individual Services Agreement and if it does, at the same time it shall request an IEP/IFSP meeting. Said notice shall be provided pursuant to Section 9 (Notices) of this contract. Upon receipt of this request, the LEA shall convene an IEP/IFSP meeting as soon as possible to review the placement, modify the IEP/IFSP if appropriate, or determine another appropriate placement option for the student.

CONTRACTOR shall notify the LEA case manager when a pupil has been absent for 10 consecutive school days. Failure by the CONTRACTOR to notify the LEA case manager within 5 days after the 10th consecutive school day absence shall relieve the LEA of any obligation to pay for any absence beyond the tenth day of absence.

d. Change of Pupil's District of Residence

Within 5 days after the CONTRACTOR confirms that a pupil has changed his or her residence and no longer resides in the LEA, the CONTRACTOR shall notify the LEA, of the change of residence and such notice shall be provided pursuant to Section 9 (Notices) of the contract. Both the LEA and the CONTRACTOR shall notify parents in writing of their obligation to notify the CONTRACTOR of changes of pupil's residence.

e. Parent Withdrawal of Student

The CONTRACTOR shall report by telephone no later than the end of the next school day to the case manager if a pupil is disenrolled from school by the parent. The CONTRACTOR shall confirm such telephone call in writing.

f. Make-up Classes or Sessions, Alternative Attendance Days

Make-up classes or sessions shall be scheduled as soon as possible and no later than within a thirty-day period from the date the services were originally to be provided. Alternative attendance days, if provided by the CONTRACTOR, shall be scheduled within the semester or following the extended year session, during which the services were originally to be provided. All related services shall be provided by the CONTRACTOR during the CONTRACTOR's regular school and extended school calendar days unless otherwise specified on the IEP/IFSP or unless such services or make-up classes are provided on the weekend consistent with EC section 37223 or on alternative attendance days. The LEA shall not be responsible for payment of services for days on which pupil's attendance does not qualify for reimbursement under state law.

48. BILLING AND PAYMENT

a. Invoices

The CONTRACTOR shall submit invoices monthly. The effective date of an invoice shall be the date of the receipt by the LEA. Invoices should clearly reflect rates as specified in the Master Contract, be in accordance with the Individual Services Agreements, and include all days of creditable service, beginning no earlier than the date specified in the Interim Written Approval or ISA. The CONTRACTOR shall submit said invoice for services rendered no later than thirty (30) days from the end of the attendance accounting period calendar month in which said services are actually provided and the invoice shall be submitted pursuant to Section 9 (Notices) of this contract.

b. Late Invoices

If the LEA does not receive a properly submitted invoice within thirty (30) days from the end of the attendance accounting period calendar month, the LEA may deduct 1.5% per month, calculated proportionately per day, of that total invoice, if the LEA does not agree to the request of the CONTRACTOR to an extension of time to submit the invoice.

c. Payment

The LEA shall make payment within forty-five (45) days of receipt of a properly prepared and submitted invoice and such payment shall be submitted pursuant to Section 9 (Notices) of this contract. This payment shall be at the rates agreed to in Section 46 (Rate Schedule) of this contract and shall be in an amount equal to the number of creditable days of attendance during both the regular and extended school years, make-up sessions, and alternative attendance days (including "excused" absences) per the individual services agreement for each pupil. This calculation shall include the Extended School Year if the pupil is enrolled in the Extended School Year, and any other absence for which the LEA has agreed to pay CONTRACTOR and any related services and transportation costs as specified in Section 46 (Rate Schedule) of this contract and in accordance with the Individual Services Agreements. If no notice of withholding is provided to CONTRACTOR within 10 working days of receipt of an invoice, the LEA shall not withhold any payment. Payment by the LEA shall refer to the invoice number or the date of the bill submitted by the CONTRACTOR.

d. Late Payment

If the payment is not postmarked from the LEA within forty-five (45) days of the receipt of the invoice, the LEA agrees to pay an additional fee of 1.5% interest per month on amounts not paid, such interest being calculated beginning day forty-six (46) from receipt of the invoice. Interest shall be calculated in accordance with standard accounting procedures. The CONTRACTOR shall bill the LEA for the interest. Failure by the LEA to pay an appropriately submitted invoice within 90 days of receipt may be considered a breach of contract.

49. RIGHT TO WITHHOLD

The LEA has the right to withhold payment to the CONTRACTOR when the LEA has reliable evidence, described in writing to the CONTRACTOR at the time the notice of withholding is submitted that: (A) service is provided by personnel who are not appropriately credentialed/licensed; (B) records required by the LEA prior to school closure with respect to one or more LEA pupil(s) enrolled in CONTRACTOR's educational program have not been received; (C) the CONTRACTOR confirms a pupil's change of residence to another district but neglects to notify the LEA within 5 days; or (D) the CONTRACTOR fails to notify the LEA within 5 days after the 10<sup>th</sup> consecutive school day of a pupil's absence. If the basis for withholding is subsections (B) (C) or (D) of this section the LEA may only withhold the proportionate amount of the bill related to that pupil. If the basis for withholding is subsection (A) of this section, the LEA may only withhold payment for services provided by that personnel.

The LEA shall notify CONTRACTOR in writing within 10 working days of receipt of an invoice of any reason why requested payment shall not be paid. (EC section 56366.5(a)). Such notice shall specify the basis for the LEA's withholding payment and shall be made pursuant to Section 9 (Notices) of this contract. If no notice of withholding is provided to CONTRACTOR within 10 working days of receipt of an invoice, the LEA shall not withhold any payment. Within fourteen (14) days from the date of receipt of such notice, the CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for the LEA's withholding payment. Upon receipt of the CONTRACTOR'S written request showing good cause sent pursuant to Section 9 (Notices) of this Contract, the LEA shall extend the CONTRACTOR'S time to respond by an additional fourteen days. The CONTRACTOR shall submit rebilling for payment no later than thirty (30) calendar days when an invoice is returned to the CONTRACTOR with a notice of withholding. Upon verification of remediation of identified deficiencies and receipt of rebilling, the LEA shall pay the resubmitted invoice in accordance with Section 46 (Rate Schedule) of this contract. If CONTRACTOR does not resubmit sufficient rebilling or verify remediation

of identified deficiencies within thirty (30) calendar days, that shall constitute a reason to continue to withhold payment unless and until CONTRACTOR resubmits the bill and corrects the deficiencies as noted in the original notice of withholding.

50. INSPECTION AND AUDIT

a. Maintenance of Fiscal Records

The CONTRACTOR shall maintain cost data in sufficient detail to verify the annual operating budget in providing education and designated instructional services to children with disabilities and shall make that data available to the LEA upon reasonable request consistent with the provisions of this section. Fiscal records shall be maintained by the CONTRACTOR for five years and shall be available for audit consistent with the provisions of this section.

