



**BOARD OF TRUSTEES  
REGULAR BOARD MEETING**

**Board of Trustees**  
Joyce Dalessandro  
Linda Friedman  
Barbara Groth  
Beth Hergesheimer  
Deanna Rich

**Superintendent**  
Ken Noah

**Union High School District**

**THURSDAY, NOVEMBER 12, 2009  
6:30 PM**

**DISTRICT OFFICE BOARD ROOM 101  
710 ENCINITAS BLVD, ENCINITAS, CA. 92024**

*Welcome to the meeting of the San Dieguito Union High School District Board of Trustees.*

**PUBLIC COMMENTS**

If you wish to speak regarding an item on the agenda, please complete a blue slip located at the sign-in desk and present it to the Secretary to the Board prior to the start of the meeting. When the Board President invites you to the podium, please state your name, address, and organization before making your presentation.

Persons wishing to address the Board on any school-related issue not elsewhere on the agenda are invited to do so under the "Public Comments" item. If you wish to speak under Public Comments, please follow the same directions (above) for speaking to agenda items. Complaints or charges against an employee are not permitted in an open meeting of the Board of Trustees.

In the interest of time and order, presentations from the public are limited to three (3) minutes per person, per topic. The total time for agenda and non-agenda items shall not exceed twenty (20) minutes. An individual speaker's allotted time may not be increased by a donation of time from others in attendance.

In accordance with the Brown Act, unless an item has been placed on the published agenda, there shall be no action taken. The Board may 1) acknowledge receipt of the information, 2) refer to staff for further study, or 3) refer the matter to the next agenda.

**PUBLIC INSPECTION OF DOCUMENTS**

In compliance with Government Code 54957.5, agenda-related documents that have been distributed to the Board less than 72 hours prior to the Board Meeting will be available for review on the district website, [www.sduhsd.net](http://www.sduhsd.net), and/or at the district office. Please contact the [Office of the District Superintendent](#) for more information.

**CONSENT CALENDAR**

All matters listed under Consent are those on which the Board has previously deliberated or which can be classified as routine items of business. An administrative recommendation on each item is contained in the agenda supplements. There will be no separate discussion of these items prior to the time the Board of Trustees votes on the motion unless members of the Board, staff, or public request specific items to be discussed or pulled from the Consent items. To address an item on the consent calendar, please follow the procedure described under *Comments on Agenda Items*.

**CLOSED SESSION**

The Board will meet in Closed Session to consider qualified matters of litigation, employee negotiations, student discipline, employee grievances, personnel qualifications, or real estate negotiations which are timely.

**CELL PHONES/PAGERS**

As a courtesy to all meeting attendees, please set cellular phones and pagers to silent mode and engage in conversations outside the meeting room.

In compliance with the Americans with Disabilities Act, if you need special assistance, disability-related modifications, or accommodations, including auxiliary aids or services, in order to participate in the public meetings of the District's Governing Board, please contact the [Office of the District Superintendent](#). Notification 72 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accommodation and accessibility to this meeting. Upon request, the District shall also make available this agenda and all other public records associated with the meeting in appropriate alternative formats for persons with a disability.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
BOARD OF TRUSTEES  
REGULAR BOARD MEETING**

**AGENDA**

**THURSDAY, NOVEMBER 12, 2009  
6:30 PM**

**DISTRICT OFFICE BOARD ROOM 101  
710 ENCINITAS BLVD., ENCINITAS, CA. 92024**

**PRELIMINARY FUNCTIONS ..... (ITEMS 1 – 6)**

- 1. CALL TO ORDER; PUBLIC COMMENTS REGARDING CLOSED SESSION ITEMS ..... 5:45 PM
- 2. **CLOSED SESSION** ..... **5:46 PM**
  - A. To consider personnel issues, pursuant to Government Code Sections 11126 and 54957; limited to consideration of the appointment, employment, evaluation of performance, discipline /release, dismissal of a public employee or to hear *complaints or charges brought against such employee by another person or employee unless the employee requests a public session.*
  - B. To conference with Labor Negotiators, pursuant to Government Code Section 54957.8.  
Agency Negotiators: Superintendent and Associate Superintendents (3)  
Employee Organizations: San Dieguito Faculty Association / California School Employees Association
  - C. To conference with legal counsel to discuss current and/or potential litigation, pursuant to Government Code Sections 54956.9(b)(3)(A), (D), and (E). *Trunfio v San Dieguito Union High School District, Case # 37-2007-00051311-CU-PO-NC*
  - D. Consideration and/or deliberation of student discipline matters. (2 cases)

**3. REGULAR MEETING / OPEN SESSION ..... 6:30 PM**

- 4. PLEDGE OF ALLEGIANCE
- 5. REPORT OUT OF CLOSED SESSION
- 6. APPROVAL OF MINUTES / OCTOBER 15, 2009; BOARD MEETING AND OCTOBER 28, 2009 BOARD WORKSHOP  
  
Motion by \_\_\_\_\_, second by \_\_\_\_\_, to approve the Minutes of the October 15<sup>th</sup> and October 28<sup>th</sup> Board Meetings, as shown in the attached supplement.

**NON-ACTION ITEMS ..... (ITEMS 7 - 10)**

- 7. STUDENT BOARD REPORTS AND UPDATES ..... STUDENT BOARD
- 8. BOARD REPORTS AND UPDATES ..... BOARD OF TRUSTEES
- 9. SUPERINTENDENT’S REPORTS, BRIEFINGS AND LEGISLATIVE UPDATES..... KEN NOAH
- 10. SCHOOL SITE UPDATE, ADULT EDUCATION ..... DENISE STANLEY, PRINCIPAL

**CONSENT AGENDA ITEMS ..... (ITEMS 11 - 15)**

Upon invitation by the President, anyone who wishes to discuss a Consent Item should come forward to the lectern, state his/her name and address, and the Consent Item number.

**11. SUPERINTENDENT**

A. ACCEPTANCE OF GIFTS AND DONATIONS

Accept the Gifts and Donations, as shown in the attached supplement.

B. APPROVAL OF FIELD TRIP REQUESTS

Approve all Field Trip Requests submitted, as shown in the attached supplement.

**12. HUMAN RESOURCES**

A. APPROVAL OF PERSONNEL REPORTS

Approve matters pertaining to employment of personnel, salaries, leaves of absence, resignations, changes in assignments, extra duty assignments, and consultant services:

1. Certificated and/or Classified Personnel Reports, as shown in the attached supplements.

**13. EDUCATIONAL SERVICES**

A. APPROVAL/RATIFICATION OF AGREEMENTS

No Agreements Submitted

**14. PUPIL SERVICES**

A. APPROVAL/RATIFICATION OF NON-PUBLIC SCHOOL / NON-PUBLIC AGENCY CONTRACTS

Approve entering into the following non-public school/non-public agency master contracts, to be funded by the General Fund/Restricted 06-00, and authorize Christina M. Bennett, Eric R. Dill or Stephen G. Ma to execute all pertinent documents pertaining to this contract, contingent upon receipt of the signed documents and verification of insurance coverage:

1. Bridges Educational Corporation, during the period September 1, 2009 through June 30, 2010.
2. Summerhill School, Inc., during the period October 26, 2009 through June 30, 2010.

B. APPROVAL/RATIFICATION OF AGREEMENTS

Approve/ratify entering into the following agreements and authorize Christina M. Bennett, Eric R. Dill, Stephen G. Ma, or Ken Noah to execute the agreements:

1. Dwayne Lizar to provide audiological and speech/language pathology services, during the period October 1, 2009 to June 30, 2010, at the rate of \$125.00 per hour, to be expended from the General Fund/Restricted 06-00.

C. APPROVAL/RATIFICATION OF PARENT SETTLEMENT AND RELEASE AGREEMENT

No Agreements Submitted

**15. BUSINESS**

A. APPROVAL/RATIFICATION OF AGREEMENTS

Approve/ratify entering into the following agreements and authorize Christina M. Bennett, Eric R. Dill, Stephen G. Ma, or Ken Noah to execute the agreements:

1. School Services of California, Inc. to provide the District with fiscal and mandated cost claims services and the CADIE and SABRE reports, during the period January 1, 2010

through December 31, 2010, for an amount not to exceed \$3,720.00 plus expenses, to be expended from the General Fund 03-00.

2. Carmel Valley Recreation Center for lease of facilities for Carmel Valley Middle School off-campus PE classes, during the period September 8, 2009 through December 18, 2009, for an amount not to exceed \$1,386.00, to be expended from the General Fund 03-00.
3. Ericka Moore to conduct dance workshops and create choreography for the La Costa Canyon High School Dance Club, during the period November 13, 2009 through December 15, 2009, for an amount not to exceed \$500.00, to be expended from the General Fund 03-00 and partially reimbursed by a grant from the City of Carlsbad.
4. Faith Jensen-Ismay to conduct dance workshops and create choreography for the La Costa Canyon High School Dance Club, during the period November 13, 2009 through December 15, 2009, for an amount not to exceed \$700.00, to be expended from the General Fund 03-00 and partially reimbursed by a grant from the City of Carlsbad.
5. Brianna Wood to conduct dance workshops and create choreography for the La Costa Canyon High School Dance Club, during the period November 13, 2009 through December 15, 2009, for an amount not to exceed \$300.00, to be paid for by ASB Funds.
6. Carmel Valley Recreation Center for lease of facilities for San Dieguito Adult School classes, during the period November 13, 2009 through January 29, 2010, for an amount not to exceed \$1,327.50, to be expended from the Adult Education Fund 11-00.
7. American Red Cross, San Diego/Imperial Counties Chapter to provide CPR & AED training and certification for the ROP Health Care Essentials class at San Dieguito Academy, on November 9, 2009, for an amount not to exceed \$1,800.00, to be expended from the General Fund 03-00.

B. APPROVAL/RATIFICATION OF AMENDMENT TO AGREEMENTS

No Amendments Submitted

C. AWARD/RATIFICATION OF CONTRACTS

No Contracts Submitted

D. APPROVAL OF CHANGE ORDERS

Approve Change Order No. 1 to the following projects, and authorize Christina M. Bennett, Eric R. Dill or Stephen G. Ma to execute the change orders:

1. Miscellaneous Site Improvements at Canyon Crest Academy project B2010-03, contract entered into with Ted Company, extending the contract time by 73 calendar days and decreasing the contract amount by \$3,514.88.

E. ACCEPTANCE OF CONSTRUCTION PROJECTS

Accept the following construction projects as complete, pending the completion of a punch list, and authorize the administration to file a Notice of Completion with the County Recorders' Office:

1. Miscellaneous Site Improvements at Canyon Crest Academy project B2010-03, contract entered into with Ted Company.

F. ADOPTION OF RESOLUTION / DEFERRED COMPENSATION PLAN AND TAX SHELTERED ANNUITY PLAN

Adopt the attached resolution approving the San Dieguito Union High School District 457(b) Deferred Compensation Plan and San Dieguito Union High School District 403(b) Tax Sheltered Annuity Plan, which are for the benefit of Plan participants, and shall at all times, conform with the applicable federal and state statutory requirements, and authorizes the Associate Superintendent, Business Services or designee, or his or her successor, as District 457(b) Plan Administrator and 403(b)/TSA Plan Administrator, and further authorizes him or

her to implement and manage the Plans and to enter into other contracts or agreements which he or she deems necessary or proper to administer the Plans.

G. APPROVAL OF BUSINESS REPORTS

Approve the following business reports:

- 1. Purchase Orders
- 2. Instant Money
- 3. Membership Listing

**ROLL CALL VOTE FOR CONSENT AGENDA..... (ITEMS 11 - 15)**

- |                         |   |
|-------------------------|---|
| _____ Joyce Dalessandro | _____ Jordan Bernard, La Costa Canyon High School |
| _____ Linda Friedman    | _____ Kaden Strong, Sunset High School            |
| _____ Barbara Groth     | _____ Allie Jucha, San Dieguito Academy           |
| _____ Beth Hergesheimer | _____ Nick Lawson, Canyon Crest Academy           |
| _____ Deanna Rich       | _____ Allison Yamamoto, Torrey Pines High School  |

**DISCUSSION / ACTION ITEMS ..... (ITEMS 16 – 18)**

16. APPROVAL OF SECOND AMENDMENT TO FUNDING AND MITIGATION AGREEMENT / PARDEE HOMES  
Motion by \_\_\_\_\_, second by \_\_\_\_\_, to approve the Second Amendment to the Funding and Mitigation Agreement with Pardee Homes, regarding the terms and conditions of acquisition of a junior high school site in Pacific Highlands Ranch, effective October 19, 2009, and authorize Stephen G. Ma to execute the agreement.

17. ADOPTION OF RESOLUTION DEDICATING INTEREST IN REAL PROPERTY / VERIZON WIRELESS / TPHS

A. PUBLIC HEARING

B. Motion by \_\_\_\_\_, second by \_\_\_\_\_, to adopt the attached Resolution Dedicating an Interest in Real Property to Verizon Wireless (VAW) LLC over an easement to construct, operate, repair, and replace facilities consisting of underground utility lines, cables and conduits along the eastern edge of Torrey Pines High School campus.

\*18.ADOPTION OF RESOLUTION / SOLAR PROJECTS / CANYON CREST ACADEMY & LA COSTA CANYON HIGH SCHOOLS

A. PUBLIC HEARING / ENERGY SERVICE CONTRACT

B. Motion by \_\_\_\_\_, second by \_\_\_\_\_, to adopt the Resolution of the Board of Trustees of the San Dieguito Union High School District; Authorizing the Issuance by the San Dieguito Public Facilities Authority of Lease Revenue Bonds; Authorizing an Energy Service Contract; Distribution of an Official Statement and Taking Certain Other Actions related thereto, as shown in the attached supplement.

*\*IMMEDIATELY FOLLOWING ACTION ON THIS ITEM, THE BOARD WILL ADJOURN TEMPORARILY AND SUMMON A MEETING OF THE SAN DIEGUITO PUBLIC FACILITIES AUTHORITY, THEN RECONVENE AND CONTINUE THE REGULAR MEETING (ITEMS 20 THROUGH 26), AS FOLLOWS:*

**INFORMATION ITEMS..... (ITEMS 19 – 26)**

19. SAN DIEGUITO UNION HIGH SCHOOL DISTRICT STRATEGIC PLAN

This item is being submitted for first read and will be resubmitted for Board action on December 10, 2009.

20. SINGLE PLAN FOR STUDENT ACHIEVEMENT

This item is being submitted for first read and will be resubmitted for Board action on December 10, 2009.

21. CSBA DELEGATE ASSEMBLY NOMINATIONS, 2010

Review of CSBA Delegate Assembly Nomination Procedures for 2010, as shown in the attached supplement. This item is being presented for first read and will be resubmitted for Board action on December 10, 2009.

22. PUBLIC COMMENTS

In accordance with the Brown Act, unless an item has been placed on the published agenda, there shall be no action taken. The Board may 1) acknowledge receipt of the information, 2) refer to staff for further study, or 3) refer the matter to the next agenda. (See Board Agenda Cover Sheet)

23. FUTURE AGENDA ITEMS

24. ADJOURNMENT TO CLOSED SESSION (AS NECESSARY)

**CLOSED SESSION** (if required)

- A. To consider personnel issues, pursuant to Government Code Sections 11126 and 54957; limited to consideration of the appointment, employment, evaluation of performance, discipline/release, dismissal of a public employee or to hear *complaints or charges brought against such employee by another person or employee unless the employee requests a public session.*
- B. Conference with Labor Negotiators, pursuant to Government Code Section 54957.8.  
Agency Negotiators: Superintendent and Associate Superintendents (3)  
Employee Organizations: San Dieguito Faculty Association / California School Employees Association
- C. To conference with legal counsel to discuss current and/or potential litigation, pursuant to Government Code Sections 54956.9(b)(3)(A), (D), and (E). *Trunfio v San Dieguito Union High School District, Case # 37-2007-00051311-CU-PO-NC*
- D. Consideration and/or deliberation of student discipline matters. (2 cases)

25. REPORT FROM CLOSED SESSION (AS NECESSARY)

26. ADJOURNMENT OF MEETING

*The next regularly scheduled Board Meeting will be held on [Thursday, December 10, 2009, at 6:30 PM](#) in the SDUHSD District Office Board Room 101. The District Office is located at 710 Encinitas Blvd., Encinitas, CA, 92024.*

ITEM 6



**MINUTES**  
**OF THE**  
**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**BOARD OF TRUSTEES**  
**REGULAR BOARD MEETING**

**Board of Trustees**  
Joyce Dalessandro  
Linda Friedman  
Barbara Groth  
Beth Hergesheimer  
Deanna Rich  
  
**Superintendent**  
Ken Noah

Telephone (760) 753-6491  
www.sduhsd.net

**Office of the Superintendent**  
Fax (760) 943-3501

**OCTOBER 15, 2009**

**710 ENCINITAS BLVD**  
**ENCINITAS, CA 92024**

**DISTRICT OFFICE**  
**BOARD ROOM #101**

**PRELIMINARY FUNCTIONS ..... (ITEMS 1 - 6)**

**1. CALL TO ORDER; PUBLIC COMMENTS REGARDING CLOSED SESSION ITEMS ..... (ITEM 1)**

President Dalessandro called the meeting to order at 6:00 PM to receive public comments on Closed Session agenda items. No public comments were presented.

**2. CLOSED SESSION..... (ITEM 2)**

The Board convened to Closed Session at 6:01 PM to:

- A. Consider personnel issues, pursuant to Government Code Sections 11126 and 54957; limited to consideration of the appointment, employment, evaluation of performance, discipline /release, dismissal of a public employee or to hear *complaints or charges brought against such employee by another person or employee unless the employee requests a public session.*
- B. Conference with Labor Negotiators, pursuant to Government Code Section 54957.8.  
Agency Negotiators: Superintendent and Associate Superintendents (3)  
Employee Organizations: San Dieguito Faculty Association and/or California School Employees Association
- C. Conference with legal counsel to discuss current and/or potential litigation, pursuant to Government Code Sections 54956.9(b)(3)(A), (D), and (E). (1 case)

**OPEN SESSION / ATTENDANCE**

BOARD OF TRUSTEES

Joyce Dalessandro  
Linda Friedman  
Barbara Groth  
Beth Hergesheimer  
Deanna Rich

STUDENT BOARD MEMBERS

Jordan Bernard, La Costa Canyon High School  
Allie Jucha, San Dieguito Academy  
Nick Lawson, Canyon Crest Academy  
Allison Yamamoto, Torrey Pines High School

DISTRICT ADMINISTRATORS

Ken Noah, Superintendent  
Terry King, Associate Superintendent, Human Resources  
Steve Ma, Associate Superintendent, Business  
Rick Schmitt, Associate Superintendent, Educational Services  
MaryAnne Nuskin, Principal, Diegueno Middle School  
John Addleman, Director, Planning and Financial Management  
Russ Thornton, Executive Director, Operations  
Joann Schultz, Recording Secretary

ITEM 6

- 3. CALL TO ORDER ..... (ITEM 3)  
The regular meeting of the Board of Trustees was called to order at 6:35 PM by President Dalessandro.
- 4. PLEDGE OF ALLEGIANCE ..... (ITEM 4)  
Ms. Yamamoto led the Pledge of Allegiance.
- 5. REPORT OUT OF CLOSED SESSION ..... (ITEM 5)  
The Board took no action during closed session.
- 6. APPROVAL OF MINUTES ..... (ITEM 6)  
It was moved by Mrs. Friedman, seconded by Mr. Lawson, that the Minutes of the October 1, 2009 Board Meeting be approved as written. **Motion unanimously carried.**

**NON-ACTION ITEMS** .....(ITEMS 7 - 10)

- 7. STUDENT BOARD REPRESENTATIVES ..... (ITEM 7)  
All Student Board Representatives gave updates on events and activities at their schools.
- 8. BOARD OF TRUSTEES UPDATES AND REPORTS..... (ITEM 8)  
Mrs. Dalessandro attended the North City West JPA meeting, the Achievement Gap Task Force meeting, and the Torrey Pines Mini Grant Night.  
Mrs. Hergesheimer attended a San Dieguito Alliance for Drug Free Youth meeting, SDFA Welcome Back Night, Strategic Planning Committee Meeting, and Torrey Pines Mini Grant Night.  
Mrs. Friedman, Mrs. Groth and Mrs. Rich gave no reports.
- 9. SUPERINTENDENT’S REPORTS, BRIEFINGS AND LEGISLATIVE UPDATES ..... (ITEM 9)  
Superintendent Noah gave no report.
- 10. DIEGUENO MIDDLE SCHOOL UPDATE .....MARYANNE NUSKIN, PRINCIPAL  
Principal Nuskin highlighted exciting events occurring on campus this year regarding academic excellence, staff development and student connections.

**CONSENT AGENDA ITEMS** ..... (ITEMS 11 – 15)

It was moved by Ms. Jucha, seconded by Mrs. Hergesheimer, that all consent agenda items listed below be approved as presented. **Motion unanimously carried.**

**11. SUPERINTENDENT**

- A. ACCEPTANCE OF GIFTS AND DONATIONS  
Accept the Gifts and Donations, as presented.
- B. APPROVAL OF FIELD TRIP REQUESTS  
Approve all Field Trip Requests submitted, as presented.

**12. HUMAN RESOURCES**

- A. APPROVAL OF PERSONNEL REPORTS  
Approve matters pertaining to employment of personnel, salaries, leaves of absence, resignations, changes in assignments, extra duty assignments, and consultant services:
  - 1. Certificated and/or Classified Personnel Reports, as presented.



ITEM 6

**13. EDUCATIONAL SERVICES**

A. APPROVAL/RATIFICATION OF AGREEMENTS

No Agreements Submitted

**14. PUPIL SERVICES**

A. APPROVAL/RATIFICATION OF NON-PUBLIC SCHOOL / NON-PUBLIC AGENCY CONTRACTS

No Agreements Submitted

B. APPROVAL/RATIFICATION OF AGREEMENTS

Approve/ratify entering into the following agreements and authorize Christina M. Bennett, Eric R. Dill, Stephen G. Ma, or Ken Noah to execute the agreements:

1. Interpreters Unlimited, for language interpreting services, during the period of July 1, 2009 to June 30, 2010, at the rate of \$49.00 up to \$140.00 per hour, to be expended from the General Fund/Restricted 06-00.

C. APPROVAL/RATIFICATION OF PARENT SETTLEMENT AND RELEASE AGREEMENT

No Agreements Submitted

**15. BUSINESS**

A. APPROVAL/RATIFICATION OF AGREEMENTS

Approve/ratify entering into the following agreements and authorize Christina M. Bennett, Eric R. Dill, Stephen G. Ma, or Ken Noah to execute the agreements:

1. San Dieguito Union High School District Transportation Yard to provide vehicle inspection and maintenance on the YMCA of San Diego County for Magdalena Ecke Family YMCA transportation buses, during the period October 1, 2009 through September 30, 2010, with the option to renew for two additional one year periods, amount billed by each individual job performed and to be reimbursed by the YMCA.
2. Magdalena Ecke Family YMCA for lease of facilities for Earl Warren Middle School and San Dieguito Academy off-campus PE classes, during the period September 1, 2009 through June 18, 2010, for an amount not to exceed \$2,200.00 per semester, to be expended from the General Fund 03-00 and partially reimbursed by the Athletic Boosters and Parent Associations.
3. Lawrence Family Jewish Community Center for lease of facilities for the Torrey Pines High School Swim Team and Water Polo Team, during the period September 8, 2009 through June 30, 2010, at the rate of \$66.00 per hour, to be expended from the Torrey Pines High School Foundation.
4. St. Peter's Episcopal Church for lease of facilities for the San Dieguito Adult Education Life Story Writing class, during the period August 25, 2009 through June 30, 2010, for an amount not to exceed \$800.00, to be expended from Adult Education Fund 11-00.
5. CQF, Inc. dba California Quivers to provide 10 oz California Quivers product (frozen fruit ice) at Torrey Pines High School, at the rate of \$1.04 per 10 oz serving, during the period August 25, 2009 through June 12, 2010, to be expended from the Cafeteria Fund 13-00.
6. San Dieguito Union High School District Nutrition Services Department to prepare student meals for Bethlehem Community Child Care, during the period August 1, 2009 through June 30, 2010, with the option to renew for four additional one year periods, for an amount of \$2.85 per meal ordered.

ITEM 6

B. APPROVAL/RATIFICATION OF AMENDMENT TO AGREEMENTS

Approve/ratify amending the following agreements and authorize Christina M. Bennett, Eric R. Dill or Stephen G. Ma to execute the agreements:

1. Roesling Nakamura Terada Architects, Inc. to reduce the scope of work for the Relocatable Building Quad at San Dieguito Academy project, thus reducing the project fee to \$54,593.00, and extending the contract term through November 30, 2009, to be expended from the Capital Facilities Fund 25-19.

C. AWARD/RATIFICATION OF CONTRACTS

No Contracts Submitted

D. APPROVAL OF CHANGE ORDERS

Approve Change Order No. 1 to the following projects, and authorize Christina M. Bennett, Eric R. Dill or Stephen G. Ma to execute the change orders:

1. Earl Warren Middle School Covered Walkways as Specified in Chula Vista Elementary School District Piggyback Agreement #06-07-2 Contract B2009-29, contract entered into with National Carport Industries, Inc., extending the contract time by 64 calendar days and decreasing the contract amount by \$2,150.00.
2. Biotech Classroom Conversion at San Dieguito Academy project B2010-04, contract entered into with Wayne L. Whitwer Construction Company, decreasing the contract time by 30 calendar days and decreasing the contract amount by \$872.67.

E. ACCEPTANCE OF CONSTRUCTION PROJECTS

Accept the following construction projects as complete, pending the completion of a punch list, and authorize the administration to file a Notice of Completion with the County Recorders' Office:

1. Earl Warren Middle School Covered Walkways as Specified in Chula Vista Elementary School District Piggyback Agreement #06-07-2 Contract B2009-29, contract entered into with National Carport Industries, Inc.
2. Biotech Classroom Conversion at San Dieguito Academy project B2010-04, contract entered into with Wayne L. Whitwer Construction Company.

F. APPROVAL OF BUSINESS REPORTS

Approve the following business reports:

1. Purchase Orders
2. Instant Money
3. Membership Listing

**DISCUSSION / ACTION ITEMS ..... (ITEMS 16 – 19)**

16. ADOPTION OF RESOLUTION IN SUPPORT OF DRUG AWARENESS MONTH AND RED RIBBON WEEK

It was moved by Ms. Yamamoto, and second by Ms. Jucha, to adopt and renew the San Dieguito Union High School District 2009 Resolution in Support of October as Drug Awareness Month, as presented. **Motion unanimously carried.**

17. APPROVAL OF AMENDMENT TO AGREEMENT / DOLINKA GROUP

It was moved by Mrs. Hergesheimer, and second by Mrs. Friedman, to approve amending the agreement entered into with Dolinka Group LLC to develop a Facilities and Funding Masterplan for the District, during the period July 1, 2008 through June 30, 2010, for an amount not to exceed \$105,000.00 plus expenses, to be expended from Capital Facilities Fund 25-19, and authorize Stephen G. Ma to execute the amendment. **Motion unanimously carried.**

ITEM 6

18. SOLAR ENERGY UPDATE (WORK SESSION) ..... STEVE MA, ASSOCIATE SUPERINTENDENT, BUSINESS

Mr. Ma thanked his staff for the work they've done on the solar energy projects and introduced the solar energy team comprised of members from Chevron Energy Solutions, California Center for Sustainable Energy, MuniBond Solar, De La Rosa & Co., and Manatt Phelps & Phillips, LLP.

Mr. Thornton gave an update on the advantages of choosing solar energy, the history of the project, roof top vs. carports, and also shared pictures of carport structures.

Mr. Addleman gave an update on leasing vs. owning, doing the projects now vs. later, the team goals in designing "cost neutral" projects, how to pay for the projects, and the risks involved. He also shared the savings schedule and two finance schedules for La Costa Canyon High School and Canyon Crest Academy as Phase I of the five potential solar projects identified, with the first financing option of using Qualified School Construction Bonds (QSCB) and the second option of using a combination of QSCB and Tax Exempt Lease Revenue Bonds. Mr. Addleman indicated that if the coupon market goes above the 3% rate the solar projects would not be "cost neutral" and therefore would not be viable at this time.

Mr. Ma shared three options of 1) moving forward with the current proposal, 2) reducing the scope of work, or 3) delaying the solar projects and making them a part of a future General Obligation Bond. He also shared the proposed timeline for November and December due to the availability of the QSCB expiring at the end of this year.

The Board requested staff to move forward with the solar projects.

19. ACCEPTANCE OF RECOMMENDATION AND APPROVAL TO ENTER INTO CONTRACT

It was moved by Mrs. Friedman, and second by Ms. Yamamoto, to accept the recommendation of District Staff to select MuniBond Solar for qualified solar/financial advisor services, during the period October 16, 2009 through June 30, 2010, in an amount not to exceed \$26,000.00 for solar project advisory services, and in an amount not to exceed \$25,000.00 for financial advisory services, plus reimbursable expenses, to be expended from Capital Facilities Fund 25-19 and the cost of issuance of bonds, and authorize Christina M. Bennett, Eric R. Dill, or Stephen G. Ma to enter into a contract.

**Motion unanimously carried.**

**INFORMATION ITEMS.....(ITEMS 20 - 24)**

- 20. PUBLIC COMMENTS – (None presented)
- 21. FUTURE AGENDA ITEMS – (None discussed)
- 22. ADJOURNMENT TO CLOSED SESSION – (Nothing further to discuss)
- 23. REPORT OUT OF CLOSED SESSION – (Nothing further to report)
- 24. ADJOURNMENT OF MEETING – Meeting adjourned at 8:37 PM.

\_\_\_\_\_  
Barbara Groth, Board Clerk

\_\_\_\_ / \_\_\_\_ / 2009  
Date

\_\_\_\_\_  
Ken Noah, Superintendent

\_\_\_\_ / \_\_\_\_ / 2009  
Date

**ITEM 6** Board of Trustees  
Joyce Dalessandro  
Linda Friedman  
Barbara Groth  
Beth Hergesheimer  
Deanna Rich

Superintendent  
Ken Noah

# San Dieguito

Union High School District

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
BOARD OF TRUSTEES  
BOARD WORKSHOP  
MINUTES**

**OCTOBER 28, 2009  
12:00 PM**

**DISTRICT OFFICE BOARD ROOM 101  
710 ENCINITAS BLVD., ENCINITAS, CA. 92024**

The Governing Board of the San Dieguito Union High School District held a Board Workshop on Wednesday, October 28, 2009, at the above location, in the Board Room.

## **ATTENDANCE**

### Board Members

Joyce Dalessandro  
Linda Friedman  
Barbara Groth  
Deanna Rich  
(Beth Hergesheimer, Absent)

### District Staff in Attendance

Ken Noah, Superintendent  
Terry King, Associate Superintendent, Human Resources  
Steve Ma, Associate Superintendent, Business  
Rick Schmitt, Associate Superintendent, Educational Services  
John Addleman, Planning and Financial Management  
Christine Bennett, Director, Purchasing  
Russell Thornton, Executive Director, Facilities  
Becky Banning, Executive Assistant / Recording Secretary

#### 1. CALL TO ORDER

The meeting was called to order at 12:00 PM.

## **INFORMATION ITEM**

#### 2. ENERGY FINANCING PLAN

Steve Ma, John Addleman and Russell Thornton gave a follow-up update on the Solar Energy Project presented on October 15<sup>th</sup>. Staff detailed the history, team goals, solar energy savings schedules and financing scenarios based upon the market for Qualified

ITEM 6

School Construction Bonds. Staff also presented samples of proposed designs and security measure recommendations.

3. ADJOURNMENT

The meeting was adjourned at 2:45 PM.

---

Barbara Groth, Board Clerk

---

Date

---

Ken Noah, Superintendent

---

Date

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 6, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED AND  
SUBMITTED BY:** Ken Noah, Superintendent

**SUBJECT:** ACCEPTANCE OF GIFTS AND DONATIONS

.....

### EXECUTIVE SUMMARY

The district administration is requesting acceptance of gifts and donations to the district as shown on the following reports.

### RECOMMENDATION:

The administration recommends that the Board accept the gifts and donations to the district as shown on the following reports.

### FUNDING SOURCE:

Not applicable

KN/bb

**GIFTS AND DONATIONS  
SDUHSD BOARD MEETING  
NOVEMBER 12, 2009**

ITEM 11A

<b>Donation</b>	<b>Purpose</b>	<b>Donor</b>	<b>Department</b>	<b>School Site</b>
\$7,250.00	To assist artists in residence & maintenance /repair of instruments	Carmel Valley Middle School Music Boosters	CVMS Music Program	CVMS
\$6,659.00	Assist with the cost of supplies, student lunch and parent breakout sessions	Holly Vermilyea, ASB Director from Orientation Day 09-10	Carmel Valley Middle School	CVMS
\$1,009.75	Assist with Jamie Swope's "HEROES" project	San Diego Foundation / Cox Kids Foundation Fund	Jamie Swope's "HEROES" project	CVMS
\$27,000.00	\$7,000 for Homework Hour	Vanguard Charitable Endowment Program	Homework Hour	Districtwide
	\$20,000 for Special Ed - districtwide		Special Ed	Districtwide
\$1,105.00	Teacher supplies	Earl Warren PTSA	Earl Warren Middle School	EWMS
\$100.00	Teacher supplies	Earl Warren PTSA	Earl Warren Middle School	EWMS
\$25.00	For use by the Physical Education Dept.	Mark Budwig and Linda Hammacher	Physical Education	OCMS
\$485.00	To be used for Anne Briscoe's science class field trips	Leslie & Mark Johnson - \$25.00, Charlene & Darren Lazarus - \$10.00, Cut & Dried Flooring, Inc. - \$400.00, Richard & Cynthia Johnson - \$20.00, Unknown - \$30 cash	Anne Briscoe's science class	OCMS
\$15,080 .00	To be used by various depts.	Oak Crest Foundation, Inc., Mini Grant Foundation	Various depts.	OCMS
\$887.36	\$73.69 for History Festival; \$709.42 for Special Ed; \$104.25 for Read 180	Oak Crest Middle School - ASB Student Enrichment	History Festival, Special Ed., & Read 180	OCMS
\$364.45	book purchases	Oak Crest Foundation, Inc.	Library/Media Center	OCMS

**GIFTS AND DONATIONS  
SDUHSD BOARD MEETING  
NOVEMBER 12, 2009**

ITEM 11A

<b>Donation</b>	<b>Purpose</b>	<b>Donor</b>	<b>Department</b>	<b>School Site</b>
\$2,000.00	To support the school newspaper "The Mustang"	San Dieguito Academy Foundation	Journalism program	SDA
\$1,500.00	For the Counseling Department	San Dieguito Academy Foundation	Counseling	SDA
\$11,545.59	To pay guest / visiting artists	Canyon Crest Academy Foundation	Art	CCA
\$4,077.85	To buy digital cameras for the Digital Arts class	Diegueno Middle School PTA	Digital Arts	DNO
\$30.00	Copy fund for Emily Coulter's math class	William & Karen Herr	Coulter's Xerox	DNO
\$25.00	Copy fund for Emily Coulter's math class	Paul Miller	Coulter's Xerox	DNO
\$10.00	Copy fund for Emily Coulter's math class	Michelle Goldstein	Coulter's Xerox	DNO
\$25.00	Copy fund for Bette Schulken's math class	Ted Baker	Schulken's Xerox	DNO
\$10.00	Copy fund for Bette Schulken's math class	David Campanella	Schulken's Xerox	DNO
Various items	Adult Transition Program - South & Maintenance and	Webcorp Builders, c/o Brett Williams	Adult Transition Program (South) & Maintenance	DO
\$10,000.00	For the Science Dept. consumables	San Dieguito Academy Foundation	Science Department	SDA
\$45.04	TPHS - \$7.89, CVMS - \$10.47, Sunset - \$3.95, DO - \$22.73	United Way	no specific department	TP, CV, SS, DO



# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 6, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED AND  
SUBMITTED BY:** Ken Noah, Superintendent

**SUBJECT:** APPROVAL / RATIFICATION OF  
FIELD TRIPS

.....

### EXECUTIVE SUMMARY

The district administration is requesting approval / ratification of the out-of-state and/or overnight field trips, as shown on the following reports.

### RECOMMENDATION:

The administration recommends that the Board approve / ratify the out-of-state and/or overnight field trips, as shown on the following reports.

### FUNDING SOURCE:

As listed on attached reports.

KN/bb

**FIELD TRIPS**  
**SDUHSD BOARD MEETING**  
**NOVEMBER 12, 2009**

ITEM 11B

Date(s) of Field Trip	Site	Sponsor, Last Name	First Name	Team/Club	Total # Students	Total # Chaperones	Purpose/ Conference Name	City	State	Loss of Class Time	* \$ Cost
5/19/10 - 5/21/10	SDA	Rall	Michael	Science	27 - 33	3	Tallship Tole Mour (at sea)	Catalina Island	CA	3 days	Parents, Site Council
1/15/10 - 1/17/10	SDA	Dasho	Sharon	Drama Production	40 - 50	6 - 8	Performance and Workshops at Los Osos High	Ontario	CA	1 day	Students
3/26/10 - 3/28/09	TP	Willcox	Amy	Adv. Orchestra & Band classes	50	5	Concert Performance	San Francisco	CA	1 day	Student/ Parents
04/23/10 - 04/25/09	CCA	Villanova	Amy	Jazz Band Conservatory	20	3	Reno Jazz Festival competition	Reno	NV	2 days	Personal
11/14/09 - 11/15/09	TP	Lynch	Trudie	Speech / Debate	15	3	Debate Tournament	San Dimas	CA	1 day	Found. Account
11/27/09 - 11/28/09	TP	Thorne	Brent	Cross Country	16	5	CIF State Cross Country Championship	Fresno	CA	0 days	N/A
12/3/09 - 12/6/09	TP	Thorne	Brent	Cross Country	8	2	Nike Cross Country Nationals	Portland	OR	2 days	N/A

\*Dollar amounts are listed only when district/site funds are being spent. Other activities are paid for by student fees or ASB funds.

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 3, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** Terry King  
Associate Superintendent/Human Resources

**SUBMITTED BY:** Ken Noah  
Superintendent

**SUBJECT:** APPROVAL OF CERTIFICATED and  
CLASSIFIED PERSONNEL

-----

### EXECUTIVE SUMMARY

Please find the following Personnel actions attached for Board Approval:

#### Certificated

Resignation

#### Classified

Employment  
Change in Assignment  
Resignation

#### RECOMMENDATION:

It is recommended that the Board approve the attached Personnel actions.

#### FUNDING SOURCE:

General Fund

## PERSONNEL LIST

### CERTIFICATED PERSONNEL

#### Resignation

1. Lisa Goldberg, Library-Media Services Teacher at Torrey Pines, resignation for retirement purposes, effective 6/19/10.

ITEM 12A

**PERSONNEL LIST**

**CLASSIFIED PERSONNEL**

**Employment**

1. **Ebner, Steve**, At Will Employee, effective 9/17/09 – 6/11/10
2. **Elstob, Mark**, At Will Employee, effective 9/1/09 – 1/29/10
3. **Hsieh, Elaine**, Student Worker Nutrition Services, effective 9/1/09 – 6/12/10
4. **Janelli, Michele**, At Will Employee, effective 9/1/09 – 1/29/10
5. **Nazareno, Norberto**, Custodian Floater, effective 9/25/09
6. **Pollett, Zack**, Student Worker Nutrition Services, effective 9/21/09 – 6/12/10
7. **Sambrano, Micah**, Computer Support Technician, effective 10/19/09 – 1/31/10
8. **Tekeste, Andres**, Student Worker Nutrition Services, effective 9/16/09 – 6/12/10
9. **Timberlake, Harriet**, Administrative Secretary, effective 11/16/09
10. **Vahneshan, Kamelia**, Student Worker Nutrition Services, effective 9/2/09 – 6/12/10

**Change in Assignment**

1. **Barragan, Luis**, from Custodian Floater to Grounds Maintenance Worker I, effective 9/25/09
2. **Glausser, Terri**, from 48.75% Instructional Assistant SpEd Non Severe to 100% Lead Library Media Technician, effective 10/12/09
3. **Harvey, Tracy**, from Campus Supervisor High School to Locker Room Attendant, effective 11/2/09 – 02/02/10 (approximately)
4. **Lopez, Javier**, from Custodian Supervisor to Grounds & Custodian Supervisor, effective 7/1/09
5. **Mach, Aurora**, from 39% Nutrition Services Assistant I to 48.75%, effective 9/14/09
6. **Orozco, Eugene**, from 37.5% Instructional Assistant SpEd Non Severe to 48.75%, effective 10/19/09
7. **Orr, Steve**, from 48.75% Campus Supervisor Middle School to 100% Campus Supervisor High School, effective 11/2/09 – 2/2/10
8. **Pierce, Daniel**, from 48.75% Instructional Assistant SpEd Non Severe to 37.5%, effective 10/19/09
9. **Reny, Cathy**, from Locker Room Attendant, 12-months to Nutrition Services Assistant-Production ST+5 months, effective 10/18/09

**Resignation**

1. **Wilsoln, Amie**, Lead Library Media Technician, effective 10/9/09

## San Dieguito Union High School District

### INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: October 29, 2009

BOARD MEETING DATE: November 12, 2009

PREPARED BY: Bruce Cochrane, Executive Director  
Pupil Services

SUBMITTED BY: Ken Noah  
Superintendent

SUBJECT: **Approval/Ratification of Agreement(s) for  
Nonpublic School/Nonpublic Agency  
Services**

-----

#### EXECUTIVE SUMMARY

The district administration has recommended that designated special education students attend nonpublic schools and/or receive nonpublic agency services for the 2009-10 school year as listed on the attached report.

#### RECOMMENDATION

The district administration recommends that the Board approve the attached list of agreements for nonpublic school/nonpublic agency services and authorize Christina M. Bennett, Eric R. Dill, Stephen G. Ma, or Ken Noah to sign the agreements and forward the appropriate documents to the County Superintendent to reflect the placement of students in nonpublic school/nonpublic agencies.

#### FUNDING SOURCE

General Fund 06-00/Special Education Budget – Estimated \$31,575.00

KN/ddb  
Attachment



## San Dieguito Union High School District

### INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: October 29, 2009

BOARD MEETING DATE: November 12, 2009

PREPARED BY: Bruce Cochrane, Executive Director  
Pupil Services

SUBMITTED BY: Ken Noah  
Superintendent

SUBJECT: **Approval/Ratification of Independent  
Contractor Agreement**

-----

#### EXECUTIVE SUMMARY

The attached Independent Contractor Agreements Report summarizes one contract that provides services for the Special Education Program and Special Education Students for the 2009-2010 school year.

#### RECOMMENDATION

Approve/ratify entering into an Independent Contractor Agreement as shown on the attached report and authorize Christina M. Bennett, Eric R. Dill, Stephen G. Ma, or Ken Noah to execute all pertinent documents pertaining to this agreement, contingent upon receipt of the signed documents and verification of insurance coverage.

#### FUNDING SOURCE

General Fund 06-00/Special Education Budget – Estimated \$3,000.00

KN/ddb  
Attachment



**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**

ITEM 14B

**INDEPENDENT CONTRACTOR AGREEMENTS 2009-2010**

**Date: November 12, 2009**

Contract Effective Dates	Independent Contractor	Description of Services	Number of Students (Estimate)	Fee
10-1-09 To 6-30-09	Dwayne Lizar	Audiological & Speech/Language Pathology Services	3	\$125.00/hour Estimate: \$3,000.00
			<b>TOTAL</b>	<b>\$3,000.00</b>

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 4, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** Christina M. Bennett, Director of Purchasing  
Eric R. Dill, Executive Director, Business Services  
Steve Ma, Associate Superintendent/Business

**SUBMITTED BY:** Ken Noah  
Superintendent

**SUBJECT:** APPROVAL/RATIFICATION OF  
PROFESSIONAL SERVICES CONTRACTS/  
BUSINESS

-----

### EXECUTIVE SUMMARY

The attached Professional Services Report/Business summarizes six contracts totaling \$7,933.50, or as noted on the attachment.

### RECOMMENDATION:

The administration recommends that the Board approve and/or ratify the contracts, as shown in the attached Professional Services Report.

### FUNDING SOURCE:

As noted on attached list.

## ITEM 15A

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT****BUSINESS - PROFESSIONAL SERVICES REPORT****Date: 11-12-09**

<u>Contract Effective Dates</u>	<u>Consultant/ Vendor</u>	<u>Description of Services</u>	<u>School/ Department Budget</u>	<u>Fee Not to Exceed</u>
01/01/10 – 12/31/10	School Services of California, Inc.	Provide the District with fiscal and mandated cost claims services and the CADIE and SABRE reports	General Fund 03-00	\$3,720.00 plus expenses
09/08/09 – 12/18/09	Carmel Valley Recreation Center	Lease of facilities for Carmel Valley Middle School off-campus PE classes	General Fund 03-00	\$1,386.00
11/13/09 – 12/15/09	Ericka Moore	Conduct dance workshops and create choreography for the La Costa Canyon High School Dance Club	General Fund 03-00 and partially reimbursed by a grant from the City of Carlsbad	\$500.00
11/13/09 – 12/15/09	Faith Jensen-Ismay	Conduct dance workshops and create choreography for the La Costa Canyon High School Dance Club	General Fund 03-00 and partially reimbursed by a grant from the City of Carlsbad	\$700.00
11/13/09 – 12/15/09	Brianna Wood	Conduct dance workshops and create choreography for the La Costa Canyon High School Dance Club	ASB Funds	\$300.00
11/13/09 – 01/29/10	Carmel Valley Recreation Center	Lease of facilities for the San Dieguito Adult School classes	Adult Education Fund 11-00	\$1,327.50
11/09/09	American Red Cross, San Diego/Imperial Counties Chapter	Provide CPR & AED training and certification for the ROP Health Care Essentials class at San Dieguito Academy	General Fund 03-00	\$1,800.00

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 3, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** Christina M. Bennett, Director of Purchasing  
Eric R. Dill, Executive Director, Business Services  
Steve Ma, Associate Supt./Business

**SUBMITTED BY:** Ken Noah  
Superintendent

**SUBJECT:** APPROVAL OF CHANGE ORDER

-----

### EXECUTIVE SUMMARY

The last of the summer projects, Miscellaneous Site Improvements at Canyon Crest Academy, is now finished. The project was completed on schedule and finished with contract amount deductions due to the allowance not being fully utilized.

In addition to the change in the contract amount, for administrative purposes, the completion date needs to be extended on the contract to coincide with the Board's acceptance date.

### RECOMMENDATION:

Approve Change Orders to the following projects, and authorize Christina M. Bennett, Eric R. Dill, or Stephen G. Ma to execute the change orders:

1. Miscellaneous Site Improvements at Canyon Crest Academy project B2010-03, contract entered into with Ted Company, extending the contract time by 73 calendar days and decreasing the contract amount by \$3,514.88.

### FUNDING SOURCE:

N/A



# Change Order

ROESLING  
NAKAMURA  
TERADA  
Architects, Inc.

Owner **ITEM 15D**  
Architect   
Contractor   
Field   
Other

363 FIFTH AVENUE  
SAN DIEGO  
CALIFORNIA 92101  
619 233-1023  
FAX 619 233-0016  
mail@rntarchitects.com

Project:	<b>MISCELLANEOUS SITE IMPROVEMENTS AT CANYON CREST ACADEMY B2010-03</b>	CO No:	<b>01</b>
To Contractor:	Ted Company, Inc.  555 El Camino Real, Ste. A362  San Clemente, CA 92672	Initiation Date:	Oct. 22, 2009
		Project No:	5527.06
		Contract For:	
		Contract Date:	July 21, 2009

The Contract is changed as follows:  
Decrease contract by <3514.88> for unused portion of Allowance No.1  
Increase contract time by 73 days.

**Not valid until signed by the Owner, Architect, and Contractor.**

The original (Contract Sum) ( <del>Guaranteed Maximum Price</del> ) was .....	\$ 74,000.00
Net change by previously authorized Change Orders .....	\$ 0
The (Contract Sum) ( <del>Guaranteed Maximum Price</del> ) prior to this Change Order was .....	\$ 74,000.00
The (Contract Sum) ( <del>Guaranteed Maximum Price</del> ) will be (increased) (decreased) (unchanged) by this Change Order .....	<3514.88> \$
The new (Contract Sum) ( <del>Guaranteed Maximum Price</del> ) including this Change Order will be .....	\$ 70,485.12
The Contract Time will be (increased) ( <del>decreased</del> ) ( <del>unchanged</del> ) by .....	( 73 ) days
The date of Substantial Completion as of the date of this Change Order therefore is .....	Nov. 12, 2009

ARCHITECT **Roesling Nakamura Terada Architects, Inc.**

ADDRESS 363 5th Avenue, #202, San Diego, CA 92101

BY Joe Mansfield DATE 10/02/09

CONTRACTOR **Ted Company**

ADDRESS 555 El Camino Real, San Clemente, CA 92672

BY [Signature] DATE 10-27-09

OWNER **San Dieguito Union High School District**

ADDRESS 710 Encinitas Blvd. Encinitas, CA 92024

BY Christina Bennett DATE \_\_\_\_\_

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 3, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** Christina M. Bennett, Director of Purchasing  
Eric R. Dill, Executive Director, Business Services  
Steve Ma, Associate Supt./Business

**SUBMITTED BY:** Ken Noah  
Superintendent

**SUBJECT:** ACCEPTANCE OF CONSTRUCTION PROJECT

-----

### EXECUTIVE SUMMARY

The Miscellaneous Site Improvements at Canyon Crest Academy project is now complete. The project was completed on time and does not have any outstanding issues. It is recommended that the Board of Trustees accept this project as complete.

### RECOMMENDATION:

It is recommended that the Board accept the following construction projects as complete, pending the completion of a punch list, and authorize the administration to file a Notice of Completion with the County Recorder's Office:

1. Miscellaneous Site Improvements at Canyon Crest Academy project B2010-03, contract entered into with Ted Company.

### FUNDING SOURCE:

N/A

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 2, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** Stephen G. Ma  
Associate Superintendent, Business

**SUBMITTED BY:** Ken Noah  
Superintendent

**SUBJECT:** ADOPTION OF RESOLUTION / DEFERRED  
COMPENSATION PLAN AND TAX SHELTERED  
ANNUITY PLAN

-----

### EXECUTIVE SUMMARY

The District has been offering tax-deferred supplemental retire plans to employees for over 20 years. These supplemental retirement plans, 403(b) and 457(b), have been administered by different entities, the most recent being the COE Fringe Benefit Consortium. At the current time, there are 341 district employees participating in the 403(b) program and 62 employees participating in the 457(b) program.

In July 2007, the IRS released final regulations for 403(b) plans. The goal of the new IRS regulations was to bring 403(b) plans in to closer alignment to private sector plans such as 401(k). The result of the new regulations is to hold school districts accountable for the administration and compliance of 403(b) plans. The effective date for the new regulations was January 1, 2009. The new regulations require employers to adopt a Written Plan, make contributions in a reasonable amount of time, provide universal availability, and have an Information Sharing Agreement with all investment companies.

Last year, a number of employees brought to our attention, some serious concerns about the Fringe Benefit Consortium's communication, compliance and administration of employees' supplemental retirement plans. It ultimately became evident that a change was necessary for the benefit of our employees. In response to these concerns, the district conducted a request for new proposals.

Upon review of the submitted proposals, as well as interviews with the companies, it became clear that the investment plan administration services offered through CalSTRS was the best. CalSTRS 403(b)Comply and Pension2 programs will allow for greatly

ITEM 15F

improved employee convenience, better communication, and increased investment options. The district will continue to absorb each participant's compliance fee (\$24/year).

**RECOMMENDATION:**

It is recommended that the Board Adopt the attached resolution approving the San Dieguito Union High School District 457(b) Deferred Compensation Plan and San Dieguito Union High School District 403(b) Tax Sheltered Annuity Plan, which are for the benefit of Plan participants, and shall at all times, conform with the applicable federal and state statutory requirements, and authorizes the Associate Superintendent, Business Services or designee, or his or her successor, as District 457(b) Plan Administrator and 403(b)/TSA Plan Administrator, and further authorizes him or her to implement and manage the Plans and to enter into other contracts or agreements which he or she deems necessary or proper to administer the Plans.

js

Attachment



**RESOLUTION OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
BOARD OF TRUSTEES AUTHORIZING APPROVAL OF 457(b) DEFERRED  
COMPENSATION PLAN (DCP) AND 403(b) TAX SHELTERED ANNUITY  
(TSA) PLAN**

WHEREAS, California Government Code Section 53216 authorizes school districts to establish retirement plans for the benefit of their employees;

WHEREAS, the Governing Board of San Dieguito Union High School District ("District"), designated as a governmental employer desires to adopt the new San Dieguito Union High School District 457(b) Deferred Compensation Plan, a governmental non-qualified plan that qualifies under IRC Section 457(b) (CalSTRS Pension2 457 Deferred Compensation Plan) in which eligible employees are permitted to make voluntary salary reductions; and the new San Dieguito Union High School District 403(b) Tax Sheltered Annuity Plan that qualifies under IRC Section 403(b) (CalSTRS 403bComply) in which eligible employees are permitted to make voluntary salary reductions.

THEREFORE, BE IT RESOLVED THAT:

1. The Board hereby establishes and adopts the San Dieguito Union High School District 457(b) Deferred Compensation Plan which is for the benefit of Plan participants, and shall at all times, conform with the requirements of IRC Section 457(b), including assets of the Plan to be held in Trust for the benefit of Plan participants and their beneficiaries: and

2. The Board hereby establishes and adopts the San Dieguito Union High School District 403(b) Tax Sheltered Annuity Plan which is for the benefit of Plan participants, and shall at all times, conform with the requirements of IRC Section 403(b): and

3. The Board hereby authorizes the Associate Superintendent, Business Services or designee, or his or her successor, as District 457(b) Plan Administrator and 403(b)/TSA Plan Administrator, and further authorizes him or her to implement and manage the Plans and to enter into other contracts or agreements which he or she deems necessary or proper to administer the Plans: and

4. The Board hereby appoints and authorizes TIAA-CREF to perform administrative services for the San Dieguito Union High School District 457(b) Deferred Compensation Plan (CalSTRS Pension2): and

5. The Board hereby appoints and authorizes CalSTRS 403bComply to perform administrative services for the San Dieguito Union High School District 403(b) Tax Sheltered Annuity Plan (CalSTRS 403bComply): and

ITEM 15F

6. Specific DCP and TSA provisions elected by the District are outlined in each plan's Adoption Agreement and defined in each plans' Written Plan Document, attached hereto: and

7. Eligible individuals are given the opportunity to participate in the District's Pension2 457(b) Deferred Compensation Plan and/or the District's 403bComply 403(b) Tax Sheltered Annuity Plan by entering into an amendment of employment contract for the purpose of effecting a reduction in the salary paid to such participant.

Conformance: It is the intention of the members of the Governing Board that the District's Pension2 457(b) Deferred Compensation Plan and 403bComply 403(b) Tax Sheltered Annuity Plan will conform with the applicable federal and state statutory requirements, and that the participants' salary reduction contributions to the 457(b) DCP Plan and the 403(b)/TSA Plan be within eligible limits as set out in IRS regulations as currently stated, or as amended in the future.

This Resolution is hereby adopted and approved, authorizing the adoption of the Pension2 457(b) Deferred Compensation Plan and the 403bComply 403(b) Tax Sheltered Annuity Plan and that as a result of this adoption, said plans shall go into effect on January 1, 2010.

PASSED AND ADOPTED by the following roll call vote this 12th day of November, 2009:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

---

Secretary of the Board of Trustees of the  
San Dieguito Union High School District,  
County of San Diego, State of California

# CALSTRS

HOW WILL YOU SPEND YOUR FUTURE?

## **ADOPTION AGREEMENT**

### **FOR CalSTRS Pension2**

### **457 PLAN**

The provisions you select in completing this Adoption Agreement will apply to your plan as if they were set forth in the Plan document. In completing this Adoption Agreement, you are urged to consult with your attorney or other tax advisor. CalSTRS does not and cannot provide legal or tax advice. Failure to properly fill out the Adoption Agreement may result in the failure of your plan to satisfy the requirements of an eligible deferred compensation plan under Section 457 of the Internal Revenue Code of 1986, as amended.

ITEM 15F

1. **General Information**

- (A) Name of Employer: San Dieguito Union High School District
- (B) Address of Employer: 710 Encinitas Blvd.  
Encinitas, CA 92024
- (C) Name of Plan: San Dieguito Union High School District 457(b)  
Deferred Compensation Plan
- (D) Federal Tax ID  
Number of Employer: 95-6002787

2. **Compensation** (Section 1.4)

- Select this Box 2 and complete this Item only if it is desired that Compensation is to be defined as other than total cash remuneration. Instead, Compensation will be defined as follows:

---

---

---

3. **Effective Date / Restated Effective Date**  
(Sections 1.5 and 1.19)

- (A)  The Plan is a new plan. The Effective Date is January 1, 2010.
- (B)  The Plan is a restated plan. The Restated Effective Date is \_\_\_\_\_.  
The Plan's initial Effective Date was \_\_\_\_\_.

4. **Eligible Employee** (Section 1.8)

- (A)  All Employees of the Employer.
- (B)  All Employees of the Employer, other than the following excluded Employees:

ITEM 15F

- (1)  Leased Employees
- (2)  Salaried Employees
- (3)  Hourly Employees
- (4)  Employees whose employment is governed by the terms of a collective bargaining agreement between Employee representatives (within the meaning of Code Section 7701(a)(46)) and the Employer, under which retirement benefits were the subject of good faith bargaining.
- (5)  Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(C)  Notwithstanding the election(s) set forth in Box 4(A) and Box 4(B) above, if this Box 4(C) is selected Eligible Employee will include:

- (1)  Trustees of the Employer
- (2)  Independent Contractors

5. **Investment Options** (Section 1.12)

Investment Options shall include CalSTRS Pension2 selection of products. They are:

TIAA Traditional Annuity	N/A	<b>TIRC1#</b>	878094101
TIAA Real Estate Account	N/A	<b>TREA#</b>	878094200
TIAA-CREF Money Market Mutual Fund	Institutional	<b>TCIXX</b>	87244W706
Vanguard Short Term Bond Index Fund Admiral	Admiral	<b>VBIRX</b>	921937702
Vanguard Inflation-Protected Securities	Inv	<b>VIPSX</b>	922031869
Vanguard Institutional Index Fund	Institutional	<b>VINIX</b>	922040100
Vanguard Total Stock Market Index Fund	Institutional	<b>VITSX</b>	922908801
Vanguard Small Cap Index	Institutional	<b>VSCIX</b>	922908876
Dodge & Cox Stock Fund	No Load	<b>DODGX</b>	256219106
T. Rowe Price Growth Fund	No Load	<b>PRGFX</b>	741479109
Artisan International Fund	Inv	<b>ARTIX</b>	04314H204
Dodge and Cox International	No load	<b>DODFX</b>	256206103
DFA Global Equity	Inst	<b>DGEIX</b>	25434D674
DFA Emerging Markets	No Load	<b>DFEMX</b>	233203785

ITEM 15F

In addition to these investment options, CalSTRS has developed target date portfolios based on retirement date and risk tolerance. They are:

- Easy Choice Portfolio 2020
- Easy Choice Portfolio 2030
- Easy Choice Portfolio 2040
- Easy Choice Portfolio 2050+
- Easy Choice Portfolio Retired

6. **Normal Retirement Age** (Section 1.14)

- If this Box 6 is selected, Normal Retirement Age will not be age 65. Instead, Normal Retirement Age will be age \_\_\_\_\_.

7. **Plan Year** (Section 1.18)

Plan Year means:

- (A)  The calendar year.
- (B)  The Plan Year is a twelve (12) month period beginning on \_\_\_\_\_ and ending on the following \_\_\_\_\_.
- (C)  The initial Plan Year is a short Plan Year beginning on \_\_\_\_\_ ending on \_\_\_\_\_. Thereafter, the Plan Year will be the twelve (12) month period selected in Box 7(A) or Box 7(B) above.

8. **Elective Deferrals** (Section 3.1)

- (A)  Elective Deferrals may be made to the Plan up to the maximum amount permitted by law.
- (B)  Elective Deferrals may be made to the Plan up to a maximum amount equal to \_\_\_\_\_, provided that in no event may such deferrals exceed the maximum amount permitted by law.
- (C)  Elective Deferrals may not be made to the Plan.

9. **Employer Non-Elective Contributions** (Section 3.4)

- (A)  The Employer will make non-elective contributions to the Plan on behalf of each Active Participant in an amount equal to \_\_\_\_\_% of the Participant's Compensation.

ITEM 15F

- (B)  The Employer will make non-elective contributions to the Plan on behalf of each Active Participant in an amount equal to:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (C)  The Employer will make non-elective contributions to the Plan as follows:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (D)  The Employer will not make any non-elective contributions to the Plan.

10. **Employer Matching Contributions** (Section 3.5)

- (A)  The Employer will make matching contributions to the Plan on behalf of each Active Participant who makes an Elective Deferral pursuant to a Voluntary Salary Deferral Agreement in an amount equal to \_\_\_\_\_% of the Participant's Compensation that is contributed to the Plan for the Plan Year.
- (B)  The Employer will make matching contributions to the Plan on behalf of each Active Participant who makes an Elective Deferral pursuant to a Voluntary Salary Deferral Agreement in an amount equal to \_\_\_\_\_% of the first \_\_\_\_\_% of the Participant's Compensation that is contributed to the Plan for the Plan Year.
- (C)  The Employer will make matching contributions to the Plan as follows:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (D)  The Employer will not make any matching contributions to the Plan.

11. **Transfers** (Section 3.8)

- (A)  Transfers may be made to the Plan from any other eligible deferred compensation plan to the extent permitted by law.
- (B)  Transfers may be made to the Plan from another eligible deferred compensation plan, subject to the following limitations:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ITEM 15F

- (C)  Transfers may not be made to this Plan from any other eligible deferred compensation plan.

12. **Rollover Contributions** (Section 3.9)

- (A)  Rollovers to the Plan are permitted to the extent permitted by law.
- (B)  Rollovers to the Plan are permitted to the extent permitted by law, subject to the following limitations:

- (i)  The following amounts may not be rolled over to the Plan:

---

---

---

- (C)  Rollovers to the Plan are not permitted.

13. **Unforeseeable Emergency** (Section 4.2) check one:

- A Participant may receive a distribution due to Unforeseeable Emergency prior to Severance from Employment.
- A Participant may not receive a distribution due to Unforeseeable Emergency prior to Severance from Employment.

14. **In-service Distribution** (Section 4.1(c)) check one:

- A participant may receive an in-service distribution of all or a part of his or her benefit if the total amount of the Participant's benefit is less than \$5000 (or the dollar limit under Section 411(a)(11) of the Code, if greater) and the requirements of Section 4.1(c) of the Plan are satisfied.
- A Participant may not receive any in-service distributions of his or her benefit.

15. **Transfers to Purchase Service Credit** (Section 4.5(c)) check one:

- A Participant may request a transfer from this plan to a defined benefit governmental plan to purchase service credit.
- A Participant may not request a transfer from this plan to a defined benefit governmental plan to purchase service credit.



ITEM 15F

16. **Loans** (Section 4.6) check one:
- Loans will be available from this Plan.
  - Loans will not be available from this Plan.

By executing this Adoption Agreement, the Employer adopts the 457 Deferred Compensation Plan described herein and in the Plan document. The selections and specifications contained in this Adoption Agreement together with the terms, provisions and conditions provided in the Plan document constitute the Plan.

The Employer acknowledges that it has counseled, to the extent necessary, with its attorney or other tax advisor. The obligations of the Investment Sponsors shall be governed solely by the provisions of its contracts and policies. TIAA-CREF shall not be required to inquire into any action taken by the Employer or the Plan Administrator and shall be fully protected in taking, permitting or omitting any action on the basis of the actions of the Employer or the Plan Administrator. TIAA-CREF shall incur no liability or responsibility for carrying out actions as directed by the Employer or the Plan Administrator.

**IN WITNESS WHEREOF**, this Adoption Agreement has been executed this \_\_\_\_ day of \_\_\_\_\_, 2009.

Employer: San Dieguito Union High School District

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

Title: Associate Superintendent, Business Services



**457 DEFERRED  
COMPENSATION PLAN  
OF**

---

(Insert Name of Employer)

This Sample Plan Document is to be Used Solely as a Guide for the Employer's Attorney.

**CalSTRS Active Financial Choices  
P. O. Box 15275 MS-44  
Sacramento, CA 95851-0275**

## **INTRODUCTION**

The purpose of the Plan is to provide deferred compensation for employees covered under the Plan.

The Plan document and the Adoption Agreement are designated as constituting parts of a plan intended to constitute an eligible deferred compensation plan within the meaning of Section 457 of the Internal Revenue Code of 1986, as amended, regulations issued thereunder and other applicable law.

An employer shall be eligible to adopt this Plan provided the employer is a State or local government, or a political subdivision, agency or instrumentality thereof.

## ARTICLE I - DEFINITIONS

- 1.1 ***Adoption Agreement*** means the separate agreement that is executed by the Employer that sets forth the elective provisions of the Plan. The Adoption Agreement and this Plan document collectively constitute the Plan.
- 1.2 ***Beneficiary*** means the individual, trustee, estate or legal entity entitled to receive benefits under this Plan which become payable in the event of the Participant's death.
- 1.3 ***CalSTRS Pension2*** means the 457 Deferred Compensation plan made available by the California State Teachers' Retirement System to employees of school districts, county offices of education and community college districts.
- 1.4 ***Code*** means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code includes not only the section but any comparable section or sections of any future legislation that amends, supplements or supersedes the section.
- 1.5 ***Compensation*** means, unless otherwise set forth in the Adoption Agreement, the total amount of cash remuneration earned by an Employee for personal services rendered to the Employer for the calendar year. In all cases, Compensation shall include amounts deferred under this Plan and any reductions pursuant to a salary reduction agreement with the Employer with regard to any plan established under Code Section 457, 403(b), 401(k), 125 or 132(f)(4).
- 1.6 ***Effective Date*** means the date set forth in the Adoption Agreement if this is a new plan.
- 1.7 ***Elective Deferral*** means the annual amount of Compensation that a Participant elects to defer pursuant to a properly executed Voluntary Salary Deferral Agreement.
- 1.8 ***Eligible Deferred Compensation Plan or Eligible Plan*** mean a plan that constitutes an eligible plan within the meaning of Section 457 of the Code.
- 1.9 ***Eligible Employee*** means any person who performs services for the Employer and who, pursuant to the terms of the Adoption Agreement, is eligible to participate in this Plan. Unless elected in Adoption Agreement, Eligible Employee shall not include any individual who is deemed to be an independent contractor, as determined by the Plan Administrator in its sole and absolute discretion, or a trustee of the Employer. Eligible Employee shall not include any individual who is performing services for the Employer pursuant to an agreement that provides that such individual shall not be eligible to participate in this Plan or

other benefit plans of the Employer. If any individual is not classified as an Eligible Employee by the Employer and is subsequently reclassified as an Eligible Employee by any overriding governmental or regulatory authority, such individual shall nevertheless be deemed to have become an Eligible Employee prospectively only, effective as of the date of such reclassification (and not retroactive to the date on which he or she was found to have first become eligible for any other purposes), and then only if he or she otherwise satisfies the requirements of this Plan.

- 1.10 **Employee** means any person who performs services for the Employer to whom compensation is paid on a regular basis. Employee shall also include any leased employee as defined in Section 414(n) of the Code. The term Employee shall include any individual classified by the Employer as an independent contractor or a trustee of the Employer, in accordance with its general administrative policies.
- 1.11 **Employer** means the entity that has adopted this Plan and is named in the Adoption Agreement.
- 1.12 **Includible Compensation** means compensation for services performed for the Employer that is currently includible in the Employee's gross income for the taxable year for Federal income tax purposes (W-2 earnings). Such term shall include any amount excludible from gross income under this Plan or any other plan described in Section 457 of the Code, or any amount excludible from gross income under Section 403(b) of the Code, Section 401(k) of the Code, Section 125 of the Code or Section 132(f)(4) of the Code.
- 1.13 **Investment Options** means the accounts offered by CalSTRS Pension2 available for the purpose of allocating contributions, rollovers and/or transfers under this Plan. Unless the Employer otherwise elects pursuant to the terms of the Adoption Agreement, all such funds offered by CalSTRS Pension2 in the future will automatically be made available to all Participants in the future.
- Investment Sponsors** means the insurance companies, regulated investment companies, or other entity providing Investment Options under the Plan.
- 1.15 **Normal Retirement Age** means age 65 unless otherwise provided in the Adoption Agreement, provided that in no event shall Normal Retirement Age be earlier than the earliest date on which a Participant may retire under the Employer's basic retirement plan, if any, without the Employer's consent and receive immediate retirement benefits without incurring an actuarial or similar reduction in benefits.
- 1.16 **Participant** means an Eligible Employee or former Eligible Employee who shall have become a Participant in the Plan in accordance with Article II hereof. An Employee shall cease to become a Participant at such time as he or she no longer has any interest in contracts or accounts under the Plan. An "Active Participant" means a Participant who is an Employee other than one who is no longer an

Eligible Employee.

- 1.17 **Plan** means the 457 Deferred Compensation Plan set forth herein and in the Adoption Agreement, as amended from time to time.
- 1.18 **Plan Administrator** is CalSTRS Pension2.
- 1.19 **Plan Year** means the twelve consecutive month period designated by the Employer in the Adoption Agreement.
- 1.20 **Restated Effective Date** means the date set forth in the Adoption Agreement if this is a restated plan.
- 1.21 **Voluntary Salary Deferral Agreement** means the agreement between a Participant and the Employer to defer receipt by the Participant of Compensation not yet paid or otherwise made available. Such agreement shall state the Elective Deferral amount to be withheld from a Participant's Compensation and shall become effective no earlier than the first day of the month following execution of such agreement. Once executed, the Voluntary Salary Deferral Agreement shall be legally binding and irrevocable with regard to amounts paid or otherwise made available while the agreement is in effect.

## ARTICLE II – PARTICIPATION IN THE PLAN

### 2.1 **Eligibility.**

- (a) If this is a new plan, any Employee who is classified as an Eligible Employee as of the Effective Date shall be eligible to participate in the Plan on the Effective Date. If this is a restated plan, each present Participant shall continue to be a Participant in the Plan. Any other Employee who is classified as an Eligible Employee as of the Restated Effective Date shall be eligible to participate in the Plan on the Restated Effective Date.
- (b) If this is a new plan, any Employee who is not eligible to participate in the Plan as of the Effective Date pursuant to paragraph (a) above, shall be eligible to participate in the Plan upon classification as an Eligible Employee. If this is a restated plan, any Employee who is not eligible to participate in the Plan as of the Restated Effective Date pursuant to paragraph (a) above, shall be eligible to participate in the Plan upon classification as an Eligible Employee.

### 2.2 **Enrollment In Plan.** To participate in the Plan, each Eligible Employee shall

complete and return the applicable forms, including a Voluntary Salary Deferral Agreement, and submit them to the Employer or its designee. Enrollment shall be effective on or after the first day of the month following the date the enrollment forms are properly completed by the Employee and accepted by the Employer or its designee.

### ARTICLE III – DEFERRAL OF COMPENSATION

- 3.1 ***Elective Deferrals.*** If elected pursuant of the terms of the Adoption Agreement, an Eligible Employee may elect to make Elective Deferrals to the Plan pursuant to a Voluntary Salary Deferral Agreement with the Employer. Any such Elective Deferrals may be made up to the amount set forth in the Adoption Agreement. Subject to the rules of the applicable Investment Sponsor, each Eligible Employee who elects to contribute to the Plan pursuant to a Voluntary Salary Deferral Agreement must agree to voluntarily defer a minimum of twenty-five (\$25) per pay period.
- 3.2 ***Modifications to Amount Deferred.*** A Participant may elect to change his or her Elective Deferral rate with respect to future Compensation by submitting a new properly executed Voluntary Salary Deferral Agreement to the Employer or its designee. Such change shall take effect as soon as administratively practicable but not earlier than the first pay period commencing with or during the first month following receipt by the Employer or its designee of such Voluntary Salary Deferral Agreement.
- 3.3 ***Termination of Deferral.*** A Participant may terminate his or her election to have Compensation deferred by so notifying the Employer or its designee in writing. Such termination shall take effect as soon as administratively practicable, but not earlier than the first pay period commencing with or during the first month following receipt by the Employer or its designee of satisfactory written notice of such revocation.
- 3.4 ***Employer Non-Elective Contributions.*** If elected pursuant to the terms of the Adoption Agreement, the Employer shall make non-elective contributions (other than Employer matching contributions, if any, made pursuant to Section 3.5 below) to the Plan on behalf of each Active Participant. No Participant shall have the right to elect to receive any amount to be contributed pursuant to this Section 3.4 as cash in lieu of a contribution. All such non-elective contributions shall be made at the rate set forth in the Adoption Agreement.
- 3.5 ***Employer Matching Contributions.*** If elected pursuant to the terms of the Adoption Agreement, the Employer shall make matching contributions (other than Employer non-elective contributions, if any, made pursuant to Section 3.4 above) to the Plan on behalf of each Active Participant who makes Elective

Deferrals to the Plan pursuant to a Voluntary Salary Deferral Agreement. No Participant shall have the right to elect to receive any amount to be contributed pursuant to this Section 3.5 as cash in lieu of a contribution. All such matching contributions shall be made at the rate set forth in the Adoption Agreement and shall be based on the amount of Elective Deferrals properly made by an Active Participant to the Plan during the year.

3.6 *Maximum Deferral.*

- (a) **Primary Limitation.** The maximum amount that may be contributed to the Plan pursuant to Sections 3.1, 3.4 and 3.5 hereof on behalf of any Participant, other than by means of a rollover or transfer, shall not exceed the lesser of: (1) the applicable dollar amount, as set forth in Code Section 457 (e)(15), or (2) 100% of the Participant's Includible Compensation for the taxable year.
- (b) **General Catch-Up Limitation.** For one or more of the last three taxable years ending before a Participant's attainment of Normal Retirement Age, the maximum amount that may be contributed to the Plan pursuant to Sections 3.1, 3.4 and 3.5 hereof on behalf of a Participant, other than by means of a rollover or transfer, shall be the lesser of X or Y. X shall be, twice the applicable dollar amount in effect under Code Section 457(2)(A). Y shall be the sum of (i) the primary limitation amount determined under Section 3.6(a) above for the year, and (ii) that portion of the primary limitation amount determined under Section 3.6(a) above not utilized by the Participant in prior taxable years (beginning after 1978) in which the Participant was eligible to participate in the Plan. The general catch-up limitation is available to a Participant during one three-year period only. If the Participant uses the general catch-up limitation and then postpones retirement or returns to work after retirement, the general catch-up limitation shall not be available again.
- (c) **Catch-Up Limitation For Individuals Age 50 or Over.** To the extent permitted by law, in the case of any individual who has attained the age of 50 before the close of a taxable year, the maximum Elective Deferral amount that may be contributed pursuant to Section 3.1 hereof for such taxable year shall be increased by the applicable amount set forth in Section 414(v) of the Code. Notwithstanding the immediately preceding sentence, contributions shall not be made in accordance with this Section 3.6(c) during any year in which Section 3.6(b) hereof provides a higher limitation.
- (d) **Coordination With Other Plans.** If a Participant participates in more than one described in Section 3.6(b) or (c) above). For years beginning



ITEM 15F

before January 1, 2002, if a Participant participates in a plan described in Sections 403(b), 401(k), 408(k) or 501(c)(18) of the Code, amounts deferred by the Participant to any such plan or plans and excluded from his or her gross income in any such taxable year under such plan or plans shall reduce the primary limitation amount described in Section 3.6(a) hereof and the catch-up limitation described in Section 3.6(b) hereof.

- (e) To the extent that any amount deferred hereunder for any taxable year exceeds the limitations of this Section 3.6, such excess shall be deemed to be a contribution under a plan described in Code Section 457(f). Such excess shall first be deemed to be attributable to contributions made pursuant to Section 3.5 hereof, and then to the extent required, attributable to contributions made pursuant to Section 3.4 hereof, and then, to the extent required, attributable to contributions made pursuant to a Voluntary Salary Deferral Agreement under Section 3.1 hereof.

3.7 ***Vesting.*** A Participant shall be fully vested at all times in his or her accrued benefits under this Plan. Such accrued benefits shall be non-forfeitable at all times.

3.8 ***Transfers of Funds from Another Plan.*** If so provided in the Adoption Agreement and subject to any limitations set forth in the Adoption Agreement, a Participant may elect to make, and each Investment Sponsor shall accept, subject to the rules of such Investment Sponsor, contributions that are transferred directly from any other eligible deferred compensation plan. Notwithstanding the foregoing, transfers shall be permitted only to the extent permitted by law. Such funds and the accumulation generated from them shall be fully vested and nonforfeitable at all times.

3.9 ***Acceptance of Rollover Contributions.*** If so provided in the Adoption Agreement and if a Participant is entitled to receive, and elects to receive, a distribution from another eligible deferred compensation plan maintained by a State, political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State, or from a plan qualified under Section 401(a) or 403(a) of the Code, or a plan described in Section 403(b) of the Code, that is in each case an eligible rollover distribution under the Code, each Investment Sponsor shall, subject to the rules of such Investment Sponsor, accept such amount under this Plan, provided that the rollover to this Plan is made either directly from another such plan or by the Participant within sixty days of the

receipt of the distribution. Any such amounts rolled over from any such plan shall be accounted for separately upon acceptance as a rollover under this Plan. Such funds and the accumulation generated from them shall be fully vested and

nonforfeitable at all times.

- 3.10 ***Uniformed Services.*** Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

#### ARTICLE IV – DISTRIBUTIONS

- 4.1 ***Eligibility for Payment.*** Distribution of benefits from the Plan shall be made no earlier than: (i) Severance from Employment, (ii) the calendar year in which the Participant attains age 70-1/2, or (iii) if elected in the Adoption Agreement, in the event of an approved financial hardship due to an Unforeseeable Emergency, as defined below.

- (a) “Severance from Employment” means the termination of a Participant’s employment with the Employer for any reason including the Participant’s death, disability or retirement. A Participant will be deemed to have incurred a Severance from Employment without regard to whether such Participant continues in the same job for a different employer following a liquidation, merger, consolidation or other similar transaction.
- (b) “Unforeseeable Emergency” means a severe financial hardship to the Participant resulting from a sudden and unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant’s property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. The circumstances that will constitute an Unforeseeable Emergency will depend upon the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved:
  - (1) Through reimbursement or compensation by insurance or otherwise;
  - (2) By liquidation of the Participant’s assets, to the extent that liquidation of such assets would not itself cause severe financial hardship; or
  - (3) By cessation of deferrals under the Plan.

The need to send a Participant’s child to college or the desire to purchase a home shall not be considered to be an Unforeseeable Emergency.

- © If elected in the Adoption Agreement, a Participant may elect to receive an

ITEM 15F

in-service distribution of all or a part of the Participant's benefit under the Plan if the following requirements are met:

- (1) the total amount of the Participant's benefit under the Plan does not exceed \$5,000 (or the dollar limit under Section 411(a)(11) of the Code, if greater),
- (2) the Participant has not previously received an in-service distribution of the Participant's benefit under the Plan, and
- (3) no amounts have been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution.

4.2 ***Distribution Due to Unforeseeable Emergency.*** If elected in the Adoption Agreement, a Participant may request a distribution due to an Unforeseeable Emergency by submitting a written request to the Employer or its designee, accompanied by evidence to demonstrate that the circumstances being experienced qualify as an Unforeseeable Emergency. The Employer or its designee shall have the authority to require such evidence, as it deems necessary to determine if a distribution shall be warranted. If an application for a distribution due to an Unforeseeable Emergency is approved, the distribution shall be limited to an amount sufficient to meet the Unforeseeable Emergency.

4.3 ***Commencement of Distributions.***

- (a) A Participant may commence distribution of benefits at any time following Severance from Employment.
- (b) Notwithstanding the provisions of Section 4.3(a) above, in no event shall distribution of benefits commence with respect to any Participant later than the April 1<sup>st</sup> of the calendar year following the calendar year in which the Participant attains age 70-1/2, or if later, the April 1<sup>st</sup> of the calendar year following the calendar year in which the Participant separates from service.

4.4 ***Distribution Requirements.***

- (a) General Rule. This Section 4.4 is intended to comply with Code Section 457(d) and the regulations issued thereunder. To the extent that there is any conflict between the provisions of Code Section 457(d) and the regulations issued thereunder and any other provision in this Plan, the

ITEM 15F

provisions of Code Section 457(d) and the regulations issued thereunder will control.

- (b) Limits on Income Options. Distributions, if not made in a single lump sum shall be made over a period that does not exceed:
  - (1) the life of the Participant;
  - (2) the lives of the Participant and his or her designated Beneficiary;
  - (3) a period certain not extending beyond the life expectancy of the Participant; or
  - (4) a period certain not extending beyond the life expectancies of the Participant and his or her designated Beneficiary.
- (c) Minimum Amounts to be Distributed. If a Participant's retirement payments are to be distributed in a form other than a single lump sum, the amount to be distributed each year, and the times those amounts are paid, shall satisfy the requirements specified in Section 401(a)(9) of the Code and the regulations issued thereunder.
- (d) Death Distribution Provisions.
  - (1) Death After Distributions Begin. If the Participant dies after distribution of his or her interest has commenced, the remaining portion of such interest shall continue to be distributed at least as rapidly as the method of distribution being used prior to the Participant's death.
  - (2) Death Before Distributions Begin. If the Participant dies before distribution of his or her interest has commenced, distribution of the Participant's entire interest shall be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death, except to the extent that the recipient of such benefits elects to receive distributions in accordance with (i) or (ii):
    - (i) If any portion of the Participant's interest is payable to a designated Beneficiary, distributions may be made in substantially equal annual payments over the life of the designated Beneficiary, or over a period certain not extending beyond the life expectancy of the designated Beneficiary, and commencing no later than the December 31 of the calendar year immediately following the calendar

year in which the Participant died;

- (ii) If the designated Beneficiary is the Participant's surviving spouse, the date distributions are required to begin in accordance with (i) above shall be the December 31 immediately following the calendar year in which the Participant died or, if later, the December 31 of the calendar year in which the Participant would have attained age 70-½.

If the Participant has not made an election pursuant to this Section 4.4 by the time of his or her death, the Participant's designated Beneficiary must elect the method of distribution no later than the earlier of (1) the December 31 of the calendar year in which distributions would be required to begin under this Section 4.4, or (2) the December 31 of the calendar year which contains the fifth anniversary of the date of death of the Participant. If the Participant has no designated Beneficiary, or if the designated Beneficiary does not elect a method of distribution, distribution of the Participant's entire interest must be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (3) For purposes of Section 4.4(d), if the surviving spouse dies after the Participant, but before payments to such spouse begins, the provisions of Section 4.4(d) with the exception of paragraph (ii) shall be applied as if the surviving spouse were the Participant.
- (4) For purposes of this Section 4.4, any amount paid to a child of the Participant will be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.

For the purposes of this Section 4.4, distribution of a Participant's interest is considered to begin on the Participant's required beginning date (or, if applicable, the date distribution is required to begin to the surviving spouse). If distribution in the form of an annuity irrevocably commences to the Participant before the required beginning date, the date distribution is considered to begin is the date distribution actually commences.

#### 4.5 ***Plan-to-Plan Transfers/Direct Rollovers.***

- (a) Notwithstanding any provision of the Plan to the contrary, to the extent permitted by law, all or any part of the account balance of a Participant in the Plan shall be transferred to another eligible deferred compensation plan in which the former Participant has become a participant, if: (i) the plan receiving such amounts

provides for acceptance of such transfers and (ii) the Participant gives written direction to the Employer or its designee in a satisfactory form to make such transfer.

- (b) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section 4.5(b), a distributee may elect, to the extent permitted by law, at the time and in the manner prescribed by the Employer or its designee, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee as direct rollover in accordance with Section 457(e)(16) of the Code.
- (c) If elected in the Adoption Agreement, any Participant who participates in a defined benefit governmental plan (as defined in Code Section 414(d)) may request a direct transfer from this Plan to the defined benefit governmental plan if the transferred assets are used for the following purposes: (i) the purchase of service credit (as defined in Code Section 415(n)(3)(A)) under the defined benefit governmental plan; or (ii) the repayment of contributions and earnings related to a previous forfeiture of service credit under the defined benefit governmental plan. Such transfer may be made before Severance from Employment.

4.6 **Loans.** If elected in the Adoption Agreement, loans are available to Participants before the commencement of benefit payments, subject to the terms of the Investment Options available under the Plan.

## ARTICLE V – FORMS OF PAYMENTS

5.1 **Election.** Subject to the rules of the Investment Sponsor, a Participant or Beneficiary may elect the form of distribution of his or her benefits and may revoke that election, with or without a new election, at any time at least thirty days before his or her benefits begin, or such other time as permitted by the Employer or its designee, by notifying the Employer or its designee in writing of his or her election.

5.2 **Forms of Payments.** The forms of benefit payments shall include:

- (a) Lump Sum. A single lump sum payment of all or a part of the balance credited to a participant's account.
- (b) Single Life Annuity. An annuity payable in equal installments for the life of the Participant that terminates upon the Participant's death.
- (c) Joint Life Annuity. An annuity payable in equal installments for the joint lives of the Participant and his or her Beneficiary.
- (d) Fixed Period Payments. Payments for a fixed period of not less than five years and not more than thirty years.
- (e) Such other annuity and withdrawal options as provided under the Investment Options available under this Plan.

All forms of payments shall be subject to the limitations of the applicable Investment Sponsor.

5.3 **Failure to Make Election.** If a Participant or Beneficiary fails to elect a form of payment in a timely manner, benefits shall be paid in a lump sum.

## ARTICLE VI – BENEFICIARY INFORMATION

6.1 **Designation.** A Participant shall have the right to designate a Beneficiary, and amend or revoke such designation at any time prior to commencement of benefits, in writing, in a form approved by the Employer or its designee. Such designation, amendment or revocation shall be effective upon satisfactory receipt by the Employer or its designee.

6.2 **Failure to Designate a Beneficiary.** Benefits shall be paid to the Participant's estate if, prior to the date a Participant commences to receive payment of benefits under the Plan, the Participant has not designated a Beneficiary or no designated Beneficiary survives the Participant and benefits are payable following the Participant's death.

## ARTICLE VII – PLAN ADMINISTRATION

- 7.1 ***Plan Administration.*** The Employer shall be responsible for appointing CalSTRS to administer the Plan. . CalSTRS shall have sole discretionary responsibility for the interpretation of the Plan, enrolling Participants in the Plan, sending contributions on behalf of each Participant to the applicable Investment Sponsor, and for performing other duties required for the operation of the Plan. Any action taken on any matter within the discretion of CalSTRS shall be made in its sole and absolute discretion based on this Plan document and the Adoption Agreement, and shall be final, conclusive, and binding on all parties. In order to discharge its duties hereunder, CalSTRS shall have the power and authority to delegate ministerial duties and to employ such outside professionals as may be required for prudent administration of the Plan. CalSTRS shall also have authority to enter into agreements on behalf of the Employer necessary to implement this Plan.
- 7.2 ***Accounts and Expenses.*** The Employer shall establish and maintain contracts and/or accounts on behalf of each Participant. Such Participant’s contracts and/or accounts shall be valued in accordance with the rules of the Investment Option. Each Participant shall receive a written notice of his or her contract value or account balance following such valuation or valuations, provided that such notice shall not be required to be given more than one time per calendar quarter. Each Participant’s contract value and account balance shall reflect the aggregate of his or her aggregate Elective Deferrals, Employer non-elective contributions, Employer matching contributions, transfers and rollovers, if any, and shall also reflect investment experience credited to such contracts and/or accounts and shall reflect expense charges applied to, and distributions made from, such contract and/or account.
- 7.3 ***Investments.*** A Participant may request that amounts contributed to the Plan on his or her behalf be allocated among the available Investment Options established under the Plan. CalSTRS Pension2 Investment Options will be made available . The initial allocation request may be made at the time of enrollment. Once made, an investment allocation request shall remain in effect for all subsequent contributions until changed by the Participant. A Participant may change his or her investment allocation by submitting a written request to the Employer or its designee on such form as may be required by the Employer or its designee. Such changes shall become effective as soon as administratively feasible after the Employer or its designee receives a satisfactory written request. Although the Employer intends to invest contributions according to the Participant’s requests, it reserves the right to invest without regard to such requests.



## ARTICLE VIII – AMENDMENT OR TERMINATION OF PLAN

- 8.1 ***Amendment and Termination.*** While it is expected that this Plan will continue indefinitely, the Employer reserves the right at any time to amend, otherwise modify, or terminate the Plan without any liability for such action. No amendment shall increase the duties or responsibilities of any Investment Sponsor without its prior consent thereto in writing. In the event of a termination of the Plan, the Employer shall notify Participants of the termination.