b. LEA Access to Documents Related to the Master Contract

The CONTRACTOR shall provide access to, or forward copies of, any documents or other matters relating to the contract within 20 days upon reasonable request by the LEA except as otherwise provided by law. The reason for this request for records shall be provided to the CONTRACTOR at the time it is made. The CONTRACTOR may request from the LEA an extension of time to comply with any records request, which shall not be unreasonably withheld. Such documents may include: 1) registers and roll books of teachers; 2) daily service logs and notes or other documents used to record the provision of related services; 3) absence verification records; 4) transportation records; 5) staff lists specifying credentials held, business and/or professional licenses held documents evidencing other qualifications; 6) dates of hire, and dates of termination; 7) staff time sheets; 8) non-paid volunteer sign-in sheets; 9) related services contracts; 10) school calendars; 11) bell/class schedules; 12) liability and workers' compensation insurance policies; 13) state nonpublic school certifications; 14) marketing materials; 15) statements of income and expenses; 16) general ledgers and supporting documents; 17) all budgetary information and projections submitted by the CONTRACTOR to LEA for purpose of contract negotiations

c. Audit Exceptions

The CONTRACTOR agrees to accept responsibility for receiving, replying to, and/or complying with any audit exceptions identified by appropriate LEA personnel or State or Federal audit agencies occurring as a result of the CONTRACTOR's performance of this contract. The CONTRACTOR also agrees to pay to the LEA within thirty days of demand by LEA for any financial penalties resulting from any audit exceptions to the extent they are attributable to the CONTRACTOR's failure to perform properly any of its obligations under this contract unless the LEA agrees to different terms in writing and any demand by LEA for such payment shall be made pursuant to the notice provisions of Section 9 of this contract. Any and all audit exceptions must be specified in complete detail before any demand by the LEA for any amount set forth therein.

d. Reasons for Unannounced Visits

LEA and/or Special Education Local Plan Area representatives may make unannounced inspections when there is a concern regarding the health, safety, or welfare of a child, or a substantial concern regarding the implementation of the IEP.

e. Quality Review Committee

Upon request, the CONTRACTOR shall provide the LEA with annual program goals and implementation plan. CONTRACTOR will participate in the review of the NPS via the San Diego County Nonpublic School Quality Review process on a four-year cycle. The Quality Review Committee shall make every attempt to coordinate the Quality Review process with the CDE certification review.

The parties hereto have executed this Contract by and through their duly authorized agents or representatives as indicated by their signatures.

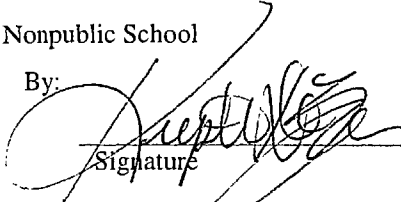
This contract is effective on July 1, 2012 and terminates at 5:00 p.m. on June 30, 2013 unless sooner terminated as provided herein.

CONTRACTOR,

T.E.R.I. Inc. & The Country School

Nonpublic School

By:

 9-21-12  
Signature Date


Krysti DeZonia,

~~Senior Director~~ of Education

Name and Title of Authorized  
Representative

Capistrano Unified School District

By:

 10/10/12  
Signature Date

Sara R. Jocham

Assistant Superintendent, SELPA

Name and Title of Authorized  
Representative



SURPLUS ITEMS LIST  
EQUIPMENT TAG NUMBERS & DESCRIPTION  
September 25, 2013

| Tag No.   | Description  | Justification             |
|-----------|--|---------------------------|
| No Number | Conveyor Belt Stand for<br>Packing Machine model<br>#1225A – 11 ½ feet | Dayton motor not working. |
|           |  |                           |
|           |  |                           |
|           |  |                           |
|           |  |                           |
|           |  |                           |

**Miscellaneous items valued at less than \$2,500 to be declared surplus on a continuing basis throughout the fiscal year.**

Various lots of obsolete computers and electronic related items

Various lots of obsolete garage and tire items

Various lots of obsolete HVAC equipment and supplies

Various lots of obsolete kitchen equipment and related items

Various lots of obsolete lighting fixtures and lamps

Various lots of obsolete plumbing equipment and supplies

Various lots of obsolete tools and parts

Various lots of miscellaneous items determined to be unusable by the District





REVISED  
9-20-13

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

Personnel Activity List Board of Trustees Regular Meeting of September 25, 2013  
Classified Employees

**ACCEPT RESIGNATIONS/TERMINATIONS**

| <u>Name</u>          | <u>Position Title</u>      | <u>Reason</u>    | <u>Original Hire Date</u> | <u>Date of Separation</u> |
|----------------------|----------------------------|------------------|---------------------------|---------------------------|
| 1. Beck, Leanne      | Registrar                  | Other Employment | 04/19/2004                | 09/13/2013                |
| 2. Bush, Stephanie   | Inst Asst-Sp Ed            | Voluntary        | 09/09/2013                | 09/11/2013                |
| 3. Delmege, Suzanne  | Inst Asst-Sp Ed            | Personal         | 01/31/2012                | 06/30/2013                |
| 4. Downum, Joan      | MS Campus Supvr            | Personal         | 01/06/2003                | 08/26/2013                |
| 5. Jaime, Maria      | Student Supvr              | Personal         | 10/27/2009                | 09/17/2013                |
| 6. Johnson, Melissa  | Inst Asst-Sp Ed            | Retirement       | 09/17/1999                | 09/13/2013                |
| 7. Keeler, Joellen   | Inst Asst-Sp Ed Presch     | Personal         | 11/08/2010                | 08/19/2013                |
| 8. Luo, Huey         | Blngl Inst Asst            | Voluntary        | 11/01/2012                | 09/05/2013                |
| 9. Silverton, Ayanna | Inst Asst-Sp Ed            | Relocation       | 11/26/2012                | 10/03/2013                |
| 10. Steliga, Toni    | IF-Sp Ed                   | Retirement       | 10/07/1993                | 10/08/2013                |
| 11. Verdugo, Annie   | Blngl Comm Svcs<br>Liaison | Retirement       | 10/05/1981                | 09/09/2013                |
| 12. Wilson, Esther   | FS Worker                  | Personal         | 03/23/2011                | 09/06/2013                |

**APPROVE EMPLOYMENT**

| <u>Name</u>           | <u>Position-Full Time</u>   | <u>Salary</u>  | <u>Range Step</u> | <u>Effective Date</u> |
|-----------------------|-----------------------------|----------------|-------------------|-----------------------|
| 13. Gutierrez, Rafael | Custodian I<br>(12mo/40hpw) | \$ 2,830.36 mo | R26-1             | 09/16/2013            |

| <u>Name</u>            | <u>Position-Part Time</u>          | <u>Salary</u> | <u>Range Step</u> | <u>Effective Date</u> |
|------------------------|------------------------------------|---------------|-------------------|-----------------------|
| 14. Brownson, Marjorie | Inst Asst-Sp Ed<br>(9.5mo/17.5hpw) | \$14.08 hr    | R20-1             | 09/16/2013            |
| 15. Guthary, Miriam    | Blngl IF-Sp Ed<br>(9.5mo/17.5hpw)  | \$15.54 hr    | R24-1             | 09/26/2013            |
| 16. Moreno, Leticia    | FS Worker<br>(9.5mo/15hpw)         | \$12.75 hr    | R14-2             | 09/26/2013            |
| 17. Vera, Carlos       | IF-Sp Ed<br>(9.5mo/17.5hpw)        | \$14.79 hr    | R22-1             | 09/26/2013            |

| <u>Name</u>           | <u>Recall from Layoff</u>        | <u>Salary</u> | <u>Range Step</u> | <u>Effective Date</u> |
|-----------------------|----------------------------------|---------------|-------------------|-----------------------|
| 18. Abaroa Avila, Luz | Blngl Inst Asst<br>(9.5mo/15hpw) | \$19.34 hr    | R19-10            | 09/26/2013            |
| 19. Alford, Jordan    | Inst Asst<br>(9.5mo/15hpw)       | \$13.74 hr    | R19-1             | 09/26/2013            |

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**APPROVE EMPLOYMENT (Cont.)**

| <u>Name</u>           | <u>Recall from Layoff</u>                               | <u>Salary</u> | <u>Range<br/>Step</u> | <u>Effective<br/>Date</u> |
|-----------------------|---|---------------|-----------------------|---------------------------|
| 20. Avila, Luz Abaroa | Blngl Inst Asst<br>(9.5mo/15hpw)                        | \$19.34 hr    | R21-10                | 09/26/2013                |
| 21. Currie, Kimberly  | MS Campus Supvr<br>(9.5mo/17.5hpw)                      | \$15.92 hr    | R23-2                 | 09/26/2013                |
| 22. Diaz, Martha      | Blng Inst Asst<br>(9.5mo/15hpw)                         | \$20.82 hr    | R21-20                | 09/26/2013                |
| 23. Wade, Veronica    | Blngl Comm Svcs<br>Liaison-Comm Ed ESL<br>(9.5mo/10hpw) | \$14.43 hr    | R21-1                 | 09/26/2013                |

| <u>Name</u>            | <u>Position-Substitute</u>   | <u>Salary</u> | <u>Range<br/>Step</u> | <u>Effective<br/>Date</u> |
|------------------------|------------------------------|---------------|-----------------------|---------------------------|
| 24. Barker, Philip     | Custodian I                  | \$16.33 hr    | R26-1                 | 09/26/2013                |
| 25. Carter, Debra      | Inst Asst-Sp Ed              | \$18.88 hr    | R22-6                 | 09/06/2013                |
| 26. Casica, Anita      | Blngl Elem Sch Clerk         | \$17.57 hr    | R27-2                 | 09/09/2013                |
| 27. Cingari, Joanne    | IF-SpEd                      | \$15.53 hr    | R22-2                 | 08/22/2013                |
| 28. Hernandez, Myrna   | Blngl Elem Sch Office<br>Mgr | \$24.77 hr    | R34-6                 | 08/30/2013                |
| 29. Hickey, Jodi       | Blngl Elem Sch Clerk         | \$16.74 hr    | R27-1                 | 09/09/2013                |
| 30. Hipolite, Nancy    | Inst Asst-Sp Ed              | \$19.81 hr    | R22-10                | 09/06/2013                |
| 31. Ibbotson, Jill     | Office Mgr                   | \$19.41 hr    | R33-1                 | 08/26/2013                |
| 32. Morris, Joseph     | Inst Asst-Sp Ed              | \$14.08 hr    | R20-1                 | 09/26/2013                |
|                        | IF-Sp Ed                     | \$14.79 hr    | R22-1                 |                           |
| 33. Paul, Margaret     | Inst Asst-Sp Ed              | \$20.82 hr    | R22-15                | 09/06/2013                |
| 34. Downum, Joan       | MS Campus Supvr              | \$15.16 hr    | R23-1                 | 08/27/2013                |
| 35. Dunn, John         | School Bus Driver            | \$17.48 hr    | R28-1                 | 09/26/2013                |
| 36. Keeler, Joellen    | Inst Asst-Sp Ed Presch       | \$13.74 hr    | R19-1                 | 09/26/2013                |
| 37. Messer, Jacqueline | Student Supvr                | \$10.00 hr    |                       | 09/26/2013                |
| 38. Santino, Simone    | IA-Sp Ed                     | \$14.08 hr    | R20-1                 | 09/26/2013                |
|                        | IF-Sp Ed                     | \$14.79 hr    | R22-1                 |                           |
| 39. Scordalakes, Erin  | Inst Asst-Sp Ed              | \$18.88 hr    | R22-6                 | 09/06/2013                |
| 40. Wilson, Esther     | FS Worker                    | \$12.14 hr    | R14-1                 | 09/26/2013                |
| 41. Peek, Tiffany      | Student Supvr                | \$10.00 hr    |                       | 09/26/2013                |
| 42. Newman, Natalie    | Student Supvr                | \$10.00 hr    |                       | 09/26/2013                |

| <u>Name</u>       | <u>Position-Short Term</u> | <u>Salary</u> | <u>Effective<br/>Date</u> |
|-------------------|----------------------------|---------------|---------------------------|
| 43. Dunning, Lisa | Student Supvr              | \$10.00 hr    | 09/09/2013                |
| 44. Gunn, Julie   | Student Supvr              | \$10.00 hr    | 09/09/2013                |

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**APPROVE EMPLOYMENT (Cont.)**

| <u>Name</u>          | <u>Position-Short Term</u> | <u>Salary</u> | <u>Effective Date</u> |
|----------------------|----------------------------|---------------|-----------------------|
| 45. Price, Christine | Student Supvr              | \$10.00 hr    | 09/26/2013            |
| 46. Sarkar, Pivali   | Student Supvr              | \$10.00 hr    | 09/09/2013            |
| 47. Thomson, Polly   | Student Supvr              | \$10.00 hr    | 09/26/2013            |

**APPROVE CO-CURRICULAR ASSIGNMENTS**

| <u>Name</u>        | <u>Position</u>  | <u>Location</u> | <u>Salary</u> | <u>Effective Date</u>     |
|--------------------|------------------|-----------------|---------------|---------------------------|
| 48. Sherman, Rocky | Safety Equipment | Aliso Niguel HS | \$ 3,521.00   | 02/04/2013-<br>06/11/2013 |

**APPROVE ASB FUNDED ASSIGNMENTS @ \$10.00 PER UNIT**

| <u>Name</u>           | <u>Position</u>                | <u>Location</u>      | <u>Salary</u> | <u>Effective Date</u>     |
|-----------------------|--------------------------------|----------------------|---------------|---------------------------|
| 49. Allen, Christine  | Instrumental Music             | Newhart MS           | \$ 3,000.00   | 09/09/2013-<br>06/24/2014 |
| 50. Alonzo, Catherine | Instrumental Music             | Newhart MS           | \$ 3,500.00   | 09/09/2013-<br>06/24/2014 |
| 51. Arhin, Kojo       | Football,<br>Varsity (Asst)    | Tesoro HS            | \$ 3,478.00   | 08/30/2013-<br>11/08/2013 |
| 52. Bialik, AJ        | Water Polo,<br>Boys (Asst)     | Dana Hills HS        | \$ 3,000.00   | 08/21/2013-<br>11/08/2013 |
| 53. Biehl, Erica      | Cross Country,<br>Girls (Asst) | Capistrano Valley HS | \$ 2,200.00   | 09/14/2013-<br>11/01/2013 |
| 54. Braun, Tyler      | Volleyball,<br>Girls (Asst)    | Dana Hills HS        | \$ 3,300.00   | 08/21/2013-<br>11/06/2013 |
| 55. Curtis, Brad      | Football,<br>(Asst)            | Aliso Niguel HS      | \$ 3,000.00   | 09/26/2013-<br>11/07/2013 |
| 56. Dimaggio, Brad    | Football,<br>(Asst)            | Aliso Niguel HS      | \$ 1,800.00   | 09/26/2013-<br>11/07/2013 |
| 57. Ellerby, Michael  | Instrumental Music             | Newhart MS           | \$ 4,500.00   | 09/09/2013-<br>06/24/2014 |
| 58. Ellis, Donnie     | Football,<br>(Asst)            | Aliso Niguel HS      | \$ 1,800.00   | 09/26/2013-<br>11/07/2013 |
| 59. Esses, Erin       | Instrumental Music             | Newhart MS           | \$ 3,000.00   | 09/09/2013-<br>06/24/2014 |