## ARTICLE IX – MISCELLANEOUS

- 9.1 ***Plan Non-Contractual.*** Nothing contained in this Plan will be construed as a commitment or agreement on the part of any person to continue his or her employment with the Employer, and nothing contained in this Plan will be construed as a commitment on the part of the Employer to continue the employment or the rate of compensation of any person for any period, and all Employees of the Employer will remain subject to discharge to the same extent as if the Plan had never been put into effect.
- 9.2 ***Claims of Other Persons.*** The provisions of the Plan will in no event be construed as giving any Participant or any other person, firm, corporation or other legal entity, any legal or equitable right against the Employer, its officers, employees, directors or trustees, except the rights as are specifically provided for in this Plan or created in accordance with the terms and provisions of this Plan.
- 9.3 ***Assignments.*** No benefit or interest available hereunder will be subject to assignment or alienation, either voluntarily or involuntarily, other than as provided under Section 401(a)(13) of the Code. The preceding sentence shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a domestic relations order, unless, effective with respect to distributions made on or after January 1, 2002, such order is determined to be a qualified domestic relations order, as defined in Section 414(p) of the Code.
- 9.4 ***Contracts.*** The terms of each arrangement pursuant to which an Investment Option is offered hereunder, the terms of a trust in which an Investment Option may be held, and any contract issued on behalf of a Participant or certificate issued to a Participant, are a part of the Plan as if fully set forth in the Plan document and the provisions of which are hereby incorporated by reference into the Plan. In the

case where there is any inconsistency or ambiguity between the terms of the Plan

ITEM 15F

and those of any contract, certificate or trust, if any, funding the Plan, the terms of the Plan control.

- 9.5. ***Pronouns.*** Whenever used herein, the masculine pronoun is deemed to include the feminine. The singular form, whenever used herein, shall mean or include the plural form where applicable, and vice versa.
- 9.6. ***Representations.*** The Employer does not represent or guarantee that any particular Federal or State income, payroll, personal property or other tax consequence will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation. Furthermore, the Employer does not represent or guarantee investment returns with respect to any Investment Options and shall not be required to restore any loss which may result from such investment or lack of investment.
- 9.7. ***Severability.*** If a court of competent jurisdiction holds any provision of this Plan to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.
- 9.8. ***Applicable Law.*** This Plan shall be construed in accordance with applicable Federal law and, to the extent otherwise applicable, the laws of the State in which the Employer is located.



**403(b) WRITTEN PLAN**  
**ADOPTION AGREEMENT**  
**FOR PUBLIC EDUCATION ENTITIES**

Prepared by:

CalSTRS 403bComply

**WRITTEN 403(b) PLAN  
ADOPTION AGREEMENT  
FOR PUBLIC EDUCATION ENTITIES**

The Employer designated in Section 1.01 below hereby adopts the Executive 403(b) Plan for the benefit of its eligible Employees and their Beneficiaries.

**I.  
EMPLOYER AND PLAN INFORMATION**

1.01 NAME OF EMPLOYER: San Dieguito Union High School District

1.02 ADDRESS: 710 Encinitas Blvd.

Encinitas, CA 92024

1.03 TYPE OF ORGANIZATION.

The Employer acknowledges that it is a public education organization under the Internal Revenue Code and that the Employer is the type of public education agency indicated below:

- a.  Public School District or Division
- b.  Public College or University
- c.  Other: (specify type): \_\_\_\_\_

1.04 PLAN NAME.

"The San Dieguito Union High School District 403(b) Tax Sheltered Annuity Plan"

1.05 PLAN ADMINISTRATOR.

- a.  The Plan Administrator shall be the Third Party Administrator, CalSTRS 403bComply, and the Employer
- b.  The Plan Administrator shall be the Employer.
- c.  The Plan Administrator shall be the person(s), position or committee named as follows:  
\_\_\_\_\_

1.06 PLAN EFFECTIVE DATE.

This Adoption Agreement of the Written Plan shall:

- a.  Establish a Written Plan (for a previously established Plan) effective as of \_\_\_\_\_
- b.  Establish a new Plan effective as of \_\_\_\_\_
- c.  Constitute an Amendment and Restatement in its entirety of a previously established 403(b) Written Plan of the Employer, which restatement shall be effective January 1, 2010

**II.**  
**ELECTIVE PLAN PROVISIONS**

2.01 ELIGIBLE CLASSES.

Unless any Employee classes are excluded below, all Employees are eligible to make Elective Deferral and Roth 403(b) Contributions (if the latter is applicable) to the Plan:

- a.  NA - All Employees are included
- b.  Employees who are students and regularly attending classes at the Employer institution during the calendar year (limited to Employers that are educational institutions)
- c.  Employees who normally work fewer than \_\_\_ hours per week (must be 20 or less; equivalent to 1,000 hours or less in a year except as otherwise provided under applicable 403(b) regulations effective January 1, 2009) during the calendar year
- d.  Non-resident aliens who have earned no income from U.S. sources
- e.  Employees who do not contribute at least \_\_\_\_\_ (maximum \$200) per year
- f.  Participants in a Section 457(b) Deferred Compensation Plan
- g.  Other (specify; must be in compliance with the Written Plan and applicable Code and regulations): \_\_\_\_\_

2.02 ROTH 403(b) CONTRIBUTIONS.

- a. The Plan  shall  shall not allow Employees to make Roth 403(b) Contributions to the Plan
- b. If Roth 403(b) Contributions are permitted and a Participant is required to withdraw an Excess Deferral, Excess Deferrals shall be corrected by:
  - (i)  First distributing Roth 403(b) Contributions (plus earnings thereon) made

ITEM 15F

during the Plan Year and then by distributing a Participant's Elective Deferrals (plus earnings thereon), or

- (ii)  Distributing a Participant's Roth 403(b) Contributions (plus earnings thereon) and/or a Participant's Elective Deferrals (plus earnings thereon) in the order directed by the Participant to the Administrator

2.03 AUTOMATIC ENROLLMENT.

The Plan  shall  shall not follow the Automatic Enrollment procedures for New Employees as provided in the Written Plan (Note: May only be elected if allowed under state laws applicable to the Employer and Employee)

2.04 INVESTMENTS.

- a. Contributions. Any Annuity Contracts and/or Custodial Accounts provided by Vendors authorized in Appendix I, which may be revised from time to time, are authorized to accept contributions under the Plan.
- b. Exchanges Within the Plan.

The Plan  shall  shall not permit Participants to make Exchanges  
If permitted, Exchanges may occur between (choose one):

- (i)  Those organizations listed in Appendix I only
  - (ii)  Those organizations listed on Appendix I and Appendix II. Appendix II shall designate those organizations offering Annuity Contracts and/or Custodial Accounts that satisfy the requirements of Section 403(b) of the Code and who execute an Information Sharing Agreement with Employer or its appointee for purposes of satisfying applicable compliance requirements, which may be revised from time to time
- c. Frozen Accounts. A list of former Vendors that are no longer allowed to receive contributions, rollovers, transfers and/or exchanges shall be maintained in Appendix III and revised from time to time.

2.05 BENEFICIARY DESIGNATIONS.

- a.  A Participant shall designate his or her Beneficiary(ies) in the Participant election and the Plan Administrator shall maintain a record of such designation.
- b.  A Participant's Beneficiary(ies) shall be designated in the application or other form provided by each Vendor, and the record of the Beneficiary shall be maintained by the Vendor

ITEM 15F

2.06 TRANSFERS AND ROLLOVERS.

- a. Transfers Into the Plan. The Plan  shall  shall not accept Transfers from another employer's 403(b) plan.
- b. Transfers From the Plan. The Plan  shall  shall not allow Transfers from the Plan into another employer's 403(b) plan, if requested by a former Participant.

NOTE: A Transfer occurs when a Participant moves his or her account with a Vendor from one plan to another. In this event, the Participant's account does not change; the account simply moves from one plan to another. This is NOT the same as a rollover. A rollover occurs when a Participant has the right under his or her plan rules and federal tax law to move the funds in the account from one plan to another, and the funds remain tax-deferred. Rollovers of tax-deferred funds other than Roth 403(b) accounts are permitted under the Plan. There is no election option in the Written Plan to prohibit tax-deferred rollovers, other than Roth 403(b) accounts.

- c. Roth 403(b) Contributions.
  - (i) If Roth 403(b) Contributions are permitted into the Plan, direct rollovers from other Roth 403(b) or Roth 401(k) plans  shall  shall not be accepted into the Plan, or
  - (ii)  Not applicable because Roth Contributions are not permitted into the Plan

2.07 DISABILITY.

The definition of Disability under the Plan shall be:

- a.  As defined in the Individual Agreement of the Participant;
  - b.  As defined in the public retirement system in which the Employee is a Participant in the state in which the Employer's administrative offices are located;
  - c.  As defined below:
- 

2.08 15 YEAR CATCH-UP CONTRIBUTIONS.

The Plan  shall  shall not allow Employees that satisfy the conditions for the Special Section 403(b) Catch-up Limitation for Employees With 15 Years of Service to increase their Elective Deferrals limitation

2.09 HARDSHIP DISTRIBUTIONS.

- a. Financial Hardship distributions  shall  shall not be permitted.

ITEM 15F

b. If Financial Hardship distributions are permitted, Financial Hardship distributions  shall  shall not be permitted only if the hardship request meets the definition of a hardship withdrawal this is automatically deemed to be necessary to satisfy the financial need (pursuant to § 1.401(k)-1(d)(3)(iii)(B) of the Income Tax Regulations)

2.10 LOANS.

Participant loans  shall  shall not be permitted, subject to availability and any additional conditions that may apply under a Participant's 403(b) Individual Agreement(s)

2.11 AUTOMATIC DISTRIBUTIONS.

Automatic distributions of small amounts  shall  shall not be required as provided in the Written Plan (Note: May only be elected if allowed under state laws applicable to the Employer and Employee and will not apply to Individual Agreements that do not permit such automatic distributions)

2.12 INDEMNIFICATION.

If the Employer appoints an Employee or committee of Employees to represent the Employer in the administration of the Plan, the Employer  shall  shall not, to the extent permitted by applicable law, indemnify any such Employee acting on its behalf in this capacity.

2.13 OTHER PROVISIONS.

Other provisions of the Plan (must be consistent with the Written Plan, applicable Governing Law and as provided by the Plan Administrator):

---

---

**IN WITNESS WHEREOF**, this Plan having been authorized by the appropriate Board or other authority by the Employer, the undersigned hereby execute this Plan.

EMPLOYER:

San Dieguito Union High School District

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

Title: Associate Superintendent, Business Services



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

### Appendix I

The Vendors on the List of 403(b) Certified Companies and the products listed in 403bCompare unless excluded below because they cannot or will not meet the District's 403(b) Plan and administrative rules:

1. AIM Distributors, Inc.
2. Allianz Life Insurance Company of North America
3. Ameritas Life Insurance Corp.
4. Cambridge Investment Research
5. Citizens Funds
6. Conseco Insurance Company
7. CUSO Financial Services, L.P. (CFS)
8. Diversified Investment Advisors, Inc.
9. Domini Funds
10. Efficient market Advisors, LLC
11. Great Southern Life Insurance Company
12. Great-West Life & Annuity Insurance Co.
13. Hartford Life Inc.
14. Jackson National Life Ins. Co.
15. Lord Abbett Distributor, LLC
16. MFS Investment Management
17. National Health Insurance Co (NHIC)
18. Nationwide Life Insurance Company
19. Northwestern Mutual
20. Paul Revere Variable Annuity Insurance Company
21. Pax World Funds
22. PFS Investment Management Inc.
23. RSG Securities, a Division of Independent Financial Group, LLC
24. Sentinel Group Funds, Inc.
25. State Farm VP Management Corp./Broker-Dealer and State Farm Life Insurance Company/Life Insurance
26. Washington National Insurance Company
27. Western Reserve Life Assurance Co. of Ohio
28. Veritrust® Financial, L.L.C.

Using the same criteria as listed above, the following Vendors are included in the Plan:

ITEM 15F

1. AIG Annuity Insurance Company
2. AIG VALIC
3. American Century Investments
4. American Fidelity
5. American Funds Distributors (only available through 403b ASP)
6. American United Life Ins. Co.
7. Americo Financial Life and Annuity Insurance Company
8. Aviva Life and Annuity Company
9. AXA Equitable Life Insurance Company
10. CalSTRS Pension2
11. Commonwealth Annuity and Life Insurance Company
12. Fidelity Investments (not available unless the Employer has signed an agreement directly with Fidelity, a copy of which has been provided to CalSTRS 403bComply)
13. First Investors Corporation
14. Franklin Templeton Investments
15. FTJ FundChoice, LLC
16. General American Life Insurance Company
17. Great American Advisors, Inc. (Available through 403b ASP)
18. Great American Financial Resources
19. GWN Securities, Inc.
20. Horace Mann Companies
21. Industrial-Alliance Pacific Life Ins. Co., US Branch
22. ING Life Insurance & Annuity Company
23. ING-ReliaStar Life Insurance Company
24. Legend Group, Inc., The
25. Life Insurance Company of the Southwest
26. Lincoln Financial Group
27. Lincoln Investment Planning
28. Mass Mutual
29. Metropolitan Life Insurance co –aka-MetLife, MetLife Investors, MetLife Resources
30. Midland National
31. Modern Woodmen of America
32. Neuberger Berman Management, Inc.
33. New York Life Ins. & Annuity Corp.
34. North American Company for Life and Health
35. Oppenheimer Funds Distributor, Inc.
36. Pacific Life Insurance Company
37. PlanMember Services Corp
38. Principal Funds Distributor, Inc. (PFD) (only available through 403b ASP)
39. Putnam Investments
40. RiverSource Investments, LLC(Ameriprise)
41. Security Benefit Group
42. Symetra Life Insurance Company
43. Teachers Ins & Annuity Assoc of America (TIAA-CREF)
44. T. Rowe Price
45. Thrivent Financial for Lutherans

ITEM 15F

46. Thrivent Investment Management Inc
47. Transamerica Financial Life Insurance Company
48. Transamerica Fund Services Inc.
49. United Teacher Associates Insurance Company
50. USAA Life Insurance Company
51. USAA Investment Management Company
52. Vanguard Group, The
53. Waddell & Reed, Inc.
54. Fringe Benefit Consortium\*

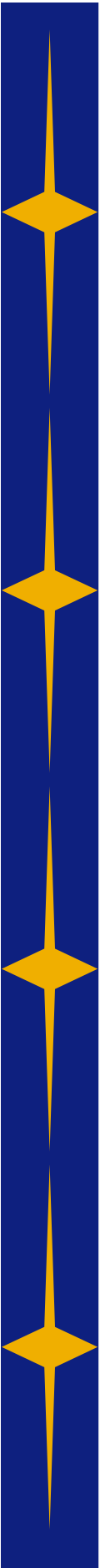
**Appendix II**

1. None

### **Appendix III**

Vendors with “frozen” accounts in the Plan will be listed below as they sign agreements with the Employer. Vendors who do not sign an agreement with the Employer will also be listed (absent an agreement with the Employer) after the Plan Administrator has made a good faith effort to obtain an agreement from the Vendor.

- 1.



# Written Plan



## **403(b) Written Plan Provided by CalSTRS 403bComply**

This 403(b) Written Plan (“Written Plan”) includes the model language provided in Revenue Procedure 2007-71 by the Internal Revenue Service (“IRS”) and has been modified to include certain optional provisions that were not included in the IRS model language. The Adoption Agreement that accompanies this Written Plan must be completed to indicate the specific provisions elected by each Employer using this Plan. This Written Plan is intended for use only by public educational organizations and only provides for Employee Voluntary contributions.

### **Section 1 - Definition of Terms Used**

The following words and terms, when used in the Plan, have the meaning set forth below.

1.1 "Account": The Account or accumulation maintained for the benefit of any Participant or Beneficiary under an Annuity Contract or a Custodial Account.

1.2 "Account Balance": The bookkeeping account maintained for each Participant which reflects the aggregate amount credited to the Participant’s Account under all Accounts, including the Participant’s Elective Deferrals, Roth 403(b) Contributions, the earnings or loss of each Annuity Contract or a Custodial Account (net of expenses) allocable to the Participant, any transfers for the Participant’s benefit, and any distribution made to the Participant or the Participant’s Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant’s death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any Account established under Section 6 for rollover contributions and plan-to-plan transfers made for a Participant, if such transfers are authorized in the Adoption Agreement, the Account established for a Beneficiary after a Participant’s death, and any Account or Accounts established for an alternate payee (as defined in section 414(p)(8) of the Code).

1.3 "Administrator": The Employer and its designated Third Party Administrator (“TPA”), if any, as indicated in the Adoption Agreement. Notwithstanding this appointment, the Administrator may delegate, by separate agreement, any administrative responsibilities hereunder to one or more persons, committees, Vendors, or other organizations.

1.4 "Annuity Contract": A nontransferable contract as defined in section 403(b)(1) of the Code, established for each Participant by the Employer, or by each Participant individually, that is issued by an insurance company qualified to issue annuities under Governing Law and that includes payment in the form of an annuity.

1.5 "Beneficiary": The designated person who is entitled to receive benefits under the Plan after the death of a Participant, subject to such additional rules as may be set forth in the Individual Agreements.

ITEM 15F

1.6 "Custodial Account": The group or individual Custodial Account or Accounts, as defined in section 403(b)(7) of the Code, established for each Participant by the Employer, or by each Participant individually, to hold assets of the Plan.

1.7 "Code": The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.8 "Compensation": All cash Compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash Compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a Compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election under Section 2 made to reduce Compensation in order to have Elective Deferrals under the Plan).

1.9 "Disabled": The definition of Disability provided in the applicable Individual Agreement, unless otherwise defined in the Adoption Agreement.

1.10 "Elective Deferral": The Employer contributions made to the Plan at the election of the Participant in lieu of receiving cash Compensation. Elective Deferrals are limited to pre-tax salary reduction contributions.

1.11 "Employee": Each individual, whether appointed or elected, who is a common law Employee of the Employer performing services for a public school as an Employee of the Employer. This definition is not applicable unless the Employee's Compensation for performing services for a public school is paid by the Employer. Further, a person occupying an elective or appointive public office is not an Employee performing services for a public school unless such office is one to which an individual is elected or appointed only if the individual has received training, or is experienced, in the field of education. A public office includes any elective or appointive office of a state or local government.

1.12 "Employer": The organization designated as the Employer in the Adoption Agreement.

1.13 "Funding Vehicles ": The Annuity Contracts or Custodial Accounts issued for funding amounts held under the Plan and specifically approved by the Employer for use under the Plan.

1.14 "Includible Compensation": An Employee's actual wages in box 1 of Form W-2 for a year for services to the Employer, but subject to a maximum of \$200,000 (or such higher maximum as may apply under section 401(a)(17) of the Code) and increased (up to the dollar maximum) by any Compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including any Elective Deferral under the Plan). The amount of Includible Compensation is determined without regard to any community property laws.

1.15 "Individual Agreement": The agreements between a Vendor and the Employer or a Participant that constitute or govern a Custodial Account or an Annuity Contract.

1.16 "Participant": An individual for whom Elective Deferrals or other contributions permitted herein are currently being made, or for whom such contributions have previously been made, under the Plan and who has not received a distribution of his or her entire benefit under the Plan.

1.17 "Plan": The Plan Name as indicated in the Adoption Agreement.

ITEM 15F

1.18 "Plan Year": The calendar year.

1.19 "Related Employer": The Employer and any other entity which is under common control with the Employer under section 414(b) or (c) of the Code. For this purpose, the Employer shall determine which entities are Related Employers based on a reasonable, good faith standard and taking into account the special rules applicable under Notice 89-23, 1989-1 C.B. 654.

1.20 "Roth 403(b) Contribution": If authorized in the Adoption Agreement, any contribution made by a Participant which is designated as a Roth 403(b) Contribution in accordance with Section 10 of the Plan that qualifies as a Roth contribution under section 402A of the Code.

1.21 "Severance from Employment": For purpose of the Plan, Severance from Employment means Severance from Employment with the Employer and any Related Entity. However, a Severance from Employment also occurs on any date on which an Employee ceases to be an Employee of a public school, even though the Employee may continue to be employed by a Related Employer that is another unit of the state or local government that is not a public school or in a capacity that is not employment with a public school (e.g., ceasing to be an Employee performing services for a public school but continuing to work for the same state or local government employer).

1.22 "Vendor": The provider of an Annuity Contract or Custodial Account.

1.23 "Valuation Date": Each business day.

## **Section 2 - Participation and Contributions**

2.1 Eligibility. Each Employee shall be eligible to participate in the Plan and elect to have Elective Deferrals made on his or her behalf hereunder immediately upon becoming employed by the Employer. However, an Employee who is a student-teacher (i.e., a person providing service as a teacher's aide on a temporary basis while attending a school, college or university) is not eligible to participate in the Plan. If authorized in the Adoption Agreement, an Employee who normally works fewer than 20 hours per week is not eligible to participate in the Plan. An Employee normally works fewer than 20 hours per week if, for the 12-month period beginning on the date the Employee's employment commenced, the Employer reasonably expects the Employee to work fewer than 1,000 hours of service (as defined under section 410(a)(3)(C) of the Code) and, for each Plan Year ending after the close of that 12-month period, the Employee has worked fewer than 1,000 hours of service.

### 2.2 Contributions.

a. Elective Deferrals. An Employee elects to become a Participant by executing an election to reduce his or her Compensation (and have that amount contributed as an Elective Deferral on his or her behalf) and filing it with the Administrator. This Compensation reduction election shall be made on the agreement provided by the Administrator under which the Employee agrees to be bound by all the terms and conditions of the Plan. The Administrator may establish an annual minimum deferral amount no higher than \$200, and may change such minimum to a lower amount from time to time, as specified in the Adoption Agreement. The participation election shall also include designation of the Funding Vehicles and Accounts therein to which Elective Deferrals are to be made. If authorized in the Adoption Agreement, a Beneficiary shall be designated in the participant election. Any such election shall remain in effect until a new election is filed. Only an



ITEM 15F

individual who performs services for the Employer as an Employee may reduce his or her Compensation under the Plan. Each Employee will become a Participant in accordance with the terms and conditions of the Individual Agreements. All Elective Deferrals shall be made on a pre-tax basis, unless other types of elective contributions are authorized in the Adoption Agreement. An Employee shall become a Participant as soon as administratively practical following the date applicable under the Employee's election.

b. Roth 403(b) Contributions. If authorized in the Adoption Agreement and if permitted under an Employee's Individual Agreement(s), an Employee may elect to make Roth 403(b) Contributions to the Plan in accordance with Section 10 of the Plan. The Participant's election to make Roth 403(b) Contributions shall be made on the agreement provided by the Administrator and shall also include designation of the Funding Vehicles and Accounts therein to which Elective Deferrals are to be made. Any such election shall remain in effect until a new election is filed. The Administrator may establish an annual minimum Roth 403(b) Contribution amount no higher than \$200, and may change such minimum to a lower amount from time to time.

c. Special Rule for New Employees. If authorized in the Adoption Agreement:

(1) Automatic Enrollment for New Employees. For purposes of applying this Section 2.2, a new Employee is deemed to have elected to become a Participant and to have his or her Compensation reduced by a percentage of base Compensation designated in the Adoption Agreement (and have that amount contributed as an Elective Deferral on his or her behalf), at the time the Employee is hired, and to have agreed to be bound by all the terms and conditions of the Plan. Contributions made under this automatic participation provision shall be made to the Funding Vehicle or Vehicles selected for this purpose for all new Employees by the Administrator. Any Employee who automatically becomes a Participant under this Section 2.2 b. shall file a designation of Beneficiary with the Funding Vehicle or Vehicles to which contributions are made.

(2) Right to File a Different Election; Notice to Employee. This Section 2.2 c. shall not apply to the extent an Employee files an election for a different percentage reduction or elects to have no Compensation reduction, or designates a different Funding Vehicle to receive contributions made on his or her behalf. Any new Employee shall receive a statement at the time he or she is hired that describes the Employee's rights and obligations under this Section 2.2 c. (including the information in this Section 2.2 c. and identification of how the Employee can file an election or make a designation as described in the preceding sentence, and the refund right under Section 2.2 c.(3), including the specific name and location of the person to whom any such election or designation may be filed), and how the contributions under this Section 2.2 c. will be invested.

(3) Refund of Contributions. An Employee for whom contributions have been automatically made under Section 2.2 c.(1) may elect to withdraw all of the contributions made on his or her behalf under Section 2.2 c.(1), including earnings thereon to the date of the withdrawal. This withdrawal right is available only if the withdrawal election is made within 90 days after the date of the first contribution made under Section 2.2 c.(1).

2.3 Information Provided by the Employee. Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information

ITEM 15F

necessary or advisable for the Administrator to administer the Plan, including any information required under the Individual Agreements.

2.4 Change in Elective Deferrals Election. Subject to the provisions of the applicable Individual Agreements, an Employee may at any time revise his or her participation election, including a change of the amount of his or her Elective Deferrals or a change in the allocation of his or her Elective Deferrals to reflect pre-tax deferrals or after-tax deferrals to the Roth 403(b) Contribution option (if permitted in the Plan), his or her investment direction, and his or her designated Beneficiary (if Beneficiary designations are permitted to be a part of the participation agreement under the Plan). A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees. A change in the Beneficiary designation shall take effect when the election is accepted by the Vendor.

2.5 Contributions Made Promptly. Elective Deferrals under the Plan shall be transferred to the applicable Funding Vehicle within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

2.6 Leave of Absence. Unless an election is otherwise revised, if an Employee is absent from work by leave of absence, Elective Deferrals under the Plan shall continue to the extent that Compensation continues.

**Section 3 - Limitations on Amounts Deferred**

3.1 Basic Annual Limitation. Except as provided in Sections 3.2 and 3.3, the maximum amount of the Elective Deferral under the Plan for any calendar year shall not exceed the lesser of (a) the applicable dollar amount or (b) the Participant's Includible Compensation for the calendar year. The applicable dollar amount is the amount established under section 402(g)(1)(B) of the Code, which is \$15,500 for 2008, and is adjusted for cost-of-living after 2008 to the extent provided under section 415(d) of the Code.

3.2 Special Section 403(b) Catch-up Limitation for Employees With 15 Years of Service. Because the Employer is a qualified organization (within the meaning of § 1.403(b)-4(c)(3)(ii) of the Income Tax Regulations), if authorized in the Adoption Agreement, the applicable dollar amount under Section 3.1 a. for any "qualified Employee" is increased (to the extent provided in the Individual Agreements) by the *least of*:

- a. \$3,000;
- b. The excess of:
  - (1) \$15,000, over
  - (2) The total special 403(b) catch-up Elective Deferrals made for the qualified Employee by the qualified organization for prior years; *or*
- c. The excess of:
  - (1) \$5,000 multiplied by the number of years of service of the Employee with the qualified organization, over
  - (2) The total Elective Deferrals and, if applicable, Roth 403(b) Contributions made for the Employee by the qualified organization for prior years.

ITEM 15F

For purposes of this Section 3.2, a “qualified Employee” means an Employee who has completed at least 15 years of service taking into account only employment with the Employer.

3.3 Age 50 Catch-up Elective Deferral Contributions. An Employee who is a Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Elective Deferrals, and, if applicable, Roth 403(b) Contributions, up to the maximum age 50 catch-up Elective Deferrals for the year. The maximum dollar amount of the age 50 catch-up Elective Deferrals and, if applicable, Roth 403(b) Contributions, for a year is \$5,000 for 2008, and is adjusted for cost-of-living after 2008 to the extent provided under the Code.

3.4 Coordination. Amounts in excess of the limitation set forth in Section 3.1 shall be allocated first to the special 403(b) catch-up under Section 3.2 and next as an age 50 catch-up contribution under Section 3.3. However, in no event can the amount of the Elective Deferrals and, if applicable, Roth 403(b) Contributions, for a year be more than the Participant’s Compensation for the year.

3.5 Special Rule for a Participant Covered by Another Section 403(b) Plan. For purposes of this Section 3, if the Participant is or has been a Participant in one or more other plans under section 403(b) of the Code (and any other plan that permits Elective Deferrals under section 402(g) of the Code), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Section 3. For this purpose, the Administrator shall take into account any other such plan maintained by any Related Employer and shall also take into account any other such plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan. Notwithstanding the foregoing, another plan maintained by a Related Entity shall be taken into account for purposes of Section 3.2 only if the other plan is a § 403(b) plan.

3.6 Correction of Excess Elective Deferrals. If the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another plan of the Employer under section 403(b) of the Code (and any other plan that permits Elective Deferrals under section 402(g) of the Code for which the Participant provides information that is accepted by the Administrator), then the Elective Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant. Notwithstanding the foregoing, if Roth 403(b) Contributions are authorized in the Adoption Agreement, the correction of excess amounts shall be made pursuant to Section 10.

(Note: Corrective distributions are generally required to be made within 2½ months after the end of the calendar year, but can be made within 6 months after the end of the calendar year if the Plan uses the optional provision at Section 2.2 b. and otherwise constitutes an eligible automatic contribution arrangement. See §§ 414(w)(3) and 4979(f) of the Code.)

3.7 Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under section 414(u) of the Code or who is on a leave of absence for qualified military service under section 414(u) of the Code may elect to make additional Elective Deferrals upon resumption of employment with the Employer equal to the maximum Elective Deferrals that the Employee could have elected during that period if the Employee’s employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Elective Deferrals, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent provided under section 414(u) of the Code, this right applies for five years

ITEM 15F

following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

**Section 4 - Loans**

4.1 Loans. Loans shall be permitted under the Plan (a) if such provision is authorized in the Adoption Agreement and (b) to the extent permitted by the Individual Agreements controlling the Account assets from which the loan is made and by which the loan will be secured.

4.2 Information Coordination Concerning Loans. Each Vendor is responsible for all information reporting and tax withholding required by applicable federal and state laws in connection with distributions and loans. To minimize the instances in which Participants have taxable income as a result of loans from the Plan, the Administrator shall take such steps as may be appropriate to coordinate the limitations on loans set forth in Section 4.3, including the collection of information from Vendors, and transmission of information requested by any Vendor, concerning the outstanding balance of any loans made to a Participant under the Plan or any other plan of the Employer. The Administrator shall also take such steps as may be appropriate to collect information from Vendors, and transmission of information to any Vendor, concerning any failure by a Participant to timely repay any loans made to a Participant under the Plan or any other plan of the Employer.

4.3 Maximum Loan Amount. No loan to a Participant under the Plan may exceed the lesser of:

- a. \$50,000, reduced by the greater of (1) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (2) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period); or
- b. one half of the value of the Participant's vested Account Balance (as of the valuation date immediately preceding the date on which such loan is approved by the Administrator).

For purposes of this Section 4.3, any loan from any other plan maintained by the Employer and any Related Employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

4.4 Loan Repayments For Participants in Military Service. Notwithstanding any other provision of the Plan or any Annuity Contract or Custodial Account, loan repayments by eligible uniformed services personnel may be suspended as permitted under section 404(u)(4) of the Code and the terms of any loan shall be modified to conform to the requirements of the Uniformed Services Employment and Reemployment Rights Act.

(Note: Loans are included in taxable income under certain conditions, including: if the loan, when combined with the balance of all other loans from plans of the Employer, exceeds the limitations described in Section 4.3; or if there is a failure to repay the loan in accordance with the repayment schedule. Because the tax treatment of a loan depends on information concerning aggregate loan balances under all Annuity Contracts and Custodial Accounts within the Plan (and under all plans of the

ITEM 15F

Employer), information about loan balances under the contracts and accounts of other Vendors is needed before making a loan.)

**Section 5 - Benefit Distributions**

5.1 Benefit Distributions At Severance from Employment or Other Distribution Event. Except as permitted under Section 3.6 (relating to excess Elective Deferrals), Section 5.4 (relating to withdrawals of amounts rolled over into the Plan), Section 5.5 (relating to hardship), Section 8.3 (relating to termination of the Plan), or Section 10.7 (relating to excess Roth 403(b) Contributions and/or excess Elective Deferrals) distributions from a Participant's Account may not be made earlier than the earliest of the date on which the Participation has a Severance from Employment, dies, becomes Disabled, or attains age 59½. Notwithstanding the foregoing and in accordance with the terms of the Individual Agreements, the withdrawal restrictions described above do not apply to Elective Deferrals made to an Annuity Contract and attributable earnings as of December 31, 1988. Distributions shall otherwise be made in accordance with the terms of the Individual Agreements.

5.2 Small Account Balances. If authorized in the Adoption Agreement, the Plan will permit distributions to be made in the form of a lump-sum payment, without the consent of the Participant or Beneficiary, if allowed in the terms of the Individual Agreements, but no such payment may be made without the consent of the Participant or Beneficiary unless the Account Balance does not exceed \$5,000 (determined without regard to any separate account that holds rollover contributions under Section 6.1) and any such distribution shall comply with the requirements of section 401(a)(31)(B) of the Code (relating to automatic distribution as a direct rollover to an individual retirement plan for distributions in excess of \$1,000).

5.3 Minimum Distributions. Each Individual Agreement shall comply with the minimum distribution requirements of section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of section 401(a)(9) of the Code, each Individual Agreement is treated as an individual retirement account (IRA) and distributions shall be made in accordance with the provisions of § 1.408-8 of the Income Tax Regulations, except as provided in § 1.403(b)-6(e) of the Income Tax Regulations.

5.4 In-Service Distributions From Rollover Account. If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

5.5 Hardship Withdrawals. If authorized in the Adoption Agreement:

a. Hardship withdrawals shall be permitted under the Plan to the extent permitted by the Individual Agreements controlling the Account assets to be withdrawn to satisfy the hardship. No Elective Deferrals shall be allowed under the Plan during the 6-month period beginning on the date the Participant receives a distribution on account of hardship.

b. The Individual Agreements shall provide for the exchange of information among the Employer (or the Administrator, if designated for this purpose by the Employer) and the Vendors to the extent necessary to implement the Individual Agreements, including, in the case of a hardship withdrawal that is automatically deemed to be necessary to satisfy the Participant's financial need (pursuant to § 1.401(k)-1(d)(3)(iv)(E) of the Income Tax Regulations), the Vendor notifying the Employer (or the Administrator, if designated by the Employer for this purpose) of the withdrawal

ITEM 15F

in order for the Employer to implement the resulting 6-month suspension of the Participant's right to make Elective Deferrals under the Plan.

c. If authorized in the Adoption Agreement, hardship withdrawals will be permitted under the Plan that do not meet definition of a hardship withdrawal this is automatically deemed to be necessary to satisfy the financial need (pursuant to § 1.401(k)-1(d)(3)(iii)(B) of the Income Tax Regulations). In the case of a hardship withdrawal that is not automatically deemed to be necessary to satisfy the financial need, the Vendor shall obtain information from the Employer (or the Administrator, if designated by the Employer for this purpose) to determine the amount of any plan loans and rollover accounts that are available to the Participant under the Plan to satisfy the financial need. If such a hardship withdrawal that is not automatically deemed to be necessary to satisfy the financial need is authorized by the Administrator, the Vendor shall accept such authorization.

#### 5.6 Rollover Distributions.

a. A Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect to have any portion of an eligible rollover distribution (as defined in section 402(c)(4) of the Code) from the Plan paid directly to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Code) specified by the Participant in a direct rollover. In the case of a distribution to a Beneficiary who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the participant who is an alternate payee under a domestic relations order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of section 408(d)(3)(C) of the Code).

b. Each Vendor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover in a manner that complies with Section 402(f) of the Code.

### Section 6 - Rollovers to the Plan and Transfers

6.1 Eligible Rollover Contributions to the Plan. The Plan shall permit Employees who are Participants to rollover funds from another qualified plan or account as specified below.

a. Eligible Rollover Contributions. To the extent provided in the Individual Agreements, an Employee who is a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. Such rollover contributions shall be made in the form of cash only. The Vendor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code. However, unless Roth 403(b) Contributions are authorized in the Adoption Agreement, in no event does the Plan accept a rollover contribution from a Roth elective deferral account under an applicable retirement plan described in section 402A(e)(1) of the Code.

ITEM 15F

b. Eligible Rollover Distribution. For purposes of Section 6.1 a., an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code or corrective distribution of excess amounts in accordance with the Plan. In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408 of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

c. Separate Accounts. The Vendor shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan.

6.2 Plan-to-Plan Transfers to the Plan. If authorized in the Adoption Agreement, for Employees who are participants or beneficiaries in another plan under section 403(b) of the Code, the Plan shall permit a transfer of assets to the Plan as provided in this Section 6.2.

a. Such a transfer is permitted only if the other plan provides for the direct transfer of each person's entire interest therein to the Plan and the Participant is an Employee or former Employee of the Employer. The Administrator and any Vendor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any Vendor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with § 1.403(b)-10(b)(3) of the Income Tax Regulations and to confirm that the other plan is a plan that satisfies section 403(b) of the Code.

b. The amount so transferred shall be credited to the Participant's Account Balance, so that the Participant or Beneficiary whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant or Beneficiary immediately before the transfer, as this provision is described in § 1.403(b) of the Income Tax Regulations. This provision does not preclude the deduction of any usual and customary distribution fees, surrender charges or other costs associated with the transfer of the accumulated benefit from one Account to another Account with the same or a different Vendor.

c. To the extent provided in the Individual Agreements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as an Elective Deferral or, if applicable, Roth 403(b) Contribution, by the Participant under the Plan, except that (1) the Individual Agreement which holds any amount transferred to the Plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the Individual Agreement must impose restrictions on distributions to the Participant or Beneficiary whose assets are being transferred that are not less stringent than those imposed on the transferor plan and (2) the transferred amount shall not be considered an Elective Deferral under the Plan in determining the maximum deferral under Section 3.

ITEM 15F

6.3 Plan-to-Plan Transfers from the Plan. If authorized in the Adoption Agreement, the Plan shall permit Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another plan that satisfies section 403(b) of the Code in accordance with §1.403(b)-10(b)(3) of the Income Tax Regulations, as provided in this Section 6.3.

a. A transfer is permitted under this Section 6.3 a. only if the Participants or Beneficiaries are Employees or former Employees of the Employer (or the business of the Employer) under the receiving Plan and the other plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred, as this provision is described in § 1.403(b) of the Income Tax Regulations. This provision does not preclude the deduction of any usual and customary distribution fees, surrender charges or other costs associated with the transfer of the accumulated benefit from one Account to another Account with the same or a different Vendor.

b. The other plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the other plan shall impose restrictions on distributions to the Participant or Beneficiary whose assets are transferred that are not less stringent than those imposed under the Plan. In addition, if the transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the Plan, the other plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any after-tax Employee contributions).

c. Upon the transfer of assets under this Section 6.3, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 6.3 (for example, to confirm that the receiving plan satisfies section 403(b) of the Code and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to § 1.403(b)-10(b)(3) of the Income Tax Regulations.

6.4 Contract and Custodial Account Exchanges. If authorized in the Adoption Agreement, the Plan shall permit a Participant or Beneficiary to change the investment of his or her Account Balance among the Vendors under the Plan, subject to the terms of the Individual Agreements.

a. However, unless authorized in the Adoption Agreement, exchanges are not permitted to Vendors that are not eligible to receive contributions under Section 2. If exchanges to Vendors not eligible to receive contributions are authorized in the Adoption Agreement, the conditions in paragraphs b. through d. of this Section 6.4 must also be satisfied.

b. The Participant or Beneficiary must have an Account Balance immediately after the exchange that is at least equal to the Account Balance of that Participant or Beneficiary immediately before the exchange (taking into account the Account Balance of that Participant or Beneficiary under both section 403(b) Annuity Contracts or Custodial Accounts immediately before the exchange), as this provision is described in § 1.403(b) of the Income Tax Regulations. This provision does not preclude the deduction of any usual and customary distribution fees, surrender charges or other costs associated with the transfer of the accumulated benefit from one Account to another Account with the same or a different Vendor.



ITEM 15F

c. The Individual Agreement with the receiving Vendor has distribution restrictions with respect to the Participant that are not less stringent than those imposed on the investment being exchanged.

d. The Employer enters into an agreement with the receiving Vendor for the other Annuity Contract or Custodial Account under which the Employer and the Vendor will from time to time in the future provide each other with the following information:

(1) Information necessary for the resulting Annuity Contract or Custodial Account, or any other Annuity Contract or Custodial Accounts to which contributions have been made by the Employer, to satisfy section 403(b) of the Code, including the following:

(a) the Employer providing information as to whether the Participant's employment with the Employer is continuing, and notifying the Vendor when the Participant has had a Severance from Employment (for purposes of the distribution restrictions in Section 5.1);

(b) the Vendor notifying the Employer of any hardship withdrawal under Section 5.5 if the withdrawal results in a 6-month suspension of the Participant's right to make Elective Deferrals under the Plan; and

(c) the Vendor providing information to the Employer or other Vendors concerning the Participant's or Beneficiary's section 403(b) Annuity Contracts or Custodial Accounts or qualified Employer Plan benefits (to enable a Vendor to determine the amount of any Plan loans and any rollover accounts that are available to the Participant under the Plan in order to satisfy the financial need under the hardship withdrawal rules of Section 5.5);

(2) Information necessary in order for the resulting Annuity Contract or Custodial Account and any other Annuity Contract or Custodial Account to which contributions have been made for the Participant by the Employer to satisfy other tax requirements, including the following:

(a) the amount of any Plan loan that is outstanding to the Participant in order for a Vendor to determine whether an additional Plan loan satisfies the loan limitations of Section 4.3, so that any such additional loan is not deemed a distribution under section,72(p)(1); and

(b) information concerning the Participant's or Beneficiary's Roth Contributions and after-tax Employee contributions in order for a Vendor to determine the extent to which a distribution is includible in gross income.

e. If any Vendor ceases to be eligible to receive Elective Deferrals under the Plan, the Employer will enter into an information sharing agreement as described in Section 6.4(d) to the extent the Employer's contract with the Vendor does not provide for the exchange of information described in Section 6.4(d)(1) and (2).

## 6.5 Permissive Service Credit Transfers.

**ITEM 15F**

a. If a Participant is also a Participant in a tax-qualified defined benefit governmental plan (as defined in section 414(d) of the Code) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan. A transfer under this Section 6.5 a. may be made before the Participant has had a Severance from Employment.

b. A transfer may be made under Section 6.5(a) only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code.

c.) In addition, if a plan-to-plan transfer does not constitute a complete transfer of the Participant's or Beneficiary's interest in the transferor Plan, the Plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant's or Beneficiary's interest in the transferor Plan (e.g., a pro rata portion of the Participant's or Beneficiary's interest in any after-tax employee contributions).

**Section 7 - Investment of Contributions**

7.1 Manner of Investment. All Elective Deferrals, Roth 403(b) Contributions, or other amounts contributed to the Plan, all property and rights purchased with such amounts under the Funding Vehicles, and all income attributable to such amounts, property, or rights shall be held and invested in one or more Annuity Contracts or Custodial Accounts. Each Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

7.2 Investment of Contributions. Each Participant or Beneficiary shall direct the investment of his or her Account among the investment options available under the Annuity Contract or Custodial Account in accordance with the terms of the Individual Agreements. Transfers and exchanges among Annuity Contracts and Custodial Accounts may be made under the Plan to the extent provided in the Individual Agreements and permitted under applicable Income Tax Regulations and in accordance with the Written Plan and Adoption Agreement.

7.3 Current and Former Vendors. The Administrator shall maintain a list of all Vendors under the Plan. Such list is hereby incorporated as part of the Plan. Each Vendor and the Administrator shall exchange such information as may be necessary to satisfy section 403(b) of the Code or other requirements of applicable law. In the case of a Vendor which is not eligible to receive Elective Deferrals under the Plan (including a Vendor which has ceased to be a Vendor eligible to receive Elective Deferrals under the Plan and a Vendor holding assets under the Plan in accordance with Section 6.2 or 6.4), the Employer shall keep the Vendor informed of the name and contact information of the Administrator in order to coordinate information necessary to satisfy section 403(b) of the Code or other requirements of applicable law.

**Section 8 - Amendment and Plan Termination**

8.1 Termination of Contributions. The Employer has adopted the Plan with the intention and expectation that contributions will be continued indefinitely. However, the Employer has no obligation or liability

ITEM 15F

whatsoever to maintain the Plan for any length of time and may discontinue contributions under the Plan at any time without any liability hereunder for any such discontinuance.

8.2 Amendment and Termination. The Employer reserves the authority to amend or terminate this Plan at any time.

8.3 Distribution upon Termination of the Plan. The Employer may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements, all Accounts will be distributed, provided that the Employer and any Related Employer on the date of termination do not make contributions to an alternative section 403(b) contract that is not part of the Plan during the period beginning on the date of Plan termination and ending 12 months after the distribution of all assets from the Plan, except as permitted by the Income Tax Regulations.

## Section 9 - Miscellaneous

9.1 Non-Assignability. Except as provided in Section 9.2 and 9.3, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

9.2 Domestic Relation Orders. Notwithstanding Section 9.1, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any state ("domestic relations order"), then the amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

9.3 IRS Levy. Notwithstanding Section 9.1, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

9.4 Tax Withholding. Contributions to the Plan are subject to applicable employment taxes (including, if applicable, Federal Insurance Contributions Act (FICA) taxes with respect to Elective Deferrals and Roth 403(b) Contributions, if applicable, which constitute wages under section 3121 of the Code). Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including section 3401 of the Code and the Employment Tax Regulations thereunder). A payee shall provide such information as the Administrator or Vendor may need to satisfy income tax withholding obligations, and any other information that may be required by guidance issued under the Code. The Vendor shall be responsible for the withholding of taxes on behalf of the Plan from any distributions made from Accounts established with the Vendor under this Plan and proper tax reporting of such distributions.

9.5 Payments to Minors and Incompetents. If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such

ITEM 15F

benefits, or is deemed so by the Administrator, benefits will be paid in conformity with applicable Annuity Contracts or Custodial Accounts. If the applicable Annuity Contracts or Custodial Accounts do not address the issue of payments to minors and incompetents, then the Administrator shall direct payment of the benefit to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

9.6 Mistaken Contributions. If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Employer, who shall include the contribution in the Participant's taxable income. If the Participant is no longer an Employee, or other circumstances make inclusion of the mistaken contribution in the Participant's taxable income administratively impractical, the mistaken contribution may be returned directly to the Participant, if permitted by the Administrator.

9.7 Procedure When Distributee Cannot Be Located. The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means a. the mailing by certified mail of a notice to the last known address shown on the Employer's or the Administrator's records, b. notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and c. the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Funding Vehicle shall continue to hold the benefits due such person.

9.8 Incorporation of Individual Agreements. The Plan, together with the Adoption Agreements and Individual Agreements, is intended to satisfy the requirements of section 403(b) of the Code and the Income Tax Regulations thereunder. Terms and conditions of the Adoption Agreement and applicable Individual Agreements are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or section 403(b) of the Code. In such event, the Individual Agreements shall be interpreted, to the extent possible, in a manner to conform to the Plan and applicable requirements.

9.9 Governing Law. The Plan will be construed, administered and enforced according to the Code, other applicable federal laws and the laws of the state in which the Employer has its principal place of business.

9.10 Headings. Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

9.11 Gender. Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.

9.12 Electronic Elections and Designations. All elections and/or designations of any kind provided under the Written Plan may be made by the Employee via electronic means, if electronic means for making such elections and/or designations are provided by the Administrator. In the event that such electronic means are provided, the Employer may require Employees to make all elections and/or designations by electronic means, at the Employer's discretion.

ITEM 15F

9.13 Indemnification. If authorized in the Adoption Agreement, and if the Employer appoints an Employee or committee of Employees to represent the Employer in the administration of the Plan, the Employer shall, to the extent permitted by applicable law, indemnify any such Employee acting on its behalf in this capacity. Such individuals shall be indemnified from any and all liability that may arise by reason of his action or failure to act concerning this Plan, excepting any willful misconduct or criminal acts. Such indemnification shall apply whether or not the applicable Employee(s) are employed by the Employer at the time an event occurs requiring indemnification by the Employer.

9.14 No Employer Liability. Employer shall have no liability for the payment of benefits under the Plan provided that the providers of the applicable Annuity Contracts and Custodial Accounts receive written direction for the payment of benefits in accordance with Section 6. Each Participant shall look solely to the providers of applicable Annuity Contracts and Custodial Accounts for receipt of payments or benefits under the Plan.

9.15 No Fiduciary Responsibility. Neither the Employer nor the Administrator shall have any fiduciary responsibility for any investment options offered under the Plan. To this end, the Employer and Administrator shall make no decisions or recommendations of any kind related to the investments offered under the Plan. To the greatest extent possible, the Employer and Administrator shall confine all of their decisions related to the Plan to the compliance of the Plan's administration with the requirements of the Code and other Governing Law as to the form and operation of the Plan. To the extent permitted by Governing Law, each Participant shall look solely to the Vendors and their representatives offering applicable Annuity Contracts and Custodial Accounts as to any fiduciary responsibility for the investments offered by them under the Plan.

## **Section 10 – Roth 403(b) Contribution Provisions**

10.1 General Application. This Section 10 shall apply only if the Employer has elected to permit Roth Contributions under the Plan as authorized in the Adoption Agreement.

10.2 Roth 403(b) Contributions. Participants may make Roth 403(b) Contributions to their Accounts under the Plan if authorized by the Employer in the Adoption Agreement. Unless otherwise provided, such contributions shall be treated as Elective Deferrals and are therefore subject to the requirements and limitations imposed by section 402(g) of the Code. A Participant's Roth 403(b) Contributions shall be allocated to a separate Account maintained for such deferrals as described in Section 10.3.

10.3 Separate Accounting Requirements. Contributions and withdrawals of Roth 403(b) Contributions, and earnings or losses thereon, shall be credited and debited to each Participant's Account and shall be separately accounted for under each Employee's Account. Gains, losses, and other credits or charges shall be separately allocated on a reasonable and consistent basis for each Employee's Roth 403(b) Contributions. Except as provided in Section 10.6, no contributions other than Roth 403(b) Contributions and properly attributable earnings may be credited to each Employee's Roth subaccount.

10.4 Deposit Requirements. Roth 403(b) Contributions shall be deposited with the applicable Funding Vehicles as soon as practical in accordance with Section 2 of the Plan, unless an earlier date is required under state law.

10.5 Direct Roth Rollovers From the Plan. Notwithstanding Section 5 of the Plan, Participants may only make a direct rollover of a distribution of Roth 403(b) Contributions (and earnings thereon) to another 403(b) plan with Roth contribution features; to a 401(k) Plan with Roth contribution features, or to a Roth

ITEM 15F

IRA described in section 408A of the Code, and only to the extent the rollover is permitted under the rules of section 402(c) of the Code.

10.6 Roth Rollovers Into the Plan. Notwithstanding Section 6 of the Plan, and unless otherwise authorized in the Adoption Agreement, direct rollovers of Roth 403(b) Contributions and Roth 401(k) contributions and earnings thereon from another 403(b) plan with Roth contribution features, or from a 401(k) Plan with Roth contribution features are permitted, provided that the Funding Vehicles selected by a Participant will accept such Roth Rollovers. Direct rollovers shall only be permitted if the transmitting plan satisfies the conditions set forth in section 402A(e)(1) of the Code and only to the extent the rollover is permitted under the rules of section 402(c) of the Code.

10.7 Correction of Excess Deferrals. Excess deferrals shall be corrected by either a. first distributing Roth 403(b) Contributions (plus earnings thereon) made during the Plan Year and then by distributing a Participant's Elective Deferrals (plus earnings thereon) or b. distributing a Participant's Roth 403(b) Contributions (plus earnings thereon) and/or a Participant's Elective Deferrals (plus earnings thereon) in the order directed by the Participant to the Administrator, depending on the method of correction of excess deferrals authorized in the Adoption Agreement.

10.8 Definition of Roth 403(b) Contributions. A Roth 403(b) Contribution is an Employee contribution that is:

- a. designated irrevocably by the Employee as such on his or her salary reduction/deduction form to be a Roth 403(b) Contribution; and
- b. treated by the Employer as includible in the Employee's income.

10.9 Roth Caveat. Employer, Administrator and Vendors providing Annuity Contracts and Custodial Accounts shall utilize good faith compliance efforts to conform to the requirements applicable to Roth 403(b) Contributions based on applicable IRS guidance related to such contributions. The Plan shall be administered and interpreted in the manner necessary to ensure compliance with such guidance.

*The Employer has adopted this Plan by executing the Adoption Agreement that is a part of this 403(b) Written Plan. This Written Plan, the Adoption Agreement, and any underlying Annuity Contracts and Custodial Accounts provided by the Vendors authorized by the Employer, as well as necessary forms and administrative policies and procedures incorporated by the Employer, an Administrator or any Funding Vehicle shall constitute the entire Plan.*

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 3, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** Stephen G. Ma  
Associate Superintendent, Business

**SUBMITTED BY:** Ken Noah, Superintendent

**SUBJECT:** APPROVAL OF BUSINESS REPORTS

-----

### EXECUTIVE SUMMARY

Please find the following business reports submitted for your approval:

- a) Purchase Orders
- b) Instant Money
- c) Membership Listing

### RECOMMENDATION:

It is recommended that the Board approve the following business reports: a) Purchase Orders, b) Instant Money, and c) Membership Listing.

### FUNDING SOURCE:

Not applicable

js  
Attachments

PO/BOARD/REPORT

SAN DIEGUITO UNION HIGH  
FROM 10/06/09 THRU 11/02/09

1

ITEM 15G

PO NBR	DATE	FUND	VENDOR	LOC	DESCRIPTION	AMOUNT
201288	10/06/09	25-19	ROESLING NAKAMURA	021	LAND IMPROVEMENTS	\$247.23
201289	10/06/09	03	TUCKER APPLIANCE REP	004	REPAIRS BY VENDORS	\$100.70
201290	10/06/09	06	SOUTHWEST PLASTIC BI	008	MATERIALS AND SUPPLI	\$132.15
201291	10/06/09	03	DELL COMPUTER CORPOR	035	MAT/SUP/EQUIP TECHNO	\$23,337.47
201292	10/06/09	03	S C S B O A	008	DUES AND MEMBERSHIPS	\$100.00
201293	10/06/09	03	WEEKLY READER CORPOR	008	MATERIALS AND SUPPLI	\$100.59
201294	10/06/09	03	COSTCO CARLSBAD	008	MATERIALS AND SUPPLI	\$304.48
201295	10/06/09	03	SCHOOL SERVICE INC	008	MATERIALS AND SUPPLI	\$180.13
201296	10/06/09	03	VON'S GROCERY COMPAN	003	MATERIALS AND SUPPLI	\$150.00
201297	10/06/09	03	PROCURETECH	014	MATERIALS AND SUPPLI	\$486.11
201298	10/06/09	03	RASIX COMPUTER CENTE	005	MATERIALS AND SUPPLI	\$91.92
201299	10/06/09	03	FLINN SCIENTIFIC INC	008	MATERIALS AND SUPPLI	\$88.37
201300	10/06/09	03	PROMOSTITCH, INC	025	MATERIALS AND SUPPLI	\$2,964.12
201301	10/06/09	03	PROMOSTITCH, INC	025	MATERIALS AND SUPPLI	\$1,056.81
201302	10/06/09	03	PROMOSTITCH, INC	025	MATERIALS AND SUPPLI	\$1,130.11
201303	10/06/09	03	PROMOSTITCH, INC	025	MATERIALS AND SUPPLI	\$1,046.93
201304	10/06/09	06	ABILITATIONS - THE S	003	MATERIALS AND SUPPLI	\$733.45
201305	10/06/09	03	SCANTRON CORPORATION	003	MATERIALS AND SUPPLI	\$161.52
201306	10/06/09	25-19	CA CENTER FOR SUSTAI	021	PROF/CONSULT./OPER E	\$36,000.00
201307	10/06/09	25-19	M T G L, INC	025	LAND IMPROVEMENTS	\$305.20
201308	10/06/09	25-19	M T G L, INC	025	LAND IMPROVEMENTS	\$326.20
201309	10/06/09	03	SCANTRON CORPORATION	003	MATERIALS AND SUPPLI	\$87.01
201310	10/07/09	03	K L M BIOSCIENTIFIC	010	MATERIALS AND SUPPLI	\$27.40
201311	10/07/09	03	MC MASTER-CARR SUPPL	025	BLDG.-REPAIR MATERIA	\$66.90
201312	10/07/09	03	NATL ASSOC FOR MUSIC	004	DUES AND MEMBERSHIPS	\$161.00
201313	10/07/09	03	XEROX CORPORATION	021	OFFICE SUPPLIES	\$113.10
201314	10/07/09	03	K L M BIOSCIENTIFIC	008	MATERIALS AND SUPPLI	\$28.28
201315	10/07/09	03	PIONEER STATIONERS I	013	MATERIALS AND SUPPLI	\$25.53
201316	10/07/09	03	ONE STOP TONER AND I	013	MATERIALS AND SUPPLI	\$328.36
201317	10/08/09	13	TAYLOR FREEZER	031	MATERIALS AND SUPPLI	\$19.49
201318	10/08/09	13	S N A / SCHOOL NUTRI	031	DUES AND MEMBERSHIPS	\$96.75
201319	10/08/09	03	EXPRESS PRINT	008	PRINTING	\$565.50
201320	10/08/09	03	ONE STOP TONER AND I	008	MATERIALS AND SUPPLI	\$108.74
201321	10/08/09	03	APPLE COMPUTER INC	010	MATERIALS AND SUPPLI	\$270.79
201322	10/08/09	06	PREMIER LIGHTING & P	005	MATERIALS AND SUPPLI	\$77.19
201323	10/08/09	03	EDLINE	005	A/V CONTRACT	\$579.50
201324	10/08/09	03	OFFICE DEPOT	013	MATERIALS AND SUPPLI	\$67.26
201325	10/08/09	03	AREY JONES EDUCATION	014	MATERIALS AND SUPPLI	\$394.01
201326	10/08/09	03	PROCURETECH	014	MATERIALS AND SUPPLI	\$162.04
201327	10/08/09	03	ACCUVANT, INC.	013	MAT/SUP/EQUIP TECHNO	\$583.17
201328	10/08/09	03	WESTERN ENVIRONMENTA	022	PROF/CONSULT./OPER E	\$1,170.00
201329	10/08/09	03	DELL COMPUTER CORPOR	035	MAT/SUP/EQUIP TECHNO	\$3,741.48
201330	10/08/09	03	ALPHA GRAPHICS	022	PRINTING	\$282.74
201331	10/09/09	03	BEST BEST AND KRIEGE	026	LEGAL EXPENSE	\$3,342.00
201332	10/09/09	03	STAPLES ADVANTAGE	008	MATERIALS AND SUPPLI	\$678.94
201333	10/09/09	06	MCLOGAN	033	MATERIALS AND SUPPLI	\$1,500.00
201334	10/09/09	03	HEUER PUBLISHING, LL	004	MATERIALS AND SUPPLI	\$27.50
201336	10/09/09	03	GOPHER SPORT	008	MATERIALS AND SUPPLI	\$396.63
201337	10/09/09	03	GOPHER SPORT	013	MATERIALS AND SUPPLI	\$1,207.38
201338	10/09/09	06	LINDAMOOD BELL LEARN	030	OTHER CONTR-N.P.A.	\$4,200.00
201339	10/09/09	06	LINDAMOOD BELL LEARN	030	OTHER CONTR-N.P.A.	\$25,845.00
201340	10/09/09	25-19	HOME DEPOT	020	IMPROVEMENT	\$543.75
201341	10/09/09	25-19	TARGET	020	IMPROVEMENT	\$108.75
201342	10/12/09	03	ONE STOP TONER AND I	010	MATERIALS AND SUPPLI	\$341.48
201343	10/12/09	25-19	COUNTY OF SAN DIEGO	025	NON-CAPITALIZED IMPR	\$59.50



PO/BOARD/REPORT

SAN DIEGUITO UNION HIGH  
FROM 10/06/09 THRU 11/02/09

2

ITEM 15G

PO NBR	DATE	FUND	VENDOR	LOC	DESCRIPTION	AMOUNT
201344	10/12/09	03	APPERSON EDUCATION P	004	MATERIALS AND SUPPLI	\$106.88
201345	10/12/09	03	EVERGREEN ENVIRONMEN	005	HAZARDOUS WASTE DISP	\$210.00
201346	10/12/09	03	HERTZ FURNITURE SYST	013	OFFICE SUPPLIES	\$133.45
201347	10/12/09	03	SD VECTOR CONTROL PR	025	FEES - ADMISSIONS, T	\$148.00
201348	10/12/09	11	AARDVARK	009	MATERIALS AND SUPPLI	\$61.75
201349	10/12/09	03	GLOBAL EQUIPMENT COM	025	BLDG.-REPAIR MATERIA	\$749.59
201350	10/12/09	03	DOOR SERVICE & REPAI	025	REPAIRS BY VENDORS	\$925.00
201351	10/12/09	03	DATEL SYSTEMS INC	004	MATERIALS AND SUPPLI	\$100.05
201352	10/12/09	06	NITRO-PAK PREPAREDNE	013	MATERIALS AND SUPPLI	\$958.98
201353	10/12/09	03	WARD'S NATURAL SCIEN	013	MATERIALS AND SUPPLI	\$192.53
201354	10/12/09	03	EDUCATIONAL RESOURCE	004	LIC/SOFTWARE	\$112.64
201355	10/12/09	06	HAWTHORNE LIFT SYSTE	028	MATERIALS-REPAIRS	\$311.17
201356	10/12/09	06	DATEL SYSTEMS INC	028	OTHER TRANSPORT.SUPP	\$207.71
201357	10/12/09	03	DELL COMPUTER CORPOR	008	MAT/SUP/EQUIP TECHNO	\$11,113.08
201358	10/13/09	03	FREDRICKS ELECTRIC I	025	REPAIRS BY VENDORS	\$1,990.25
201359	10/13/09	03	SIMPLEX-GRINNELL LP	025	REPAIRS BY VENDORS	\$501.23
201360	10/13/09	03	SIMPLEX-GRINNELL LP	025	REPAIRS BY VENDORS	\$4,228.00
201361	10/13/09	03	MATCH POINT TENNIS C	014	MATERIALS AND SUPPLI	\$1,005.00
201362	10/13/09	03	P T M DOCUMENT SYSTE	035	MATERIALS AND SUPPLI	\$2,392.50
201363	10/13/09	03	FRONTIER FENCE COMPA	025	REPAIRS BY VENDORS	\$294.00
201364	10/13/09	03	DELL COMPUTER CORPOR	035	MAT/SUP/EQUIP TECHNO	\$2,426.20
201365	10/13/09	25-19	COLLINS & AIKMAN FLO	025	IMPROVEMENT	\$4,801.11
201366	10/13/09	06	ROYAL BUSINESS GROUP	028	OFFICE SUPPLIES	\$56.55
201367	10/13/09	06	ROYAL BUSINESS GROUP	030	PRINTING	\$16.31
201368	10/13/09	06	ROYAL BUSINESS GROUP	030	PRINTING	\$56.55
201369	10/13/09	11	FREE FORM CLAY & SUP	009	REPAIRS BY VENDORS	\$244.69
201370	10/13/09	03	COMMUNICATIONS USA,	014	MATERIALS AND SUPPLI	\$609.00
201371	10/13/09	03	AMAZON.COM	010	OFFICE SUPPLIES	\$236.91
201372	10/14/09	03	EXPRESS PRINT	005	PRINTING	\$543.75
201373	10/14/09	03	WAXIE SANITARY SUPPL	005	MATERIALS AND SUPPLI	\$3,500.00
201374	10/14/09	03	WAXIE SANITARY SUPPL	013	CUSTODIAL SUPPLIES	\$1,800.00
201375	10/14/09	03	STAPLES ADVANTAGE	013	MATERIALS AND SUPPLI	\$24.74
201376	10/14/09	03	STAPLES ADVANTAGE	010	MATERIALS AND SUPPLI	\$806.16
201377	10/14/09	03	ROYAL BUSINESS GROUP	003	PRINTING	\$28.28
201378	10/14/09	03	LYNDA.COM INC	035	DUES AND MEMBERSHIPS	\$375.00
201379	10/14/09	06	RASIX COMPUTER CENTE	014	MATERIALS AND SUPPLI	\$47.35
201380	10/14/09	03	STAPLES ADVANTAGE	010	MATERIALS AND SUPPLI	\$150.00
201381	10/14/09	03	AMAZON.COM	008	MATERIALS AND SUPPLI	\$4,099.56
201382	10/14/09	03	SAN DIEGUITO UHSD CA	010	MATERIALS AND SUPPLI	\$1,200.00
201383	10/14/09	03	PROCURETECH	004	MATERIALS AND SUPPLI	\$143.55
201384	10/14/09	03	RASIX COMPUTER CENTE	012	MATERIALS AND SUPPLI	\$159.18
201385	10/14/09	06	RASIX COMPUTER CENTE	013	MATERIALS AND SUPPLI	\$79.17
201386	10/14/09	06	RIVERSIDE PUBLISHING	030	MATERIALS AND SUPPLI	\$584.25
201387	10/14/09	25-19	STAPLES ADVANTAGE	035	IMPROVEMENT	\$450.00
201388	10/15/09	06	ORIGIN INSTRUMENTS C	030	MATERIALS AND SUPPLI	\$1,433.75
201389	10/15/09	03	VISUCATE	035	CONSULTANTS-COMPUTER	\$995.00
201390	10/15/09	03	PEARSON & AGS ASSESS	010	LIC/SOFTWARE	\$725.78
201391	10/15/09	25-19	TED COMPANY	025	LAND IMPROVEMENTS	\$5,300.00
201392	10/15/09	25-19	STAMMERRAMA GENERAL	025	LAND IMPROVEMENTS	\$20,573.04
201393	10/16/09	03	BREVIG PLUMBING	025	REPAIRS BY VENDORS	\$6,310.00
201394	10/16/09	03	AMAZON.COM	005	MATERIALS AND SUPPLI	\$18.75
201395	10/16/09	03	WHITE CAP CONSTRUCTI	025	NON CAPITALIZED EQUI	\$1,046.33
201396	10/16/09	03	AMAZON.COM	013	OFFICE SUPPLIES	\$326.20
201397	10/16/09	03	TROXELL COMMUNICATIO	013	MAT/SUP/EQUIP TECHNO	\$614.44
201398	10/16/09	03	SAN DIEGO WEB OFFSET	013	PRINTING	\$1,167.98

PO/BOARD/REPORT

SAN DIEGUITO UNION HIGH  
FROM 10/06/09 THRU 11/02/09

3

ITEM 15G

PO NBR	DATE	FUND	VENDOR	LOC	DESCRIPTION	AMOUNT
201399	10/16/09	13	C S N A	031	DUES AND MEMBERSHIPS	\$13.00
201400	10/16/09	03	ELECTRIFIED DISCOUNT	008	MATERIALS AND SUPPLI	\$456.25
201401	10/16/09	03	CLIAWAIVED.COM	013	MATERIALS AND SUPPLI	\$1,202.81
201402	10/16/09	11	COLFI, ALESSANDRA	009	MATERIALS AND SUPPLI	\$140.00
201403	10/16/09	06	SOLUTION TREE	008	MATERIALS AND SUPPLI	\$165.98
201404	10/16/09	03	WESCO DISTRIBUTION	012	MATERIALS AND SUPPLI	\$130.80
201405	10/16/09	11	KNITTING BY THE BEAC	009	MATERIALS AND SUPPLI	\$98.05
201406	10/16/09	03	R N D SIGNS	025	GROUND-REPAIR MATER	\$372.49
201407	10/16/09	06	KINKO'S	013	MATERIALS AND SUPPLI	\$165.41
201408	10/16/09	03	KINKO'S	013	MATERIALS AND SUPPLI	\$58.73
201409	10/16/09	03	FLINN SCIENTIFIC INC	003	MATERIALS AND SUPPLI	\$29.15
201410	10/16/09	03	PSYCHOLOGICAL ASSESS	014	LIC/SOFTWARE	\$547.97
201411	10/16/09	03	PSYCHOLOGICAL ASSESS	010	MATERIALS AND SUPPLI	\$127.86
201412	10/16/09	06	INTERPRETERS UNLIMIT	030	PROF/CONSULT./OPER E	\$5,000.00
201413	10/16/09	13	CALIFORNIA QUIVERS	031	PURCHASES FOOD	\$15,000.00
201414	10/19/09	03	U S MARKERBOARD	003	MATERIALS AND SUPPLI	\$56.61
201415	10/19/09	03	DEMCO INC	012	MATERIALS AND SUPPLI	\$124.96
201416	10/19/09	03	INGOLD TRACTOR SERVI	025	OTHER SERV.& OPER.EX	\$2,000.00
201417	10/19/09	25-19	L B CONCRETE	025	LAND IMPROVEMENTS	\$4,950.00
201418	10/19/09	06	AMAZON.COM	012	MATERIALS AND SUPPLI	\$814.81
201419	10/19/09	06	PERMA BOUND	012	MATERIALS AND SUPPLI	\$1,630.43
201420	10/19/09	03	ONE STOP TONER AND I	004	MATERIALS AND SUPPLI	\$168.53
201421	10/19/09	06	SAN DIEGUITO UHSD CA	024	MATERIALS AND SUPPLI	\$500.00
201422	10/19/09	06	FOLLETT EDUCATIONAL	005	TEXTBOOKS	\$2,214.15
201423	10/19/09	06	PLATO LEARNING INC	035	A/V CONTRACT	\$13,561.82
201424	10/19/09	03	AZTEC TECHNOLOGY COR	014	NON CAPITALIZED EQUI	\$3,362.55
201425	10/19/09	03	RIDDELL/ALL AMERICAN	005	REPAIRS BY VENDORS	\$2,000.00
201426	10/19/09	03	SIMPLEX-GRINNELL LP	025	REPAIRS BY VENDORS	\$2,234.78
201427	10/19/09	03	UNITED HEALTH SUPPLI	012	MATERIALS AND SUPPLI	\$76.78
201428	10/20/09	11	TRUE SHARP LLC	009	REPAIRS BY VENDORS	\$150.00
201429	10/20/09	06	TRUE SHARP LLC	009	REPAIRS BY VENDORS	\$150.00
201430	10/20/09	03	URBAN TREE CARE, INC	025	OTHER SERV.& OPER.EX	\$10,328.00
201431	10/20/09	06	JUNIOR LIBRARY GUILD	014	MATERIALS AND SUPPLI	\$1,556.21
201433	10/20/09	03	SMART AND FINAL CORP	005	MATERIALS AND SUPPLI	\$200.00
201434	10/20/09	06	WAYNE GOSSETT FORD I	028	REPAIRS BY VENDORS	\$91.91
201435	10/20/09	11	BOEN, VERONICA	009	MATERIALS AND SUPPLI	\$210.00
201436	10/20/09	06	YMNED, INC	005	MAT/SUP/EQUIP TECHNO	\$1,001.58
201437	10/20/09	03	BLICK, DICK (DICK BL	012	MATERIALS AND SUPPLI	\$98.19
201438	10/21/09	03	MOORE MEDICAL, LLC	005	MEDICAL SUPPLIES	\$55.09
201439	10/21/09	03	SHOPLET.COM	012	MATERIALS AND SUPPLI	\$186.07
201440	10/21/09	03	OFFICE DEPOT	005	MATERIALS AND SUPPLI	\$34.47
201441	10/21/09	03	ROYAL BUSINESS GROUP	026	MATERIALS AND SUPPLI	\$16.31
201442	10/21/09	06	STAR PROGRAM, INC.	030	OTHER CONTR-N.P.A.	\$1,200.00
201443	10/21/09	06	A E F C T - AUTISM E	030	OTHER CONTR-N.P.A.	\$86,595.00
201444	10/21/09	06	ACCENTCARE HOME HEAL	030	OTHER CONTR-N.P.A.	\$38,520.00
201445	10/21/09	03	OFFICE DEPOT	005	MATERIALS AND SUPPLI	\$68.95
201446	10/21/09	03	STAPLES STORES	003	MATERIALS AND SUPPLI	\$1,000.00
201447	10/22/09	03	RASIX COMPUTER CENTE	005	MATERIALS AND SUPPLI	\$88.08
201448	10/22/09	03	FRONTIER FENCE COMPA	025	REPAIRS BY VENDORS	\$4,095.07
201449	10/22/09	03	RASIX COMPUTER CENTE	005	MATERIALS AND SUPPLI	\$82.07
201450	10/22/09	03	ONE STOP TONER AND I	010	MATERIALS AND SUPPLI	\$261.00
201451	10/22/09	03	INGRAM	004	MATERIALS AND SUPPLI	\$396.25
201452	10/22/09	03	FREDRICKS ELECTRIC I	035	MATERIALS AND SUPPLI	\$339.00
201453	10/22/09	06	FISHER, LISA	030	MATERIALS AND SUPPLI	\$161.00
201454	10/22/09	03	SAN DIEGUITO UHSD CA	012	MATERIALS AND SUPPLI	\$1,545.38

PO/BOARD/REPORT

SAN DIEGUITO UNION HIGH  
FROM 10/06/09 THRU 11/02/09

4

ITEM 15G

PO NBR	DATE	FUND	VENDOR	LOC	DESCRIPTION	AMOUNT
201455	10/22/09	03	FRONTIER FENCE COMPA	025	REPAIRS BY VENDORS	\$693.84
201456	10/22/09	11	DAN LEVINE PRODUCTIO	009	OTHER SERV.& OPER.EX	\$68.90
201457	10/22/09	25-19	L B CONCRETE	025	LAND IMPROVEMENTS	\$7,500.00
201458	10/22/09	03	NOODLE TOOLS, INC.	010	A/V CONTRACT	\$360.00
201459	10/22/09	03	PROFESSIONAL EDUCATI	010	A/V CONTRACT	\$199.00
201460	10/22/09	03	STAPLES ADVANTAGE	025	MATERIALS AND SUPPLI	\$1,686.00
201461	10/23/09	06	SEHI-PROCOMP COMPUTE	030	MATERIALS AND SUPPLI	\$1,538.18
201462	10/23/09	06	SEHI-PROCOMP COMPUTE	003	MATERIALS AND SUPPLI	\$331.33
201463	10/23/09	06	PIONEER STATIONERS I	003	MATERIALS AND SUPPLI	\$93.53
201464	10/23/09	03	PSAT/NMSQT	014	MATERIALS AND SUPPLI	\$16,315.00
201465	10/23/09	06	T E R I INC	030	OTHER CONTR-N.P.S.	\$59,927.55
201466	10/23/09	06	T E R I INC	030	OTHER CONTR-N.P.S.	\$50,057.13
201467	10/23/09	03	FRONTIER FENCE COMPA	025	REPAIRS BY VENDORS	\$1,618.00
201468	10/23/09	06	PATHWAY COMMUNICATIO	035	CONSULTANTS-COMPUTER	\$6,307.43
201469	10/23/09	06	SCHOLASTIC INC	012	MATERIALS AND SUPPLI	\$246.86
201470	10/23/09	06	COMPREHENSIVE ED SER	030	OTHER CONTR-N.P.A.	\$35,280.00
201471	10/26/09	03	STAPLES ADVANTAGE	013	MATERIALS AND SUPPLI	\$500.00
201472	10/26/09	13	SAN DIEGO REFRIGERAT	031	REPAIRS BY VENDORS	\$1,394.03
201473	10/26/09	03	ALLIED REFRIGERATION	025	NON CAPITALIZED EQUI	\$2,142.38
201474	10/26/09	25-19	BREVIG PLUMBING	025	LAND IMPROVEMENTS	\$4,760.00
201475	10/26/09	03	STAPLES ADVANTAGE	010	MATERIALS AND SUPPLI	\$700.00
201476	10/26/09	03	SEHI-PROCOMP COMPUTE	012	MATERIALS AND SUPPLI	\$3,573.20
201477	10/26/09	06	BIOZONE INTERNATIONAL	014	MATERIALS AND SUPPLI	\$303.58
201478	10/27/09	03	S B C/DATACOMM	035	TECHNOLOGY EQUIPMENT	\$7,762.93
201479	10/27/09	03	SCHOOLDUDE.COM	035	A/V CONTRACT	\$4,975.00
201480	10/27/09	03	SAN DIEGUITO TROPHY	020	MATERIALS AND SUPPLI	\$200.00
201481	10/27/09	03	PEP BOYS, INC	025	EQUIPMENT REPAIR PA	\$271.86
201482	10/27/09	03	SCHOOLS FOR SOUND FI	021	DUES AND MEMBERSHIPS	\$6,000.00
201483	10/27/09	03	BLICK, DICK (DICK BL	010	MATERIALS AND SUPPLI	\$1,146.58
201484	10/27/09	03	ONE STOP TONER AND I	013	MATERIALS AND SUPPLI	\$130.48
201485	10/27/09	03	STAPLES ADVANTAGE	013	MATERIALS AND SUPPLI	\$160.38
201486	10/27/09	06	TWENTY FIRST CENTURY	024	CONFERENCE,WORKSHOP,	\$745.00
201487	10/27/09	06	STAPLES ADVANTAGE	005	MATERIALS AND SUPPLI	\$1,000.00
201488	10/27/09	03	A A EQUIPMENT	025	NON CAPITALIZED EQUI	\$4,703.10
201489	10/27/09	06	CABLES FOR LESS, LL	012	MATERIALS AND SUPPLI	\$461.87
201490	10/27/09	03	HENRY SCHEIN	030	MEDICAL SUPPLIES	\$155.21
201491	10/28/09	06	NAVIANCE	024	A/V CONTRACT	\$18,815.13
201492	10/28/09	03	STAPLES STORES	013	MATERIALS AND SUPPLI	\$27.17
201493	10/28/09	03	STATE OF CALIFORNIA	025	FEES - ADMISSIONS, T	\$105.00
201495	10/28/09	25-19	BREVIG PLUMBING	025	NON-CAPITALIZED IMPR	\$9,465.00
201496	10/28/09	03	SIMPLEX-GRINNELL LP	025	REPAIRS BY VENDORS	\$847.48
201497	10/28/09	03	PSAT/NMSQT	010	MATERIALS AND SUPPLI	\$21,021.00
201498	10/28/09	03	DELL COMPUTER CORPOR	035	MAT/SUP/EQUIP TECHNO	\$2,426.20
201499	10/28/09	06	COAST MUSIC THERAPY,	030	OTHER CONTR-N.P.A.	\$2,000.00
201500	10/28/09	06	SAN DIEGO CTR FOR VI	030	OTHER CONTR-N.P.A.	\$3,140.00
201501	10/28/09	06	WINSTON SCHOOL OF SA	030	OTHER CONTR-N.P.S.	\$26,474.70
201502	10/28/09	06	WINSTON SCHOOL OF SA	030	OTHER CONTR-N.P.S.	\$27,119.40
201503	10/28/09	06	WINSTON SCHOOL OF SA	030	OTHER CONTR-N.P.S.	\$23,890.90
201504	10/28/09	06	WINSTON SCHOOL OF SA	030	OTHER CONTR-N.P.S.	\$27,119.40
201505	10/28/09	06	WINSTON SCHOOL OF SA	030	OTHER CONTR-N.P.S.	\$27,119.40
201506	10/28/09	06	WINSTON SCHOOL OF SA	030	OTHER CONTR-N.P.S.	\$23,245.20
201507	10/28/09	06	WINSTON SCHOOL OF SA	030	OTHER CONTR-N.P.S.	\$23,245.20
201508	10/28/09	06	WINSTON SCHOOL OF SA	030	OTHER CONTR-N.P.S.	\$3,228.50
201509	10/28/09	03	STAPLES ADVANTAGE	003	MATERIALS AND SUPPLI	\$43.22
201510	10/29/09	06	RASIX COMPUTER CENTE	005	MATERIALS AND SUPPLI	\$65.52

PO/BOARD/REPORT

SAN DIEGUITO UNION HIGH  
FROM 10/06/09 THRU 11/02/09

5

ITEM 15G

PO NBR	DATE	FUND	VENDOR	LOC	DESCRIPTION	AMOUNT
201511	10/29/09	06	RASIX COMPUTER CENTE	010	MATERIALS AND SUPPLI	\$79.17
201512	10/29/09	03	RASIX COMPUTER CENTE	014	MATERIALS AND SUPPLI	\$239.71
201513	10/29/09	03	PROCURETECH	035	MATERIALS AND SUPPLI	\$1,356.32
201514	10/29/09	06	TROXELL COMMUNICATIO	012	NON CAPITALIZED EQUI	\$3,978.60
201515	10/29/09	03	DATEL SYSTEMS INC	005	MAT/SUP/EQUIP TECHNO	\$145.18
201516	10/29/09	03	G S T INC	005	MAT/SUP/EQUIP TECHNO	\$1,456.10
201517	10/29/09	03	NATL BUSINESS FURNIT	005	MATERIALS AND SUPPLI	\$468.56
201518	10/30/09	03	WELBURN GOURD FARM	004	MATERIALS AND SUPPLI	\$217.50
201520	10/30/09	06	FAMILY LIFE CENTER	030	OTHER CONTR-N.P.S.	\$48,298.90
201521	10/30/09	06	FAMILY LIFE CENTER	030	OTHER CONTR-N.P.S.	\$46,476.30
201522	10/30/09	06	SEHI-PROCOMP COMPUTE	030	MAT/SUP/EQUIP TECHNO	\$1,265.30
201523	10/30/09	06	DYNAVOX SYSTEMS, INC	030	MATERIALS AND SUPPLI	\$325.16
201525	10/30/09	06	RENAISSANCE LEARNING	030	MATERIALS AND SUPPLI	\$1,566.54
201526	11/02/09	03	LIGHTNING TECHNOLOGY	035	MAT/SUP/EQUIP TECHNO	\$2,310.94
201527	11/02/09	06	R D O EQUIPMENT CO	028	REPAIRS BY VENDORS	\$2,957.70
201528	11/02/09	06	EFR ENVIRONMENTAL SE	028	HAZARDOUS WASTE DISP	\$150.00
201529	11/02/09	03	COLLEGE BOARD - AP	014	MATERIALS AND SUPPLI	\$130.00
201530	11/02/09	06	NATL GEOGRAPHIC SCHO	030	MATERIALS AND SUPPLI	\$1,230.86
201531	11/02/09	06	BALBOA CITY SCHOOL	030	OTHER CONTR-N.P.S.	\$26,990.26
700023	10/07/09	03	UNITED RENTALS HI-RE	025	REPAIRS BY VENDORS	\$210.00
700024	10/07/09	03	COAST APPLIANCE PART	025	BLDG.-REPAIR MATERIA	\$85.91
700025	10/20/09	03	AFFORDABLE PRINTER C	035	REPAIRS BY VENDORS	\$384.06
700026	10/21/09	03	AFFORDABLE PRINTER C	035	REPAIRS BY VENDORS	\$85.00
700027	10/20/09	03	AFFORDABLE PRINTER C	035	REPAIRS BY VENDORS	\$134.95
700029	10/22/09	03	A O REED	025	REPAIRS BY VENDORS	\$450.00
700030	10/22/09	03	CABLE PIPE LEAK DETE	025	REPAIRS BY VENDORS	\$270.00
700031	10/22/09	03	JOHN DEERE LANDSCAPE	025	REPAIRS BY VENDORS	\$360.00
700032	10/28/09	03	A O REED	025	REPAIRS BY VENDORS	\$387.00
800006	10/27/09	03	GREEN TECHNOLOGY	022	CONFERENCE,WORKSHOP,	\$570.00
800008	10/13/09	06	SAN DIEGO COUNTY OFF	022	CONFERENCE,WORKSHOP,	\$700.00
800009	10/14/09	03/06	C L M S/C L H S	022	CONFERENCE,WORKSHOP,	\$1,628.00
REPORT TOTAL						\$1,016,190.39

ITEM 15G

*INSTANT MONEY REPORT FOR THE PERIOD 10/06/09 THROUGH 11/02/09*

<i>Check #</i>	<i>Vendor</i>	<i>Amount</i>
10437	GATES ENTERPRISES	\$24.95
10438	FEDEX	\$101.52
	<i>Total</i>	<hr/> \$126.47

ITEM 15G

Individual Membership Listings  
For the Period of October 6, 2009 through November 2, 2009

<u>Staff Member Name</u>	<u>Organization Name</u>	<u>Amount</u>
Erin Zoumaras	Southern California School Band & Orchestra Association	\$100.00
Erin Zoumaras	National Association for Music Education	\$161.00
Alicia Pitrone	School Nutrition Association	\$96.75
Cindy Welch	California School Nutrition Association	\$13.00

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** October 29, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** Stephen G. Ma  
Associate Superintendent, Business

**SUBMITTED BY:** Ken Noah  
Superintendent

**SUBJECT:** APPROVAL OF SECOND AMENDMENT TO  
FUNDING AND MITIGATION AGREEMENT /  
PARDEE HOMES

-----

### EXECUTIVE SUMMARY

The District entered into a funding and mitigation agreement with Pardee Homes on July 14, 1998, to set forth the terms and conditions of purchasing the high school and middle school sites in Pacific Highlands Ranch. This agreement was amended on May 1, 2003, after the purchase of the high school site. The amended agreement called for the purchase of the middle school site in two parcels (Parcel 3 and 4 – see attached). The option to purchase Parcel 3 is subject to a number of conditions, one of which is achieving an Equivalent Dwelling Unit (EDU) level of 8,972 EDUs within District CFDs. The option to purchase Parcel 4 has no EDU trigger and expires on January 1, 2010.

With the national slowdown of the housing market and the uncertain timing of the certain freeway connector improvements in Carmel Valley, staff approached Pardee Homes about amending the criteria for purchasing Parcel 4. Clearly, with stagnant permit activity in Pacific Highlands Ranch, the District cannot bond against additional special tax revenues to purchase either of the middle school parcels. In recognition of these conditions, Pardee Homes has agreed to amend the criteria for the purchase of Parcel 4 to be the same as Parcel 3. Therefore, the option to purchase either parcels will be directly tied to achieving an EDU trigger of 8,972 EDUs across District CFDs. Based on Pardee's most recent permit projections, we would be approaching the 8,972 EDU trigger point in approximately 10 to 11 years. The price of the middle school parcels would be based on the lesser of a pre-determined formula with an annual escalator or fair market value at the time of purchase.

ITEM 16

**RECOMMENDATION:**

It is recommended that the Board approve the Second Amendment to the Funding and Mitigation Agreement entered into with Pardee Homes, effective October 19, 2009, and authorize Stephen G. Ma to execute the amendment, as shown in the attached supplement.

js  
Attachment



**SECOND AMENDMENT TO FUNDING AND MITIGATION AGREEMENT**

This Second Amendment to the Funding and Mitigation Agreement (Pacific Highlands Ranch) (“Second Amendment”) is entered into between Pardee Homes, a California corporation (“Pardee”) and the San Dieguito Union High School District, a school district organized and existing under the laws of the State of California (the “School District”), effective as of October 19, 2009 (the “Effective Date”). This Second Amendment is entered into with reference to the following facts.

**RECITALS**

A. The School District and Pardee entered into a Funding and Mitigation Agreement, dated as of July 14, 1998 (the “Agreement”) which, among other things, sets forth the terms and conditions for the School District’s acquisition of a high school and junior high site within Pacific Highlands Ranch.

B. The School District and Pardee entered into an Amendment and Restatement of Funding and Mitigation Agreement, dated as of May 1, 2003 (the “Amended Agreement”) which, among other things, amended and restated the terms and conditions for the School District’s acquisition of a high school and junior high site within Pacific Highlands Ranch.

C. The Parties now desire to enter into this Second Amendment for the purpose of amending Section 3.6.2 of the Amended Agreement.

NOW, THEREFORE, in consideration of the above Recitals, the mutual promises and covenants of the Parties and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**AMENDMENT**

1. Amendment to Section 3.6.2 of Amended Agreement. The first sentence of Section 3.6.2 of the Amended Agreement, entitled “Parcel 4”, shall be amended and replaced with the following text: “School District may acquire Parcel 4 concurrent with its acquisition of Parcel 3, if at all, pursuant to the terms of a School Site Purchase Agreement, at any time following completion of the Additional Traffic Improvements and prior to the earlier to occur of the following:

- (i) the Parcel 3 Option Expiration Date set forth in Section 3.6.1; or
- (ii) the date Parcel 3 is acquired by the School District.”

2. Remaining Provisions of Amended Agreement. Except as expressly modified in this Second Amendment, the provisions of the Amended Agreement shall be unaffected and shall remain in full force and effect.