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**APPROVE ASB FUNDED ASSIGNMENTS @ \$10.00 PER UNIT (Cont.)**

| <u>Name</u>             | <u>Position</u>                 | <u>Location</u> | <u>Salary</u> | <u>Effective Date</u>     |
|-------------------------|---------------------------------|-----------------|---------------|---------------------------|
| 60. Hallam, Johnny      | Football,<br>(Asst)             | Aliso Niguel HS | \$ 1,800.00   | 09/26/2013-<br>11/07/2013 |
| 61. Huntley, Mike       | Football,<br>(Asst)             | Aliso Niguel HS | \$ 1,800.00   | 09/26/2013-<br>11/07/2013 |
| 62. Johnson, Edmond     | Basketball,<br>Girls            | Aliso Niguel HS | \$ 1,700.00   | 08/26/2013-<br>09/09/2013 |
| 63. LaMasa, Joe         | SOCSA                           | Dana Hills HS   | \$ 1,800.00   | 09/09/2013-<br>06/24/2013 |
| 64. Leigh, Alexander    | SOCSA                           | Dana Hills HS   | \$ 1,000.00   | 09/09/2013-<br>06/24/2014 |
| 65. Linnebach, Linda    | SOCSA                           | Dana Hills HS   | \$ 900.00     | 09/09/2013-<br>06/24/2014 |
| 66. Ludwig, Ann         | Instrumental Music              | Newhart MS      | \$ 2,000.00   | 09/09/2013-<br>06/24/2014 |
| 67. McGinnis, Jeff      | Drum Line                       | San Clemente HS | \$ 4,000.00   | 08/15/2013-<br>06/30/2014 |
| 68. McIntosh, Casey     | Football,<br>(Asst)             | San Clemente HS | \$ 1,300.00   | 08/12/2013-<br>11/08/2013 |
| 69. Morse, Dan          | Instrumental Music              | Newhart MS      | \$ 3,500.00   | 09/09/2013-<br>06/24/2014 |
| 70. Post, Randy         | Volleyball,<br>Girls            | Dana Hills HS   | \$ 1,600.00   | 07/15/2013-<br>08/17/2013 |
| 71. Post, Randy         | Volleyball,<br>Girls            | Dana Hills HS   | \$ 1,600.00   | 07/15/2013-<br>08/17/2013 |
| 72. Reidling, Keeran    | SOCSA                           | Dana Hills HS   | \$ 1,600.00   | 09/09/2013-<br>06/24/2014 |
| 73. Renden, Tim         | Water Polo,<br>Boys (Asst)      | Dana Hills HS   | \$ 3,000.00   | 08/21/2013-<br>11/08/2013 |
| 74. Settles, Jennifer   | Volleyball,<br>Freshman (Asst)  | Aliso Niguel HS | \$ 1,500.00   | 08/26/2013-<br>11/01/2013 |
| 75. Settles, Jennifer   | Volleyball,<br>Girls, JV (Head) | Aliso Niguel HS | \$ 3,500.00   | 08/19/2013-<br>11/01/2013 |
| 76. Shahrestani, Mahnaz | Registration                    | Aliso Niguel HS | \$ 500.00     | 08/19/2013-<br>08/30/2013 |
| 77. Shellhorn, Annette  | Colorguard                      | San Clemente HS | \$ 6,000.00   | 09/05/2013-<br>06/24/2014 |
| 78. Simone, Santino     | Football,<br>Varsity (Asst)     | Dana Hills HS   | \$ 3,500.00   | 09/10/2013-<br>11/08/2013 |
| 79. Sterret, Jeffrey    | Colorguard                      | San Clemente HS | \$ 8,000.00   | 08/15/2013-<br>06/30/2014 |

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**APPROVE ASB FUNDED ASSIGNMENTS @ \$10.00 PER UNIT (Cont.)**

| <u>Name</u>          | <u>Position</u>             | <u>Location</u>      | <u>Salary</u> | <u>Effective Date</u>     |
|----------------------|-----------------------------|----------------------|---------------|---------------------------|
| 80. Stewart, Mark    | Football,<br>(Asst)         | Aliso Niguel HS      | \$ 1,800.00   | 09/26/2013-<br>11/07/2013 |
| 81. Stuart, Cris     | Choreographer               | Capistrano Valley HS | \$ 800.00     | 07/01/2013-<br>06/30/2014 |
| 82. Talley, Bobby    | Cross Country,<br>(Asst)    | Aliso Niguel HS      | \$ 3,000.00   | 08/26/2013-<br>11/01/2013 |
| 83. Thompson, Justin | Tennis,<br>Girls (Asst)     | Capistrano Valley HS | \$ 2,200.00   | 09/14/2013-<br>11/01/2013 |
| 84. Vleisides, Leo   | Tennis,<br>Girls Frosh/Soph | San Clemente HS      | \$ 2,100.00   | 08/05/2013-<br>10/25/2013 |
| 85. Watkins, Dan     | Football,<br>(Asst)         | Aliso Niguel HS      | \$ 3,000.00   | 09/26/2013-<br>11/07/2013 |
| 86. Wilford, Brent   | Football,<br>(Asst)         | Aliso Niguel HS      | \$ 3,000.00   | 09/26/2013-<br>11/07/2013 |
| 87. Wilson, Anna     | SOCSA                       | Dana Hills HS        | \$ 1,000.00   | 09/09/2013-<br>06/24/2014 |
| 88. Arhin, Kojo      | Football,<br>Varsity (Asst) | Tesoro HS            | \$            |                           |

**APPROVE EMPLOYMENT PENDING CLEARANCES**

| <u>Name</u>       | <u>Position-Full Time</u>        | <u>Salary</u> | <u>Range Step</u> | <u>Earliest Effective Date</u> |
|-------------------|----------------------------------|---------------|-------------------|--------------------------------|
| 89. Arce, Melissa | Account Clerk II<br>(12mo/40hpw) | \$3,047.99 mo | R29-1             | 09/26/2013                     |

| <u>Name</u>         | <u>Position-Part Time</u>          | <u>Salary</u> | <u>Range Step</u> | <u>Earliest Effective Date</u> |
|---------------------|------------------------------------|---------------|-------------------|--------------------------------|
| 90. Donnowitz, Matt | MS Campus Supvr<br>(9.5mo/15hpw)   | \$15.16 hr    | R23-1             | 09/26/2013                     |
| 91. Loy, Daphne     | Blngl Inst Asst<br>(9.5mo/17.5hpw) | \$14.43 hr    | R21-1             | 09/26/2013                     |
| 92. Radek, Theresa  | Inst Asst-Comm Ed<br>(9.5mo/8hpw)  | \$13.74 hr    | R19-1             | 09/26/2013                     |
| 93. Swartz, Brian   | HS Campus Supvr<br>(9.5mo/17.5hpw) | \$15.93 hr    | R25-1             | 09/26/2013                     |

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**APPROVE EMPLOYMENT PENDING CLEARANCES (Cont.)**

| <u>Name</u>               | <u>Position-Part Time</u>          | <u>Salary</u> | <u>Range Step</u> | <u>Earliest Effective Date</u> |
|---------------------------|------------------------------------|---------------|-------------------|--------------------------------|
| 94. Webb, Kevin           | HS Campus Supvr<br>(9.5mo/17.5hpw) | \$15.93 hr    | R25-1             | 09/26/2013                     |
| 95. Wu, Hairui            | Blngl Inst Asst<br>(9.5mo/17.5hpw) | \$14.43 hr    | R21-1             | 09/26/2013                     |
| <u>Name</u>               | <u>Position-Substitute</u>         | <u>Salary</u> | <u>Range Step</u> | <u>Earliest Effective Date</u> |
| 96. Effenberger, Patricia | Blngl Clerk                        | \$15.93 hr    | R25-1             | 09/26/2013                     |