ITEM 16

IN WITNESS WHEREOF, this Amendment is executed by Pardee and the School District as of the Effective Date.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

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

Its: Associate Superintendent, Business

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

PARDEE HOMES, a California corporation

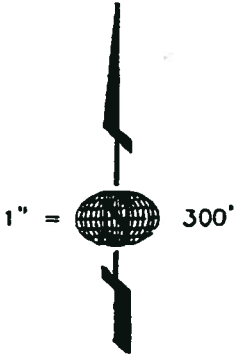
By: \_\_\_\_\_

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

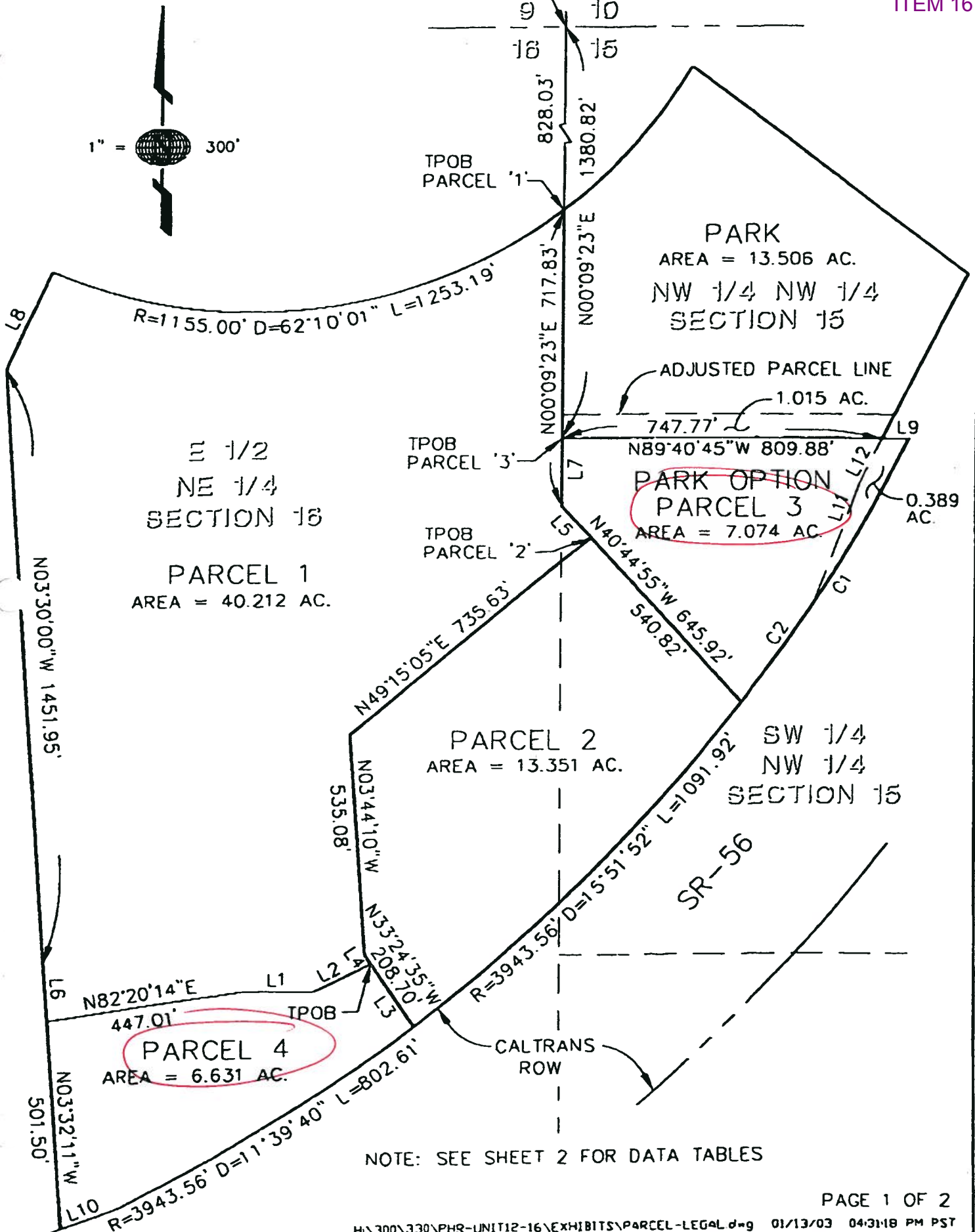
Date: \_\_\_\_\_

# EXHIBIT E-1

ITEM 16



POB  
NW CORNER



NOTE: SEE SHEET 2 FOR DATA TABLES

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 2, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** John Addleman, Director of Planning and  
Financial Management  
Steve Ma, Assoc. Supt. of Business Services

**SUBMITTED BY:** Ken Noah  
Superintendent

**SUBJECT:** ADOPTION OF RESOLUTION DEDICATING  
AN INTEREST IN REAL PROPERTY /  
VERIZON WIRELESS / TPHS

-----

### EXECUTIVE SUMMARY

The Board of Trustees, at the meeting of October 1, 2009, adopted a Resolution of Intention to Dedicate an Interest in Real Property to Verizon Wireless related to their telecommunications project located at Torrey Highlands Park. The utility easement is located at the eastern edge of the Torrey Pines High School campus and runs from Verizon's existing telecommunications facility at Lansdale and Del Mar Heights Road north to Torrey Highlands Park as depicted in the attached Grant of Easement.

Since the October 1<sup>st</sup> action the necessary posting and publication of the Board's intent has been accomplished in order for the Board of Trustees to hold a public hearing regarding the easement dedication and subsequent vote on the Resolution Dedicating an Interest in Real Property.

### RECOMMENDATION:

It is recommended that the Board

- a) Hold a Public Hearing, allowing comments from the public on the Board's intention to dedicate an interest in real property to Verizon Wireless (VAW)

ITEM 17

LLC over an easement to construct, maintain, operate, repair, and replace facilities consisting of underground utility lines, cables, and conduits along the eastern edge of Torrey Pines High School campus, and

- b) adopt the attached Resolution Dedicating an Interest in Real Property to Verizon Wireless (VAW) LLC over an easement to construct, maintain, operate, repair, and replace facilities consisting of underground utility lines, cables, and conduits along the eastern edge of Torrey Pines High School campus.

**FUNDING SOURCE:**

Not applicable

ITEM 17

Resolution Dedicating an Interest in )  
Real Property )  
\_\_\_\_\_)

On motion of Member \_\_\_\_\_, seconded by Member \_\_\_\_\_, the following resolution is adopted:

WHEREAS, this Board on October 1, 2009, adopted a resolution of intention to dedicate an interest in real property owned by this District to Verizon Wireless (VAW) LLC, a Delaware limited liability company d/b/a Verizon Wireless; and

WHEREAS, said resolution of intention provided that a public hearing on the request of making such dedication be held by this Board at its regular place of meeting on November 12, 2009, at 6:30 o'clock p.m., at which time and place all persons interested therein might appear and show cause why said dedication should not be made; and

WHEREAS, notice of the adoption of said resolution of intention was duly given as provided by law, all of which appears by the affidavits of posting and publication on file in the office of this Board; and

WHEREAS, this Board formally convened at the time and place set forth in said resolution of intention, and no persons appeared to object to or protest either verbally or in writing against the dedication of the property described in said resolution; and

WHEREAS, in the judgment of this Board it is expedient and for the best interests of this District that said dedication be made; NOW THEREFORE,

BE IT RESOLVED AND ORDERED by the Governing Board of the San Dieguito Union High School District of San Diego County that an interest in real property for the purposes described in the resolution adopted by this Board on October 1, 2009, be and it is hereby dedicated to Verizon Wireless (VAW) LLC, a Delaware limited liability company d/b/a Verizon Wireless;

BE IT FURTHER RESOLVED AND ORDERED that the Secretary of this Board be and is hereby authorized and directed to execute and deliver the Grant of Easement described in said resolution of intention to said applicant.

PASSED AND ADOPTED by the Governing Board of the San Dieguito Union High School District of San Diego County, California this 12 day of November, 2009, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**GRANT OF EASEMENT**

THIS GRANT OF EASEMENT ("**Easement**") is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009, by San Dieguito Union High School District (hereinafter "**Grantor**") and Verizon Wireless (VAW) LLC, a Delaware limited liability company d/b/a Verizon Wireless, (hereinafter "**Grantee**").

WHEREAS, Grantor is the owner of certain real property in San Diego County, California, legally described in **Exhibit "1"** attached hereto (the "**Property**").

WHEREAS, Grantee is the owner of a leasehold estate in certain real property legally described in **Exhibit "2"** attached hereto (the "**Leased Premises**"), pursuant to a Site Lease Agreement (the "**Lease**") with the City of San Diego dated as of \_\_\_\_\_. The Leased Premises is adjacent to the Property.

WHEREAS, Grantee intends to build and maintain a telecommunications facility on the Leased Premises.

WHEREAS, Grantor has agreed to convey to Grantee an easement over, under and across the Property (the "**Easement Area**") as depicted in **Exhibit "3"** attached hereto.

NOW, THEREFORE, for and in consideration of the covenants contained herein, the parties agree as follows:

1. **Grant of Easement**. Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive easement over, under and across the Easement Area for the purposes of ingress and egress and for constructing, maintaining, operating, repairing and replacing utility lines, cables and conduits to and from the Leased Premises.
  - a. Each party shall utilize its estate in a manner which will minimize interference with the other party's use of its estate.
  - b. Upon completion of construction, Grantee shall restore the Easement Area to substantially its pre-existing condition.
2. **Compensation**. Within forty-five (45) days from the date Grantee commences construction within the Easement Area (the "**Compensation Commencement Date**"), Grantee agrees to pay to Grantor a one-time payment of Ten Thousand, One Hundred Twenty-Five and 00/100 Dollars (\$10,125.00) (the "**Compensation**").
3. **No Permanent Structures**. Grantor hereby covenants for and on behalf of itself, its heirs, successors or assigns, that neither it, nor any of them, shall construct or permit to be constructed, any building or any other permanent structure within the Easement Area, or make any permanent excavation, or permit any permanent excavation to be made

within the Easement Area.

4. **Term.** The easement, rights, and privileges herein granted shall be for a term coinciding with the term of the Lease, including any renewals thereof, and shall, without any further action on the part of Grantor or Grantee, terminate immediately upon the termination of said Lease. Upon termination of this Easement for any reason, at Grantor's request Grantee shall execute with acknowledgement and deliver a notice of termination in form suitable for recording in the official records of the County.
5. **Termination for Default.** Upon Grantee's default hereunder, Grantor may deliver to Grantee a written notice of default, stating with specificity the nature of Grantee's default. If Grantee has not cured the default within a reasonable time (but not less than 30 days for a monetary default and 60 days for a non-monetary default) after receipt of the notice of default, Grantor may terminate this Easement effective immediately upon receipt by Grantee of Grantor's written notice of termination.
6. **Indemnification.** Grantee agrees to indemnify, defend and hold Grantor harmless from and against any direct injury, loss, damage or liability, costs or expenses (including reasonable attorneys' fees and court costs) resulting from its use of the Easement Area, except to the extent attributable to the negligent or intentional act or omission of Grantor or its agent. Grantor agrees to indemnify, defend and hold Grantee harmless from and against any and all direct injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising from the actions or failure to act of Grantor or its agents, except to the extent attributable to the negligent or intentional act or omission of Grantee or its agent.
7. **Insurance.** Grantee will carry, at its own cost and expense, the following insurance: (i) commercial general liability insurance with a minimum limit of liability of \$1,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence; and (ii) Workers' Compensation Insurance as required by law. Grantee will name the Grantor as an additional insured under its commercial general liability policy. Notwithstanding anything in this Easement, with respect to all loss, damage, or destruction to a party's property (including rental value and business interruption) occurring during the term of this Easement, Grantor and Grantee hereby release and waive all claims (except for willful misconduct) against the other party and its employees, agents, officers, and directors. With respect to property damage, each party hereby waives all rights of subrogation against the other party, but only to the extent that collectible commercial insurance is available for said damage.
8. **Assignment.** Grantee may, at its discretion and upon written notification to Grantor, assign and delegate all or any portion of its rights and liabilities under this Easement in connection with any assignment of the Lease, or sublease or license of all or a portion of the Leased Premises, without Grantor's consent. Grantee shall be released from its obligations hereunder only with the prior written consent of Grantor.



ITEM 17

- 9. **Dominant and Servient Tenements.** This Easement is granted for the benefit of the Leased Premises, and is appurtenant to the Leased Premises. The Leased Premises are the dominant tenement and the Property is the servient tenement.
- 10. **Entire Agreement.** This Easement constitutes the entire agreement between Grantor and Grantee relating to the above easement. Any prior agreements, promises, negotiations or representations not expressly set forth in this Easement are of no force and effect.
- 11. **Binding Effect.** This Easement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of Grantor and Grantee.
- 12. **Amendments.** Any modification or other termination of this Easement shall become effective only upon the execution by Grantor and Grantee of a written instrument.
- 13. **Recording.** Grantor agrees to execute a Memorandum of this Easement, and any amended Memorandum of Easement reflecting any material modifications to this Easement, which Grantee may record in the office of the County Clerk of San Diego County, California.

IN WITNESS WHEREOF, this Grant of Easement has been executed and delivered as of the day and year first above written.

**GRANTOR:**

**San Dieguito Union High School District**

By: \_\_\_\_\_  
 Name: Ken Noah  
 Title: Superintendent  
 Date: \_\_\_\_\_  
 Tax I.D. #: 95-6002787

**GRANTEE:**

Verizon Wireless (VAW) LLC,  
a Delaware limited liability company  
d/b/a Verizon Wireless

By: \_\_\_\_\_  
 Name: Walter L. Jones, Jr.  
 Title: Area Vice President Network  
 Date : \_\_\_\_\_

ITEM 17

STATE OF CALIFORNIA            )  
  )  
COUNTY OF \_\_\_\_\_        )

On \_\_\_\_\_, before me, \_\_\_\_\_, 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.

\_\_\_\_\_  
Notary Public

(Seal)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California    )  
  )  
County of Orange     )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared Walter L. Jones, Jr., who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 of Notary Public

Place Notary Seal Above

**EXHIBIT "1"**

**The "Property"**

Property Address: **Torrey Pines High School  
3710 Del Mar Heights Road**

State: **California**

County: **San Diego**

City: **San Diego**

Parcel Number: **304-062-01**

Legal Description (if available): **See attached**

**Legal Description**

**The "Property"**

All that certain real property situated in the County of San Diego, State of California, described as follows:

Parcel 1:

The Southeast Quarter of the Northeast Quarter of Section 18, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, according to the Official Plat thereof.

Excepting therefrom that certain portion of the Southeast Quarter of the Northeast Quarter of Section 18, described as follows:

Beginning at a point in the South line of said Northeast Quarter of Section 18, said point being distant thereon North 89° 21' 15" West, 10.00 feet from the Southeast corner of said Northeast Quarter;  
Thence along a line parallel with and 10.00 feet Westerly from the East line of said Northeast Quarter North 0° 25' 28" West, 702.70 feet;  
Thence North 89° 21' 15" West, 310.00 feet;  
Thence South 0° 25' 28" East, 702.70 feet to a point on the South line of said above mentioned Northeast Quarter of Section 18;  
Thence along said South line South 89° 21' 15" East, 310.00 feet to the point of beginning.

Parcel 2:

The Southwest Quarter of the Northeast Quarter of Section 18, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California.

Excepting the Westerly 330.00 feet thereof.

Also excepting therefrom the Westerly 10 acres of that portion of the Southwest Quarter of the Northeast Quarter of said Section 18, lying Easterly of the Easterly line of the Westerly 330.00 feet of said Southwest Quarter of the Northeast Quarter.

Also excepting the Southerly 660 feet of the Easterly 330 feet of the Southwest Quarter of the Northeast Quarter of Section 18, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat of said land.

ITEM 17

That certain portion of the Southeast Quarter of the Northeast Quarter of Section 18, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to the Official Plat thereof, described as follows:

Beginning at a point in the South line of said Northeast Quarter of Section 18, said point being distant thereon North  $89^{\circ} 21' 15''$  West, 10.00 feet from the Southeast corner of said Northeast Quarter;  
Thence along a line parallel with and 10.00 feet Westerly from the East line of said Northeast Quarter North  $0^{\circ} 25' 28''$  West, 702.70 feet;  
Thence North  $89^{\circ} 21' 15''$  West, 310.00 feet;  
Thence South  $0^{\circ} 25' 28''$  East, 702.70 feet to a point in the South line of said above mentioned Northeast Quarter of Section 18;  
Thence along said South line South  $89^{\circ} 21' 15''$  East, 310.00 feet to the point of beginning.

Parcel 4:

The East 330.00 feet of the South 660 feet of the Southwest Quarter of the Northeast Quarter of Section 18, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, according to the Official Plat thereof.

**EXHIBIT "2"**

**The "Leased Premises"**

Property Address: **Torrey Highlands Park**

State: **California**

County: **San Diego**

City: **San Diego**

Parcel Number: **304-114-01**

Legal Description (if available): **See attached**

Attach Drawing below (if available): **See attached**

**Legal Description**

**The “Leased Premises”**

All that certain real property situated in the County of San Diego, State of California, described as follows:

PARCEL A:

Parcel 1 of Parcel Map No. 15728, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, July 6, 1989, as Instrument No. 89-357401 of Official Records.

Assessor’s Parcel No. 304-114-01

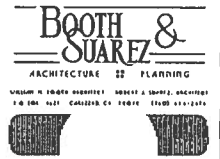
PARCEL B:

Parcel 3 of Parcel Map No. 15728, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, July 6, 1989 as Instrument No. 89-357401 of Official Records.

EXCEPTING THEREFROM that portion lying northerly of the Easterly prolongation of the Southerly line OF Parcel 1 of Parcel Map 15728, in the City of San Diego, County of San Diego, State of California, recorded July 6, 1989 as Instrument No. 89-357401 of Official Records.

Assessor’s Parcel No.: 304-114-06

ITEM 17



PREPARED FOR  
**verizon wireless**  
P.O. BOX 19707  
IRVINE, CA 92623-9707  
(949) 222-7000

APPROVALS

A/C	DATE
RE	DATE
RF	DATE
INT	DATE
EL/W	DATE
OPS	DATE
EL/OUT	DATE

PROJECT NAME  
**TEEPEE**  
TORREY HIGHLANDS PARK, LANSDALE OR  
SAN DIEGO, CA 92130  
SAN DIEGO COUNTY

DRAWING DATES

02/24/09	90X 2D (c)
04/08/09	90X 2D (ea)
04/10/09	90X 2D (es)
05/29/09	1"-8" CSET, (1-4)
06/25/09	100X 2D (1-4)
07/10/09	100X REVISED 2D (1-4)
08/27/09	100X REVISED 2D (1-4)

SHEET TITLE

SITE PLAN

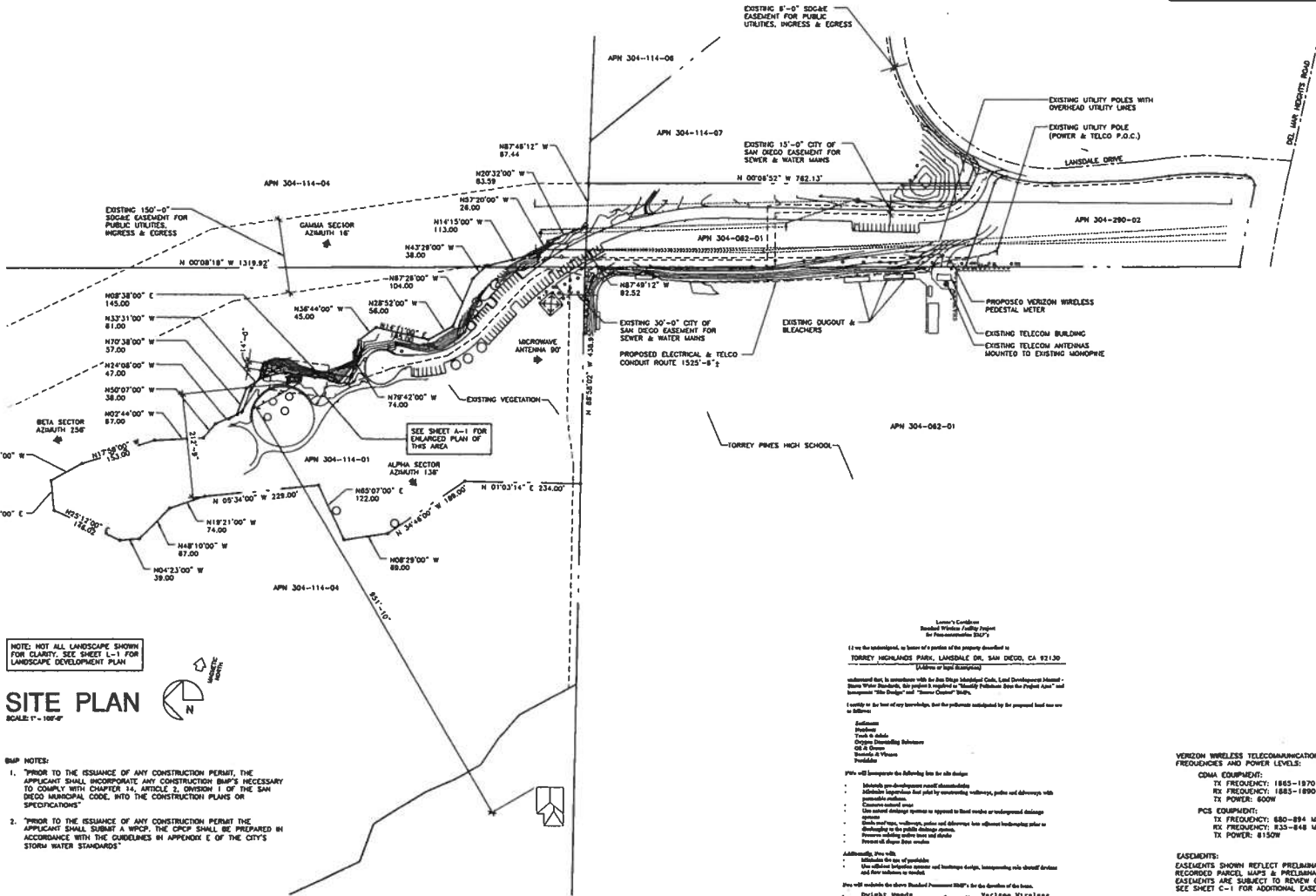
PROJECT: verizon\090112\090112\00

A-0

**GRADING NOTE:**  
FOOTING: = 60 CU. YDS

**PARKS AND REC. NOTES:**

1. ALL TRENCHING FOR THE TELEPHONE AND ELECTRICAL LINES MUST BE OUTSIDE THE DROP LINE OF EXISTING TREES
2. ALL TRENCHING THROUGH TURF MUST BE REPAIRED WITH SOD TO BLEND EXISTING TURF
3. ALL TRENCHING WITHIN ASPHALT CONCRETE AREAS SHALL BE REPAIRED SEALED UPON COMPLETION OF PROJECT
4. A TRAFFIC CONTROL PLAN WILL NEED TO BE APPROVED BY PARKS AND REC BECAUSE TRENCHING DOWN THE MIDDLE OF THE DRIVE LANES AND THROUGH PARKING SPACES WILL IMPACT TRAFFIC USE
5. A TRENCH REPAIR DETAIL IS NEEDED FOR ALL TRENCHES THROUGH AC AND CONCRETE PAVING



NOTE: NOT ALL LANDSCAPE SHOWN FOR CLARITY. SEE SHEET L-1 FOR LANDSCAPE DEVELOPMENT PLAN

**SITE PLAN**  
SCALE: 1" = 100'-0"

**BMP NOTES:**

1. PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE APPLICANT SHALL INCORPORATE ANY CONSTRUCTION BMP'S NECESSARY TO COMPLY WITH CHAPTER 14, ARTICLE 2, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE, INTO THE CONSTRUCTION PLANS OR SPECIFICATIONS
2. PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT THE APPLICANT SHALL SUBMIT A WOPD. THE CROP SHALL BE PREPARED IN ACCORDANCE WITH THE GUIDELINES IN APPENDIX E OF THE CITY'S STORM WATER STANDARDS

Owner's Certificate  
Residential Wireless Facility Project  
for Non-Construction BMP's

I, the undersigned, as owner of a portion of the property described as TORREY HIGHLANDS PARK, LANSDALE DR., SAN DIEGO, CA 92130 (Address or legal description)

understand that in compliance with the San Diego Landfill and Local Development Ordinance, Title 14, Chapter 14, Article 2, Division 1 of the San Diego Municipal Code, I am providing a copy of this "Owner's Certificate" and "Certificate of Compliance" to the City of San Diego.

I warrant to the best of my knowledge that the performance anticipated by the proposed land use will be achieved.

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_  
Zip: \_\_\_\_\_

I will implement the following best management practices:

- Identify pre-development runoff characteristics
- Address impervious foot prints by minimizing walkways, patios and driveways with permeable surfaces
- Construct vegetated areas
- Use erosion drainage systems to prevent or limit erosion or sediment damage
- Minimize paved, walkway, patios and driveways from adjacent landscaping either by buffering by the existing drainage system
- Preserve existing patios, lawns and shrubs
- Preserve all large trees on-site

Additionally, I will:

- Minimize the use of pesticides
- Use oil/turf impervious covers and landscape design, incorporating soil runoff devices and tree retention or planting

I will include the above Best Management BMP's for the duration of the term.

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Date: 1-7-2008

VERIZON WIRELESS TELECOMMUNICATIONS TRANSMITTER FREQUENCIES AND POWER LEVELS:

CDMA EQUIPMENT:  
TX FREQUENCY: 1865-1870 MHz  
RX FREQUENCY: 1885-1890 MHz  
TX POWER: 60W

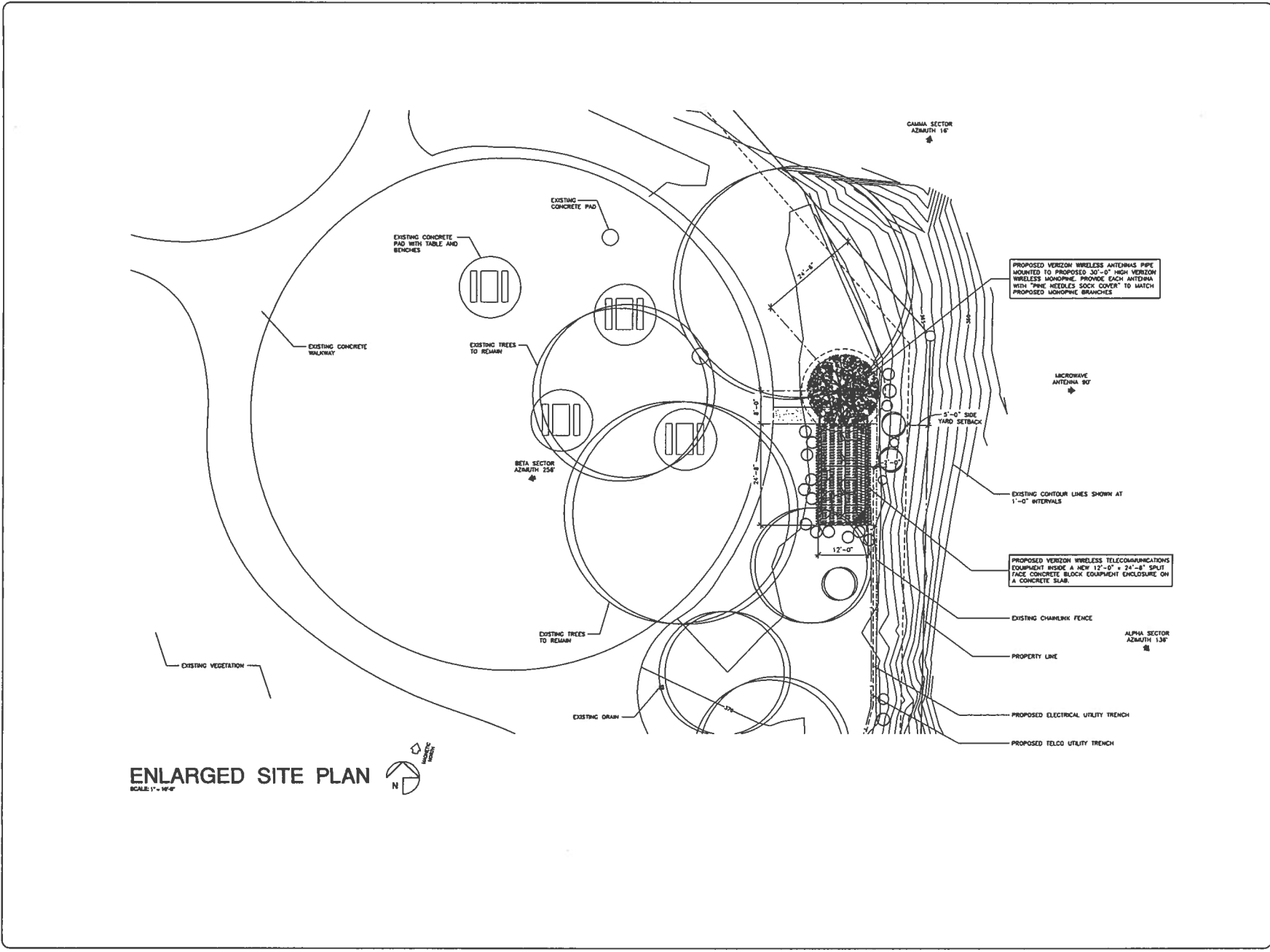
PCS EQUIPMENT:  
TX FREQUENCY: 880-894 MHz  
RX FREQUENCY: 833-848 MHz  
TX POWER: 150W

EASEMENTS:  
EASEMENTS SHOWN REFLECT PRELIMINARY RESEARCH OF RECORDED PARCEL MAPS & PRELIMINARY TITLE REPORT. EASEMENTS ARE SUBJECT TO REVIEW OF FINAL TITLE REPORT. SEE SHEET C-1 FOR ADDITIONAL EASEMENT INFORMATION.

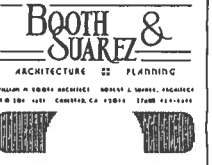
BOUNDARY NOTE:  
THE PROJECT BOUNDARY SHOWN ON THIS DRAWING IS APPROXIMATE AND IS SHOWN FOR REFERENCE ONLY. A BOUNDARY SURVEY WAS NOT PERFORMED.



ITEM 17



ENLARGED SITE PLAN  
SCALE: 1" = 16'-0"



PREPARED FOR  
**verizon wireless**  
P.O. BOX 19707  
IRVINE, CA 92623-9707  
(949) 222-7000

APPROVALS

ABC	DATE
BC	DATE
BT	DATE
INT	DATE
CE/WH	DATE
OPS	DATE
CC/OUT	DATE

PROJECT NAME  
**TEEPEE**  
TORREY HIGHLANDS PARK, LANSDALE DR  
SAN DIEGO, CA 92130  
SAN DIEGO COUNTY

DRAWING DATES

03/24/09	90X 2D (s)
04/08/09	90X 2D (sa)
04/10/09	90X 2D (sb)
05/28/09	1-A CERT. (ra)
06/23/09	100X 2D (rc)
07/10/09	100X REVISED 2D (ci)
08/27/09	100X REVISED 2D (ci)

SHEET TITLE  
**ENLARGED SITE PLAN**

PROJECTS\\srt\proj\080112\09011.kat.dwg

ITEM 17

**EXHIBIT "3"**

**The "Easement Area"**

**See attached Exhibits A, B C & D**

# EXHIBIT "A"

ITEM 17

A PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 14 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, BEING A 1.50 FOOT WIDE STRIP OF LAND, THE CENTERLINE OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18 AS SHOWN ON PARCEL MAP NO. 15728, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;  
 THENCE ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, NORTH 88°56'46" WEST, 7.22 FEET TO THE TRUE POINT OF BEGINNING;  
 THENCE LEAVING SAID NORTH LINE, SOUTH 06°59'05" WEST, 58.43 FEET;  
 THENCE SOUTH 00°00'54" EAST, 19.32 FEET;  
 THENCE SOUTH 01°23'09" EAST, 28.37 FEET;  
 THENCE SOUTH 00°00'01" EAST, 21.80 FEET;  
 THENCE SOUTH 09°05'51" WEST, 11.01 FEET;  
 THENCE SOUTH 34°02'33" WEST, 18.86 FEET;  
 THENCE SOUTH 03°49'06" WEST, 49.19 FEET;  
 THENCE SOUTH 05°00'19" WEST, 17.29 FEET;  
 THENCE SOUTH 00°00'01" EAST, 15.39 FEET;  
 THENCE SOUTH 00°01'51" EAST, 87.96 FEET;  
 THENCE SOUTH 02°19'00" EAST, 59.86 FEET;  
 THENCE SOUTH 02°51'33" EAST, 21.94 FEET;  
 THENCE SOUTH 03°14'53" EAST, 109.02 FEET;  
 THENCE SOUTH 15°06'52" EAST, 9.87 FEET;  
 THENCE SOUTH 04°36'44" EAST, 63.81 FEET;  
 THENCE SOUTH 02°31'48" EAST, 62.82 FEET;  
 THENCE SOUTH 10°30'17" EAST, 27.86 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 37.55 FEET, A RADIAL BEARING TO SAID POINT BEARS SOUTH 78°46'34" WEST;  
 THENCE SOUTHEASTERLY ALONG SAID CURVE 17.30 FEET THROUGH A CENTRAL ANGLE OF 26°24'15" TO A POINT IN THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18.

THE SIDE LINES OF SAID EASEMENT TO TERMINATE NORTHERLY AT THE NORTH LINE AND SOUTHERLY AT THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18.

CONTAINS 1,050 SQ. FT., 0.024 ACRES

SHOWN ON EXHIBITS "B", "C", AND "D", INCLUDED HEREIN AND BY THIS REFERENCE MADE A PART.



THIS DOCUMENT, CONSISTING OF 4 SHEETS, WAS MADE BY ME OR UNDER MY SUPERVISION.

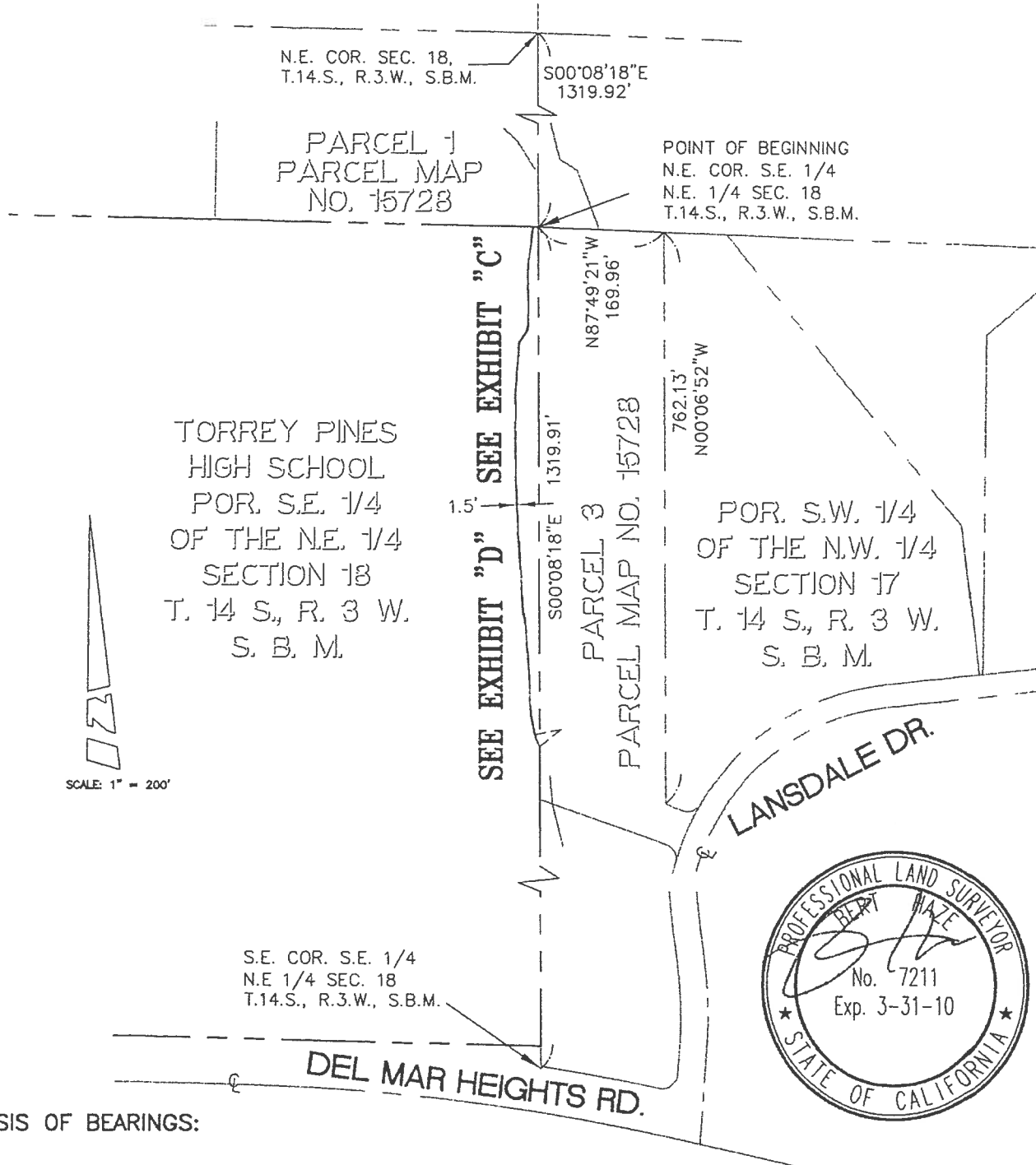
SIGNED *Bert Haze* 9/23/09  
 BERT HAZE, PLS 7211 DATE

REV. #	DESCRIPTION	DATE	BY
1	ISSUED FOR REVIEW	09/23/09	JA

UTILITY EASEMENT  TEEPEE  TORREY HIGHLANDS PARK LANDSDALE DR. SAN DIEGO, CA 92130	PREPARED FOR: 	PREPARED BY: <b>BERT HAZE</b> AND ASSOCIATES LAND SURVEYING & MAPPING 3188 AIRWAY AVE., SUITE K-1 COSTA MESA, CALIFORNIA 92626 714 557-1567 OFFICE 714 557-1568 FAX	SHEET 1 OF 4 SHEETS DRAWN: 09/23/09 BY: JA CHECKED: CWW JN. 710.068
	P.O. BOX 19707 IRVINE, CA 92623-9707 (949) 222-7000		


# EXHIBIT "B"

ITEM 17



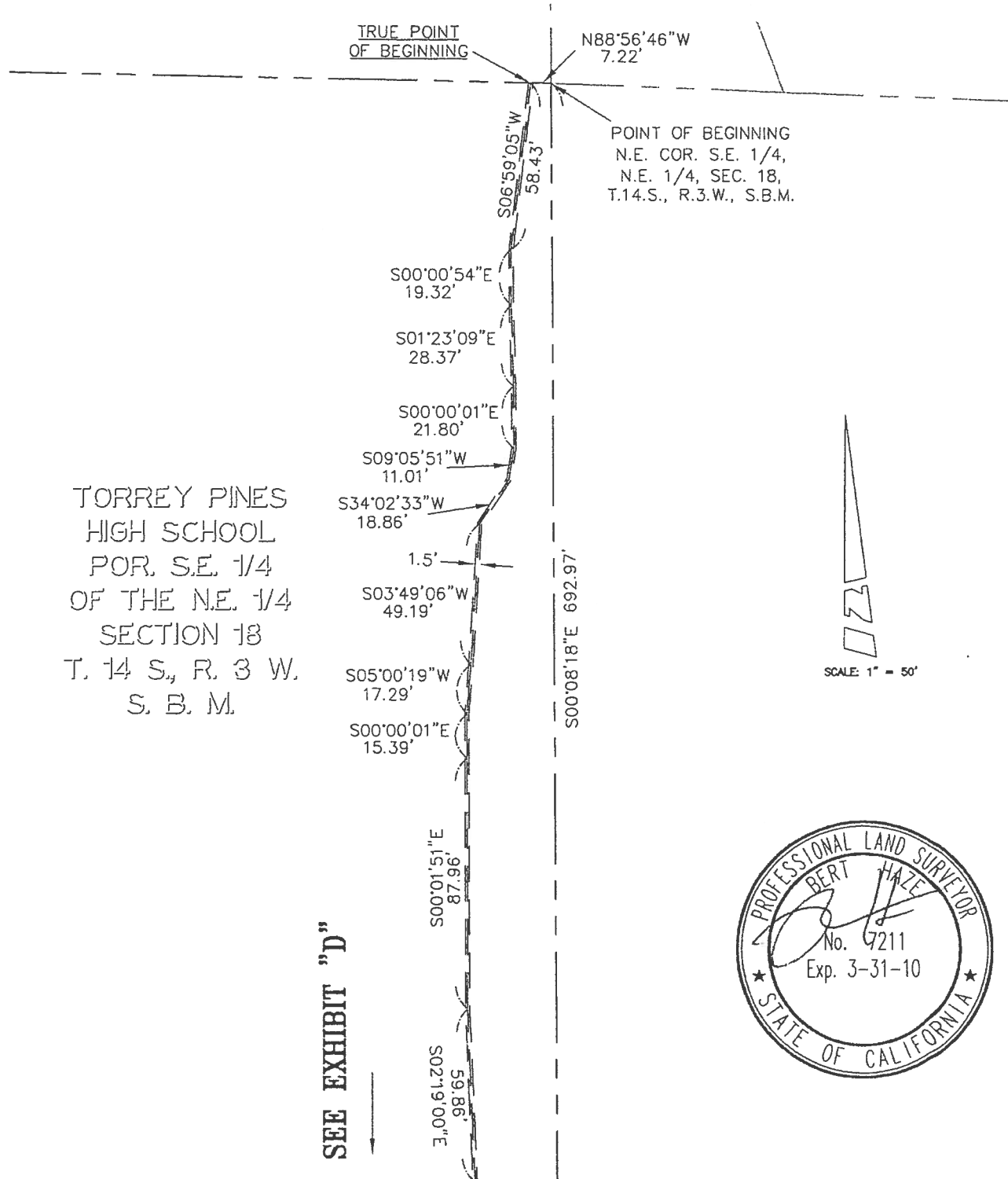
**BASIS OF BEARINGS:**

THAT CERTAIN COURSE SHOWN ON PARCEL MAP NO. 15728 AS BEING  
"NORTH 00°06'52" WEST, 762.12 FEET", PER SAID PARCEL MAP RECORDED  
IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY.

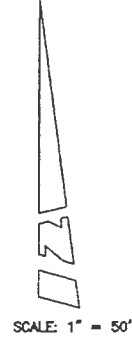
UTILITY EASEMENT	PREPARED FOR:	PREPARED BY:	SHEET
TEEPEE	 P.O. BOX 19707 IRVINE, CA 92623-9707 (949) 222-7000	<b>BERT HAZE</b> AND ASSOCIATES LAND SURVEYING & MAPPING 3188 AIRWAY AVE., SUITE K-1 COSTA MESA, CALIFORNIA 92626 714 557-1567 OFFICE 714 557-1568 FAX	2 OF 4 SHEETS
TORREY HIGHLANDS PARK LANSDALE DR. SAN DIEGO, CA 92130			DRAWN: 09/23/09 BY: JA CHECKED: CWV JN. 710.068

# EXHIBIT "C"


ITEM 17



TORREY PINES  
HIGH SCHOOL  
POR. S.E. 1/4  
OF THE N.E. 1/4  
SECTION 18  
T. 14 S., R. 3 W.  
S. B. M.



SEE EXHIBIT "D"

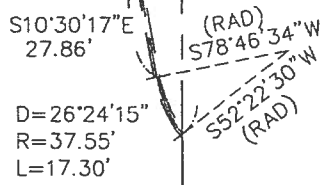
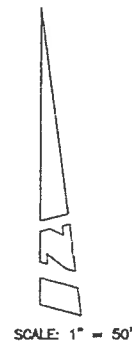
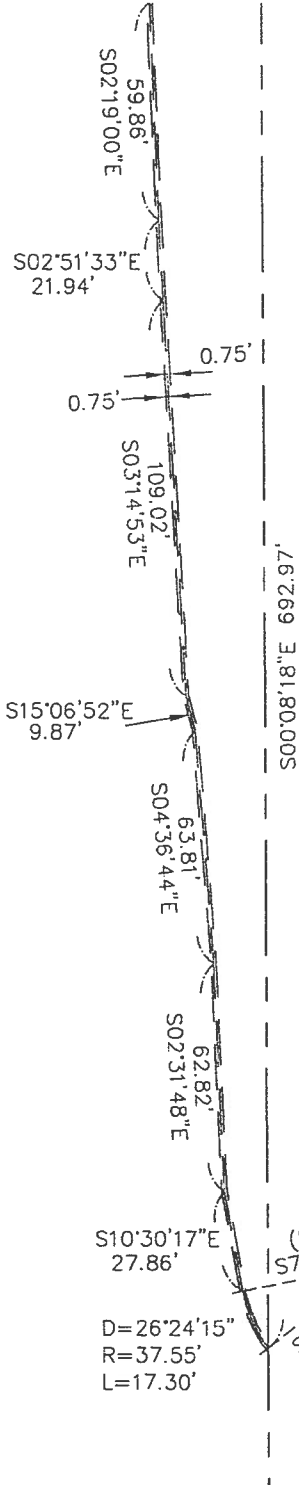
UTILITY EASEMENT	PREPARED FOR:	PREPARED BY:	SHEET
TEEPEE	 P.O. BOX 19707 IRVINE, CA 92623-9707 (949) 222-7000	<b>BERT HAZE</b> AND ASSOCIATES LAND SURVEYING & MAPPING 3188 AIRWAY AVE., SUITE K-1 COSTA MESA, CALIFORNIA 92626 714 557-1567 OFFICE 714 557-1568 FAX	3 OF 4 SHEETS
TORREY HIGHLANDS PARK LANDSDALE DR. SAN DIEGO, CA 92130			DRAWN: 09/23/09 BY: JA CHECKED: CWW JN. 710.068


# EXHIBIT "D"

ITEM 17

TORREY PINES  
HIGH SCHOOL  
POR. S.E. 1/4  
OF THE N.E. 1/4  
SECTION 18  
T. 14 S., R. 3 W.  
S. B. M.

SEE EXHIBIT "C"



UTILITY EASEMENT	PREPARED FOR:	PREPARED BY:	SHEET
TEEPEE	 P.O. BOX 19707 IRVINE, CA 92623-9707 (949) 222-7000	<b>BERT HAZE</b> AND ASSOCIATES LAND SURVEYING & MAPPING 3188 AIRWAY AVE., SUITE K-1 COSTA MESA, CALIFORNIA 92626 714 557-1567 OFFICE 714 557-1568 FAX	4 OF 4 SHEETS
TORREY HIGHLANDS PARK LANDSDALE DR. SAN DIEGO, CA 92130			DRAWN: 09/23/09 BY: JA CHECKED: CWW JN. 710.068

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 2, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** John Addleman, Director of Planning and  
Financial Management  
Steve Ma, Assoc. Supt. of Business Services

**SUBMITTED BY:** Ken Noah  
Superintendent

**SUBJECT:** **ADOPTION OF RESOLUTION / SOLAR  
PROJECTS / CANYON CREST ACADEMY &  
LA COSTA CANYON HIGH SCHOOLS**

-----

### EXECUTIVE SUMMARY

On October 15, 2009 and October 28, 2009, board work sessions were held to discuss proposed solar projects at Canyon Crest Academy and La Costa Canyon High Schools. At the workshops, staff identified the due diligence process taken over the past year. The team's goal was to identify cost neutral projects using conservative savings estimates and mitigating risks when possible.

The solar power projects encompass 2 Megawatts of steel shade structures supporting solar panels that produce nearly 70% of the two campus' electrical needs. In addition, the solar projects provide shaded parking and make a powerful statement to the students and community about the District's goal of using renewable energy sources. The educational impact includes the live data acquisition that monitors the system with current weather and performance, tying into the curriculum a deeper understanding of solar energy.

This solar program is funded using the power cost savings. The program makes an environmental impact equivalent to removing over 11,000 cars from the road, powering nearly 8,500 homes or the carbon sequestered from nearly 14,000 acres of trees.

Staff has been working with De La Rosa & Co., MuniBond Solar, and Manatt, Phelps, and Phillips to explore financing options using the District's award of Qualified School Construction Bonds (QSCB). Given the emerging QSCB market conditions, the financing plan may be put on hold should rates move unfavorably between now and the proposed pre-pricing call scheduled December 8, 2009.

Since the October 15<sup>th</sup> meeting, the necessary posting has taken place to enter into an energy services contract with Chevron ES pursuant to Government Code section 4217.10 to 4217.18

**RECOMMENDATION:**

It is recommended that the Board

- a) Hold a Public Hearing, allowing comments from the public on the Board's intention to approve an energy services contract, and
- b) adopt the attached Resolution of the Board of Trustees of the San Dieguito Union High School District; Authorizing the Issuance by the San Dieguito Public Facilities Authority of Lease Revenue Bonds; Authorizing an Energy Service Contract; Distribution of an Official Statement and Taking Certain Other Actions related thereto, as shown in the attached supplement.



**RESOLUTION OF THE BOARD OF TRUSTEES OF THE  
SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
AUTHORIZING THE ISSUANCE BY THE SAN DIEGUITO  
PUBLIC FACILITIES AUTHORITY OF LEASE REVENUE  
BONDS; AUTHORIZING AN ENERGY SERVICE  
CONTRACT; DISTRIBUTION OF AN OFFICIAL  
STATEMENT AND TAKING CERTAIN OTHER ACTIONS  
RELATED THERETO**

**WHEREAS**, the San Dieguito Union High School District (the “**School District**”) and Community Facilities District No. 94-1 of the School District formed the San Dieguito Public Facilities Authority (the “**Authority**”) pursuant to a “Joint Exercise of Powers Agreement”;

**WHEREAS**, the Authority is a joint exercise of powers authority duly organized and operating pursuant to Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (hereinafter, the “**Act**”);

**WHEREAS**, Article 4 of the Act authorizes and empowers the Authority to issue bonds to finance certain public improvements or working capital whenever a local agency determines that there are significant public benefits from doing so;

**WHEREAS**, the American Recovery and Reinvestment Act of 2009 (the “**ARRA**”) grants a national allocation of \$11 billion to provide for the issuance of qualified school construction bonds, in accordance with the qualified tax credit bond program (the “**Tax Credit Program**”) found in Sections 54A and 54F of the Internal Revenue Code of 1986, as amended (the “**Internal Revenue Code**”), and \$25,000,000 of said allocation was granted to the School District (the “**District Allocation**”) to provide financing for the construction, reconstruction or repair of public school facilities, or the acquisition of land on which such facilities are to be constructed with part of the proceeds of such issue;

**WHEREAS**, Section 1531 of Title I of Division B of the ARRA creates the Build America Bond program to provide for the issuance of taxable governmental bonds with federal subsidies to finance any capital expenditures for which issuers otherwise could issue tax-exempt governmental bonds in accordance with the Build America Bond program found in Section 54AA of the Internal Revenue Code;

**WHEREAS**, in order to assist the School District in financing and constructing various public facilities benefitting the School District, the Authority proposes to issue its San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds), in the form of Qualified School Construction Bonds (the “**Qualified School Construction Bonds**”) as authorized by the Tax Credit Program;

**WHEREAS**, in order to assist the School District in financing and constructing various public facilities benefitting the School District, the Authority also proposes to either issue its tax-exempt San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds) (the “**Tax-Exempt Bonds**”) or its taxable San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Build America Bonds) (the “**Build America Bonds**”);

**WHEREAS**, the Authority proposes to issue the Qualified School Construction Bonds and either the Tax-Exempt Bonds or Build America Bonds (the “**Series B Bonds**” and collectively with the Qualified School Construction Bonds, the “**Bonds**”) pursuant to a Trust Agreement (“**Trust Agreement**”) to be entered into between the Authority and U.S. Bank National Association, as trustee (“**Trustee**”);

**WHEREAS**, the Bonds will be offered to the public pursuant to an official statement to be distributed to the public by De La Rosa & Co., Inc. (the “**Underwriter**”), as underwriter for the Bonds containing information about the School District;

**WHEREAS**, in order to be prepared for changes in the financial market which may occur prior to the issuance of the Bonds and which, if deemed to be in the best interest of the Authority, may make it more advantageous to have the all or a portion of the Bonds sold in a private placement, the Authority proposes to approve a private placement of all or a portion of the Bonds in lieu of a public offering of all or a portion of the Bonds;

**WHEREAS**, in connection with the issuance of the Bonds, the School District will lease to the Authority La Costa Canyon High School located in Carlsbad, California and certain improvements to be installed at Canyon Crest Academy located in San Diego, California (collectively, the “**Leased Facilities**”) and the Authority will sublease the Leased Facilities back to the School District;

**WHEREAS**, the proceeds of the Bonds will be used to pay costs of issuance of the Bonds and the costs of certain capital improvements, including the implementation of a solar system at La Costa Canyon High School and Canyon Crest Academy;

**WHEREAS**, California Government Code Section 4217.10 to 4217.18, authorizes the Board of Trustees of the School District (the “**Board**”) to enter into an Energy Service Contract (“**Energy Service Contract**”) for the installation of solar systems (the “**Solar Improvements**”) if the Board finds that it is in the best interest of the School District to enter into such Energy Service Contract and that the anticipated cost to the School District for thermal or electrical energy or conservation services provided by the energy conservation facility under the Energy Service Contract will be less than the anticipated marginal cost to the School District of thermal, electrical, or other energy that would have been consumed by the School District without those purchases;

**WHEREAS**, the cost to the School District for the Energy Service Contract by and between the School District and Chevron Energy Solutions Company, a division of Chevron U.S.A. Inc. (“**Chevron**”) for the implementation of Solar Improvements will be less than the anticipated marginal cost to the School District of thermal, electrical, or other energy that would have been consumed by the School District absent of the implementation of the improvements under the Energy Service Contract;

**WHEREAS**, the Solar Improvements pursuant to the Energy Service Contract is expected to generate renewable energy credits, where one credit is equal to 1 megawatt-hour unit of renewable energy (“**Renewable Energy Credits**”);

**WHEREAS**, the School District is authorized to undertake all of the above pursuant to applicable laws of the State of California;

**NOW, THEREFORE**, this Board does find, resolve, determine and order as follows:

**Section 1. *Bond Financing.*** This Board finds that there will be significant public benefit in (i) the Authority issuing a series of Qualified School Construction Bonds and a series of Series B Bonds, entering into a Trust Agreement substantially in the form attached hereto as Exhibit A, a Continuing Disclosure Certificate in connection therewith substantially in the form attached hereto as Exhibit B, and a Bond Purchase Contract substantially in the form attached hereto as Exhibit C, (ii) the Authority electing to issue the Build America Bonds rather than Tax-Exempt Bonds if the Authority deems such treatment to be in the best interests of the Authority, and (iii) in connection with the issuance of the Bonds, the School District leasing to and subleasing back from the Authority the Leased Facilities pursuant to the terms and conditions set forth in a Lease Agreement (the “**Lease Agreement**”) and a Sublease Agreement (the “**Sublease Agreement**”), each between the Authority and the School District.

**Section 2. *Lease Agreement and Sublease Agreement.*** The forms of Lease Agreement and Sublease Agreement, presented at this meeting, are hereby authorized and approved. The members of this Board, the officers of the School District and their authorized representatives, including but not limited to the Associate Superintendent of Business Services of the School District and the Executive Director of Business Services of the School District are, and each of them acting alone is, hereby authorized and directed for and in the name of, and on behalf of the School District, to execute and deliver the Lease Agreement substantially in the form attached hereto as Exhibit D and the Sublease Agreement substantially in the form attached hereto as Exhibit E.

**Section 3. *Official Statement.*** The Underwriter for the Bonds is authorized to distribute an official statement of the Authority (in preliminary and final form) containing information relating to the School District, substantially in the form attached hereto as Exhibit F.

**Section 4. *California Solar Initiative; Chevron Energy Service Contract.*** In connection with the installation of Solar Improvements at the Leased Facilities and that certain Performance Based Incentive offered under the California Solar Initiative by the California Public Utilities Commission, this Board finds that (1) it is in the best interest of the School District to enter into an Energy Service Contract with Chevron, substantially in the form attached hereto as Exhibit G, for the implementation of certain energy related improvements, including installation of Solar Improvements and application of Performance Based Incentive under the California Solar Initiative, and (2) the anticipated cost to School District for thermal or electrical energy or conservation services provided by the energy conservation facility under the Energy Service Contract will be less than the anticipated marginal cost to the School District of thermal, electrical, or other energy that would have been consumed by the School District in absent of those purchases. The members of this Board, the officers of the School District and their authorized representatives, including but not limited to the Associate Superintendent of Business Services of the School District and the Executive Director of Business Services of the School District are, and each of them acting alone is, hereby authorized and directed for and in the name of, and on behalf of the School District, to execute and deliver the Energy Service Contract in accordance with these findings and California Government Code Section 4217.10 to 4217.18.

**Section 5. Renewable Energy Credits.** The Solar Improvements are expected to generate Renewable Energy Credits. This Board hereby authorizes the sale of the Renewable Energy Credits anticipated to be generated by the Solar Improvements in the first five years of the operation of the Solar Improvements pursuant to a purchase and sale agreement substantially in the form attached hereto as Exhibit H and subject to those changes determined to be in the best interest of the School District (“**Purchase and Sale Agreement**”). The members of this Board, the officers of the School District and their authorized representatives, including but not limited to the Associate Superintendent of Business Services of the School District and the Executive Director of Business Services of the School District are, and each of them acting alone is, hereby authorized and directed for and in the name of, and on behalf of the School District, to execute and deliver the Purchase and Sale Agreement.

**Section 6. Section 17150 Notice.** Upon approval of the issuance of the Bonds by this Board, this Board resolves to provide notice to the San Diego County Auditor and the San Diego County Superintendent of Schools of such non-voter approved debt in accordance with Section 17150 of the Education Code (“**Section 17150 Notice**”). The members of this Board, the officers of the School District and their authorized representatives, including but not limited to the Associate Superintendent of Business Services of the School District and the Executive Director of Business Services of the School District are, and each of them acting alone is, hereby authorized and directed for and in the name of, and on behalf of the School District, to execute and deliver the Section 17150 Notice substantially in the form attached hereto as Exhibit I.

**Section 7. Private Placement.** This Board finds that there will be significant public benefit in the Authority electing, if it deems to be in the best interest of the Authority, to cause all or a portion of the Bonds to be sold in a private placement in lieu of a public offering of all or portion of the Bonds.

**Section 8. General Authorization.** The members of this Board, the officers of the School District and their authorized representatives, including but not limited to the Associate Superintendent of Business Services of the School District and the Executive Director of Business Services of the School District are, and each of them acting alone is, hereby authorized and directed to take such actions, and to execute such documents, instruments and certificates, directly or indirectly related and as may be necessary to obtain the financing relating to the Bonds, the California Solar Initiative Performance Based Incentive, Renewable Energy Credits, and to otherwise effectuate the purposes of this Resolution.

This Resolution shall take effect immediately upon its passage.

*[Remainder of this page intentionally left blank]*

The foregoing Resolution was on the \_\_\_\_ day of November, 2009 adopted by the Board of Trustees of the San Dieguito Union High School District.

**BOARD OF TRUSTEES OF THE SAN DIEGUITO  
UNION HIGH SCHOOL DISTRICT**

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

ATTEST:

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

STATE OF CALIFORNIA )

COUNTY OF SAN DIEGO )

I, \_\_\_\_\_, President of the Board of Trustees of the San Dieguito Union High School District (the “**Board**”) do hereby certify that the foregoing Resolution was duly adopted by the Board of said San Dieguito Union High School District acting as legislative body of the Community Facilities District No \_\_\_\_ at a meeting of said Board held on the \_\_\_\_\_ day of November, 2009, and that it was so adopted by the following vote:

**AYES: MEMBERS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOES: MEMBERS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ABSTAIN: MEMBERS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ABSENT: MEMBERS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
President of the Board of Trustees

EXHIBIT A

Form of Trust Agreement

---

---

TRUST AGREEMENT

by and between the

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY

and

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

Dated as of December 15, 2009

\$\_[\_\_\_\_\_]

San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009A  
(Qualified School Construction Bonds)

and

\$\_[\_\_\_\_\_]

San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009B  
(Tax-Exempt Bonds)

---

---





**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
SECTION 4.05. Extraordinary Redemption from Eminent Domain or Insurance Proceeds .....	28
SECTION 4.06. Extraordinary Optional Redemption Upon a Determination of Loss of Qualified School Construction Bond Status .....	29
SECTION 4.07. Notice of Redemption .....	29
SECTION 4.08. Effect of Notice .....	30
SECTION 4.09. Right to Rescind Notice .....	30
SECTION 4.10. Selection of Bonds for Redemption .....	31
ARTICLE V REVENUES .....	31
SECTION 5.01. Pledge of Revenues .....	31
SECTION 5.02. Receipt and Deposit of Revenues in the Revenue Funds .....	31
SECTION 5.03. Establishment and Maintenance of Accounts for Use of Money in the Revenue Fund (QSCB) .....	32
SECTION 5.04. Establishment and Maintenance of Accounts for Use of Money in the Revenue Fund (Tax-Exempt) .....	33
SECTION 5.05. Reserve Fund .....	34
SECTION 5.06. Application of Insurance Proceeds .....	35
SECTION 5.07. Deposit and Investments of Money in Accounts and Funds .....	35
SECTION 5.08. Establishment and Application of Earnings Fund (Tax-Exempt) .....	36
SECTION 5.09. Establishment and Application of Earnings Fund (QSCB) .....	37
ARTICLE VI STRIPPING OF THE TAX CREDITS .....	38
SECTION 6.01. Tax Credit Stripping Permitted; Date; Denominations .....	38
SECTION 6.02. Form and Registration of Tax Credit Certificates .....	38
SECTION 6.03. Execution and Authentication of Tax Credit Certificates .....	39
SECTION 6.04. Book-Entry System for Tax Credit Certificates .....	39

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
SECTION 6.05. Transfer of Tax Credit Certificates that are not Book-Entry Tax Credit Certificates, or upon Termination of Book-Entry System.....	40
SECTION 6.06. Exchange of Tax Credit Certificates.....	41
SECTION 6.07. Tax Credit Certificate Register.....	41
SECTION 6.08. Mutilated, Destroyed, Stolen or Lost Tax Credit Certificates.....	41
SECTION 6.09. Temporary Tax Credit Certificates.....	42
ARTICLE VII COVENANTS OF THE AUTHORITY.....	42
SECTION 7.01. Punctual Payment and Performance.....	42
SECTION 7.02. Against Encumbrances.....	42
SECTION 7.03. Tax Covenants (QSCB).....	42
SECTION 7.04. Tax Covenants (Tax-Exempt).....	43
SECTION 7.05. Accounting Records and Reports.....	44
SECTION 7.06. Prosecution and Defense of Suits.....	44
SECTION 7.07. Further Assurances.....	44
SECTION 7.08. Maintenance of Revenues.....	44
SECTION 7.09. Amendments to Facility Sublease.....	45
SECTION 7.10. Leasehold Estate.....	45
ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES OF BONDHOLDERS.....	46
SECTION 8.01. Events of Default.....	46
SECTION 8.02. Institution of Legal Proceedings by Trustee.....	47
SECTION 8.03. Non-Waiver.....	47
SECTION 8.04. Actions by Trustee as Attorney-in-Fact.....	47
SECTION 8.05. Remedies Not Exclusive.....	47

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
SECTION 8.06. Limitation on Bondholders’ Right to Sue.....	48
ARTICLE IX THE TRUSTEE .....	48
SECTION 9.01. The Trustee .....	48
SECTION 9.02. Liability of Trustee .....	49
SECTION 9.03. Compensation and Indemnification of Trustee.....	51
SECTION 9.04. Compliance with Continuing Disclosure Agreement .....	52
ARTICLE X AMENDMENT OF THE TRUST AGREEMENT .....	52
SECTION 10.01. Amendment of the Trust Agreement .....	52
SECTION 10.02. Disqualified Bonds.....	53
SECTION 10.03. Endorsement or Replacement of Bonds After Amendment .....	53
SECTION 10.04. Amendment by Mutual Consent .....	53
ARTICLE XI DISCHARGE OF BONDS .....	54
SECTION 11.01. Discharge of Bonds.....	54
SECTION 11.02. Unclaimed Money.....	55
ARTICLE XII RESERVED.....	56
ARTICLE XIII MISCELLANEOUS .....	56
SECTION 13.01. Liability of Authority Limited to Revenues.....	56
SECTION 13.02. Benefits of this Trust Agreement Limited to Parties and Third Party Beneficiaries .....	56
SECTION 13.03. Successor Is Deemed Included In All References To Predecessor .....	56
SECTION 13.04. Execution of Documents by Bondholders .....	57
SECTION 13.05. Waiver of Personal Liability .....	57
SECTION 13.06. Acquisition of Bonds by Authority.....	57

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
SECTION 13.07. Destruction of Cancelled Bonds .....	57
SECTION 13.08. Content of Certificates .....	57
SECTION 13.09. Publication for Successive Weeks .....	58
SECTION 13.10. Accounts and Funds .....	58
SECTION 13.11. Business Day.....	58
SECTION 13.12. Notices; Notices to Rating Agencies .....	58
SECTION 13.13. Article and Section Headings and References .....	59
SECTION 13.14. Partial Invalidity.....	59
SECTION 13.15. Governing Law .....	59
SECTION 13.16. Execution in Several Counterparts.....	59
APPENDIX A-1 FORM OF SERIES A BOND .....	A-1-1
APPENDIX A-2 FORM OF SERIES B BOND.....	A-2-1
APPENDIX B SCHEDULE OF PRINCIPAL ACCOUNT (QSCB) DEPOSITS .....	B-1
APPENDIX C FORM OF TAX CREDIT STRIP REQUEST .....	C-1
APPENDIX D FORM OF TAX CREDIT CERTIFICATE EXPIRATION NOTICE TO DTC.....	D-1
APPENDIX E FORM OF REQUISITION – PROJECT FUND.....	E-1
APPENDIX F SCHEDULE OF DEPOSITS TO REVENUE FUND (QSCB) AND REVENUE FUND (TAX-EXEMPT).....	F-1

THIS TRUST AGREEMENT dated as of December 15, 2009 (the “Trust Agreement”), by and between the SAN DIEGUITO PUBLIC FACILITIES AUTHORITY, a joint exercise of powers authority duly organized and existing pursuant to an Agreement entitled “Joint Exercise of Powers Agreement” between Community Facilities District No. 94-1 of the San Dieguito Union High School District and the San Dieguito Union High School District (the “Authority”), and U.S. BANK NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America, as trustee (the “Trustee”);

W I T N E S S E T H:

WHEREAS, the Authority is a joint exercise of powers authority duly organized and operating pursuant to Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (hereinafter, the “Act”);

WHEREAS, Article 4 of the Act authorizes and empowers the Authority to issue bonds to finance and programs consisting of certain public improvements or working capital whenever a local agency determines that there are significant public benefits from doing so;

WHEREAS, the San Dieguito Union High School District (the “District”) will lease to the Authority certain capital assets of the District (the “Facility”) pursuant to the Facility Lease dated as of December 15, 2009;

WHEREAS, the District will lease back the Facility from the Authority pursuant to the terms of the Facility Sublease dated as of December 15, 2009;

WHEREAS, the District has determined to finance various capital projects as set forth in Exhibit C to the Facility Sublease (as amended from time to time, the “Project”);

WHEREAS, the Authority is empowered pursuant to the Facility Sublease and the aforementioned Article 4 of the Act to cause the lease of the Facility, and to cause the financing of the Project through the issuance of its bonds;

WHEREAS, the District has determined that the consummation of the transactions contemplated in the Facility Lease, the Facility Sublease and this Trust Agreement will result in significant public benefits;

WHEREAS, the Authority intends to assist the District in financing the Project by issuing the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds), (the “Series A Bonds”) and the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds), (the “Series B Bonds”) and collectively with the Series A Bonds, the “Bonds”);

WHEREAS, the American Recovery and Reinvestment Act of 2009 grants a national allocation of \$11 billion to provide for the issuance of qualified school construction bonds, in accordance with the qualified tax credit bond program (the “Tax Credit Program”) found in Sections 54A and 54F of the Internal Revenue Code of 1986, as amended (the “Code”),

and \$25,000,000 of said allocation has been granted to the San Dieguito Union High School District (the “District Allocation”);

WHEREAS, the Board of Trustees of the San Dieguito Union High School District (the “Board of Education”) has determined that it is in the best interests of the District to cause the Authority to use all or a portion of the District Allocation to issue and sell, on behalf of the District, the Series A Bonds pursuant to the Tax Credit Program to finance the Project and to pay costs of issuance of the Bonds;

WHEREAS, the Board of Education has further determined that it is in the best interests of the District to provide for the separation of the ownership of the Bonds from the entitlement to the tax credits (the “Tax Credits”) with respect to such Series A Bonds pursuant to the Tax Credit Program, and for the sale of instruments evidencing the Tax Credits (the “Tax Credit Certificates”);

WHEREAS, on November 12, 2009, the Board of Education approved a resolution (the “District Resolution”) approving the Facility Lease, the Facility Sublease and other documents associated with the financing of the Project through the issuance of the Bonds and authorizing their execution on behalf of the District;

WHEREAS, in the District Resolution, the Board of Education has determined, pursuant to Section 5922 of the Government Code of the State, that the execution and delivery of this Agreement and the Tax Credit Certificates will result in a reduction in the amount or duration of payments and lower the cost of borrowing when used in combination with the Bonds; and

WHEREAS, the Authority has authorized the issuance of the Series A Bonds, in an aggregate principal amount of [\_\_\_\_\_] dollars (\$[\_\_\_\_\_]), and the Series B Bonds, in an aggregate principal amount of [\_\_\_\_\_] dollars (\$[\_\_\_\_\_]), to assist in financing the Project;

WHEREAS, to reduce the borrowing costs of the Authority and the base rental payments of the District, and to help the financing of the Project from which significant public benefit will be achieved, the Bonds shall be issued pursuant to Article 4 of the Act;

WHEREAS, to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the full and timely payment of the principal thereof and premium, if any, and interest thereon, and for the administration of the associated Tax Credits, the Authority has authorized the execution and delivery of this Trust Agreement;

WHEREAS, the Authority has determined that all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority and authenticated and delivered by the Trustee, duly issued and the valid, binding and legal obligations of the Authority payable in accordance with their terms, and to constitute this Trust Agreement a valid and binding agreement of the parties hereto for the uses and purposes herein set forth, have been done and taken, and have been in all respects duly authorized;

NOW, THEREFORE, THIS TRUST AGREEMENT WITNESSETH, that in order to secure the full and timely payment of the principal of, premium, if any, and interest on all Bonds at any time issued and outstanding under this Trust Agreement, according to their tenor, to secure the proper administration of the Tax Credits, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds and Tax Credit Certificates are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Holders thereof, and for other valuable consideration, the receipt whereof is hereby acknowledged, the Authority does hereby covenant and agree with the Trustee, for the benefit of the respective Holders from time to time of the Bonds and Tax Credit Certificates, as follows:

## ARTICLE I

### DEFINITIONS; EQUAL SECURITY

SECTION 1.01. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes hereof and of any Supplemental Trust Agreement and of any certificate, opinion, request or other document herein or therein mentioned have the meanings herein specified, unless otherwise defined in such other document. Capitalized terms not otherwise defined herein shall have the meaning assigned to such terms in the Facility Sublease.

#### Accountable Event of Loss of Qualified School Construction Bond Status

The term “Accountable Event of Loss of Qualified School Construction Bond Status” means (a) any act or any failure to act on the part of the District or the Authority, which act or failure to act is a breach of a covenant or agreement of the District contained in the District Resolution, this Agreement, the Tax Certificates or the Bonds and which act or failure to act causes the Bonds to lose their status, or fail to qualify, as Qualified School Construction Bonds, or (b) the making by the District of any representation contained in the District Resolution, this Agreement, the Tax Certificates or the Bonds, which representation was untrue when made and the untruth of which representation at such time causes the Bonds to lose their status, or fail to qualify, as Qualified School Construction Bonds.

#### Act

The term “Act” means the Joint Exercise of Powers Act (being Chapter 5 of Division 7 of Title 1 of the Government Code of the State, as amended) and all laws amendatory thereof or supplemental thereto.

#### Authority

The term “Authority” means the San Dieguito Public Facilities Authority created pursuant to the Act and its successors and assigns in accordance herewith.



Authorized Denominations

The term “Authorized Denominations” means with respect to the Series A Bonds, \$[40,000] or any integral multiple thereof, and with respect to the Series B Bonds, \$5,000 and any integral multiple thereof.

Board of Education

The term “Board of Education” means the legislative body of the District.

Bond or Bonds

The terms “Bond” or “Bonds” means the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) and the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds), or any of them, authorized by and at any time Outstanding pursuant to this Trust Agreement and executed, issued and delivered in accordance with Sections 2.01, 2.02, 2.03 and 3.01.

Bond Counsel

The term “Bond Counsel” means counsel of recognized national standing in the field of law relating to municipal bonds, appointed and paid by the District.

Bondholder; Bondowner; Owner; Holder

The terms “Bondholder,” “Bondowner,” “Owner” or “Holder” mean, with respect to the Bonds, the person in whose name any Bond shall be registered, and, with respect to Tax Credit Certificates, the person in whose name any Tax Credit Certificate shall be registered.

Book-Entry Bonds

The term “Book-Entry Bonds” means Bonds registered in the name of the nominee of a Depository as the owner thereof pursuant to the terms and provisions of Section 2.08 of this Agreement.

Book-Entry Tax Credit Certificates

The term “Book-Entry Tax Credit Certificates” means Tax Credit Certificates related to any Series of Bonds registered in the name of the nominee of a Depository as the owner thereof pursuant to the terms and provisions of Section 6.04 of this Agreement.

Business Day

The term “Business Day” means a day that is not a Saturday, Sunday or legal holiday on which banking institutions in the State of New York or the State of California are authorized to remain closed, or a day on which the Federal Reserve system is closed.

Certificate of the Authority

The term “Certificate of the Authority” means an instrument in writing signed by any of the following officials of the Authority: the Chair or Vice-Chair of the Board of Directors, Executive Director, Associate Executive Director, Treasurer or a designee of any such officer, or by any other person (whether or not an officer of the Authority) who is specifically authorized by resolution of the Authority for that purpose.

Certificate of the District

The term “Certificate of the District” means an instrument in writing signed by any of the following District officials: the President or Vice-President of the Board of Education, Superintendent, Assistant Superintendent, Director of Business Services or by any such official’s duly appointed designee, or by any other officer of the District duly authorized by the Board of Education of the District for that purpose.

Code

The term “Code” means the Internal Revenue Code of 1986, as amended.

Comparable Treasury Issue

The term “Comparable Treasury Issue” means the U.S. Treasury security or securities selected by the Designated Investment Banker which has an actual or interpolated maturity comparable to the remaining average life, as of the redemption date, of the Bonds to be redeemed, and that would be utilized in accordance with customary financial practice in pricing new issues of debt securities of comparable maturity to the remaining average life, as of the redemption date, of the Tax Credit Bond to be redeemed.

Comparable Treasury Price

The term “Comparable Treasury Price” means (a) if the Designated Investment Banker receives at least four Reference Treasury Dealer Quotations, the average of such quotations for the date on which such Bonds are to be redeemed, after excluding the highest and lowest Reference Treasury Dealer Quotations, or (b) if the Designated Investment Banker obtains fewer than four Reference Treasury Dealer Quotations, the average of all such quotations.

Continuing Disclosure Agreement

The term “Continuing Disclosure Agreement” shall mean that certain Continuing Disclosure Agreement executed by the District dated the date of issuance and delivery of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

Corporate Trust Office

The term “Corporate Trust Office” refers to the office of the Trustee noted in Section 13.12 and such other offices as the Trustee may designate from time to time.

Costs of Issuance

The term “Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the District or the Authority and related to the authorization, execution and delivery of the Facility Lease, the Facility Sublease, this Trust Agreement and the issuance and sale of the Bonds, including, but not limited to, costs of preparation and reproduction of documents, costs of rating agencies and costs to provide information required by rating agencies, filing and recording fees, fees and charges of the Trustee, legal fees and charges, fees and disbursements of consultants and professionals, fees and charges for preparation, execution and safekeeping of the Bonds, title search and title insurance fees, fees of the Authority and any other authorized cost, charge or fee in connection with the issuance of the Bonds.

Costs of Issuance Fund (QSCB)

The term “Costs of Issuance Fund (QSCB)” means the fund by that name established pursuant to Section 3.01(b).

Costs of Issuance Fund (Tax-Exempt)

The term “Costs of Issuance Fund (Tax-Exempt)” means the fund by that name established pursuant to Section 3.01(c).

Date of Loss of Qualified School Construction Bond Status

The term “Date of Loss of Qualified School Construction Bond Status” means the date specified in a Determination of Loss of Qualified School Construction Bond Status as the date from and after which the Bonds lost their status, or failed to qualify, as Qualified School Construction Bonds as a result of an Accountable Event of Loss of Qualified School Construction Bond Status, which date could be as early as the date of issuance of the Bonds.

Demised Premises

The term “Demised Premises” means that certain real property situated in the County of San Diego, State of California, described in Exhibit A to the Facility Sublease, together with any additional real property added thereto or substituted therefor by any supplement or amendment thereto in accordance with the Facility Sublease and the Trust Agreement; subject, however, to any conditions, reservations, and easements of record or known to the District.

Depository

The term “Depository” means DTC or another recognized securities depository selected by the Authority which maintains a book-entry system for the Bonds.

Designated Investment Banker

The term “Designated Investment Banker” means one of the Reference Treasury Dealers designated by the District.

Determination of Loss of Qualified School Construction Bond Status

The term “Determination of Loss of Qualified School Construction Bond Status” means (a) a final determination by the Internal Revenue Service (after the District has exhausted all administrative appeal remedies) determining that an Accountable Event of Loss of Qualified School Construction Bond Status has occurred and specifying the Date of Loss of Qualified School Construction Bond Status, or (b) a non-appealable holding by a court of competent jurisdiction holding that an Accountable Event of Loss of Qualified School Construction Bond Status has occurred and specifying the Date of Loss of Qualified School Construction Bond Status.

Dissemination Agent

The term “Dissemination Agent” means the Trustee or any successor appointed under the Continuing Disclosure Agreement.

District

The term “District” means the San Dieguito Union High School District, a school district organized and existing under the laws of the State of California.

DTC

The term “DTC” means The Depository Trust Company, New York, New York.

Earnings Fund (QSCB)

The term “Earnings Fund (QSCB)” means the fund by that name established pursuant to Section 5.09.

Earnings Fund (Tax-Exempt)

The term “Earnings Fund (Tax-Exempt)” means the fund by that name established pursuant to Section 5.08.

Event of Default

The term “Event of Default” shall have the meaning specified in Section 8.01.

Facility

The term “Facility” means those certain facilities described in Exhibit A to the Facility Sublease; subject, however, to any conditions, reservations and easements of record known to the District.

Facility Lease

The term “Facility Lease” means that certain lease by and between the District and the Authority, dated as of December 15, 2009, whereby the District leased the Demised Premises to the Authority, which lease or a memorandum thereof was recorded in the office of the County Recorder of the County of San Diego on December \_\_, 2009 as document No. \_\_\_\_\_, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions hereof and thereof.

Facility Sublease

The term “Facility Sublease” means that certain lease, entitled “Facility Sublease,” by and between the District and the Authority, dated as of December 15, 2009, whereby the Authority subleased the Demised Premises back to the District, which lease or a memorandum thereof was recorded in the office of the County Recorder of the County of San Diego on December \_\_, 2009 as document No. \_\_\_\_\_, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions hereof and thereof.

Federal Securities

The term “Federal Securities” means any direct, noncallable obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) or any obligations the principal of and interest on which are unconditionally guaranteed (directly or indirectly) by the United States of America.

Financial Newspaper

The term “Financial Newspaper” means The Wall Street Journal or The Bond Buyer, or any other newspaper or journal printed in the English language, publishing financial news, and selected by the Authority.

Fiscal Year

The term “Fiscal Year” means the twelve (12) month period terminating on June 30 of each year, or any other annual accounting period hereafter selected and designated by the Authority as its Fiscal Year in accordance with applicable law.

Insurance and Condemnation Fund

The term “Insurance and Condemnation Fund” means the fund by that name created pursuant to Section 5.06.

Interest Account (QSCB)

The term “Interest Account (QSCB)” means the account by that name created pursuant to Section 5.03.

Interest Account (Tax-Exempt)

The term “Interest Account (Tax-Exempt)” means the account by that name created pursuant to Section 5.04.

Interest Payment Date

The term “Interest Payment Date” means, (i) with respect to the Bonds, [June 15] and [December 15] in each year, commencing [June 15], 2010, and (ii) such other dates as set forth in a Supplemental Trust Agreement with respect to a Series of Bonds.

Investment Securities

The term “Investment Securities” means any of the following that at the time are legal investments under the laws of the State of California for moneys held hereunder and then proposed to be invested therein (provided that the Trustee shall be entitled to rely upon any investment direction from the Authority as conclusive certification to the Trustee that the investments described therein are so authorized under the laws of the State of California):

i. any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed as to full and timely payment by, the United States of America, including obligations of any of the federal agencies and federally sponsored entities set forth in clause (iii) below to the extent unconditionally guaranteed by the United States of America and including interest strips of any such obligations or of bonds issued by the Resolution Funding Corporation and held in book-entry form by the Federal Reserve Bank of New York;

ii. any certificates, receipts, securities or other obligations evidencing ownership of, or the right to receive, a specified portion of one or more interest payments or principal payments, or any combination thereof, to be made on any bond, note, or other obligation described above in clause (i);

iii. obligations of Fannie Mae, the Government National Mortgage Association, Farm Credit System Financial Corporation, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Tennessee Valley Authority, Washington Metropolitan Area Transit Authority, United States Import-Export Bank, United States Department of Housing and Urban Development, Farmers Home Administration, General Services Administration and United States Maritime Administration;

iv. housing authority bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or project notes issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

v. obligations of any state, territory or commonwealth of the United States of America or any political subdivision thereof or any agency or department of the foregoing; provided that such obligations are rated in the highest Rating Category by Moody's and Standard & Poor's;

vi. any bonds or other obligations of any state of the United States of America or any political subdivision thereof (a) which are not callable prior to maturity or as to which irrevocable instructions have been given to the paying agent of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified in such instructions, (b) which are secured as to principal and interest and redemption premium, if applicable, by a fund consisting only of cash or bonds or other obligations of the character described above in clause (i) or (ii) which fund may be applied only to the payment of such principal of and interest and redemption premium, if applicable, on such bonds or other obligations on the interest payment dates and the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, (c) as to which the principal of and interest on the bonds and obligations of the character described above in clause (i) or (ii) which have been deposited in such fund along with any cash on deposit in such fund are sufficient to pay the principal of and interest and redemption premium, if applicable, on the bonds or other obligations described in this clause (vi) on the interest payment dates and the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (vi), as appropriate, and (d) which are rated in the highest long-term Rating Category by Moody's and Standard & Poor's;

vii. demand or time deposits or certificates of deposit, whether negotiable or nonnegotiable, trust funds, trust accounts, interest-bearing deposits, overnight bank deposits, interest-bearing money market accounts or bankers acceptances issued by any bank or trust company (including, without limitation, the Trustee or any of its affiliates) organized under the laws of any state of the United States of America or any national banking association (including the Trustee or any of its affiliates) or by a state licensed branch of any foreign bank, provided that such certificates of deposit shall be purchased directly from such a bank, trust company, national banking association or branch and shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities and obligations as are described above in clauses (i) through (v), inclusive, which shall have a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such certificates of deposit and shall be lodged with the Trustee or third-party agent, as custodian, by the bank, trust company, national banking association or branch issuing such certificates of deposit, and the bank, trust company, national banking association or branch issuing each such certificate of deposit required to be so secured shall furnish the Trustee with an undertaking satisfactory to the District that the aggregate market value of all such obligations

securing each such certificate of deposit will at all times be an amount equal to the principal amount of each such certificate of deposit and the District shall be entitled to rely on each such undertaking;

viii. taxable commercial paper or tax-exempt commercial paper rated in the highest Rating Category by Moody's and Standard & Poor's which matures not more than 270 calendar days after the date of purchase;

ix. variable rate obligations required to be redeemed or purchased by the obligor or its agent or designee upon demand of the holder thereof secured as to such redemption or purchase requirement by a liquidity agreement with a corporation and as to the payment of interest and principal either upon maturity or redemption (other than upon demand by the holder thereof) thereof by an unconditional credit facility of a corporation, provided that the variable rate obligations themselves are rated in the highest short-term Rating Category, if any, and in the highest long-term Rating Category, if any, by Moody's and Standard & Poor's, and that the corporations providing the liquidity agreement and credit facility have, at the date of acquisition of the variable rate obligations by the Trustee, an outstanding issue of unsecured, uninsured and unguaranteed debt obligations rated in the highest long-term Rating Category by Moody's and Standard & Poor's;

x. any repurchase or reverse-repurchase agreement approved by the Authority which does not cause the rating on the Bonds to be reduced or withdrawn, or entered into with a financial institution (including, without limitation, the Trustee or any of its affiliates) or insurance company which has at the date of execution thereof an outstanding issue of unsecured, uninsured and unguaranteed debt obligations or a claims paying ability rated (or the parent company of which is rated) in the highest long-term Rating Category by Moody's and Standard & Poor's, which agreement is secured by any one or more of the securities and obligations described in clauses (i), (ii), (iii) or (iv) above, which shall have a market value (exclusive of accrued interest and valued at least weekly) at least equal to one hundred three percent (103%) of the principal amount of such investment and shall be lodged with the Trustee or other fiduciary or agent, as custodian, by the provider executing such repurchase agreement, and the provider executing each such repurchase agreement required to be so secured shall furnish the District with an undertaking satisfactory to the District that the aggregate market value of all such obligations securing each such repurchase agreement (as valued at least weekly) will be an amount equal to one hundred three percent (103%) of the principal amount of each such repurchase agreement and the District shall be entitled to rely on each such undertaking;

xi. any cash sweep or similar account arrangement of or available to the Trustee, the investments of which are limited to investments described in clauses (i), (ii), (iii), (iv), (v) and (x) of this definition of Investment Securities and any money market fund including money market mutual funds having a rating in the highest investment category granted thereby from Standard & Poor's and Moody's, including, without limitation any mutual fund for which the Trustee or an affiliate of the Trustee serves as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate



from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Agreement may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee; provided that as used in this clause (xi) and clause (xii) investments will be deemed to satisfy the requirements of clause (x) if they meet the requirements set forth in clause (x) ending with the words “clauses (i), (ii), (iii) or (iv) above” and without regard to the remainder of such clause (x);

xii. any investment agreement with, or the obligations under which are guaranteed by, a financial institution or insurance company or domestic or foreign bank which has at the date of execution thereof an outstanding issue of unsecured, uninsured and unguaranteed debt obligations or a claims paying ability rated in the highest long-term Rating Category by Moody’s and Standard & Poor’s, approved by the Authority and which does not cause the rating on the Bonds to be reduced or withdrawn;

xiv. the Local Agency Investment Fund or similar pooled fund operated by or on behalf of the State of California and which is authorized to accept investments of moneys held in any of the funds or accounts established pursuant to this Trust Agreement;

xv. commercial paper having, at the time of investment or contractual commitment to invest therein, a rating from Standard & Poor’s and Moody’s in the highest rating category granted thereby; and

xvi. any other investment approved by the Authority which does not cause the rating on the Bonds to be reduced or withdrawn.

### Moody’s

The term “Moody’s” means Moody’s Investors Service, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency selected by the District.

### Opinion of Counsel

The term “Opinion of Counsel” means a written opinion of Bond Counsel.

### Outstanding

The term “Outstanding,” when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 10.02) all Bonds except

(1) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;

(2) Bonds paid or deemed to have been paid within the meaning of Section 11.01; and

(3) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered by the Authority pursuant hereto.

Principal Account (QSCB)

The term “Principal Account (QSCB)” means the account by that name created pursuant to Section 5.03.

Principal Account (Tax-Exempt)

The term “Principal Account (Tax-Exempt)” means the account by that name created pursuant to Section 5.04.

Principal Component

The term “Principal Component” means any Series A Bond from which the associated Tax Credits have been separated pursuant to Article VI of this Agreement.

Project

The term “Project” means the project described in Exhibit C to the Facility Sublease.

Project Fund

The term “Project Fund” means the Project Fund (QSCB) or the Project Fund (Tax-Exempt), as applicable.

Project Fund (QSCB)

The term “Project Fund (QSCB)” means the fund by that name established pursuant to Section 3.02.

Project Fund (Tax-Exempt)

The term “Project Fund (Tax-Exempt)” means the fund by that name established pursuant to Section 3.02.

Qualified School Construction Bond

The term “Qualified School Construction Bond” means a “qualified school construction bond,” as defined in Section 54F of the Code.

Rating Category

The term “Rating Category” means: (i) with respect to any long-term rating category, all ratings designated by a particular letter or combination of letters, without regard to any numerical modifier, plus or minus sign or other modifier, and (ii) with respect to any short-

term or commercial paper rating category, all ratings designated by a particular letter or combination of letters and taking into account any numerical modifier, but not any plus or minus sign or other modifier.

Record Date

The term “Record Date” means the [first] day of the month prior to an Interest Payment Date, whether or not such day is a Business Day.