**APPROVE PROMOTION**

| <u>Name</u>        | <u>Former Position</u>          | <u>Promotion</u>                    | <u>Range Step</u> | <u>Effective Date</u>     |
|--------------------|---------------------------------|-------------------------------------|-------------------|---------------------------|
| 97. Whitney, Merit | Mgr III, Transp<br>(12mo/40hpw) | Director IV, Transp<br>(Temp/40hpw) | R58-1             | 09/03/2013-<br>10/06/2013 |

**APPROVE ASSIGNMENT ADJUSTMENTS**

| <u>Name</u>              | <u>Former Position</u>          | <u>Assignment Adjustment</u>     | <u>Range Step</u> | <u>Effective Date</u> |
|--------------------------|---------------------------------|----------------------------------|-------------------|-----------------------|
| 98. Adams, Kara          | IF-Sp Ed<br>(9.5mo/30hpw)       | IF-Sp Ed<br>(9.5mo/32.5hpw)      | R22-4             | 09/26/2013            |
| 99. Bernstein, Alexandra | IF-Sp Ed<br>(9.5mo/17.5hpw)     | IF-Sp Ed<br>(9.5mo/30hpw)        | R22-1             | 09/26/2013            |
| 100. Graden, Olga        | Student Supvr<br>(9.5mo/10hpw)  | Student Supvr<br>(9.5mo/12.5hpw) |                   | 09/09/2013            |
| 101. Jarbo, Nicole       | IF-Sp Ed<br>(9.5mo/17.5hpw)     | IF-Sp Ed<br>(9.5mo/30hpw)        | R22-6             | 09/26/2013            |
| 102. White, Mary         | Student Supvr<br>(9.5mo/9.5hpw) | Student Supvr<br>(9.5mo/10hpw)   |                   | 09/09/2013            |

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**APPROVE TEMPORARY ADDITIONAL ASSIGNMENT**

| <u>Name</u>            | <u>Additional<br/>Assignment</u>                           | <u>Range<br/>Step</u> | <u>Effective<br/>Date</u> |
|------------------------|--|-----------------------|---------------------------|
| 103. Brown, Nancy      | Testing Asst<br>TAA NTE 275 hrs (Provide CELDT test)       | R19-1                 | 09/01/2013-<br>12/20/2013 |
| 104. Carolenas, Gloria | Testing Asst<br>(TAA NTE 200 hrs (Provide CELDT test)      | R19-1                 | 09/01/2013-<br>12/20/2013 |
| 105. Gallego, Marina   | Testing Asst<br>TAA NTE 250 hrs (Provide CELDT test)       | R19-1                 | 09/01/2013-<br>12/20/2013 |
| 106. Gomez, Lydia      | Testing Asst<br>TAA NTE 250 hrs (Provide CELDT test)       | R19-1                 | 09/01/2013-<br>12/20/2013 |
| 107. Micalizzi, Tracy  | Testing Asst<br>TAA NTE 200 hrs (Provide CELDT test)       | R19-1                 | 09/01/2013-<br>12/20/2013 |
| 108. Regan, Mary       | Testing Asst<br>TAA NTE 250 hrs (Provide CELDT test)       | R19-1                 | 09/01/2013-<br>12/20/2013 |
| 109. Shupe, Deborah    | Testing Asst – ELD<br>TAA NTE 150 hrs (Provide CELDT test) | R19-1                 | 09/01/2013-<br>12/30/2013 |
| 110. Tullie, Carol     | Testing Asst<br>TAA NTE 275 hrs (Provide CELDT test)       | R19-1                 | 09/01/2013-<br>12/20/2013 |

**APPROVE TEMPORARY ADDITIONAL ASSIGNMENT  
PAY AT REGULAR RATE OF PAY**

| <u>Name</u>                        | <u>Additional<br/>Assignment</u>  | <u>Effective<br/>Date</u> |
|------------------------------------|---|---------------------------|
| 111. Aguilar de Ponce,<br>Maricela | Student Supvr<br>TAA NTE 5 hpw (Provide childcare during the ESL parent<br>evening classes)     | 09/16/2013-<br>06/24/2014 |
| 112. Forino, Paula                 | Health Asst<br>TAA NTE 10 hrs (Assit with setting up health office)                             | 09/03/2013-<br>09/30/2013 |
| 113. Martinez, Zonia               | Blng Comm Svcs Liaison<br>TAA NTE 40 hrs (Support registration and back-to-school<br>readiness) | 08/16/2013-<br>09/30/2013 |
| 114. Ming, Alma                    | School Clerk II<br>TAA NTE 128 hrs (Assist with school opening)                                 | 08/12/2013-<br>08/30/2013 |



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**APPROVE SUBSTITUTE ASSIGNMENT AS NEEDED  
FOR VACANT POSITION OR ABSENT EMPLOYEE**

| <u>Name</u>           | <u>Current<br/>Position</u>     | <u>Position<br/>Sub As Needed</u> | <u>Range<br/>Step</u> | <u>Effective<br/>Date</u> |
|-----------------------|---------------------------------|-----------------------------------|-----------------------|---------------------------|
| 115. Czajkowski, Lori | MS Campus Supvr<br>(9.5mo/3hpw) | Opportunity Asst                  | R24-3                 | 09/09/2013                |

**APPROVE LEAVES OF ABSENCE**

| <u>Name</u>            | <u>Reason</u> | <u>Effective<br/>Date</u> |
|------------------------|---------------|---------------------------|
| 116. Engelhardt, Nancy | Personal      | 10/14/2013-<br>12/13/2013 |
| 117. Hayes, Alejandra  | Personal      | 10/20/2013-<br>12/01/2013 |
| 118. Stratford, Jon    | Personal      | 01/01/2014-<br>04/30/2014 |

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**ACCEPT RESIGNATIONS/TERMINATIONS**

| <u>Name</u>                   | <u>Position Title</u> | <u>Reason</u>         | <u>Original Hire Date</u> | <u>Date of Separation</u> |
|-------------------------------|-----------------------|-----------------------|---------------------------|---------------------------|
| 1. Backus, Paul               | Substitute Teacher    | Other Employment      | 10/09/2012                | 06/30/2013                |
| 2. Bronson, Patricia          | Teacher               | Temp Contract Expired | 01/18/2007                | 09/25/2013                |
| 3. Denoewer, Lori             | Speech Pathologist    | Personal              | 12/11/2012                | 09/27/2013                |
| 4. Dunlap, James              | Teacher               | Voluntary             | 09/05/2013                | 09/17/2013                |
| 5. El-Sokkary, Shannon        | Substitute Teacher    | Other Employment      | 03/08/2007                | 06/30/2013                |
| 6. Engle, Jennifer            | Substitute Teacher    | Other Employment      | 09/12/2013                | 09/13/2013                |
| 7. Frank, Lori                | Teacher               | Temp Contract Expired | 01/31/2013                | 09/25/2013                |
| 8. Garrett, Nancy             | Substitute Teacher    | Relocation            | 08/07/2002                | 06/30/2013                |
| 9. Gray, Margaret             | Substitute Teacher    | Other Employment      | 12/15/2011                | 06/30/2013                |
| 10. Heathco, Jill             | Substitute Teacher    | Personal              | 10/01/2002                | 06/30/2013                |
| 11. Leakey, Cynthia           | Substitute Teacher    | Other Employment      | 09/12/2013                | 06/18/2013                |
| 12. Leppla, Alicia            | Substitute Teacher    | Other Employment      | 09/12/2013                | 09/16/2013                |
| 13. Lewis-Mahoney, Michelle   | Substitute Teacher    | Other Employment      | 02/10/2011                | 09/06/2013                |
| 14. Messina-Kleinman, Deborah | Teacher               | Temp Contract Expired | 04/25/2013                | 09/25/2013                |
| 15. Serrato, Diana            | Substitute Teacher    | Other Employment      | 09/12/2013                | 09/13/2013                |
| 16. Tibbits, Therese          | Substitute Teacher    | Other Employment      | 07/23/2013                | 09/09/2013                |
| 17. Welch, Karen              | Substitute Teacher    | Voluntary             | 11/07/2003                | 06/30/2013                |