Redemption Premium

The term “Redemption Premium” means the Redemption Premium (QSCB) or Redemption Premium (Tax-Exempt), as applicable.

Redemption Premium (QSCB)

The term “Redemption Premium (QSCB)” means, with respect to the Series A Bonds, as calculated by the Authority (or, at the Authority’s option, its Designated Investment Banker), the greater of (x) zero and (y) an amount calculated as (a) the sum of the present values of the remaining scheduled payments of principal of, interest on and Tax Credits related to the Series A Bonds called for redemption (exclusive of interest accrued to the redemption date) discounted to the redemption date on a semiannual basis (assuming a 360-day year consisting of 12 months of 30 days each) at a rate per annum equal to the Treasury Rate, minus (b) the principal amount of the Series A Bonds called for redemption.

Redemption Premium (Tax-Exempt)

The term “Redemption Premium (Tax-Exempt)” means, with respect to the Series B Bonds, [\_\_\_\_\_]

Reference Treasury Dealer

The term “Reference Treasury Dealer” means the original underwriters of the Bonds, their successors and other firms, as specified by the District from time to time, that are primary U.S. government securities dealers in the City of New York, New York; provided, however, that if any such firm ceases to be such a primary treasury dealer, the District will substitute another primary treasury dealer for such firm.

Reference Treasury Dealer Quotations

The term “Reference Treasury Dealer Quotations” means, with respect to each Reference Treasury Dealer, the average, as determined by the Designated Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Designated Investment Banker by such Reference Treasury Dealer at 3:30 p.m., New York City time, on the third business day preceding the date on which such Bonds are to be redeemed.

### Representation Letter

The term “Representation Letter” means the blanket letter of representation of the Authority to DTC or any similar letter to a substitute depository.

### Reserve Fund

The term “Reserve Fund” means the fund by that name established pursuant to Section 5.05.

### Reserve Fund Requirement

The term “Revenue Fund Requirement” means as of any date of calculation, the least of (i) 10% of the initial stated principal amount of the Series B Bonds, (ii) maximum annual debt service on the Outstanding Series B Bonds and (iii) 125% of the average annual debt service of the Outstanding Series B Bonds.

### Responsible Officer

The term “Responsible Officer” means any officer of the Trustee assigned to administer its duties under this Trust Agreement.

### Revenue Fund (QSCB)

The term “Revenue Fund (QSCB)” means the fund by that name established pursuant to Section 5.02(b).

### Revenue Fund (Tax-Exempt)

The term “Revenue Fund (Tax-Exempt)” means the fund by that name established pursuant to Section 5.02(c).

### Revenues

The term “Revenues” means (i) all Base Rental Payments (as defined in the Facility Sublease) and other payments paid by the District and received by the Authority pursuant to the Facility Sublease (but not Additional Payments (as defined in the Facility Sublease)), and (ii) all interest or other income from any investment, pursuant to Section 5.07, of any money in any fund or account established pursuant to this Trust Agreement or the Facility Sublease (other than in the Excess Earnings Account (QSCB) or Excess Earnings Account (Tax-Exempt)).

### Revenues (QSCB)

The term “Revenues (QSCB)” means all Revenues allocated to the Series A Bonds as set forth on Appendix F to this Trust Agreement and pursuant to Section 5.02(d) of this Trust Agreement in the event there is a shortfall of Revenues.

Revenues (Tax-Exempt)

The term “Revenues (Tax-Exempt)” means all Revenues allocated to the Series B Bonds as set forth on Appendix F to this Trust Agreement and pursuant to Section 5.02(d) of this Trust Agreement in the event there is a shortfall of Revenues.

Series A Bond or Series A Bonds

The terms “Series A Bond” or “Series A Bonds” means the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds), or any of them, authorized by and at any time Outstanding pursuant to this Trust Agreement and executed, issued and delivered in accordance with Sections 2.01, 2.02, 2.03 and 3.01.

Series B Bond or Series B Bonds

The terms “Series B Bond” or “Series B Bonds” means the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds), or any of them, authorized by and at any time Outstanding pursuant to this Trust Agreement and executed, issued and delivered in accordance with Sections 2.01, 2.02, 2.03 and 3.01.

Standard & Poor’s

The term “Standard & Poor’s” means Standard & Poor’s Ratings Service, a division of The McGraw-Hill Companies, a corporation duly organized and existing under and by virtue of the laws of the State of New York, and its successors and assigns, except that if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, then the term “Standard & Poor’s” shall be deemed to refer to any other nationally recognized securities rating agency selected by the District.

State

The term “State” means the State of California.

Supplemental Trust Agreement

The term “Supplemental Trust Agreement” means any Trust Agreement then in full force and effect that has been duly executed and delivered by the Authority and the Trustee amendatory hereof or supplemental hereto; but only if and to the extent that such Supplemental Trust Agreement is executed and delivered pursuant to the provisions hereof.

Tax Certificate or Tax Certificates

The term “Tax Certificate” means the Tax Certificate (QSCB) or the Tax Certificate (Tax-Exempt), as applicable and the term “Tax Certificates” means both the Tax Certificate (QSCB) and the Tax Certificate (Tax-Exempt).

Tax Certificate (QSCB)

The term “Tax Certificate (QSCB)” means the tax certificate and agreement concerning certain matters pertaining to the use of proceeds of the Series A Bonds, executed and delivered by the Authority and the District on the date of issuance of the Series A Bonds, including all exhibits attached thereto, as such certificate may from time to time be modified or supplemented in accordance with the terms thereof.

Tax Certificate (Tax-Exempt)

The term “Tax Certificate (Tax-Exempt)” means the tax certificate and agreement concerning certain matters pertaining to the use of proceeds of the Series B Bonds, executed and delivered by the Authority and the District on the date of issuance of the Series B Bonds, including all exhibits attached thereto, as such certificate may from time to time be modified or supplemented in accordance with the terms thereof.

Tax Credit

The term “Tax Credit” means the entitlement, pursuant to the Tax Credit Program, of a taxpayer to recognize a credit against the tax imposed by Chapter 1 of the Code.

Tax Credit Rate

The term “Tax Credit Rate” means the rate, shown as such, on the face of the Bonds as issued.

Tax Credit Allowance Date

The term “Tax Credit Allowance Date” means each March 15, June 15, September 15, and December 15, beginning on March 15, 2010 and ending on the maturity date thereof, or such of those dates as specified in any Tax Credit Certificate related thereto.

Tax Credit Certificate

“Tax Credit Certificate” means an instrument evidencing the entitlement of the Owner thereof or of the Owner of the related Bond to a Tax Credit.

Tax Credit Program

“Tax Credit Program” means the program for allocating Tax Credits and authorizing the issuance of Qualified School Construction Bonds promulgated under Sections 54A and 54F of the Code.

Treasury Rate

“Treasury Rate” means the rate per annum, expressed as a percentage of the principal amount, equal to the semiannual equivalent yield to maturity or interpolated maturity of the Comparable Treasury Issue, assuming that the Comparable Treasury Issue is purchased on

the redemption date for a price equal to the Comparable Treasury Price, as calculated by the Designated Investment Banker.

#### Trust Agreement

The term “Trust Agreement” means this Trust Agreement, dated as of December 15, 2009, between the Authority and the Trustee, as originally executed and as it may from time to time be amended or supplemented by all Supplemental Trust Agreements executed pursuant to the provisions hereof.

#### Trustee

The term “Trustee” means U.S. Bank National Association, or any other association or corporation which may at any time be substituted in its place as provided in Section 9.01.

#### Written Request of the Authority

The term “Written Request of the Authority” means an instrument in writing signed by or on behalf of the Authority by the Chair or Vice-Chair of its Board of Directors, the Executive Director, Associate Executive Director, Treasurer or a designee of any such officer or by any other person (whether or not an officer of the Authority) who is specifically authorized by resolution of the Board of Directors of the Authority to sign or execute such a document on its behalf.

#### Written Request of the District

The term “Written Request of the District” means an instrument in writing signed by the President or Vice-President of the Board of Education, the Superintendent, Assistant Superintendent, or by the Director of Business Services, or by any other officer of the District duly authorized by the Board of Education of the District in writing to the Trustee for that purpose.

SECTION 1.02.Equal Security. In consideration of the acceptance of the Bonds by the Bondholders thereof, this Trust Agreement shall be deemed to be and shall constitute a contract among the Authority, the Trustee and the Bondholders from time to time of all Bonds authorized, executed, issued and delivered hereunder and then Outstanding to secure the full, timely and final payment of the interest on and principal of and Redemption Premium, if applicable, on all Bonds which may from time to time be authorized, executed, issued and delivered hereunder, subject to the agreements, conditions, covenants and provisions contained herein; and all agreements and covenants set forth herein to be performed by or on behalf of the Authority shall be for the equal and proportionate benefit, protection and security of all Bondholders of the Bonds without distinction, preference or priority as to security or otherwise of any Bonds over any other Bonds by reason of the number or date thereof or the time of authorization, sale, execution, issuance or delivery thereof or for any cause whatsoever, except as expressly provided herein or therein.

SECTION 1.03.Interpretation. 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 or include the neuter, masculine or feminine gender, as appropriate. 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.

ARTICLE II

THE BONDS

SECTION 2.01.Authorization of Bonds; Bonds.

(a) The Series A Bonds shall be issued for the purpose of providing funds to pay costs of the Project and to pay Costs of Issuance with respect to the Series A Bonds. The Series B Bonds shall be issued for the purpose of providing funds to pay costs of the Project and to pay Costs of Issuance with respect to the Series B Bonds. The Series A Bonds shall be issued on behalf of the District by the Authority and sold by the Authority under and subject to the terms of District Resolution, the Authority Resolution, this Agreement and all applicable laws, and shall be designated as the “San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds),” and shall be in the aggregate principal amount of [\_\_\_\_\_] dollars (\$[\_\_\_\_\_]). The Series A Bonds are hereby designated as “qualified school construction bonds” for purposes of Section 54F of the Code. The Series B Bonds shall be issued on behalf of the District by the Authority and sold by the Authority under and subject to the terms of District Resolution, the Authority Resolution, this Agreement and all applicable laws, and shall be designated as the “San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds),” and shall be in the aggregate principal amount of [\_\_\_\_\_] dollars (\$[\_\_\_\_\_]).

(b) The Bonds shall be dated the date of their delivery. The Bonds shall bear interest at the rate as set forth in Section 2.01(d) of this Section. The Series A Bonds shall mature on [December 15, 2025]. The Series B Bonds shall mature on [\_\_\_\_\_].

(c) The principal and any Redemption Premium of the Bonds shall be payable in lawful money of the United States of America to the Owner thereof, upon the surrender thereof at the Corporate Trust Office of the Trustee, or at such other location as the Trustee shall designate. Each payment of principal on the Bonds shall include the CUSIP identification number, if any, of the Bond with respect to which such payment is made. So long as Cede & Co. or its registered assigns shall be the registered owner of any Bonds, payment shall be made to Cede & Co. by wire transfer as provided in Section 2.01(e) hereof.

(d) The Series A Bonds shall bear interest at the rate of [\_\_\_\_\_] % per annum, payable on each Interest Payment Date. The Series B Bonds shall bear interest at the rates per annum as follows:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
[_____]	[_____]	[_____]



Interest on the Series B Bonds shall also be payable on each Interest Payment Date. Each Bond authenticated and registered on any date prior to the close of business on the first Record Date shall bear interest from the date of said Bond. Each Bond authenticated during the period between any Record Date and the close of business on its corresponding Interest Payment Date shall bear interest from such Interest Payment Date. Any other Bond shall bear interest from the Interest Payment Date immediately preceding the date of its authentication. If, at the time of authentication of any Bond, interest is in default on outstanding Bonds, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on the outstanding Bonds. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

(e) The interest on the Bonds shall be payable in like lawful money to the person whose name appears on the bond registration books of the Trustee as the Owner thereof as of the close of business on the applicable Record Date for each Interest Payment Date, whether or not such day is a Business Day. Payment of the interest on any Bond shall be made by check or draft mailed by first class mail on each Interest Payment Date (or on the following Business Day, if the Interest Payment Date does not fall on a Business Day) to such Owner at such Owner's address as it appears on such registration books or at such address as the Owner may have filed with the Trustee for that purpose; or upon written request of the Owner of Bonds aggregating not less than \$1,000,000 in principal amount, given no later than the Record Date immediately preceding the applicable Interest Payment Date, by wire transfer in immediately available funds to an account maintained in the United States at such wire address as such Owner shall specify in its written notice. So long as Cede & Co. or its registered assigns shall be the registered owner of any of the Bonds, payment shall be made thereto by wire transfer.

(f) Interest on any Bond shall cease to accrue (i) on the maturity date thereof, provided that there has been irrevocably deposited with the Trustee an amount sufficient to pay the principal amount thereof, plus interest accrued thereon to such date; or (ii) on the redemption date thereof, provided there has been irrevocably deposited with the Trustee an amount sufficient to pay the redemption price thereof, plus interest accrued thereon to such date. The Owner of such Bond shall not be entitled to any other payment, and such Bond shall no longer be Outstanding and entitled to the benefits of this Trust Agreement, except for the payment of the principal amount or redemption price, of such Bond, as appropriate, from moneys held by the Trustee for such payment.

(g) The Bonds shall be issued as fully registered Bonds in Authorized Denominations.

(h) The Authority has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and determines that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and that the Authority is now duly authorized, pursuant to each and every requirement of the Act, to issue the Bonds in the form and manner provided herein for the purpose of providing funds to finance the Project,

and that the Bonds shall be entitled to the benefit, protection and security of the provisions hereof.

(i) The validity of the issuance of the Bonds shall not be dependent on or affected in any way by the proceedings taken by the District for the financing of the Project or by any contracts made by the District or its agents in connection therewith, and shall not be dependent upon the performance by any person, firm or corporation of his or its obligation with respect thereto. The recital contained in the Bonds that the same are issued pursuant to the Act and pursuant hereto shall be conclusive evidence of their validity and of the regularity of their issuance, and all Bonds shall be incontestable from and after their issuance. The Bonds shall be deemed to be issued, within the meaning hereof, whenever the definitive Bonds (or any temporary Bonds exchangeable therefor) shall have been delivered to the purchaser thereof and the proceeds of sale thereof received.

SECTION 2.02.Form of Bonds. The Series A Bonds and the authentication and registration endorsement and assignment to appear thereon shall be substantially in the forms set forth in Appendix A-1 hereto attached and by this reference herein incorporated. The Series B Bonds and the authentication and registration endorsement and assignment to appear thereon shall be substantially in the forms set forth in Appendix A-2 hereto attached and by this reference herein incorporated.

SECTION 2.03.Execution of Bonds. The Chair of the Authority is hereby authorized and directed to execute each of the Bonds on behalf of the Authority and the Secretary of the Authority is hereby authorized and directed to countersign each of the Bonds on behalf of the Authority. The signatures of such officers may be by printed, lithographed or engraved by facsimile reproduction. In case any officer whose signature appears on the Bonds shall cease to be such officer before the delivery of the Bonds to the purchaser thereof, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until such delivery of the Bonds.

Only those Bonds bearing thereon a certificate of authentication in the form hereinbefore recited, executed manually and dated by the Trustee, shall be entitled to any benefit, protection or security hereunder or be valid or obligatory for any purpose, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authorized, executed, issued and delivered hereunder and are entitled to the benefit, protection and security hereof.

SECTION 2.04.Transfer and Payment of Bonds. Any Bond may, in accordance with its terms, be transferred in the books required to be kept pursuant to the provisions of Section 2.06 by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation accompanied by delivery of a duly executed written instrument of transfer in a form acceptable to the Trustee. Whenever any Bond or Bonds shall be surrendered for transfer, the Authority shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds for a like aggregate principal amount of Authorized Denominations. The Trustee shall require the payment by the Bondholder requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer as a condition precedent to the exercise of such privilege.

The Authority and the Trustee may deem and treat the registered owner of any Bond as the absolute owner of such Bond for the purpose of receiving payment thereof and for all other purposes, whether such Bond shall be overdue or not, and neither the Authority nor the Trustee shall be affected by any notice or knowledge to the contrary; and payment of the interest on and principal of and Redemption Premium, if applicable, on such Bond shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on such Bond to the extent of the sum or sums so paid.

The Trustee shall not be required to register the transfer of or exchange any Bond which has been selected for redemption in whole or in part, from and after the day of mailing of a notice of redemption of such Bond selected for redemption in whole or in part as provided in Section 4.07 or during the period established by the Trustee for selection of Bonds for redemption.

SECTION 2.05. Exchange of Bonds. Series A Bonds may be exchanged at the Principal Office of the Trustee for a like aggregate principal amount of Series A Bonds of other authorized denominations and Series B Bonds may be exchanged at the Principal Office of the Trustee for a like aggregate principal amount of Series B Bonds of other authorized denominations. The Trustee shall require the payment by the Bondholder requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange as a condition precedent to the exercise of such privilege. The Trustee shall not be required to exchange any Bond which has been selected for redemption in whole or in part, from and after the day of mailing of a notice of redemption of such Bond selected for redemption in whole or in part as provided in Section 4.07 or during the period established by the Trustee for selection of Bonds for redemption.

SECTION 2.06. Bond Registration Books. The Trustee will keep at its office sufficient books for the registration and transfer of the Bonds, which during normal business hours shall be open to inspection by the Authority, and upon presentation for such purpose the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer the Bonds in such books as hereinabove provided.

SECTION 2.07. Mutilated, Destroyed, Stolen or Lost Bonds; Temporary Bonds. If any Bond shall become mutilated, the Trustee, at the expense of the Bondholder, shall thereupon authenticate and deliver a new Bond of like tenor and amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be cancelled.

If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to the Trustee and indemnity satisfactory to the Trustee shall be given, the Trustee, at the expense of the Bondholder, shall thereupon authenticate and deliver a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen.

The Trustee may require payment of a reasonable sum for each new Bond issued under this Section 2.07 and of the expenses which may be incurred by the Authority and the Trustee in the premises. Any Bond issued under the provisions of this Section in lieu of any

Bond alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Bonds of the same Series secured by this Trust Agreement. Neither the Authority nor the Trustee shall be required to treat both the original Bond and any replacement Bond as being Outstanding for the purpose of determining the principal amount of Bonds which may be issued hereunder or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and replacement Bond shall be treated as one and the same.

The Bonds issued under this Trust Agreement may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Authority, shall be in fully registered form and may contain such reference to any of the provisions of this Trust Agreement as may be appropriate. Every temporary Bond shall be executed and authenticated as authorized by the Authority, in accordance with the terms of the Act. If the Authority issues temporary Bonds it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds may be surrendered, for cancellation, in exchange therefor at the Principal Office of the Trustee, and the Trustee shall deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Trust Agreement as definitive Bonds delivered hereunder.

SECTION 2.08. Special Covenants as to Book-Entry Only System for Bonds.

(a) Except as otherwise provided in subsections (b) and (c) of this Section 2.08, all of the Bonds initially issued shall be registered in the name of Cede & Co., as nominee for DTC, or such other nominee as DTC shall request pursuant to the Representation Letter. Payment of the interest on any Bond registered in the name of Cede & Co. shall be made on each Interest Payment Date for such Bonds to the account, in the manner and at the address indicated in or pursuant to the Representation Letter.

(b) The Series A Bonds initially shall be issued in the form of a single authenticated fully registered bond, representing the aggregate principal amount of the Series A Bonds and the Series B Bonds initially shall be issued in the form of a single authenticated fully registered bond, representing the aggregate principal amount of the Series B Bonds. Upon initial issuance, the ownership of the authenticated Series A Bond and the authenticated Series B Bond shall be registered in the registration records maintained by the Trustee pursuant to Section 2.06 in the name of Cede & Co., as nominee of DTC, or such other nominee as DTC shall request pursuant to the Representation Letter. The Trustee and the Authority may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal or redemption price of and interest on such Bonds, selecting the Bonds or the portion thereof to be redeemed, giving any notice permitted or required to be given to Bondholders hereunder, registering the transfer of the Bonds, obtaining any consent or other action to be taken by Bondholders of the Bonds and for all other purposes whatsoever; and neither the Trustee nor the Authority shall be affected by any notice to the contrary. Neither the Trustee nor the Authority shall have any responsibility or obligation to any "Participant" (which shall mean, for purposes of this Section 2.08, securities brokers and dealers, banks, trust

companies, clearing corporations and other entities, some of whom directly or indirectly own DTC), any person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other person which is not shown on the registration records as being a Bondholder, with respect to (i) the accuracy of any records maintained by DTC or any Participant, (ii) the payment by DTC or any Participant of any amount in respect of the principal or redemption price of or interest on the Bonds, (iii) any notice which is permitted or required to be given to Bondholders of Bonds hereunder, (iv) the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or (v) any consent given or other action taken by DTC as Bondholder of Bonds. The Trustee shall pay all principal of and Redemption Premium, if any, and interest on the Bonds only at the times, to the accounts, at the addresses and otherwise in accordance with the Representation Letter, and all such payments shall be valid and effective to satisfy fully and discharge the Authority's obligations with respect to the payment of the principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of its then existing nominee, the Bonds will be transferable to such new nominee in accordance with subsection (e) of this Section 2.08.

(c) In the event that the Authority determines that the Bonds should not be maintained in book-entry form, the Trustee shall, upon the written instruction of the Authority, so notify DTC, whereupon DTC shall notify the Participants of the availability through DTC of bond certificates. In such event, the Bonds will be transferable in accordance with subsection (e) of this Section 2.08. DTC may determine to discontinue providing its services with respect to the Bonds or a portion thereof, at any time by giving written notice of such discontinuance to the Authority or the Trustee and discharging its responsibilities with respect thereto under applicable law. In such event, the Bonds will be transferable in accordance with subsection (e) of this Section 2.08. If at any time DTC shall no longer be registered or in good standing under the Securities Exchange Act or other applicable statute or regulation and a successor securities depository is not appointed by the Authority within 90 days after the Authority receives notice or becomes aware of such condition, as the case may be, then this Section 2.08 shall no longer be applicable and the Authority shall execute and the Trustee shall authenticate and deliver certificates representing the Bonds as provided below. Whenever DTC requests the Authority and the Trustee to do so, the Trustee and the Authority will cooperate with DTC in taking appropriate action after reasonable notice to arrange for another securities depository to maintain custody of all certificates evidencing the Bonds then Outstanding. In such event, the Bonds will be transferable to such securities depository in accordance with subsection (e) of this Section 2.08, and thereafter, all references in this Trust Agreement to DTC or its nominee shall be deemed to refer to such successor securities depository and its nominee, as appropriate.

(d) Notwithstanding any other provision of this Trust Agreement to the contrary, so long as all Bonds Outstanding are registered in the name of any nominee of DTC, all payments with respect to the principal of and Redemption Premium, if any, and interest on each such Bond and all notices with respect to each such Bond shall be made and given, respectively, to DTC as provided in or pursuant to the Representation Letter.

(e) In the event that any transfer or exchange of Bonds is authorized under subsection (b) or (c) of this Section 2.08, such transfer or exchange shall be accomplished upon receipt by the Trustee from the registered owner thereof of the Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee, all in accordance with the applicable provisions of Sections 2.04 and 2.05. In the event Bond certificates are issued to Bondholders other than Cede & Co., its successor as nominee for DTC as holder of all the Bonds, another securities depository as holder of all the Bonds, or the nominee of such successor securities depository, the provisions of Sections 2.04 and 2.05 shall also apply to, among other things, the registration, exchange and transfer of the Bonds and the method of payment of principal of, Redemption Premium, if any, and interest on the Bonds.

### ARTICLE III

#### ISSUANCE OF BONDS

##### SECTION 3.01. Procedure for the Issuance of Bonds.

(a) At any time after the sale of the Bonds in accordance with the Act, the Authority shall execute the Bonds for issuance hereunder and shall deliver them to the Trustee, and thereupon the Bonds shall be authenticated and delivered by the Trustee to the purchaser thereof upon the Written Request of the Authority and upon receipt of payment therefor from the purchaser thereof.

(b) Upon receipt of payment for the Series A Bonds from the purchaser thereof, the Trustee shall, unless otherwise instructed by the Authority, transfer or deposit the proceeds received from such sale to the following respective parties or to the following respective accounts or funds, in the following order of priority:

(i) deposit the sum of \$\_\_\_\_\_ to the Costs of Issuance Fund (QSCB), which fund is hereby created and which fund the Trustee hereby covenants and agrees to maintain. All money in the Costs of Issuance Fund (QSCB) shall be used and withdrawn by the Trustee to pay the Costs of Issuance of the Series A Bonds upon receipt of a Written Request of the Authority, filed with the Trustee, each of which shall be sequentially numbered and shall state the person(s) to whom payment is to be made, the amount(s) to be paid, the purpose(s) for which the obligation(s) was incurred and that such payment is a proper charge against said fund. Fifteen days after the date on which the Bonds are issued, any remaining balance in the Costs of Issuance Fund (QSCB) shall be transferred to the Project Fund (QSCB) and the Costs of Issuance Fund (QSCB) shall be closed; and

(ii) deposit the amount of \$\_\_\_\_\_ in the Project Fund (QSCB).

(c) Upon receipt of payment for the Series B Bonds from the purchaser thereof, the Trustee shall, unless otherwise instructed by the Authority, transfer or deposit the proceeds received from such sale to the following respective parties or to the following respective accounts or funds, in the following order of priority:

(i) deposit the sum of \$\_\_\_\_\_ to the Costs of Issuance Fund (Tax-Exempt), which fund is hereby created and which fund the Trustee hereby covenants and agrees to maintain. All money in the Costs of Issuance Fund (Tax-Exempt) shall be used and withdrawn by the Trustee to pay the Costs of Issuance of the Series B Bonds upon receipt of a Written Request of the Authority, filed with the Trustee, each of which shall be sequentially numbered and shall state the person(s) to whom payment is to be made, the amount(s) to be paid, the purpose(s) for which the obligation(s) was incurred and that such payment is a proper charge against said fund. On June 15, 2010, or upon the earlier Written Request of the Authority, any remaining balance in the Costs of Issuance Fund (Tax-Exempt) shall be transferred to the Project Fund (Tax-Exempt) and the Costs of Issuance Fund (Tax-Exempt) shall be closed; and

(ii) deposit the amount of \$\_\_\_\_\_ in the Reserve Fund;

(iii) deposit the amount of \$\_\_\_\_\_ in the Project Fund (Tax-Exempt).

SECTION 3.02. Project Fund (QSCB) and Project Fund (Tax-Exempt). The Trustee hereby agrees to establish and maintain so long as any Bonds are Outstanding the Project Fund (QSCB) (the "Project Fund (QSCB)") (the initial payment into which is provided for in Section 3.01(b)) and the Project Fund (Tax-Exempt) (the "Project Fund (Tax-Exempt)") (the initial payment into which is provided for in Section 3.01(c)). The moneys in the Project Fund (QSCB) and Project Fund (Tax-Exempt) shall be disbursed by the Trustee upon the Written Request of the District in the form of Appendix E attached hereto for the payment of costs relating to the financing and completion of the Project. The moneys in the Project Fund (QSCB) shall be disbursed prior to the moneys in the Project Fund (Tax-Exempt). Upon the completion of the Project, the Trustee shall transfer any moneys on deposit in the Project Fund (Tax-Exempt), at the written direction of the District, (a) to the Interest Account (Tax-Exempt), in an amount, taking into account the amount on deposit therein, up to and no greater than the next two interest payments coming due and payable on the Series Bonds and to principal in an amount up to and no greater than the next principal payment on the Series Bonds, or (b) to the District for any other use; provided, however, in each case, that the District first delivers to the Trustee an Opinion of Counsel to the effect that such other use will not adversely affect the exclusion from gross income for federal income tax purposes or the exemption from State personal income taxation of interest on any Outstanding Series B Bonds theretofore issued or result in a Determination of Loss of Qualified School Construction Bond Status with respect to any Outstanding Series A Bonds.

SECTION 3.03. Limitations on the Issuance of Obligations Payable from Revenues. The Authority will not, so long as any of the Bonds are Outstanding, issue any obligations or securities, however denominated, payable in whole or in part from the Revenues except Obligations which are junior and subordinate to the payment of the principal, Redemption Premium and interest for the Bonds and which subordinated obligations are payable as to principal, Redemption Premium, interest and reserve fund requirements, if any, only out of the Revenues after the prior payment of all amounts then required to be paid hereunder from the

Revenues for principal, Redemption Premium and interest for the Bonds, as the same become due and payable and at the times and in the manner as required in this Trust Agreement.

ARTICLE IV

REDEMPTION OF BONDS

SECTION 4.01. No Optional or Mandatory Sinking Fund Redemption of Series A Bonds. The Series A Bonds shall not be subject to optional or mandatory sinking fund redemption prior to their stated maturity date.

SECTION 4.02. Mandatory Sinking Fund Redemption of Series B Bonds.

(a) The Series B Bonds maturing on [\_\_\_\_], shall be subject to mandatory sinking fund redemption on each [\_\_\_\_] in the amounts set forth below at a redemption price equal to the principal amount thereof and accrued interest thereon, if any, to the date fixed for redemption, but without any Redemption Premium, as set forth in the following table:

<u>Redemption Dates</u>	<u>Principal Amount</u>
[_____]	[_____]

(b) The Series B Bonds maturing on [\_\_\_\_], shall be subject to mandatory sinking fund redemption on each [\_\_\_\_] in the amounts set forth below at a redemption price equal to the principal amount thereof and accrued interest thereon, if any, to the date fixed for redemption, but without any Redemption Premium, as set forth in the following table:

<u>Redemption Dates</u>	<u>Principal Amount</u>
[_____]	[_____]

(c) In lieu of depositing cash with the Trustee as a mandatory sinking fund payment, the Authority shall have the option to tender to the Trustee for cancellation any amount of the Series B Bonds purchased by the Authority at public or private sale as and when and at such prices as the Authority may in its discretion determine. The principal amount of any Series B Bond so purchased by the Authority and tendered to the Trustee in any twelve month period ending on June 30 in any calendar year shall be credited towards and shall reduce the next mandatory sinking fund payments required to be made in the order in which they are required to be made pursuant to this Section 4.02.

SECTION 4.03. Optional Redemption of Series B Bonds. The Series B Bonds maturing on or before [\_\_\_\_\_], are not subject to redemption prior to their maturity dates. The Series B Bonds maturing on or after [\_\_\_\_\_] are subject to redemption at the option of the District, as a whole or in part in the manner directed by the District and by lot within each maturity, from any source of available funds, on [\_\_\_\_\_], or on any Interest Payment Date thereafter, at the principal amount to be redeemed, plus accrued interest represented thereby to the redemption date, without any Redemption Premium.



SECTION 4.04. Extraordinary Mandatory Redemption from Unexpended Proceeds of the Series A Bonds. The Series A Bonds shall be subject to extraordinary mandatory redemption, in whole or in part, on March 10, 2013 or any date on or before the 90th day after the termination of any extension period negotiated with the IRS, in Authorized Denominations, at a redemption price equal to the principal amount of the Series A Bonds called for redemption, in a total amount equal to the unexpended proceeds of the sale of the Series A Bonds held by the Authority, but only to the extent of proceeds of the Series A Bonds deposited in the Project Fund (QSCB) and not expended within three years of issuance of the Series A Bonds.

In the event that the ownership of the Tax Credit Certificates has been separated from the ownership of the Series A Bonds and registered separately pursuant to Article VI hereof, the Tax Credit Certificates related to the redeemed Series A Bonds shall be called for redemption in the same manner as the Series A Bonds pursuant to this Section 4.04, and the redemption price pursuant to this Section 4.04 shall be allocated to the Principal Components and to the Tax Credit Certificates in the proportions and values set forth in the redemption value tables attached as Schedule 1 to the form of Series A Bond in Appendix A-1 to this Agreement.

SECTION 4.05. Extraordinary Redemption from Eminent Domain or Insurance Proceeds. The Authority may, with the permission of the District and under the terms of Section 5.01 of the Facility Sublease, elect not to repair a destroyed or damaged portion of the Facility, and in that event, if the proceeds of insurance together with any other moneys then available for the purpose (including Federal or State disaster relief) are at least sufficient to redeem the aggregate principal amount of outstanding Bonds equal to the amount of Bonds attributable to the portion of the Facility so destroyed or damaged (determined by reference to the proportion which the cost of such portion of the Facility bears to the total cost of the Facility), the Authority shall cause said proceeds to be used for the redemption of that portion of the outstanding Bonds at a redemption price equal to the principal amount of the Bonds called for redemption. In the event of such a partial redemption, Series B Bonds shall be redeemed before any Series A Bonds are redeemed.

If the whole of the Facilities, including the Demised Premises, or so much thereof as to render the remainder unusable, is taken under power of eminent domain, the term of the Facility Sublease will cease as of the day possession is so taken. If less than the whole of the Facilities is taken by eminent domain, there will be a partial abatement of the rental due under the Facility Sublease in an amount equivalent to the amount by which the annual payments of principal of and interest on the Bonds then Outstanding will be reduced by the application of the award in eminent domain to the redemption of Outstanding Bonds. The Authority shall cause the entire award in eminent domain to be used for the redemption of outstanding Bonds at a redemption price equal to the principal amount of the Bonds called for redemption. In the event of such a partial redemption, Series B Bonds shall be redeemed before any Series A Bonds are redeemed.

In the event that the ownership of the Tax Credit Certificates has been separated from the ownership of the Bonds and registered separately pursuant to Article VI hereof, the Tax Credit Certificates related to the redeemed Series A Bonds shall be called for redemption in the

same manner as the Series Bonds pursuant to this Section 4.05, and the redemption price of Series A Bonds pursuant to this Section 4.05 shall be allocated to the Bonds Principal Components and the Tax Credit Certificates in the proportions set forth in the redemption value tables attached as Schedule 1 to the form of Series A Bond in Appendix A-1 to this Agreement.

SECTION 4.06. Extraordinary Optional Redemption Upon a Determination of Loss of Qualified School Construction Bond Status. Upon a Determination of Loss of Qualified School Construction Bond Status, the Series A Bonds shall be subject to extraordinary optional redemption prior to their fixed maturity date, in whole, on the date designated by the Authority, at a redemption price equal to (a) the principal amount of the Series A Bonds called for redemption, plus (b) the Redemption Premium, plus (c) accrued interest on the principal amount of the Series A Bonds called for redemption (calculated at the Tax Credit Rate) from the Tax Credit Allowance Date immediately preceding the redemption date to the date of redemption.

In the event that the ownership of the Tax Credit Certificates has been separated from the ownership of the Series Bonds and registered separately pursuant to Article VI hereof, the Tax Credit Certificates related to the redeemed Series A Bonds shall be called for redemption in the same manner as the Series A Bonds pursuant to this Section 4.06, and the redemption price pursuant to this Section 4.06 shall be allocated to the Bonds Principal Components and the Tax Credit Certificates in the proportions set forth in the redemption value tables attached as Schedule 1 to the form of Series A Bond in Appendix A-1 to this Agreement.

In addition, in the event that any Tax Credits recognized prior to the redemption date are determined to be ineligible as Tax Credits as a result of the Determination of Loss of Qualified School Construction Bond Status, the redemption price shall include an additional amount payable to the owners, as of the applicable Tax Credit Allowance Dates, of the Tax Credit Certificates for such Tax Credits equal to the amount of such Tax Credits, plus interest thereon from the applicable Tax Credit Allowance Date to the date of redemption, at a rate equal to the large corporate underpayment rate determined from time to time by the Internal Revenue Service.

SECTION 4.07. Notice of Redemption. Notice of redemption of any Bonds shall be given by the Trustee upon the written request of the Authority given to the Trustee not less than 45 days prior to the redemption date (other than for a redemption under Section 4.02 with respect to which no written request of the Authority shall be required). Notice of any redemption of Bonds shall be mailed postage prepaid, not less than thirty (30) nor more than sixty (60) days prior to the redemption date (a) by first class mail to the respective Owners thereof and of any related Tax Credit Certificates at the addresses appearing on the bond registration books described in Sections 2.06 and 6.07, and (b) as may be further required in accordance with the Continuing Disclosure Agreement.

Each notice of redemption shall contain all of the following information:

- (i) the date of such notice;
- (ii) the name of the Bonds and the date of issue of the Bonds;

- (iii) the redemption date;
- (iv) the redemption price, if available;
- (v) (if less than all of the Bonds are to be redeemed) the distinctive numbers of the Bonds to be redeemed;
- (vi) (in the case of Bonds redeemed in part only) the respective portions of the principal amount of the Bonds to be redeemed;
- (vii) the CUSIP number, if any, of the Bonds or, if separated, Principal Components and Tax Credit Certificates, to be redeemed;
- (viii) a statement that such Bonds or, if separated, Principal Components and Tax Credit Certificates, must be surrendered by the Owners at the Corporate Trust Office of the Trustee, or at such other place or places designated by the Trustee; and
- (ix) notice that further interest on such Bonds will not accrue from and after the designated redemption date.

Such redemption notices may state that no representation is made as to the accuracy or correctness of the CUSIP numbers provided therein or on the Bonds or the Tax Credit Certificates.

SECTION 4.08.Effect of Notice. A certificate of the Trustee that notice of call and redemption has been given to Owners and as may be further required in the Continuing Disclosure Agreement as herein provided shall be conclusive as against all parties. The actual receipt by the Owner of any Bond or Tax Credit Certificate or any other party of notice of redemption shall not be a condition precedent to redemption, and failure to receive such notice, or any defect in the notice given, shall not affect the validity of the proceedings for the redemption of such Bonds or the cessation of interest on the date fixed for redemption.

When notice of redemption has been given substantially as provided for herein, and when the redemption price of the Bonds called for redemption is set aside for the purpose, the Bonds designated for redemption shall become due and payable on the specified redemption date and interest shall cease to accrue thereon as of the redemption date, and upon presentation and surrender of such Bonds or, if separated, Principal Components and Tax Credit Certificates, at the place specified in the notice of redemption, such Bonds or, if separated, Principal Components and Tax Credit Certificates, shall be redeemed and paid at the redemption price thereof out of the money provided therefor. The Owners of such Bonds so called for redemption after such redemption date shall look for the payment of such Bonds and the Redemption Premium thereon, if applicable, only to the funds set aside for such purpose. All Bonds redeemed shall be cancelled forthwith by the Trustee and shall not be reissued.

SECTION 4.09.Right to Rescind Notice. Upon oral notice, promptly confirmed by written notice from the District that the District has cured the conditions that caused the Bonds to be subject to extraordinary redemption, the Authority may rescind any extraordinary

redemption and notice thereof on any date prior to the date fixed for redemption by directing the Trustee in writing to give written notice of the rescission to the Owners of the Bonds or, if separated, Principal Components and Tax Credit Certificates 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 or Tax Credit Certificate 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.

SECTION 4.10. Selection of Bonds for Redemption. Except for a redemption under Section 4.04 or Section 4.06, Series B Bonds shall be redeemed prior to the redemption of any Series A Bonds. If less than all of the Outstanding Bonds of a series are to be redeemed on any one date, the Trustee shall select, in accordance with written directions from the Authority, the Bonds to be redeemed in part from the Outstanding Bonds so that the aggregate annual principal amount of and interest on Bonds which shall be payable after such redemption date shall be as nearly proportional as practicable to the aggregate annual principal amount of and interest on Bonds Outstanding prior to such redemption date. The Tax Credit Certificates related to any Series A Bonds called for redemption shall also be called for redemption.

## ARTICLE V

### REVENUES

#### SECTION 5.01. Pledge of Revenues.

(a) All Revenues (QSCB) are hereby irrevocably pledged and assigned to the payment of the interest and Redemption Premium, if any, on and principal of the Series A Bonds, and the Revenues (QSCB) shall not be used for any other purpose while any of the Series A Bonds remain Outstanding; provided, however, that out of the Revenues (QSCB) there may be applied such sums for such purposes as are permitted hereunder. This pledge shall constitute a pledge of and charge and first lien upon the Revenues (QSCB) for the payment of the interest on and principal of the Series A Bonds in accordance with the terms hereof and thereof.

(b) All Revenues (Tax-Exempt) are hereby irrevocably pledged and assigned to the payment of the interest and Redemption Premium, if any, on and principal of the Series B Bonds, and the Revenues (Tax-Exempt) shall not be used for any other purpose while any of the Series B Bonds remain Outstanding; provided, however, that out of the Revenues (Tax-Exempt) there may be applied such sums for such purposes as are permitted hereunder. This pledge shall constitute a pledge of and charge and first lien upon the Revenues (Tax-Exempt) for the payment of the interest on and principal of the Series B Bonds in accordance with the terms hereof and thereof.

#### SECTION 5.02. Receipt and Deposit of Revenues in the Revenue Funds.

(a) At least three (3) Business Days prior to each date on which a Base Rental Payment is due, pursuant to the Facility Sublease, the Trustee shall notify the District of the amount of the Base Rental Payment due. Any failure to send such notice shall not affect the District's obligation to make timely payments of Base Rental Payments. The District has been

directed to pay all Base Rental Payments directly to the Trustee. If the Authority receives any Base Rental Payments, it shall hold the same in trust as agent of the Trustee and shall immediately transfer such Base Rental Payments to the Trustee.

(b) In order to carry out and effectuate the pledge, assignment, charge and lien contained herein, the Authority agrees and covenants that all Revenues (QSCB) when and as received shall be received by the Authority in trust hereunder for the benefit of the Holders of the Series A Bonds and shall be transferred when and as received by the Authority to the Trustee for deposit in the Revenue Fund (QSCB), which fund is hereby created and which fund the Trustee hereby agrees and covenants to maintain in trust for Holders of Series A Bonds so long as any Series A Bonds shall be Outstanding hereunder.

(c) In order to carry out and effectuate the pledge, assignment, charge and lien contained herein, the Authority agrees and covenants that all Revenues (Tax-Exempt) when and as received shall be received by the Authority in trust hereunder for the benefit of the Holders of the Series B Bonds and shall be transferred when and as received by the Authority to the Trustee for deposit in the Revenue Fund (Tax-Exempt), which fund is hereby created and which fund the Trustee hereby agrees and covenants to maintain in trust for Holders of Series B Bonds so long as any Series B Bonds shall be Outstanding hereunder.

(d) In the event that Base Rental Payments received by the Trustee on any date are less than sum of the amounts that are supposed to be deposited in the Revenue Fund (QSCB) and the Revenue Fund (Tax-Exempt) by such date in accordance with Appendix F, then the Trustee shall allocate the Base Rental Payments received between the Revenue Fund (QSCB) and Revenue (Tax-Exempt) pro rata based on the amounts that should have been deposited into such funds on such date in accordance with Appendix F.

(e) All Revenues and all other amounts pledged and assigned hereunder shall be accounted for through and held in trust in either the Revenue Fund (QSCB) or the Revenue Fund (Tax-Exempt), as applicable, and the Trustee shall have no beneficial right or interest in any of the Revenues except only as herein provided. All Revenues and all other amounts pledged and assigned hereunder, whether received by the Authority in trust or deposited with the Trustee as herein provided, shall nevertheless be allocated, applied and disbursed solely to the purposes and uses hereinafter in this Article set forth, and shall be accounted for separately and apart from all other accounts, funds, money or other resources of the Trustee.

SECTION 5.03. Establishment and Maintenance of Accounts for Use of Money in the Revenue Fund (QSCB).

(a) Revenue Fund (QSCB). All money in the Revenue Fund (QSCB) shall be set aside by the Trustee in the following respective special accounts or funds within the Revenue Fund (QSCB) (each of which is hereby created and each of which the Trustee hereby covenants and agrees to cause to be maintained) in the following order of priority:

- (1) Interest Account (QSCB), and
- (2) Principal Account (QSCB).

All money in each of such accounts shall be held in trust by the Trustee and shall be applied, used and withdrawn only for the purposes hereinafter authorized in this Section.

(b) Interest Account (QSCB). On or before each Interest Payment Date, the Trustee shall set aside from the Revenue Fund (QSCB) and deposit in the Interest Account (QSCB) that amount of money which is equal to the amount of interest becoming due and payable on all Outstanding Series A Bonds on such Interest Payment Date.

No deposit need be made in the Interest Account (QSCB) if the amount contained therein and available to pay interest on the Series A Bonds is at least equal to the aggregate amount of interest becoming due and payable on all Outstanding Series A Bonds on such Interest Payment Date.

All money in the Interest Account (QSCB) shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Series A Bonds as it shall become due and payable (**including accrued interest on any Series A Bonds purchased or redeemed prior to maturity**).

(c) Principal Account (QSCB). On or before each December 1, commencing December 1, 2010, the Trustee shall set aside from the Revenue Fund (QSCB) and deposit in the Principal Account (QSCB) the amount of money shown on the schedule of Principal Account (QSCB) deposits attached hereto as Appendix B. The Trustee shall invest money in the Principal Account (QSCB) in Investment Securities pursuant to the Written Request of the Authority. All funds in the Principal Account (QSCB) are pledged, and shall be applied by the Trustee, to the payment of the principal of the Series A Bonds at their maturity.

SECTION 5.04. Establishment and Maintenance of Accounts for Use of Money in the Revenue Fund (Tax-Exempt).

(a) Revenue Fund (Tax-Exempt). All money in the Revenue Fund (Tax-Exempt) shall be set aside by the Trustee in the following respective special accounts or funds within the Revenue Fund (Tax-Exempt) (each of which is hereby created and each of which the Trustee hereby covenants and agrees to cause to be maintained) in the following order of priority:

- (1) Interest Account (Tax-Exempt), and
- (2) Principal Account (Tax-Exempt).

All money in each of such accounts shall be held in trust by the Trustee and shall be applied, used and withdrawn only for the purposes hereinafter authorized in this Section.

(b) Interest Account (Tax-Exempt). On or before each Interest Payment Date, the Trustee shall set aside from the Revenue Fund (Tax-Exempt) and deposit in the Interest Account (Tax-Exempt) that amount of money which is equal to the amount of interest becoming due and payable on all Outstanding Series B Bonds on such Interest Payment Date.

No deposit need be made in the Interest Account (Tax-Exempt) if the amount contained therein and available to pay interest on the Series B Bonds is at least equal to the aggregate amount of interest becoming due and payable on all Outstanding Series B Bonds on such Interest Payment Date.

All money in the Interest Account (Tax-Exempt) shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Series B Bonds as it shall become due and payable **(including accrued interest on any Series B Bonds purchased or redeemed prior to maturity)**.

(c) Principal Account (Tax-Exempt). On or before each Interest Payment Date on which the principal of the Series B Bonds shall be payable, the Trustee shall deposit in the Principal Account (Tax-Exempt) an amount required to cause the aggregate amount on deposit in the Principal Account (Tax-Exempt) to equal (i) the principal amount of the Series B Bonds coming due and payable on such Interest Payment Date, and (ii) the redemption price of the Series B Bonds (consisting of the principal amount thereof) required to be redeemed on such Interest Payment Date pursuant to any of the provisions of Article IV hereof. All moneys in the Principal Account (Tax-Exempt) shall be used and withdrawn by the Trustee solely for the purpose of (i) paying the principal of the Series B Bonds at the maturity thereof, or (ii) paying the principal of the Series B Bonds upon the redemption thereof. All amounts on deposit in the Principal Account (Tax-Exempt) on the first day of any December of any year, to the extent not required to pay the principal of any Outstanding Series B Bonds then having come due and payable, shall be transferred to the Reserve Fund, to the extent necessary to satisfy the Reserve Fund Requirement, and otherwise shall be withdrawn therefrom and transferred to the District to be used for any lawful purposes of the District so long as the Trustee receives an Opinion of Counsel to the effect that such transfer, in and of itself, will not adversely affect the exclusion or interest on the Series B Bonds from gross income for federal income tax purposes. The Trustee shall invest money in the Principal Account (Tax-Exempt) in Investment Securities pursuant to the Written Request of the Authority.

#### SECTION 5.05. Reserve Fund.

(a) There is hereby established a Reserve Fund to be held by the Trustee for the benefit of the Owners of the Series B Bonds. All moneys in the Reserve Fund shall be used and withdrawn by the Trustee solely for the purpose of funding the Interest Account (Tax-Exempt) or the Principal Account (Tax-Exempt), in that order, in the event of any deficiency in either of such accounts on an Interest Payment Date, or to make the final payment on the Series B Bonds at maturity, except that so long as the Authority is not in default hereunder, any amounts in the Reserve Fund in excess of the Reserve Fund Requirement shall be withdrawn from the Reserve Fund and transferred to the District to be used for any lawful purposes of the District so long as the Trustee receives an Opinion of Counsel to the effect that such transfer, in and of itself, will not adversely affect the exclusion or interest on the Series B Bonds from gross income for federal income tax purposes.

(b) Upon the final maturity date of the Series B Bonds, monies, if any, on deposit in the Reserve Fund shall be withdrawn and applied by the Trustee for the final payment of principal of and interest on the Series B Bonds.

SECTION 5.06. Application of Insurance Proceeds. In the event of any damage to or destruction of any part of the Facility covered by insurance, the Authority shall cause the proceeds of such insurance to be utilized for the repair, reconstruction or replacement of the damaged or destroyed portion of the Facility, and the Trustee shall hold said proceeds in a fund established by the Trustee for such purpose separate and apart from all other funds designated the "Insurance and Condemnation Fund", to the end that such proceeds shall be applied to the repair, reconstruction or replacement of the Facility to at least the same good order, repair and condition as it was in prior to the damage or destruction, insofar as the same may be accomplished by the use of said proceeds. The District shall file a Certificate of the District with the Trustee that sufficient funds from insurance proceeds or from any funds legally available to the District, or from any combination thereof, are available in the event it elects to repair, reconstruct or replace the Facility. The Trustee shall invest said proceeds in Investment Securities pursuant to the Written Request of the District, as agent for the Authority under the Facility Sublease, and withdrawals of said proceeds shall be made from time to time upon the filing with the Trustee of a Written Request of the District, stating that the District has expended moneys or incurred liabilities in an amount equal to the amount therein stated for the purpose of the repair, reconstruction or replacement of the Facility, and specifying the items for which such moneys were expended, or such liabilities were incurred, in reasonable detail. Any balance of such proceeds not required for such repair, reconstruction or replacement and the proceeds of use and occupancy insurance shall be paid to the Trustee as Base Rental Payments and deposited in the Revenue Fund (QSCB) and Revenue Fund (Tax-Exempt) as directed by the District and used to reduce required Base Rental payments. Alternatively, the District, if the proceeds of such insurance together with any other moneys then available for such purpose are sufficient to redeem all, in case of damage or destruction in whole of the Facility, or that portion, in the case of partial damage or destruction of the Facility, of the Bonds and to pay all other amounts relating to the damaged or destroyed portion of the Facility, may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Facility and thereupon shall cause said proceeds to be used for the redemption of Outstanding Bonds pursuant to the applicable provisions of Article IV. The District shall not apply the proceeds of insurance as set forth in this Section 5.06 to redeem the Bonds in part due to damage or destruction of a portion of the Facility unless the Base Rental Payments on the undamaged portion of the Facility will be sufficient to pay the scheduled principal and interest on the Bonds remaining unpaid after such redemption.

SECTION 5.07. Deposit and Investments of Money in Accounts and Funds. All money held by the Trustee in any of the accounts or funds established pursuant hereto shall be invested in Investment Securities at the Written Request of the Authority or, if no instructions are received, in money market funds described in clause (xi) of the definition of Investment Securities. Such investments shall, as nearly as practicable, mature on or before the dates on which such money is anticipated to be needed for disbursement hereunder. For purposes of this restriction, Investment Securities containing a repurchase option or put option by the investor shall be treated as having a maturity of no longer than such option. All interest or profits



received on any money so invested in the Project Fund (Tax-Exempt), Revenue Fund (Tax-Exempt) and Reserve Fund shall be deposited in the Earnings Fund (Tax-Exempt) and applied as provided in Section 5.08. All interest or profits received on any money so invested in the Project Fund (QSCB) and the Revenue Fund (QSCB) shall be deposited in the Earnings Fund (QSCB) and applied as provided in Section 5.09. Except as provided herein, all interest or gain derived from the investment of amounts in any fund or account established hereunder shall be retained in such fund or account. The Trustee and its affiliates may act as principal, agent, sponsor or advisor with respect to any investments. The Trustee shall not be liable for any losses on investments made in accordance with the terms and provisions of this Trust Agreement.

Investments in any and all funds and accounts may be commingled for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in particular funds and accounts amounts received or held by the Trustee hereunder, provided that the Trustee shall at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in this Trust Agreement.

The Authority acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Authority the right to receive brokerage confirmations of security transactions as they occur, the Authority specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Authority (if requested by it) periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

SECTION 5.08. Establishment and Application of Earnings Fund (Tax-Exempt). The Trustee shall establish and maintain an Earnings Fund (Tax-Exempt) and shall be maintained by the Trustee until the Trustee receives Written Request of the District or the Authority that it be closed.

The Trustee shall establish and maintain in the Earnings Fund (Tax-Exempt) a separate account designated as the "Investment Earnings Account (Tax-Exempt)," and a separate account designated as the "Excess Earnings Account (Tax-Exempt)." All monies in the Investment Earnings Account (Tax-Exempt) and the Excess Earnings Account (Tax-Exempt) shall be held by the Trustee in trust and shall be kept separate and apart from all other funds and monies held by the Trustee.

The Trustee shall transfer all investment earnings on deposits in the Project Fund (Tax-Exempt), Revenue Fund (Tax-Exempt) and the Reserve Fund to the Investment Earnings Account (Tax-Exempt). Amounts on deposit in the Investment Earnings Account (Tax-Exempt) shall be transferred to the Excess Earnings Account (Tax-Exempt) pursuant to a Written Request of the District in accordance with the provisions of the Tax Certificate (Tax-Exempt). Upon such transfer, any amount remaining in the Investment Earnings Account (Tax-Exempt) or any amount on deposit in the Excess Earnings Account (Tax-Exempt) that exceeds the amount required to be maintained therein shall be, pursuant to Written Request of the District, prior to completion of the Project, transferred to the Project Fund (Tax-Exempt), and, following completion of the Project, transferred to the Reserve Fund unless the Reserve Fund Requirement is then satisfied, in which event the funds will be deposited in the Revenue Fund (Tax-Exempt).

Except as set forth in the preceding sentence, amounts on deposit in the Excess Earnings Account (Tax-Exempt) shall only be applied to payments made to the United States in accordance with Written Request of the District.

Notwithstanding any provision of this Section 5.08, if the Authority shall provide to the Trustee an Opinion of Counsel that any specified action required under this Section 5.08 is no longer required or that some further or different action is required to maintain the tax-exempt status of interest on the Series B Bonds, the Trustee and the Authority may conclusively rely on such Opinion of Counsel in complying with the requirements of this Section 5.08, and the covenants hereunder shall be deemed to be modified to that extent.

SECTION 5.09. Establishment and Application of Earnings Fund (QSCB). The Trustee shall establish and maintain an Earnings Fund (QSCB) and shall be maintained by the Trustee until the Trustee receives Written Request of the District or the Authority that it be closed.

The Trustee shall establish and maintain in the Earnings Fund (QSCB) a separate account designated as the “Investment Earnings Account (QSCB),” and a separate account designated as the “Excess Earnings Account (QSCB).” All monies in the Investment Earnings Account (QSCB) and the Excess Earnings Account (QSCB) shall be held by the Trustee in trust and shall be kept separate and apart from all other funds and monies held by the Trustee.

The Trustee shall transfer all investment earnings on deposits in the Project Fund (QSCB) and the Revenue Fund (QSCB) to the Investment Earnings Account (QSCB). Amounts on deposit in the Investment Earnings Account (QSCB) shall be transferred to the Excess Earnings Account (QSCB) pursuant to a Written Request of the District in accordance with the provisions of the Tax Certificate (QSCB). Upon such transfer, any amount remaining in the Investment Earnings Account (QSCB) or any amount on deposit in the Excess Earnings Account (QSCB) that exceeds the amount required to be maintained therein shall be, pursuant to Written Request of the District, prior to completion of the Project, transferred to the Project Fund (QSCB), and, following completion of the Project, transferred to the Revenue Fund (QSCB). Except as set forth in the preceding sentence, amounts on deposit in the Excess Earnings Account (QSCB) shall only be applied to payments made to the United States in accordance with Written Request of the District.

Notwithstanding any provision of this Section 5.09, if the Authority shall provide to the Trustee an Opinion of Counsel that any specified action required under this Section 5.09 is no longer required or that some further or different action is required to maintain the status of the Series A Bonds as Qualified School Construction Bonds under Section 54F of the Code and “qualified tax credit bonds” under Section 54A of the Code, the Trustee and the Authority may conclusively rely on such Opinion of Counsel in complying with the requirements of this Section 5.09, and the covenants hereunder shall be deemed to be modified to that extent.

## ARTICLE VI

### STRIPPING OF THE TAX CREDITS

#### SECTION 6.01. Tax Credit Stripping Permitted; Date; Denominations.

(a) The Authority has caused the Series A Bonds to be issued in a form that permits the separation, under the Tax Credit Program, of the ownership of the Series A Bonds from the entitlement of the Owner thereof to the related Tax Credits. At any time, the Owner of a Series A Bond or DTC Participant may, upon 2 Business Days prior written request to the Trustee in the form attached hereto as Appendix C, direct the Trustee to authenticate and deliver the Tax Credit Certificates separated from such Series A Bond and endorse and renumber the Principal Component of such Series A Bond.

(b) Upon the receipt of a request pursuant to Section 6.01(a) hereof, the Trustee shall (i) authenticate and deliver to the Owner so requesting, Tax Credit Certificates in accordance with Section 6.02, in a notional amount equal to the principal amount of the related Series A Bond, and (ii) contemporaneously with the delivery thereof, the Trustee shall (x) evidence the Principal Component by executing the legend, entitled “Principal Strip Legend”, that appears on the Trustee’s authentication page for such related Series A Bond and (y) assign a new identification number to the Principal Component of such Series A Bond that is distinct from the identification number for the original combined Series A Bond. The corresponding Tax Credit Certificates shall be dated the date of the Series A Bonds and shall represent an amount of Tax Credits based upon the notional amount and the applicable rate set forth therein.

(c) The Tax Credit Certificates shall be executed and delivered as fully registered Tax Credit Certificates, in notional amounts corresponding to Authorized Denominations, in an aggregate notional amount equal to the principal amount of the related Series A Bonds.

(d) Notwithstanding the provisions of this Section 6.01, with respect to Book-Entry Tax Credit Certificates, the Trustee shall process Tax Credit Strip Requests through the Book-Entry System.

SECTION 6.02. Form and Registration of Tax Credit Certificates. (a) The Tax Credit Certificates, the Trustee’s certificate of authentication and registration, and the form of assignment to appear thereon shall be in substantially the form attached as Exhibit A to the form of Series A Bond in Appendix A-1 of this Agreement, with necessary or appropriate variations, omissions and insertions as permitted or required by this Agreement. The Tax Credit Certificates shall be numbered in consecutive numerical order from TC-1 upwards.

(b) The Tax Credit Certificates, when executed and delivered, shall be Book-Entry Tax Credit Certificates, registered in the name of “Cede & Co.,” as nominee of The Depository Trust Company, New York, New York, and shall be delivered initially upon exchange of the related Series A Bond and thereafter be exchanged for one Tax Credit Certificate for each Tax Credit Allowance Date for the related Series A Bonds, in the notional amount set forth in Section 6.01. The Depository Trust Company is hereby appointed depository for the Book-Entry Tax Credit Certificates and registered ownership of the Book-Entry Tax

Credit Certificates may not thereafter be transferred except as provided in Sections 6.04 and 6.05 hereof.

SECTION 6.03. Execution and Authentication of Tax Credit Certificates. The Tax Credit Certificates shall be signed by the manual or facsimile signatures of the Chair and of the Secretary. The Tax Credit Certificates shall be authenticated by a manual signature of a duly authorized signatory of the Trustee.

Only such of the Tax Credit Certificates as shall bear thereon a certificate of authentication and registration in the form given in Exhibit A to the form of Series A Bond in Appendix A-1 of this Agreement, executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Agreement, and such certificate of the Trustee shall be conclusive evidence that the Tax Credit Certificates so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Agreement.

SECTION 6.04. Book-Entry System for Tax Credit Certificates. (a) Unless otherwise provided in a Supplemental Agreement establishing the terms and provisions of the Tax Credit Certificates, the Tax Credit Certificates shall be initially executed and delivered and registered as provided in Section 6.02(b) hereof. Registered ownership of the Tax Credit Certificates, or any portion thereof, may not thereafter be transferred except:

(i) To any successor of Cede & Co., as nominee of The Depository Trust Company, or its nominee, or to any substitute depository designated pursuant to clause (ii) of this section (a “substitute depository”); provided, that any successor of Cede & Co., as nominee of The Depository Trust Company or substitute depository, shall be qualified under any applicable laws to provide the services proposed to be provided by it;

(ii) To any substitute depository not objected to by the District, upon (1) the resignation of The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository, or (2) a determination by the Authority to substitute another depository for The Depository Trust Company (or its successor) because The Depository Trust Company or its successor (or any substitute depository or its successor) is no longer able to carry out its functions as depository; provided, that any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(iii) To any person as provided below, upon (1) the resignation of The Depository Trust Company or its successor (or substitute depository or its successor) from its functions as depository, or (2) a determination by the Authority to remove The Depository Trust Company or its successor (or any substitute depository or its successor) from its functions as depository.

(b) In the case of any transfer pursuant to clause (i) or clause (ii) of subsection (a) hereof, upon receipt of the Tax Credit Certificates related to outstanding Bonds by the Trustee, together with a Written Request of the Authority, a new Tax Credit Certificate for the same related Series A Bonds and maturity shall be executed and delivered pursuant to the procedures described in the third paragraph of Section 6.05 hereof in the aggregate notional amount equal to

the principal amount of the Series A Bonds then outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such Written Request. In the case of any transfer pursuant to clause (iii) of subsection (a) hereof, upon receipt of the Tax Credit Certificates related to outstanding Series A Bonds by the Trustee together with a Written Request of the Authority, new Tax Credit Certificates related to such Series A Bonds shall be executed and delivered in such denominations numbered in the manner determined by the Trustee and registered in the names of such persons as are requested in such Written Request, subject to the limitations of Section 6.01 and the receipt of such a written request from an Owner, and thereafter, the Tax Credit Certificates related to such Series A Bonds shall be transferred pursuant to the provisions set forth in Section 6.05 of this Agreement; provided, that the Trustee shall not be required to deliver such new Tax Credit Certificates related to such Series A Bonds within a period of fewer than sixty (60) days.

(c) The Authority and the Trustee shall be entitled to treat the person in whose name any Tax Credit Certificate is registered as the Owner thereof, notwithstanding any notice to the contrary received by the Trustee, the District or the Authority, and the Authority, the District and the Trustee shall have no responsibility for communicating with, notifying, or otherwise dealing with any beneficial owners of the Tax Credit Certificates. Neither the Authority, the District nor the Trustee shall have any responsibility or obligation, legal or otherwise, to the beneficial owners or to any other party including The Depository Trust Company or its successor (or substitute depository or its successor), except as the owner of any Tax Credit Certificates.

(d) So long as the Tax Credit Certificates are registered in the name of Cede & Co. or its registered assigns, the Authority and the Trustee shall cooperate with Cede & Co., as sole holder, or its registered assigns, in effecting payment of the redemption price, if any, of the Tax Credit Certificates by arranging for payment in such manner that funds for such payments are properly identified and are made immediately available (e.g., by wire transfer) on the date they are due.

(e) So long as the Tax Credit Certificates are registered in the name of Cede & Co. or its registered assigns, the Trustee shall provide notice to the Depository of the expiration of each Tax Credit Certificate, not less than forty-five (45) days prior to the Tax Credit Allowance Date for such Tax Credit Certificate, in the form included as Appendix D hereto.

SECTION 6.05. Transfer of Tax Credit Certificates that are not Book-Entry Tax Credit Certificates, or upon Termination of Book-Entry System. In the event that at any time the Tax Credit Certificates shall not be registered in the name of Cede & Co., either upon their original execution and authentication or as a result of the operation of Section 6.04 hereof, then the procedures contained in this Section 6.05 shall apply.

Any Tax Credit Certificate may, in accordance with its terms, be transferred upon the books required to be kept pursuant to the provisions of Section 6.07 hereof by the person in whose name it is registered, in person or by the duly authorized attorney of such person, upon surrender of such Tax Credit Certificate to the Trustee for cancellation, accompanied by delivery of a duly executed written instrument of transfer in a form approved by the Trustee.

Whenever any Tax Credit Certificate or Tax Credit Certificates shall be surrendered for transfer, the designated Authority officials shall execute (as provided in Section 6.03 hereof) and the Trustee shall authenticate and deliver a new Tax Credit Certificate or Tax Credit Certificates for the same related Series A Bonds and maturity, and for a like aggregate notional amount. The Trustee shall require the payment by the Owner requesting any such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

No transfer of Tax Credit Certificates shall be required to be made by the Trustee from the date on which notice of redemption is given for the related Series A Bonds to and including the specified redemption date or during the period from any Record Date to the following Interest Payment Date for the related Series A Bonds.

SECTION 6.06. Exchange of Tax Credit Certificates.. Tax Credit Certificates may be exchanged at the designated office of the Trustee, for a like aggregate notional amount of Tax Credit Certificates of other authorized denominations. The Trustee shall require the payment by the Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. If the related Series A Bonds bear current interest, no exchange of Tax Credit Certificates shall be required to be made by the Trustee during the period from any Record Date to and including the following Interest Payment Date or, regardless of the interest borne by such Series A Bonds, from the date on which notice of redemption is given to and including the specified redemption date.

SECTION 6.07. Tax Credit Certificate Register.. (a) The Trustee will keep or cause to be kept, at its Corporate Trust Office, sufficient books for the registration and transfer of the Tax Credit Certificates, which shall at all times be open to inspection by the Authority, and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Tax Credit Certificates as hereinbefore provided.

(b) The District shall assign each Tax Credit Certificate authenticated and registered by it a distinctive letter or number, or letter and number.

SECTION 6.08. Mutilated, Destroyed, Stolen or Lost Tax Credit Certificates.. In case any Tax Credit Certificate shall become mutilated, or shall be believed by the Authority or the Trustee to have been destroyed, stolen or lost, upon proof of ownership satisfactory to the Trustee, and upon the surrender of such mutilated Tax Credit Certificate at the Corporate Trust Office or upon the receipt of evidence satisfactory to the Trustee of such destruction, theft or loss, and upon receipt also of indemnity satisfactory to the District, the Authority and the Trustee, and upon payment by the Owner of all expenses incurred by the Authority and the Trustee, the Authority shall execute and the Trustee shall authenticate and deliver at said office a new Tax Credit Certificate or Tax Credit Certificates of the same maturity and for the same notional amount, of like tenor and date, bearing the same number or numbers, with such notations as the Trustee shall determine, in exchange and substitution for and upon cancellation of the mutilated Tax Credit Certificate, or in lieu of and in substitution for the Tax Credit Certificate so destroyed, stolen or lost.

If any such destroyed, stolen or lost Tax Credit Certificate shall have been called for redemption, payment of the amount due thereon may be made by the Trustee upon receipt of like proof, indemnity and payment of expenses.

Any duplicate Tax Credit Certificates issued pursuant to this Section shall be entitled to equal and proportionate benefits with all other Tax Credit Certificates issued hereunder. The Authority and the Trustee shall not be required to treat both the original Tax Credit Certificate and any duplicate Tax Credit Certificate as being Outstanding for the purpose of determining any percentage of Tax Credit Certificates Outstanding hereunder, but both the original and duplicate Tax Credit Certificate shall be treated as one and the same.

SECTION 6.09. Temporary Tax Credit Certificates. Until definitive Tax Credit Certificates shall be prepared, the Authority may cause to be executed and delivered in lieu of such definitive Tax Credit Certificates and subject to the same provisions, limitations and conditions as are applicable in the case of definitive Tax Credit Certificates, one or more temporary typed, printed, lithographed or engraved Tax Credit Certificates in fully registered form, as may be authorized by the Authority, substantially of the same tenor and, until exchange for definitive Tax Credit Certificates, entitled and subject to the same benefits and provisions of this Agreement as definitive Tax Credit Certificates. If the Authority executes and delivers temporary Tax Credit Certificates it will execute and deliver definitive Tax Credit Certificates without unnecessary delay and thereupon the temporary Tax Credit Certificates shall be surrendered to the Trustee at the Corporate Trust Office, without expense to the Owner in exchange for such definitive Tax Credit Certificates. All temporary Tax Credit Certificates so surrendered shall be cancelled by the Trustee and shall not be redelivered.

## ARTICLE VII

### COVENANTS OF THE AUTHORITY

SECTION 7.01. Punctual Payment and Performance. The Authority will punctually pay out of the Revenues the interest on and principal of and Redemption Premium, if applicable, to become due on every Bond issued hereunder in strict conformity with the terms hereof and of the Bonds, and will faithfully observe and perform all the agreements and covenants to be observed or performed by the Authority contained herein and in the Bonds.

SECTION 7.02. Against Encumbrances. The Authority will not make any pledge or assignment of or place any charge or lien upon the Revenues except as provided in Section 5.01, and will not issue any bonds, notes or obligations payable from the Revenues or secured by a pledge of or charge or lien upon the Revenues except as provided in Section 3.03.

#### SECTION 7.03. Tax Covenants (QSCB).

(a) The Authority shall not take any action or inaction, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstances within its control to arise or continue, if such action or inaction would cause the Series A Bonds to not be Qualified School Construction Bonds under Section 54F of the Code or “qualified tax credit bonds” under Section 54A of the Code. Without limiting the generality of the forgoing, the

Authority shall comply with the instructions and requirements of the Tax Certificate (QSCB), which is incorporated herein as if fully set forth herein. This covenant shall survive payment in full or defeasance of the Series A Bonds.

(b) In the event that at any time the Authority is of the opinion that for purposes of this Section it is necessary or helpful to restrict or limit the yield on the investment of any moneys held by the Trustee under this Agreement, the Authority shall so instruct the Trustee, in writing, and the Trustee shall take such action as may be necessary in accordance with such instructions.

(c) Notwithstanding any provisions of this Section, if the Authority shall provide to the Trustee an Opinion of Counsel that any specified action required under this Section is no longer required or that some further or different action is required in order for the Series A Bonds to be Qualified School Construction Bonds under Section 54F of the Code and “qualified tax credit bonds” under Section 54A of the Code, the Trustee may conclusively rely on such opinion in complying with the requirements of this Section, and the covenants hereunder shall be deemed to be modified to that extent.

#### SECTION 7.04. Tax Covenants (Tax-Exempt)

(a) The Authority covenants that, in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series B Bonds, and for no other purpose, it will satisfy, or take such actions as may be necessary to cause to be satisfied, each provision of the Code necessary to maintain such exclusion. In furtherance of this covenant, the Authority covenants to comply with the Tax Certificate (Tax-Exempt) as a source of guidance with respect to the requirements of the Code.

(b) The Authority covenants that no part of the proceeds of the Series B Bonds shall be used, directly or indirectly, to acquire any “investment property,” as defined in Section 148 of the Code, and it shall not take or permit to be taken any other action or actions, which would cause the obligation represented by this Trust Agreement or by the Series B Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Code, as in effect from time to time, or under applicable Treasury regulations promulgated thereunder. In order to assure compliance with the rebate requirements of Section 148 of the Code, the Authority further covenants that it will pay or cause to be paid to the United States Treasury Department the amounts necessary to satisfy the requirements of Section 148(f) of the Code, as required in the Tax Certificate (Tax-Exempt), and that it will establish such accounting procedures as are necessary to adequately determine, account for and pay over any such amount or amounts required to be paid to the United States in a manner consistent with requirements of Section 148 of the Code, such covenant to survive the termination of this Trust Agreement.

(c) The Authority covenants that it will not take any action or omit to take any action, which action or omission, would result in a loss of exclusion from gross income for purposes of federal income taxation, under Section 103(a) of the Code, of interest on the Series B Bonds.



(d) The Authority covenants that it will not use or permit the use of the proceeds of the Series B Bonds in such manner or to such extent as would result in a loss of exclusion of the interest on the Series B Bonds from gross income for federal income tax purposes under Section 103(a) of the Code.

(e) In furtherance of the covenants of the Authority set forth above, the Authority will comply with the Tax Certificate (Tax-Exempt).

SECTION 7.05.Accounting Records and Reports. The Trustee will keep or cause to be kept proper books of record and accounts in which complete and correct entries shall be made of all transactions made by the Trustee relating to the receipts, disbursements, allocation and application of the Revenues, and such books shall be available for inspection by the Authority at reasonable hours, under reasonable conditions and upon reasonable notice. The Trustee shall provide to the Authority monthly statements covering the funds and accounts held pursuant to the Trust Agreement. Not more than one hundred eighty (180) days after the close of each Fiscal Year, the Trustee shall furnish or cause to be furnished to the Authority a complete financial statement (which may be in the form of the Trustee's customary account statements) covering receipts, disbursements, allocation and application of Revenues for such Fiscal Year. The Authority shall keep or cause to be kept such information as is required under the Tax Certificates.

SECTION 7.06.Prosecution and Defense of Suits. The Authority will defend against every suit, action or proceeding at any time brought against the Trustee upon any claim to the extent arising out of the receipt, application or disbursement of any of the Revenues or to the extent involving the failure of the Authority to fulfill its obligations hereunder; provided, that the Trustee or any affected Bondholder at its election may appear in and defend any such suit, action or proceeding. The Authority will indemnify and hold harmless the Trustee against any and all liability claimed or asserted by any person to the extent arising out of such failure by the Authority, and will indemnify and hold harmless the Trustee against any reasonable attorney's fees or other reasonable expenses which it may incur in connection with any litigation to which it may become a party by reason of its actions hereunder, except for any loss, cost, damage or expense resulting from the negligence or willful misconduct by the Trustee. Notwithstanding any contrary provision hereof, this covenant shall remain in full force and effect even though all Bonds secured hereby may have been fully paid and satisfied.

SECTION 7.07.Further Assurances. Whenever and so often as reasonably requested to do so by the Trustee or any Bondholder, the Authority will promptly execute and deliver or cause to be executed and delivered all such other and further assurances, documents or instruments, and promptly do or cause to be done all such other and further things as may be necessary or reasonably required in order to further and more fully vest in the Bondholders all rights, interests, powers, benefits, privileges and advantages conferred or intended to be conferred upon them hereby.

SECTION 7.08.Maintenance of Revenues. The Authority will promptly collect all rents and charges due for the occupancy or use of the Facility as the same become due, and will promptly and vigorously enforce its rights against any tenant or other person who does not

pay such rents or charges as they become due. The Authority will at all times maintain and vigorously enforce all of its rights under the Facility Sublease.

SECTION 7.09. Amendments to Facility Sublease. The Authority shall not supplement, amend, modify or terminate any of the terms of the Facility Sublease, or consent to any such supplement, amendment, modification or termination, without the prior written consent of the Trustee. The Trustee shall give such written consent if such supplement, amendment, modification or termination (a) will not materially adversely affect the interests of the Bondholders or result in any material impairment of the security hereby given for the payment of the Bonds (provided that such supplement, amendment or modification shall not be deemed to have such adverse effect or to cause such material impairment solely by reason of providing for the substitution of real property pursuant to Section 2.03 of the Facility Sublease), (b) is to add to the agreements, conditions, covenants and terms required to be observed or performed thereunder by any party thereto, or to surrender any right or power therein reserved to the Authority or the District, (c) is to cure, correct or supplement any ambiguous or defective provision contained therein, (d) is to accommodate any substitution in accordance with Section 2.03 under the Facility Sublease, (e) is to modify the legal description of the Facility to conform to the requirements of title insurance or otherwise to add or delete property descriptions to reflect accurately the description of the parcels intended or preferred to be included therein, or substituted for the Facility pursuant to the provision of Section 2.03 of the Facility Sublease, or (f) if the Trustee first obtains the written consent of the Bondholders of a majority in principal amount of the Bonds then Outstanding to such supplement, amendment, modification or termination; provided, that no such supplement, amendment, modification or termination shall reduce the amount of Base Rental Payments to be made to the Authority or the Trustee by the District pursuant to the Facility Sublease to an amount less than the Base Rental Payment Schedule, or extend the time for making such payments, or permit the creation of any lien prior to or on a parity with the lien created by this Trust Agreement on the Base Rental Payments (all except as expressly provided herein or in the Facility Sublease), in each case without the written consent of all of the Bondholders of the Bonds then Outstanding.

SECTION 7.10. Leasehold Estate. The Authority will be, on the date of the delivery of the Bonds, the owner and lawfully possessed of the leasehold estate described in the Facility Lease, and the Facility Sublease will be, on the date of delivery of the Bonds, a valid subsisting demise for the term therein set forth of the property which it purports to demise. At the time of the delivery of the Bonds the District will be the owner in fee simple of the premises described therein, and the Facility Sublease will be lawfully made by the District, and the covenants contained in the Facility Sublease on the part of the District will be valid and binding. At the time of the delivery of the Bonds, the Authority will have good right, full power and lawful authority to lease said leasehold estate, in the manner and form provided in the Facility Sublease, and the Facility Sublease will be duly and regularly executed.

Without allowance for any days of grace which may or might exist or be allowed by law or granted pursuant to any terms or conditions of the Facility Sublease, the Authority will in all respects promptly and faithfully keep, perform and comply with all the terms, provisions, covenants, conditions and agreements of the Facility Sublease to be kept, performed and complied with by it. The Authority will not do or permit anything to be done, or omit or refrain

from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be a ground for declaring a forfeiture of the Facility Sublease, or would or might be a ground for cancellation or termination of the Facility Sublease by the lessee thereunder. The Authority will promptly deposit with the Trustee (to be held by the Trustee until the title and rights of the Trustee under this Trust Agreement shall be released or reconvened) any and all documentary evidence received by it showing compliance with the provisions of the Facility Sublease to be performed by the Authority. The Authority, immediately upon its receiving or giving any notice, communication or other document in any way relating to or affecting the Facility Sublease, or the leasehold estate thereby created, which may or can in any manner affect the estate of the lessor or of the Authority in or under the Facility Sublease, will deliver the same, or a copy thereof, to the Trustee.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES OF BONDHOLDERS

SECTION 8.01. Events of Default. The following events shall be Events of Default:

(a) if default shall be made by the Authority in the due and punctual payment of the interest on any Bond when and as the same shall become due and payable;

(b) if default shall be made by the Authority in the due and punctual payment of the principal of or Redemption Premium, if applicable, on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed or by proceedings for redemption;

(c) if default shall be made by the Authority in the performance of any of the other agreements or covenants required herein to be performed by the Authority, and such default shall have continued for a period of sixty (60) days or such additional time (with respect to agreements or covenants that cannot be corrected or performed within such sixty (60) day period but the correction of which is being diligently pursued by the Authority) as is reasonably required to correct any such default after the Authority shall have been given notice in writing of such default by the Trustee;

(d) if the Authority shall file a petition or answer seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if a court of competent jurisdiction shall approve a petition filed with or without the consent of the Authority seeking arrangement or reorganization under the federal bankruptcy laws or any other applicable law of the United States of America or any state therein, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property; or

(e) if an Event of Default has occurred under Section 6.01 of the Facility Sublease.

SECTION 8.02.Institution of Legal Proceedings by Trustee. If one or more of the Events of Default shall happen and be continuing, the Trustee may, and upon the written request of the Bondholders of a majority in principal amount of the Bonds then Outstanding, and in each case upon being indemnified to its reasonable satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Bondholders of Bonds under this Trust Agreement and under Article VI of the Facility Sublease by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights and duties hereunder.

SECTION 8.03.Non-Waiver. Nothing in this Article or in any other provision hereof or in the Bonds shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay the interest on and principal of and Redemption Premiums, if applicable, on the Bonds to the respective Bondholders of the Bonds at the respective dates of maturity or upon prior redemption as provided herein from the Revenues as provided herein pledged for such payment, or shall affect or impair the right of such Bondholders, which is also absolute and unconditional, to institute suit to enforce such payment by virtue of the contract embodied herein and in the Bonds.

A waiver of any default or breach of duty or contract by the Trustee or any Bondholder 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 of duty or contract. No delay or omission by the Trustee or any Bondholder to exercise any right or remedy accruing upon any default or breach of duty or contract shall impair any such right or remedy or shall be construed to be a waiver of any such default or breach of duty or contract or an acquiescence therein, and every right or remedy conferred upon the Bondholders by the Act or by this Article may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or the Bondholders.

If any action, proceeding or suit to enforce any right or exercise any remedy is abandoned, the Authority, the Trustee and any Bondholder shall be restored to their former positions, rights and remedies as if such action, proceeding or suit had not been brought or taken.

SECTION 8.04.Actions by Trustee as Attorney-in-Fact. Any action, proceeding or suit which any Bondholder shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Bondholders, whether or not the Trustee is a Bondholder, and the Trustee is hereby appointed (and the successive Bondholders, by taking and holding the Bonds issued hereunder, shall be conclusively deemed to have so appointed it) the true and lawful attorney-in-fact of the Bondholders for the purpose of bringing any such action, proceeding or suit and for the purpose of doing and performing any and all acts and things for and on behalf of the Bondholders as a class or classes as may be advisable or necessary in the opinion of the Trustee as such attorney-in-fact.

SECTION 8.05.Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, and each 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 8.06.Limitation on Bondholders' Right to Sue. No Bondholder of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or equity, for any remedy under or upon this Trust Agreement, unless (a) such Bondholder shall have previously given to the Trustee written notice of the occurrence of an Event of Default as defined in Section 8.01; (b) the Bondholders of at least a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) said Bondholders shall have tendered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

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 Bondholder of Bonds of any remedy hereunder; it being understood and intended that no one or more Bondholders of Bonds shall have any right in any manner whatever by his or their action to enforce any right under this Trust Agreement, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of this Trust Agreement shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Bondholders of the Outstanding Bonds.

## ARTICLE IX

### THE TRUSTEE

SECTION 9.01.The Trustee. U.S. Bank National Association shall serve as the initial Trustee for the Bonds for the purpose of receiving all money which the Authority is required to deposit with the Trustee hereunder and for the purpose of allocating, applying and using such money as provided herein and for the purpose of paying the interest on and principal of and Redemption Premium, if applicable, on the Bonds presented for payment, with the rights and obligations provided herein. The Authority agrees that it will at all times maintain a Trustee having a corporate trust office in California.

The Authority, unless there exists any Event of Default as defined in Section 8.01, may at any time, and for any breach of the trusts set forth herein shall, remove the Trustee initially appointed and any successor thereto and may appoint a successor or successors thereto by an instrument in writing; provided, that any such successor shall be a bank, banking institution, or trust company, having (or whose parent holding company has) a combined capital (exclusive of borrowed capital) and surplus of at least fifty million dollars (\$50,000,000) and subject to supervision or examination by federal or state authority. If such bank, banking institution, or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the

purpose of this Section the combined capital and surplus of such bank, banking institution, or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. The Trustee may at any time resign by giving written notice of such resignation to the Authority, and by mailing by first class mail to the Bondholders notice of such resignation. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee by an instrument in writing. Any removal or resignation of a Trustee and appointment of a successor Trustee shall become effective only upon the acceptance of appointment by the successor Trustee. The successor Trustee shall send notice of its acceptance by first class mail to the Bondholders. If, within thirty (30) days after notice of the removal or resignation of the Trustee no successor Trustee shall have been appointed and shall have accepted such appointment, the removed or resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Trustee having the qualifications required hereby.

The Trustee is hereby authorized to pay or redeem the Bonds when duly presented for payment at maturity or on redemption prior to maturity. The Trustee shall cancel all Bonds upon payment thereof or upon the surrender thereof by the Authority and shall destroy such Bonds and a certificate of destruction shall be delivered to the Authority upon its request. The Trustee shall keep accurate records of all Bonds paid and discharged and cancelled by it.

The Trustee shall, prior to an Event of Default, and after the curing or waiving of all Events of Default that may have occurred, perform such duties and only such duties as are specifically set forth in this Trust Agreement and no implied duties or obligations shall be read into this Trust Agreement. The Trustee shall, during the existence of any Event of Default (that has not been cured or waived), exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

SECTION 9.02.Liability of Trustee. The recitals of facts, agreements and covenants herein and in the Bonds shall be taken as recitals of facts, agreements and covenants of the Authority, and the Trustee assumes no responsibility for the correctness of the same or makes any representation as to the sufficiency or validity hereof or of the Bonds, or shall incur any responsibility in respect thereof other than in connection with the rights or obligations assigned to or imposed upon it herein, in the Bonds or in law or equity. The Trustee shall not be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct.

The Trustee shall not be bound to recognize any person as the Bondholder of a Bond unless and until such Bond is submitted for inspection, if required, and such Bondholder's title thereto satisfactorily established, if disputed.

The Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.

The Trustee shall not be responsible for the sufficiency of any insurance required by the Facility Sublease, and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the District.

The Trustee 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 the Bondholders of not less than a majority (or any lesser amount that may direct the Trustee in accordance with this Agreement) 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 Trustee, or exercising any trust or power conferred upon the Trustee under this Trust Agreement.

The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement at the request, order or direction of any of the Bondholders pursuant to the provisions of this Trust Agreement unless such Bondholders shall have offered to the Trustee reasonable security or indemnity against the reasonable costs, expenses and liabilities that may be incurred therein or thereby. The Trustee has no obligation or liability to the Bondholders for the payment of the interest on, principal of or Redemption Premium, if applicable, with respect to the Bonds from its own funds; but rather the Trustee's obligations shall be limited to the performance of its duties hereunder.

The Trustee shall not be deemed to have knowledge of any Event of Default (except payment defaults on the Bonds) unless and until a Responsible Officer shall have actual knowledge thereof or a Responsible Officer of the Trustee shall have received written notice thereof at its Principal Office. The Trustee shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of a default or Event of Default thereunder. The Trustee shall not be responsible for the validity or effectiveness of any collateral given to or held by it.

The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through attorneys-in-fact, agents or receivers, and shall not be answerable for the negligence or misconduct of any such attorney-in-fact, agent or receiver if such attorney-in-fact, agent or receiver was appointed by the Trustee with due care. The Trustee shall be entitled to advice of counsel and other professionals concerning all matters of trust and its duty hereunder, and the Trustee shall not be answerable for the professional malpractice of any attorney-in-law or certified public accountant in connection with the rendering of his professional advice in accordance with the terms of this Trust Agreement, if such attorney-in-law or certified public accountant was selected by the Trustee with due care.

The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

Whether or not therein expressly so provided, every provision of this Trust Agreement, the Facility Sublease or related documents relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article.

The Trustee 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 Authority or District of the Facility or the Project. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Facility Sublease or this Trust Agreement for the existence, furnishing or use of the Facility or the Project.

The Trustee shall be protected in acting upon any notice, resolution, requisition, request (including any Written Request of the Authority or the District), consent, order, certificate, report, opinion, 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. Before the Trustee acts or refrains from acting, the Trustee may consult with counsel, who may be counsel of or to the Authority, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

Whenever in the administration of its rights and obligations hereunder the Trustee shall deem it necessary or desirable that a matter be established or proved prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a Certificate of the Authority, which certificate shall be full warrant to the Trustee for any action taken or suffered under the provisions hereof upon the faith thereof, but in its discretion the Trustee may in lieu thereof accept other evidence of such matter or may require such additional evidence as it may deem reasonable.

No provision of this Trust Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder, or in the exercise of its rights or powers.

The Trustee is not responsible for the content of any official statement or any other offering or disclosure material prepared in connection with the Bonds.

SECTION 9.03. Compensation and Indemnification of Trustee. The Authority covenants to pay (but solely from Additional Payments) to the Trustee from time to time, and the Trustee shall be entitled to, compensation for all services rendered by it in the exercise and performance of any of the powers and duties hereunder of the Trustee, and the Authority will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee, in accordance with any of the provisions of this Trust Agreement (including the reasonable compensation and the reasonable expenses and disbursements of their counsel – including the allocated reasonable fees and disbursements of in-house counsel – and of all persons not regularly in their employ) except any such expense, disbursement or advance as may arise from their negligence or willful misconduct. The Authority, to the extent permitted by law, shall indemnify, defend and hold harmless the Trustee against any loss, damage, liability or expense incurred without negligence or willful misconduct on the part of the Trustee arising out of or in connection with the acceptance or administration of the trusts created hereby, including reasonable costs and expenses (including reasonable



attorneys' fees and disbursements) of defending itself against or investigating any claim or liability in connection with the exercise or performance of any of its powers hereunder. The rights of the Trustee and the obligations of the Authority under this Section 9.03 shall survive the discharge of the Bonds and this Trust Agreement and the resignation or removal of the Trustee.