**APPROVE EMPLOYMENT**

| <u>Name</u>           | <u>1st Year Temporary</u> | <u>Annual Salary</u> | <u>Column/ Step</u> | <u>Effective Date</u> |
|-----------------------|---------------------------|----------------------|---------------------|-----------------------|
| 18. Flowers, Jaime    | Intervention Spec         | \$48,899             | A-1                 | 09/18/2013            |
| 19. Kim-Saad, Jessica | Teacher                   | \$48,899             | A-1                 | 09/16/2013            |
| 20. Marble, Julie     | Intervention Spec         | \$48,899             | A-1                 | 09/19/2013            |
| 21. Martinez, Amber   | Teacher                   | \$48,899             | A-1                 | 09/10/2013            |
| 22. Mascio, Robert    | Teacher                   | \$48,899             | A-1                 | 09/16/2013            |
| 23. Sanchez, Lidia    | Teacher                   | \$48,899             | A-1                 | 09/26/2013            |

**APPROVE HOME/HOSPITAL TEACHERS**

Pay @ \$66.85 hourly per diem rate

24. Sturdevant-Brown, Lori

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**APPROVE SUBSTITUTE TEACHERS**

Pay @ \$90.00 per day

- |                         |                           |
|-------------------------|---------------------------|
| 25. Abbott, Rachel      | 40. Kumaus, Danielle      |
| 26. Ackerman, Michaela  | 41. McCarroll, Robert     |
| 27. Barnhill, Michael   | 42. Mesholzadeh, Raquel   |
| 28. Beneventi, Jennifer | 43. Mihalvevich, David    |
| 29. Beneventi, Jennifer | 44. O'Donovan, Kelli      |
| 30. Brophy, Erin        | 45. Parry, Lorie          |
| 31. Bulic, Bianca       | 46. Powley, Sun           |
| 32. Calahan, Michael,   | 47. Quirk, John           |
| 33. Caouette, Sandra    | 48. Ruziecki, Brittney    |
| 34. Carman, Dayna       | 49. Schneiderman, Pamela  |
| 35. Carnahan, Gail      | 50. Schwartzburg, Heather |
| 36. Collins, Sarah      | 51. Shelton, Bethany      |
| 37. Deushane, Nance     | 52. Ure, Tristen          |
| 38. Hummel, Ellen       | 53. Warren, Michelle      |
| 39. James, Colin        | 54. Webb, Megan           |

**APPROVE 6/5<sup>th</sup> ASSIGNMENT 1<sup>st</sup> SEMESTER**

- |                          |                           |
|--------------------------|---------------------------|
| 55. Albelo, Rafael       | 77. Coppes, Paul          |
| 56. Arena, Franco        | 78. Cosenzam, Brandon     |
| 57. Austin, Hope         | 79. Cummings, Laurie      |
| 58. Avera, Stephanie     | 80. Cunninham, Craig      |
| 59. Baker, John          | 81. Davis, Stacy          |
| 60. Barragan, Zeke       | 82. Delanty, Lynn         |
| 61. Benstead-Frome, Lori | 83. Delcamp, James        |
| 62. Bleidistel, Deanna   | 84. Easton, Alexandra     |
| 63. Borges, Esther       | 85. Erickson, Michael     |
| 64. Boyle, Jeanette      | 86. Ezratty, Lisa         |
| 65. Brooks, Michael      | 87. Famalette, Dwyann     |
| 66. Brown, Angela        | 88. Fossum, Nolan         |
| 67. Buckman, Andrea      | 89. Frommholz, Eric       |
| 68. Burch, Jessica       | 90. Gant, Tina            |
| 69. Busenkell, William   | 91. Gerhard, Dru          |
| 70. Butler, Peter        | 92. Gosselin, Eric        |
| 71. Carlisle, John       | 93. Gottdank, Alex        |
| 72. Carr, Marian         | 94. Hackstadt, P. Michael |
| 73. Chance, Peter        | 95. Hall, David           |
| 74. Chapman, Mike        | 96. Hanson, Craig         |
| 75. Colwell, Greg        | 97. Harnett, Patrick      |
| 76. Compean, Laura       | 98. Hendrix, Sherida      |

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

Personnel Activity List Board of Trustees Regular Meeting of September 25, 2013  
Certificated Employees

**APPROVE 6/5<sup>th</sup> ASSIGNMENT 1<sup>st</sup> SEMESTER (Cont.)**

- |                           |                         |
|---------------------------|-------------------------|
| 99. Huerta, Eduardo       | 126. Rodriguez, George  |
| 100. Jansen, Bob          | 127. Rosser, John       |
| 101. Jeung, Albert        | 128. Ruhlen, Richard    |
| 102. Jobst, Shelly        | 129. Satterlee, Robin   |
| 103. Junco, Maria         | 130. Schniepp, Jeff     |
| 104. Kaneshiro, Reid      | 131. Schreiber, Ryan    |
| 105. Kent, Diane          | 132. Schwartzberg, Jake |
| 106. Kipe, Cecily         | 133. Sink, Scott        |
| 107. Kokx, Aaron          | 134. Skinner, Phil      |
| 108. Levy, Matthew        | 135. Stirtz, Phil       |
| 109. McCoy, Matt          | 136. Summers, Robert    |
| 110. McElroy, Dean        | 137. Takach, Eric       |
| 111. Middlebrook, Stacy   | 138. Theurer, Todd      |
| 112. Mortazavi, Jasmin    | 139. Threadgill, Ethan  |
| 113. Murphy, Kelli        | 140. Tinker, James      |
| 114. Neeve, Peter         | 141. Tong, Marlen       |
| 115. O'Rourke, Patrick    | 142. Tribe, Joshua      |
| 116. Okura, Kristen       | 143. Vigus, Dave        |
| 117. Oliphant, Rob        | 144. Ward, Robbin       |
| 118. Olsen, Shirley       | 145. Waterman, Chuck    |
| 119. Pinon, Ryan          | 146. Weinstein, Dave    |
| 120. Price, Emily         | 147. Westling, Kurt     |
| 121. Prinz, Jeff          | 148. Whitmore, Linda    |
| 122. Ray, Keri            | 149. Williamson, Nancy  |
| 123. Reiland, Christopher | 150. Woods, Marnie      |
| 124. Riem, Michelle       | 151. Wright, Cyndi      |
| 125. Rigby, Michael       |                         |

**APPROVE 6/5<sup>th</sup> ASSIGNMENT 1<sup>st</sup> SEMESTER**

09/09/2013-09/13/2013

- |                           |                      |
|---------------------------|----------------------|
| 152. Chavez-Rock, Barbara | 154. Sepe, Christina |
| 153. O'Brien, Douglas     |                      |

**APPROVE SPECIAL EDUCATION 6/5<sup>th</sup> ASSIGNMENT-FULL YEAR**

155. McGraw, Elizabeth

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

Personnel Activity List Board of Trustees Regular Meeting of September 25, 2013  
Certificated Employees

**APPROVE ASSIGNMENT ADJUSTMENT**

| <u>Name</u>                    | <u>Previous<br/>Assignment</u> | <u>New<br/>Assignment</u> | <u>Effective<br/>Date</u> |
|--------------------------------|--------------------------------|---------------------------|---------------------------|
| 156. Akbarzadeh, Heather       | Teacher-80%                    | Teacher-100%              | 09/06/2013                |
| 157. Allen, Joan               | Teacher-100%                   | ETAP II                   | 07/01/2013                |
| 158. Andreasen, Amy            | Teacher-60%                    | Teacher-80%               | 09/09/2013                |
| 159. Cooper, Pamela            | Teacher-100%                   | ETAP I-50%                | 09/06/2013-<br>02/07/2014 |
| 160. Garcia-Serrato,<br>Martha | ETAP I                         | Teacher-100%              | 09/06/2013                |
| 161. Gonzalez, Shari           | Teacher-100%                   | ETAP I                    | 07/01/2013                |
| 162. Green, Justin             | Teacher-100%                   | STAP I                    | 07/01/2013                |
| 163. Guarino, Jody             | Teacher-100%                   | Teacher-80%               | 09/06/2013                |
| 164. Imsland, Tracey           | Psychologist-100%              | ETAP I                    | 07/01/2013                |
| 165. Johnson, Robert           | Teacher-100%                   | ETAP I                    | 07/01/2013                |
| 166. Johnson, Robert           | Teacher-100%                   | ETAP I-50%                | 09/06/2013-<br>02/07/2014 |
| 167. Kubly, Troy               | Teacher-100%                   | ETAP I                    | 07/01/2013                |
| 168. LaRue, Rich               | Teacher-100%                   | STAP I                    | 07/01/2013                |
| 169. Loudy, Pamel              | Teacher-100%                   | ETAP I-50%                | 09/06/2013-<br>02/07/2014 |
| 170. Martin, Roberta           | Teacher-100%                   | ETAP I-50%                | 09/06/2013-<br>02/07/2014 |
| 171. Martinez Ramirez,<br>Saul | RTAP II                        | ETAP II                   | 09/06/2013                |
| 172. McFaul, Maribeth          | Teacher-80%                    | Teacher-60%               | 09/06/2013                |
| 173. Moser, Nathan             | Teacher-60%                    | Teacher-80%               | 09/05/2013                |
| 174. Nasiri, Roza              | Teacher-80%                    | Teacher-100%              | 09/06/2013                |
| 175. Newton, Kelly             | Teacher-100%                   | ETAP I                    | 07/01/2013                |
| 176. Platt, Caroline           | Teacher-100%                   | ETAP I                    | 07/01/2013                |
| 177. Solk, Alissa              | Teacher-LOA                    | Teacher-100%              | 09/06/2013                |
| 178. Stratford, Diana          | Teacher-100%                   | ETAP I                    | 07/01/2013                |
| 179. Wentzel, Kory             | Teacher-100%                   | ATAP II                   | 09/09/2013                |

**APPROVE PART-TIME EMPLOYMENT WITH FULL RETIREMENT CREDIT**

| <u>Name</u>          | <u>Previous<br/>Assignment</u> | <u>New<br/>Assignment</u> | <u>Effective<br/>Date</u> |
|----------------------|--------------------------------|---------------------------|---------------------------|
| 180. Quirk, Julianne | Teacher-50%                    | Teacher-50%               | 07/01/2013                |

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

Personnel Activity List Board of Trustees Regular Meeting of September 25, 2013  
Certificated Employees

**APPROVE PARTNERSHIP TEACHING ASSIGNMENTS 2013-2014**

| <u>Name</u>            | <u>School</u> | <u>Assignment</u> |
|------------------------|---------------|-------------------|
| 181. Brooks, Teresa    | Castille      | 40%               |
| 182. Regan, Alison     | Castille      | 60%               |
| 183. Lybrand, Jennifer | Oak Grove     | 80%               |
| 184. Yoshida, Jennifer | Oak Grove     | 20%               |
| 185. Tarui, Ester      | Tijeras Creek | 50%               |
| 186. West, Lelia       | Tijeras Creek | 50%               |

**APPROVE ADDITIONAL ASSIGNMENTS**

Pre-Assessments for incoming Kindergarten Students – Multiple Sites

Not to exceed 8 hours instructional pay @ \$35.00 per hour  
08/22/2013-09/05/2013

|                              |                        |
|------------------------------|------------------------|
| 187. Allard, Kristi          | 196. Johnson, Barbara  |
| 188. Brown-Little, Kellie    | 197. Murphy, Cynthia   |
| 189. DeMille, Kim            | 198. Neill, Kellie     |
| 190. Dewitt-Fleischman, Mary | 199. Ramirez, Michelle |
| 191. Eltiste, Ellen          | 200. Ridgway, Damon    |
| 192. Fontanes, Sarah         | 201. Rose, Stephany    |
| 193. Gregerson, Bridget      | 202. Smith, Catherine  |
| 194. Guilbert, Geralyn       | 203. Stamen, Barbara   |
| 195. Hudelson, Kelli         |                        |

Textbook Distribution and Inventory – Chaparral Elem

Not to exceed 17 hours non-instructional pay @ \$30.00 per hour  
08/26/2013-06/30/2014

204. Russell, Sheryl

Curricular Planning – Ladera Ranch ES

Not to exceed 8 hours non-instructional pay @ \$ 30.00 per hour  
09/09/2013-09/20/2013

|                       |                       |
|-----------------------|-----------------------|
| 205. Brown, Amy       | 207. Keith, Brooks    |
| 206. Iverson, Brandye | 208. Torres, Jennifer |

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

Personnel Activity List Board of Trustees Regular Meeting of September 25, 2013  
Certificated Employees

**APPROVE ADDITIONAL ASSIGNMENTS (Cont.)**

Grade Level Lead – San Juan ES

Not to exceed 20 hours non-instructional pay @ \$30.00 per hour  
09/06/2013-06/24/2014

|                             |                      |
|-----------------------------|----------------------|
| 209. Garcia-Serrato, Martha | 212. Sandoval, Rocio |
| 210. Hamidi, Luz            | 213. Twail, Gracie   |
| 211. Martinez-Ramirez, Saul | 214. Ward, Yesenia   |

Noon Time Sports – Vista Del Mar MS

Not to exceed 33 hours non-instructional pay @ \$30.00 per hour  
09/09/2013-06/23/2014

215. Yanaura, Mark

6<sup>th</sup> Grade Technology and Orientation Academy – Vista Del Mar MS

Not to exceed 45 hours instructional pay @ \$35.00 per hour  
08/12/2013-08/23/2013

216. Yanaura, Mark

Link Crew Supervisory Duties – Aliso Niguel HS

Not to exceed 28.4 hours instructional pay @ \$35.00 per hour  
08/26/2013-09/09/2013

|                  |                 |
|------------------|-----------------|
| 217. Biggs, Paul | 219. Rose, Erin |
| 218. Croix, Nora |                 |

After School Tutorial – San Clemente HS

Not to exceed 215 hours instructional pay @ \$35.00 per hour  
09/09/2013-06/24/2014

|                        |                        |
|------------------------|------------------------|
| 220. Cain, Joshua      | 225. Proodian, David   |
| 221. Kaneshiro, Reid   | 226. Satterlee, Robin  |
| 222. Lewis, Ann        | 227. Shick, Allison    |
| 223. Nguyen, Dang      | 228. Willey, Elizabeth |
| 224. O'Rourke, Patrick |                        |