SECTION 9.04. Compliance with Continuing Disclosure Agreement. Pursuant to Section 8.08 of the Facility Sublease, the District has undertaken all responsibility for compliance with continuing disclosure requirements, and the Authority shall have no liability to the Owners of the Bonds or any other person with respect to S.E.C. Rule 15c2-12. The District has agreed that so long as it shall act as the Dissemination Agent under the Continuing Disclosure Agreement, it will perform all of the provisions thereof to be performed by the Dissemination Agent. Notwithstanding any other provision of this Trust Agreement, failure of the District to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, any Bondholder 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 Section 8.08 of the Facility Sublease or under this Section 9.04. For purposes of this Section, "Beneficial Owner" means any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

## ARTICLE X

### AMENDMENT OF THE TRUST AGREEMENT

#### SECTION 10.01. Amendment of the Trust Agreement.

(a) This Trust Agreement and the rights and obligations of the Authority and of the Bondholders may be amended at any time by a Supplemental Trust Agreement which shall become binding when the written consents of the Bondholders of a majority in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 10.02, are filed with the Trustee; provided that if such modification or amendment will, by its terms, not take effect so long as any Bonds remain Outstanding, the consent of the Bondholders shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Bonds Outstanding under this Section. No such amendment shall (1) extend the maturity of or reduce the interest rate on or amount of interest on or amount of tax-credit associated with or principal of or Redemption Premium, if applicable, on any Bond without the express written consent of the Bondholder of such Bond, (2) adversely impact the Bondholders of one series of Bonds in favor of the Bondholders of the other series of Bonds without 100% consent of the Bondholders of the series of Bonds adversely impacted, or (3) permit the creation by the Authority of any pledge of or charge or lien upon the Revenues as provided herein superior to or on a parity with the pledge, charge and lien created hereby for the benefit of the Bonds, or (4) reduce the percentage of Bonds required for the written consent to any such amendment, or (5) modify any rights or obligations of the Trustee, the Authority, or the District without their prior written assent thereto, respectively. It shall not be necessary for the consent of the Bondholders to approve the particular form of any Supplemental Trust

Agreement, but it shall be sufficient if such consent shall approve the substance thereof. Promptly after the execution by the Authority and the Trustee of any Supplemental Trust Agreement pursuant to this subsection (a), the Trustee shall mail a notice on behalf of the Authority, setting forth in general terms the substance of such Supplemental Trust Agreement to the Bondholders at the addresses shown on the registration books maintained by the Trustee. Any failure to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such Supplemental Trust Agreement.

(b) The Trust Agreement and the rights and obligations of the Authority and of the Bondholders may also be amended at any time by a Supplemental Trust Agreement which shall become binding upon adoption, without the consent of any Bondholders, for any purpose that will not materially adversely affect the interests of the Bondholders, including (without limitation) for any one or more of the following purposes --

(i) to add to the agreements and covenants required herein to be performed by the Authority other agreements and covenants thereafter to be performed by the Authority, or to surrender any right or power reserved herein to or be conferred herein on the Authority;

(ii) to make such provisions for the purpose of curing any ambiguity or of correcting, curing or supplementing any defective provision contained herein or in regard to questions arising hereunder which the Authority may deem desirable or necessary; or

(iii) to add to the agreements and covenants required herein, such agreements and covenants as may be necessary to qualify the Trust Agreement under the Trust Indenture Act of 1939 as amended.

(c) The Trust Agreement and the rights and obligations of the Authority and of the Bondholders may also be amended at any time by a Supplemental Trust Agreement which shall become binding upon adoption, without the consent of any Bondholders, if such Supplemental Trust Agreement implements changes which Bond Counsel advises are necessary to comply with regulations or other guidance issued or promulgated by the IRS with respect the separation, under the Tax Credit Program, of the ownership of the Series A Bonds from the entitlement of the Owner thereof to the related Tax Credits provided, however, no such amendment shall extend the maturity of or reduce the interest rate on or amount of interest on or amount of tax-credit associated with or principal of or Redemption Premium, if applicable, on any Bond without the express written consent of the Bondholder of such Bond. The Trustee is directed to execute any such Supplemental Trust Agreement upon receipt of an Opinion of Counsel advising that such changes are advisable.

SECTION 10.02. Disqualified Bonds. Bonds owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bonds provided in this Article, and shall not be entitled to consent to or take any other action provided in this Article.

SECTION 10.03. Endorsement or Replacement of Bonds After Amendment. After the effective date of any action taken as hereinabove provided, the Authority may

determine that the Bonds may bear a notation by endorsement in form approved by the Authority as to such action, and in that case upon demand of the Bondholder of any Outstanding Bonds and presentation of his Bond for such purpose at the office of the Trustee a suitable notation as to such action shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as, in the opinion of the Authority, shall be necessary to conform to such action shall be prepared and executed, and in that case upon demand of the Bondholder of any Outstanding Bond a new Bond or Bonds shall be exchanged at the office of the Trustee without cost to each Bondholder for its Bond or Bonds then Outstanding upon surrender of such Outstanding Bonds.

SECTION 10.04.Amendment by Mutual Consent. The provisions of this Article shall not prevent any Bondholder from accepting any amendment as to the particular Bonds held by him, provided that due notation thereof is made on such Bonds.

## ARTICLE XI

### DISCHARGE OF BONDS

#### SECTION 11.01.Discharge of Bonds.

(a) If the Authority shall pay or cause to be paid or there shall otherwise be paid to the Bondholders of all Outstanding Bonds the interest thereon and principal thereof and Redemption Premium, if applicable, thereon at the times and in the manner stipulated herein and therein, and the Authority shall pay in full all other amounts due hereunder and under the Facility Sublease, then the Bondholders of such Bonds shall cease to be entitled to the pledge of and charge and lien upon the Revenues as provided herein, and all agreements, covenants and other obligations of the Authority to the Bondholders of such Bonds hereunder shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, the Trustee shall pay over or deliver to the Authority all money or securities held by it pursuant hereto which are not required for the payment of the interest on and principal of and Redemption Premium, if applicable, on such Bonds and for the payment of all other amounts due hereunder and under the Facility Sublease.

(b) Defeasance. Any Bond will be deemed paid, discharged and no longer Outstanding if each of the conditions set out in this Section 11.01(b) is satisfied. The conditions are:

(1) The Authority deposits with the Trustee (A) money or (B) Federal Securities which are not subject to early redemption, of such maturities and interest payment dates and bearing such interest as will be sufficient, without further investment or reinvestment of either the principal amount of such Federal Securities or the interest earnings on Federal Securities (the earnings to be held in trust also), together with any money, for the payment on their respective maturity dates, or redemption dates prior to maturity, of the principal of such Bonds and redemption premium, if any, and interest to accrue on such Bonds to such maturity or redemption dates.

(2) The Trustee, the Authority and the District receives, at the expense of the Authority, and each may rely upon: (A) a verification report of an independent certified public accountant or other firm nationally recognized in the certification of cash flow analyses; (B) if Series B Bonds are being defeased, an Opinion of Counsel to the effect that such deposit with the Trustee and consequent defeasance of any Series B Bonds does not adversely affect the excludability from gross income for federal income tax purposes of the interest payable on the Series B Bonds; (C) if Series A Bonds are being defeased, an Opinion of Counsel to the effect that such deposit with the Trustee and consequent defeasance of any Series A Bonds will not result in a Determination of Loss of Qualified School Construction Bond Status with respect to any Series A Bonds and (D) an opinion from counsel that (x) the deposit being held by the Trustee under subsection (1) above will not constitute a voidable preference or transfer under the Federal Bankruptcy Code or any other similar state or federal statute in the event the Authority or the District becomes a debtor within the meaning of the Federal Bankruptcy Code or comes within the protection of such similar state or federal statute (“Insolvency Event”) and (y) in the event of any such Insolvency Event, the deposit held by the Trustee under Subsection (1) above will not be treated as part of the estate of the District or the Authority.

(3) All Trustee’s fees or other amounts due or to become due with respect to such Bonds have been paid or sufficient additional moneys to make the required payments have been irrevocably deposited with the Trustee.

(4) For any such Bonds to be redeemed on any date prior to their maturity, the Trustee has received in form satisfactory to it irrevocable instructions to redeem such Bonds on a date on which the Bonds are subject to redemption, and either evidence satisfactory to the Trustee that all redemption notices required by this Trust Agreement have been given or irrevocable power authorizing the Trustee to give such redemption notices. The Trustee shall redeem the Bonds specified by such irrevocable instructions on the date specified by such irrevocable instructions.

At such times as a Bond is deemed to be paid under this Trust Agreement, it will no longer be secured by or entitled to the benefits of this Trust Agreement, except for the purposes of payment in accordance with this Trust Agreement.

All income from all Federal Securities in the hands of the Trustee pursuant to this Section which is identified by an independent certified public accountant or other firm nationally recognized in the certification of cash flow analyses as not required for the payment of the Bonds and interest on such income with respect to which such moneys have been so deposited will be deposited with the Trustee as and when realized and collected for use and application as are other moneys deposited with the Trustee under this Trust Agreement.

Notwithstanding any other provision of this Trust Agreement to the contrary, all moneys or Federal Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds (including accrued interest on such Bonds) shall be applied to and used solely for the payment of the particular Bonds (including interest on such Bonds) with respect to which such moneys or Federal Securities have been so set aside in trust.

SECTION 11.02.Unclaimed Money. Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of any of the Bonds or interest thereon which remains unclaimed for two (2) years after the date when such Bonds or interest thereon have become due and payable, either at their stated maturity dates or by call for redemption prior to maturity, if such money was held by the Trustee at such date, or for two (2) years after the date of deposit of such money if deposited with the Trustee after the date when such Bonds have become due and payable, shall be repaid by the Trustee to the Authority as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Bondholders shall not look to the Trustee for the payment of such Bonds; provided, however, that before being required to make any such payment to the Authority, the Trustee may, and at the request of the Authority shall, at the expense of the Authority, cause to be published once a week for two (2) successive weeks in a Financial Newspaper of general circulation in Los Angeles and in San Francisco, California, and in the same or a similar Financial Newspaper of general circulation in New York, New York, a notice that such money remains unclaimed and that, after a date named in such notice, which date shall not be less than thirty (30) days after the date of the first publication of each such notice, the balance of such money then unclaimed will be returned to the Authority.

## ARTICLE XII

RESERVED

## ARTICLE XIII

### MISCELLANEOUS

SECTION 13.01.Liability of Authority Limited to Revenues. Notwithstanding anything contained herein, the Authority shall not be required to advance any money derived from any source other than the Revenues as provided herein for the payment of the interest on or principal of or Redemption Premium, if applicable, on the Bonds or for the performance of any agreements or covenants herein contained. The Authority may, however, advance funds for any such purpose so long as such funds are derived from a source legally available for such purpose.

The Bonds are limited obligations of the Authority and are payable, as to interest thereon, principal thereof and any premiums upon the redemption of any thereof, solely from the Revenues as provided herein, and the Authority is not obligated to pay them except from the Revenues. All the Series A Bonds are equally secured by a pledge of and charge and lien upon the Revenues (QSCB), and the Revenues (QSCB) constitute a trust fund for the security and payment of the interest on and principal of and Redemption Premium, if applicable, on the Series A Bonds as provided herein. All the Series B Bonds are equally secured by a pledge of and charge and lien upon the Revenues (Tax-Exempt), and the Revenues (Tax-Exempt) constitute a trust fund for the security and payment of the interest on and principal of and Redemption Premium, if applicable, on the Series B Bonds as provided herein. The Bonds are not a debt of the District, the State or any of its political subdivisions, and neither the District, the State nor any of its political subdivisions is liable thereon, nor in any event shall the Bonds be payable out

of any funds or properties other than those of the Authority as provided herein. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory limitation or restriction.

SECTION 13.02.Benefits of this Trust Agreement Limited to Parties and Third Party Beneficiaries. Nothing contained herein, expressed or implied, is intended to give to any person other than the Authority, the Trustee, and the Bondholders any right, remedy or claim under or by reason hereof. Any agreement or covenant required herein to be performed by or on behalf of the Authority or any member, officer or employee thereof shall be for the sole and exclusive benefit of the Authority, the Trustee, and the Bondholders.

SECTION 13.03.Successor Is Deemed Included In All References To Predecessor. Whenever herein either the Authority or any member, officer or employee thereof or of the State is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions with respect to this Agreement, the Bonds, the Facility Sublease and the Project that are presently vested in the Authority or such member, officer or employee, and all agreements and covenants required hereby to be performed by or on behalf of the Authority or any member, officer or employee thereof shall bind and inure to the benefit of the respective successors thereof whether so expressed or not.

SECTION 13.04.Execution of Documents by Bondholders. Any declaration, request or other instrument which is permitted or required herein to be executed by Bondholders may be in one or more instruments of similar tenor and may be executed by Bondholders in person or by their attorneys appointed in writing. The fact and date of the execution by any Bondholder or his attorney of any declaration, request or other instrument or of any writing appointing such attorney may be proved by the certificate of any notary public or other officer authorized to make acknowledgments of deeds to be recorded in the state or territory in which he purports to act that the person signing such declaration, request or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer. The ownership of any Bonds and the amount, maturity, number and date of holding the same may be proved by the registration books relating to the Bonds at the Principal Office of the Trustee.

Any declaration, request, consent or other instrument or writing of the Bondholder of any Bond shall bind all future Bondholders of such Bond with respect to anything done or suffered to be done by the Trustee or the Authority in good faith and in accordance therewith.

SECTION 13.05.Waiver of Personal Liability. No member, officer or employee of the Authority or the District shall be individually or personally liable for the payment of the interest on or principal of or Redemption Premium, if applicable, on the Bonds by reason of their issuance, but nothing herein contained shall relieve any such member, officer or employee from the performance of any official duty provided by the Act or by any other applicable provisions of law or hereby.

SECTION 13.06.Acquisition of Bonds by Authority. All Bonds acquired by the Authority, whether by purchase or gift or otherwise, shall be surrendered to the Trustee for cancellation.

SECTION 13.07.Destruction of Cancelled Bonds. Whenever provision is made for the return to the Authority of any Bonds which have been cancelled pursuant to the provisions hereof, the Authority may, by a Written Request of the Authority, direct the Trustee to destroy such Bonds and furnish to the Authority a certificate of such destruction.

SECTION 13.08.Content of Certificates. Every Certificate of the Authority with respect to compliance with any agreement, condition, covenant or provision provided herein shall include (a) a statement that the person or persons making or giving such certificate have read such agreement, condition, covenant or provision and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements contained in such certificate are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such agreement, condition, covenant or provision has been complied with; and (d) a statement as to whether, in the opinion of the signers, such agreement, condition, covenant or provision has been complied with.

Any Certificate of the Authority may be based, insofar as it relates to legal matters, upon an Opinion of Counsel unless the person making or giving such certificate knows that the Opinion of Counsel with respect to the matters upon which his certificate may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous. Any Opinion of Counsel, insofar as it relates to factual matters or information which is in the possession of the Authority, may be based upon a representation by an officer or officers of the Authority unless the counsel executing such Opinion of Counsel knows that the representation with respect to the matters upon which his opinion may be based, as aforesaid, is erroneous, or in the exercise of reasonable care should have known that the same was erroneous.

SECTION 13.09.Publication for Successive Weeks. Any publication required to be made hereunder for successive weeks in a Financial Newspaper may be made in each instance upon any Business Day of the first week and need not be made on the same Business Day of any succeeding week or in the same Financial Newspaper for any subsequent publication, but may be made on different Business Days or in different Financial Newspapers, as the case may be.

SECTION 13.10.Accounts and Funds. Any account or fund required herein to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee either as an account or a fund, and may, for the purposes of such accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or a fund; but all such records with respect to all such accounts and funds shall at all times be maintained in accordance with corporate trust industry standards and with due regard for the protection of the security of the Bonds and the rights of the Bondholders.

SECTION 13.11.Business Day. When any action is provided for herein to be done on a day named or within a specified time period, and the day or the last day of the period falls on a day which is not a Business Day, such action may be performed on the next ensuing

Business Day with the same effect as though performed on the appointed day or within the specified period.

SECTION 13.12.Notices; Notices to Rating Agencies. All written notices to be given hereunder shall be given by mail to the party entitled thereto at the addresses set forth below, or at such other addresses as such parties may provide to the other party in writing from time to time, namely:

If to the Authority: San Dieguito Public Facilities Authority  
710 Encinitas Boulevard  
Encinitas, California 92024

If to the Trustee: U.S. Bank National Association  
Corporate Trust Services  
633 West Fifth St., 24th Floor  
Los Angeles, California 90071

If to the District: San Dieguito Union High School District  
710 Encinitas Boulevard  
Encinitas, California 92024

The Authority shall give written notice to Standard & Poor's of the redemption or defeasance of any Bonds, the amendment of the Facility Sublease or Trust Agreement, and any change in the Trustee in accordance herewith.

SECTION 13.13.Article and Section Headings and References. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. All references herein to "Articles," "Sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words "hereby," "herein," "hereof," "hereto," "herewith," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

SECTION 13.14.Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the Authority or the Trustee shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof or of the Bonds, and the Bondholders shall retain all the benefit, protection and security afforded to them under the Act or any other applicable provisions of law. The Authority and the Trustee hereby declare that they would have executed and delivered this Trust Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the issuance of the Bonds pursuant hereto irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.



SECTION 13.15.Governing Law. This Trust Agreement shall be governed exclusively by the provisions hereof and by the laws of the State as the same from time to time exist.

SECTION 13.16.Execution in Several Counterparts. This Trust Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the SAN DIEGUITO PUBLIC FACILITIES AUTHORITY has caused this Trust Agreement to be signed in its name by its Chair, and U.S. BANK NATIONAL ASSOCIATION, in token of its acceptance of the trusts created hereunder, has caused this Trust Agreement to be signed by one of the officers thereunder duly authorized, all as of the day and year first above written.

SAN DIEGUITO PUBLIC FACILITIES  
AUTHORITY

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

Attest:

By: \_\_\_\_\_  
Authority Secretary

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

By: \_\_\_\_\_  
Authorized Officer

Acknowledged:

SAN DIEGUITO UNION HIGH SCHOOL  
DISTRICT

By: \_\_\_\_\_  
Superintendent,  
San Dieguito Union High School District

**APPENDIX A-1**

**FORM OF SERIES A BOND**

Number <b>R-__</b>	UNITED STATES OF AMERICA STATE OF CALIFORNIA COUNTY OF SAN DIEGO	Maturity Value \$ _____
-----------------------	--	----------------------------

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY  
LEASE REVENUE BONDS, SERIES 2009A  
(QUALIFIED SCHOOL CONSTRUCTION BONDS)

NEITHER THE FULL FAITH AND CREDIT OF THE AUTHORITY NOR THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT IS PLEDGED FOR THE PAYMENT OF THE INTEREST ON OR PRINCIPAL OF THE BONDS AND NO TAX OR OTHER SOURCE OF FUNDS OTHER THAN THE REVENUES (QSCB) HEREINAFTER REFERRED TO IS PLEDGED TO PAY THE INTEREST ON OR PRINCIPAL OF THE BONDS. NEITHER THE PAYMENT OF THE PRINCIPAL OF NOR INTEREST ON THE BONDS CONSTITUTES A DEBT, LIABILITY OR OBLIGATION OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT OR COMMUNITY FACILITIES DISTRICT NO. 94-1 OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, THE PARTIES TO THE AGREEMENT CREATING THE AUTHORITY.

**THE SAN DIEGUITO PUBLIC FACILITIES AUTHORITY AND THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT HAVE DESIGNATED THIS BOND AS A QUALIFIED SCHOOL CONSTRUCTION BOND WITHIN THE MEANING OF SECTION 54F OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.**

<u>Maturity Date</u>	<u>Tax Credit Rate</u>	<u>Interest Rate</u>	<u>Dated as of</u>	<u>CUSIP NO.</u>
<b>[December 15, 2025]</b>	%	%	<b>December 15, 2009</b>	

Registered Owner: CEDE & CO.

Principal Sum: [ \_\_\_\_\_ ] DOLLARS\*

The SAN DIEGUITO PUBLIC FACILITIES AUTHORITY, a joint exercise of powers authority, duly organized and validly existing under and pursuant to the laws of the State of California (the "Authority"), for

value received, hereby promises to pay (but only out of the Revenues (QSCB) hereinafter referred to) to the registered owner identified above or registered assigns, on the maturity date specified above (subject to any right of prior redemption hereinafter provided for) the principal sum specified above (the "Principal Component" or "Maturity Value") in lawful money of the United States of America. This Bond shall bear interest at the rate as set forth above. This Bond is a Tax Credit Bond issued as a "Qualified School Construction Bond" as defined in Section 54F of the Internal Revenue Code of 1986, as amended (the "Code") and is composed of the Principal Component and Tax Credit components evidenced by the tax credit certificate (the "Tax Credit Certificate") attached hereto as Exhibit A, the ownership of which may be separated from the Principal Component. So long as the ownership of the Tax Credit component of this Bond has not been separated from the ownership of the Principal Component of this Bond, the owner of this Bond may be eligible to receive tax credits determined based on the Tax Credit Rate set forth above in accordance with Section 54A of the Code as described in the Tax Credit Certificate.

The principal hereof is payable to the registered owner hereof in lawful money of the United States of America upon the surrender hereof at the designated corporate trust office of U.S. Bank National Association as the initial trustee (herein called the "Trustee"), appointed pursuant to a Trust Agreement, dated as of December 15, 2009 (the "Trust Agreement") by and between the Authority and the Trustee. So long as Cede & Co. or its registered assigns shall be the registered owner of this Bond, payment shall be made by wire transfer through The Depository Trust Company ("DTC") as provided in the Trust Agreement.

The Bonds shall bear interest at the rate set forth above, payable on [June 15 and December 15] of each year, commencing [June 15], 2010. Each Bond authenticated and registered on any date prior to the close of business on the first Record Date shall bear interest from the date of said Bond. Each Bond authenticated during the period between any Record Date and the close of business on its corresponding Interest Payment Date shall bear interest from such Interest Payment Date. Any other Bond shall bear interest from the Interest Payment Date immediately preceding the date of its authentication. If, at the time of authentication of any Bond, interest is in default on outstanding Bonds, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on the outstanding Bonds. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. Interest due on or before the maturity or prior redemption of this Bond shall be payable only by check mailed by first-class mail to the registered owner hereof; provided that upon the written request of a Bondholder of \$1,000,000 or more in aggregate principal amount of Bonds of the Series of which this Bond is a part received by the Trustee (defined hereinafter) prior to the applicable record date, interest shall be paid by wire transfer in immediately available funds.

This Bond is one of a duly authorized issue of bonds of the Authority designated as its "San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds)" (the "Bonds") issued in an aggregate principal amount of \$[\_\_\_\_\_], all of like tenor and date (except for such variations, if any, as may be required to designate varying numbers, maturities and interest rates), and is issued under and pursuant to the provisions of the Joint Exercise of Powers Act (being Chapter 5 of Division 7 of Title 1 of the California Government Code, as amended) and all laws amendatory thereof or supplemental thereto (the "Act") and under and pursuant to the provisions of the Trust Agreement (copies of the Trust Agreement are on file at the corporate trust office of the Trustee in Los Angeles, California). The Authority's San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds) (the "Series B Bonds") were also issued pursuant to the terms of the Trust Agreement.

The Bonds are issuable as fully registered bonds in the denomination of \$[40,000] principal amount or any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Trust Agreement, Bonds may be exchanged for a like aggregate principal amount of Bonds of other Authorized Denominations.

This Bond is a Tax Credit Bond issued as a "Qualified School Construction Bond" as defined in Section 54F of the Internal Revenue Code of 1986, as amended (the "Code") and is composed of the Principal Component and Tax Credit components evidenced by the tax credit certificate (the "Tax Credit Certificate") attached hereto as Exhibit A, the ownership of which may be separated from the Principal Component. So long as the ownership of the Tax Credit component of this Bond has not been separated from the ownership of the Principal Component of this Bond, the owner of this Bond may be eligible to receive tax credits determined based on the Tax Credit Rate set forth above in accordance with Section 54A of the Code as described in the Tax Credit Certificate.

The Bonds are issued to provide funds to finance the acquisition, construction, improvement, equipping, and remodeling of certain public high school buildings and related facilities, located in the San Dieguito Union High School District (as more fully defined in the Trust Agreement, the "Project"). The Bonds are limited obligations of the Authority and are payable, as to interest thereon and principal thereof, solely from certain proceeds of the Bonds held in certain funds and accounts pursuant to the Trust Agreement and the revenues (as more fully defined in the Trust Agreement, the "Revenues (QSCB)") derived from certain Base Rental Payments made by the San Dieguito Union High School District (the "District") pursuant to the Facility Sublease dated as of December 15, 2009 (as amended from time to time, the "Facility Sublease"), by and between the Authority and the District, and the Authority is not obligated to pay the interest or premium, if any, on and principal of the Bonds except from the Revenues (QSCB). All Bonds are equally and ratably secured in accordance with the terms and conditions of the Trust Agreement by a pledge and assignment of and charge and lien upon the Revenues (QSCB), and the Revenues (QSCB) constitute a trust fund for the security and payment of the interest or premium, if any, on and principal of the Bonds as provided in the Trust Agreement. The Bonds are not payable from revenues pledged under the Trust Agreement to payment of the Series B Bonds. The full faith and credit of the Authority, Community Facilities District No. 94-1 of the San Dieguito Union High School District (the other member, along with the District, of the Authority) and the District are not pledged for the payment of the interest or premium, if any, on or principal of the Bonds. No tax shall ever be levied to pay the interest on or principal of the Bonds. The Bonds are not secured by a legal or equitable pledge of or charge or lien upon any property of the Authority or any of its income or receipts except the Revenues (QSCB), and neither the payment of the interest on nor principal (or premium, if any) of the Bonds is a debt, liability or general obligation of the Authority, the District or any member of the Authority for which such entity is obligated to levy or pledge any form of taxation. Reference is hereby made to the Act and to the Trust Agreement and any and all amendments thereof and supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Revenues (QSCB), the rights of the registered owners of the Bonds, security for payment of the Bonds, remedies upon default and limitations thereon, and amendment of the Trust Agreement (with or without consent of the registered owners of the Bonds); and all the terms of the Trust Agreement are hereby incorporated herein and constitute a contract between the Authority and the registered owner of this Bond, to all the provisions of which the registered owner of this Bond, by acceptance hereof, agrees and consents.

The Bonds are not subject to optional or mandatory sinking fund redemption prior to maturity.

The Bonds are subject to extraordinary redemption by the Authority on any date prior to their fixed maturity date, upon notice as hereinafter provided, as a whole or in part by lot in integral multiples of Authorized Denominations from the proceeds received by the District due to a taking of the Facility or portions thereof under the power of eminent domain and from the net proceeds of title insurance or insurance received for material damage or destruction to the Facility or portions thereof received by the Authority from the District, all as provided in and under the circumstances and terms prescribed in the Facility Sublease and the Trust Agreement, at the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

[After the redemption of 100% of the Series B Bonds,] the Bonds are subject to extraordinary redemption by the Authority on any date prior to their fixed maturity date, upon notice as hereinafter provided, as a whole or in part by lot in integral multiples of Authorized Denominations from the proceeds received by the District due to a taking of the Facility or portions thereof under the power of eminent domain and from the net proceeds of title insurance or insurance received for material damage or destruction to the Facility or portions thereof received by the Authority from the District, all as provided in and under the circumstances and terms prescribed in the Facility Sublease and the Trust Agreement, at the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

The Bonds are subject to extraordinary mandatory redemption by the Authority on any date prior to their fixed maturity date, upon notice as hereinafter provided, as a whole or in part by lot in integral multiples of Authorized Denominations from proceeds of the Bonds deposited in the Project Fund (QSCB) and not spent within three years (or any extension granted by the Internal Revenue Service) of the issuance of the Bonds, all as provided in and under the circumstances and terms prescribed in the Trust Agreement, at the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

Upon a determination of loss of status as “qualified school construction bonds,” the Bonds shall be subject to extraordinary redemption prior to their fixed maturity date, in whole, at a redemption price equal to (i) the principal amount of the Bonds called for redemption, plus (ii) the Redemption Premium (as calculated under the Trust Agreement), plus (iii) accrued interest on the principal amount of the Bonds called for redemption (calculated at the Tax Credit Rate) from the Tax Credit Allowance Date immediately preceding the redemption date to the date of redemption.

In any case of redemption prior to stated maturity, if the ownership of the Tax Credit Certificates has been separated from the ownership of the Bonds and registered separately pursuant to Article VI of the Trust Agreement, the Tax Credit Certificates related to the redeemed Bonds shall be called for redemption in the same manner as the Bonds, and the redemption price shall be allocated to the Bonds Principal Components and the Tax Credit Certificates in the proportions set forth in the redemption value tables attached as Schedule 1 to the form of Bond in Appendix A to the Trust Agreement.

In addition, in the event that any Tax Credits recognized prior to the redemption date are determined to be ineligible as Tax Credits as a result of the determination of loss of status as qualified school construction bonds, the redemption price shall include an additional amount payable to the Owners, as of the applicable Tax Credit Allowance Dates, of the Tax Credit Certificates for such Tax Credits equal to the amount of such Tax Credits, plus interest thereon from the applicable Tax Credit Allowance Date to the date of redemption, at a rate equal to the large corporate underpayment rate determined from time to time by the Internal Revenue Service.

Notice of redemption of this Bond shall be given by first-class mail not less than thirty (30) days nor more than sixty (60) days before the redemption date to the registered owner of any Bond selected for redemption, subject to and in accordance with provisions of the Trust Agreement with respect thereto. If notice of redemption has been duly given as aforesaid and money for the payment of the above-described redemption price is held by the Trustee, then this Bond shall, on the redemption date designated in such notice, become due and payable at the above-described redemption price; and from and after the date so designated, interest on this Bond shall cease to accrue and the registered owner of this Bond shall have no rights with respect hereto except to receive payment of the redemption price hereof.

The Authority may rescind any extraordinary redemption and notice thereof on any date prior to the date fixed for redemption by directing the Trustee in writing to give written notice of the rescission to the Owners of the Bonds or, if separated, Principal Components and Tax Credit Certificates 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 or Tax Credit Certificate 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.

This Bond is transferable only on a register to be kept for that purpose at the above-mentioned corporate trust office of the Trustee by the registered owner hereof in person or by the duly authorized attorney of such owner upon payment of the charges provided in the Trust Agreement and upon surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or the duly authorized attorney of such owner, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount in authorized denominations will be issued to the transferee in exchange therefor. The Authority and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of the interest hereon and principal hereof and for all other purposes, whether or not this Bond shall be overdue, and neither the Authority nor the Trustee shall be affected by any notice or knowledge to the contrary; and payment of the interest on and principal of this Bond shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on this Bond to the extent of the sum or sums so paid.

This Bond shall not be entitled to any benefit, protection or security under the Trust Agreement or become valid or obligatory for any purpose until the certificate of authentication hereon endorsed shall have been executed and dated by the Trustee.

ITEM 18

It is hereby certified and recited that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Act, and by the Constitution and laws of the State of California, that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Constitution or laws of the State of California and is not in excess of the amount of Bonds permitted to be issued under the Trust Agreement.

IN WITNESS WHEREOF, the San Dieguito Public Facilities Authority has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Chair of the Authority and countersigned by the manual or facsimile signature of the Secretary of said Authority, and has caused this Bond to be dated as of the Dated Date specified above.

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY

By \_\_\_\_\_  
Chair

Countersigned:

\_\_\_\_\_  
Authority Secretary



TRUSTEE'S CERTIFICATE OF AUTHENTICATION  
AND REGISTRATION

This is one of the SAN DIEGUITO PUBLIC FACILITIES AUTHORITY LEASE REVENUE BONDS, SERIES 2009A (QUALIFIED SCHOOL CONSTRUCTION BONDS), described in the within-mentioned Trust Agreement and authenticated and registered on \_\_\_\_\_, 2009.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By \_\_\_\_\_ [specimen – not for signature]  
Authorized Officer

DTC LEGEND

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

PRINCIPAL STRIP LEGEND

If the ownership of the Principal Component of this Bond is separated from the ownership of the related Tax Credit Certificates the following legend shall be applied to this Bond to evidence that it is a Principal Component and a new identification number shall be applied to the resulting Principal Component that is distinct from the identifying number for the original Bond.

[This is a PRINCIPAL COMPONENT ONLY of one of the SAN DIEGUITO PUBLIC FACILITIES AUTHORITY LEASE REVENUE BONDS, SERIES 2009A (QUALIFIED SCHOOL CONSTRUCTION BONDS), described in the within-mentioned Trust Agreement and the registered owner of this Principal Component is not entitled to the related Tax Credits associated with the Bond or the payment of any redemption price allocable to the Tax Credit Certificates related to the Bond of which this is the Principal Component only. The undersigned has duly authenticated and registered this Principal Component on \_\_\_\_\_.]

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By \_\_\_\_\_ [to be signed only if Tax Credits stripped]  
Authorized Officer

[STATEMENT OF INSURANCE]

[if any]

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto \_\_\_\_\_ the within-mentioned [Registered Bond][Principal Strip] and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney, to transfer the same on the books of the Trustee with full power of substitution in the premises.

\_\_\_\_\_  
I.D. Number

\_\_\_\_\_  
NOTE: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Registered Bond in every particular, without alteration or enlargement or any change whatsoever.

Dated: \_\_\_\_\_

Signature Guarantee: \_\_\_\_\_  
Notice: Signature must be guaranteed by an eligible guarantor institution.

EXHIBIT A

Certificate Number  
TC-\_\_

UNITED STATES OF AMERICA  
STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

Tax Credit Amount  
\$ \_\_\_\_\_

CERTIFICATE EVIDENCING TAX CREDIT ENTITLEMENT

related to the

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY  
LEASE REVENUE BONDS, SERIES 2009A  
QUALIFIED SCHOOL CONSTRUCTION BONDS  
(TAX CREDIT BONDS)

Sale Date of  
Related Bonds

Issuance Date of  
Related Bonds

Maturity Date of  
Related Bond

Applicable  
Tax Credit Rate

CUSIP NO. of  
Related Bonds

[December \_\_, 2009]

December 15, 2009

[December 15, 2025]

%

Tax Credit Allowance Date	CUSIP number (if stripped from Related Bond) Base:	Tax Credit Amount	Tax Credit Allowance Date	CUSIP number (if stripped from Related Bond) Base:	Tax Credit Amount	Tax Credit Allowance Date	CUSIP number (if stripped from Related Bond) Base:	Tax Credit Amount	Tax Credit Allowance Date	CUSIP number (if stripped from Related Bond) Base:	Tax Credit Amount
3/15/2010		\$	6/15/2010		\$	9/15/2010		\$	12/15/2010		\$
3/15/2011			6/15/2011			9/15/2011			12/15/2011		
3/15/2012			6/15/2012			9/15/2012			12/15/2012		
3/15/2013			6/15/2013			9/15/2013			12/15/2013		
3/15/2014			6/15/2014			9/15/2014			12/15/2014		
3/15/2015			6/15/2015			9/15/2015			12/15/2015		
3/15/2016			6/15/2016			9/15/2016			12/15/2016		
3/15/2017			6/15/2017			9/15/2017			12/15/2017		
3/15/2018			6/15/2018			9/15/2018			12/15/2018		
3/15/2019			6/15/2019			9/15/2019			12/15/2019		
3/15/2020			6/15/2020			9/15/2020			12/15/2020		
3/15/2021			6/15/2021			9/15/2021			12/15/2021		
3/15/2022			6/15/2022			9/15/2022			12/15/2022		
3/15/2023			6/15/2023			9/15/2023			12/15/2023		
3/15/2024			6/15/2024			9/15/2024			12/15/2024		
3/15/2025			6/15/2025			9/15/2025			12/15/2025		

Dated: December 15, 2009

Registered Owner: Cede & Co.

Notional Amount of this Certificate: [ ] DOLLARS\*

This certificate evidences the entitlement of the registered owner identified above or registered assigns to the credit (the "Tax Credit"), under Section 54A of the Internal Revenue Code of 1986, as amended (the "Code"), against the tax imposed by Chapter 1 of the Code ("Chapter 1"), with respect to the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) (the "Related Bonds"), designated as qualified school construction bonds pursuant to Section 54F of the Code by the San Dieguito Public Facilities Authority, County of San Diego, State of California (the "Authority" and the "Issuer"). This certificate evidences the Tax Credit component of the Related Bonds and the obligation of the Authority to maintain the status of the Related Bonds as qualified school construction bonds under the Code.

“Tax Credit Allowance Date” means each March 15, June 15, September 15, and December 15, beginning on March 15, 2010 and ending on the maturity date thereof or such of those dates as are specified in the table on the cover page of this Tax Credit Certificate.

The holder hereof on the Tax Credit Allowance Dates specified above shall be allowed a credit against the tax imposed by Chapter 1 in an amount equal to twenty five percent (25%) of the annual credit determined with respect to the Related Bonds, being the product of: (1) the applicable tax credit rate set forth above (the “Applicable Rate”), and (2) the outstanding face amount of the Related Bonds (the “Notional Amount”).

This certificate is executed and delivered in conjunction with and as a component part of the Related Bonds and, together with other similar certificates relating to the Bonds, designated as “Certificates Evidencing Tax Credit Entitlement related to the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds)” (the “Tax Credit Certificates”). The Certificates are executed and delivered by the Authority pursuant to a Trust Agreement, dated as of December 15, 2009 (the “Trust Agreement”), by and between the Authority and U.S. Bank National Association, as the trustee (herein called the “Trustee”).

The Tax Credit Certificates are subject to registration, transfer and exchange as provided in and subject to the terms and provisions of the Trust Agreement.

The Related Bonds shall be subject to extraordinary mandatory redemption, in whole or in part, on March 10, 2013, or any date on or before the 90th day after the termination of any extension period negotiated with the IRS, in authorized denominations, at a redemption price equal to the principal amount of the Bonds called for redemption, in an amount equal to unexpended proceeds of the sale of the Related Bonds held by the District, but only to the extent that the District fails to expend all of the proceeds of the Related Bonds within three years of issuance thereof and no extension of the period for expenditure has been granted by the Internal Revenue Service.

In the event that the ownership of the Tax Credit Certificates has been separated from the ownership of the Related Bonds and registered separately pursuant to the Trust Agreement, the Tax Credit Certificates related to the redeemed Related Bonds shall be called for redemption in the same manner as the Related Bonds, and the redemption price shall be allocated to the Principal Components of the Related Bonds and the Tax Credit Certificates in the proportions set forth in the Table of Redemption Values for Tax Credits and Principal Components attached hereto as Schedule 1.

The Authority hereby certifies and declares that all acts, conditions and things required by law to be done or performed precedent to and in the execution and delivery of this Tax Credit Certificate have been done and performed in strict conformity with the laws authorizing the execution and delivery of this Tax Credit Certificate; and that this Tax Credit Certificate is in substantially the form prescribed by order of the Board of Directors of the Authority duly made and entered on its minutes by the act of authorizing the execution and delivery of the Trust Agreement.

The Authority shall not take any action or inaction, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstances within its control to arise or continue, if such action or inaction would cause the Related Bonds to not be qualified school construction bonds under Section 54F of the Code. Without limiting the generality of the forgoing, the Authority shall comply with the instructions and requirements of Tax Certificate and Agreement of the Authority and the District (the “Tax Certificate”). Notwithstanding any provisions of this paragraph, if the District shall provide to the Authority an opinion of Bond Counsel that any specified action required under the Tax Certificate is no longer required or that some further or different action is required in order for the Related Bonds to be qualified school construction bonds under Section 54F of the Code, the Authority may conclusively rely on such opinion in complying with the requirements of this paragraph and of the Tax Certificate, and the covenants hereunder shall be deemed to be modified to that extent.

This Certificate shall not be entitled to any benefit or be valid for any purpose unless signed by manual or facsimile signature of an authorized signatory of the Authority and authenticated by the manual signature of a duly authorized officer of the Trustee.

IN WITNESS WHEREOF, the San Dieguito Public Facilities Authority has caused this CERTIFICATE EVIDENCING TAX CREDIT ENTITLEMENT Related to the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) to be executed in its name and on its behalf by the manual or facsimile signature of the Chair of the Authority and countersigned by the manual or facsimile signature of the Secretary of said Authority, and has caused this Bond to be dated as of the Dated Date specified above.

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY

By \_\_\_\_\_  
Chair

Countersigned:

\_\_\_\_\_  
Authority Secretary

TRUSTEE'S CERTIFICATE OF AUTHENTICATION  
AND REGISTRATION

This is one of the CERTIFICATES EVIDENCING TAX CREDIT ENTITLEMENT RELATED TO THE SAN DIEGUITO PUBLIC FACILITIES AUTHORITY LEASE REVENUE BONDS, SERIES 2009A (QUALIFIED SCHOOL CONSTRUCTION BONDS), described in the within-mentioned Trust Agreement and authenticated and registered on \_\_\_\_\_, 2009.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By \_\_\_\_\_ [specimen – not for signature]  
Authorized Officer

DTC LEGEND

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**SCHEDULE 1**  
**Table of Redemption Values for Tax Credits and Principal Components**  
[TO COME]

**APPENDIX A-2**

**FORM OF SERIES B BOND**

Number <b>R-__</b>	UNITED STATES OF AMERICA STATE OF CALIFORNIA COUNTY OF SAN DIEGO	Maturity Value \$ _____
-----------------------	--	----------------------------

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY  
LEASE REVENUE BONDS, SERIES 2009B  
(TAX-EXEMPT BONDS)

NEITHER THE FULL FAITH AND CREDIT OF THE AUTHORITY NOR THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT IS PLEDGED FOR THE PAYMENT OF THE INTEREST ON OR PRINCIPAL OF THE BONDS AND NO TAX OR OTHER SOURCE OF FUNDS OTHER THAN THE REVENUES (TAX-EXEMPT) HEREINAFTER REFERRED TO IS PLEDGED TO PAY THE INTEREST ON OR PRINCIPAL OF THE BONDS. NEITHER THE PAYMENT OF THE PRINCIPAL OF NOR INTEREST ON THE BONDS CONSTITUTES A DEBT, LIABILITY OR OBLIGATION OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT OR COMMUNITY FACILITIES DISTRICT NO. 94-1 OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, THE PARTIES TO THE AGREEMENT CREATING THE AUTHORITY.

<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Dated as of</u>	<u>CUSIP NO.</u>
<b>[December 15, 2034]</b>	%	<b>December 15, 2009</b>	

Registered Owner: CEDE & CO.

Principal Sum: [\_\_\_\_\_] DOLLARS\*

The SAN DIEGUITO PUBLIC FACILITIES AUTHORITY, a joint exercise of powers authority, duly organized and validly existing under and pursuant to the laws of the State of California (the "Authority"), for value received, hereby promises to pay (but only out of the Revenues (Tax-Exempt) hereinafter referred to) to the registered owner identified above or registered assigns, on the maturity date specified above (subject to any right of prior redemption hereinafter provided for) the principal sum specified above (the "Principal Component" or



“Maturity Value”) in lawful money of the United States of America. This Bond shall bear interest at the rate as set forth above.

The principal hereof is payable to the registered owner hereof in lawful money of the United States of America upon the surrender hereof at the designated corporate trust office of U.S. Bank National Association as the initial trustee (herein called the “Trustee”), appointed pursuant to a Trust Agreement, dated as of December 15, 2009 (the “Trust Agreement”) by and between the Authority and the Trustee. So long as Cede & Co. or its registered assigns shall be the registered owner of this Bond, payment shall be made by wire transfer through The Depository Trust Company (“DTC”) as provided in the Trust Agreement.

The Bonds shall bear interest at the rate set forth above, payable on [June 15 and December 15] of each year, commencing [June 15], 2010. Each Bond authenticated and registered on any date prior to the close of business on the first Record Date shall bear interest from the date of said Bond. Each Bond authenticated during the period between any Record Date and the close of business on its corresponding Interest Payment Date shall bear interest from such Interest Payment Date. Any other Bond shall bear interest from the Interest Payment Date immediately preceding the date of its authentication. If, at the time of authentication of any Bond, interest is in default on outstanding Bonds, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on the outstanding Bonds. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. Interest due on or before the maturity or prior redemption of this Bond shall be payable only by check mailed by first-class mail to the registered owner hereof; provided that upon the written request of a Bondholder of \$1,000,000 or more in aggregate principal amount of Bonds of the Series of which this Bond is a part received by the Trustee (defined hereinafter) prior to the applicable record date, interest shall be paid by wire transfer in immediately available funds.

This Bond is one of a duly authorized issue of bonds of the Authority designated as its “San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds)” (the “Bonds”) issued in an aggregate principal amount of \$[\_\_\_\_\_], all of like tenor and date (except for such variations, if any, as may be required to designate varying numbers, maturities and interest rates), and is issued under and pursuant to the provisions of the Joint Exercise of Powers Act (being Chapter 5 of Division 7 of Title 1 of the California Government Code, as amended) and all laws amendatory thereof or supplemental thereto (the “Act”) and under and pursuant to the provisions of the Trust Agreement (copies of the Trust Agreement are on file at the corporate trust office of the Trustee in Los Angeles, California). The Authority’s San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) (the “Series A Bonds”) were also issued pursuant to the terms of the Trust Agreement.

The Bonds are issuable as fully registered bonds in the denomination of \$5,000 principal amount or any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Trust Agreement, Bonds may be exchanged for a like aggregate principal amount of Bonds of other Authorized Denominations.

The Bonds are issued to provide funds to finance the acquisition, construction, improvement, equipping, and remodeling of certain public high school buildings and related facilities, located in the San Dieguito Union High School District (as more fully defined in the Trust Agreement, the “Project”). The Bonds are limited obligations of the Authority and are payable, as to interest thereon and principal thereof, solely from certain proceeds of the Bonds held in certain funds and accounts pursuant to the Trust Agreement and the revenues (as more fully defined in the Trust Agreement, the “Revenues (Tax-Exempt)”) derived from Base Rental Payments made by the San Dieguito Union High School District (the “District”) pursuant to the Facility Sublease dated as of December 15, 2009 (as amended from time to time, the “Facility Sublease”), by and between the Authority and the District, and the Authority is not obligated to pay the interest or premium, if any, on and principal of the Bonds except from the Revenues (Tax-Exempt). All Bonds are equally and ratably secured in accordance with the terms and conditions of the Trust Agreement by a pledge and assignment of and charge and lien upon the Revenues (Tax-Exempt), and the Revenues (Tax-Exempt) constitute a trust fund for the security and payment of the interest or premium, if any, on and principal of the Bonds as provided in the Trust Agreement. The Bonds are not payable from revenues pledged under the Trust Agreement to payment of the Series B Bonds. The full faith and credit of the Authority, Community Facilities District No. 94-1 of the San Dieguito Union High School District (the other member, along with the District, of the Authority) and the District are not pledged for the payment of the interest or premium, if

any, on or principal of the Bonds. No tax shall ever be levied to pay the interest on or principal of the Bonds. The Bonds are not secured by a legal or equitable pledge of or charge or lien upon any property of the Authority or any of its income or receipts except the Revenues (Tax-Exempt), and neither the payment of the interest on nor principal (or premium, if any) of the Bonds is a debt, liability or general obligation of the Authority, the District or any member of the Authority for which such entity is obligated to levy or pledge any form of taxation. Reference is hereby made to the Act and to the Trust Agreement and any and all amendments thereof and supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Revenues (Tax-Exempt), the rights of the registered owners of the Bonds, security for payment of the Bonds, remedies upon default and limitations thereon, and amendment of the Trust Agreement (with or without consent of the registered owners of the Bonds); and all the terms of the Trust Agreement are hereby incorporated herein and constitute a contract between the Authority and the registered owner of this Bond, to all the provisions of which the registered owner of this Bond, by acceptance hereof, agrees and consents.

The Bonds are subject to redemption on the dates and at the redemption prices and pursuant to the terms and conditions as set forth in the Trust Agreement.

The Bonds are subject to extraordinary redemption by the Authority on any date prior to their fixed maturity date, upon notice as hereinafter provided, as a whole or in part by lot in integral multiples of Authorized Denominations from the proceeds received by the District due to a taking of the Facility or portions thereof under the power of eminent domain and from the net proceeds of title insurance or insurance received for material damage or destruction to the Facility or portions thereof received by the Authority from the District, all as provided in and under the circumstances and terms prescribed in the Facility Sublease and the Trust Agreement, at the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

Notice of extraordinary redemptions of this Bond shall be given by first-class mail not less than thirty (30) days nor more than sixty (60) days before the redemption date to the registered owner of any Bond selected for redemption, subject to and in accordance with provisions of the Trust Agreement with respect thereto. If notice of redemption has been duly given as aforesaid and money for the payment of the above-described redemption price is held by the Trustee, then this Bond shall, on the redemption date designated in such notice, become due and payable at the above-described redemption price; and from and after the date so designated, interest on this Bond shall cease to accrue and the registered owner of this Bond shall have no rights with respect hereto except to receive payment of the redemption price hereof.

The Authority may rescind any extraordinary redemption and notice thereof on any date prior to the date fixed for redemption by directing the Trustee in writing to give written notice of the rescission 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.

This Bond is transferable only on a register to be kept for that purpose at the above-mentioned corporate trust office of the Trustee by the registered owner hereof in person or by the duly authorized attorney of such owner upon payment of the charges provided in the Trust Agreement and upon surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or the duly authorized attorney of such owner, and thereupon a new fully registered Bond or Bonds in the same aggregate principal amount in authorized denominations will be issued to the transferee in exchange therefor. The Authority and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of the interest hereon and principal hereof and for all other purposes, whether or not this Bond shall be overdue, and neither the Authority nor the Trustee shall be affected by any notice or knowledge to the contrary; and payment of the interest on and principal of this Bond shall be made only to such registered owner, which payments shall be valid and effectual to satisfy and discharge liability on this Bond to the extent of the sum or sums so paid.

This Bond shall not be entitled to any benefit, protection or security under the Trust Agreement or become valid or obligatory for any purpose until the certificate of authentication hereon endorsed shall have been executed and dated by the Trustee.

ITEM 18

It is hereby certified and recited that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Act, and by the Constitution and laws of the State of California, that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Constitution or laws of the State of California and is not in excess of the amount of Bonds permitted to be issued under the Trust Agreement.

IN WITNESS WHEREOF, the San Dieguito Public Facilities Authority has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Chair of the Authority and countersigned by the manual or facsimile signature of the Secretary of said Authority, and has caused this Bond to be dated as of the Dated Date specified above.

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY

By \_\_\_\_\_  
Chair

Countersigned:

\_\_\_\_\_  
Authority Secretary

TRUSTEE'S CERTIFICATE OF AUTHENTICATION  
AND REGISTRATION

This is one of the SAN DIEGUITO PUBLIC FACILITIES AUTHORITY LEASE REVENUE BONDS, SERIES 2009A (QUALIFIED SCHOOL CONSTRUCTION BONDS), described in the within-mentioned Trust Agreement and authenticated and registered on \_\_\_\_\_, 2009.

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By \_\_\_\_\_ [specimen – not for signature] \_\_\_\_\_  
Authorized Officer

DTC LEGEND

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

[STATEMENT OF INSURANCE]

[if any]

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto \_\_\_\_\_ the within-mentioned Registered Bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney, to transfer the same on the books of the Trustee with full power of substitution in the premises.

\_\_\_\_\_  
I.D. Number

\_\_\_\_\_  
NOTE: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Registered Bond in every particular, without alteration or enlargement or any change whatsoever.

Dated: \_\_\_\_\_

Signature Guarantee: \_\_\_\_\_  
Notice: Signature must be guaranteed by an eligible guarantor institution.

**APPENDIX B**

**SCHEDULE OF PRINCIPAL ACCOUNT (QSCB) DEPOSITS<sup>1</sup>**

Date	Principal Account Deposit
12/1/2010	\$
12/1/2011	
12/1/2012	
12/1/2013	
12/1/2014	
12/1/2015	
12/1/2016	
12/1/2017	
12/1/2018	
12/1/2019	
12/1/2020	
12/1/2021	
12/1/2022	
12/1/2023	
12/1/2024	
12/1/2025	

---

<sup>1</sup> This Schedule will be modified as necessary to take into account the redemption or defeasance of any Series A Bonds so that each subsequent deposit equals the quotient of (a) the Outstanding principal amount of Series A Bonds at the time of modification and (b) the remaining number of deposits at the time of modification.

**APPENDIX C**

**FORM OF TAX CREDIT STRIP REQUEST**

To: U.S. Bank National Association  
Corporate Trust Services  
633 West Fifth St., 24th Floor  
Los Angeles, California 90071

Re: Certificates Evidencing Tax Credit Entitlement related to the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds)

The undersigned, \_\_\_\_\_, hereby certifies as follows:

1. I am the Registered Owner of (or, with respect to Book-Entry Bonds, the DTC Participant for) San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) (the "Bonds"), in the principal amount set forth in the attached Schedule A hereto.

2. Pursuant to the provisions Article VI of that certain Trust Agreement, dated as of December 15, 2009 (the "Agreement"), between the San Dieguito Public Facilities Authority and U.S. Bank National Association, as trustee (the "Trustee"), I hereby request the separation of the Tax Credit Certificates from the Bonds identified in Paragraph 1 above and direct the Trustee to take such necessary action in connection therewith as set forth in Article VI of the Agreement.

Capitalized terms used but not defined herein shall have the meanings set forth in the Agreement. The form of this Tax Credit Strip Request may be modified or amended in the sole discretion of the Trustee.

Dated: \_\_\_\_\_.

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





**APPENDIX D**

**FORM OF TAX CREDIT CERTIFICATE EXPIRATION NOTICE TO DTC**

To: The Depository Trust Company – *via email only to:* redemptionnotification@dtcc.com

Re: Certificates Evidencing Tax Credit Entitlement related to the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds)

Expiration/Total Redemption:

NOTICE IS HEREBY GIVEN that the amounts of Tax Credit Certificates identified below by the CUSIP number shall expire on \_\_\_\_\_ 15, 20\_\_, the applicable Tax Credit Allowance Date, in full with no value.

<u>Expiration Date:</u>	<u>Price:</u>	<u>Rate:</u>	<u>Amount:</u>	<u>CUSIP</u>
_____ 15, 20__	ZERO	ZERO	ZERO	_____

For purposes of DTC records, the expiration of the Tax Credit Certificates is considered a redemption of the securities, and the Tax Credit Certificates identified herein are being called for redemption at no principal amount or accrued interest. On the expiration date the position in this CUSIP must be cancelled. No further Tax Credits will be offered.

Dated: [45 days prior to Expiration Date/Tax Credit Allowance Date]

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

By: \_\_\_\_\_  
Authorized Representative

**APPENDIX E**  
**FORM OF REQUISITION – PROJECT FUND**

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

No. \_\_\_\_

U.S. Bank National Association  
Corporate Trust Services  
633 West Fifth St., 24th Floor  
Los Angeles, California 90071

Re: San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) and San Dieguito Public Facilities Authority Lease Revenue Bonds, Series, 2009B (Tax-Exempt Bonds)

Ladies and Gentlemen:

This letter is our authorization to you to disburse from the Project Fund (QSCB) provided for in Section 3.02 of the Trust Agreement dated as of December 15, 2009 (the “Trust Agreement”) between the San Dieguito Public Facilities Authority and U.S. Bank National Association, as trustee, the amounts indicated on the schedule attached hereto to the therein-named individuals, firms and corporations, together with the appropriate invoices, for costs related to completion of the Project. To the extent there are no amounts remaining in the Project Fund (QSCB), this is our authorization to you to disburse from the Project Fund (Tax-Exempt) provided for in Section 3.02 of the Trust Agreement, the amounts indicated on the schedule attached hereto to the therein-named individuals, firms and corporations, together with the appropriate invoices, for costs related to completion of the Project. The obligations in the stated amounts have been incurred by the District, and each item thereof is a proper charge against the Project Fund and has not been previously paid from said fund or from the proceeds of the Bonds. There has not been filed with or served upon the Authority or the District notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of the persons named below, which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of law.

The obligations in the stated amounts have been incurred by the San Dieguito Union High School District and each item thereof is a proper charge against the Project Fund.

Very truly yours,

SAN DIEGUITO UNION HIGH SCHOOL  
DISTRICT

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

**APPENDIX F**  
**SCHEDULE OF DEPOSITS TO REVENUE FUND (QSCB)**  
**AND**  
**REVENUE FUND (TAX-EXEMPT)<sup>2</sup>**

[To be provided.]

---

<sup>2</sup> This Schedule will be modified as necessary to take into account the redemption or defeasance of any Bonds so that Revenue is allocated to the Series A Bonds and Series B Bonds in such a manner so that there are adequate funds (a) in the Revenue Fund (QSCB) to pay interest on the Series A Bonds as it becomes due and to make deposits to the Principal Account (QSCB) in accordance with the schedule attached hereto as Appendix B and (b) in the Revenue Fund (Tax-Exempt) to pay principal and interest on the Series B Bonds as it becomes due.

EXHIBIT B

Form of Continuing Disclosure Certificate

## CONTINUING DISCLOSURE CERTIFICATE

THIS CONTINUING DISCLOSURE CERTIFICATE (this "Disclosure Certificate"), dated as of December 15, 2009, is executed and delivered by the SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, a school district organized and existing under and by virtue of the laws of the State of California (the "District").

### WITNESSETH:

**WHEREAS**, the San Dieguito Public Facilities Authority (the "Authority") has issued the \$[\_\_\_\_\_] San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) (the "Series 2009A Bonds") and \$[\_\_\_\_\_] San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds) (the "Series 2009B Bonds" and, together with the Series 2009A Bonds, the "Bonds") pursuant to a Trust Agreement, dated as of the date hereof (the "Trust Agreement"), by and between U.S. Bank National Association (the "Trustee") and the Authority, and acknowledged by the District; and

**WHEREAS**, this Disclosure Certificate is being executed and delivered by the District for the benefit of the holders and beneficial owners of the Bonds and in order to assist the underwriters of the Bonds in complying with S.E.C. Rule 15c2-12(b)(5);

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

**Section 1. Definitions.** In addition to the definitions set forth in the Trust Agreement and the Official Statement, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

**"Annual Report"** means any Annual Report provided by the District pursuant to, and as described in, Sections 2 and 3 hereof.

**"Dissemination Agent"** means the District or any successor Dissemination Agent designated in writing by the District and which has filed with the District a written acceptance of such designation.

**"EMMA System"** means the MSRB's Electronic Municipal Market Access system, or such other electronic system designated by the MSRB.

**"Listed Events"** means any of the events listed in subsection (a) of Section 4 hereof.

**"MSRB"** means the Municipal Securities Rulemaking Board, or any successor thereto.

**"Official Statement"** means the Official Statement, dated December \_\_, 2009, relating to the Bonds.

**"Participating Underwriter"** means any of the original underwriters of the Bonds required to comply with the Rule in connection with offering of the Bonds.

**"Rule"** means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

**Section 2. Provision of Annual Reports.** (a) The District shall, or shall cause the Dissemination Agent to, not later than nine months after the end of the District's fiscal year (which

currently would be June 30), commencing with the report for the 2008-09 Fiscal Year, provide to the Participating Underwriter and the MSRB through the EMMA System, in an electronic format and accompanied by identifying information all as prescribed by the MSRB, an Annual Report which is consistent with the requirements of Section 3 hereof. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 3 hereof; provided that the audited financial statements of the District may be submitted separately from the balance of the Annual Report, and later than the date required above for the filing of the Annual Report if not available by that date. If the District's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under subsection (e) of Section 4 hereof.

(b) Not later than 15 Business Days prior to the date specified in subsection (a) of this Section for the providing of the Annual Report to the MSRB, the District shall provide the Annual Report to the Dissemination Agent.

(c) If the District is unable to provide the Annual Report to the MSRB by the date required in subsection (a) of this Section, the District shall send a notice to the MSRB through the EMMA System in substantially the form attached as Exhibit A.

(d) The Dissemination Agent shall file a report with the District and (if the Dissemination Agent is not the Trustee) the Trustee certifying that the Annual Report has been provided to the MSRB pursuant to this Disclosure Certificate, stating the date it was provided.

**Section 3. Content of Annual Reports.** The District's Annual Report shall contain or incorporate by reference the following:

(a) Audited financial statements prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the District's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to subsection (a) of Section 2 hereof, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) The following information:

(c) The Average Daily Attendance and Base Revenue Limit for the last completed fiscal year for San Dieguito Union High School District.

(d) The number of employees for the last completed fiscal year, broken down into the following categories: non-management certificated; certificated management; classified non-management; classified management; and total number of all employees for San Dieguito Union High School District.

(e) The contributions to PERS and STRS for the last completed fiscal year for San Dieguito Union High School District.

(f) The audited Statement of Income, Expenditures and Changes in Fund Balance for the General Fund, for the last completed fiscal year for San Dieguito Union High School District.



(g) The adopted budget for the current fiscal year, together with any amendments thereto, for San Dieguito Union High School District.

(h) Information regarding the investment policies and practices with respect to District funds and the status of the investment of District funds, similar to the information included in the Official Statement, including the annual report for the last completed fiscal year relating to the Pooled Surplus Investments Fund maintained by the county in which the District is located pursuant to California Government Code Sections 53600 *et seq.*, together with the most recent monthly report for such investment pool, so long as the District has money on deposit therein.

(i) Assessed Value of taxable property within the District and the District's total property tax levy, in each case for the current fiscal year.

(j) Outstanding borrowings and long-term obligations, including:

(i) general obligation bonds, certificates of participation, capital leases and operating leases;

(ii) a description of any obligations of the type referred to in (1) above that have been issued, entered into or incurred since the beginning of the District's current fiscal year; and

(iii) a description of any obligations of the type referred to in (1) above that the District reasonably expects to issue, enter into or incur within the 60 day period following the date of filing of the Annual Report.

(k) In addition to any of the information expressly required to be provided under subsections (a) and (b) of this Section, the District shall provide such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the District or related public entities, which have been submitted to the MSRB through the EMMA System. The District shall clearly identify each such other document so included by reference.

**Section 4. Reporting of Significant Events.** (a) Pursuant to the provisions of this Section, the District shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

(i) Principal and interest payment delinquencies.

(ii) Non-payment related defaults.

(iii) Unscheduled draws on debt service reserves reflecting financial difficulties.

(iv) Unscheduled draws on credit enhancements reflecting financial difficulties.

(v) Substitution of credit or liquidity providers, or their failure to perform.

(vi) Adverse tax opinions or events affecting the tax-exempt status, for State law purposes, of the Bonds, or the Bonds status as qualified school construction bonds under Federal law.

(vii) Modifications to rights of security holders.

(viii) Contingent or unscheduled Bond calls.

(ix) Defeasances.

(x) Release, substitution, or sale of property securing repayment of the securities.

(xi) Rating changes.

(xii) [Any proceeds of the Bonds that remains unexpended at the end of the "Expenditure Period", defined as the period that ends on the third anniversary of the date of issuance of the Bonds or such later date specified by the District if any extension thereto has been granted by the Internal Revenue Service.] [The expenditure of all of the proceeds of the Bonds.]

(b) Whenever the District obtains knowledge of the occurrence of a Listed Event, the District shall as soon as possible determine if such event would be material under applicable Federal securities law.

(c) If the District has determined that knowledge of the occurrence of a Listed Event would be material under applicable Federal securities law, the District shall promptly report the occurrence pursuant to subsection (e) of this Section.

(d) If the District determines that the Listed Event would not be material under applicable Federal securities law, the District shall not report the occurrence pursuant to subsection (e) of this Section.

(e) If the District is to report the occurrence of a Listed Event, the District shall file a notice of such occurrence with the MSRB through the EMMA System. Notwithstanding the foregoing, notice of Listed Events described in paragraphs (viii) and (ix) of subsection (a) of this Section need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds pursuant to the Trust Agreement.

**Section 5. Termination of Reporting Obligation.** The District's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior prepayment or payment in full of all of the Bonds. If such termination occurs prior to the final principal payment date of the Bonds, the District shall give notice of such termination in the same manner as for a Listed Event under subsection (e) of Section 4 hereof.

**Section 6. Dissemination Agent.** The District may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the District shall be the Dissemination Agent.

**Section 7. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Certificate, the District may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of subsection (a) of Section 2 hereof, Section 3 hereof or subsection (a) of Section 4 hereof, it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver (i) is approved by holders of the Bonds in the manner provided in the Trust Agreement for amendments to the Trust Agreement with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of holders.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the annual financial information containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the District to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative. A notice of the change in the accounting principles shall be given in the same manner as for a Listed Event under Section 4(e).

**Section 8. Additional Information.** Nothing in this Disclosure Certificate shall be deemed to prevent the District from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the District chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the District shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

**Section 9. Default.** In the event of a failure of the District to comply with any provision of this Disclosure Certificate, the Trustee may (and, at the written direction of any Participating Underwriter or the holders of at least 25% of the aggregate amount of principal of Outstanding Bonds, and upon indemnification of the Trustee to its reasonable satisfaction, shall), or any holder or beneficial owner of the Bonds 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 Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of

Default under the Trust Agreement, and the sole remedy under this Disclosure Certificate in the event of any failure of the District to comply with this Disclosure Certificate shall be an action to compel performance.

**Section 10. Duties, Immunities and Liabilities of Trustee and Dissemination Agent.**

Article VIII of the Trust Agreement is hereby made applicable to this Disclosure Certificate as if this Disclosure Certificate were (solely for this purpose) contained in the Trust Agreement. The Dissemination Agent (if other than the Trustee or the Trustee in its capacity as Dissemination Agent) shall have only such duties as are specifically set forth in this Disclosure Certificate, and the District agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. Neither the Trustee nor the Dissemination Agent (unless the Dissemination Agent is the District) shall have any obligation to review or determine the adequacy, accuracy or completeness of any reports to be delivered by the District hereunder. The Dissemination Agent shall be paid compensation by the District for its services provided hereunder in accordance with its schedule of fees as amended from time to time and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The obligations of the District under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

**Section 11. Beneficiaries.** This Disclosure Certificate shall inure solely to the benefit of the District, the Trustee, the Dissemination Agent, the Participating Underwriter and holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

**Section 12. Counterparts.** This Disclosure Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SAN DIEGUITO UNION HIGH SCHOOL  
DISTRICT

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

Stephen G. Ma  
Associate Superintendent of Business Services

**EXHIBIT A**

**NOTICE OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: San Dieguito Public Facilities Authority

Name of Issue: San Dieguito Public Facilities Authority Lease Revenue Bonds, Series  
2009A (Qualified School Construction Bonds)

and

San Dieguito Public Facilities Authority Lease Revenue Bonds, Series  
2009B (Tax-Exempt Bonds)

Date of Issuance: December \_\_, 2009

NOTICE IS HEREBY GIVEN that the San Dieguito Union High School District (the “District”) has not provided an Annual Report with respect to the above-named Bonds as required by [Section 2] of its Continuing Disclosure Certificate, dated as of December 15, 2009, by and between U.S. Bank National Association, as Trustee, and the San Dieguito Public Facilities Authority. [The District anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

[San Dieguito Union High School District

EXHIBIT C

Form of Bond Purchase Contract

\$[\_\_\_\_\_]  
**San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009A  
(Qualified School Construction Bonds)**

and

\$[\_\_\_\_\_]  
**San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009B  
(Tax-Exempt Bonds)**

**BOND PURCHASE CONTRACT**

December \_\_, 2009

San Dieguito Union High School District  
Encinitas, California

San Dieguito Public Facilities Authority  
Encinitas, California

Ladies and Gentlemen:

The undersigned, E. J. De La Rosa & Co., Inc. (the "Underwriter"), acting on its own behalf and not as fiduciary or agent for you, hereby offers to enter into this Bond Purchase Contract (the "Purchase Contract") with the San Dieguito Union High School District (the "District") and the San Dieguito Public Facilities Authority (the "Authority") for the purchase by and the delivery to the Underwriter of the Bonds specified below. This offer is made subject to acceptance by the District and the Authority prior to 11:59 p.m., California time, on the date hereof, and upon such acceptance this Purchase Contract shall be in full force and effect in accordance with its terms and shall be binding upon the District, the Authority and the Underwriter.

**Section 1.** Upon the terms and conditions and upon the basis of the representations herein set forth, the Underwriter hereby agrees to purchase, and the Authority hereby agrees to issue and to execute and to instruct the Trustee (as hereinafter defined) to authenticate and deliver to the Underwriter, all of the \$[\_\_\_\_\_] aggregate principal amount of San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) as shown in Appendix A (the "Series 2009A Bonds") and \$[\_\_\_\_\_] aggregate principal amount of San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds) as shown in Appendix A (the "Series 2009B Bonds" and, together with the Series 2009A Bonds, the "Bonds"). The Bonds are to be dated their date of delivery and are as more fully described in the Official Statement hereinafter mentioned. The Series 2009A Bonds shall be purchased at the aggregate purchase price of \$\_\_\_\_\_ (representing an aggregate principal amount of \$\_\_\_\_\_, less an underwriter's discount of \$\_\_\_\_\_, less a net original issue discount of \$\_\_\_\_\_). The Series 2009B Bonds shall be purchased at the aggregate purchase price of \$\_\_\_\_\_ (representing an aggregate principal amount of \$\_\_\_\_\_, less an underwriter's discount of \$\_\_\_\_\_, less a net original issue discount of \$\_\_\_\_\_). The Bonds shall mature in the amounts and on the dates, bear interest at the rates and have the initial offering prices set forth in Appendix A hereto. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

The Bonds shall be as described in, and shall be issued and secured under, a Trust Agreement, dated as of December 15, 2009 (the "Trust Agreement"), by and between the Authority and U.S. Bank National Association, as trustee (the "Trustee"). The Bonds are payable and subject to prepayment as provided in the Trust Agreement. The Series 2009A Bonds have been designated by the Authority as "qualified school construction bonds" under Section 54F of the Internal Revenue Code of 1986, as amended (the "Code"). The Bonds are payable from and secured by the Authority's pledge of Revenues under the Trust Agreement. "Revenues" means (i) all Base Rental Payments (as defined in the Sublease) and other payments paid by the District and received by the Authority (but not Additional Payments as defined in the Sublease) pursuant to a Facility Sublease (the "Sublease"), dated as of December 15, 2009, by and between the Authority, as lessor and the District, as lessee, and (ii) all interest or other income from any investment of any money in any fund or account established pursuant to the Trust Agreement or the Sublease (other than the Excess Earnings Account (QCSB) and the Excess Earnings Account (Tax-Exempt)).

The Bonds shall be as described in the Trust Agreement substantially in the form previously submitted to the Underwriter with only such changes therein as shall be mutually agreed upon by the Authority, the District, the Trustee and the Underwriter. This Purchase Contract, the Trust Agreement, the Sublease, the Facility Lease, dated as of December 15, 2009 (the "Facility Lease"), by and between the District and the Authority and the Continuing Disclosure Certificate, dated as of December 15, 2009 (the "Disclosure Certificate"), executed and delivered by the District, are collectively referred to herein as the "Legal Documents." Capitalized terms used herein that are defined in the Trust Agreement or the Sublease shall have the same meanings when used herein.

**Section 2.** The District and the Authority shall deliver or cause to be delivered to the Underwriter, within seven Business Days from the date hereof, a reasonable number of copies (as requested by the Underwriter) of the Official Statement, dated the date hereof, relating to the Bonds, in order to permit the Underwriter to comply with the obligations of the Underwriter pursuant to the rules of the Municipal Securities Rulemaking Board and Rule 15c2-12(b)(4) under the Securities Exchange Act of 1934, as amended, including, without limitation, as necessary to accompany any confirmation requesting payment from any customers of the Underwriter. In connection with the covenant and agreement of the District set forth in this section, the Underwriter agrees to file the Official Statement (including the Official Statement as it may be amended or supplemented) with the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access system within one Business Day after receipt from the District, but in no event later than the Closing Date. The Official Statement (the Official Statement, including the cover page, inside cover page, the appendices and any amendments or supplements thereto and all information incorporated therein by reference, is referred to herein as the "Official Statement") shall be approved for distribution by a resolution of the Board of Trustees of the District (the "District Resolution") and a resolution adopted by the Board of Directors of the Authority (the "Authority Resolution" and, together with the District Resolution, the "Resolutions"). By acceptance of this Purchase Contract, the District and the Authority hereby authorize the use of copies of the Official Statement and the Preliminary Official Statement dated \_\_\_\_\_, 2009 (the "Preliminary Official Statement") in connection with the public offering and sale of the Bonds.

The Underwriter agrees to make a bona fide public offering of the Bonds at the initial offering prices or yields set forth on the inside cover of the Official Statement; however, the Underwriter reserves the right to make concessions to dealers and to change such initial offering prices or yields as the Underwriter shall deem necessary in connection with the marketing of the Bonds.

**Section 3.** At 8:00 a.m., Pacific time, on \_\_\_\_\_, 2009, or at such other time or on such earlier or later date upon which the District, the Authority and the Underwriter mutually agree (the "Closing"), the Trustee will deliver or cause to be delivered to The Depository Trust Company ("DTC")



in New York, New York, one fully registered book-entry bond for each maturity, duly executed, and the other documents hereinafter mentioned shall be delivered at the offices of Manatt, Phelps & Phillips, LLP, Los Angeles, California. CUSIP identification numbers shall be printed on the Bonds, but the failure to print such numbers on any of the Bonds or any error with respect thereto shall not constitute cause for a failure or refusal by the Underwriter to accept delivery of, or pay for, the Bonds in accordance with the terms of this Purchase Contract. The Underwriter will accept delivery of the Bonds and pay the purchase price thereof by federal funds wire payable to the order of the Trustee in an amount equal to the purchase price indicated in Paragraph 1, above. The Bonds will be made available to the Underwriter for inspection at such place as may be mutually agreed to by the Underwriter and the Authority, for checking prior to the Closing.

**Section 4.** The District represents, warrants and covenants to the Underwriter that:

(a) The District is a school district duly organized and validly existing under the Constitution and general laws of the State of California and has all necessary power and authority to enter into and perform its duties under the Trust Agreement, the Facility Lease, the Sublease, the Disclosure Certificate and this Purchase Contract (collectively, the “District Documents”), and, when executed and delivered by the respective parties thereto, the District Documents will constitute the legal, valid and binding obligations of the District enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors’ rights generally and by the application of equitable principles (whether in proceedings at law or in equity).

(b) The execution and delivery of the District Documents and compliance with the provisions thereof and the approval of the Official Statement, will not in any material respect conflict with, or constitute a breach of or default under, any law, administrative regulation, court decree, resolution or other agreement or document to which the District is subject or by which it or any of its property is bound.

(c) Except as may be required under blue sky or other securities laws of any state, and except as such have been obtained and are in full-force and effect, there is no consent, approval, authorization or other order of, or filing with, or certification by, any regulatory authority required in connection with the execution, delivery and sale or exchange of the Bonds, the execution and delivery of the District Documents or the consummation by the District of the other transactions contemplated by the Official Statement or this Purchase Contract.

(d) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to the best of the knowledge of the District, threatened against or affecting the District, (i) which would materially and adversely impact the District’s ability to complete the transactions described in or contemplated by the Official Statement, (ii) to restrain or enjoin the delivery of the Bonds or the payments to be made by the District pursuant to the Sublease, (iii) in any way contesting or affecting the validity of the District Documents or the Bonds or the transactions described in the Official Statement, or contesting in any way the completeness or accuracy of the Official Statement, or (iv) wherein an unfavorable decision, ruling or finding would materially and adversely affect the District or the validity or enforceability of the District Documents or the Bonds.

(e) The information relating to the District contained in the Official Statement is true and correct in all material respects and such information does not contain any untrue statement of a material fact or omit to state any 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 (except that no representation or warranty is made with respect to the information concerning the DTC Book-Entry System).

(f) The District shall cooperate with the Underwriter in endeavoring to qualify the Bonds for offering and sale under the securities or blue sky laws of such jurisdictions of the United States as the Underwriter may request; provided, however, that any expenses or costs shall be born by the Underwriter and that the District shall not be required to execute a special or general consent to service of process in any jurisdiction in which it is not now so subject or to qualify to do business in any jurisdiction where it is not now so qualified.

(g) By official action of the District prior to or concurrently with the execution of this Purchase Contract, the District has duly approved the distribution of the Official Statement and the Preliminary Official Statement and has duly authorized and approved the execution and delivery of, and the performance by the District of the obligations on its part contained in, the District Documents and the consummation by it of all other transactions with respect to the execution and delivery of the Bonds as contemplated by the Official Statement and this Purchase Contract, and, as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

(h) The District is not in breach of or default under any applicable law or administrative regulation of the State of California or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the District is a party or to which it or any of its property is otherwise subject which breach or default would have a material and adverse impact on the District's ability to perform its obligations under the District Documents, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument, which would have a material and adverse impact on the District's ability to perform its obligations under the District Documents.

(i) The District covenants with the Underwriter that so long as the Underwriter is required under Rule 15c2-12, adopted by the Securities and Exchange Commission ("Rule 15c2-12") or any amendment or successor thereto, to send any potential customer, on request, a copy of the Official Statement (the "Delivery Period"), if an event occurs, which might or would cause the information contained in the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit 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, the District shall notify the Underwriter of any such event of which it has knowledge, and if, in the opinion of the Underwriter, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the District shall cooperate with the Underwriter in the preparation of an amendment or supplement to the Official Statement in a form and in a manner approved by the Underwriter. All printing expenses thereby incurred during the Delivery Period shall be paid for by the District.

(j) If the information relating to the District, the Legal Documents or the Bonds contained in the Official Statement is amended or supplemented pursuant to the immediately preceding subparagraph, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such subparagraph) at all times subsequent thereto up to and including the end of the Delivery Period, the portions of the Official Statement so supplemented or amended will not contain any untrue statement of a material fact or omit 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.

(k) The District has never been and is not now in default as to the payment of principal or interest with respect to an obligation issued by the District or successor of the District or with respect to an obligation guaranteed by the District as guarantor or successor of a guarantor.

(l) The District has not failed in any material respect to comply with any undertaking to provide annual or material event disclosure pursuant to any undertaking under Rule 15c2-12.

(m) The District will undertake, pursuant to the Disclosure Certificate, to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the Final Official Statement.

(n) The District shall not take or omit to take, as appropriate, any action that would cause the Bonds not to be qualified school construction bonds for purposes of the Code or interest thereon to be subject to California personal income taxation.

(o) The District has, and has had, no financial advisory relationship with the Underwriter with respect to the Bonds, nor with any investment firm controlling, controlled by or under common control with the Underwriter.

**Section 5.** The Authority represents, warrants and covenants to the Underwriter that:

(a) The Authority is a joint powers authority, duly organized and existing pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California and an agreement entitled "Joint Powers Agreement," dated October 22, 1998 (the "JPA Agreement"), between the District and Community Facilities District No. 94-1 of the District.

(b) The Authority has all necessary power and authority to enter into and perform its duties under the Trust Agreement, the Facility Lease, the Sublease and this Purchase Contract (collectively, the "Authority Documents") and, when executed and delivered by the other parties thereto, the Authority Documents will constitute the legal, valid and binding obligations of the Authority enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles if equitable remedies are sought.

(c) The execution and delivery of the Authority Documents and compliance with the provisions thereof, and the approval of the Official Statement, will not in any material respect conflict with, or constitute a breach of or default under, any law, administrative regulation, court decree, resolution, bylaws, bond, note, loan agreement, lease purchase agreement, lease, installment purchase agreement or other agreement or document to which the Authority is subject or by which it or any of its property is bound.

(d) Except as may be required under Blue Sky or other securities laws of any state, there is no consent, approval, authorization or other order of, or filing with, or certification by, any regulatory authority having jurisdiction over the Authority, other than the approval and authorization of the Governing Board of the Authority, required for the issuance and sale of the Bonds, the execution and delivery of the Authority Documents or the consummation by the

Authority of the other transactions contemplated by the Official Statement and this Purchase Contract.

(e) There is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or, to the best of the knowledge of the Authority, threatened against or affecting the Authority, (i) which would materially and adversely impact the Authority's ability to complete the transactions described in or contemplated by the Official Statement, (ii) to restrain or enjoin the delivery of the Bonds or the payments to be made by the Authority pursuant to the Facility Lease, (iii) in any way contesting or affecting the validity of the Authority Documents or the Bonds or the transactions therein, or contesting in any way the completeness or accuracy of the Official Statement, or (iv) wherein an unfavorable decision, ruling or finding would materially and adversely affect the Authority or the validity or enforceability of the Authority Documents or the Bonds.

(f) The information in the Official Statement regarding the Authority is true and correct in all material respects and such information does 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 the light of the circumstances under which they were made, not misleading.

(g) By official action of the Authority prior to or concurrently with the execution hereof, the Authority has duly authorized and approved the execution and delivery of, and the performance by the Authority of the obligations on its part contained in, the Authority Documents and the consummation by it of all other actions to be taken by the Authority with respect to the execution and delivery of the Bonds as contemplated by the Official Statement and the Purchase Contract, and, as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

(h) The Authority is not in breach of or default under any applicable law or administrative regulation of the State of California or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or to which it or any of its property is otherwise subject which breach or default would have a material and adverse impact on the Authority's ability to perform its obligations under the Authority Documents, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument, which would have a material and adverse impact on the Authority's ability to perform its obligations under the Authority Documents.

(i) The Authority is not in default, nor has been in default at any time, as to the payment of principal or interest with respect to an obligation issued by the Authority or successor of the Authority or with respect to an obligation guaranteed by the Authority as guarantor or successor of a guarantor.

(j) The Authority shall not take or omit to take, as appropriate, any action that would cause the Bonds not to be qualified school construction bonds for purposes of the Code or interest thereon to be subject to California personal income taxation.

(k) The Authority has, and has had, no financial advisory relationship with the Underwriter with respect to the Bonds, nor with any investment firm controlling, controlled by or under common control with the Underwriter.

**Section 6.** The Underwriter represents to and agrees with the District and the Authority that, as of the date hereof and as of the date of the Closing:

(a) The Underwriter is duly authorized to execute this Purchase Contract and to take any action under this Purchase Contract required to be taken by it, and the undersigned officer of the Underwriter is duly authorized to sign this Purchase Contract on behalf of the Underwriter and to bind the Underwriter hereby.

(b) The Underwriter is in compliance with MSRB Rule G-37 with respect to the District, and is not prohibited thereby from acting as underwriter with respect to securities of the District.

(c) The Underwriter has, and has had, no financial advisory relationship with the District or the Authority with respect to the Bonds, and no investment firm controlling, controlled by or under common control with the Underwriter has or has had any such financial advisory relationship.

(d) The Underwriter has reasonably determined that the District's undertaking pursuant to Section 4(m) hereof and as specified in the Disclosure Certificate to provide continuing disclosure with respect to the Bonds is sufficient to effect compliance with Rule 15c2-12.

**Section 7.** The Underwriter has entered into this Purchase Contract in reliance upon the representations and warranties of the District and the Authority contained herein, the Bonds to be delivered pursuant hereto and the opinions of Manatt, Phelps & Phillips, LLP ("Bond Counsel"), counsel to the Trustee, and special tax counsel to the Authority required hereby. The Underwriter's obligations under this Purchase Contract are and shall be subject to the following further conditions:

(a) At the time of Closing, the Legal Documents shall be in full force and effect as valid and binding obligations between or among the various parties thereto, and the Legal Documents and the Official Statement shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Underwriter, the Authority and the District and there shall be in full force and effect such resolutions as, in the opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated hereby.

(b) At or prior to the Closing, the Underwriter shall receive the following documents, in each case satisfactory in form and substance to the Underwriter and its counsel:

(1) the approving opinion of Bond Counsel in substantially the form included as Appendix C to the Official Statement, dated the date of Closing, addressed to the Authority;

(2) a supplemental opinion (or opinions) of Bond Counsel, dated the Closing Date, in form and substance satisfactory to the Underwriter and Counsel to the Underwriter, addressed to the Authority and the Underwriter, to the effect that:

(i) the Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Trust Agreement is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended;

(ii) [the Authority Resolution was duly adopted and the Legal Documents and the Official Statement have been duly authorized, executed and delivered by the Authority and the District and, assuming due authorization, execution and delivery by the other parties thereto in the case of the Legal Documents, the Legal Documents constitute legal, valid and] the Purchase Contract has been duly executed and delivered by the Authority and the District, and (assuming due authorization, execution and delivery by and validity against the Underwriter), is a legal, valid and binding obligations of the Authority and the District enforceable in accordance with their respective terms, subject to (A) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting creditors' rights generally (including, without limitation, fraudulent conveyance laws), (B) the effect of general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law, (C) the exercise of judicial discretion in appropriate cases, (D) the limitations on legal remedies imposed on actions against public entities in the State, and (E) the application of State laws relating to conflicts of interest to which public entities are subject; and provided that no opinion need be expressed on indemnification provisions; and

(iii) the statements in the Official Statement on the cover page relating to tax exemption, description of the Bonds and security for the Bonds, and statements under the captions "THE BONDS," "SECURITY FOR AND SOURCES OF PAYMENT FOR THE BONDS," "FEDERAL TAX MATTERS," "GENERAL TAX MATTERS," "CONTINUING DISCLOSURE" and in APPENDIX A- "SUMMARY OF PRINCIPAL LEGAL DOCUMENTS," taken together insofar as such statements purport to summarize certain provisions of the Bonds, the Legal Documents and the approving opinion or opinions of such counsel, are true and accurate in all material respects;

(3) a certificate, signed by an official of the District, confirming to the Underwriter that the Preliminary Official Statement as of its date did not, and the Official Statement as of its date and at the time of Closing did not and does not, to the best of the knowledge of said official, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, and that there has been no material adverse change in the financial condition or affairs of the District which would make it unreasonable for the purchaser of the Bonds to rely upon the Official Statement in connection with the resale of the Bonds; excluding in each case any information contained therein relating to DTC or its book-entry only system; information contained therein describing the investment policy of the County of San Diego, its current portfolio holdings, and valuation procedures (as they relate to funds of the District held by the Treasurer-Tax Collector of the County of San Diego); information provided by the Underwriter regarding CUSIP numbers or the prices or yields at which the Bonds were re-offered to the public, as to all of which the District expresses no view.

(4) an opinion of special tax counsel to the Authority in substantially the form included as Appendix C to the Official Statement, dated the date of Closing, addressed to the Authority;

(5) an opinion of the District Counsel, dated the date of Closing, addressed to the District, the Authority and the Underwriter, covering the matters set forth in Appendix B hereto;

(6) the opinion of counsel to the Trustee, dated the date of Closing, addressed to the Underwriter, the Authority and the District covering the matters set forth in Appendix C hereto;

(7) an opinion of the District Counsel as counsel to the Authority, dated the date of Closing, addressed to the Authority, the District and the Underwriter, covering the matters set forth in Appendix D hereto;

(8) a certificate, dated the date of Closing, signed by a duly authorized official of the District, to the effect that:

(i) the representations, warranties and covenants of the District contained in this Purchase Contract are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing; and

(ii) the District has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied pursuant to the Legal Documents at or prior to the Closing;

(9) a certificate, dated the date of Closing, signed by a duly authorized official of the Authority, to the effect that:

(i) the representations, warranties and covenants of the Authority contained in this Purchase Contract are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing; and

(ii) the Authority has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied pursuant to the Legal Documents at or prior to the Closing;

(10) an executed or certified copy of the Legal Documents;

(11) an executed copy of the Official Statement;

(12) a certified copy of the general resolution of the Trustee authorizing the execution and delivery of certain documents by certain officers of the Trustee, which resolution authorizes the execution and delivery of the Bonds and the Trust Agreement;

(13) copies of the District Resolution adopted by the Board of Trustees of the District and certified by the District Secretary authorizing the execution and delivery of the Legal Documents to which the District is a party;

(14) copies of the Authority Resolution adopted by the Board of Directors of the Authority and certified by an authorized officer of the Authority authorizing the execution and delivery of the Legal Documents to which the Authority is a party;

(15) a tax certificate of the District and the Authority in form and substance acceptable to Bond Counsel and special tax counsel and, with respect to the Series 2009A Bonds, a separate tax certificate of the District and the Authority in form and substance acceptable to Bond Counsel and special tax counsel;

(16) the letter of [Standard & Poor's Ratings Service] to the effect that such rating agency has rated the Bonds “\_\_”, and that such rating has not been revoked or downgraded;

(17) evidence of arrangements for the issuance of a CTLA title insurance policy insuring the Authority's leasehold estate in the Property, subject only to Permitted Encumbrances, together with an endorsement providing for a Special Damages Calculation or similar amendment of the leasehold damages calculation to provide coverage at the principal amount of the Bonds, in form and substance acceptable to Bond Counsel, Underwriter's Counsel and the Underwriter;

(18) a certificate or certificates, dated the date of the Preliminary Official Statement, of the Authority and the District addressed to the Underwriter, to the effect that for purposes of compliance with Rule 15c2-12 of the Securities and Exchange Commission, the Authority and the District, respectively, deems the Preliminary Official Statement to be final as of its date;

(19) copies of the preliminary and final notices to the California Debt and Investment Advisory Commission relating to the Bonds; and

(20) a certificate of the Trustee, dated the Closing date, to the effect that:

(i) the Trustee is a national banking association duly organized and in good standing under the laws of the United States and has all necessary legal power and authority to enter into and perform its duties under the Trust Agreement;

(ii) the Trustee is duly authorized to enter into the Trust Agreement and to authenticate and deliver the Bonds to the Underwriter pursuant to the terms of the Trust Agreement and this Purchase Contract, and the Bonds have been duly authenticated and delivered by the Trustee in accordance with the Trust Agreement;

(iii) the execution and delivery of the Trust Agreement, and compliance with the provisions thereof, will not conflict with, or constitute a breach of or default under, any law, administrative regulation, court decree, resolution, charter, by-laws or other agreement to which the Trustee is subject or by which it is bound. No representation or warranty need be made as to any state or federal securities laws, or the tax consequences of any payment on any Bonds of any federal, state or local tax law; and

(iv) to the knowledge of the Trustee, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court or governmental agency, public board or body served on or threatened against or affecting the existence of the Trustee, or in any way contesting or affecting the validity or enforceability of the Bonds, or the Trust Agreement or contesting the



powers of the Trustee or its authority to enter into and perform its obligations under such documents wherein an unfavorable decision, ruling or finding would adversely affect the validity of such documents; and

(21) such additional legal opinions, certificates, proceedings, instruments and other documents as Bond Counsel may reasonably request to evidence compliance by the Trustee, the Authority and the District with legal requirements, the truth and accuracy, as of the time of Closing, of the representations contained herein and of the information contained in the Official Statement, and the due performance or satisfaction by the Trustee, the District and the Authority, at or prior to such time, of all agreements then to be performed and all conditions then to be satisfied.

(c) All matters relating to the Legal Documents, the Bonds and the sale thereof, and the consummation of the transactions contemplated by the Legal Documents shall have been approved by the Underwriter, such approval not to be unreasonably withheld.

If the conditions to the Underwriter's obligations contained in this Purchase Contract are not satisfied or if the Underwriter's obligations shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate and the Underwriter, the District and the Authority shall have no further obligations hereunder. In the event that the Underwriter fails (other than for a reason permitted by this Purchase Contract) to accept and pay for the Bonds at the Closing, an amount equal to one percent (1%) of the principal amount of the Bonds shall be full liquidated damages for such failure and for any and all defaults hereunder on the part of the Underwriter, and the acceptance of such amount shall constitute a full release and discharge of all claims and rights of the Trustee, the District and the Authority against the Underwriter.

**Section 8.** (a) *Termination by the Authority or the District.* In the event of the Authority's failure to deliver the Bonds at the Closing, or inability of the Authority or the District to satisfy the conditions to the obligations of the Underwriter contained herein (unless waived by the Underwriter), or if the obligations of the Underwriter shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate.

(b) *Termination by Underwriter.* The Underwriter may terminate this Purchase Contract, without any liability therefor, by notification to the Authority and the District if as of the Closing Date any of the following shall have had a material adverse effect on the marketability or market price of the Bonds, in the reasonable opinion of the Underwriter, upon consultation with the Authority and the District:

(1) There shall have occurred and be continuing the declaration of a general banking moratorium by any authority of the United States or the State of New York or the State of California;

(2) There shall be in force a general suspension of trading or other material restrictions not in force as of the date hereof on the New York Stock Exchange or other national securities exchange;

(3) Legislation shall have been enacted by the Congress of the United States, or passed by and still pending before either House of the Congress, or recommended or endorsed to the Congress for passage by the President of the United States, or favorably reported for passage to and still pending before either House of the Congress by any committee of such House to which such legislation has been referred for consideration, or

a decision shall have been rendered by a court of the United States, or the United States Tax Court, or a ruling or regulation shall have been issued by the U.S. Treasury, with respect to federal tax treatment of tax credits, federal taxation of interest received on securities of the general character of the Bonds, or legislation shall have been enacted by the State of California which renders interest on the Bonds not exempt from State of California personal income taxes, which in the reasonable opinion of the Purchaser materially adversely affects the marketability or market price of the Bonds;

(4) Legislation shall have been enacted, or a decision of a court of the United States shall have been rendered or any action shall have been taken by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction in the subject matter which, in the opinion of Bond Counsel, has the effect of requiring the contemplated distribution of the Bonds to be registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, or the Resolution or the Trust Agreement to be qualified under the Trust Indenture Act of 1939, as amended;

(5) The New York Stock Exchange or other national securities exchange, or any governmental authority, shall impose and there shall be in effect, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charges to the net capital requirements of, underwriters;

(6) Congress shall have made a formal declaration of war, or the President of the United States shall have ordered a new major engagement in or escalation of military hostilities, or there shall have occurred a declared national emergency that interrupts or causes disorder to the operation of the financial markets in the United States for a period of more than 30 days.

In the event the Underwriter shall fail (other than for a reason permitted by this Purchase Contract) to pay for the Bonds upon tender of the Bonds at the Closing, the Underwriter shall have no right in or to the Bonds.

**Section 9.** After the Closing the District will not adopt any amendment of or supplement to the Official Statement to which the Underwriter shall object in writing or which shall be disapproved by the Underwriter or counsel for the Underwriter.

**Section 10.** In connection with the underwriting of the Bonds, the District shall pay the following expenses from the proceeds of the Bonds, and to the extent or in the event not so paid such expenses shall be paid directly by the District:

(a) the cost of preparing, printing, executing and delivering the Bonds, including all expenses relating to the printing of CUSIP numbers on the Bonds and the CUSIP Service Bureau charge for the assignment of said numbers;

(b) the fees and expenses of the Trustee, including the fees and expenses of the Trustee's counsel;

(c) all fees charged by any rating agency for rating the Bonds;

(d) the cost of printing, distribution and delivery of the Official Statement; and

(e) the fees and disbursements of Bond Counsel to the District.

All out-of-pocket expenses of the Underwriter shall be paid by the Underwriter (including without limitation costs associated with qualifying the Bonds for sale under any state “Blue Sky” laws, California Debt and Investment Advisory Commission fees, sales and advertising expenses, and any other incidental expenses).

**Section 11.** Any notice or other communication to be given under this Purchase Contract may be given by delivering the same in writing to:

**The District**

San Dieguito Union High School District  
c/o San Dieguito Union High School District  
710 Encinitas Boulevard  
Encinitas, CA 92024  
Attn: Stephen G. Ma, Associate Superintendent of Business Services

**The Authority**

San Dieguito Public Facilities Authority  
c/o San Dieguito Union High School District  
710 Encinitas Boulevard  
Encinitas, CA 92024  
Attn: Stephen G. Ma, Treasurer

**The Underwriter**

E. J. De La Rosa & Co., Inc.  
101 Montgomery Street, Suite 2150  
San Francisco, CA 94104  
Attn: Ralph Holmes, Principal

All notices or communication given hereunder by any party shall be given and served upon each other party.

**Section 12.** This Purchase Contract is made solely for the benefit of the District, the Authority and the Underwriter (including the successors or assigns thereof) and no other person shall acquire or have any right hereunder or by virtue hereof. All representations, warranties and agreements in this Purchase Contract shall remain operative and in full force and effect, regardless of (a) delivery of and payment for any of the Bonds; and (b) any termination of this Purchase Contract.

**Section 13.** This Purchase Contract may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

**Section 14.** This Purchase Contract shall be governed by the laws of the State of California.

**Section 15.** If any provision of this Purchase Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Very truly yours,  
E. J. DE LA ROSA & CO., INC.

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

The foregoing is hereby agreed to  
and accepted as of the date first  
above written:

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

By: \_\_\_\_\_  
Its: Stephen G. Ma, Associate Superintendent of Business Services

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY

By: \_\_\_\_\_  
Its: Stephen G. Ma, Treasurer

**APPENDIX A**

**\$\_[\_\_\_\_\_]**

**SAN DIEGUITO PUBLIC FACILITIES AUTHORITY  
LEASE REVENUE BONDS, SERIES 2009A  
(QUALIFIED SCHOOL CONSTRUCTION BONDS)**

**\$\_[\_\_\_\_\_]**

**SAN DIEGUITO PUBLIC FACILITIES AUTHORITY  
LEASE REVENUE BONDS, SERIES 2009B  
(TAX-EXEMPT BONDS)**

**APPENDIX B**

**FORM OF OPINION OF DISTRICT COUNSEL**

[closing date]

San Dieguito Union High School District  
Encinitas, California

San Dieguito Public Facilities Authority  
Encinitas, California

U.S. Bank National Association  
Los Angeles, California

\$\_[\_\_\_\_\_]

San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009A  
(Qualified School Construction Bonds)

and

\$\_[\_\_\_\_\_]

San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009B  
(Tax-Exempt Bonds)

Ladies and Gentlemen:

I have served as counsel to the San Dieguito Union High School District (the "District") in connection with the issuance and sale by the San Dieguito Public Facilities Authority (the "Authority") of the \$\_[\_\_\_\_\_] aggregate principal amount of San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) (the "Series 2009A Bonds") and \$\_[\_\_\_\_\_] aggregate principal amount of San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds) (the "Series 2009B Bonds" and, together with the Series 2009A Bonds, the "Bonds"). As such counsel I have examined and am familiar with (i) the Joint Powers Agreement, dated October 22, 1998 (the "JPA Agreement"), between the District and the District and Community Facilities District No. 94-1 of the San Dieguito Union High School District, (ii) the Trust Agreement, dated as of December 15, 2009, between the Authority and U.S. Bank National Association, as trustee (the "Trustee"), (iii) the Facility Lease, dated as of December 15, 2009, between the District and the Authority (the "Facility Lease"), (iv) the Facility Sublease, dated as of December 15, 2009, between the Authority and the District (the "Sublease"), (v) the Continuing Disclosure Certificate, dated as of December 15, 2009, executed and delivered by the District (the "Continuing Disclosure Certificate"), (vi) the Bond Purchase Contract, dated \_\_\_\_\_, 2009, among the District, the Authority and E. J. De La Rosa & Co., Inc., as underwriter of the Bonds (the "Purchase Contract"); and (vii) an Official Statement of the Authority and the District relating to the Bonds, dated \_\_\_\_\_, 2009 (the "Official Statement"). In reviewing the documents and matters referred to above, the undersigned has assumed the genuineness of all documents and signatures presented and has not undertaken to verify independently, and has assumed, the accuracy of the factual matters represented, warranted or certified therein. The Trust Agreement, the Sublease, the Continuing Disclosure Certificate and the Purchase

Contract are referred to herein collectively as the “District Documents.” Terms used herein but not defined herein shall have the meanings assigned to them in the Purchase Contract.

Based upon the foregoing, it is my opinion that:

1. The District is a school district duly organized and validly existing under the Constitution and general laws of the State of California and has all necessary power and authority to enter into and perform its duties under the Trust Agreement, the Facility Lease, the Sublease, the Disclosure Certificate and the Purchase Contract.

2. The resolution of the Board of Trustees of the District (the “Resolution”) approving and authorizing the issuance of the Bonds, the execution and delivery by the District of the Trust Agreement, the Facility Lease, the Sublease and the Official Statement was duly adopted at a meeting of the Board of Directors of the District which were called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout.

3. To the best of my knowledge after reasonable investigation, except as disclosed in the Official Statement, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against or affecting the District, to restrain or enjoin the issuance of the Bonds or in any way contesting or affecting the validity of the Bonds, the Trust Agreement, the Facility Lease or the Sublease.

4. The issuance of the Bonds and execution and delivery of the Trust Agreement, the Facility Lease, the Sublease and the Official Statement, the adoption of the Resolution, and compliance by the District with the provisions of the foregoing, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute on the part of the District a breach or default under any agreement or other instrument to which the District is a party (and of which I am aware after reasonable investigation) or by which it is bound (and of which I am aware after reasonable investigation) or any existing law, regulation, court order or consent decree to which the District is subject.

5. Based upon examinations which we have made and our discussions in conferences with certain officials of the District and others with respect to the Official Statement and without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement (including the Appendices attached thereto), nothing has come to our attention which would lead us to believe that the information in the Official Statement relating to the District (other than financial and statistical data therein and incorporated therein by reference, and other than information relating to the DTC Book-Entry System, as to which no opinion is expressed) contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

I express no opinion as to any matter other than as expressly set forth above. Without limiting the generality of the foregoing, I specifically express no opinion as to the status of the Bonds or the interest thereon, the Trust Agreement, the Resolution or Official Statement under any federal securities laws or any state securities or “Blue Sky” law or any federal, state or local tax law. Further, I express no opinion with respect to any indemnification, contribution, choice of law, choice of forum or waiver provisions contained in the District Documents, and I express no opinion on the laws of any jurisdiction other than the State of California and the United States of America.

ITEM 18

This opinion is delivered to the District, the Trustee and Bond Counsel, and is solely for the benefit of such parties and is not to be used, circulated, quoted or otherwise referred to or relied upon by any other person or for any other purpose, except that Manatt, Phelps & Phillips, LLP, bond counsel to the Authority, may rely on this opinion and include it in the transcript of proceedings relating to the Bonds.

Very truly yours,



## APPENDIX C

### POINTS TO BE COVERED IN OPINION OF TRUSTEE COUNSEL

1. The Trustee is a national trust and savings association duly organized and validly existing under the laws of the United States.
2. The Trustee has taken all corporate action necessary to assume the duties and obligations of Trustee under the Trust Agreement.
3. The Trustee has lawful authority for the authentication of the Bonds and the Bonds have been duly executed by the Trustee and delivered in accordance with the Trust Agreement and are entitled to the benefits of the Trust Agreement.
4. The Trustee has qualified under the Trust Agreement to act thereunder.
5. The Trust Agreement has been duly authorized, executed and delivered by the Trustee and assuming due authorization, execution and delivery by the other parties thereto is the valid, legal and binding agreement of the Trustee, enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law).
6. No consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the execution and delivery by the Trustee of the Trust Agreement.

**APPENDIX D**

**FORM OPINION OF COUNSEL TO THE AUTHORITY**

[closing date]

San Dieguito Union High School District  
Encinitas, California

U.S. Bank National Association  
Los Angeles, California

\$\_[\_\_\_\_\_]  
San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009A  
(Qualified School Construction Bonds)

and

\$\_[\_\_\_\_\_]  
San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009B  
(Tax-Exempt Bonds)

Ladies and Gentlemen:

I have served as counsel to the San Dieguito Public Facilities Authority (the "Authority") in connection with the issuance and sale by the Authority of the \$\_[\_\_\_\_\_] aggregate principal amount of San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) (the "Series 2009A Bonds") and \$\_[\_\_\_\_\_] aggregate principal amount of San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds) (the "Series 2009B Bonds" and, together with the Series 2009A Bonds, the "Bonds"). As such counsel I have examined and am familiar with (i) the Joint Powers Agreement, dated October 22, 1998 (the "JPA Agreement"), between the San Dieguito Union High School District (the "District") and the District and Community Facilities District No. 94-1 of the San Dieguito Union High School District, (ii) the Trust Agreement, dated as of December 15, 2009, between the Authority and U.S. Bank National Association, as trustee (the "Trustee"), (iii) the Facility Lease, dated as of December 15, 2009, between the District and the Authority (the "Facility Lease"), (iv) the Facility Sublease, dated as of December 15, 2009, between the Authority and the District (the "Sublease"), (v) the Continuing Disclosure Certificate, dated as of December 15, 2009, executed and delivered by the District (the "Continuing Disclosure Certificate"), (vi) the Bond Purchase Contract, dated \_\_\_\_\_, 2009, among the District, the Authority and E. J. De La Rosa & Co., Inc., as underwriter of the Bonds (the "Purchase Contract"); and (vii) an Official Statement of the Authority and the District relating to the Bonds, dated \_\_\_\_\_, 2009 (the "Official Statement"). In reviewing the documents and matters referred to above, the undersigned has assumed the genuineness of all documents and signatures presented and has not undertaken to verify independently, and has assumed, the accuracy of the factual matters represented, warranted or certified therein. The Trust Agreement, the Sublease, and the Purchase Contract are referred to herein collectively

as the “Authority Documents.” Terms used herein but not defined herein shall have the meanings assigned to them in the Purchase Contract.

Based upon the foregoing, it is my opinion that:

1. The Authority is a joint exercise of powers agency duly organized and existing under the laws of the State of California.

2. The resolution of the Board of Directors of the Authority (the “Resolution”) approving and authorizing the issuance of the Bonds, the execution and delivery by the Authority of the Trust Agreement, the Facility Lease, the Sublease and the Official Statement was duly adopted at a meeting of the Board of Directors of the Authority which were called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout.

3. To the best of my knowledge after reasonable investigation, except as disclosed in the Official Statement, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against or affecting the Authority, to restrain or enjoin the issuance of the Bonds or in any way contesting or affecting the validity of the Bonds, the Trust Agreement, the Facility Lease or the Sublease.

4. The issuance of the Bonds and execution and delivery of the Trust Agreement, the Facility Lease, the Sublease and the Official Statement, the adoption of the Resolution, and compliance by the Authority with the provisions of the foregoing, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute on the part of the Authority a breach or default under any agreement or other instrument to which the Authority is a party (and of which I am aware after reasonable investigation) or by which it is bound (and of which I am aware after reasonable investigation) or any existing law, regulation, court order or consent decree to which the Authority is subject.

5. Based upon examinations which we have made and our discussions in conferences with certain officials of the Authority and others with respect to the Official Statement and without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement (including the Appendices attached thereto), nothing has come to our attention which would lead us to believe that the information in the Official Statement relating to the Authority (other than financial and statistical data therein and incorporated therein by reference, and other than information relating to the DTC Book-Entry System, as to which no opinion is expressed) contains an untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

I express no opinion as to any matter other than as expressly set forth above. Without limiting the generality of the foregoing, I specifically express no opinion as to the status of the Bonds or the interest thereon, the Trust Agreement, the Resolution or Official Statement under any federal securities laws or any state securities or “Blue Sky” law or any federal, state or local tax law. Further, I express no opinion with respect to any indemnification, contribution, choice of law, choice of forum or waiver provisions contained in the Authority Documents, and I express no opinion on the laws of any jurisdiction other than the State of California and the United States of America.

This opinion is delivered to the District, the Trustee and Bond Counsel, and is solely for the benefit of such parties and is not to be used, circulated, quoted or otherwise referred to or relied upon by any other person or for any other purpose, except that Manatt, Phelps & Phillips, LLP, bond counsel to

ITEM 18

the Authority, may rely on this opinion and include it in the transcript of proceedings relating to the Bonds.

Very truly yours,

EXHIBIT D

Form of Lease Agreement

Recording requested by  
and return to:

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
c/o Manatt, Phelps & Phillips, LLP  
11355 West Olympic Boulevard  
Los Angeles, California 90064

Attention: Masood Sohaili, Esq.

---

FACILITY LEASE

by and between the

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

and the

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY

Dated as of December 15, 2009

---

THIS TRANSACTION IS EXEMPT FROM FILING FEES PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 6103 AND  
TRANSFER TAXES PURSUANT TO CALIFORNIA REVENUE AND TAXATION CODE SECTION 11928

**TABLE OF CONTENTS**

	<b>Page</b>
SECTION 1. DEMISED PREMISES.....	2
SECTION 2. TERM .....	2
SECTION 3. RENTAL.....	2
SECTION 4. PURPOSE.....	2
SECTION 5. ENVIRONMENTAL LAW AND REGULATIONS .....	3
SECTION 6. ENVIRONMENTAL COMPLIANCE.....	4
SECTION 7. OWNER IN FEE.....	6
SECTION 8. ASSIGNMENTS AND SUBLEASES .....	6
SECTION 9. RIGHT OF ENTRY; EASEMENTS .....	6
SECTION 10. TERMINATION.....	6
SECTION 11. DEFAULT .....	7
SECTION 12. QUIET ENJOYMENT.....	7
SECTION 13. WAIVER OF PERSONAL LIABILITY .....	7
SECTION 14. TAXES.....	8
SECTION 15. EMINENT DOMAIN .....	8
SECTION 16. PARTIAL INVALIDITY .....	8
SECTION 17. NOTICES.....	8
SECTION 18. SECTION HEADINGS .....	8
SECTION 19. AMENDMENT.....	8
SECTION 20. EXECUTION.....	9

FACILITY LEASE

This Facility Lease, dated as of December 15, 2009 (this “Lease” or “Facility Lease”), by and between the SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, CALIFORNIA, a school district duly organized and existing under and by virtue of the laws of the State of California (herein called the “District”), as lessor, and the SAN DIEGUITO PUBLIC FACILITIES AUTHORITY, a public entity and agency, duly organized and existing pursuant to an Agreement entitled “Joint Exercise of Powers Agreement” by and between the San Dieguito Union High School District and Community Facilities District No. 94-1 of the San Dieguito Union High School District (the “Authority”), as lessee;

W I T N E S S E T H :

**WHEREAS**, the Board of Trustees (the “Board”) of the District has determined that it is necessary and desirable and that the prudent management of the fiscal affairs of the District requires that the District cause the Authority to execute and deliver lease revenue bonds entitled “San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds),” (the “Series A Bonds”) and the “San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds),” (the “Series B Bonds” and collectively with the Series A Bonds, the “Bonds”) pursuant to a Trust Agreement, dated as of December 15, 2009, by and between U.S. Bank National Association, as Trustee (herein called the “Trustee”) and the Authority (the “Trust Agreement”), and to apply the proceeds of sale to pay the rental under this Facility Lease, which the district will in turn apply to finance certain public school improvements (the “Project”);

**WHEREAS**, the District intends to lease to the Authority and the Authority intends to lease from the District the Facility described in Section 1 hereof;

**WHEREAS**, the District is the owner in fee of the Demised Premises and has sufficient right, title and interest to lease the Demised Premises and the Facility to the Authority hereunder;

**WHEREAS**, under a Facility Sublease, dated as of December 15, 2009, and recorded concurrently herewith (herein called the “Facility Sublease”), between the Authority and the District, the District will be obligated to make base rental payments for the sublease of the Facility located thereon; and

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED as follows:

SECTION 1. Demised Premises.

The District hereby leases to the Authority and the Authority hereby hires from the District, on the terms and conditions hereinafter set forth, (a) the real property situated in the San Dieguito Union High School District, State of California, and described in Exhibit A attached hereto and made a part hereof (herein called the “Demised Premises”), including the public school facilities and improvements situated thereon and the solar power facilities to be installed at La Costa Canyon High School as part of the Project (collectively with the Demised



Premises, the “La Costa Canyon Facility”) and (b) the solar power facilities to be installed at Canyon Crest Academy, situated in the San Dieguito Union High School District, State of California, as part of the Project (the “Canyon Crest Solar Facility” and collectively with the La Costa Canyon Facility, the “Facility”), together with any additional real property added to the Demised Premises by any supplement or amendment hereto, or any real property substituted for all or any portion of such property in accordance with this Lease and the Trust Agreement; subject, however, to any conditions, reservations, and easements of record or known to the District. Property constituting the “Facility” may be substituted or released hereunder so long as the requirements of Section 2.03, Section 2.04 or Section 7.03 of the Sublease are satisfied.

SECTION 2. Term.

The term of this Lease as to the Facility shall commence on [December 15], 2009 and shall end on [December 15, 2034] unless such term is extended or sooner terminated as hereinafter provided. If on such date the Base Rental Payments attributable to the Facility and all other amounts then due under the Facility Sublease shall not be fully paid, or if the rental or other amounts payable under the Facility Sublease shall have been abated at any time and for any reason, then the term of this Lease shall be extended until ten (10) days after the Base Rental Payments and all other amounts then due under the Facility Sublease shall be fully paid, except that the term of this Lease shall in no event be extended beyond ten (10) years after the initial termination date. If prior to such date the Base Rental Payments and all other amounts then due under the Facility Sublease shall be fully paid, the term of this Lease shall end ten (10) days thereafter or upon written notice by the District to the Authority, whichever is earlier.

SECTION 3. Rental

The Authority shall pay to the District from the proceeds of the Bonds as and for rental hereunder an amount, not less than \$[\_\_\_\_\_], equal to the sum of the proceeds of the Bonds to be transferred to the District for the Project and proceeds applied to pay costs of issuance of the Bonds.

SECTION 4. Purpose.

The Authority shall use the Facility solely for the purpose of leasing the Facility to the District pursuant to the Facility Sublease and for such purposes as may be incidental thereto; provided, that in the event of default by the District under the Facility Sublease the Authority may exercise the remedies provided in the Facility Sublease.

SECTION 5. Environmental Law and Regulations.

(a) Definitions used in this Section 5 and in Section 6.

“Asbestos Containing Materials” shall mean material in friable form containing more than one percent (1%) of the asbestiform varieties of (a) chrysotile (serpentine); (b) crocidolite (riebeckite); (c) amosite (cummington-itegrinerite); (d) anthophyllite; (e) tremolite; and (f) antinolite.

“Asbestos Operations and Maintenance Plan” shall mean that written plan for the Facility relating to monitoring and maintaining all Asbestos Containing Materials used or located on the Demised Premises.

“Environmental Regulations” shall mean all Laws and Regulations, now or hereafter in effect, with respect to Hazardous Materials, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, et seq.) (together with the regulations promulgated thereunder, “CERCLA”), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.) (together with the regulations promulgated thereunder, “RCRA”), the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. Section 11001, et seq.) (together with the regulations promulgated thereunder, “Title III”), the Clean Water Act, as amended (33 U.S.C. Section 1321, et seq.) (together with the regulations promulgated thereunder, “CWA”), the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.) (together with the regulations promulgated thereunder, “CAA”) and the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601, et seq.) (together with the regulations promulgated thereunder, “TSCA”), and any state or local similar laws and regulations and any so-called local, state or federal “superfund” or “superlien” law.

“Hazardous Materials” shall mean any material amount of flammable explosives, polychlorinated biphenyl compounds, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, asbestos or any Asbestos Containing Materials, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous, toxic, or regulated substances or related materials, as defined in CERCLA, RCRA, CWA, CAA, TSCA and Title III, and the regulations promulgated pursuant thereto, and in all other Environmental Regulations applicable to the District, any of the Demised Premises, the Facility or the business operations conducted by the District thereon.

“Laws and Regulations” shall mean any applicable law, regulation, code, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health, sanitation, air pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation, parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Facility.

(b) No portion of the Facility is located in an area of high potential incidence of radon which has an unventilated basement or subsurface portion which is occupied or used for any purpose other than the foundation or support of the Facility.

(c) The District has not received any notice from any insurance company which has issued a policy with respect to the Facility or from the applicable state or local government agency responsible for insurance standards (or any other body exercising similar functions) requiring the performance of any repairs, alterations or other work, which repairs, alterations or other work have not been completed at the Facility. The District has not received any notice of default or breach which has not been cured under any covenant, condition,

restriction, right-of-way, reciprocal easement agreement or other easement affecting the Demised Premises which is to be performed or complied with by it.

SECTION 6. Environmental Compliance.

(a) Neither the District nor the Authority shall use or permit the Facility or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, if necessary to maintain the improvements that are part of the Facility or where Hazardous Materials are involved in classroom or laboratory instruction appropriate for grades 9-12 and then, only in compliance with all Environmental Regulations, and any state equivalent laws and regulations, nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee and agent, the storage, transportation, disposal or use of Hazardous Materials or the pumping, spilling, leaking, disposing of, emptying, discharging or releasing (hereinafter collectively referred to as "Release") or threat of Release of Hazardous Materials on, from or beneath any part of the Facility or onto any other real property excluding, however, those Hazardous Materials in those amounts ordinarily found in the inventory of a high school building, the use, storage, treatment, transportation and disposal of which shall be in compliance with all Environmental Regulations. Upon the occurrence of any Release or threat of Release of Hazardous Materials, the District shall promptly commence and perform, or cause to be commenced and performed promptly, without cost to the Trustee, the Authority, all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials so Released, on, from or beneath any part of the Facility, in compliance with all Environmental Regulations. Notwithstanding anything to the contrary contained herein, underground storage tanks shall only be permitted subject to compliance with subsection (d) and only to the extent necessary to maintain the improvements that are part of the Facility.

(b) The District and the Authority shall comply with, and shall cause its tenants, subtenants, licensees, guests, invitees, contractors, employees and agents to comply with, all Environmental Regulations, and shall keep the Facility free and clear of any liens imposed pursuant thereto (provided, however, that any such liens, if not discharged, may be bonded). The District and the Authority shall cause all of District's subtenants, agents, licensees, employees, contractors, guests and invitees and the guests and invitees of all of the foregoing to comply with all Environmental Regulations with respect to the Facility; provided, however, that notwithstanding that a portion of this covenant is limited to the District and the Authority's use of its best efforts, the Authority and the District shall remain solely responsible for ensuring such compliance and such limitation shall not diminish or affect in any way the District and the Authority's obligations contained in subsection (c) hereof. Upon receipt of any notice from any Person with regard to the Release of Hazardous Materials on, from or beneath any part of the Facility, the District and the Authority shall give prompt written notice thereof to the Trustee (and, in any event, prior to the expiration of any period in which to respond to such notice under any Environmental Regulation).

(c) Irrespective of whether any representation or warranty contained in Section 5 is not true or correct, the District and the Authority shall, to the extent permitted by

law, defend, indemnify and hold harmless the Trustee and the Bondholders, its partners, depositors and each of its and their employees, agents, officers, directors, trustees, successors and assigns, from and against any claims, demands, penalties, fines, attorneys' fees (including, without limitation, attorneys' fees incurred to enforce the indemnification contained in this Section 6), consultants' fees, investigation and laboratory fees, liabilities, settlements (five (5) Business Days' prior notice of which the Authority or the Trustee, as appropriate, shall have delivered to the District and the Authority), court costs, damages, losses, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, occurring in whole or in part, arising out of, or in any way related to, (i) the presence, disposal, Release, threat of Release, removal, discharge, storage or transportation of any Hazardous Materials on, from or beneath any party of the Facility, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached (five (5) Business Days' prior notice of which the Authority or the Trustee, as appropriate, shall have delivered to the District and the Authority), or governmental order relating to Hazardous Materials on, from or beneath any part of the Facility, (iv) any violation of Environmental Regulations or subsection (a) or (b) hereof by it or any of its agents, tenants, employees, contractors, licensees, guests, subtenants or invitees, and (v) the imposition of any governmental lien for the recovery of environmental cleanup or removal costs. To the extent that the Authority or the District is strictly liable under any Environmental Regulation, its obligation to the Trustee, Bondholders and the other indemnitees under the foregoing indemnification shall likewise be without regard to fault on its part with respect to the violation of any Environmental Regulation which results in liability to any indemnitee. Its obligations and liabilities under this Section 6(c) shall survive any termination of the Facility Sublease or exercise of any remedies thereunder, and the satisfaction of all Bonds.

(d) The District and the Authority shall conform to and carry out a reasonable program of maintenance and inspection of any underground storage tanks, and shall maintain, repair, and replace such tanks only in accordance with Laws and Regulations, including but not limited to Environmental Regulations.

#### SECTION 7. Owner in Fee.

The District covenants that it is the owner in fee of the Demised Premises. The District further covenants and agrees that if for any reason this covenant proves to be incorrect, the District will either institute eminent domain proceedings to condemn the property or institute a quiet title action to clarify the District's title, and will diligently pursue such action to completion. The District further covenants and agrees that it will hold the Authority and the Bond owners harmless from any loss, cost or damages resulting from any breach by the District of the covenants contained in this Section.

#### SECTION 8. Assignments and Subleases.

Unless the District shall be in default under the Facility Sublease, the Authority may not assign its rights under this Lease or sublet the Facility, except pursuant to the Facility Sublease, without the written consent of the District, which consent may be withheld in the District's sole and absolute discretion. Upon the occurrence of a default by the District under the

Facility Sublease, the Authority may assign or sell its rights under this Lease or sublet the Facility, without the consent of the District.

SECTION 9. Right of Entry; Easements.

The District reserves the right for any of its duly authorized representatives to enter upon the Facility at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

The District agrees, upon written request from the Authority, to grant to the Authority a nonexclusive easement of ingress and egress for persons, vehicles and utilities, twenty (20) feet wide, from each parcel of the Demised Premises not having access to a public street, and appurtenant to such parcel, over property owned by the District to a public street. The District, at any time, may satisfy its obligation contained in the preceding sentence as to any such parcel of the Demised Premises by granting to the Authority an easement complying with the requirements of the preceding sentence from such parcel of the Demised Premises to a public street.

The District hereby grants to the Authority a nonexclusive easement over the real property described Exhibit B as necessary to access the parking lots of Canyon Crest Academy in order to construct and maintain the Canyon Crest Solar Facility.

SECTION 10. Termination.

The Authority agrees, upon the termination of this Lease, to quit and surrender the Facility in the same good order and condition as it was at the time of commencement of the term hereunder, reasonable wear and tear excepted, and the Authority further agrees that any permanent improvements and structures existing upon the Demised Premises or otherwise part of the Facility at the time of the termination of this Lease shall remain thereon and title thereto shall vest in the District.

Upon the exercise of the option to purchase set forth in Section 7.03 of the Facility Sublease and upon payment of the option price required by said section, the term of this Lease shall terminate as to the portion of the Facility being so purchased.

SECTION 11. Default.

In the event the Authority shall be in default in the performance of any obligation on its part to be performed under the terms of this Lease, which default continues for one hundred and eighty (180) days following notice and demand for correction thereof to the Authority and the Trustee, the District may exercise any and all remedies granted by law, except that no merger of this Lease and of the Facility Sublease shall be deemed to occur as a result thereof; provided, however, that the District shall have no power to terminate this Lease by reason of any default on the part of the Authority if such termination would affect or impair any assignment or sublease of all or any part of the Facility then in effect between the Authority and any assignee or subtenant of the Authority (other than the District under the Facility Sublease). So long as any such assignee or subtenant of the Authority shall duly perform the terms and

conditions of this Lease, such assignee or subtenant shall be deemed to be and shall become the tenant of the District hereunder and shall be entitled to all of the rights and privileges granted under any such assignment; provided, further, that so long as any Bonds are outstanding and unpaid in accordance with the terms thereof, the rentals or any part thereof payable to the Authority or Trustee shall continue to be paid to the Trustee on behalf of the Bond owners.

SECTION 12. Quiet Enjoyment.

The Authority at all times during the term of this Lease, shall peaceably and quietly have, hold and enjoy all of the Demised Premises then leased hereunder.

SECTION 13. Waiver of Personal Liability.

All liabilities under this Lease on the part of the Authority shall be solely liabilities of the Authority, as a public entity and agency, and the District hereby releases each and every member, director, officer, agent or employee of the Authority of and from any personal or individual liability under this Lease. No member, director, officer, agent or employee of the Authority shall at any time or under any circumstances be individually or personally liable under this Lease to the District or to any other party whomsoever for anything done or omitted to be done by the Authority hereunder.

The Authority and its members, directors, officers, agents, employees and assignees shall not be liable to the District or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about the Facility and the Project. The District, to the extent permitted by law, shall indemnify and hold the Authority and its members, directors, officers, agents, employees and assignees, harmless from, and defend each of them against, any and all claims, liens and judgments arising from the construction or operation of the Facility or the Project, including, without limitation, death of or injury to any person or damage to property whatsoever occurring in, on or about the Facility or the Project regardless of responsibility for negligence, but excepting the active negligence of the person or entity seeking indemnity.

SECTION 14. Taxes.

The District covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Facility.

SECTION 15. Eminent Domain.

In the event the whole or any part of the Demised Premises or the Facility is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of the then unpaid or outstanding Bonds and all other amounts due under the Trust Agreement and the Facility Sublease attributable to such part of the Facility and such amount shall be paid to the Trustee, and the balance of the award, if any, shall be paid to the District.

SECTION 16. Partial Invalidity.

If any one or more of the terms, provisions, covenants or conditions of this Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Lease shall be affected thereby, and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 17. Notices.

All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered or certified mail, return receipt requested, postage prepaid, in care of San Dieguito Union High School District, 710 Encinitas Boulevard, Encinitas, California 92024, in all cases with a copy to the Trustee, or to such other addresses as the respective parties may from time to time designate by notice in writing.

SECTION 18. Section Headings.

All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this lease.

SECTION 19. Amendment.

The Authority and the District may at any time agree to the amendment of this Lease; provided, however, that the Authority and the District agree and recognize that this Lease is entered into as contemplated by the terms of the Trust Agreement and, accordingly, that any such amendment shall only be made or effected in accordance with and subject to the terms of the Trust Agreement.

SECTION 20. Execution.

This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same Lease. It is also agreed that separate counterparts of this Lease may separately be executed by the District and the Authority, all with the same force and effect as though the same counterpart had been executed by both the District and the Authority.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, the District and the Authority have caused this Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

SAN DIEGUITO UNION HIGH SCHOOL  
DISTRICT, as Lessor

By \_\_\_\_\_  
Authorized District Representative

Attest:

By \_\_\_\_\_  
District Secretary

SAN DIEGUITO PUBLIC FACILITIES  
AUTHORITY, as Lessee

By \_\_\_\_\_  
Chair

Attest:

By \_\_\_\_\_  
Secretary



**EXHIBIT A**

**Description of Demised Premises**

[To be attached.]

**EXHIBIT B**

**Description of Canyon Crest Academy**

[To be attached]

EXHIBIT E

Form of Sublease Agreement

Recording requested by  
and return to:

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
c/o Manatt, Phelps & Phillips, LLP  
11355 West Olympic Boulevard  
Los Angeles, California 90064

Attention: Masood Sohaili, Esq.

---

FACILITY SUBLEASE

by and between

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY

and the

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

Dated as of December 15, 2009

---

THIS TRANSACTION IS EXEMPT FROM FILING FEES PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 6103 AND  
TRANSFER TAXES PURSUANT TO CALIFORNIA REVENUE AND TAXATION CODE SECTION 11928

**TABLE OF CONTENTS**

	<b>Page</b>
ARTICLE I	DEFINITIONS..... 1
SECTION 1.01.	Definitions..... 1
ARTICLE II	SUBLEASE OF DEMISED PREMISES AND PROJECT; TERM ..... 4
SECTION 2.01.	Sublease of Facility..... 4
SECTION 2.02.	Term; Occupancy..... 4
SECTION 2.03.	Substitution ..... 4
ARTICLE III	RENTAL PAYMENTS; USE OF PROCEEDS ..... 5
SECTION 3.01.	Base Rental Payments..... 5
SECTION 3.02.	Additional Payments..... 6
SECTION 3.03.	Fair Rental Value ..... 6
SECTION 3.04.	Payment Provisions..... 7
SECTION 3.05.	Appropriations Covenant..... 7
SECTION 3.06.	Rental Abatement..... 8
SECTION 3.07.	Use of Proceeds..... 8
ARTICLE IV	MAINTENANCE; ALTERATIONS AND ADDITIONS ..... 8
SECTION 4.01.	Maintenance and Utilities ..... 8
SECTION 4.02.	Changes to the Facility..... 9
SECTION 4.03.	Installation of District’s Equipment..... 9
ARTICLE V	INSURANCE..... 9
SECTION 5.01.	Fire and Extended Coverage Insurance ..... 9
SECTION 5.02.	Liability Insurance ..... 11
SECTION 5.03.	Rental Interruption or Use and Occupancy Insurance ..... 11
SECTION 5.04.	Worker’s Compensation ..... 12
SECTION 5.05.	Title Insurance. .... 12
SECTION 5.06.	Insurance Proceeds; Form of Policies..... 12
ARTICLE VI	DEFAULTS AND REMEDIES ..... 13
SECTION 6.01.	Defaults and Remedies ..... 13
SECTION 6.02.	Waiver..... 16
ARTICLE VII	EMINENT DOMAIN; PREPAYMENT ..... 16
SECTION 7.01.	Eminent Domain ..... 16

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
SECTION 7.02. Prepayment .....	17
SECTION 7.03. Sale of Personal Property .....	17
ARTICLE VIII COVENANTS .....	17
SECTION 8.01. Right of Entry .....	17
SECTION 8.02. Liens.....	18
SECTION 8.03. Quiet Enjoyment .....	18
SECTION 8.04. Authority Not Liabile.....	18
SECTION 8.05. Assignment and Subleasing .....	18
SECTION 8.06. Title to Facility.....	19
SECTION 8.07. Tax Covenants of the District .....	19
SECTION 8.09. Continuing Disclosure .....	20
SECTION 8.10. Taxes .....	20
SECTION 8.11. Authority’s Purpose .....	21
SECTION 8.12. Purpose of Sublease .....	21
ARTICLE IX DISCLAIMER OF WARRANTIES; VENDOR’S WARRANTIES; USE OF THE FACILITY .....	21
SECTION 9.01. Disclaimer of Warranties .....	21
SECTION 9.02. Vendor’s Warranties .....	21
SECTION 9.03. Use of the Facility.....	22
ARTICLE X MISCELLANEOUS .....	22
SECTION 10.01. Law Governing .....	22
SECTION 10.02. Notices .....	22
SECTION 10.03. Validity and Severability .....	23
SECTION 10.04. Net-Net-Net Lease .....	23
SECTION 10.05. Section Headings .....	23
SECTION 10.06. Amendment or Termination.....	23
SECTION 10.07. Execution .....	23
EXHIBIT A Description of the Facility .....	1
EXHIBIT B Base Rental Payment Schedule.....	1
EXHIBIT C The Project .....	1

## FACILITY SUBLEASE

This Facility Sublease, dated as of December 15, 2009, by and between SAN DIEGUITO PUBLIC FACILITIES AUTHORITY (the "Authority"), a joint exercise of powers authority duly organized and existing under and by virtue of the laws of the State of California, as lessor, and the SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, CALIFORNIA (the "District"), a school district duly organized and existing under and by virtue of the laws of the State of California, as lessee;

### WITNESSETH:

WHEREAS, the Board of Trustees (the "Board") of the District has determined that it is necessary and desirable and that the prudent management of the fiscal affairs of the District requires that the District cause the Authority to execute and deliver lease revenue bonds entitled "San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds)," (the "Series A Bonds") and the "San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds)," (the "Series B Bonds" and collectively with the Series A Bonds, the "Bonds") pursuant to a Trust Agreement, dated as of December 15, 2009, by and between U.S. Bank National Association, as Trustee (herein called the "Trustee") and the Authority (the "Trust Agreement");

WHEREAS, to facilitate the issuance and repayment of the Bonds, the District is leasing its La Costa Canyon High School and certain other property to the Authority pursuant to and as further described in a Facility Lease dated as of December 15, 2009, and recorded concurrently herewith (herein called the "Facility Lease"), between the District and the Authority;

WHEREAS, the Authority will apply the proceeds of the sale of the Bonds to pay the lease payment under the Facility Lease;

WHEREAS, the District will apply the lease payment received under the Facility Lease to finance certain public school improvements (the "Project");

WHEREAS, under this Facility Sublease, the District will be obligated to make base rental payments to the Authority for the sublease, from the Authority, of the Facility (as defined below);

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

#### SECTION 1.01. Definitions.

Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Sublease, have the meanings herein specified, which meanings shall be equally applicable to both the singular and plural forms of any of the terms herein defined. Capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Trust Agreement.

#### Additional Payments

The term “Additional Payments” means all amounts payable to the Authority or the Trustee or any other person from the District as Additional Payments pursuant to Section 3.02 hereof.

#### Authority

The term “Authority” means (i) San Dieguito Public Facilities Authority, acting as lessor hereunder; (ii) any surviving, resulting or transferee entity; and (iii) except where the context requires otherwise, any assignee of the Authority.

#### Base Rental Payments

The term “Base Rental Payments” means all amounts payable to the Authority from the District as Base Rental Payments pursuant to Section 3.01 hereof.

#### Base Rental Payment Schedule

The term “Base Rental Payment Schedule” means the schedule of Base Rental Payments payable to the Authority by the District pursuant to Section 3.01 hereof and attached hereto as Exhibit B. The Base Rental Payment Schedule shall be modified as provided herein in connection with any pre-payment of the Base Rental Payments.

#### Bonds

The term “Bonds” means the Bonds designated “San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds)” and “San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds)” issued by the Authority under and pursuant to Section 2.01 of the Trust Agreement.

#### Canyon Crest Solar Facility

The term “Canyon Crest Solar Facility” shall mean the solar power facilities to be installed at Canyon Crest Academy, situated in the San Dieguito Union High School District, State of California, as part of the Project.



District

The term “District” means the San Dieguito Union High School District, California, a school district duly organized and existing under and by virtue of the laws of the State of California.

Demised Premises

The term “Demised Premises” means that certain real property situated in the San Dieguito Union High School District, State of California, described in Exhibit A attached hereto and made a part hereof, together with any additional real property added thereto or substituted therefor in accordance with this Facility Sublease and the Trust Agreement by any supplement or amendment hereto; subject, however, to any conditions, reservations, and easements of record or known to the District.

Event of Default

The term “Event of Default” shall have the meaning specified in Section 6.01 hereof.

Facility

The term “Facility” shall mean the La Costa Canyon Facility and the Canyon Crest Solar Facility together with any additional real property added to the Demised Premises by any supplement or amendment hereto, or any property substituted for all or any portion of such property in accordance with this Sublease and the Trust Agreement; subject, however, to any conditions, reservations, and easements of record or known to the District.

Facility Lease

The term “Facility Lease” shall mean the Facility Lease dated as of December 15, 2009 whereby the District leases the Facility to the Authority, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions hereof and of the Trust Agreement.

Facility Sublease or Sublease

The term “Facility Sublease” or “Sublease” means this sublease, as originally executed and recorded or as it may from time to time be supplemented, modified or amended pursuant to the provisions hereof and of the Trust Agreement.

La Costa Canyon Facility

The term “La Costa Canyon Facility” shall mean the Demised Premises including the public school facilities and improvements situated thereon (including the solar power facilities to be installed at La Costa Canyon High School as part of the Project); subject, however, to any conditions, reservations, and easements of record or known to the District.

Project

The term “Project” means the various capital projects of the District, and payment of any costs associated with financing of said projects, as set forth in Exhibit C hereto, including, but not limited to, improvements to Canyon Crest Academy and La Costa Canyon High School and various other capital improvements and equipment within the District, as the same may be determined from time to time by the District.

Rental Payment Period

The term “Rental Payment Period” means the twelve month period commencing [December 16] of each year and ending the following December 15.

Series A Bonds

The term “Series A Bonds” means the Bonds designated “San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds)” issued by the Authority under and pursuant to Section 2.01 of the Trust Agreement.

Series B Bonds

The term “Series B Bonds” means the Bonds designated “San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds)” issued by the Authority under and pursuant to Section 2.01 of the Trust Agreement.

Trust Agreement

The term “Trust Agreement” means the Trust Agreement, dated as of December 15, 2009, by and between the Trustee and the Authority, and acknowledged by the District, pursuant to which the Trustee will execute and deliver the Bonds, as originally executed or as it may from time to time be supplemented, modified or amended by a Supplemental Trust Agreement entered into pursuant to the provisions of the Trust Agreement.

**ARTICLE II**

**SUBLEASE OF DEMISED PREMISES AND PROJECT; TERM**

SECTION 2.01. Sublease of Facility. The Authority hereby subleases to the District and the District hereby subleases from the Authority the Facility, including the Demised Premises, subject, however, to all easements, encumbrances, and restrictions that exist at the time of the commencement of the term of this Sublease. The District hereby agrees and covenants during the term of this Sublease that, except as hereinafter provided, it will use the Facility for public and District purposes so as to afford the public the benefits contemplated by this Sublease.

SECTION 2.02. Term; Occupancy. The term of this Sublease shall commence on the date of recordation of this Sublease in the office of the County Recorder of the County of San Diego, State of California, or on [December 16], 2009 whichever is earlier, and shall end on [December 15, 2034], unless such term is extended or sooner terminated as

hereinafter provided. If on such date, the Bonds and all other amounts then due hereunder shall not be fully paid, or if the rental payable hereunder shall have been abated at any time and for any reason, then the term of this Sublease shall be extended until all Bonds corresponding to the Base Rental Payments and all other amounts then due hereunder shall be fully paid, except that the term of this Sublease shall in no event be extended beyond ten (10) years after such initial termination date. If prior to such date, all Bonds and all other amounts then due hereunder shall be fully paid, or provision therefor made, the term of this Sublease shall end ten (10) days thereafter or upon written notice by the District to the Authority, whichever is earlier.

SECTION 2.03. Substitution. The District and the Authority may substitute real property in place of the Facility for purposes of the Facility Sublease, but only after the District shall have filed with the Authority and the Trustee, with copies to each rating agency then providing a rating for the Bonds, all of the following:

(a) Executed copies of the Facility Sublease or amendments thereto and the Facility Lease or amendments thereto containing the amended description of the Facility, including the Demised Premises, including the legal description of the Demised Premises as modified if necessary.

(b) A Certificate of the District with copies of the Facility Sublease and the Facility Lease, if needed, or amendments thereto containing the amended description of the Facility stating that such documents have been duly recorded in the official records of the County Recorder of the County of San Diego.

(c) A Certificate of the District, together with an appraisal performed by an independent appraiser, evidencing that the annual fair rental value of the Facility which will constitute the Facility after such substitution will be at least equal to 100% of the maximum amount of Base Rental Payments becoming due in the then current year ending December 15 or in any subsequent year ending December 15.

(d) A Certificate of the District stating that, based upon review of such instruments, certificates or any other matters described in such Certificate of the District, the District has good merchantable title to the Facility which will constitute the Facility after such substitution. The term "Good Merchantable Title" shall mean such title as is satisfactory and sufficient for the needs and operations of the District.

(e) A Certificate of the District stating that such substitution does not adversely affect the District's use and occupancy of the Facility.

(f) An Opinion of Counsel (as such term is defined in the Trust Agreement) stating that such amendment or modification (i) is authorized or permitted by the Constitution and laws of the State and the Trust Agreement; (ii) complies with the terms of the Constitution and laws of the State and of the Trust Agreement; (iii) will, upon the execution and delivery thereof, be valid and binding upon the Authority and the District; (iv) will not cause the loss of the federal tax credit associated with the Series A Bonds' status as Qualified School Construction Bonds for Federal Income Tax purposes or cause interest payable in respect of the Series A Bonds, if any, to be included in gross income for California state income tax purposes

and (v) will not adversely affect the exclusion from gross income for federal income tax purposes or the exemption from State personal income taxation of interest on any outstanding Series B Bonds.

SECTION 2.04. Release of Canyon Crest Solar Facility. Notwithstanding anything to the contrary contained herein, so long as the annual fair rental value of the Facility (without taking into account the Canyon Crest Solar Facility) will be at least equal to 100% of the maximum amount of Base Rental Payments becoming due in the then current year ending December 15 or in any subsequent year ending December 15 (as shown by an appraisal performed by an independent appraiser), the Canyon Crest Solar Facility shall be released from the provisions hereof at the request of the District.

### ARTICLE III

#### RENTAL PAYMENTS; USE OF PROCEEDS

SECTION 3.01. Base Rental Payments. The District agrees to pay the Authority, as Base Rental Payments for the use and occupancy of the Facility, including the Demised Premises (subject to the provisions of Sections 3.04, 3.06 and 7.01 of this Sublease) the rental payments in the amounts shown on the Base Rental Payment Schedule attached hereto as Exhibit B. Notwithstanding the obligation to pay the Authority, the Authority directs the District to remit the Base Rental Payments directly to the Trustee. The first Base Rental Payment shall be payable on [June 1], 2010, and subsequent Base Rental Payments shall be due on each succeeding [December 1] continuing until the date of termination of this Sublease. The first two Base Rental Payments collectively shall be for the use of the Facility for the year ending December 15, 2010 and each annual payment of Base Rental thereafter shall be for the use of the Facility for the year ending on the December 15 immediately following the date the Base Rental Payment is due.

If the term of this Sublease shall have been extended pursuant to Section 2.02 hereof, Base Rental Payments shall continue to be due on December 1 in each year, and payable prior thereto as hereinabove described, continuing to and including the date of termination of this Sublease. Upon such extension of this Sublease, the District shall deliver to the Trustee a Certificate setting forth the extended rental payment schedule so that the payments will in the aggregate be sufficient to pay in full the interest on, if any, and the principal of, the Bonds and to pay any Additional Payments due or to become due.

If at any time the Base Rental hereunder shall not have been paid by the District, for any reason whatsoever, and no other source of funds shall have been available to make the scheduled deposits to the Principal Account, the Base Rental shall be recalculated by the District to reflect interest not earned in the Principal Account, and a revised annual Base Rental Payment Schedule shall be calculated by the District and supplied to the Authority and the Trustee.

SECTION 3.02. Additional Payments. The District shall also pay such amounts (herein called the "Additional Payments") as shall be required by the Authority for the payment of all costs and expenses incurred by the Authority in connection with the execution, performance or enforcement of this Sublease and the Trust Agreement, in connection with its

interest in the Facility and the sublease of the Facility to the District, including but not limited to payment of all fees, costs and expenses and all administrative costs of the Authority related to the Facility including, without limiting the generality of the foregoing, salaries and wages of employees, all expenses, compensation and indemnification of the Trustee payable by the Authority under the Trust Agreement, fees of auditors, accountants, attorneys or architects, and all other necessary administrative costs of the Authority or charges required to be paid by it in order to maintain its existence or to comply with the terms of the Bonds or of the Trust Agreement; but not including in Additional Payments amounts required to pay the principal of or interest, if any, on the Bonds.

Such Additional Payments shall be billed to the District by the Authority or the Trustee from time to time, together with a statement certifying that the amount billed has been paid by the Authority or by the Trustee on behalf of the Authority, for one or more of the items above described, or that such amount is then payable by the Authority or the Trustee for such items. Amounts so billed shall be paid by the District to the billing party within 30 days after receipt of the bill by the District. The District reserves the right to audit billings for Additional Payments although exercise of such right shall in no way affect the duty of the District to make full and timely payment of all Additional Payments.

The Authority may in the future issue bonds and may in the future enter into leases to finance facilities other than the Project. The administrative costs of the Authority shall be allocated among said facilities and the Facility, as hereinafter in this paragraph provided. The fees of the Trustee under the Trust Agreement, and any other expenses directly attributable to the Facility shall be included in the Additional Payments payable hereunder. The fees of any trustee or paying agent under any Agreement securing bonds of the Authority or any trust agreement other than the Trust Agreement, and any other expenses directly attributable to any facilities other than the Facility, shall not be included in Additional Payments payable hereunder. Any expenses of the Authority not directly attributable to any particular project of the Authority shall be equitably allocated among all such projects, including the Project, in accordance with sound accounting practice. In the event of any question or dispute as to such allocation, the written opinion of an independent firm of certified public accountants, employed by the Authority to consider the question and render an opinion thereon, shall be a final and conclusive determination as to such allocation. The Trustee may conclusively rely upon the Written Request of the Authority, with the approval of an Authorized Officer of the District, or a duly authorized representative of the District, endorsed thereon, in making any determination that costs are payable as Additional Payments hereunder, and shall not be required to make any investigation as to whether or not the items so requested to be paid are expenses of operation of the Facility.

SECTION 3.03. Fair Rental Value. The Base Rental Payments and Additional Payments for each rental period during the term of this Sublease shall constitute the total rental for said rental period and shall be paid by the District in each rental payment period for and in consideration of the right of use and occupancy of, and continued quiet use and enjoyment of, the Facility, including the Demised Premises, during each such period for which said rental is to be paid. The parties hereto have agreed and determined that such total rental payable for each twelve-month period beginning [December 16] represents the fair rental value of the Facility, including the Demised Premises for each such period. In making such

determination, consideration has been given to the costs of acquisition, design, construction and financing of the Facility, other obligations of the parties under this Sublease, the uses and purposes which may be served by the Facility and the benefits therefrom which will accrue to the District and the general public.

SECTION 3.04. Payment Provisions. Each installment of rental payable hereunder shall be paid in lawful money of the United States of America to or upon the order of the Authority at the corporate trust office of the Trustee, or such other place as the Authority shall designate. Any such installment of rental accruing hereunder which shall not be paid when due and payable under the terms of this Sublease shall bear interest at the rate of twelve percent (12%) per annum, or such lesser rate of interest as may be permitted by law, from the date when the same is due hereunder until the same shall be paid. Notwithstanding any dispute between the Authority and the District, the District shall make all rental payments when due without deduction or offset of any kind and shall not withhold any rental payments pending the final resolution of such dispute. In the event of a determination that the District was not liable for said rental payments or any portion thereof, said payments or excess of payments, as the case may be, shall be credited against subsequent rental payments due hereunder, or shall be refunded at the time of such determination.

All payments received shall be applied first to the Base Rental Payments due hereunder and thereafter to all Additional Payments due hereunder, but no such application of any payments which are less than the total rental due and owing shall be deemed a waiver of any default hereunder.

Rental is subject to abatement as provided in Section 3.06.

Nothing contained in this Sublease shall prevent the District from making from time to time contributions or advances to the Authority for any purpose now or hereafter authorized by law, including the making of repairs to, or the restoration of, the Facility in the event of damage to or the destruction of the Facility.

SECTION 3.05. Appropriations Covenant. The District covenants to take such action as may be necessary to include all Base Rental Payments and Additional Payments due hereunder in its annual budgets, to make necessary annual appropriations for all Base Rental Payments and Additional Payments as shall be required to provide funds in each year for Base Rental Payments and Additional Payments. The District will deliver to the Authority and the Trustee within sixty (60) days of adoption of the District budget a Certificate of the District stating that the budget as adopted appropriates all moneys necessary for the payment of Base Rental Payments and Additional Payments hereunder. The covenants on the part of the District herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the District to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the District to carry out and perform the covenants and agreements in this Sublease agreed to be carried out and performed by the District.

The Authority and the District understand and intend that the obligation of the District to pay Base Rental Payments and Additional Payments hereunder shall constitute a

current expense of the District and shall not in any way be construed to be a debt of the District in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the District, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the District. Base Rental Payments and Additional Payments due hereunder shall be payable only from current funds which are budgeted and appropriated or otherwise legally available for the purpose of paying Base Rental Payments and Additional Payments or other payments due hereunder as consideration for use of the Facility. This Sublease shall not create an immediate indebtedness for any aggregate payments which may become due hereunder in the event that the term of the Sublease is continued. The District has not pledged the full faith and credit of the District, the State of California or any agency or department thereof to the payment of the Base Rental Payments and Additional Payments or any other payments due hereunder.

SECTION 3.06. Rental Abatement. The Base Rental Payments and Additional Payments shall be abated proportionately during any period in which by reason of any damage or destruction (other than by condemnation which is hereinafter provided for) there is substantial interference with the use and occupancy of the Facility by the District, in the proportion in which the initial cost of that portion of the Facility rendered unusable bears to the initial cost of the whole of the Facility, including the Demised Premises. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Sublease shall continue in full force and effect and the District waives any right to terminate this Sublease by virtue of any such damage or destruction.

SECTION 3.07. Use of Proceeds. The parties hereto agree that the proceeds of the Bonds will be used to finance the Project and to pay the costs of issuing the Bonds and incidental and related expenses.

## ARTICLE IV

### MAINTENANCE; ALTERATIONS AND ADDITIONS

SECTION 4.01. Maintenance and Utilities. During such time as the District is in possession of the Facility, all maintenance and repair, both ordinary and extraordinary, of the Facility shall be the responsibility of the District, which shall at all times maintain or otherwise arrange for the maintenance of the Facility in first class condition, and the District shall pay for or otherwise arrange for the payment of all utility services supplied to the Facility, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, ventilation, air conditioning, water and all other utility services, and shall pay for or otherwise arrange for payment of the cost of the repair and replacement of the Facility resulting from ordinary wear and tear or want of care on the part of the District or any assignee or sublessee thereof or from any other cause and shall pay for or otherwise arrange for the payment of all insurance policies required to be maintained with respect to the Facility. In exchange for the rental herein provided, the Authority agrees to provide only the Facility, including the Demised Premises.

SECTION 4.02. Changes to the Facility. Subject to Section 8.02 hereof, the District shall, at its own expense, have the right to remodel the Facility or to make additions, modifications and improvements to the Facility, including the Demised Premises. All such additions, modifications and improvements shall thereafter comprise part of the Facility and be subject to the provisions of this Sublease. Such additions, modifications and improvements shall not in any way damage the Facility or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Facility, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value which is at least equal to the value of the Facility immediately prior to the making of such additions, modifications and improvements.

SECTION 4.03. Installation of District's Equipment. The District and any sublessee may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Facility, including the Demised Premises. All such items shall remain the sole property of such party, in which neither the Authority nor the Trustee shall have any interest, and such items may be modified or removed by such party at any time provided that such party shall repair and restore any and all damage to the Facility resulting from the installation, modification or removal of any such items. Nothing in this Sublease shall prevent the District from purchasing items to be installed pursuant to this Section under a conditional sale or lease purchase contract, or subject to a vendor's lien or security agreement as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Facility.

## ARTICLE V

### INSURANCE

SECTION 5.01. Fire and Extended Coverage Insurance. The District shall procure or cause to be procured and maintain or cause to be maintained, throughout the term of this Sublease, insurance against loss or damage to any structures constituting any part of the Facility by fire and lightning, with extended coverage insurance, vandalism and malicious mischief insurance and sprinkler system leakage insurance and earthquake insurance (provided with respect to earthquake insurance, only if available on the open market from reputable insurance companies at a reasonable cost, as determined by the District). Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance shall be in an amount equal to the replacement cost (without deduction for depreciation) of all structures constituting any part of the Facility, excluding the cost of excavations, of grading and filling, and of the land (except that such insurance may be subject to deductible clauses for any one loss of not to exceed \$250,000 or comparable amount adjusted for inflation or more in the case of earthquake insurance), or, in the alternative, shall be in an amount and in a form sufficient (together with moneys held under the Trust Agreement), in the event of total or partial loss, to enable all outstanding Bonds to be redeemed.

In the event of any damage to or destruction of any part of the Facility, caused by the perils covered by such insurance, the Authority, except as hereinafter provided, shall cause



the proceeds of such insurance to be utilized for the repair, reconstruction or replacement of the damaged or destroyed portion of the Facility, and the Trustee shall hold said proceeds separate and apart from all other funds, in a special fund to be designated the "Insurance and Condemnation Fund," to the end that such proceeds shall be applied to the repair, reconstruction or replacement of the Facility to at least the same good order, repair and condition as they were in prior to the damage or destruction, insofar as the same may be accomplished by the use of said proceeds. The Trustee shall permit withdrawals of said proceeds from time to time upon receiving the Written Request of the Authority, stating that the Authority has expended moneys or incurred liabilities in an amount equal to the amount therein requested to be paid over to it for the purpose of repair, reconstruction or replacement, and specifying the items for which such moneys were expended, or such liabilities were incurred. Any balance of said proceeds not required for such repair, reconstruction or replacement shall be treated by the Trustee as Base Rental Payments and applied in the manner provided by Section 5.02 of the Trust Agreement. Alternatively, the Authority, at its option, with the written consent of the District, and if the proceeds of such insurance together with any other moneys then available for the purpose are at least sufficient to redeem an aggregate principal amount of outstanding Bonds, equal to the amount of Bonds attributable to the portion of the Facility so destroyed or damaged (determined by reference to the proportion which the cost of such portion of the Facility bears to the total cost of the Facility), may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Facility and thereupon shall cause said proceeds to be used for the redemption of outstanding Bonds pursuant to the provisions of the Trust Agreement. In that event the Base Rental shall be abated in the same proportion, except that the Base Rental shall not be less than the amount necessary to enable the Authority to make all necessary and appropriate payments on and related to the Bonds remaining Outstanding, including but not limited to annual deposits into the Principal Account (QSCB) and the Principal Account (Tax-Exempt) and its administrative costs.

The Authority and the District shall promptly apply for Federal disaster aid or State of California disaster aid in the event that the Facility is damaged or destroyed as a result of an earthquake occurring at any time. Any proceeds received as a result of such disaster aid shall be used to repair, reconstruct, restore or replace the damaged or destroyed portions of the Facility, or, at the option of the District and the Authority, to redeem outstanding Bonds in accordance with the terms of the Trust Agreement if such use of such disaster aid is permitted.

As an alternative to providing the insurance required by the first paragraph of this Section, or any portion thereof, the District may provide a self insurance method or plan of protection if and to the extent such self insurance method or plan of protection shall afford reasonable coverage for the risks required to be insured against, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by public entities in the State of California other than the District. So long as such method or plan is being provided to satisfy the requirements of this Sublease, there shall be filed annually with the Trustee a statement of an actuary, insurance consultant or other qualified person, stating that, in the opinion of the signer, the substitute method or plan of protection is in accordance with the requirements of this Section and, when effective, would afford reasonable coverage for the risks required to be insured against. There shall also be filed a Certificate of the District setting forth the details of such substitute method or plan. In the event of loss covered by any such self

insurance method, the liability of the District hereunder shall be limited to the amounts in the self insurance reserve fund or funds created under such method.

SECTION 5.02. Liability Insurance. Except as hereinafter provided, the District shall procure or cause to be procured and maintain or cause to be maintained, throughout the term of this Sublease, a standard comprehensive general liability insurance policy or policies in protection of the Authority and its members, directors, officers, agents and employees and the Trustee, indemnifying said parties against all direct or contingent loss or liability for damages for personal injury, death or property damage occasioned by reason of the operation of the Facility and of the Project, with minimum liability limits of \$1,000,000 for personal injury or death of each person and \$3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of \$200,000 for damage to property resulting from each accident or event. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the amount of \$3,000,000 covering all such risks. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance carried by the District.

As an alternative to providing the insurance required by the first paragraph of this Section, or any portion thereof, the District may provide a self insurance method or plan of protection if and to the extent such self insurance method or plan of protection shall afford reasonable protection to the Authority, its members, directors, officers, agents and employees and the Trustee, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by public entities in the State of California other than the District. So long as such method or plan is being provided to satisfy the requirements of this Sublease, there shall be filed annually with the Trustee a statement of an actuary, independent insurance consultant or other qualified person, stating that, in the opinion of the signer, the substitute method or plan of protection is in accordance with the requirements of this Section and, when effective, would afford reasonable protection to the Authority, its members, directors, officers, agents and employees and the Trustee against loss and damage from the hazards and risks covered thereby. There shall also be filed a Certificate of the District setting forth the details of such substitute method or plan.

SECTION 5.03. Rental Interruption or Use and Occupancy Insurance. The District shall procure or cause to be procured and maintain or cause to be maintained, rental interruption or use and occupancy insurance to cover loss, total or partial, of the rental income from or the use of the Facility as the result of any of the hazards covered by the insurance required by Section 5.01 hereof (provided with respect to earthquake insurance, only if available on the open market from reputable insurance companies at a reasonable cost, as determined by the District), in an amount sufficient to pay the part of the total rent hereunder attributable to the portion of the Facility rendered unusable (determined by reference to the proportion which the cost of such portion bears to the cost of the Facility) for a period of at least two years, except that such insurance may be subject to a deductible clause of not to exceed two hundred fifty thousand dollars (\$250,000) or a comparable amount adjusted for inflation (or more in the case of earthquake coverage). Any proceeds of such insurance shall be used by the Trustee to reimburse to the District any rental theretofore paid by the District under this Sublease attributable to such structure for a period of time during which the payment of rental under this Sublease is abated, and any proceeds of such insurance not so used shall be applied as provided in Section 3.01 (to

the extent required for Base Rental Payments) and in Section 3.02 (to the extent required for the payment of Additional Payments) and any remainder shall be treated as Revenue under the Trust Agreement.

SECTION 5.04. Worker's Compensation. The District shall also maintain worker's compensation insurance issued by a responsible carrier authorized under the laws of the State of California to insure its employees against liability for compensation under the Worker's Compensation Insurance and Safety Act now in force in California, or any act hereafter enacted as an amendment or supplement thereto. As an alternative, such insurance may be maintained as part of or in conjunction with any other insurance carried by the District. Such insurance may be maintained by the District in the form of self-insurance.

SECTION 5.05. Title Insurance. The District shall obtain, for the benefit of the Authority, upon the execution and delivery of this Sublease, title insurance on the Demised Premises, in an amount equal to the aggregate principal amount of the Bonds, issued by a company of recognized standing duly authorized to issue the same, subject only to (1) liens for taxes and assessments not yet delinquent; (2) effect of existing leases and subleases; (3) effect of this Sublease and the Lease, including any amendments thereto; (4) effect of zoning laws, ordinances and regulations, including but not limited to, applicable environmental regulations; (5) effect of all deeds and deed limitations described in the title policy; (6) easements, encumbrances, rights of way, mineral rights, drilling rights, and other rights, reservations, covenants, conditions or restrictions that exist of record as of the date of recordation of this Sublease; (7) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (8) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions that will not materially impair the use of the Demised Premises; and (9) all matters which would be revealed by an accurate survey of the Demised Premises.

SECTION 5.06. Insurance Proceeds; Form of Policies. All policies of insurance required by Sections 5.01 and 5.03 hereof shall name the District, the Authority and the Trustee as insured and shall contain a lender's loss payable endorsement in favor of the Trustee substantially in accordance with the form approved by the Insurance Services Office and the California Bankers Association. The Trustee shall, to the extent practicable, collect, adjust and receive all moneys which may become due and payable under any such policies, may compromise any and all claims thereunder and shall apply the proceeds of such insurance as provided in Sections 5.01 and 5.03. All policies of insurance required by this Sublease shall provide that the Trustee shall be given thirty (30) days notice of each expiration thereof or any intended cancellation thereof or reduction of the coverage provided thereby. The Trustee shall not be responsible for the sufficiency of any insurance herein required and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the District. The District shall pay when due the premiums for all insurance policies required by this Sublease, and shall promptly furnish evidence of such payments to the Authority.

The District will deliver to the Authority and the Trustee on or before July 15 in each year a written Certificate of an officer of the District stating whether such policies satisfy the requirements of this Sublease, setting forth the insurance policies then in force pursuant to

this Article, the names of the insurers which have issued the policies, the amounts thereof and the property and risks covered thereby, and, if any self-insurance program is being provided, the annual report of an actuary, independent insurance consultant or other qualified person containing the information required for such self-insurance program and described in Sections 5.01, 5.02 and 5.04. Delivery to the Trustee of the certificate under the provisions of this Section shall not confer responsibility upon the Trustee as to the sufficiency of coverage or amounts of such policies. If so requested in writing by the Trustee, the District shall also deliver to the Trustee certificates or duplicate originals or certified copies of each insurance policy described in such schedule.

Any policies of insurance provided by a commercial insurer to satisfy the requirements of Sections 5.01, 5.02 or 5.03 hereof shall be provided by a commercial insurer rated A or better by Best or in one of the two highest rating categories by Standard & Poor's.

## ARTICLE VI

### DEFAULTS AND REMEDIES

SECTION 6.01. Defaults and Remedies. (a) If the District shall fail to pay any rental payable hereunder when the same becomes due, time being expressly declared to be of the essence of this Sublease, or the District shall fail to keep, observe or perform any other term, covenant or condition contained herein to be kept or performed by the District for a period of sixty (60) days after notice of the same has been given to the District by the Authority or the Trustee or for such additional time as is reasonably required, in the sole discretion of the Authority, to correct the same, or upon the happening of any of the events specified in subsection (b) of this Section (any such case above being an "Event of Default"), the District shall be deemed to be in default hereunder and it shall be lawful for the Authority to exercise any and all remedies available pursuant to law or granted pursuant to this Sublease. Upon any such default, the Authority, in addition to all other rights and remedies it may have at law, shall have the option to do any of the following:

(1) To terminate this Sublease in the manner hereinafter provided on account of default by the District, notwithstanding any re-entry or re-letting of the Facility as hereinafter provided for in subparagraph (2) hereof, and to re-enter the Facility and remove all persons in possession thereof and all personal property whatsoever situated upon the Facility and place such personal property in storage in any warehouse or other suitable place located within San Diego County, California. In the event of such termination, the District agrees to surrender immediately possession of the Facility, without let or hindrance, and to pay the Authority all damages recoverable at law that the Authority may incur by reason of default by the District, including, without limitation, any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon the Facility and removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. Neither notice to pay rent or to deliver up possession of the Facility given pursuant to law nor any entry or re-entry by the Authority nor any proceeding in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Facility nor the appointment of a receiver upon initiative of the Authority to protect the Authority's interest under this Sublease shall of itself operate to terminate this

Sublease, and no termination of this Sublease on account of default by the District shall be or become effective by operation of law or acts of the parties hereto, or otherwise, unless and until the Authority shall have given written notice to the District of the election on the part of the Authority to terminate this Sublease. The District covenants and agrees that no surrender of the Facility or of the remainder of the term hereof or any termination of this Sublease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice.

(2) Without terminating this Sublease, (i) collect each installment of rent as it becomes due and enforce any other terms or provision hereof to be kept or performed by the District, regardless of whether or not the District has abandoned the Facility, or (ii) exercise any and all rights of entry and re-entry upon the Facility. In the event the Authority does not elect to terminate this Sublease in the manner provided for in subparagraph (1) hereof, the District shall remain liable and agrees to keep or perform all covenants and conditions herein contained to be kept or performed by the District and, if the Facility is not re-let, to pay the full amount of the rent to the end of the term of this Sublease or, in the event that the Facility is re-let, to pay any deficiency in rent that results therefrom; and further agrees to pay said rent and/or rent deficiency punctually at the same time and in the same manner as hereinabove provided for the payment of rent hereunder (without acceleration), notwithstanding the fact that the Authority may have received in previous years or may receive thereafter in subsequent years rental in excess of the rental herein specified, and notwithstanding any entry or re-entry by the Authority or suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such entry or re-entry or obtaining possession of the Facility. Should the Authority elect to enter or re-enter as herein provided, the District hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the District to re-let the Facility, or any part thereof, from time to time, either in the Authority's name or otherwise, upon such terms and conditions and for such use and period as the Authority may deem advisable, and to remove all persons in possession thereof and all personal property whatsoever situated upon the Facility and to place such personal property in storage in any warehouse or other suitable place located in the County of San Diego, California, for (to the extent permitted by law) the account of and at the expense of the District, and the District (to the extent permitted by law) hereby exempts and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon and re-letting of the Facility and removal and storage of such property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The District agrees that the terms of this Sublease constitute full and sufficient notice of the right of the Authority to re-let the Facility and to do all other acts to maintain or preserve the Facility as the Authority deems necessary or desirable in the event of such re-entry without effecting a surrender of this Sublease, and further agrees that no acts of the Authority in effecting such re-letting shall constitute a surrender or termination of this Sublease irrespective of the use or the term for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, in the event of such default by the District the right to terminate this Sublease shall vest in the Authority to be effected in the sole and exclusive manner provided for in sub-paragraph (1) hereof. The District further waives the right to any rental obtained by the Authority in excess of the rental herein specified and hereby conveys and releases such excess to the Authority as compensation to the Authority for its services in re-letting the Facility or any part thereof. The District further agrees to the extent permitted by law to pay the Authority the reasonable cost of any alterations or additions to the Facility necessary

to place the Facility in condition for re-letting immediately upon notice to the District of the completion and installation of such additions or alterations.

The District hereby waives any and all claims for damages caused or which may be caused by the Authority in re-entering and taking possession of the Facility as herein provided and all claims for damages that may result from the destruction of or injury to the Facility and all claims for damages to or loss of any property belonging to the District, or any other person, that may be in or upon the Facility.

(b) If (1) the District's interest in this Sublease or any part thereof be assigned or transferred, either voluntarily or by operation of law or otherwise, without the written consent of the Authority, as hereinafter provided for, or (2) the District or any assignee shall file any petition or institute any proceeding under any act or acts, state or federal, dealing with or relating to the subject or subjects of bankruptcy or insolvency, or under any amendment of such act or acts, either as a bankrupt or as an insolvent, or as a debtor, or in any similar capacity, wherein or whereby the District asks or seeks or prays to be adjudicated a bankrupt, or is to be discharged from any or all of the District's debts or obligations, or offers to the District's creditors to effect a composition or extension of time to pay the District's debts or asks, seeks or prays for reorganization or to effect a plan of reorganization, or for a readjustment of the District's debts, or for any other similar relief, or if any such petition or any such proceedings of the same or similar kind or character be filed or be instituted or taken against the District, or if a receiver of the business or of the property or assets of the District shall be appointed by any court, except a receiver appointed at the instance or request of the Authority, or if the District shall make a general or any assignment for the benefit of the District's creditors, or if (3) the District shall abandon or vacate the Facility, then the District shall be deemed to be in default hereunder.

(c) The Authority shall in no event be in default in the performance of any of its obligations hereunder or imposed by any statute or rule of law unless and until the Authority shall have failed to perform such obligations within sixty (60) days or such additional time as is reasonably required to correct any such default after notice by the District to the Authority properly specifying wherein the Authority has failed to perform any such obligation. In the event of default by the Authority, the District shall be entitled to pursue any remedy provided by law.

(d) In addition to the other remedies set forth in this Section, upon the occurrence of an Event of Default as described in this Section, the Authority shall be entitled to proceed to protect and enforce the rights vested in the Authority by this Sublease or by law. The provisions of this Sublease and the duties of the District and of its trustees, officers or employees shall be enforceable by the Authority by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction. Without limiting the generality of the foregoing, the Authority shall have the right to bring the following actions:

(1) Accounting. By action or suit in equity to require the District and its board members, officers and employees and its assigns to account as the trustee of an express trust.

(2) Injunction. By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the Authority.

(3) Mandamus. By mandamus or other suit, action or proceeding at law or in equity to enforce the Authority's rights against the District (and its board members, officers and employees) and to compel the District to perform and carry out its duties and obligations under the law and its covenants and agreements with the District as provided herein.

The exercise of any rights or remedies under this Sublease shall not permit acceleration of Base Rental Payments.

Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the single or partial exercise of any right, power or privilege hereunder shall not impair the right of the Authority to other or further exercise thereof or the exercise of any or all other rights, powers or privileges. The term "re-let" or "re-letting" as used in this Section shall include, but not be limited to, re-letting by means of the operation by the Authority of the Facility. If any statute or rule of law validly shall limit the remedies given to the Authority hereunder, the Authority nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

In the event the Authority shall prevail in any action brought to enforce any of the terms and provisions of this Sublease, the District agrees to pay a reasonable amount as and for attorney's fees incurred by the Authority in attempting to enforce any of the remedies available to the Authority hereunder, whether or not the action culminates in a judgment.

SECTION 6.02. Waiver. Failure of the Authority to take advantage of any default on the part of the District shall not be, or be construed as, a waiver thereof, nor shall any custom or practice which may grow up between the parties in the course of administering this instrument be construed to waive or to lessen the right of the Authority to insist upon performance by the District of any term, covenant or condition hereof, or to exercise any rights given the Authority on account of such default. A waiver of a particular default shall not be deemed to be a waiver of a similar or any subsequent default. The acceptance of rent hereunder shall not be, or be construed to be, a waiver of any term, covenant or condition of this Sublease.

## ARTICLE VII

### EMINENT DOMAIN; PREPAYMENT

SECTION 7.01. Eminent Domain. If the whole of the Facility, including the Demised Premises or so much thereof as to render the remainder unusable for the purposes for which it was used by the District shall be taken under the power of eminent domain, the term of this Sublease shall cease as of the day that possession shall be so taken. If less than the whole of the Facility shall be taken under the power of eminent domain and the remainder is usable for the purposes for which it was used by the District at the time of such taking, then this Sublease shall continue in full force and effect as to such remainder, and the parties waive the benefits of any law to the contrary, and in such event there shall be a partial abatement of the rental due

hereunder in an amount equal to the amount of Base Rental Payments attributable to the portion of the Facility taken (determined by reference to the proportion that the award in eminent domain bears to the total cost of the Facility), except that the Base Rental Payments shall not be less than the amount necessary to enable the Authority to make all necessary and appropriate payments on and related to the Bonds remaining Outstanding, including but not limited to annual deposits into the Principal Account (QSCB) and Principal Account (Tax-Exempt) and its administrative costs. So long as any of the Bonds shall be Outstanding, any award made in eminent domain proceedings for taking the Facility, including the Demised Premises or any portion thereof shall be paid to the Trustee and applied to the prepayment of the Base Rental Payments as provided in Section 7.02. Any such award made after all of the Base Rental Payments and Additional Payments have been fully paid, or provision therefor made, shall be paid to the to the District.

SECTION 7.02. Prepayment. (a) The District shall prepay on any date from insurance (including proceeds of title insurance) and eminent domain proceeds not applied for the replacement, repair or restoration of the damaged, destroyed, taken or affected portion of the Facility, to the extent provided in Sections 5.01 and 7.01 hereof, so much as it can of Base Rental Payments then unpaid, being an amount equal to the redemption payment of the maximum amount of Bonds redeemable from such proceeds, including the principal thereof and the interest thereon, if any, to the date of redemption, plus any applicable premium.

(b) Before making any prepayment pursuant to this article, the District shall, within five (5) days following the event creating such right or obligation to prepay, give written notice to the Authority and the Trustee describing such event and specifying the date on which the prepayment will be made, which date shall be not less than forty-five (45) days from the date such notice is given.

SECTION 7.03. Option to Purchase; Sale of Personal Property.

The District shall have the option to purchase the Authority's interest in any part of the Facilities upon payment of an option price consisting of moneys or securities satisfying the requirements of Section 11.01(b) of the Trust Agreement in an amount sufficient (together with the earnings and interest on such securities) to provide funds to pay the aggregate amount for the entire remaining term of this Sublease or the part of the total Base Rental Payments hereunder attributable to such part of the Facilities (determined by reference to the proportion that the acquisition cost of such part of the Facilities bears to the acquisition cost of all of the Facilities). Any such payment shall be made to the Authority on a Business Day and shall be treated as a prepayment of Base Rental Payments. Prior to exercising any such option, the District must first obtain an Opinion of Counsel to the effect that such purchase will not (a) cause the loss of the federal tax credit associated with the Series A Bonds' status as Qualified School Construction Bonds for Federal Income Tax purposes or cause interest payable in respect of the Series A Bonds, if any, to be included in gross income for California state income tax purposes and (b) adversely affect the exclusion from gross income for federal income tax purposes or the exemption from State personal income taxation of interest on any outstanding Series B Bonds Upon the making of such payment to the Authority, (a) the Base Rental Payments thereafter payable under this Sublease shall be reduced by the amount thereof attributable to such part of the Facilities and theretofore paid pursuant to this Section, (b) Section 3.06 and this Section of this Sublease shall not thereafter be applicable to such part of the Facilities, (c) the insurance



required by this Sublease need not be maintained as to such part of the Facilities, and (d) title to such part of the Facilities shall vest in the District and the term of this Sublease shall end as to such part of the Facilities.

In addition, the District, in its discretion, may request the Authority to sell or exchange any personal property which may at any time constitute a part of the Facility, and to release said personal property from this Sublease, if (a) in the opinion of the District the property so sold or exchanged is no longer required or useful in connection with the operation of the Facility, (b) the consideration to be received from the property is of a value substantially equal to the value of the property to be released, and (c) if the value of any such property shall, in the opinion of the Authority, exceed the amount of \$100,000, the Authority shall have been furnished a certificate of an independent engineer or other qualified independent professional consultant (satisfactory to the Authority) certifying the value thereof and further certifying that such property is no longer required or useful in connection with the operation of the Facility. In the event of any such sale, the full amount of the money or consideration received for the personal property so sold and released shall be paid to the Authority. Any money so paid to the Authority may, so long as the District is not in default under any of the provisions of this Sublease, be used upon the Written Request of the District to purchase personal property, which property shall become a part of the Facility subleased hereunder. The Authority may require such opinions, certificates and other documents as it may deem necessary before permitting any sale or exchange of personal property subject to this Sublease or before releasing for the purchase of new personal property money received by it for personal property so sold.

## ARTICLE VIII

### COVENANTS

SECTION 8.01. Right of Entry. The Authority and its assignees shall have the right to enter upon and to examine and inspect the Facility, including the Demised Premises during reasonable business hours (and in emergencies at all times) (a) to inspect the same, (b) for any purpose connected with the Authority's or the District's rights or obligations under this Sublease, and (c) for all other lawful purposes.

SECTION 8.02. Liens. In the event the District shall at any time during the term of this Sublease cause any changes, alterations, additions, improvements, or other work to be done or performed or materials to be supplied, in or upon the Facility, the District shall pay, when due, all sums of money that may become due for, or purporting to be for, any labor, services, materials, supplies or equipment furnished or alleged to have been furnished to or for the District in, upon or about the Facility and shall keep the Facility free of any and all mechanics' or materialmen's liens or other liens against the Facility or the Authority's interest therein. In the event any such lien attaches to or is filed against the Facility or the Authority's interest therein, the District shall cause each such lien to be fully discharged and released at the time the performance of any obligation secured by any such lien matures or becomes due, except that if the District desires to contest any such lien it may do so in good faith. If any such lien shall be reduced to final judgment and such judgment or such process as may be issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, the District shall forthwith pay and discharge said judgment. The District agrees to and shall, to the

maximum extent permitted by law, indemnify and hold the Authority and the Trustee and their respective members, directors, agents, successors and assigns, harmless from and against, and defend each of them against, any claim, demand, loss, damage, liability or expense (including attorney's fees) as a result of any such lien or claim of lien against the Facility or the Authority's interest therein.

SECTION 8.03. Quiet Enjoyment. The parties hereto mutually covenant that the District, by keeping and performing the covenants and agreements herein contained and not in default hereunder, shall at all times during the term of this Sublease peaceably and quietly have, hold and enjoy the Facility, including the Demised Premises without suit, trouble or hindrance from the Authority.

SECTION 8.04. Authority Not Liable. The Authority and its members, directors, officers, agents and employees shall not be liable to the District or to any other party whomsoever for any death, injury or damage that may result to any person or property by or from any cause whatsoever in, on or about the Facility or the Project. The District, to the extent permitted by law, shall indemnify and hold the Authority and its members, directors, officers, agents and employees, harmless from, and defend each of them against, any and all claims, liens and judgments arising from the construction or operation of the Facility or the Project, including, without limitation, death of or injury to any person or damage to property whatsoever occurring in, on or about the Facility or the Project regardless of responsibility for negligence, but excepting the active negligence of the person or entity seeking indemnity.

SECTION 8.05. Assignment and Subleasing. Neither this Sublease nor any interest of the District hereunder shall be mortgaged, pledged, assigned, sublet or transferred by the District by voluntary act or by operation of law or otherwise, except with the prior written consent of the Authority, which, in the case of subletting, shall not be unreasonably withheld; provided such subletting shall not (a) affect the federal tax credit associated with the Series A Bonds' status as Qualified School Construction Bonds for federal income tax purposes or the tax-exempt status of the interest, if any, on the Series A Bonds for California state law purposes and (b) adversely affect the exclusion from gross income for federal income tax purposes or the exemption from State personal income taxation of interest on any outstanding Series B Bonds. No such mortgage, pledge, assignment, sublease or transfer shall in any event affect or reduce the obligation of the District to make the Base Rental Payments and Additional Payments required hereunder.

SECTION 8.06. Title to Facility. During the term of this Sublease, the Authority shall hold a leasehold estate to the Facility and any and all additions which comprise fixtures, repairs, replacement or modifications thereof, except for those fixtures, repairs, replacements or modifications which are added thereto by the District and which may be removed without damaging the Facility, and except for any items added to the Facility by the District pursuant to Section 4.03 hereof. This provision shall not operate to the benefit of any insurance company if there is a rental interruption covered by insurance pursuant to Section 5.03 hereof.

Upon the termination or expiration of this Sublease, the Authority shall execute such conveyances, deeds and other documents as may be necessary to evidence the ownership of

the Facility, including the Demised Premises, by the District and to clarify the title of the District on the record thereof.

SECTION 8.07. Tax Covenants of the District. (a) The District shall not take any action or inaction, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstances within its control to arise or continue, if such action or inaction would cause the Series A Bonds to not be Qualified School Construction Bonds under Section 54A of the Code. Without limiting the generality of the forgoing, the District shall comply with the instructions and requirements of the Tax Certificate (QSCB), which is incorporated herein as if fully set forth herein. This covenant shall survive payment in full or defeasance of the Series A Bonds.

(b) In the event that at any time the District is of the opinion that for purposes of this Section it is necessary or helpful to restrict or limit the yield on the investment of any moneys held by the Authority under the Facility Sublease, or held by the Trustee under this Agreement, the District shall so instruct the Authority or the Trustee, as applicable, in writing, and the Authority and the Trustee shall take such action as may be necessary in accordance with such instructions.

(c) Notwithstanding any provisions of this Section, if the District shall provide to the Trustee an Opinion of Counsel that any specified action required under this Section is no longer required or that some further or different action is required in order for the Series A Bonds to be Qualified School Construction Bonds under Section 54A of the Code, the Trustee may conclusively rely on such opinion in complying with the requirements of this Section, and the covenants hereunder shall be deemed to be modified to that extent.

(d) The District covenants that, in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series B Bonds, and for no other purpose, it will satisfy, or take such actions as may be necessary to cause to be satisfied, each provision of the Code necessary to maintain such exclusion. In furtherance of this covenant, the District covenants to comply with the Tax Certificate (Tax-Exempt) as a source of guidance with respect to the requirements of the Code.