Advisor for Speech/Debate Students – Tesoro HS

Not to exceed 31.25 hours instructional pay @ \$35.00 per hour  
09/06/2013-06/25/2014

229. Mooney, Mark

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

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Certificated Employees

**APPROVE ADDITIONAL ASSIGNMENTS (Cont.)**

Advisor for Mock Trial – Tesoro HS

Not to exceed 31.25 hours instructional pay @ \$35.00 per hour  
09/06/2013-06/25/2014

230. Beukema, John

SBRC Task Force – Education Division

Not to exceed 3 hrs non-instructional pay @ \$30.00 per hour  
09/01/2013-09/10/2013

231. Johnson, Carter

233. White, Sally

232. Sykes, Marie

234. Wiseman, Holly

**APPROVE CO-CURRICULAR ASSIGNMENTS**

| <u>Name</u>           | <u>Position</u>      | <u>Location</u>   | <u>Salary</u>          | <u>Effective Date</u>     |
|-----------------------|----------------------|-------------------|------------------------|---------------------------|
| 235. Adlparvar, Cindy | Outdoor Science Camp | Arroyo Vista Elem | \$ 109.00<br>per night | 02/14/2013-<br>02/21/2013 |
| 236. Cropley, Jason   | Outdoor Science Camp | Oak Grove Elem    | \$ 109.00<br>per night | 05/20/2014-<br>05/23/2014 |
| 237. Cutkomp, Tom     | Outdoor Science Camp | Arroyo Vista Elem | \$ 109.00<br>per night | 02/14/2013-<br>02/21/2013 |
| 238. Kruse, Michelle  | Outdoor Science Camp | Arroyo Vista Elem | \$ 109.00<br>per night | 02/14/2013-<br>02/21/2013 |

**APPROVE ASB FUNDED ASSIGNMENTS @ \$10.00 PER UNIT**

| <u>Name</u>           | <u>Position</u>       | <u>Location</u>      | <u>Salary</u> | <u>Effective Date</u>     |
|-----------------------|-----------------------|----------------------|---------------|---------------------------|
| 239. Cintas, Heather  | Comedy Sports Advisor | Capistrano Valley HS | \$ 1,200.00   | 09/09/2013-<br>06/24/2014 |
| 240. Dollar, Chris    | Golf,<br>Girls (Asst) | Capistrano Valley HS | \$ 2,200.00   | 09/14/2013-<br>11/01/2013 |
| 241. Forster, Glenn   | Golf,<br>Girls (Asst) | Dana Hills HS        | \$ 2,500.00   | 08/21/2013-<br>10/25/2013 |
| 242. Garrity, Timothy | Webmaster             | Capistrano Valley HS | \$ 5,500.00   | 07/01/2013-<br>06/30/2014 |
| 243. Girard, Erin     | Choral Director       | Capistrano Valley HS | \$1,000.00    | 09/09/2013-<br>06/24/2014 |



CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

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**APPROVE ASB FUNDED ASSIGNMENTS @ \$10.00 PER UNIT (Cont.)**

| <u>Name</u>         | <u>Position</u>           | <u>Location</u>      | <u>Salary</u> | <u>Effective Date</u> |
|---------------------|---------------------------|----------------------|---------------|-----------------------|
| 244. Hadley, Jamie  | Asst Director/Chaperone   | Capistrano Valley HS | \$ 800.00     | 09/09/2013-06/24/2014 |
| 245. Landino, Craig | Videographer/Set Director | Capistrano Valley HS | \$ 1,700.00   | 09/09/2013-06/24/2014 |
| 246. Wade, Steve    | Music                     | Dana Hill HS         | \$ 2,000.00   | 07/01/2013-09/01/2013 |
| 247. Waldukat, Andy | Musical Director          | Capistrano Valley HS | \$ 1,000.00   | 09/09/2013-06/24/2014 |
|                     | Band Camp Advisor         |                      | \$ 3,500.00   | 06/26/2013-09/03/2013 |

**APPROVE LEAVES OF ABSENCE**

| <u>Name</u>         | <u>Reason</u> | <u>Effective Date</u> |
|---------------------|---------------|-----------------------|
| 248. Stone, Michael | CTA Position  | 2013/2014             |

CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

September 25, 2013

**RECOMMENDATION OF SECOND AMENDMENT TO  
EMPLOYMENT AGREEMENT FOR SUPERINTENDENT  
JULY 1, 2013 – JUNE 30, 2014**

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**BACKGROUND INFORMATION**

On June 27, 2013, the State of California adopted a new state funding model for public schools. The Local Control Funding Formula (LCFF) is significantly different than the current base revenue system. As a result, the state has informed districts that the actual funding formulas will not be available until the 2014-2015 school year. In addition, full implementation of LCFF is expected to be phased in over the next eight years. Increased revenues at the state level, combined with this revised school funding formula, marks a turning point for the District, which has made over \$140 million dollars in budget cuts over the previous five years. Just as the state is transitioning into a new funding formula, this year will also be a transitional period for the District as it begins to restore programs and services. In order to assist in this transition, employees have agreed to compensation concessions.

In alignment with the CUMA employment agreement, it is appropriate that the second amendment to the employment agreement for the Superintendent also achieve this objective; therefore, the amendment includes seven furlough days.

**CURRENT CONSIDERATIONS**

The purpose of this agenda item is to seek approval of the Second Amendment to the Employment Agreement for the Superintendent.

**FINANCIAL IMPLICATIONS**

The total estimated fiscal impact of this agreement is a savings to the District of approximately \$7,793 for the 2013-2014 fiscal year.

**STAFF RECOMMENDATION**

It is recommended the Board approve the Second Amendment to the Employment Agreement for the Superintendent.



CAPISTRANO UNIFIED SCHOOL DISTRICT  
San Juan Capistrano, California

September 25, 2013

**RECOMMENDATION OF SECOND AMENDMENT TO  
EMPLOYMENT AGREEMENT FOR  
DEPUTY SUPERINTENDENT, BUSINESS SERVICES  
JULY 1, 2013 – JUNE 30, 2014**

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**BACKGROUND INFORMATION**

On June 27, 2013, the State of California adopted a new state funding model for public schools. The Local Control Funding Formula (LCFF) is significantly different than the current base revenue system. As a result, the state has informed districts that the actual funding formulas will not be available until the 2014-2015 school year. In addition, full implementation of LCFF is expected to be phased in over the next eight years. Increased revenues at the state level, combined with this revised school funding formula, marks a turning point for the District, which has made over \$140 million dollars in budget cuts over the previous five years. Just as the state is transitioning into a new funding formula, this year will also be a transitional period for the District as it begins to restore programs and services. In order to assist in this transition, employees have agreed to compensation concessions.

In alignment with the CUMA employment agreement, it is appropriate that the second amendment to the employment agreement for the Deputy Superintendent, Business Services also achieve this objective; therefore, the amendment includes seven furlough days.

**CURRENT CONSIDERATIONS**

The purpose of this agenda item is to seek approval of the Second Amendment to the Employment Agreement for the Deputy Superintendent, Business Services.

**FINANCIAL IMPLICATIONS**

The total estimated fiscal impact of this agreement is a savings to the District of approximately \$5,142 for the 2013-2014 fiscal year.

**STAFF RECOMMENDATION**

It is recommended the Board approve the Second Amendment to the Employment Agreement for the Deputy Superintendent, Business Services.