(e) The District covenants that no part of the proceeds of the Series B Bonds shall be used, directly or indirectly, to acquire any "investment property," as defined in Section 148 of the Code, and it shall not take or permit to be taken any other action or actions, which would cause the obligation represented by the Trust Agreement or by the Series B Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code, as in effect from time to time, or under applicable Treasury regulations promulgated thereunder. In order to assure compliance with the rebate requirements of Section 148 of the Code, the District further covenants that it will pay or cause to be paid to the United States Treasury Department the amounts necessary to satisfy the requirements of Section 148(f) of the Code, as required in the Tax Certificate (Tax-Exempt), and that it will establish such accounting procedures as are necessary to adequately determine, account for and pay over any such amount or amounts required to be paid to the United States in a manner consistent with requirements of Section 148 of the Code, such covenant to survive the termination of the Trust Agreement.

(f) The District covenants that it will not take any action or omit to take any action, which action or omission, would result in a loss of exclusion from gross income for purposes of federal income taxation, under Section 103(a) of the Code, of interest on the Series B Bonds.

(g) The District covenants that it will not use or permit the use of the proceeds of the Series B Bonds in such manner or to such extent as would result in a loss of exclusion of the interest on the Series B Bonds from gross income for federal income tax purposes under Section 103(a) of the Code.

(h) In furtherance of the covenants of the District set forth in Sections 8.07(d)-(g) above, the District will comply with the Tax Certificate (Tax-Exempt).

SECTION 8.08. Tax Covenants of the Authority. (a) The Authority shall not take any action or inaction, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstances within its control to arise or continue, if such action or inaction would cause the Series A Bonds to not be Qualified School Construction Bonds under Section 54A of the Code. Without limiting the generality of the forgoing, the Authority shall comply with the instructions and requirements of the Tax Certificate (QSCB), which is incorporated herein as if fully set forth herein. This covenant shall survive payment in full or defeasance of the Series A Bonds.

(b) In the event that at any time the Authority is of the opinion that for purposes of this Section it is necessary or helpful to restrict or limit the yield on the investment of any moneys held by the Trustee under this Agreement, the Authority shall so instruct the Trustee, in writing, and the Trustee shall take such action as may be necessary in accordance with such instructions.

(c) Notwithstanding any provisions of this Section, if the District shall provide to the Trustee an Opinion of Counsel that any specified action required under this Section is no longer required or that some further or different action is required in order for the Series A Bonds to be Qualified School Construction Bonds under Section 54A of the Code, the Trustee may conclusively rely on such opinion in complying with the requirements of this Section, and the covenants hereunder shall be deemed to be modified to that extent.

(d) The Authority covenants that, in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Series B Bonds, and for no other purpose, it will satisfy, or take such actions as may be necessary to cause to be satisfied, each provision of the Code necessary to maintain such exclusion. In furtherance of this covenant, the Authority covenants to comply with the Tax Certificate (Tax-Exempt) as a source of guidance with respect to the requirements of the Code.

(e) The Authority covenants that no part of the proceeds of the Series B Bonds shall be used, directly or indirectly, to acquire any "investment property," as defined in Section 148 of the Code, and it shall not take or permit to be taken any other action or actions, which would cause the obligation represented by the Trust Agreement or by the Series B Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code, as in effect from time to

time, or under applicable Treasury regulations promulgated thereunder. In order to assure compliance with the rebate requirements of Section 148 of the Code, the Authority further covenants that it will pay or cause to be paid to the United States Treasury Department the amounts necessary to satisfy the requirements of Section 148(f) of the Code, as required in the Tax Certificate (Tax-Exempt), and that it will establish such accounting procedures as are necessary to adequately determine, account for and pay over any such amount or amounts required to be paid to the United States in a manner consistent with requirements of Section 148 of the Code, such covenant to survive the termination of the Trust Agreement.

(f) The Authority covenants that it will not take any action or omit to take any action, which action or omission, would result in a loss of exclusion from gross income for purposes of federal income taxation, under Section 103(a) of the Code, of interest on the Series B Bonds.

(g) The Authority covenants that it will not use or permit the use of the proceeds of the Series B Bonds in such manner or to such extent as would result in a loss of exclusion of the interest on the Series B Bonds from gross income for federal income tax purposes under Section 103(a) of the Code.

(h) In furtherance of the covenants of the Authority set forth in Sections 8.08(d)-(g) above, the Authority will comply with the Tax Certificate (Tax-Exempt).

SECTION 8.09. Continuing Disclosure. The District hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Sublease, failure of the District to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder; however, the Trustee may (and, at the request of any [Participating Underwriter] (as defined in the Continuing Disclosure Agreement) or the Holders of at least 25% aggregate principal amount of Bonds Outstanding and provided satisfactory indemnification is provided to the Trustee, shall) or any Bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to compel the District to comply with its obligations under this Section 8.09.

SECTION 8.10. Taxes. The District shall pay or cause to be paid all taxes and assessments of any type or nature charged to the Authority or affecting the Facility or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the District shall be obligated to pay only such installments as are required to be paid during the term of this Sublease as and when the same become due.

The District shall also pay directly such amounts, if any, in each year as shall be required by the Authority for the payment of all license and registration fees and all taxes (including, without limitation, income, excise, license, franchise, capital stock, recording, sales, use, value-added, property, occupational, excess profits and stamp taxes), levies, imposts, duties, charges, withholdings, assessments and governmental charges of any nature whatsoever, together with any additions to tax, penalties, fines or interest thereon, including, without limitation, penalties, fines or interest arising out of any delay or failure by the District to pay any of the

foregoing or failure to file or furnish to the Authority or the Trustee for filing in a timely manner any returns, hereinafter levied or imposed against the Authority or the Facility, the rentals and other payments required hereunder or any parts thereof or interests of the District or the Authority or the Trustee therein by any governmental authority.

The District may, at the District's expense and in its name, in good faith contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority or the Trustee shall notify the District that, in the opinion of independent counsel, by nonpayment of any such items, the interest of the Authority in the Facility will be materially endangered or the Facility, or any part thereof, will be subject to loss or forfeiture, in which event the District shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority and the Trustee.

SECTION 8.11. Authority's Purpose. The Authority covenants that, prior to the discharge of this Sublease, it will not engage in any activities inconsistent with the purposes for which the Authority is organized.

SECTION 8.12. Purpose of Sublease. The District covenants that during the term of this Sublease, except as hereinafter provided, (a) it will use, or cause the use of, the Facility for public purposes and for the purposes for which the Facility is customarily used, (b) it will not vacate or abandon the Facility or any part thereof, and (c) it will not make any use of the Facility which would jeopardize in any way the insurance coverage required to be maintained pursuant to Article V hereof.

## ARTICLE IX

### DISCLAIMER OF WARRANTIES; VENDOR'S WARRANTIES; USE OF THE FACILITY

SECTION 9.01. Disclaimer of Warranties. THE AUTHORITY MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE FACILITY OR THE PROJECT, OR WARRANTY WITH RESPECT THERETO. THE DISTRICT ACKNOWLEDGES THAT THE AUTHORITY IS NOT A MANUFACTURER OF THE FACILITY OR THE PROJECT OR A DEALER THEREIN, THAT THE DISTRICT LEASES THE FACILITY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE DISTRICT. In no event shall the Authority be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Sublease or the existence, furnishing, functioning or the District's use of any item or products or services provided for in this Sublease.

SECTION 9.02. Vendor's Warranties. The Authority hereby irrevocably appoints the District its agent and attorney-in-fact during the term of this Sublease, so long as the District shall not be in default hereunder, to assert from time to time whatever claims and rights,

including warranties of the Facility or the Project, which the Authority may have against the manufacturers, vendors and contractors of the Facility or the Project. The District's sole remedy for the breach of such warranty, indemnification or representation shall be against the manufacturer or vendor or contractor of the Facility or of the Project, and not against the Authority, nor shall such matter have any effect whatsoever on the rights and obligations of the Authority with respect to this Sublease, including the right to receive full and timely payments hereunder. The District expressly acknowledges that the Authority makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties of the manufacturer, vendor or contractor.

SECTION 9.03. Use of the Facility. The District will not install, use, operate or maintain the Facility improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Sublease. The District shall provide all permits and licenses, if any, necessary for the installation and operation of the Facility. In addition, the District agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of the Facility) with all laws of the jurisdictions in which its operations may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Facility; provided, however, that the District may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Authority, adversely affect the estate of the Authority in and to the Facility or its interest or rights under this Sublease.

## ARTICLE X

### MISCELLANEOUS

SECTION 10.01. Law Governing. This Sublease shall be governed exclusively by the provisions hereof and by the laws of the State of California as the same from time to time exist.

SECTION 10.02. Notices. All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests, agreements or promises or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered mail, return receipt requested, postage prepaid:

If to the Authority or to the District:

c/o San Dieguito Union High School District  
710 Encinitas Boulevard  
Encinitas, California 92024

If to the Trustee: U.S. Bank National Association  
Corporate Trust Services  
633 West Fifth St., 24th Floor  
Los Angeles, California 90071

or to such other addresses as the respective parties may from time to time designate by notice in writing. A copy of any such notice or other document herein referred to shall also be delivered to the Trustee.

SECTION 10.03. Validity and Severability. If for any reason this Sublease shall be held by a court of competent jurisdiction to be void, voidable, or unenforceable by the Authority or by the District, or if for any reason it is held by such a court that any of the covenants and conditions of the District hereunder, including the covenant to pay rentals hereunder, is unenforceable for the full term hereof, then and in such event this Sublease is and shall be deemed to be a lease under which the rentals are to be paid by the District annually in consideration of the right of the District to possess, occupy and use the Facility, and all of the rental and other terms, provisions and conditions of this Sublease, except to the extent that such terms, provisions and conditions are contrary to or inconsistent with such holding, shall remain in full force and effect.

SECTION 10.04. Net-Net-Net Lease. This Sublease shall be deemed and construed to be a “net-net-net lease” and the District hereby agrees that the rentals provided for herein shall be an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 10.05. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Sublease.

SECTION 10.06. Amendment or Termination. The Authority and the District may at any time agree to the amendment or termination of this Sublease; provided, however, that the Authority and the District agree and recognize that payments under this Sublease have been pledged to the Bonds and other obligations of the Authority in accordance with the terms of the Trust Agreement, and accordingly, that any such amendment or termination shall only be made or effected in accordance with and subject to the terms of the Trust Agreement.

SECTION 10.07. Execution. This Sublease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same Sublease. It is also agreed that separate counterparts of this Sublease may separately be executed by the Authority and the District, all with the same force and effect as though the same counterpart had been executed by both the Authority and the District.



IN WITNESS WHEREOF, the Authority and the District have caused this Sublease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

SAN DIEGUITO PUBLIC FACILITIES  
AUTHORITY,  
as Lessor

By: \_\_\_\_\_  
Authorized Signatory

Attest:

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

SAN DIEGUITO UNION HIGH SCHOOL  
DISTRICT, CALIFORNIA,  
as Lessee

By \_\_\_\_\_  
Authorized Signatory

Attest:

By \_\_\_\_\_  
Secretary

**EXHIBIT A**

**Description of Demised Premises**

The real property in the San Dieguito Union High School District, County of San Diego, State of California, described as follows:

[To be provided.]

**EXHIBIT B**

**Base Rental Payment Schedule**

Date	Total Base Rental Payments
6/1/2010	\$
12/1/2010	
12/1/2011	
12/1/2012	
12/1/2013	
12/1/2014	
12/1/2015	
12/1/2016	
12/1/2017	
12/1/2018	
12/1/2019	
12/1/2020	
12/1/2021	
12/1/2022	
12/1/2023	
12/1/2024	
12/1/2025	
12/1/2026	
12/1/2027	
12/1/2028	
12/1/2029	
12/1/2030	
12/1/2031	
12/1/2032	
12/1/2033	
12/1/2034	

**EXHIBIT C**

**The Project**

The “Project” means the financing of various capital projects of the District, and payment of any costs associated with the financing of said projects, including, but not limited to, the installation of a solar power system at Canyon Crest Academy and at La Costa Canyon High School and various other capital improvements and equipment within the District, as the same may be determined from time to time by the District.

EXHIBIT F

Form of Preliminary Official Statement

OHS DRAFT  
11/02/09

ITEM 18

RATINGS: (See "RATINGS" herein)

NEW ISSUE  
FULL BOOK-ENTRY

*In the opinion of Manatt, Phelps & Phillips, LLP, Bond Counsel to the District ("Bond Counsel"), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, the Series 2009A Bonds are "qualified school construction bonds" within the meaning of Section 54F of the Code. Owners of Tax Credit Certificates, whether held as a stripped Tax Credit Certificate or as part of an unstripped Series 2009A Bond, as of the applicable credit allowance date (defined in Section 54A of the Code) are entitled, subject to the limitations of Code Section 54A, to a federal income tax credit for such taxable year. However, the amount of the Tax Credit will be treated as interest for federal tax purposes and will be included in gross income for all Owners of Tax Credit Certificates, whether held as a stripped Tax Credit Certificate or as part of an unstripped Series 2009A Bond, in accordance with each Owner's tax status. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Series 2009A Bonds. See "TAX MATTERS RELATING TO THE SERIES 2009A BONDS" herein.*

*In the opinion of Perry Israel, Special Tax Counsel, based upon an analysis of 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 Series 2009B Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and is exempt from State of California personal income taxes. In the further opinion of Special Tax Counsel, interest on the Series 2009B Bonds is not a specific preference item for purposes of the federal individual and corporate alternative minimum taxes nor is it included in adjusted current earnings when calculating corporate alternative minimum taxable income. Special Tax Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Series 2009B Bonds. See "TAX MATTERS RELATING TO THE SERIES 2009B BONDS."*

\$ \_\_\_\_\_ \*

**SAN DIEGUITO PUBLIC FACILITIES AUTHORITY  
LEASE REVENUE BONDS, SERIES 2009**

*consisting of*

\$[ \_\_\_\_\_ ]\*

**San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009A  
(Qualified School Construction Bonds)**

CUSIP No. \_\_\_\_\_ †

\$[ \_\_\_\_\_ ]\*

**San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009B  
(Tax-Exempt Bonds)**

CUSIP No. \_\_\_\_\_ †

		Series 2009A Bonds				
<b>Dated:</b>	<b>Date of Delivery</b>	<b>Tax Credit Rate:</b> ____%	<b>Interest Rate:</b> ____%	<b>Price:</b> ____%	<b>Maturity Date: December 15, 20__</b>	
		Series 2009B Bonds				
<b>Dated:</b>	<b>Date of Delivery</b>	<b>Interest Rate:</b> ____%	<b>Price:</b> ____%	<b>Maturity Date: December 15, 20__</b>		

**This cover page contains information for reference only. Investors must read the entire Official Statement to obtain information essential in making an informed investment decision. Capitalized terms used in this cover page shall have the meanings given such terms herein.**

The \$[ \_\_\_\_\_ ]\* San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) (the "Series 2009A Bonds") and \$[ \_\_\_\_\_ ]\* San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds) (the "Series 2009B Bonds" and, together with the Series 2009A Bonds, the "Bonds") are issued by the San Dieguito Public Facilities Authority (the "Authority") pursuant to a Trust Agreement, dated as of December 15, 2009 (the "Trust Agreement"), by and between the Authority and U.S. Bank National Association, as trustee, and secured by Base Rental Payments to be made by the San Dieguito Union High School District (the "District") for the use of certain real property and improvements (the "Facilities") pursuant to a Facility Sublease, dated as of December 15, 2009 (the "Facility Sublease"), by and between the District, as lessee, and the Authority, as lessor. The Series 2009A Bonds are designated as "qualified school construction bonds" pursuant to Section 54F of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of the Bonds will be used to (i) finance improvements to public high schools within the District and (iii) pay the costs incurred in connection with the issuance of the Bonds.

The District has covenanted under the Facility Sublease to make all Base Rental Payments and Additional Payments (collectively, the "Rental Payments") provided for therein, to include all such Rental Payments as a separate line item in its annual budgets, and to make the necessary annual appropriations for all such Rental Payments. The District's obligation to make Base Rental Payments is subject to abatement during any period in which, by reason of material damage to, or destruction or condemnation of, the Facilities, or any defect in title to the Facilities, there is substantial interference with the District's right to use and occupy any portion of the Facilities. See "RISK FACTORS—Abatement."

Interest on the Bonds is payable semiannually on June 15, and December 15 of each year, commencing on June 15, 2010. See "THE BONDS" herein.

The Bonds will be initially delivered in fully registered form and when issued will be registered initially in the name of Cede & Co., as nominee of The Depository Trust Company ("DTC"), New York, New York. So long as DTC or its nominee is the registered owner of the Bonds, purchases of the Bonds will be made in book-entry form only, through brokers and dealers who are, or who act through, DTC participants; beneficial owners of the Bonds will not receive physical delivery of Bond certificates; payment of the principal of and interest and any premium on the Bonds will be made directly to DTC or its nominee; and disbursement of such payments to DTC participants will be the responsibility of DTC and disbursement of such payments to the beneficial owners will be the responsibility of DTC participants. Purchases of the Series A Bonds may be made in the denomination of \$40,000 or any integral multiple thereof and purchases of the Series B Bonds may be made in the denomination of \$5,000 or any integral multiple thereof. See "APPENDIX G: BOOK-ENTRY SYSTEM" herein.

\* Preliminary; subject to change.

† CUSIP data included here is subject to Copyright 2009, American Bankers Association. CUSIP data included herein is provided by the Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. and is provided for convenience of reference only. None of the Authority, the District or the Underwriter shall be responsible for the selection or correctness of the CUSIP numbers set forth herein.

This Preliminary Official Statement and the information contained herein are subject to completion and amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the 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 the registration or qualification under the securities laws of such jurisdiction.

Each Series 2009A Bond is comprised of a principal component (the "Principal Component") and a tax credit component (a "Tax Credit Component"). Under the Code, the Owners of Series 2009A Bonds are allowed a credit against their federal income tax liability. See "THE BONDS—The Tax Credit Program" herein. The Tax Credit Component of a Series 2009A Bond is evidenced separately by a certificate attached to the related Series 2009A Bond (the "Tax Credit Certificate"). Under the Code, the ownership of Tax Credit Certificates related to a Series 2009A Bond may be separated or "stripped" from the Principal Component following which the Tax Credit Certificates and the remaining Principal Component would be separately registered by the Trustee. The Owner of a Tax Credit (defined herein) (as evidenced by either an unstripped Series 2009A Bond or a stripped Tax Credit Certificate) on each Tax Credit Allowance Date (defined herein) will be allowed a credit against the Owner's federal income tax liability. Owners may carry forward unused Tax Credits to future tax years but the related Tax Credit Certificates are not transferable after their respective Tax Credit Allowance Dates.

**The Series 2009A Bonds are subject to extraordinary mandatory redemption prior to maturity as described herein and extraordinary optional redemption if they lose their status as "qualified school construction bonds." The Series 2009B Bonds are subject to optional, mandatory and extraordinary mandatory redemption prior to maturity as described herein. See "THE BONDS—Redemption."**

The obligation of the District to make the Base Rental Payments does not constitute a debt of the District or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limit or restriction, and does not constitute an obligation for which the District or the State of California is obligated to levy or pledge any form of taxation or for which the District or the State of California has levied or pledged any form of taxation.

See "INTRODUCTION – Certain Investor Considerations Regarding Tax Credit Bonds" and "RISK FACTORS" for information that should be considered, in addition to the other matters set forth herein, in evaluating the investment quality of the Bonds.

*The Bonds will be offered when, as and if executed and delivered and received by the Underwriter, subject to the approval of legality by Manatt, Phelps & Phillips, LLP, Bond Counsel to the Authority. Certain legal matters will be passed upon for the District and the Authority by Laura D. Romano, Esq., as District and Authority Counsel; and for the Underwriter by Orrick, Herrington & Sutcliffe LLC, as Underwriter's Counsel. It is anticipated that the Bonds in definitive form will be available for delivery to DTC in New York, New York on or about \_\_\_\_\_, 2009.*

## **E.J. De La Rosa & Co., Inc.**

Dated: November \_\_, 2009

**MATURITY SCHEDULE\***

\$ \_\_\_\_\_  
San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009  
consisting of

\$( \_\_\_\_\_ )  
San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009A  
(Qualified School Construction Bonds)  
CUSIP No. \_\_\_\_\_<sup>†</sup>

[schedule of Series 2009A Bond CUSIP #s and Tax Credit Strip CUSIP #s and amounts to come]

\$( \_\_\_\_\_ )  
San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009B  
(Tax-Exempt Bonds)  
CUSIP No. \_\_\_\_\_<sup>†</sup>

[maturity schedule, CUSIP #s and amounts to come]

---

\* Preliminary, subject to change.

<sup>†</sup> CUSIP data included here is subject to Copyright 2009, American Bankers Association. CUSIP data included herein is provided by the Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. and is provided for convenience of reference only. None of the Authority, the District or the Underwriter shall be responsible for the selection or correctness of the CUSIP numbers set forth herein.



No dealer, broker, salesperson or other person has been authorized to give any information or to make any representation other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized. This Official Statement does not constitute an offer to sell or the solicitation of any 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.

This Official Statement is not to be construed as a contract with the purchasers of the Bonds. Statements contained in this Official Statement which involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as representations of facts.

The information set forth herein has been obtained from the Authority and the District and from other sources and is believed to be reliable but is not guaranteed as to accuracy or completeness. The information and expressions of opinions herein are subject to change without notice and neither the 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 Authority and the District since the date hereof. This Official Statement is submitted in connection with the sale of the Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose, unless authorized in writing by the Authority and the District. All summaries of the documents and laws are made subject to the provisions thereof and do not purport to be complete statements of any or all such provisions.

The Underwriter has provided the following sentence for inclusion in this Official Statement:

The Underwriter has reviewed the information in this Official Statement in accordance with, and as a part of, its responsibilities to investors under the 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.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

## **SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**

### **BOARD OF EDUCATION**

Joyce Dalessandro, *President*  
Linda Friedman, *Vice President*  
Barbara Groth, *Clerk*  
Deanna Rich, *Trustee*  
Beth Hergesheimer, *Trustee*

### **DISTRICT ADMINISTRATION**

Ken Noah, *Superintendent*  
Stephan G. Ma, *Associate Superintendent of Business Services*  
Eric Dill, *Executive Director, Business Services*  
John Addleman, *Director of Planning and Financial Management*

### **PROFESSIONAL SERVICES**

*Bond Counsel*  
Manatt, Phelps & Phillips, LLP  
Los Angeles, California

*Special Tax Counsel*  
Law Office of Perry Israel  
Sacramento, California

*District and Authority Counsel*  
Laura D. Romano, Esq.  
San Diego, California

*Trustee*  
U.S. Bank National Association  
Los Angeles, California

INTRODUCTION ..... 1

    The District ..... 1

    Certain Investor Considerations Regarding Tax Credit Bonds..... 2

THE BONDS ..... 2

    Authority for Issuance; Purpose..... 2

    General ..... 3

    Form and Registration of Bonds ..... 3

    Transfer of Bonds ..... 4

    The Tax Credit Program ..... 4

    Form, Registration and Transfer of Tax Credit Certificates ..... 5

    Tax Credit Stripping Permitted ..... 5

    Redemption ..... 5

SECURITY AND SOURCES OF PAYMENT FOR THE BONDS ..... 9

    General ..... 9

    Base Rental Payments ..... 10

    Additional Payments ..... 11

    Covenant to Appropriate Funds ..... 11

    Abatement ..... 11

    Reserve Fund ..... 12

    Insurance ..... 12

    Flow of Funds; Accumulation of Base Rental Payments in the Principal Account (QSCB)..... 15

DEMISED PREMISES AND THE FACILITY ..... 15

    Substitution or Release ..... 16

ESTIMATED SOURCES AND USES OF FUNDS ..... 17

BASE RENTAL PAYMENTS ..... 18

RISK FACTORS ..... 18

    General Considerations ..... 18

    Abatement ..... 19

    [Reserve Fund ..... 19

    [Absence of Earthquake and Flood Insurance ..... 19

    Limited Recourse on Default ..... 19

    No Acceleration Upon Default ..... 20

    Substitution or Release of Facility ..... 20

    Bankruptcy ..... 20

    Seismic Factors ..... 20

    Economic Conditions in California ..... 20

    No Liability of Authority to the Owners..... 21

THE AUTHORITY ..... 21

DISTRICT HISTORY, OPERATION AND FINANCIAL INFORMATION ..... 21

    Introduction ..... 21

    Board of Trustees ..... 21

    Superintendent and Administrative Personnel ..... 22

    State Funding of Education; State Budget Process ..... 22

    Local Sources of Education Funding ..... 28

Local Property Taxation ..... 29

Developer Fees ..... 35

Redevelopment Payments ..... 35

Significant Accounting Policies and Audited Financial Reports ..... 36

Budgets ..... 38

District Debt..... 40

Direct and Overlapping Debt ..... 41

San Diego County Treasury Pool ..... 45

CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND  
APPROPRIATIONS ..... 48

    Article XIII A of the California Constitution..... 48

    Article XIII B of the California Constitution..... 49

    Article XIII C and Article XIII D of the California Constitution ..... 49

    Statutory Limitations ..... 50

    Proposition 98 and Proposition 111 ..... 50

    Applications of Constitutional and Statutory Provisions ..... 51

    Future Initiatives ..... 52

RATINGS ..... 52

TAX MATTERS RELATING TO THE SERIES 2009A BONDS ..... 52

    Tax Opinion ..... 52

    Amount of Tax Credit ..... 53

    Limitation on Tax Credit ..... 54

    Carryover of Unused Tax Credit Amount..... 54

    Tax Credit Amount Included in Income as Deemed Interest..... 54

    Tax Credit’s Effect on Estimated Income Tax payments ..... 54

    State Income Tax Consequences ..... 55

TAX MATTERS RELATING TO THE SERIES 2009B BONDS ..... 55

CERTAIN LEGAL MATTERS..... 57

ABSENCE OF MATERIAL LITIGATION ..... 57

CONTINUING DISCLOSURE ..... 57

UNDERWRITING ..... 58

MISCELLANEOUS ..... 58

APPENDIX A SUMMARY OF PRINCIPAL LEGAL DOCUMENTS ..... 1

APPENDIX B DISTRICT 2007-08 AUDITED FINANCIAL STATEMENTS ..... 1

APPENDIX C-1 FORM OF BOND COUNSEL OPINION (SERIES 2009A BONDS) ..... 1

APPENDIX C-2 FORM OF BOND COUNSEL OPINION (SERIES 2009B BONDS) ..... 2

APPENDIX C-3 FORM OF SPECIAL TAX COUNSEL OPINION (SERIES 2009B BONDS) ..... 3

1

APPENDIX E COUNTY OF SAN DIEGO INVESTMENT POLICY ..... 1

APPENDIX F FORM OF SERIES 2009A BOND AND TAX CREDIT STRIP REQUEST ..... 1

APPENDIX G BOOK-ENTRY ONLY SYSTEM ..... 1

**OFFICIAL STATEMENT**

\$ \_\_\_\_\_\*

**San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009**  
*consisting of*

\$[\_\_\_\_\_]\*

**San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009A  
(Qualified School Construction Bonds)**

\$[\_\_\_\_\_]\*

**San Dieguito Public Facilities Authority  
Lease Revenue Bonds, Series 2009B  
(Tax-Exempt Bonds)**

**INTRODUCTION**

This Official Statement (which includes the cover page and Appendices hereto) (the "Official Statement"), provides certain information concerning the sale and delivery of the \$[\_\_\_\_\_] San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) (the "Series 2009A Bonds") and \$[\_\_\_\_\_] San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds) (the "Series 2009B Bonds" and, together with the Series 2009A Bonds, the "Bonds"). The Bonds are being issued by the San Dieguito Public Facilities Authority (the "Authority") pursuant to a Trust Agreement, dated as of December 15, 2009 (the "Trust Agreement"), by and between the Authority and U.S. Bank National Association (the "Trustee") and acknowledged by the San Dieguito Union High School District (the "District"). The Series 2009A Bonds are designated as "qualified school construction bonds" pursuant to Section 54F of the Internal Revenue Code of 1986, as amended (the "Code"). The District has received an allocation sufficient for the issuance of the Series 2009A Bonds from the California Department of Education (the "Department of Education") pursuant to the Code, and has authorized the Authority to use the allocation on the District's behalf. See "THE BONDS – Authority for Issuance; Purpose," "FEDERAL TAX CREDITS" and "GENERAL TAX MATTERS" herein. The Bonds are limited obligations of the Authority payable solely from certain revenues of the Authority, consisting primarily of Base Rental Payments (as defined herein) to be made by the District for the use of certain real property and improvements (the "Facilities"), as more fully described herein. The Facilities will be leased by the District from the Authority pursuant to a Facility Sublease, dated as of December 15, 2009 (the "Facility Sublease"), by and between the District, as lessee, and the Authority, as lessor.

This introduction is not a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement, including the cover page and appendices hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement. The sale and delivery of Bonds to potential investors is made only by means of this Official Statement.

**The District**

The District was formed in 1936 and is located along the Pacific Ocean in northern San Diego County (the "County"). The District serves students grades 7 through 12, and now covers approximately 85 square miles. Students from five feeder elementary school districts (Encinitas, Cardiff, Solana Beach, Del Mar and Rancho Santa Fe) are educated by the District. The District currently operates four high schools, four middle schools, one continuation high school and one adult education program. The District

---

\* Preliminary; subject to change.

estimates that total current enrollment is approximately 12,648 students. The District currently employs 541 certificated employees and 358 classified employees and 5 management employees (full-time equivalents).

For more complete information concerning the District, including certain financial information, see “DISTRICT HISTORY, OPERATION AND FINANCIAL INFORMATION” herein. The District’s audited financial statements for the fiscal year ended June 30, 2008 are included as Appendix B, and should be read in their entirety.

### **Certain Investor Considerations Regarding Tax Credit Bonds**

The Series 2009A Bonds and the related Tax Credit Certificates (defined herein) are issued pursuant to the American Recovery and Reinvestment Act of 2009 (the “Recovery Act”), and there is currently no secondary market for either the Series 2009A Bonds or the Tax Credit Certificates. There can be no assurance that a secondary market will develop or, if a secondary market does develop, that it will provide owners with liquidity or continue to exist for the full term of the Series 2009A Bonds. The Underwriter is under no obligation to make a secondary market for either the Series 2009A Bonds or the Tax Credit Certificates. If a secondary market develops, the Series 2009A Bonds and Tax Credit Certificates may be subject to greater price volatility than traditional municipal bonds.

The Tax Credits (defined herein) are not refundable tax credits; if an Owner of a Series 2009A Bond or a Tax Credit Certificate has gross income tax liability for a given year less than the amount of Tax Credits to which it is entitled for that tax year, then the Owner would be required to carry forward any unused Tax Credit to future tax years. See “GENERAL TAX MATTERS” below.

The Tax Credits to which an Owner is entitled on a particular Tax Credit Allowance Date (defined herein) are not transferable after such Tax Credit Allowance Date. To the extent that an Owner is not a U.S. taxpayer or does not now or will not in the future have a federal income tax liability, and owns a Series 2009A Bond or a Tax Credit Certificate on a Tax Credit Allowance Date, the related Tax Credit cannot be utilized. There can be no assurance that an Owner would be able to sell a Series 2009A Bond or a Tax Credit Certificate prior to the related Tax Credit Allowance Date.

Because of the developing nature of practices and regulations related to the qualified school construction bond provisions of the Recovery Act, the Authority and the Trustee (defined herein) may, following the date of delivery of the Series 2009A Bonds, make changes to the transfer, exchange, stripping or other provisions of the Trust Agreement (defined herein) related to the Series 2009A Bonds as additional guidance is provided by the Internal Revenue Service (“IRS”).

## **THE BONDS**

### **Authority for Issuance; Purpose**

The Bonds are issued pursuant to the Constitution and the laws of the State of California (the “State”), including the Joint Exercise of Powers Act (being Articles 1 through 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State) (the “Act”), resolutions adopted by the Authority and the District, and the Trust Agreement to (i) finance improvements to public schools within the District (the “Project”) and (ii) pay the costs incurred in connection with the issuance of the Bonds. The Series 2009A Bonds are designated as “qualified school construction bonds” under Section 54F of the Code.

The total amount of qualified school construction bonds authorized nationally for calendar year 2009 is limited by the Code to \$11 billion. A portion of such limit has been allocated to the State of

California (the “State”) in the amount of \$773,000,000 (the “State Allocation”), and a portion of the State Allocation has been allocated to the District by the Department of Education in the amount of \$25,000,000 (the “District Allocation”). The District authorized the Authority to use the allocation on the District’s behalf in issuing the Series 2009A Bonds.

Because the Series 2009A Bonds are designated as qualified school construction bonds under Section 54F of the Code (“Section 54F”), their proceeds may be applied only for qualified expenditures under the Recovery Act. Section 54F requires that the proceeds of qualified school construction Series 2009A Bonds, such as the Series 2009A Bonds, be applied solely to the construction, rehabilitation or repair of a public school facility, or the acquisition of land on which such a facility is to be constructed and to payment of costs of issuance not in excess of 2% of the issue price of said bonds. IRS Notice 2009-35, released April 3, 2009, provided that bond proceeds may also be expended for “costs of acquisition of equipment to be used in such portion or portions of the public school facility that is being constructed, rehabilitated or repaired” with the proceeds of the related qualified school construction bonds. See “THE PROJECT” herein.

### **General**

The Series 2009A Bonds will be dated their date of delivery, and will be issued in fully registered form without coupons, in the denomination of \$40,000 or any integral multiple of \$40,000. The Series 2009A Bonds will mature on December 15, 20\_\_ (the “Principal Payment Date”), and will bear interest at the rate (calculated on the basis of a 360 day year composed of twelve 30 day months), as shown on the cover page hereof, payable on June 15, and December 15 of each year, commencing June 15, 2010 (each an “Interest Payment Date”). In addition, Owners of the Series 2009A Bonds or, if stripped, Tax Credit Certificates, are allowed a credit against their federal income tax liability as more fully described herein. See “- The Tax Credit Program” herein.

The Series 2009B Bonds will be dated their date of delivery, and will be issued in fully registered form without coupons, in the denomination of \$5,000 and any integral multiple thereof. The Series 2009B Bonds will mature and bear interest at the rates per annum (calculated on the basis of a 360 day year composed of twelve 30 day months) set forth on the inside cover page hereof. Interest on the Series 2009B Bonds shall also be payable on each Interest Payment Date.

Each Bond authenticated and registered on any date prior to the close of business on the first Record Date shall bear interest from the date of said Bond. Each Bond authenticated during the period between any Record Date and the close of business on its corresponding Interest Payment Date shall bear interest from such Interest Payment Date. Any other Bond shall bear interest from the Interest Payment Date immediately preceding the date of its authentication. If, at the time of authentication of any Bond, interest is in default on outstanding Bonds, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on the outstanding Bonds.

While the Bonds are subject to the Book-Entry System, payments of principal and interest with respect to the Bonds will be made by the Trustee to DTC, which in turn is obligated to remit such principal and interest to its DTC Participants for subsequent disbursement to beneficial owners of the Bonds as described herein. See “APPENDIX G: BOOK-ENTRY SYSTEM” attached hereto.

### **Form and Registration of Bonds**

The Bonds, when issued, will be registered in the name of Cede & Co., as nominee of DTC. DTC will act as securities depository for the Bonds. Individual purchases of the Bonds will be made in Book-Entry form only under the Book-Entry System, in the principal amount of \$40,000 or integral

multiples thereof, with respect to the Series 2009A Bonds, and in the principal amount of \$5,000 or integral multiples thereof, with respect to the Series 2009B Bonds. Except in the event that use of the Book-Entry System is discontinued for the Bonds, Beneficial Owners (defined herein) will not receive physical certificates representing their ownership interests in the Bonds. Principal of and interest on the Bonds will be paid by the Trustee to DTC, which will in turn remit such principal and interest to its Participants (defined herein), for subsequent distribution to the Beneficial Owners of the Bonds, as described herein. The Bonds may be transferred or exchanged in the manner described in the Bonds and as referenced in related proceedings of the State. See “APPENDIX G: BOOK-ENTRY SYSTEM” attached hereto.

### **Transfer of Bonds**

The Bonds will be issued in book-entry only form, as described in the preceding paragraph. Registered ownership of the Bonds, or any portion thereof, may not thereafter be transferred, except as provided in the Trust Agreement: (i) to any successor of Cede & Co., as nominee of DTC, or its nominee, or to any designated substitute depository, (ii) to any substitute depository not objected to by the District upon (1) the resignation of DTC or its successor from its function as depository, or (2) because DTC or its successor is no longer able to carry out its function as depository; or (iii) to any person as provided in the Trust Agreement upon (1) the resignation of DTC or its successor from its function as depository, or (2) a determination by the State to remove DTC or its successor from its function as depository.

### **The Tax Credit Program**

Under the Code, the Owners of qualified tax credit bonds are allowed a credit (the “Tax Credit”) against their federal income tax liability (herein referred to as the “Tax Credit Program”). The Series 2009A Bonds are designated by the Authority as qualified school construction bonds, a type of qualified tax credit bonds, for purposes of the Tax Credit Program. Each Series 2009A Bond is comprised of a “Principal Component” and a “Tax Credit Component”. The Tax Credit Component is evidenced by a Tax Credit Certificate (a “Tax Credit Certificate”) relating to each Tax Credit Allowance Date (defined below) attached to the related Series 2009A Bond. Under the Code, the ownership of the Tax Credit Certificates related to a Series 2009A Bond may be separated or “stripped” from the Principal Component following which the Tax Credit Certificate and the remaining Principal Component (a “Principal Strip”) would be separately registered by the Trustee. The Owner of a Tax Credit (as evidenced by either an unstripped Series 2009A Bond or a stripped Tax Credit Certificate) on each Tax Credit Allowance Date will be allowed a credit against the Owner’s federal income tax liability. “Tax Credit Allowance Date” means March 15, June 15, September 15 and December 15 beginning on the date of issuance of the Series 2009A Bonds and ending on the maturity date for the Series 2009A Bond, or such of those dates as specified in any Tax Credit Certificate related thereto.

The amount of each Tax Credit is calculated under the Tax Credit Program and is represented by each Tax Credit Certificate. The amount of the Tax Credit allowed with respect to each Series 2009A Bond as of each Tax Credit Allowance Date will be equal to the product of the outstanding principal amount of the Series 2009A Bond on the applicable Tax Credit Allowance Date and \_\_\_\_\_%. The tax credit allowed with respect to the period between the final maturity date of any Series 2009A Bond or, if earlier, the date such Series 2009A Bonds are redeemed, and the date of the immediately preceding Tax Credit Allowance Date is equal to the ratable portion of the amount of the Tax Credit that would have been allowed for a full calendar quarter, adjusted for the actual number of days elapsed between such immediately preceding Tax Credit Allowance Date and the maturity date or, if earlier, the date of redemption of the Series 2009A Bonds.



Generally, a taxpayer who owns a Tax Credit will recognize the amount of the Tax Credit as a credit against its federal income tax liability on a given Tax Credit Allowance Date, including estimated tax payments, if any. Tax Credits will be treated by the IRS similarly to the way withheld taxes are treated for federal income tax purposes and will reduce the amount of either a taxpayer's subsequent estimated tax payments, if any, or its final tax liability, as reflected on its tax return for the related tax year. The Authority, the District and Bond Counsel express no opinion as to the utility of Tax Credits for any particular Owner or subsequent purchaser of a Series 2009A Bond or a Tax Credit Certificate, and prospective purchasers of the Series 2009A Bonds or Tax Credit Certificates should consult with their own tax advisors concerning the purchase of Series 2009A Bonds or Tax Credit Certificates. See "GENERAL TAX MATTERS" herein.

The Series 2009A Bonds, the Principal Strips and the Tax Credit Certificates may be transferred as provided herein. A stripped Tax Credit Certificate may contain all or only a portion of the Tax Credits associated with the related Series 2009A Bond and multiple Tax Credit Certificates may be authenticated and delivered that in the aggregate contain all the Tax Credits related to a Series 2009A Bond. See "—Tax Credit Stripping Permitted" herein. There is currently no secondary market for either the Series 2009A Bonds or the Tax Credit Certificates. See "INTRODUCTION - Certain Investor Considerations Regarding Tax Credit Bonds."

### **Form, Registration and Transfer of Tax Credit Certificates**

The Tax Credit Certificates, when executed and delivered as part of each Series 2009A Bond, will be in book-entry only form, registered in the name of Cede & Co., as nominee of DTC, as one Tax Credit Certificate for each Tax Credit Allowance Date for the related Series 2009A Bond. The Trust Agreement appoints DTC as depository for the Tax Credit Certificates and registered ownership of the Tax Credit Certificates may not thereafter be transferred except as provided in the Trust Agreement. Except in the event that use of the Book-Entry System is discontinued for the Tax Credit Certificates, Beneficial Owners will not receive physical certificates representing their ownership interests in the Tax Credit Certificates. See "—Transfer of Series 2009A Bonds" herein and "APPENDIX: BOOK-ENTRY SYSTEM" attached hereto.

### **Tax Credit Stripping Permitted**

The Authority has caused the Series 2009A Bonds to be issued in a form that permits the separation, under the Tax Credit Program, of the ownership of the Principal Component and the Tax Credit Component of each Series 2009A Bond. The Beneficial Owner of Series 2009A Bonds may, by written request to the Trustee through its DTC Participant, direct the Trustee to authenticate and deliver separately the Principal Component and Tax Credit Certificates related to such Series 2009A Bond in exchange for such Series 2009A Bond.

While the Trust Agreement permits stripping, the IRS has not yet issued regulations regarding the mechanism by which an Owner of a Tax Credit Certificate would evidence its ownership thereof on such Owner's tax return. Owners desiring to strip or transfer Tax Credit Certificates should consult their DTC Participant and tax advisor.

### **Redemption**

*No Optional or Mandatory Sinking Fund Redemption of Series 2009A Bonds.* The Series 2009A Bonds will not be subject to optional or mandatory sinking fund redemption prior to their stated maturity date.

*Extraordinary Mandatory Redemption from Unexpended Proceeds of the Series 2009A Bonds.* The Series 2009A Bonds are subject to extraordinary mandatory redemption, in whole or in part, on March 10, 2013 or any date on or before the 90th day after the termination of any extension period negotiated with the IRS, in Authorized Denominations, at a redemption price equal to the principal amount of the Series 2009A Bonds called for redemption, in a total amount equal to and payable from the unexpended proceeds of the sale of the Series 2009A Bonds held by the Authority, but only to the extent of proceeds of the Series 2009A Bonds deposited in the Project Fund (QSCB) and not expended within three years of issuance of the Series 2009A Bonds.

In the event that the ownership of the Tax Credit Certificates has been separated from the ownership of the Series 2009A Bonds and registered separately, the Tax Credit Certificates related to the redeemed Series 2009A Bonds will be called for redemption in the same manner as the Series 2009A Bonds pursuant to the preceding paragraph, and the redemption price pursuant to the preceding paragraph will be allocated to the Principal Components and to the Tax Credit Certificates in the proportions and values set forth in the redemption value tables attached as Schedule 1 to the form of Series 2009A Bond in APPENDIX F attached hereto.

*Optional Redemption of Series 2009B Bonds.* The Series 2009B Bonds maturing on or before [\_\_\_\_], are not subject to redemption prior to their maturity dates. The Series 2009B Bonds maturing on or after [\_\_\_\_] are subject to redemption at the option of the District, as a whole or in part in the manner directed by the District and by lot within each maturity, from any source of available funds, on [\_\_\_\_], or on any Interest Payment Date thereafter, at the principal amount to be redeemed, plus accrued interest represented thereby to the redemption date, without any Redemption Premium.

*Mandatory Sinking Fund Redemption of Series 2009B Bonds.* The Series 2009B Bonds maturing on [\_\_\_\_], shall be subject to mandatory sinking fund redemption on each [\_\_\_\_] in the amounts set forth below at a redemption price equal to the principal amount thereof and accrued interest thereon, if any, to the date fixed for redemption, but without any Redemption Premium, as set forth in the following table:

<u>Redemption Dates</u>	<u>Principal Amount</u>
20__	
20__	
20__	
20__	
20__*	

---

\* *Maturity.*

The Series 2009B Bonds maturing on [\_\_\_\_], shall be subject to mandatory sinking fund redemption on each [\_\_\_\_] in the amounts set forth below at a redemption price equal to the principal amount thereof and accrued interest thereon, if any, to the date fixed for redemption, but without any Redemption Premium, as set forth in the following table:

<u>Redemption Dates</u>	<u>Principal Amount</u>
20__	
20__	
20__	
20__	
20__*	

\* *Maturity.*

*Purchase in Lieu of Redemption of Series 2009B Bonds.* In lieu of depositing cash with the Trustee as a mandatory sinking fund payment, the Authority shall have the option to tender to the Trustee for cancellation any amount of the Series 2009B Bonds purchased by the Authority at public or private sale as and when and at such prices as the Authority may in its discretion determine. The principal amount of any Series 2009B Bond so purchased by the Authority and tendered to the Trustee in any twelve month period ending on June 30 in any calendar year shall be credited towards and shall reduce the next mandatory sinking fund payments required to be made in the order in which they are required to be made pursuant to the Trust Agreement.

*Extraordinary Redemption from Eminent Domain or Insurance Proceeds.* The Authority may, with the permission of the District and under the terms of the Facility Sublease, elect not to repair a destroyed or damaged portion of the Facility, and in that event, if the proceeds of insurance together with any other moneys then available for the purpose (including Federal or State disaster relief) are at least sufficient to redeem an aggregate principal amount of outstanding Bonds, equal to the amount of Bonds attributable to the portion of the Facility so destroyed or damaged (determined by reference to the proportion which the cost of such portion of the Facility bears to the total cost of the Facility), the Authority will cause said proceeds to be used for the redemption of that portion of the outstanding Bonds at a redemption price equal to the principal amount of the Bonds called for redemption. In the event of such a partial redemption, Series 2009B Bonds shall be redeemed before any Series 2009A Bonds are redeemed.

In the event that the ownership of the Tax Credit Certificates has been separated from the ownership of the Series 2009A Bonds and registered separately pursuant to Article VI of the Trust Agreement, the Tax Credit Certificates related to the redeemed Series 2009A Bonds will be called for redemption in the same manner as the Series 2009A Bonds pursuant to the preceding paragraph, and the redemption price pursuant to the preceding paragraph will be allocated to the Series 2009A Bonds Principal Components and the Tax Credit Certificates in the proportions set forth in the redemption value tables attached as Schedule 1 to the form of Series 2009A Bond in APPENDIX F attached hereto.

*Extraordinary Optional Redemption upon a Determination of loss of Qualified School Construction Bond Status.* Upon a Determination of Loss of Qualified School Construction Bond Status, the Series 2009A Bonds shall be subject to extraordinary optional redemption prior to their fixed maturity date, in whole, on the date designated by the Authority, at a redemption price equal to (a) the principal amount of the Series 2009A Bonds called for redemption, plus (b) the Redemption Premium, plus (c) accrued interest on the principal amount of the Series 2009A Bonds called for redemption (calculated at the Tax Credit Rate) from the Tax Credit Allowance Date immediately preceding the redemption date to the date of redemption.

In the event that the ownership of the Tax Credit Certificates has been separated from the ownership of the Series 2009A Bonds and registered separately pursuant to the Trust Agreement, the Tax Credit Certificates related to the redeemed Series 2009A Bonds shall be called for redemption in the same

manner as the Series 2009A Bonds as described under this heading, and the redemption price shall be allocated to the Bonds Principal Components and the Tax Credit Certificates in the proportions set forth in the redemption value tables attached as Schedule 1 to the form of Series 2009A Bond in APPENDIX F attached hereto.

In addition, in the event that any Tax Credits recognized prior to the redemption date are determined to be ineligible as Tax Credits as a result of the Determination of Loss of Qualified School Construction Bond Status, the redemption price shall include an additional amount payable to the owners, as of the applicable Tax Credit Allowance Dates, of the Tax Credit Certificates for such Tax Credits equal to the amount of such Tax Credits, plus interest thereon from the applicable Tax Credit Allowance Date to the date of redemption, at a rate equal to the large corporate underpayment rate determined from time to time by the Internal Revenue Service.

*Redemption Premium.* The term “Redemption Premium” means the Redemption Premium (QSCB) or Redemption Premium (Tax-Exempt), as applicable.

The term “Redemption Premium (QSCB)” means, with respect to the Series 2009A Bonds, as calculated by the Authority (or, at the Authority’s option, its Designated Investment Banker), the greater of (x) zero and (y) an amount calculated as (a) the sum of the present values of the remaining scheduled payments of principal of, interest on and Tax Credits related to the Series 2009A Bonds called for redemption (exclusive of interest accrued to the redemption date) discounted to the redemption date on a semiannual basis (assuming a 360-day year consisting of 12 months of 30 days each) at a rate per annum equal to the Treasury Rate, minus (b) the principal amount of the Series 2009A Bonds called for redemption.

The term “Redemption Premium (Tax-Exempt)” means, with respect to the Series 2009B Bonds, [\_\_\_\_\_]

*Notice of Redemption.* Notice of redemption of any Bonds will be given by the Trustee upon the written request of the Authority given to the Trustee not less than 45 days prior to the redemption date (other than for a mandatory sinking fund redemption for which no written request of the Authority shall be required). Notice of any redemption of Bonds will be mailed postage prepaid, not less than thirty (30) nor more than sixty (60) days prior to the redemption date (i) by first class mail to the respective Owners thereof and of any related Tax Credit Certificates at the addresses appearing on the bond registration books of the Trustee, and (ii) as may be further required in accordance with the Continuing Disclosure Agreement.

Each notice of redemption will contain all of the following information: (i) the date of such notice; (ii) the name of the Bonds and the date of issue of the Bonds; (iii) the redemption date; (iv) the redemption price, if available; (v) (if less than all of the Bonds are to be redeemed) the distinctive numbers of the Bonds to be redeemed; (vi) (in the case of Bonds redeemed in part only) the respective portions of the principal amount of the Bonds to be redeemed; (vii) the CUSIP number, if any, of the Bonds or, if separated, Principal Components and Tax Credit Certificates, to be redeemed; (viii) a statement that such Bonds or, if separated, Principal Components and Tax Credit Certificates, must be surrendered by the Owners at the Principal Corporate Trust Office of the Trustee, or at such other place or places designated by the Trustee; and (ix) notice that further interest on such Bonds will not accrue from and after the designated redemption date.

Such redemption notices may state that no representation is made as to the accuracy or correctness of the CUSIP numbers provided therein or on the Bonds or the Tax Credit Certificates.

*Effect of Notice.* A certificate of the Trustee that notice of call and redemption has been given to Owners and as may be further required in the Continuing Disclosure Agreement as herein provided will be conclusive as against all parties. The actual receipt by the Owner of any Bond or Tax Credit Certificate or any other party of notice of redemption will not be a condition precedent to redemption, and failure to receive such notice, or any defect in the notice given, will not affect the validity of the proceedings for the redemption of such Bonds or the cessation of interest on the date fixed for redemption.

When notice of redemption has been given substantially as provided for herein, and when the redemption price of the Bonds called for redemption is set aside for the purpose, the Bonds designated for redemption will become due and payable on the specified redemption date and interest will cease to accrue thereon as of the redemption date, and upon presentation and surrender of such Bonds or, if separated, Principal Components and Tax Credit Certificates, at the place specified in the notice of redemption, such Bonds or, if separated, Principal Components and Tax Credit Certificates, will be redeemed and paid at the redemption price thereof out of the money provided therefor. The Owners of such Bonds so called for redemption after such redemption date will look for the payment of such Bonds and the Redemption Premium thereon, if applicable, only to the funds set aside for such purpose. All Bonds redeemed will be cancelled forthwith by the Trustee and will not be reissued.

*Right to Rescind Notice.* Upon oral notice, promptly confirmed by written notice from the District that the District has cured the conditions that caused the Bonds to be subject to extraordinary redemption, the Authority may rescind any extraordinary redemption and notice thereof on any date prior to the date fixed for redemption by directing the Trustee in writing to give written notice of the rescission to the Owners of the Bonds or, if separated, Principal Components and Tax Credit Certificates so called for redemption. Notice of rescission of redemption will be given in the same manner in which notice of redemption was originally given. The actual receipt by the owner of any Bond or Tax Credit Certificate of notice of such rescission will not be a condition precedent to rescission, and failure to receive such notice or any defect in such notice will not affect the validity of the rescission.

*Selection of Bonds for Redemption.* Except for an extraordinary mandatory redemption form proceeds of the Series 2009A Bonds or an extraordinary redemption upon a determination of loss of qualified school construction bonds status, the Series 2009B Bonds shall be redeemed prior to the redemption of Series 2009A Bonds. If less than all of the Outstanding Bonds of a series are to be redeemed on any one date, the Trustee shall select, in accordance with written directions from the Authority, the Bonds to be redeemed in part from the Outstanding Bonds so that the aggregate annual principal amount of and interest on Bonds which shall be payable after such redemption date shall be as nearly proportional as practicable to the aggregate annual principal amount of and interest on Bonds Outstanding prior to such redemption date. The Tax Credit Certificates related to the Series 2009A Bonds called for redemption will also be called for redemption.

## **SECURITY AND SOURCES OF PAYMENT FOR THE BONDS**

### **General**

The Bonds are secured by the Revenues, which consist primarily of rental payments (the "Base Rental Payments") to be made by the District out of its general fund under the Facility Sublease. Pursuant to the Facility Sublease, the Authority leases the Facility, including the Demised Premises to the District. As rental for the use and occupancy of the Facility, including the Demised Premises, the District covenants to pay Base Rental Payments to the Authority, which payments are pledged to the Trustee for the benefit of the Owners of the Bonds. The Base Rental Payments, which are subject to abatement, are calculated to generate sufficient Revenues to pay principal of and interest on the Bonds when due.

The District has covenanted in the Facility Sublease to include all Base Rental Payments in its annual budgets and to make the necessary annual appropriations therefor. On June 1, 2010 and on December 1, 2010 and on each December 1 thereafter, the District must pay to the Trustee Base Rental Payments (to the extent required under the Facility Sublease) which are scheduled to be sufficient to pay, when due, the principal of and interest on the Bonds. Base Rental Payments are not subject to acceleration. Except for the initial payment due June 1, 2010, all Base Rental Payments are due December 1.

Under the Facility Sublease, the District agrees to pay Additional Payments for the payment of all expenses and all costs of the Authority and the Trustee related to the lease of the Facilities, including expenses of the Trustee payable by the Authority under the Trust Agreement, and fees of accountants, attorneys and consultants. The District is responsible for repair and maintenance of the Facilities during the term of the Facility Sublease.

The Base Rental Payments will be abated proportionately during any period in which by reason of any damage to or destruction of the Facility, there is substantial interference with the use and occupancy of the Facility by the District, in the proportion in which the cost of that portion of the Facility rendered unusable bears to the cost of the whole of the Facility, including the Demised Premises. During any such period of abatement, except to the extent that amounts held by the Trustee in the Revenue Fund are otherwise available to pay the Bonds, Base Rental Payments from the District will not be available to pay the Bonds. Such abatement will continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, the Facility Sublease will continue in full force and effect and the District waives any right to terminate the Facility Sublease by virtue of any such damage or destruction.

If the whole of the Facility or so much thereof as to render the remainder unusable, is taken under power of eminent domain, the term of the Facility Sublease will cease as of the day possession is so taken. If less than the whole of the Facility is taken by eminent domain, there will be a partial abatement of the rental due under the Facility Sublease in an amount equivalent to the amount by which the annual payments of principal of and interest on the Bonds then Outstanding will be reduced by the application of the award in eminent domain to the redemption of Outstanding Bonds. The Authority will cause the entire award in eminent domain to be used for the redemption of Outstanding Bonds at a redemption price equal to the principal amount of the Bonds called for redemption.

If the District defaults under the Facility Sublease, the Authority may (i) terminate the Facility Sublease and take possession of the Facility for the term of the Facility Lease or (ii) retain the Facility Sublease and seek to hold the District liable for all Base Rental Payments and Additional Payments thereunder (without acceleration) as they become due on an annual basis. See APPENDIX A – “SUMMARY OF CERTAIN PROVISIONS OF PRINCIPAL LEGAL DOCUMENTS–Facility Sublease–Defaults and Remedies.” Base Rental Payments and Additional Payments may not be accelerated. See “CERTAIN RISK FACTORS.”

### **Base Rental Payments**

Base Rental Payments are calculated on an annual basis for twelve-month periods commencing on December 16 and ending on December 15. The first Base Rental Payment is payable on June 1, 2010, and subsequent Base Rental Payments are due on each succeeding December 1 continuing until the date of termination of the Sublease. The first two Base Rental Payments collectively are for the use of the Facility for the year ending December 15, 2010 and each annual payment of Base Rental thereafter is for the use of the Facility for the year ending on the December 15 immediately following the date the Base

Rental Payment is due. The Trust Agreement requires that Base Rental Payments be deposited in the Revenue Fund (QSCB) and the Revenue Fund (Tax-Exempt) maintained by the Trustee.

THE OBLIGATION OF THE DISTRICT TO MAKE BASE RENTAL PAYMENTS IS AN OBLIGATION PAYABLE FROM AMOUNTS IN THE GENERAL FUND OF THE DISTRICT, AND DOES NOT CONSTITUTE A DEBT OF THE DISTRICT, THE AUTHORITY OR OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF IN CONTRAVENTION OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION OR AN OBLIGATION FOR WHICH THE DISTRICT MUST LEVY OR PLEDGE, OR HAS LEVIED OR PLEDGED, ANY FORM OF TAXATION.

### **Additional Payments**

The District will also pay such amounts (herein called the “Additional Payments”) as required by the Authority for the payment of all costs and expenses incurred by the Authority in connection with the execution, performance or enforcement of the Sublease and the Trust Agreement, in connection with its interest in the Facility and the sublease of the Facility to the District, including but not limited to payment of all fees, costs and expenses and all administrative costs of the Authority related to the Facility including, without limiting the generality of the foregoing, salaries and wages of employees, all expenses, compensation and indemnification of the Trustee payable by the Authority under the Trust Agreement, fees of auditors, accountants, attorneys or architects, and all other necessary administrative costs of the Authority or charges required to be paid by it in order to maintain its existence or to comply with the terms of the Bonds or of the Trust Agreement; but not including in Additional Payments amounts required to pay the principal of or interest, if any, on the Bonds.

Such Additional Payments will be billed to the District by the Authority or the Trustee from time to time, together with a statement certifying that the amount billed has been paid by the Authority or by the Trustee on behalf of the Authority, for one or more of the items above described, or that such amount is then payable by the Authority or the Trustee for such items. The fees of the Trustee under the Trust Agreement, and any other expenses directly attributable to the Facility will be included in the Additional Payments.

### **Covenant to Appropriate Funds**

The District covenants under the Facility Sublease to take such action as may be necessary to include all Base Rental Payments and Additional Payments due under the Facility Sublease in its annual budgets and to make the necessary annual appropriations therefor as shall be required to provide funds in each year for Base Rental Payments and Additional Payments.

### **Abatement**

The Base Rental Payments and Additional Payments shall be abated proportionately during any period in which by reason of any damage or destruction (other than by condemnation which is otherwise provided for) there is substantial interference with the use and occupancy of the Facility by the District, in the proportion in which the initial cost of that portion of the Facility rendered unusable bears to the initial cost of the whole of the Facility, including the Demised Premises. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Sublease shall continue in full force and effect and the District waives any right to terminate this Sublease by virtue of any such damage or destruction. If on the stated termination date of the Facility Sublease, the Bonds and all other amounts then due under the Facility Sublease shall not be fully paid, or if the rental payable

thereunder shall have been abated at any time and for any reason, then the term of the Facility Sublease shall be extended until all Bonds corresponding to the Base Rental Payments and all other amounts then due hereunder shall be fully paid, except that the term of the Facility Sublease shall in no event be extended beyond ten (10) years after such initial termination date. If prior to such date, all Bonds and all other amounts then due hereunder shall be fully paid, or provision therefor made, the term of the Facility Sublease shall end ten (10) days thereafter or upon written notice by the District to the Authority, whichever is earlier. For information regarding rental interruption insurance, see “— Insurance” below.

The Authority cannot terminate the Facility Sublease solely on the basis of such substantial interference. Abatement of Base Rental Payments is not an event of default under the Facility Sublease and does not permit the Authority to take any action or avail itself of any remedy against the District. For a description of abatement resulting from condemnation of all or part of the Facility, see “APPENDIX A – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS—THE FACILITY SUBLEASE—Rental Payments—Rental Abatement.”

### **Reserve Fund**

The Trust Agreement established a Reserve Fund to be held by the Trustee for the benefit of the Owners of the Series 2009B Bonds. All moneys in the Reserve Fund shall be used and withdrawn by the Trustee solely for the purpose of funding the Interest Account (Tax-Exempt) or the Principal Account (Tax-Exempt), in that order, in the event of any deficiency in either of such accounts on an Interest Payment Date, or to make the final payment on the Series 2009B Bonds at maturity, except that so long as the Authority is not in default under the Trust Agreement, any amounts in the Reserve Fund in excess of the Reserve Fund Requirement shall be withdrawn from the Reserve Fund and transferred to the District to be used for any lawful purposes of the District so long as the Trustee receives an Opinion of Counsel to the effect that such transfer, in and of itself, will not adversely affect the exclusion or interest on the Series 2009B Bonds from gross income for federal income tax purposes.

Upon the final maturity date of the Series 2009B Bonds, monies, if any, on deposit in the Reserve Fund shall be withdrawn and applied by the Trustee for the final payment of principal of and interest on the Series 2009B Bonds.

### **Insurance**

The Facility Sublease requires the District to maintain or cause to be maintained, throughout the term of the Facility Sublease, insurance against loss or damage to any structures constituting any part of the Facility by fire and lightning, with extended coverage insurance, vandalism and malicious mischief insurance and sprinkler system leakage insurance, and earthquake insurance, if available on the open market from reputable insurance companies at a reasonable cost as determined by the District. Such extended coverage insurance will, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance will be in an amount equal to the replacement cost (without deduction for depreciation) of all structures constituting any part of the Facility, excluding the cost of excavations, of grading and filling, and of the land (except that such insurance may be subject to deductible clauses for any one loss of not to exceed \$250,000 or comparable amount adjusted for inflation or more in the case of earthquake insurance), or in the alternative, will be in an amount and in a form sufficient (together with moneys held under the Trust Agreement), in the event of total or partial loss, to enable all Bonds then Outstanding to be redeemed.

In the event of any damage to or destruction of any part of the Facility caused by the perils covered by such insurance, the Authority, except as hereinafter described, will cause the proceeds of such



insurance to be utilized for the repair, reconstruction or replacement of the damaged or destroyed portion of the Facility, to at least the same condition as they were in prior to the damage or destruction, insofar as the same may be accomplished by the use of said proceeds. The Trustee will hold such proceeds in the Insurance and Condemnation Fund and will permit withdrawals upon written request for such purposes. Any balance of said proceeds not required for such repair, reconstruction or replacement will be treated by the Trustee as Base Rental Payments and applied in the manner provided by the Trust Agreement. Alternatively, if the proceeds of such insurance together with any other moneys then available for such purpose are at least sufficient to redeem an aggregate principal amount of Outstanding Bonds equal to the amount of Base Rental attributable to the portion of the Facility so destroyed or damaged (determined by reference to the proportion which the cost of such portion of the Facility bears to the cost of the Facility), the Authority, with the written consent of the District, may elect not to repair, reconstruct or replace the damaged or destroyed portion of the Facility and thereupon will cause said proceeds to be used for the redemption of Outstanding Bonds pursuant to the provisions of the Trust Agreement. In that event the Base Rental Payments shall be abated in the same proportion, except that the Base Rental Payments shall not be less than the amount necessary to enable the Authority to make all necessary and appropriate payments on and related to the Bonds remaining Outstanding, including but not limited to annual deposits into the Principal Account (QSCB) and the Principal Account (Tax-Exempt) and its administrative costs.

The Authority and the District covenant to promptly apply for federal or State disaster aid in the event that the Facility is damaged or destroyed as a result of an earthquake occurring at any time. Any proceeds received as a result of such disaster aid will be used to repair, reconstruct, restore or replace the damaged or destroyed portions of the Facility, or, at the option of the District and the Authority, to redeem Outstanding Bonds if such use of such disaster aid is permitted.

As an alternative to providing the fire and extended coverage insurance, or any portion thereof, required by the Facility Sublease, the District may provide a self-insurance method or plan of protection if and to the extent such self-insurance method or plan of protection will afford reasonable coverage for the risks required to be insured against, in light of all circumstances, giving consideration to cost, availability and similar plans or methods of protection adopted by public entities in the State other than the District. So long as such method or plan is being provided to satisfy the requirements of the Facility Sublease, there will be filed with the Trustee a statement of an actuary, insurance consultant or other qualified person (which may be the Risk Manager of the District), stating that, in the opinion of the signer, the substitute method or plan of protection is in accordance with the requirements of the Facility Sublease and, when effective, would afford reasonable coverage for the risks required to be insured against. There will also be filed a certificate of the District setting forth the details of such substitute method or plan. In the event of loss covered by any such self-insurance method, the liability of the District under the Facility Sublease will be limited to the amounts in the self-insurance reserve fund or funds created under such method.

The Facility Sublease requires the District to maintain or cause to be maintained, rental interruption or use and occupancy insurance to cover loss, total or partial, of the rental income from or the use of the Facility as the result of any of the hazards covered by the fire and extended coverage insurance required by the Facility Sublease described in the preceding paragraphs (provided that earthquake insurance will be required only if it is available on the open market from reputable insurance companies at a reasonable cost, as determined by the District), in an amount sufficient to pay the part of the total rent attributable to the portion of the Facility rendered unusable (determined by reference to the proportion which the cost of such portion bears to the cost of the Facility) for a period of at least two years, except that such insurance may be subject to a deductible clause of not to exceed \$250,000 (or comparable amount adjusted for inflation or more in the case of earthquake coverage). Any proceeds of such insurance will be used by the Trustee to reimburse to the District any rental theretofore paid by the District under the Facility Sublease attributable to such structure for a period of time during which the

ITEM 18

payment of rental under the Facility Sublease is abated, and any proceeds of such insurance not so used will be applied to pay Base Rental Payments and Additional Payments.

The District is required under the Facility Sublease to purchase commercial insurance to cover damage due to earthquake if it is available on the open market from reputable insurance companies at a reasonable cost, as determined by the District. See “CERTAIN RISK FACTORS–Risk of Earthquake and Other Natural Disasters.”

The District is also required to obtain certain liability insurance coverage in protection of the Authority and the Trustee.

**Flow of Funds; Accumulation of Base Rental Payments in the Principal Account (QSCB)**

The Trust Agreement creates separate Revenue Funds and Principal and Interest Accounts for the Series 2009A Bonds and the Series 2009B Bonds. The Revenue Fund (QSCB), the Principal Account (QSCB) and the Interest Account (QSCB) are created for the Series 2009A Bonds, and the Revenue Fund (Tax-Exempt), the Principal Account (Tax-Exempt) and the Interest Account (Tax-Exempt) are created for the Series 2009B Bonds. The Trust Agreement requires that Base Rental Payments be deposited in the Revenue Fund (QSCB) and the Revenue Fund (Tax-exempt), and from there, transferred in such amounts as are necessary to the respective Interest and Principal Accounts, for the Series 2009A Bonds and the Series 2009B Bonds, to pay principal of and interest on the Bonds as the same become due and payable. In the event that Base Rental Payments received by the Trustee on any date are less than sum of the amounts that are required to be deposited in the Revenue Fund (QSCB) and the Revenue Fund (Tax-Exempt) by such date in accordance with the Trust Agreement, then the Trustee shall allocate the Base Rental Payments received between the Revenue Fund (QSCB) and Revenue (Tax-Exempt) pro rata based on the amounts that should have been deposited into such funds on such date.

On or before each December 1, commencing December 1, 2010, the Trustee will set aside from the Revenue Fund (QSCB) and deposit in the Principal Account (QSCB) the amount of money shown on the Schedule of Principal Account (QSCB) Deposits shown below. The Trustee will invest money in the Principal Account (QSCB), as permitted by the Tax Credit Program, in Investment Securities pursuant to the Written Request of the Authority. All funds in the Principal Account (QSCB) are pledged, and will be applied by the Trustee, to the payment of the principal of the Series 2009A Bonds at their maturity. See APPENDIX A – “SUMMARY OF CERTAIN PROVISIONS OF PRINCIPAL LEGAL DOCUMENTS–Trust Agreement–Creation of Funds and Accounts.”

**Schedule of Principal Account (QSCB) Deposits**

Date	Principal Account (QSCB) Deposit
12/1/2010	\$
12/1/2011	
12/1/2012	
12/1/2013	
12/1/2014	
12/1/2015	
12/1/2016	
12/1/2017	
12/1/2018	
12/1/2019	
12/1/2020	
12/1/2021	
12/1/2022	
12/1/2023	
12/1/2024	
12/1/2025	

**DEMISED PREMISES AND THE FACILITY**

The "Demised Premises" include certain real property situated in the San Dieguito Union High School District, State of California, described in Exhibit A attached to the Facilities Sublease, together with any additional real property added thereto or substituted therefor in accordance with the Facility

Sublease and the Trust Agreement. The Facility consists of the La Costa Canyon Facility and the Canyon Crest Solar Facility together with any additional real property added to the Demised Premises by any supplement or amendment hereto, or any property substituted for all or any portion of such property in accordance with the Sublease and the Trust Agreement. The term "Project" as used in the Facilities Sublease means the various capital projects of the District, and payment of any costs associated with financing of said projects, including the installation of solar power facilities at La Costa Canyon High School and the Canyon Crest Solar Facility. The proceeds of the Bonds will be used to finance the Project and to pay costs of issuing the Bonds and incidental and related expenses.

[The Facility consists of solar power facilities which will produce 2.1 megawatts of power representing 68% of the annual power requirements of the La Costa Canyon and Canyon Crest school sites. The Facility is expected be acquired and constructed by October 2010.]

### **Substitution or Release**

The District and the Authority may substitute other real property as part of the Facility for purposes of the Facility Sublease provided the District has filed with the Authority and the Trustee, with copies to each rating agency then providing a rating for the Bonds, all of the following:

(a) Executed copies of the Facility Sublease or amendments thereto containing the amended description of the Facility, including the legal description of the Demised Premises as modified, if necessary.

(b) A Certificate of the District with copies of the Facility Sublease or the Facility Lease as applicable, or amendments thereto containing the amended description of the Facility stating that such documents have been duly recorded in the official records of the County Recorder of San Diego County.

(c) A Certificate of the District, together with an appraisal performed by an independent appraiser, evidencing that the annual fair rental value of the property which will constitute the Facility after such substitution will be at least equal to 100% of the maximum amount of Base Rental Payments becoming due in the then current year ending December 15 or in any subsequent year ending December 15.

(d) A Certificate of the District stating that, based upon review of such instruments, certificates or any other matters described in such Certificate of the District, the District has good merchantable title to the Facility, which will constitute the Facility after such substitution. The term "good merchantable title" shall mean such title as is satisfactory and sufficient for the needs and operations of the District.

(e) A Certificate of the District stating that such substitution does not adversely affect the District's use and occupancy of the Facility.

(f) An Opinion of Bond Counsel stating that such amendment or modification (i) is authorized or permitted by the Constitution and laws of the State and by the Trust Agreement; (ii) complies with the terms of the Constitution and laws of the State and of the Trust Agreement; (iii) will, upon the execution and delivery thereof, be valid and binding upon the Authority and the District; and (iv) will not cause the loss of the federal tax credit associated with the Series 2009A Bonds' status as Qualified School Construction Bonds for federal income tax purposes or cause interest on the Series 2009A Bonds to be included in gross income for California state income tax purposes.

There is no requirement that any substitute Facility be of the same or a similar nature or function as the then existing Facility.

Notwithstanding the foregoing discussion regarding release and substitution, so long as the annual fair rental value of the Facility (without taking into account the Canyon Crest Solar Facility) will be at least equal to 100% of the maximum amount of Base Rental Payments becoming due in the then current year ending December 15 or in any subsequent year ending December 15 (as shown by an appraisal performed by an independent appraiser), the Canyon Crest Solar Facility shall be released from the provisions of the Facility Sublease at the request of the District.

**ESTIMATED SOURCES AND USES OF FUNDS**

The estimated sources and uses of funds with respect to the Bonds are shown below.

SOURCES

	<b>Series 2009A Bonds</b>	<b>Series 2009B Bonds</b>	<b>Total</b>
<i>Sources of Funds:</i>			
Principal Amount of Bonds	\$	\$	\$
Net Original Issue (Discount)/Premium			
Less Underwriter's Discount			
<i>Total Sources</i>	\$	\$	\$
<i>Uses of Funds:</i>			
Project Funds	\$	\$	\$
Series 2009B Reserve Fund		\$	\$
Costs of Issuance <sup>(1)</sup>			
<i>Total Uses</i>	\$	\$	\$

<sup>(1)</sup> Includes legal, rating agency and printing fees, underwriter's discount, and other miscellaneous costs of issuance.

**BASE RENTAL PAYMENTS**

The Facility Sublease requires the following Base Rental Payments be made on or before each Base Rental Deposit Date:

**Base Rental Payment Schedule**

Date	Base Rental Payment
6/1/2010	\$
12/1/2010	
12/1/2011	
12/1/2012	
12/1/2013	
12/1/2014	
12/1/2015	
12/1/2016	
12/1/2017	
12/1/2018	
12/1/2019	
12/1/2020	
12/1/2021	
12/1/2022	
12/1/2023	
12/1/2024	
12/1/2025	

**RISK FACTORS**

*The following factors, along with the other information in this Official Statement, should be considered by potential investors in evaluating the purchase of the Bonds. However, they do not purport to be an exhaustive listing of risks and other considerations which may be relevant to an investment in the Bonds. In addition, the order in which the following factors are presented is not intended to reflect the relative importance of any such risks.*

**General Considerations**

The obligation of the District to make the Base Rental Payments does not constitute a debt of the District or of the State or of any political subdivision thereof within the meaning of any constitutional or statutory debt limit or restriction, and does not constitute an obligation for which the District or the State is obligated to levy or pledge any form of taxation or for which the District or the State has levied or pledged any form of taxation.

Although the Facility Sublease does not create a pledge, lien or encumbrance upon the funds of the District, the District is obligated under the Facility Sublease to pay the Base Rental Payments from any source of legally available funds and the District has covenanted in the Facility Sublease that it will take such action as may be necessary to include all Base Rental Payments in its annual budgets and to make necessary annual appropriations therefor. The District is currently liable, and may become liable, on other obligations payable from general revenues, some of which may have a priority over the Base Rental Payments.

The District has the capacity to enter into other obligations which may constitute additional charges against its revenues. To the extent that additional obligations are incurred by the District, the

funds available to make Base Rental Payments may be decreased. In the event the District's revenue sources are less than its total obligations, the District could choose to fund other activities before making Base Rental Payments and other payments due under the Facility Sublease.

### **Abatement**

In the event of substantial interference with the District's right to use and occupy any portion of the Facility by reason of material damage to, or destruction or condemnation of, the Facility, or any defect in title to the Facility, Base Rental Payments will be subject to abatement. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS—Abatement." In the event that such portion of the Facility, if damaged or destroyed by an insured casualty, could not be replaced during the period of time in which proceeds of the District's rental interruption insurance will be available in lieu of Base Rental Payments, plus the period for which other amounts are available from the Reserve Fund or other funds and accounts established under the Trust Agreement, or in the event that casualty insurance proceeds or condemnation proceeds are insufficient to provide for complete repair or replacement of such portion of the Facility or prepayment of the Bonds, there could be insufficient funds to make payments to Bond Owners in full.

### **[Reserve Fund**

In the event of any failure of the District to make Base Rental Payments as and when required under the Facility Sublease, moneys in the Reserve Fund may be used solely for the purpose of funding the Interest Account (Tax-Exempt) or the Principal Account (Tax-Exempt). Such amounts are not available to make any payments with respect to the Series 2009A Bonds.]

### **[Absence of Earthquake and Flood Insurance**

The District is not required under the Facility Sublease to maintain earthquake or flood insurance on the Facility. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS—Insurance." The District does not currently insure against the risks of earthquake or flood with respect to the Facility and does not anticipate obtaining such insurance in the future. See "— Seismic Factors" below.]

### **Limited Recourse on Default**

If the District defaults on its obligations to make Base Rental Payments, the Authority, may (subject to the restrictions described below) retain the Facility Sublease and hold the District liable for all Base Rental Payments on an annual basis and will have the right to reenter and relet the Facility. In the event such reletting occurs, the District would be liable for any resulting deficiency in Base Rental Payments. Alternatively, the Authority may (subject to the restrictions described below) terminate the Facility Sublease with respect to the Facility and proceed against the District to recover damages pursuant to the Facility Sublease.

Due to the specialized nature of the Facility, no assurance can be given that the Authority will be able to relet any portion of the Facility so as to provide rental income sufficient to make payments of principal and interest evidenced by the Bonds in a timely manner, and the Authority is not empowered to sell the Facility for the benefit of the Owners of the Bonds. In addition, due to the governmental function of the Facility, it is not certain whether a court would permit the exercise of the remedies of repossession and reletting with respect thereto. Any suit for money damages would be subject to limitations on legal remedies against school districts in the State, including a limitation on enforcement of judgments against funds needed to serve the public welfare and interest. Moreover, there can be no assurance that such

reletting would not adversely affect the federal tax credit or the exclusion of any interest on the Series 2009B Bonds from state income taxation.

### **No Acceleration Upon Default**

In the event of a default, there is no available remedy of acceleration of the Base Rental Payments due over the term of the Facility Sublease. The District would only be liable for Base Rental Payments on an annual basis, and the Authority would be required to seek a separate judgment in each fiscal year for that fiscal year's Base Rental Payments.

### **Substitution or Release of Facility**

The Facility Sublease provides that, upon satisfaction of the other conditions specified therein, the District may release from the Facility Sublease any portion of the Facility or substitute alternate real property for all or any portion of the Facility. Such a replacement or release could have an adverse impact on the security for the Bonds, particularly if an event requiring abatement of Base Rental Payments were to occur subsequent to such substitution or release.

### **Bankruptcy**

In addition to the limitations on remedies contained in the Facility Sublease and the Trust Agreement, the rights and remedies provided in the Facility Sublease and the Trust Agreement may be limited by and are subject to provisions of federal bankruptcy laws, as now or hereafter enacted, and to other laws or equitable principles that may affect the enforcement of creditors' rights.

### **Seismic Factors**

The District, like most regions in the State, is located in an area of seismic activity from movements along active fault zones and, therefore, could be subject to potentially destructive earthquakes. Additionally, numerous minor faults transect the area. Seismic hazards encompass both potential surface rupture and ground shaking. The occurrence of severe seismic activity in the area of the District could result in substantial damage and interference with the District's right to use and occupy all or a portion of the Facility, which could result in the Base Rental Payments being subject to abatement. See "--Abatement" above. The District is not required by the Facility Sublease or otherwise to obtain or maintain earthquake insurance for the Facility. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS—Insurance."

### **Economic Conditions in California**

State income tax and other receipts can fluctuate significantly from year to year, depending on economic conditions in the State and the nation. Because much of the District's revenues derive from payments from the State, the District's revenues can vary significantly from year to year, even in the absence of significant education policy changes. Decreases in the State's general fund revenues may significantly affect appropriations made by the State to school districts, including the District. See "DISTRICT HISTORY, OPERATION AND FINANCIAL INFORMATION—State Funding of Education; State Budget Process" and "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS—Proposition 98 and Proposition 111."



## **No Liability of Authority to the Owners**

Except as expressly provided in the Trust Agreement, the Authority will not have any obligation or liability to the Owners of the Bonds with respect to the payment when due of the Base Rental Payments by the District, or with respect to the performance by the District of other agreements and covenants required to be performed by it contained in the Facility Sublease or the Trust Agreement, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained in the Trust Agreement.

## **THE AUTHORITY**

The Authority is a joint powers authority, organized pursuant to a Joint Powers Agreement, dated October 22, 1998 (the "JPA Agreement"), between the District and Community Facilities District No. 94-1 of the District. The JPA Agreement was entered into pursuant to the California Government Code, commencing with Section 6500. The Authority is a separate entity constituting a public instrumentality of the State of California and was formed for the public purpose of assisting in acquiring, disposing, financing and refinancing capital improvement projects for the benefit of the District and the other parties to the JPA Agreement.

The Authority is governed by a five member Board of Directors. The Authority's powers include, but are not limited to, the power to issue bonds and to sell such bonds to public or private purchasers at public or by negotiated sale. The Authority is entitled to exercise the powers common to its members and necessary to accomplish the purposes for which it was formed. These powers include the power to make and enter into contracts; to employ agents and employees; to acquire, construct, manage, maintain and operate buildings, works or improvements; to acquire, hold or dispose of property within the District; and to incur debts, liabilities or obligations.

## **DISTRICT HISTORY, OPERATION AND FINANCIAL INFORMATION**

*The following information describes the operations of the District and the assessed value and property tax information of the District.*

### **Introduction**

The District consists of approximately 85 square miles of territory in the northern portion of San Diego County, California. The District educates students from five feeder elementary school districts: Encinitas, Cardiff, Solana Beach, Del Mar and Rancho Santa Fe. The District operates four high schools, four middle schools, one continuation high school and one adult education program.

The management and policies of the District are administered by a Superintendent of Schools and a staff which provides business, pupil, personnel, administrative personnel, and instruction support services.

### **Board of Trustees**

The District is governed by a common five-member Board of Trustees (the "Board"), each of whom is elected to a four-year term. Elections for positions to the Board are held every two years, alternating between three and four available positions. Current members of the Board, together with their office and the date their term expires, are listed below:

Board Member	Office	Term Expires
Joyce Dalessandro	President	December 2012
Linda Friedman	Vice President	December 2010
Barbara Groth	Clerk	December 2010
Deanna Rich	Trustee	December 2010
Beth Hergesheimer	Trustee	December 2012

### Superintendent and Administrative Personnel

The administrative staff of the District includes Ken Noah, Superintendent; Stephen G. Ma, Associate Superintendent of Business Services; Eric Dill, Executive Director Business Services; and John Addleman, Director of Planning and Financial Management. Brief biographies of each follows.

***Ken Noah, Superintendent.*** Mr. Noah has been employed with the District as Superintendent of Schools for one year. Mr. Noah holds Superintendent Certification in the State of Oregon and an Administrative Credential in the State of California. He received a Bachelor of Science Degree in History from Southern Oregon University and an M.Ed. from the University of Oregon College of Education. Prior to joining the District, Mr. Noah served as Superintendent of the Gresham-Barlow School District in suburban Portland, Oregon and is in his thirty-fourth year in education.

***Stephen G. Ma, Associate Superintendent of Business Services.*** Mr. Ma has been employed with the District for fourteen years, with the last four years, serving as Associate Superintendent of Business Services. Mr. Ma is a Certified Chief Business Official through the California Association of Chief Business Officials; holds a BA in Economics from UC Berkeley; and a MS in Business from University of Wisconsin, Madison. Prior to joining the District, Mr. Ma worked in banking and finance.

***Eric Dill, Executive Director, Business Services.*** Mr. Dill has worked for the District for over eight years. His current position oversees the finance, purchasing and risk management functions. Prior to joining the District, Mr. Dill worked for twelve years in various private sector risk management positions. Mr. Dill completed the CBO Mentor Project in 2006 which is a highly selective, intensive and well-respected training program for school district chief business officials sponsored by California's most reputable school district business organizations.

***John Addleman, Director of Planning and Financial Management.*** Mr. Addleman has been employed with the District for ten years. His current position oversees the District's internal auditing and planning program including Mello Roos bond and tax collection for facility project funding. Prior to joining the District, Mr. Addleman provided trust and general accounting services to a number of local law firms. Mr. Addleman holds a BA in Economics from UC San Diego.

### State Funding of Education; State Budget Process

***General.*** As is true for all school districts in California, the District's operating income consists primarily of two components: a State portion funded from the State's general fund and a locally-generated portion derived from the District's share of the 1% local *ad valorem* property tax authorized by the State Constitution. School districts may be eligible for other special categorical funding, including for State and federal programs. In the fiscal years ended June 30, 2008 and June 30, 2009, the District received approximately 7.9% of its general fund revenues from State funds. For the fiscal year 2009-10, the District has budgeted to receive 6.4% of its general fund revenues from State funds. As a result,

decreases in State revenues, or in State legislative appropriations made to fund education, may significantly affect the District's revenues and operations.

Under Proposition 98, a constitutional and statutory amendment adopted by the State's voters in 1988 and amended by Proposition 111 in 1990 (now found at Article XVI, Sections 8 and 8.5 of the Constitution), a minimum level of funding is guaranteed to school districts, community college districts, and other State agencies that provide direct elementary and secondary instructional programs. Recent years have seen frequent disruptions in State personal income taxes, sales and use taxes, and corporate taxes, making it increasingly difficult for the State to meet its Proposition 98 funding mandate, which normally commands about 45% of all State general fund revenues, while providing for other fixed State costs and priority programs and services. Because education funding constitutes such a large part of the State's general fund expenditures, it is generally at the center of annual budget negotiations and adjustments.

***Adoption of Annual State Budget.*** According to the State Constitution, the governor of the State is required to propose a budget to the State Legislature no later than January 10 of each year, and a final budget must be adopted by a two-thirds vote of each house of the Legislature no later than June 15, although this deadline is routinely breached. The budget becomes law upon the signature of the governor, who may veto specific items of expenditure. School district budgets must generally be adopted by July 1, and revised by the school board within 45 days after the governor signs the budget act to reflect any changes in budgeted revenues and expenditures made necessary by the adopted State Budget. The governor signed the amended 2009-10 Budget Act on July 29, 2009.

When the State budget is not adopted on time, basic appropriations and the categorical funding portion of each school district's State funding are affected differently. Under the rule of *White v. Davis* (also referred to as *Jarvis v. Connell*), a State Court of Appeal decision reached in 2002, there is no constitutional mandate for appropriations to school districts without an adopted budget or emergency appropriation, and funds for State programs cannot be disbursed by the State Controller until that time, unless the expenditure is (i) authorized by a continuing appropriation found in statute, (ii) mandated by the Constitution (such as appropriations for salaries of elected state officers), or (iii) mandated by federal law (such as payments to State workers at no more than minimum wage). The State Controller has consistently stated that basic State funding for schools is continuously appropriated by statute, but that special and categorical funds may not be appropriated without an adopted budget. Should the Legislature fail to pass a budget or emergency appropriation before the start of any fiscal year, the District might experience delays in receiving certain expected revenues. The District is authorized to borrow temporary funds to cover its annual cash flow deficits, and as a result of the *White* decision, the District might find it necessary to increase the size or frequency of its cash flow borrowings, or to borrow earlier in the fiscal year. The District does not expect the *White* decision to have any long-term effect on its operating budgets.

***Aggregate State Education Funding.*** The Proposition 98 guaranteed funding amount for education is based on the prior-year's funding, as adjusted through various formulas and tests that take into account State proceeds of taxes, local property tax proceeds, school enrollment, per-capita personal income, and other factors. The State's required contribution to the guaranteed amount is based on State general fund tax proceeds and is not based on the general fund in total or on the State budget. The local share of the guaranteed amount is funded from local property taxes. The total guaranteed amount varies from year to year and throughout the stages of any given fiscal year's budget, from the Governor's initial budget proposal to actual expenditures to post-year-end revisions, as the various factors change. In general, the guaranteed amount will increase as enrollment and per capita personal income grow.

If, at year-end, the guaranteed amount is calculated to be higher than the amount actually appropriated in that year, the difference becomes an additional education funding obligation, referred to as “settle-up.” If the amount appropriated is higher than the guaranteed amount in any year, that higher funding level permanently increases the base guaranteed amount in future years. The Proposition 98 guaranteed amount is reduced in years when general fund revenue growth lags personal income growth, and may be suspended for one year at a time by enactment of an urgency statute. In either case, in subsequent years when State general fund revenues grow faster than personal income (or sooner, as the Legislature may determine), the funding level must be restored to the guaranteed amount, the obligation to do so being referred to as “maintenance factor.”

In recent years, the State’s response to fiscal difficulties has had a significant impact on Proposition 98 funding and settle-up treatment. The State has sought to avoid or delay paying settle-up amounts when funding has lagged the guaranteed amount. In response, teachers’ unions, the State Superintendent and others sued the State or Governor in 1995, 2005 and 2009 to force them to fund schools in the full amount required. The settlement of the 1995 and 2005 lawsuits has so far resulted in over \$4 billion in accrued State settle up obligations. However, legislation enacted to pay down the obligations through additional education funding over time, including the Quality Education Investment Act of 2006 (QEIA), have also become part of annual budget negotiations, resulting in repeated adjustments and deferrals of the settle up amounts. The State has also sought to preserve general fund cash while avoiding increases in the base guaranteed amount through various mechanisms: by treating any excess appropriations as advances against subsequent years’ Proposition 98 minimum funding levels rather than current year increases; by temporarily deferring apportionments of Proposition 98 funds one fiscal year to the next, by permanently deferring the year end apportionment from June 30 to July 2; by suspending Proposition 98, as the State did in 2004-05; and by proposing to amend the Constitution’s definition of the guaranteed amount and settle-up requirement under certain circumstances.

**2009-10 State Budget.** On September 24, 2008, the Governor signed the State budget for fiscal year 2008-09, the latest budget approval in State history. It is widely acknowledged that even by the time of its passage, the budget’s revenue estimates were already too optimistic, in light of continuing weak performance in the California economy and unprecedented adverse developments in the global and national financial markets, particularly after September 15, 2008. The Governor declared a fiscal emergency in December 2008, and called three concurrent special legislative sessions in order to address the budget deficit then estimated to be \$42 billion. In the face of growingly negative estimates of State tax receipts during fiscal year 2008-09, the Governor signed the State’s fiscal year 2009-10 Budget Act on February 20, 2009 (the earliest date on record), essentially as a revised two year budget settlement for fiscal years 2008-09 and 2009-10. However, after the failure in May 2009 of six revenue and spending propositions on the statewide ballot, the passage of which were assumed in the budget bill, work began again on a fiscal year 2009-10 budget plan. On July 24, 2009, the Legislature approved a new budget package, which the Governor signed on July 28, 2009. For an accurate view of current Proposition 98 funding, one must treat these three recent budgets as a whole, and consider also the significant adjustments that have been left to future budget years.

The amended 2009-10 State Budget consisted of some 30 separate bills; subsequent legislation may affect final budget totals. Indeed, if the economy worsens, the assumptions in even the amended 2009-10 State Budget may prove unsustainable, and further cuts and revisions may be needed. Until audited fiscal year-end 2008-09 State revenues are known, the State cannot determine the final fiscal year 2008-09 Proposition 98 funding requirement. The following information relating to the funding of elementary and secondary education is adapted from the budget summaries prepared by Legislative Analyst’s Office, the Governor’s office and other sources.

The amended 2009-10 State Budget achieves balance through spending cuts, additional revenue generation, borrowing from local governments and others, revenue shifts from redevelopment agencies, and other accounting changes; all of these techniques are also present in the adopted Proposition 98 funding plan. Fiscal year 2008-09 Proposition 98 funding for K-12 schools is reduced to \$43.1 billion (\$9 billion less than the level assumed in the adopted 2008-09 State Budget, and \$1.6 billion less than the February 2009 amended amount); fiscal year 2009-10 funding is established at \$44.6 billion (\$3.7 billion less than the February 2009 adopted amount). Over \$10.1 billion in mandated Proposition 98 funding is deferred to future years: the so-called "maintenance factor." Of budgeted Proposition 98 funding, \$1.7 billion is shifted to school districts from property taxes and other moneys belonging to redevelopment agencies. Funding is also delayed in several ways: \$2 billion is deferred from the first months of fiscal year 2009-10 to December 2009 and January 2010, while \$1.8 billion will not be paid until August 2010-11. Mandated settle-up payments of \$450 million for prior years under the Quality Education Investment Act are also deferred, effectively to fiscal year 2014-15. Cost of living adjustments of over 18% are deferred, creating a future obligation of over \$6.5 billion. Categorical funding of \$1.6 billion intended for fiscal year 2008-09 that had not been funded by June 30, 2009, is treated as fiscal year 2009-10 categorical funding, but an equal amount of minimum guarantee funding is eliminated. For those districts that would otherwise receive no Proposition 98 minimum guarantee funding from the State, categorical funding is reduced by \$80 million. In addition, the Governor vetoed \$3.9 million of approved spending for special education transportation costs.

State savings is also achieved by lifting various mandates and restrictions on local school districts: full flexibility is allowed to spend funding for 42 categorical programs as districts wish through 2012-13; the penalties associated with class-size reduction in grades K-3 are largely reduced, and the minimum days of instruction are reduced from 180 to 175, through reduced or suspended financial penalties on districts that do not meet existing requirements; districts are excused from buying new approved instructional materials; proceeds of surplus land sales otherwise restricted to capital improvements are permitted to be used for general fund expenditures through 2011; the general fund reserve requirement is reduced to one-third of the otherwise applicable percentage (3% of expenditures for a district with average daily attendance of up to 30,000), provided this is restored by 2011-12; the routine maintenance reserve requirement of 3% of general fund expenditures is suspended; and school districts that project they will not meet financial guidelines due to loss of federal stimulus funding in fiscal years 2011-12 and 2012-13 will not have their budgets negatively rated as a result.

The District cannot predict how State income or State education funding will vary over the term to maturity of the Bonds, and the District takes no responsibility for informing owners of the Bonds as to actions the State Legislature or Governor may take affecting the current year's budget after its adoption. Information about the State budget and State spending for education is regularly available at various State-maintained websites. Text of proposed and adopted budgets may be found at the website of the Department of Finance, [www.dof.ca.gov](http://www.dof.ca.gov), under the heading "California Budget." An impartial analysis of the budget is posted by the Office of the Legislative Analyst at [www.lao.ca.gov](http://www.lao.ca.gov). In addition, various State of California official statements, many of which contain a summary of the current and past State budgets and the impact of those budgets on school districts in the State, may be found at the website of the State Treasurer, [www.treasurer.ca.gov](http://www.treasurer.ca.gov). The information referred to is prepared by the respective State agency maintaining each website and not by the District, and the District can take no responsibility for the continued accuracy of these internet addresses or for the accuracy, completeness or timeliness of information posted there, and such information is not incorporated herein by these references.

**Proposition 1A.** Beginning in 1992-93, the State has satisfied a portion of its Proposition 98 obligations by shifting part of the property tax revenues otherwise belonging to cities, counties, special districts, and redevelopment agencies, to school and college districts through a local Educational Revenue Augmentation Fund (ERAF) in each county. Local agencies, objecting to invasions of their local

revenues by the State, sponsored a statewide ballot initiative intended to eliminate the practice. In response, the Legislature proposed an amendment to the State Constitution, which the State's voters approved as Proposition 1A at the November 2004 election.

Proposition 1A is intended to, among other things, stabilize local government revenue sources by restricting the State's control over local property taxes. Proposition 1A allows the State to divert up to 8% of local property tax revenues for State purposes (including, but not limited to, funding K-12 education) only if: (i) the Governor declares such action to be necessary due to a State fiscal emergency; (ii) two-thirds of both houses of the Legislature approve the action; (iii) the amount diverted is required by statute to be repaid within three years; (iv) the State does not owe any repayment to local agencies for past property tax or Vehicle License Fee diversions to local agencies; and (v) such property tax diversions do not occur in more than two of any ten consecutive fiscal years. Because ERAF shifts will be capped and limited in frequency, school and college districts that receive Proposition 98 funding from the State will be more directly dependent upon the State's general fund.

The amended 2009-10 State Budget includes a Proposition 1A diversion of \$1.935 billion in local property tax revenues from cities, counties, and special districts to the State to offset State general fund spending for education and other programs. Such diverted revenues must be repaid, with interest, no later than June 30, 2013. The amended 2009-10 State Budget diverts another \$1.7 billion in local property tax revenues from local redevelopment agencies, but this is not covered by Proposition 1A, and may be subject to lawsuits by such affected local agencies.

***Future Budgets and Budgetary Actions.*** The District cannot predict what actions will be taken in the future by the State Legislature and the Governor to address changing State revenues and expenditures or the impact such actions will have on State revenues available in the current or future years for education. The State budget will be affected by national and State economic conditions and other factors over which the District will have no control. Certain actions could result in a significant shortfall of revenue and cash, and could impair the State's ability to fund schools during Fiscal Year 2009-10 and in future fiscal years. Continued State budget shortfalls in Fiscal Year 2009-10 and future fiscal years could have a material adverse financial impact on the District.

***Allocation of State Funding to School Districts.*** Under Education Code Section 42238 and following, each school district is determined to have a target funding level: a "base revenue limit" per student multiplied by the district's student enrollment measured in units of average daily attendance ("A.D.A."). The base revenue limit is calculated from the district's prior-year funding level, as adjusted for a number of factors, such as inflation, special or increased instructional needs and costs, employee retirement costs, especially low enrollment, increased pupil transportation costs, etc. Generally, the amount of State funding allocated to each school district is the amount needed to reach that district's base revenue limit after taking into account certain other revenues, in particular, locally generated property taxes. This is referred to as State "equalization aid." To the extent local tax revenues increase due to growth in local property assessed valuation, the additional revenue is offset by a decline in the State's contribution.

Enrollment can fluctuate due to factors such as population growth or decline, competition from private, parochial, and public charter schools, inter-district transfers in or out, and other causes. Losses in enrollment will cause a school district to lose operating revenues, without necessarily permitting the district to make adjustments in fixed operating costs.

The enrollment in the District increased by 26.9% over the past 10 years, representing an average annual compound growth rate of 2.4%. The following table shows a 10-year history of enrollment for the District based on the October CBEDS count in each school year.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**7-12 Student Enrollment**  
**Fiscal 1998-99 through 2008-09**

<u>Year</u>	<u>CBED Enrollment</u>	<u>Annual Change</u>	<u>Annual % Change</u>
2004-05	11,935		
2005-06	12,189	254	2.1%
2006-07	12,348	159	1.3%
2007-08	12,440	92	.7%
2008-09	12,606	166	1.3%
2009-10*	12,648	42	.3%

*Source:* The District, based on October CBEDS.

\* Estimate.

The following tables shows the District's A.D.A. and the deficated revenue limit per A.D.A. for the most recent five years. The District's attendance rate in 2008-09 was 96%.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**Average Daily Attendance and Base Revenue Limit**  
**Fiscal Years 1995-96 through 2009-10**

<u>Fiscal Year</u>	<u>Average Daily Attendance</u> <sup>(1)</sup>	<u>Annual Change in A.D.A.</u>	<u>Base Revenue Limit per A.D.A.</u>
2004-05	11,524		\$5,532.98
2005-06	11,739	1.87%	\$5,844.55
2006-07	11,961	1.89%	\$6,350.08
2007-08	12,022	0.51%	\$6,640.08
2008-09 <sup>(2)</sup>	12,075	0.44%	\$7,019.08
2009-10 <sup>(3)</sup>	12,646	0.69%	\$7,319.08

Note: All amounts are rounded to the nearest whole number.

<sup>(1)</sup> Average daily attendance for the second period of attendance, typically in mid-April of each school year. Data for fiscal year 1998-99 and thereafter are based on state legislation which reconfigured Average Daily Attendance to represent actual attendance without regard to excused absences. Average daily attendance data for years prior to 1998-99 are not comparable with data for 1998-99 and subsequent years.

<sup>(2)</sup> The District had a 7.844% base revenue limit deficit in fiscal year 2008-09, resulting in a funded base revenue limit of \$6,468.50.

<sup>(3)</sup> Figures are projections. The District also expects a base revenue limit deficit adjustment in fiscal year 2009-10, which results in a funded base revenue limit of \$6,004.06.

*Source:* The District.

In its fiscal year 2009-10 budget, the District projects that it will receive approximately \$80.2 million in property tax revenues in fiscal year 2009-10, or approximately 81% of its general fund revenues. This amount represents a decrease of 1.7% from the \$81.6 million that the District received in fiscal year 2008-09. State funds for special programs are budgeted to be \$6.3 million for fiscal year 2009-10. This amount includes a small portion from State Lottery funds, which may not be used for non-instructional purposes, such as the acquisition of real property or the construction of facilities. School

districts receive lottery funds proportional to their total A.D.A. The District's State lottery revenue was estimated to be \$1.5 million in fiscal year 2008-09 and is budgeted at approximately \$1.5 million for fiscal year 2009-10.

See “—State Funding of Education; State Budget Process” above. Certain adjustments were made to the District's budget for fiscal year 2008-09 as a result of the mid-year cuts to education funding. For fiscal year 2009-10, the District has taken over \$5.9 million of budget measures in order to provide a balanced budget for such fiscal year, including elimination of certificated and classified positions, reducing deferred maintenance expenditures, lowering site and department budgets, scaling back supplemental programs such as summer school and ROP, and freezing expenses where possible. Further adjustments may be required to the extent revenues are less than projected. The District cannot make any predictions regarding any future budget legislation or its effect on school finance or whether the State will make additional cuts or enhancements to education funding during fiscal year 2009-10 or in any future fiscal year. The District's budgeted A.D.A. is an estimate used for planning purposes only, and does not represent a prediction as to the actual attendance or the District's actual funding level for 2009-10.

### **Local Sources of Education Funding**

The principal component of local revenues is a school district's property tax revenues, i.e., each district's share of the local one percent property tax, received pursuant to Sections 75 and following and Sections 95 and following of the California Revenue and Taxation Code. Education Code Section 42238(h) itemizes the local revenues that are counted towards the base revenue limit before calculating how much the State must provide in State aid. The more local property taxes a district receives, the less State aid it is entitled to; ultimately, a school district whose local property tax revenues exceed its base revenue limit is entitled to receive no State aid, and receives only its special categorical aid, which is deemed to include the “basic aid” of \$120 per student per year guaranteed by Article IX, Section 6 of the Constitution. Such districts are known as “basic aid districts.” Districts that receive some State aid are commonly referred to as “revenue limit districts.”

The District is a basic aid district. The District's deficated base revenue limit per A.D.A. is budgeted to be \$6,004.06 for Fiscal Year 2009-10, resulting in total base revenue limit income of \$\_\_\_\_\_ million for Fiscal Year 2009-10. Local general property tax revenues, meanwhile, are expected to be \$80.2. million, providing in excess of 100% of the District's total base revenue limit. Therefore, for Fiscal Year 2009-10, the District has budgeted to receive no equalization aid. The District still receives categorical funds it qualifies for from the State. The County is a “Teeter Plan” county, which means that the District is made whole for any delinquencies in payment of property taxes by local property owners. Property tax levy and collection procedures (including the Teeter Plan) are discussed herein under the section “LOCAL PROPERTY TAXATION – TAX LEVIES, COLLECTIONS AND DELINQUENCIES.” For a discussion of legal limitations on the ability of the District to raise revenues through local property taxes, see “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS” below.

Changes in local property tax income and student enrollment (A.D.A.) affect revenue limit districts and basic aid districts differently. In a revenue limit district, increasing enrollment increases the total revenue limit and thus generally increases a district's entitlement to State equalization aid, assuming property tax revenues are unchanged. Operating costs increase disproportionately slowly—and only at the point where additional teachers and classroom facilities are needed. Declining enrollment has the reverse effect on revenue limit districts, generally resulting in a loss of State equalization aid, while operating costs decrease slowly and only when, for example, the district decides to lay off teachers or close schools. Enrollment can fluctuate due to factors such as population growth, competition from private, parochial, and public charter schools, inter-district transfers in or out, and other causes. In basic



aid districts, the opposite is generally true: increasing enrollment does increase the revenue limit, but since all revenue limit income (and more) is already generated by local property taxes, there is no increase in State income. Meanwhile, as new students impose increased operating costs, the fixed property tax income is stretched further. Declining enrollment does not reduce property tax income, and has a negligible impact on State aid, but eventually reduces operating costs, and thus is financially beneficial to a basic aid district. Accordingly, the District has undertaken measures to ensure that only residents and other authorized students are enrolled at District schools.

Under California law, a city or county can create a redevelopment agency in territory within one or more school districts. Upon formation of a “project area” of a redevelopment agency, most property tax revenues attributable to the growth in assessed value of taxable property within the project area (known as “tax increment”) belong to the redevelopment agency, causing a loss of tax revenues to other local taxing agencies, including school districts, from that time forward. For revenue limit districts, any loss of local property taxes is made up by an increase in State equalization aid, until the base revenue limit is reached. For basic aid districts, the loss of tax revenues is not reimbursed by the State. In neither case are taxes collected for payment of debt service on school bonds affected or diverted. Certain school districts may enter into “pass-through agreements” with their local redevelopment agencies in order to receive a portion of the tax increment revenue that would otherwise belong to the redevelopment agency (provided such revenue is not pledged and needed to pay debt service on redevelopment agency tax-increment bonds), and in some cases the pass-through is mandated by statute. See “—Redevelopment Payments” below.

### **Local Property Taxation**

**General.** Taxable property located in the District has a 2009-10 assessed value of \$48,133,897,080. All taxable property is assessed using full cash value as defined by Article XIII A of the State Constitution. State law provides exemptions from *ad valorem* property taxation for certain classes of property such as churches, colleges, non-profit hospitals, and charitable institutions. State law also exempts from taxation \$7,000 of the full cash value of an owner-occupied dwelling provided that the owner files for such exemption. This exemption does not result in any loss of revenue to local agencies, since the State reimburses local agencies for the value of the exemptions.

The assessment of all property and levy and collection of local property taxes is required to be performed for the District by the County. District property taxes are assessed and collected by the County at the same time and on the same rolls as county, special district, and city property taxes. The valuation of secured property and a statutory tax lien is established as of January 1 and is subsequently equalized in August of each year. The resulting secured property tax is payable in two equal installments due November 1 and February 1, and payments become delinquent on December 10 and April 10, respectively. Taxes on unsecured property (personal property and leasehold) are due on August 31 of each year. Taxes on unsecured property are levied at the preceding fiscal year’s tax rate and become delinquent on October 31.

Future assessed valuation growth allowed under Article XIII A (as a result of new construction, certain changes of ownership, and increases in the cost of living of up to 2% per year) will be allocated on the basis of “situs” among the jurisdictions that serve the tax rate area within which the growth occurs. Local agencies and school districts will share the growth of “base” revenues from the tax rate area. Each year’s growth allocation becomes part of each agency’s allocation in the following year. The availability of revenue from growth in an agency tax base is affected by the existence or establishment of redevelopment agencies which, under certain circumstances, may be entitled to such revenues.

For assessment and collection purposes, property is classified as either “secured” or “unsecured” and is listed accordingly on separate parts of the assessment roll. The “secured roll” is that part of the assessment roll containing State-assessed property and real property having a tax lien which is sufficient, in the opinion of the assessor, to secure payment of the taxes. Unsecured property comprises all property not attached to land such as personal property, business inventories, boats and airplanes. Unsecured property is assessed on the “unsecured roll.”

***Taxation of State-Assessed Utility Property.*** A portion of property tax revenue of the District is derived from utility property subject to assessment by the State Board of Equalization (“SBE”). State-assessed property, or “unitary property,” is property of a utility system with components located in many taxing jurisdictions assessed collectively as part of a “going concern” rather than as individual parcels of real or personal property. Unitary and certain other state-assessed property is allocated to the counties by the SBE, taxed at special county-wide rates, and the tax revenues distributed to taxing jurisdictions (including the District) according to statutory formulae generally based on the distribution of taxes in the prior year.

Continuing changes in the California electric utility industry structure and in the way in which components of the industry are owned and regulated, including the sale of electric generation assets to largely unregulated, non-utility companies, may affect how utility assets are assessed in the future, and which local agencies are to receive the property taxes. The District cannot predict the impact that these changes may have on its utility property tax revenues, or whether future legislation or litigation may affect ownership of utility assets or the State’s methods of assessing utility property and allocating tax revenues to local taxing agencies, including the District.

***Assessed Valuation of Property Within District.*** Shown in the following table are the assessed valuations of property in the District for fiscal years 2005-06 through 2009-10.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**Assessed Valuations**  
**Fiscal Years 2005–06 through 2009–10**

Fiscal Year	Local Secured	Utility	Unsecured	Total
2005-06	\$ 36,414,272,677	\$ 14,787,293	\$ 436,341,120	\$ 36,865,401,090
2006-07	40,368,051,922	14,403,645	454,281,978	40,836,737,545
2007-08	44,063,521,878	8,732,983	508,226,447	44,580,481,308
2008-09	47,017,777,341	0	523,898,857	47,541,676,198
2009-10	47,622,252,375	0	511,644,705	48,133,897,080

Source: California Municipal Statistics, Inc.

***Largest Taxpayers in District.*** The twenty taxpayers with the greatest combined ownership of taxable property in the District on the 2009-10 tax roll, and the assessed valuation of all property owned by those taxpayers in all taxing jurisdictions within the District, are shown below.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**Twenty Largest**  
**Fiscal Year 2009-10 Local Secured Taxpayers**

Property Owner	Primary Land Use	2009-10 Assessed Valuation	% of Total <sup>(1)</sup>
1.Kilroy Realty LP	Office Building	\$374,369,070	0.80%
2.Arden Realty LP	Office Building	287,403,258	0.61
3.Irvine Co. LLC	Apartments	260,763,334	0.55
4.Grand Del Mar Resort LP	Hotel	260,057,264	0.55
5.Continuing Life Communities LLC	Rest Home	230,280,630	0.49
6.Union Investment Real Estate Aktiengesel	Commercial	153,425,000	0.33
7.TREA Pacific Plaza LLC	Office Building	109,100,000	0.23
8.Cognac Del Mar LLC	Office Building	101,256,218	0.22
9.DMH Campus Investors LLC	Commercial	100,470,000	0.21
10.Borders Inc.	Commercial	84,274,577	0.18
11.Torrey Hills Office Partners LP	Office Building	77,034,238	0.16
12.OC/SD Holdings LLC	Apartments	73,690,706	0.16
13.Sunstone El Camino LLC	Hotel	71,472,638	0.15
14.Collwood Pines Apartments LP	Apartments	70,979,046	0.15
15.CLPF-Plaza Del Mar III LP	Commercial	63,854,550	0.14
16.BRE-FMCA LLC	Apartments	58,837,029	0.13
17.PRII High Bluffs LLC	Office Building	57,679,247	0.12
18.Carmel Valley Center LLC	Commercial	57,120,000	0.12
19.Signature Point LLC	Apartments	54,671,941	0.12
20.HCC Investors LLC	Golf Course	53,399,780	0.11
		\$2,600,138,526	5.53%

<sup>(1)</sup> 2009-10 Local Secured Assessed Valuation: \$47,017,777,341

*Source:* California Municipal Statistics, Inc.

**Assessed Valuation by Land Use.** The following table gives a distribution of taxable property located in the District on the fiscal year 2009-10 tax roll by principal purpose for which the land is used, and the assessed valuation and number of parcels for each use.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**Assessed Valuation and Parcels by Land Use**  
**Fiscal Year 2009-10**

	<u>2009-10</u> <u>Assessed Valuation</u> <sup>(1)</sup>	<u>% of</u> <u>Total</u>	<u>No. of</u> <u>Parcels</u>	<u>% of</u> <u>Total</u>
<b>Non-Residential:</b>				
Agricultural	\$ 181,932,305	0.39%	214	0.30%
Commercial	3,981,788,001	8.47	1,174	1.63
Vacant Commercial	247,958,314	0.53	136	0.19
Industrial	164,335,543	0.35	61	0.08
Vacant Industrial	45,972,174	0.10	26	0.04
Recreational	352,562,533	0.75	356	0.49
Government/Social/Institutional	<u>20,224,506</u>	<u>0.04</u>	<u>25</u>	<u>0.03</u>
Subtotal Non-Residential	\$4,994,773,376	10.62%	1,992	2.77%
<b>Residential:</b>				
Single Family Residence	\$33,313,607,084	70.85%	40,557	56.38%
Condominium/Townhouse	5,432,879,201	11.55	14,843	20.64
Timeshare	102,959,221	0.22	9,630	13.39
Mobile Home	25,893,765	0.06	164	0.23
Mobile Home Park	21,972,689	0.05	12	0.02
2-4 Residential Units	788,261,445	1.68	1,401	1.95
5+ Residential Units/Apartments	1,503,873,124	3.20	799	1.11
Miscellaneous Residential	31,671,447	0.07	17	0.02
Vacant Residential	<u>801,885,989</u>	<u>1.71</u>	<u>2,514</u>	<u>3.50</u>
Subtotal Residential	\$42,023,003,965	89.38%	69,937	97.23%
<b>Total</b>	\$47,017,777,341	100.00%	71,929	100.00%

<sup>(1)</sup> Local Secured Assessed Valuation; excluding tax-exempt property.

*Source:* California Municipal Statistics, Inc.

**Assessed Valuation of Single Family Homes.** The following table shows the assessed valuation of single family homes located in the District for fiscal year 2009-10.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
Per Parcel 2009-10 Assessed Valuation of Single Family Homes**

	No. of <u>Parcels</u>	2009-10 <u>Assessed Valuation</u>	Average <u>Assessed Valuation</u>	Median <u>Assessed Valuation</u>
Single Family Residential	40,557	\$33,313,607,084	\$821,402	\$595,000

2009-10 <u>Assessed Valuation</u>	No. of <u>Parcels (1)</u>	% of <u>Total</u>	Cumulative <u>% of Total</u>	Total <u>Valuation</u>	% of <u>Total</u>	Cumulative <u>% of Total</u>
\$0 - \$99,999	2,094	5.163%	5.163%	\$ 144,552,761	0.434%	0.434%
\$100,000 - \$199,999	2,635	6.497	11.660%	392,778,011	1.179	1.613%
\$200,000 - \$299,999	3,834	9.453	21.113%	971,765,181	2.917	4.530%
\$300,000 - \$399,999	4,088	10.080	31.193%	1,427,354,043	4.285	8.815%
\$400,000 - \$499,999	3,995	9.850	41.043%	1,797,964,484	5.397	14.212%
\$500,000 - \$599,999	3,830	9.443	50.487%	2,101,528,253	6.308	20.520%
\$600,000 - \$699,999	3,367	8.302	58.789%	2,178,775,777	6.540	27.060%
\$700,000 - \$799,999	3,103	7.651	66.440%	2,313,539,921	6.945	34.005%
\$800,000 - \$899,999	2,720	6.707	73.146%	2,303,111,300	6.913	40.918%
\$900,000 - \$999,999	1,876	4.626	77.772%	1,776,755,493	5.333	46.252%
\$1,000,000 - \$1,099,999	1,361	3.356	81.128%	1,418,902,730	4.259	50.511%
\$1,100,000 - \$1,199,999	983	2.424	83.552%	1,122,374,576	3.369	53.880%
\$1,200,000 - \$1,299,999	829	2.044	85.596%	1,031,040,510	3.095	56.975%
\$1,300,000 - \$1,399,999	709	1.748	87.344%	951,516,521	2.856	59.831%
\$1,400,000 - \$1,499,999	592	1.460	88.803%	853,553,281	2.562	62.393%
\$1,500,000 - \$1,599,999	471	1.161	89.965%	726,183,518	2.180	64.573%
\$1,600,000 - \$1,699,999	397	0.979	90.944%	651,114,368	1.954	66.528%
\$1,700,000 - \$1,799,999	357	0.880	91.824%	622,173,620	1.868	68.395%
\$1,800,000 - \$1,899,999	299	0.737	92.561%	550,979,815	1.654	70.049%
\$1,900,000 - \$1,999,999	271	0.668	93.229%	526,043,248	1.579	71.628%
\$2,000,000 and greater	<u>2,746</u>	<u>6.771</u>	100.000%	<u>9,451,599,673</u>	<u>28.372</u>	100.000%
	40,557	100.000%		\$33,313,607,084	100.000%	

(1) Improved single family residential parcels. Excludes condominiums and parcels with multiple family units.

Source: California Municipal Statistics, Inc.

**Tax Rates.** The following table summarizes the total *ad valorem* property tax rates levied by all taxing entities for the last several years in the tax rate area (“TRA”) of the District: TRA 8-119.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
Typical Tax Rate per \$100 Assessed Valuation  
Fiscal Years 2005-06 Through 2009-10**

	2005-06	2006-07	2007-08	2008-09	2009-10
General	1.00000	1.00000	1.00000	1.00000	1.00000
City of San Diego	.00645	.00624	.00619	.00608	.00613
Metropolitan Water District	.00520	.00470	.00450	.00430	.00430
Total	1.01165	1.01094	1.01069	1.01038	1.01043

Source: California Municipal Statistics, Inc.

**Tax Collections and Delinquencies.** A school district’s share of the 1% countywide tax is based on the actual allocation of property tax revenues to each taxing jurisdiction in the county in fiscal year 1978-79, as adjusted according to a complex web of statutory modifications enacted since that time.

Revenues derived from special *ad valorem* taxes for voter-approved indebtedness are reserved to the taxing jurisdiction that approved and issued the debt, and may only be used to repay that debt.

The county treasurer prepares the property tax bills. Property taxes on the regular secured assessment roll are due in two equal installments: the first installment is due on November 1, and becomes delinquent after December 10. The second installment is due on February 1 and becomes delinquent after April 10. If taxes are not paid by the delinquent date, a ten percent penalty attaches. If taxes remain unpaid by June 30, the tax is deemed to be in default. Penalties then begin to accrue at the rate of 1.5% per month. The property owner has the right to redeem the property by paying the taxes, accrued penalties, and costs within five years of the date the property went into default. If the property is not redeemed within five years, it is subject to sale at a public auction by the county treasurer.

Annual bills for property taxes on the unsecured roll are generally issued in July, are due in a single payment within 30 days, and become delinquent after August 31. A ten percent penalty attaches to delinquent taxes on property on the unsecured roll, and an additional penalty of 1.5% per month begins to accrue on November 1. To collect unpaid taxes, the county treasurer may obtain a judgment lien upon and cause the sale of all property owned by the taxpayer in the county, and may seize and sell personal property, improvements and possessory interests of the taxpayer. The county treasurer may also bring a civil suit against the taxpayer for payment.

The date on which taxes on supplemental assessments are due depends on when the supplemental tax bill is mailed.

The County secured roll tax charges with respect to property located in the District for the five year period from 2004-05 through 2008-09 are set forth in the following table.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**Secured Tax Charges <sup>(1)</sup>**  
**Fiscal Years 2004-05 Through 2008-09**

Fiscal Year	Secured Tax Charge <sup>(2)</sup>
2004-05	\$52,185,359.22
2005-06	58,415,112.41
2006-07	64,996,262.61
2007-08	71,278,013.63
2008-09	75,871,930.52

<sup>(1)</sup> The County utilizes the Teeter Plan (defined below) for assessment levy and distribution. This method guarantees distribution of 100% of the assessments levied to the taxing entity, with the County retaining all penalties and interest.

<sup>(2)</sup> 1% General Fund apportionment.

Source: California Municipal Statistics, Inc.

San Diego County utilizes the Teeter Plan (defined below) for assessment levy and distribution and, therefore, does not provide real property tax delinquencies information for the District. This method guarantees distribution of 100% of the assessments levied to the participating taxing agency, with the County retaining all penalties. See “—Teeter Plan” below.

**Teeter Plan.** The County has adopted the alternative method of secured property tax apportionment available under Chapter 3, Part 8, Division 1 (commencing Section 4701) of the California Revenue and Taxation Code (also known as the “Teeter Plan”). This alternative method provides for funding each taxing entity included in the Teeter Plan with its total secured property taxes during the year the taxes are levied, including any amount uncollected at fiscal year end. Under the Teeter Plan, the

County assumes an obligation under a debenture or similar demand obligation to advance funds to cover expected delinquencies, and, by such financing, its general fund receives the full amount of secured property taxes levied each year and, therefore, no longer experiences delinquent taxes. In addition, the County's general fund benefits from future collections of penalties and interest on all delinquent taxes collected on behalf of participants in this alternative method of apportionment.

Upon adopting the Teeter Plan, the County was required to distribute to participating local agencies, 95% of the then-accumulated, secured roll property tax delinquencies and to place the remain 5% in a tax losses reserve fund. Taxing entities that maintain funds in the County Treasury are all included in the Teeter Plan; other taxing entities may elect to be included in the Teeter Plan. Taxing entities that do not elect to participate in the Teeter Plan will be paid as taxes are collected. Since the District maintains funds in the County Treasury, the District is included in the Teeter Plan.

Once adopted, a county's Teeter Plan will remain in effect in perpetuity unless the board of supervisors orders its discontinuance or unless prior to the commencement of a fiscal year a petition for discontinuance is received and joined in by resolutions of the governing bodies of not less than two-thirds of the participating agencies in the county. An electing county may, however, opt to discontinue the Teeter Plan with respect to any levying agency in the county if the board of supervisors, by action taken not later than July 15 of a fiscal year, elects to discontinue the procedure with respect to such levying agency and the rate of secured tax delinquencies in that agency in any year exceeds 3% of the total of all taxes and assessments levied on the secured roll by that agency. The County has never discontinued the Teeter Plan with respect to any levying agency.

**Developer Fees**

The District collects developer fees to finance essential school facilities within the District. The following table of developer fee revenues reflects the collection of fees from fiscal year 2005-06 through fiscal year 2009-10.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
Developer Fees  
Fiscal Years 2005-06 to 2009-10**

Year	Total Revenues
2005-06	\$1,286,869.83
2006-07	844,482.30
2007-08	725,045.05
2008-09 <sup>(1)</sup>	641,754.20
2009-10 <sup>(2)</sup>	470,000.00

<sup>(1)</sup> Estimated.

<sup>(2)</sup> Projected.

Source: The District.

**Redevelopment Payments**

[description of pass-through agreements (if any) or AB 1290 statutory payments]. In fiscal year 2008-09, the District received no revenue from the \_\_\_\_\_ Redevelopment Agency. For fiscal year 2009-10, the District has budgeted approximately \$\_\_\_\_\_ from \_\_\_\_\_ Redevelopment Agency funds.

## Significant Accounting Policies and Audited Financial Reports

The State Department of Education imposes by law uniform financial reporting and budgeting requirements for K through 12 school districts. Financial transactions are accounted for in accordance with the Department of Education's *California School Accounting Manual*. This manual, according to Section 41010 of the California Education Code, is to be followed by all California school districts, including the District. Significant accounting policies followed by the District are explained in Note 1 to the District's audited financial statements for the fiscal year ended June 30, 2008, which are included as APPENDIX B. Independently audited financial reports are prepared annually in conformity with generally accepted accounting principles for educational institutions. The annual audit report is generally available about six months after the June 30 close of each fiscal year.

The following tables contain District general fund data abstracted from financial statements prepared by the District's independent auditor Wilkinson Hadley King & Co. LLP, Certified Public Accountants & Advisors, El Cajon, California, for fiscal year 2005-06 through fiscal year 2007-08. The District's auditor has not been requested to consent to the use or to the inclusion of its report in this Official Statement, and it has neither audited nor reviewed this Official Statement. The District is required by law to adopt its financial statements after a public meeting to be conducted no later than January 31 following the close of each fiscal year.

The District categorizes its general fund revenues into four sources: (i) revenue limit sources, (ii) federal revenues, (iii) other State revenues, and (iv) other local revenues. Each of these revenue sources is described below:

**Revenue Limit Sources.** In general, revenue limits are calculated for each school district by multiplying (i) the A.D.A. for such district by (ii) the school district's base revenue limit per unit of A.D.A. The base revenue limit is calculated from the school district's prior-year funding level, as adjusted for a number of factors, such as inflation, special or increased instructional needs and costs, declining enrollment, etc. Funding of the District's revenue limit is provided by a mix of local property taxes and State aid. Revenue limit revenues comprised approximately 66% of the District's general fund revenues in 2007-08.

**Federal Revenues.** The federal government provides funding for several District programs, including special education programs, programs under The No Child Left Behind Act (NCLB) of 2001 (PL 107-110), and specialized programs such as nutrition education and Indian education. The federal revenues, most of which are restricted, comprised approximately eight percent of the District's general fund revenues in 2007-08.

**Other State Revenues.** As discussed above, the District receives State apportionment of aid in an amount equal to the difference between the District's revenue limit and its property tax revenues. In addition to such apportionment revenue, the District receives substantial other State revenues. These other State revenues are primarily restricted revenues funding items such as the Special Education Master Plan, Instructional Materials and various Block Grants. The other State revenues comprised approximately 21% of the District's general fund revenues in 2007-08.

The District receives revenue from the California State Lottery (the "Lottery"), which was established by a constitutional amendment approved in the November 1984 general election. Lottery revenues must be used for the education of students and cannot be used for non-instructional purposes such as real property acquisition, facility construction, or the financing of research.



**Other Local Revenues.** In addition to property taxes, the District receives additional local revenues from items such as interest earnings and other local sources. Other local revenues comprised approximately four percent of the District's general fund revenues in 2007-08.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**Statement of General Fund Revenues, Expenditures and Changes in Fund Balance**  
**Fiscal Years 2005-06 through 2007-08**

	Fiscal Year 2005-06	Fiscal Year 2006-07	Fiscal Year 2007-08
<b>Revenues:</b>			
Revenue Limit Sources:			
State Apportionment	\$6,824,907	\$13,487,498	\$11,468,832
Local Sources	62,923,490	63,681,897	69,469,850
Federal Revenue	2,987,955	2,786,914	2,685,128
Other State Revenue	8,986,407	13,202,260	9,652,123
Other Local Revenue	9,867,213	11,096,120	9,729,422
<b>Total Revenues</b>	<u>91,589,972</u>	<u>104,254,689</u>	<u>103,023,355</u>
<b>Expenditures:</b>			
Instruction	53,442,427	59,080,175	61,944,570
Instruction – Related Services	12,956,752	13,288,818	13,809,501
Pupil Services	9,646,543	10,282,404	9,504,013
Ancillary Services	1,584,602	1,863,087	1,884,089
General Administration	6,195,601	6,061,642	5,380,551
Plant Services	8,944,902	9,735,851	10,058,120
Other Outgo	67,969	11,739	289,035
Debt Service:			
Principal	213,486	-	-
Interest	15,163	-	-
<b>Total Expenditures</b>	<u>93,067,445</u>	<u>100,323,716</u>	<u>102,869,879</u>
<b>Excess (Deficiency) of Revenues Over (Under) Expenditures</b>	<u>(1,477,473)</u>	<u>3,930,973</u>	<u>153,476</u>
<b>Other Financing Sources (Uses):</b>			
Transfers In	48,562	1,313,606	533,154
Transfers Out	(729,243)	(2,837,291)	(736,780)
Proceeds from Sale of Bonds	-	-	-
Other Uses	-	-	-
<b>Total Other Financing     Sources (Uses)</b>	<u>(680,681)</u>	<u>(1,523,685)</u>	<u>(203,626)</u>
<b>Net Change in Fund Balance</b>	<u>(2,158,154)</u>	<u>2,407,288</u>	<u>(50,150)</u>
<b>Fund Balance – July 1</b>	<u>12,277,092</u>	<u>10,118,938</u>	<u>12,526,226</u>
<b>Fund Balance – June 30</b>	<u>\$10,118,938</u>	<u>\$12,526,226</u>	<u>\$12,476,076</u>

Source: District Audited Financial Report for Fiscal Years 2005-06, 2006-07 and 2007-08.

The following table shows the general fund balance sheets of the District for the fiscal years 2005–06 through 2007-08.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**Summary of General Fund Balance Sheet**  
**as of June 30, 2006, 2007 and 2008**

	Fiscal Year 2005-06	Fiscal Year 2006-07	Fiscal Year 2007-08
<b>ASSETS</b>			
Cash in County Treasury	\$6,665,309	\$8,144,669	\$9,096,112
Cash on Hand and in Banks	-	-	-
Cash in Revolving Fund	30,000	30,000	30,000
Cash with Fiscal Agent/Trustee	-	-	-
Accounts Receivable	5,925,409	6,092,329	4,983,304
Due from other funds	283,778	231,804	228,034
Stores inventories	67,957	46,403	1,144
<b>Total Assets</b>	<u>\$12,972,453</u>	<u>\$14,545,205</u>	<u>\$14,305,594</u>
<b>LIABILITIES AND FUND BALANCES</b>			
Liabilities:			
Accounts Payable	\$2,451,420	\$1,863,790	\$1,799,518
Due to Other Funds	18,042	17	6,393
Deferred Revenue	384,053	155,172	23,607
<b>Total Liabilities</b>	<u>2,853,515</u>	<u>2,018,979</u>	<u>1,829,518</u>
Fund Balance:			
Reserved Fund Balances:			
Reserve for Revolving Cash	30,000	30,000	30,000
Reserve for Stores Inventories	67,957	46,403	1,144
Reserve for All Others	10,020,981	12,449,823	1,375,000
Unreserved			11,069,932
Unreserved, reported in nonmajor:			
Special Revenue Funds	-	-	-
Capital Projects Funds	-	-	-
<b>Total Fund Balance</b>	<u>10,118,938</u>	<u>12,526,226</u>	<u>12,476,076</u>
<b>Total Liabilities and Fund Balances</b>	<u>\$12,972,453</u>	<u>\$14,545,205</u>	<u>\$14,305,594</u>

Source: District Audited Financial Report for fiscal years 2005–06, 2006-07 and 2007-08.

## Budgets

State law requires school districts to maintain a balanced budget in each fiscal year. The State Department of Education imposes a uniform budgeting and accounting format for school districts.

Under current law, a school district governing board must adopt and file with the county superintendent of schools a tentative budget by July 1 in each fiscal year. The District is under the jurisdiction of the San Diego County Superintendent of Schools.

The County Superintendent must review and approve or disapprove the budget no later than August 15. The County Superintendent is required to examine the adopted budget for compliance with the standards and criteria adopted by the State Board of Education and identify technical corrections

necessary to bring the budget into compliance with the established standards. If the budget is disapproved, it is returned to the District with recommendations for revision. The District is then required to revise the budget, hold a public hearing thereon, adopt the revised budget, and file it with the County Superintendent no later than September 8. Pursuant to State law, the County Superintendent has available various remedies by which to impose and enforce a budget that complies with State criteria, depending on the circumstances, if a budget is disapproved. After approval of an adopted budget, the school district's administration may submit budget revisions for governing board approval.

Subsequent to approval, the County Superintendent will monitor each district under its jurisdiction throughout the fiscal year pursuant to its adopted budget to determine on an ongoing basis if the district can meet its current or subsequent year financial obligations. If the County Superintendent determines that a district cannot meet its current or subsequent year obligations, the County Superintendent will notify the district's governing board of the determination and may then do either or both of the following: (a) assign a fiscal advisor to enable the district to meet those obligations, or (b) if a study and recommendations are made and a district fails to take appropriate action to meet its financial obligations, the County Superintendent will so notify the State Superintendent of Public Instruction, and then may do any or all of the following for the remainder of the fiscal year: (i) request additional information regarding the district's budget and operations; (ii) develop and impose, after also consulting with the district's governing board, revisions to the budget that will enable the district to meet its financial obligations; and (iii) stay or rescind any action inconsistent with such revisions. However, the County Superintendent may not abrogate any provision of a collective bargaining agreement that was entered into prior to the date upon which the County Superintendent assumed authority.

A State law adopted in 1991 (known as "A.B. 1200") imposed additional financial reporting requirements on school districts, and established guidelines for emergency State aid apportionments. Under the provisions of A.B. 1200, each school district is required to file interim certifications with the County Superintendent (on December 15, for the period ended October 31, and by mid-March for the period ended January 31) as to its ability to meet its financial obligations for the remainder of the then-current fiscal year and, based on current forecasts, for the subsequent fiscal year. The County Superintendent reviews the certification and issues either a positive, negative or qualified certification. A positive certification is assigned to any school district that will meet its financial obligations for the current fiscal year and subsequent two fiscal years. A negative certification is assigned to any school district that is deemed unable to meet its financial obligations for the remainder of the fiscal year or subsequent fiscal year. A qualified certification is assigned to any school district that may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A school district that receives a qualified or negative certification may not issue tax and revenue anticipation notes or Lease revenue bonds without approval by the County Superintendent. [The District has never received a qualified or negative certification.]

The following table summarizes the District's adopted general fund budget for fiscal year 2009-10 and unaudited actuals for fiscal year 2008-09.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**  
**General Fund Budget for Fiscal Year 2009-10 and**  
**Unaudited Actuals for Fiscal Year 2008-09**

	2008-09 Unaudited Actuals <sup>(1)</sup>	2009-10 Adopted Budget <sup>(2)</sup>
<b>PROJECTED INCOME</b>		
Revenue Limit/Property Tax	\$81,585,691	\$80,201,296
Federal Income	7,431,219	4,751,057
Other State Income	8,494,776	5,933,008
Local Income	10,471,387	7,371,271
Transfers	75,478	20,100
Encroachment	-	-
<b>TOTAL PROJECTED INCOME</b>	<b>108,058,551</b>	<b>98,276,732</b>
<b>PROJECTED EXPENDITURES</b>		
Certificated Salaries	50,607,902	49,715,518
Classified Salaries	18,386,505	17,235,113
Benefits	18,521,079	18,380,006
Books and Supplies	3,984,519	3,796,189
Services and Operating Expenses	9,487,892	9,676,487
Capital Outlay	798,038	1,102,611
Other Outgo	26,450	(94,671)
Categorical	-	-
<b>TOTAL PROJECTED EXPENDITURES</b>	<b>101,812,385</b>	<b>99,811,253</b>
Expenditures (over/under) Revenue	6,246,167	(1,534,521)
<b>FUND BALANCES, RESERVES:</b>		
Beginning Balance – July 1	11,150,476	18,722,242
Audit Adjustment	1,325,599	-
Adjusted Beginning Balance	12,473,075	18,722,242
Projected Ending Balance – June 30	18,722,242	17,187,721

<sup>(1)</sup> Indicated amounts reflect estimates by the District as of the date of adoption of the fiscal year 2009-10 budget on \_\_\_\_\_, 2009. Thus, the amounts do not reflect actual historical financial results.

<sup>(2)</sup> Certain adjustments are likely to be required to be made to the District's 2009-10 budget to the extent proposed revisions to the Budget Package (stemming from lower state revenue projections) are enacted into law. The District cannot make any predictions regarding any future budget legislation or its effect on school finance. See "—State Fiscal Crisis," "—2008-09 Mid-Year Cuts and 2009-10 State Budget," "—Legislative Analyst's Office 2009-2010 Budget Analysis" and "—2009-2010 May Revision – General Fund Proposals" above.

Source: District Adopted General Fund Budget for Fiscal Year 2009-10.

## District Debt

**Long-Term Debt Summary.** Long-term obligations include debt and other long-term liabilities. The changes in the District's long-term obligations during fiscal year 2007-08 consisted of the following:

	Beginning Balance	Increases	Decreases	Ending Balance	Due Within One Year
Special revenue bonds	\$91,125,000	\$89,130,000	\$91,125,000	\$89,130,000	\$925,000
Compensated absences*	962,540	154,376	-	1,116,916	1,116,916
Unamortized discount	(712,366)	(1,548,444)	(712,366)	(1,548,444)	-
Total governmental activities	<u>\$91,375,174</u>	<u>\$87,735,932</u>	<u>\$90,412,634</u>	<u>\$88,698,472</u>	<u>\$2,041,916</u>

\* Other long-term liabilities.

The funds typically used to liquidate other long-term liabilities in the past are as follows:

<u>Liability</u>	<u>Activity Type</u>	<u>Fund</u>
Compensated absences	Governmental	General

Debt service requirements on long-term debt at June 30, 2008 are as follows:

Year Ending June 30,	Governmental Activities		
	Principal	Interest	Total
2009	\$ 2,041,916	\$ 2,943,721	\$ 4,985,637
2010	1,645,000	4,095,724	5,740,724
2011	1,710,000	4,028,624	5,738,624
2012	1,780,000	3,958,824	5,738,824
2013	1,850,000	3,886,224	5,736,224
2014-2018	10,605,000	18,214,244	28,819,244
2019-2023	12,985,000	15,750,279	28,735,279
2024-2028	16,110,000	12,428,071	28,538,071
2029-2033	20,230,000	7,977,000	28,207,000
2034-2038	16,560,000	2,994,500	19,554,500
2038-2042	4,730,000	370,200	5,100,200
Totals	\$90,246,916	\$76,647,411	\$166,894,327

**Tax and Revenue Anticipation Notes.** The District issued \$13,380,000 of Tax and Revenue Anticipation Notes dated July 1, 2009 through the County of San Diego and San Diego County School District Tax and Revenue Anticipation Note Program Note Participations, Series 2009. The notes will mature on June 30, 2010 and yield 0.80%. The notes were sold by the District to supplement the District's cash flow.

### Direct and Overlapping Debt

Set forth below is a schedule of direct and overlapping debt prepared by California Municipal Statistics Inc. and effective October 30, 2009 for debt issued as of November 1, 2009. The table is included for general information purposes only. The District has not reviewed this table for completeness or accuracy and makes no representations in connection therewith. The first column in the table names each public agency which has outstanding debt as of the date of the schedule and whose territory overlaps the District in whole or in part. Column 2 shows the percentage of each overlapping agency's assessed value located within the boundaries of the District. This percentage, multiplied by the total outstanding debt of each overlapping agency (which is not shown in the table) produces the amount shown in column 3, which is the apportionment of each overlapping agency's outstanding debt to taxable property in the District.

The schedule generally includes long-term obligations sold in the public credit markets by public agencies whose boundaries overlap the boundaries of the District. Such long-term obligations generally are not payable from revenues of the District (except as indicated) nor are they necessarily obligations secured by land within the District. In many cases, long-term obligations issued by a public agency are payable only from the general fund or other revenues of such public agency.

**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT  
Statement Of Direct And Overlapping Bonded Debt  
As of October 30, 2009**

2009-10 Assessed Valuation: \$48,133,897,080  
 Redevelopment Incremental Valuation: 80,014,494  
 Adjusted Assessed Valuation \$48,053,882,586

<u>OVERLAPPING TAX AND ASSESSMENT DEBT:</u>	<u>% Applicable</u> <sup>(1)</sup>	<u>Debt 11/1/09</u>
Metropolitan Water District	2.574%	\$ 7,552,760
Palomar Community College District	0.097	147,198
San Diego Community College District	0.023	143,906
Cardiff School District	100.	8,849,035
Encinitas Union School District	100.	15,603,847
Rancho Santa Fe School District	100.	39,253,966
City of San Diego	9.367	406,528
City of Del Mar	100.	785,000
Palomar Pomerado Hospital District	0.144	601,378
San Dieguito Union High School District Community Facilities Districts	100.	86,560,000
Del Mar Union School District Community Facilities District No. 95-1	100.	19,200,000
Del Mar Union School District Community Facilities District No. 99-1	100.	9,915,000
North City West School District Community Facilities District No. 1	100.	90,692,921
Solana Beach School District Community Facilities District No. 2000-1	100.	3,600,000
Rancho Santa Fe Community Services District Community Facilities District No. 1	60.139	28,496,865
City of Encinitas Community Facilities District No. 1	100.	37,830,000
Olivenhain Municipal Water District Assessment District No. 96-1	76.746	12,916,352
Other City and Special District 1915 Act Bonds (Estimate)	various	<u>9,543,404</u>
<b>TOTAL OVERLAPPING TAX AND ASSESSMENT DEBT</b>		<b>\$372,098,160</b>

<u>DIRECT AND OVERLAPPING GENERAL FUND DEBT:</u>		
San Diego County General Fund Obligations	13.284%	\$ 57,431,381
San Diego County Pension Obligations	13.284	113,380,898
San Diego County Superintendent of Schools Obligations	13.284	2,160,975
Mira Costa Community College District Certificates of Participation	61.033	2,242,963
Palomar Community College District General Fund Obligations	0.097	6,751
San Dieguito Union High School District General Fund Obligations	100.	- <sup>(2)</sup>
Encinitas Union School District Certificates of Participation	100.	620,000
Rancho Santa Fe School District Certificates of Participation	100.	6,970,000
Solana Beach School District Certificates of Participation	100.	480,000
City of Encinitas Certificates of Participation	100.	45,375,000
City of San Diego General Fund Obligations	9.367	40,033,153
City of Solana Beach Certificates of Participation	100.	<u>2,100,000</u>
<b>TOTAL DIRECT AND OVERLAPPING GENERAL FUND DEBT</b>		<b>\$270,801,121</b>

**COMBINED TOTAL DEBT** \$642,899,281<sup>(3)</sup>

<sup>(1)</sup> Based on 2008-09 ratios.

<sup>(2)</sup> Excludes the Bonds to be sold.

<sup>(3)</sup> Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and tax allocation bonds and non-bonded capital lease obligations.

Ratios to 2009-10 Assessed Valuation:

Total Overlapping Tax and Assessment Debt ..... 0.77%

Ratios to Adjusted Assessed Valuation:

Combined Direct Debt ..... - %

Combined Total Debt ..... 1.34%

STATE SCHOOL BUILDING AID REPAYABLE AS OF 6/30/09: \$0

Source: California Municipal Statistics, Inc.

## Retirement

The District participates in retirement plans with the State Teachers' Retirement System ("CalSTRS"), which covers all full-time Bondd District employees, and the State Public Employees' Retirement System ("CalPERS"), which covers certain classified employees. Classified school personnel who are employed four or more hours per day may participate in CalPERS.

***District's Contributions to CalSTRS.*** Contributions to CalSTRS are fixed in statute. Teachers contribute 8% of salary to CalSTRS, while school districts contribute 8.25%. In addition to the teacher and school contributions, the State contributes 4.517% of teacher payroll to CalSTRS (calculated on payroll data from two fiscal years ago). Unlike typical defined benefit programs, however, neither the CalSTRS employer nor the State contribution rate varies annually to make up funding shortfalls or assess credits for actuarial surpluses. The State does pay a surcharge when the teacher and school district contributions are not sufficient to fully fund the basic defined benefit pension (generally consisting of 2% of salary for each year of service at age 60 referred to herein as "pre-enhancement benefits") within a 30-year period. However, this surcharge does not apply to systemwide unfunded liability resulting from recent benefit enhancements.

Because of the downturn in the stock market, an actuarial valuation as of June 30, 2003 showed a \$118 million shortfall in the baseline benefits—one-tenth of 1 percent of accrued liability. Consequently, the surcharge kicked in for the first time in the fiscal year 2004-05 at 0.524% for three quarterly payments, which amounted to an additional \$92 million from the State's general fund in fiscal year 2004-05. However, in addition to the small shortfall in pre-enhancement benefits (triggering the surcharge), the June 30, 2003, valuation also showed a substantial \$23 billion unfunded liability for the entire system, including enhanced benefits. As indicated above, there is no required contribution from teachers, school districts or the State to fund this unfunded liability.

As of June 30, 2007, an actuarial valuation for the entire system, including enhanced benefits, showed an estimated unfunded actuarial liability of \$20.7 billion. Future estimates of the actuarial unfunded liability may change due to market performance, legislative actions and other experience that may differ from the actuarial assumptions.

CalSTRS has developed options to address the shortfall but most would require legislative action. In addition, in the Governor's 2005-06 Proposed State Budget and the 2005-06 May Revise of the 2005-06 Proposed Budget, the Governor proposed increasing the fixed contribution rate from 8.25% to 10.25% for school districts. Subsequently, the final 2005-06 State Budget was adopted with a contribution rate of 8.25%. In addition to the proposal by the Governor to increase the fixed contribution rate for school districts, other proposals have been suggested that would modify the District's obligation to make contributions to CalSTRS to closely parallel the full cost of the retirement benefits provided by CalSTRS, which proposals would include components for unfunded liability. If these proposals were adopted, the District's annual obligations to CalSTRS would likely increase substantially.

The District's employer contributions to CalSTRS for fiscal years 2006-07, 2007-08 and 2008-09 were \$4,427,945, \$4,676,697 and \$4,562,856 respectively. The District estimates that its employer contributions to CalSTRS for fiscal year 2009-10 will be \$4,378,799.

***CalPERS.*** All qualifying classified employees of K through 12 school districts in the State are members in CalPERS, and all of such districts participate in the same plan. As such, all such districts share the same contribution rate in each year. However, unlike school districts' participating in CalSTRS, the school districts' contributions to CalPERS fluctuate each year and include a normal cost component and a component equal to an amortized amount of the unfunded liability.

According to the CalPERS State and Schools Actuarial Valuation as of June 30, 2007, the CalPERS Plan for Schools had a funded ratio of 107.8% on a market value of assets basis. It is expected that the funded ratio will be less as of June 30, 2008, as the rate of return on assets in fiscal year 2007-08 was 2.4%. On October 22, 2008 CalPERS announced that employer rates for fiscal year 2008-09 would be unaffected by the market losses experienced in October 2008. CalPERS indicated that rates were built using investment returns from earlier periods, and the effect of the current market downturn in October 2008 will be unknown until investment returns are determined for the fiscal year ending June 30, 2009. The District's employer contributions to CalPERS for fiscal years 2006-07, 2007-08 and 2008-09 were \$1,578,140, \$1,587,223 and \$1,666,083, respectively, and were equal to 100 percent of the required contributions for each year. The District estimates that its employer contributions to CalPERS for fiscal year 2009-10 will be approximately \$1,790,390.

***Other Post-Employment Benefits (OPEBs).*** In addition to the retirement plan benefits with CalSTRS and CalPERS, the District provides certain post retirement healthcare benefits, in accordance with District employment contracts, to certificated, management and administrative employees who chose to continue district-sponsored health care coverage.

Governmental Accounting Standards Board ("GASB") has recently released its Statement Number 45 ("GASB 45"), which requires accrual accounting for the expensing of other post-employment benefits ("OPEBs") much like municipalities are required to account for pension benefits. The expense is generally accrued over the working career of employees, rather than on a pay-as-you-go basis, which has been the practice for most municipalities and public sector organizations. OPEBs generally include post-employment health benefits (medical, dental, vision, prescription drug and mental health), life insurance, disability benefits and long term care benefits. The District implemented GASB 45 in Fiscal Year 2007-08. The District has not established an irrevocable trust to prefund its OPEB liability, and no prefunding of benefits has been made by the District. However, the District has determined that it will continue to address its OPEB liability on a pay-as-you-go basis. In Fiscal Year 2008-09 set aside \$568,590 for premiums for health care benefits for retirees and actually paid \$462,805 for such premiums. For Fiscal year 2009-10 the District budgeted \$595,000 for such purposes and has paid \$591,472.

The Epler Company, San Diego, California, prepared an actuarial valuation of the District's retiree health insurance benefits and reported that, as of July 1, 2008, the District had an accrued unfunded liability of \$13 million. However, as indicated above, the District currently intends to continue on a pay-as-you-go basis and not to pre-fund its OPEB obligations.

## **Insurance and Joint Ventures**

***Self Insurance.*** The District is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The District is self-insured through the San Diego County Schools and Imperial County Schools Risk Management Joint Powers Authority (the "JPA") which provides workers' compensation insurance, general liability, property, automobile and other miscellaneous coverage. Under this program the JPA provides coverage through a Workers' Compensation Fund. The District receives user charges based upon each members' respective covered payroll. Coverage is provided for workers compensation with \$100,000 per occurrence being self-funded. Costs above the first \$100,000 are covered by an excess insurance policy of up to \$25,000,000. Settled claims have not exceeded this commercial coverage in any of the past three fiscal years.

The District receives property/casualty loss and general liability insurance coverage through the JPA. A \$5,000,000 insurance policy is in effect with a deductible per occurrence of up to \$25,000 and a \$100,000 self insured retention. The JPA pool covers losses in excess of the self insured retention up to



\$500,000. The next \$4.5 million is covered by an excess insurance policy through a commercial carrier. The Schools Excess Liability Fund then provides an additional \$20,000,000 of coverage. Settled claims have not exceeded this commercial coverage in any of the past three fiscal years.

***Joint Powers Authorities.*** In addition to the Authority, as noted above the District participates in the San Diego County Schools and Imperial County Schools Risk Management Joint Powers Authority. The relationship between the District and the JPA is such that the JPA is not a component unit of the District for financial reporting purposes. Financial statements for the JPA are available from the such entity.

The JPA was created for the purpose of arranging for and providing various types of insurance for its member districts as requested. The JPA is governed by a board consisting of a representative from each member district. The board of the JPA controls the operations of the JPA, including selection of arrangement and approval of operating budgets, independent of any influence by the member districts beyond their representation on the board. Each member district pays a premium commensurate with the level of coverage requested and shares surpluses and deficits proportionate to their participation in the JPA.

### **San Diego County Treasury Pool**

*In accordance with Education Code Section 41001, substantially all District operating funds are required to be held by the Treasurer-Tax Collector of the County (the "County Treasurer"). The following information has been provided by the County Treasurer. The District has not independently verified this information and takes no responsibility for the accuracy or completeness thereof. Further information may be obtained from the County Treasurer.*

In accordance with Government Code Section 53600 et seq., the Treasurer manages funds deposited with it by the District. Each county is required to invest such funds in accordance with California Government Code Sections 53601 et seq. In addition, counties are required to establish their own investment policies which may impose limitations beyond those required by the Government Code.

All investments in the Treasurer's investment portfolio conform to the statutory requirements of Government Code Section 53601 et seq., authorities delegated by the County Board of Supervisors and the Treasurer's investment policy.

***General.*** Pursuant to a resolution adopted July 8, 1958, the Board of Supervisors delegated to the Treasurer the authority to invest and reinvest funds of the County. Applicable law limits this delegation of authority to a one-year period and must be renewed annually by action of the Board of Supervisors. In addition to funds of the County (and the various departments in the County, such as Public Works and Public Administration), funds of certain local agencies within the County, including school districts in the County, are required under state law to be deposited into County treasury ("Involuntary Depositors"). In addition, certain agencies, including community college districts, invest certain of their funds in the County treasury on a voluntary basis ("Voluntary Depositors" and together with the Involuntary Depositors, the "Depositors"). Deposits made by the County and the various local agencies are commingled in a pooled investment fund (the "Treasury Pool" or the "Pool"). No particular deposits are segregated for separate investment.

Under State law, Depositors in the Pool are permitted to withdraw funds which they have deposited on 30 days notice. The County does not expect that the Pool will encounter liquidity shortfalls based on its current portfolio and investment guidelines or realize any losses that may be required to be allocated among all Depositors in the Pool.

The County has established an Oversight Committee pursuant to State law. The Oversight Committee consists of members appointed from the County Treasurer-Tax Collector, the County Auditor and Controller, a representative appointed by the Board of Supervisors, the County Superintendent of Schools or his or her designee, a representative selected by a majority of the presiding officers of the governing bodies of the school districts and community college districts in the county, a representative selected by a majority of the presiding officers of the legislative bodies of the special districts in the county that are required or authorized to deposit funds in the County Treasury and up to five other members of the public. The Oversight Committee directs the preparation of an annual audit, which audit may include issues relating to the structure of the investment portfolio and its related risk, to determine the County Treasury's compliance with law.

***The Treasury Pool's Portfolio.*** As of September 30, 2009, the securities in the Treasury Pool had a market value of \$4,838,673,239 and a book value of \$4,805,636,361, for a net unrealized gain of \$33,036,878 of the book value of the Treasury Pool. As of September 30, 2009, the weighted average maturity of the Pool portfolio was approximately 411 days. As of September 30, 2009, 25.70% of the Pool was invested in securities with maturities ranging from 1-30 days, 8.27% of the Pool was invested in securities with maturities ranging from 31-90 days, 1.77% of the Pool was invested in securities with maturities ranging from 91-180 days, 0% of the Pool was invested in securities with maturities ranging from 181-365 days and 64.26% of the Pool was invested in securities with maturities between 1 and 5 years.

The effective duration for the Treasury Pool was 0.870 years as of September 30, 2009. "Duration" is a measure of the price volatility of the portfolio and reflects an estimate of the projected increase or decrease in the value of the portfolio based upon a decrease or increase in interest rates. A duration of 0.540 means that for every one percent increase in interest rates the market value of the portfolio would decrease by 0.540%

As of September 30, 2009, approximately 3.46% of the total funds in the Pool were deposited by Voluntary Depositors, such as cities and fire districts. Mandatory Depositors are comprised of 34.49% by County Funds, 46.91% by K-12 school districts and 10.13% by community colleges.

Standard & Poor's, a Division of The McGraw-Hill Companies, Inc., maintains ratings on the Pool's ability to meet its financial commitments of "AAAF" (long-term) and "S1" (short-term volatility). The rating reflects only the view of the rating agency and any explanation of the significance of such rating may be obtained from such rating agency as follows: Standard & Poor's, 55 Water Street, New York, New York 10041.

### ***Investments of the Treasury Pool.***

**Authorized Investments.** Investments of the Pool are placed in those securities authorized by various sections of the California Government Code, which include obligations of the United States Treasury, Agencies of the United States Government, local and State bond issues, bankers acceptances, commercial paper of prime quality, certificates of deposit (both collateralized and negotiable), repurchase and reverse repurchase agreements, medium term corporate notes, shares of beneficial interest in diversified management companies (mutual funds), and asset backed (including mortgage related) and pass-through securities. Generally, investments in repurchase agreements cannot exceed a term of one year and the security underlying the agreement shall be valued at 102% or greater of the funds borrowed against the security and the value of the repurchase agreement shall be adjusted no less than quarterly. In addition, reverse repurchase agreement generally may not exceed 20% of the base value of the portfolio and the term of the agreement may not exceed 92 days. Securities lending transactions are considered reverse repurchase agreements for purposes of this limitation. Base Value is defined as the total cash

balance excluding any amounts borrowed (i.e., amounts obtained through selling securities by way of reverse repurchase agreements or other similar borrowing methods).

Legislation which would modify the currently authorized investments and place restrictions on the ability of municipalities to invest in various securities is considered from time to time by the California State Legislature. Therefore, there can be no assurances that the current investments in the Treasury Pool will not vary significantly from the investments described herein.

The Investment Policy. The County's Investment Policy (the "Investment Policy") (which may be modified, amended, or otherwise changed at any time at the sole discretion of the Treasurer) currently states that the objectives of the Treasurer when investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds are as follows: the primary objective is to safeguard the principal of the funds under the Treasurer's control, the secondary objective is to meet the liquidity needs of the Pool Participants, and the third objective is to achieve an investment return on the funds under the control of the Treasurer within the parameters of prudent risk management. The Investment Policy contains a goal that 50% of the Pool should be invested in securities maturing one year or less with the remainder spread over 1-5 years on the yield curve depending on opportunities in the marketplace. With respect to reverse repurchase agreements, the Investment Policy provides for a maximum maturity of 92 days (unless the reverse repurchase agreement includes a written guarantee of a minimum earning or spread for the entire period of such agreement) and a limitation on the total amount of reverse repurchase agreements to 20% of the total investments in the Pool. The Investment Policy states that the purpose of reverse repurchase agreements is to invest the proceeds from the agreement into permissible securities that have the highest short-term credit rating, to supplement the yield on securities owned by the Pool or to provide funds for the immediate payment of an obligation, and that the maturity of the reverse repurchase agreement and the maturity of the security purchased be the same.

The Investment Policy also authorizes investments in covered call options or put options, which are options on the part of a third party to buy from the Pool a specified security within a finite time at a specified price. Under the Investment Policy, securities subject to covered calls are not to be used for reverse repurchase agreements, cash sufficient to pay for outstanding puts are to be invested in securities maturing on or before the expiration date of the option, the maximum maturity of a covered call option/put option is to be 90 days and not more than 10% of the total investments in the Pool could have options (in contrast to "derivatives") written against them at any one time.

**Pool Benchmark.** Beginning in early 2007, the Pool was managed as two portfolios; one positioned to meet liquidity needs and the other positioned to achieve incremental yield. All reporting with respect to the Pool will be on a combined portfolio basis to facilitate financial transparency from the perspective of Pool participants. The change was instituted after the development of a benchmark portfolio, which is comprised of 60% U.S. Treasury securities, 30% U.S. Government Agency securities and 10% corporate securities. It has a duration of approximately 1.6 years and reflects an appropriate risk/return profile for the portion of the Pool that is not anticipated to be needed for liquidity purposes. While the "benchmarked" portion of the portfolio is available for liquidity needs, it is positioned to achieve long term incremental yield. The combined portfolios will continue to comply with all California State Code and the Pool's Investment Policy, a copy of which is contained in APPENDIX E hereto.

**Neither the District nor the Underwriter has made an independent investigation of the investments in the County Pool and has made no assessment of the current County Investment Policy. The value of the various investments in the County Pool will fluctuate on a daily basis as a result of a multitude of factors, including generally prevailing interest rates and other economic conditions. Additionally, the County Treasurer, with the consent of the County Board of Supervisors, may change the County Investment Policy at any time. Therefore, there can be no**

**assurance that the values of the various investments in the County Pool will not vary significantly from the values described herein.**

## **CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS**

### **Article XIII A of the California Constitution**

On June 6, 1978, California voters approved Proposition 13 (“Proposition 13”), which added Article XIII A to the State Constitution (“Article XIII A”). Article XIII A limits the amount of any *ad valorem* tax on real property to 1% of the full cash value thereof, except that additional *ad valorem* taxes may be levied to pay debt service on (i) indebtedness approved by the voters prior to July 1, 1978, (ii) bonded indebtedness for the acquisition or improvement of real property which has been approved on or after July 1, 1978 by two-thirds of the voters on such indebtedness, and (iii) bonded indebtedness incurred by a school district or community college district for the construction, reconstruction, rehabilitation or replacement of school facilities or the acquisition or lease of real property for school facilities, approved by 55% of the voters of the district, but only if certain accountability measures are included in the proposition. Article XIII A defines full cash value to mean “the county assessor’s valuation of real property as shown on the 1975-76 tax bill under full cash value, or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership have occurred after the 1975 assessment.” This full cash value may be increased at a rate not to exceed two percent per year to account for inflation.

Article XIII A has subsequently been amended to permit reduction of the “full cash value” base in the event of declining property values caused by damage, destruction or other factors, to provide that there would be no increase in the “full cash value” base in the event of reconstruction of property damaged or destroyed in a disaster and in other minor or technical ways.

*County of Orange v. Orange County Assessment Appeals Board No. 3.* Section 51 of the Revenue and Taxation Code permits county assessors who have reduced the assessed valuation of a property as a result of natural disasters, economic downturns or other factors, to subsequently “recapture” such value (up to the pre-decline value of the property) at an annual rate higher than 2%, depending on the assessor’s measure of the restoration of value of the damaged property. The constitutionality of this procedure was challenged in a lawsuit brought in 2001 in the Orange County Superior Court, and in similar lawsuits brought in other counties, on the basis that the decrease in assessed value creates a new “base year value” for purposes of Proposition 13 and that subsequent increases in the assessed value of a property by more than 2% in a single year violate Article XIII A. On appeal, the California Court of Appeal upheld the recapture practice in 2004, and the State Supreme Court declined to review the ruling, leaving the recapture law in place.

*Legislation Implementing Article XIII A.* Legislation has been enacted and amended a number of times since 1978 to implement Article XIII A. Under current law, local agencies are no longer permitted to levy directly any property tax (except to pay voter-approved indebtedness). The one percent property tax is automatically levied by the county and distributed according to a formula among taxing agencies. The formula apportions the tax roughly in proportion to the relative shares of taxes levied prior to 1989.

Increases of assessed valuation resulting from reappraisals of property due to new construction, change in ownership or from the two percent annual adjustment are allocated among the various

jurisdictions in the “taxing area” based upon their respective “situs.” Any such allocation made to a local agency continues as part of its allocation in future years.

Beginning in the 1981-82 fiscal year, assessors in the State no longer record property values on tax rolls at the assessed value of 25% of market value which was expressed as \$4 per \$100 assessed value. All taxable property is now shown at full market value on the tax rolls. Consequently, the tax rate is expressed as \$1 per \$100 of taxable value. All taxable property value included in this Official Statement is shown at 100% of market value (unless noted differently) and all tax rates reflect the \$1 per \$100 of taxable value.

### **Article XIII B of the California Constitution**

An initiative to amend the State Constitution entitled “Limitation of Government Appropriations” was approved on September 6, 1979, thereby adding Article XIII B to the State Constitution (“Article XIII B”). Under Article XIII B state and local governmental entities have an annual “appropriations limit” and are not permitted to spend certain moneys which are called “appropriations subject to limitation” (consisting of tax revenues, state subventions and certain other funds) in an amount higher than the “appropriations limit.” Article XIII B does not affect the appropriation of moneys which are excluded from the definition of “appropriations subject to limitation,” including debt service on indebtedness existing or authorized as of January 1, 1979, or bonded indebtedness subsequently approved by the voters. In general terms, the appropriations limit” is to be based on certain 1978-79 expenditures, and is to be adjusted annually to reflect changes in consumer prices, populations, and services provided by these entities. Among other provisions of Article XIII B, if these entities’ revenues in any year exceed the amounts permitted to be spent, the excess would have to be returned by revising tax rates or fee schedules over the subsequent two years.

The District’s budgeted appropriations from “proceeds of taxes” (sometimes referred to as the “Gann limit”) for the 2008-09 fiscal year are equal to the allowable limit of \$80.8 million, and estimates an appropriations limit for the 2009-10 fiscal year of \$81.3 million. Any proceeds of taxes received by the District in excess of the allowable limit are absorbed into the State’s allowable limit.

### **Article XIII C and Article XIII D of the California Constitution**

On November 5, 1996, the voters of the State of California approved Proposition 218, popularly known as the “Right to Vote on Taxes Act.” Proposition 218 added to the California Constitution Articles XIII C and XIII D, which contain a number of provisions affecting the ability of local agencies, including school districts, to levy and collect both existing and future taxes, assessments, fees and charges.

According to the “Title and Summary” of Proposition 218 prepared by the California Attorney General, Proposition 218 limits “the authority of local governments to impose taxes and property-related assessments, fees and charges.” Among other things, Article XIII C establishes that every tax is either a “general tax” (imposed for general governmental purposes) or a “special tax” (imposed for specific purposes), prohibits special purpose government agencies such as school districts from levying general taxes, and prohibits any local agency from imposing, extending or increasing any special tax beyond its maximum authorized rate without a two-thirds vote; and also provides that the initiative power will not be limited in matters of reducing or repealing local taxes, assessments, fees and charges. Article XIII C further provides that no tax may be assessed on property other than *ad valorem* property taxes imposed in accordance with Articles XIII and XIII A of the California Constitution and special taxes approved by a two-thirds vote under Article XIII A, Section 4. Article XIII D deals with assessments and property-related fees and charges, and explicitly provides that nothing in Article XIII C or XIII D will be construed

to affect existing laws relating to the imposition of fees or charges as a condition of property development.

The District does not impose any taxes, assessments, or property-related fees or charges which are subject to the provisions of Proposition 218. It does, however, receive a portion of the basic one percent *ad valorem* property tax levied and collected by the County pursuant to Article XIII A of the California Constitution. The provisions of Proposition 218 may have an indirect effect on the District, such as by limiting or reducing the revenues otherwise available to other local governments whose boundaries encompass property located within the District thereby causing such local governments to reduce service levels and possibly adversely affecting the value of property within the District.

### **Statutory Limitations**

On November 4, 1986, State voters approved Proposition 62, an initiative statute limiting the imposition of new or higher taxes by local agencies. The statute (a) requires new or higher general taxes to be approved by two-thirds of the local agency's governing body and a majority of its voters; (b) requires the inclusion of specific information in all local ordinances or resolutions proposing new or higher general or special taxes; (c) penalizes local agencies that fail to comply with the foregoing; and (d) required local agencies to stop collecting any new or higher general tax adopted after July 31, 1985, unless a majority of the voters approved the tax by November 1, 1988.

Appellate court decisions following the approval of Proposition 62 determined that certain provisions of Proposition 62 were unconstitutional. However, the California Supreme Court upheld Proposition 62 in its decision on September 28, 1995 in *Santa Clara County Transportation Authority v. Guardino*. This decision reaffirmed the constitutionality of Proposition 62. Certain matters regarding Proposition 62 were not addressed in the Supreme Court's decision, such as whether the decision applies retroactively, what remedies exist for taxpayers subject to a tax not in compliance with Proposition 62, and whether the decision applies to charter cities.

### **Proposition 98 and Proposition 111**

On November 8, 1988, voters approved Proposition 98, a combined initiative constitutional amendment and statute called the "Classroom Instructional Improvement and Accountability Act" (the "Accountability Act"). The Accountability Act changed State funding of public education below the university level, and the operation of the State's Appropriations Limit. The Accountability Act guarantees State funding for K through 12 school districts and community college districts (collectively, "K-14 districts") at a level equal to the greater of (a) the same percentage of general fund revenues as the percentage appropriated to such districts in 1986-87, which percentage is equal to 40.9 %, or (b) the amount actually appropriated to such districts from the general fund in the previous fiscal year, adjusted for growth in enrollment and inflation.

Since the Accountability Act is unclear in some details, there can be no assurance that the Legislature or a court might not interpret the Accountability Act to require a different percentage of general fund revenues to be allocated to K-14 districts than the 40.9% percentage, or to apply the relevant percentage to the State's budgets in a different way than is proposed in the Governor's Budget. In any event, the Governor and other fiscal observers expect the Accountability Act to place increasing pressure on the State's budget over future years, potentially reducing resources available for other State programs, especially to the extent the Article XIII B spending limit would restrain the State's ability to fund such other programs by raising taxes.

The Accountability Act also changes how tax revenues in excess of the State Appropriations Limit are distributed. Any excess State tax revenues up to a specified amount would, instead of being returned to taxpayers, be transferred to K-14 districts. Such transfer would be excluded from the Appropriations Limit for K-14 districts and the K-14 school Appropriations Limits for the next year would automatically be increased by the amount of such transfer. These additional moneys would enter the base funding calculation for K-14 districts for subsequent years, creating further pressure on other portions of the State budget, particularly if revenues decline in a year following an Article XIII B surplus. The maximum amount of excess tax revenues which could be transferred to schools is four percent of the minimum State spending for education mandated by the Accountability Act, as described above.

On June 5, 1990, California voters approved Proposition 111 (Senate Constitutional Amendment 1), which further modified the Constitution to alter the spending limit and education funding provisions of Proposition 98. Most significantly, Proposition 111 (1) liberalized the annual adjustments to the spending limit by measuring the “change in the cost of living” by the change in State per capita personal income rather than the Consumer Price Index, and specified that a portion of the State’s spending limit would be adjusted to reflect changes in school attendance; (2) provided that 50% of the “excess” tax revenues, determined based on a two-year cycle, would be transferred to K-14 school districts with the balance returned to taxpayers (rather than the previous 100% but only up to a cap of four percent of the districts’ minimum funding level), and that any such transfer to K-14 school districts would not be built into the school districts’ base expenditures for calculating their entitlement for State aid in the following year and would not increase the State’s appropriations limit; (3) excluded from the calculation of appropriations that are subject to the limit appropriations for certain “qualified capital outlay projects” and certain increases in gasoline taxes, sales and use taxes, and receipts from vehicle weight fees; (4) provided that the Appropriations Limit for each unit of government, including the State, would be recalculated beginning in the 1990-91 fiscal year, based on the actual limit for fiscal year 1986-87, adjusted forward to 1990-91 as if Senate Constitutional Amendment 1 had been in effect; and (5) adjusted the Proposition 98 formula that guarantees K-14 school districts a certain amount of general fund revenues, as described below.

Under prior law, K-14 school districts were guaranteed the greater of (a) 40.9% of general fund revenues (the “first test”) or (b) the amount appropriated in the prior year adjusted for changes in the cost of living (measured as in Article XIII B by reference to per capita personal income) and enrollment (the “second test”). Under Proposition 111, school districts would receive the greater of (a) the first test, (b) the second test or (c) a third test, which would replace the second test in any year when growth in per capita general fund revenues from the prior year was less than the annual growth in State per capita personal income. Under the third test, school districts would receive the amount appropriated in the prior year adjusted for change in enrollment and per capita general fund revenues, plus an additional small adjustment factor. If the third test were used in any year, the difference between the third test and the second test would become a “credit” to be paid in future years when general fund revenue growth exceeds personal income growth.

### **Applications of Constitutional and Statutory Provisions**

The application of Proposition 98 and other statutory regulations has become increasingly difficult to predict accurately in recent years. For a discussion of how the provisions of Proposition 98 have been applied to school funding see “DISTRICT HISTORY, OPERATION AND FINANCIAL INFORMATION — State Funding of Education; State Budget Process.”

## **Future Initiatives**

Article XIII A, Article XIII B, Article XIII C, Article XIII D, as well as Propositions 98 and 111 were each adopted as measures that qualified for the ballot pursuant to the State's initiative process. From time to time other initiative measures could be adopted, further affecting District revenues or the District's ability to expend revenues.

## **RATINGS**

Standard & Poor's Rating Services ("S&P") has assigned the Bonds the rating of "\_\_\_". The rating agency may have obtained and considered information and material which has not been included in this Official Statement. Generally, rating agencies base their rating on information and material so furnished and on investigations, studies and assumptions made by them. The ratings are not a recommendation to buy, sell or hold the Bonds. The ratings reflect only the view of the rating agency and an explanation of the significance of such ratings may be obtained from it. No assurance can be given that the rating of the rating agency will be maintained for any given period of time or that the rating may not be revised downward or withdrawn entirely by the rating agency, if in its own judgment, circumstances warrant. Any such downward change in or withdrawal may have an adverse effect on the market price of the Bonds. The Underwriter and the District have not undertaken any responsibility after the offering of the Bonds to assure the maintenance of the ratings or to oppose any such revision or withdrawal.

## **TAX MATTERS RELATING TO THE SERIES 2009A BONDS**

**The following discussion of Federal Tax Credits was written to support the promotion and marketing of the Series 2009A Bonds and was not intended or written to be used, and cannot be used, by a taxpayer for the purpose of avoiding United States federal income tax penalties that may be imposed. Each taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.**

### **Tax Opinion**

In the opinion of Manatt, Phelps & Phillips, LLP, Bond Counsel to the District ("Bond Counsel"), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, the Series 2009A Bonds are "qualified school construction bonds" within the meaning of Section 54F of the Code. Owners of Tax Credit Certificates, whether held as Tax Credit Strips or as part of the Series 2009A Bonds, as of the applicable credit allowance date (defined in Section 54A of the Code) are entitled, subject to the limitations of Code Section 54A, to a federal income tax credit for such taxable year. However, the amount of the Tax Credit will be treated as interest for federal tax purposes and will be included in gross income for all Owners of Tax Credit Certificates, whether held as Tax Credit Strips or as part of a Series 2009A Bond, in accordance with each Owner's tax status. A complete copy of the proposed form of opinion of Bond Counsel is set forth in Appendix C hereto.

The Code imposes various restrictions, conditions and requirements relating to the qualification of the Series 2009A Bonds as "qualified school construction bonds" within the meaning of Section 54F of the Code. The District has made certain representations and covenanted to comply with certain restrictions, conditions and requirements designed to ensure that the Series 2009A Bonds continue to qualify as qualified school construction bonds. Inaccuracy of these representations or failure to comply with these covenants may result in termination of the Tax Credit, possibly from the date of original



issuance of the Series 2009A Bonds. The opinion of Bond Counsel assumes the accuracy of these representations and compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken), or events occurring (or not occurring), or any other matters coming to Bond Counsel's attention after the date of issuance of the Series 2009A Bonds may adversely affect the value of, or the availability of the Tax Credit with respect to, the Series 2009A Bonds. Accordingly, the opinion of Bond Counsel is not intended to, and may not, be relied upon in connection with any such actions, events or matters.

Although Bond Counsel is of the opinion that the Series 2009A Bonds are "qualified school construction bonds" within the meaning of Section 54F of the Code, the ownership or disposition of, or the accrual or receipt of the Tax Credit with respect to, the Series 2009A Bonds may otherwise affect an Owner's federal, state or local tax liability. The nature and extent of these other tax consequences depends upon the particular tax status of the Owner or the Owner's other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

Future legislative proposals, if enacted into law, clarification of the Code or court decisions may prevent Owners from realizing the full current benefit of the tax status of the Series 2009A Bonds. 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 Series 2009A Bonds, the Tax Credit Strips or the Principal Strips. Prospective purchasers of the Series 2009A Bonds, the Tax Credit Strips or the Principal Strips 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.

The opinion of Bond Counsel is based on current legal authority, covers certain matters not directly addressed by such authorities, and represents Bond Counsel's judgment as to the proper treatment of the Series 2009A Bonds for federal income tax purposes. The legal authorities setting forth and interpreting sections 54A and 54F of the Code are new and, in many areas, incomplete. The opinion of Bond Counsel is not binding on the Internal Revenue Service ("IRS") or the courts. Furthermore, Bond Counsel cannot give and has not given any opinion or assurance about the future activities of the District, or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the enforcement thereof by the IRS. The District has covenanted, however, to comply with the requirements of the Code.

Bond Counsel's engagement with respect to the Series 2009A Bonds ends with the issuance of the Series 2009A Bonds, and, unless separately engaged, Bond Counsel is not obligated to defend the District or the Owners regarding the tax status of the Series 2009A Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the District and their 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 credit bonds is difficult, obtaining an independent review of IRS positions with which the District legitimately disagrees, may not be practicable. Any action of the IRS, including but not limited to selection of the Series 2009A 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 Series 2009A Bonds, the Tax Credit Strips or the Principal Strips, and may cause be District or be Owners to incur significant expense.

### **Amount of Tax Credit**

The amount of the Tax Credit with respect to a Series 2009A Bond is equal to the product of the published credit rate for the date on which the Tax Credit and is sold (x.xx%), times the outstanding principal amount of the Series 2009A Bond on the relevant credit allowance date, divided by four. The

credit allowance dates are March 15, June 15, September 15, and December 15. The Tax Credit allowed for the first credit allowance date of March 15, 2010 is the ratable portion of the tax credit otherwise allowed on such date based on an initial issuance date of December \_\_\_, 2009 (as opposed to the full credit period starting March 15, 2010). If a Series 2009A Bond or a Principal Strip is redeemed or matures on a date other than March 15, June 15, September 15, or December 15, the redemption or maturity date will be a credit allowance date and the amount of be associated Tax Credit will be a ratable portion of the tax credit otherwise allowed based on the earlier credit allowance date. Owners of Two Credit Certificates, whether held as Tax Credit Strips or as part of the Series 2009A Bonds, as of the applicable credit allowance date will receive the Tax Credit.

### **Limitation on Tax Credit**

The Tax Credit allowed may not exceed the sum of the taxpayer's regular tax liability and alternative minimum tax liability under Section 55 of the Code less, in general, the taxpayer's other tax credits (except refundable tax credits set forth in subparts C (Sections 31-37) and J (Section 54A) of part IV of subchapter A of the Code). The Tax Credit is not considered a passive activity credit under Code Section 469(d), and therefore, such credit is not subject to the limitations with respect to passive activity credits.

### **Carryover of Unused Tax Credit Amount**

If an Owner of a Tax Credit Certificate, whether held as a Tax Credit Strip or as part of a Series 2009A Bond, cannot use all of the Tax Credit otherwise allocable for the taxable year, such Owner is allowed to carry forward to a subsequent tax year the unused portion of the credit deemed paid on such credit allowance date.

### **Tax Credit Amount Included in Income as Deemed Interest**

Section 54A of the Code requires the Owners of Tax Credit Certificates, whether held as Tax Credit Strips or as part of the Series 2009A Bonds, to include the amount of the Tax Credit (determined without reference to the limitation described above under "Limitation on Credit") in gross income. It is expected that Treasury Regulations will provide that such amount must be treated as if it were a payment of "qualified stated interest" on each credit allowance date. Unless subject to the stripping rules described in "GENERAL TAX MATTERS," a cash method taxpayer would take the deemed interest payment into account on the credit allowance date, while an accrual method taxpayer would accrue such amount as income over the three month period that ends on the credit allowance date (or a shorter period for a short first or last credit allowance date). If such an accrual method Owner of a Tax Credit Certificate, whether held as a Tax Credit Strip or as part of a Series 2009A Bond, sells or exchanges such Tax Credit Certificate before any given credit allowance date, the Owner must accrue such interest income up to the date of the sale or exchange but would not qualify for any of the Tax Credit for such credit allowance date. It would appear that because the subsequent purchaser would obtain the full credit for that credit allowance date, the purchase price would reflect the accrual of the deemed interest amount. It would also appear that the receipt of such amount by the taxpayer primarily would constitute a return of capital (tax basis) and not be subject to additional (i.e., double) taxation to the taxpayer. See also "GENERAL TAX MATTERS."

### **Tax Credit's Effect on Estimated Income Tax payments**

The credit under Section 54A of the Code may be taken into account by a taxpayer in computing the amount of quarterly estimated tax payments required to be paid by such taxpayer. Individual calendar

year taxpayers should note that the March 15 and December 15 credit allowance dates do not correspond to the regular estimated tax payment dates of April 15 and January 15.

### **State Income Tax Consequences**

The California Revenue and Taxation Code does not provide for any credit against California personal income tax or franchise tax with respect to the ownership of a qualified school construction bond, like the Series 2009A Bonds. It is not certain that the Tax Credit will be treated as interest for State of California personal income tax or franchise tax purposes. If the Tax Credit is treated as interest for State of California personal income tax purposes, such interest will be exempt from State of California personal income taxes. All persons are urged to consult their own tax advisors to determine any other state or local tax consequences of making an investment in the Series 2009A Bonds.

### **TAX MATTERS RELATING TO THE SERIES 2009B BONDS**

In the opinion of Perry Israel (“Special Counsel”), based upon an analysis of 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 Series 2009B Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “Code”) and is exempt from State of California personal income taxes. In the further opinion of Special Tax Counsel, interest on the Series 2009B Bonds is not a specific preference item for purposes of the federal individual and corporate alternative minimum taxes, nor is it included in adjusted current earnings when calculating corporate alternative minimum taxable income. Special Tax Counsel expects to deliver separate opinions at the time of issuance of the Series 2009B Bonds substantially in the form set forth in APPENDIX \_\_ hereto.

To the extent the issue price of any maturity of the Series 2009B Bonds is less than the amount to be paid at maturity of such Series 2009B Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Series 2009B Bonds), the difference constitutes “original issue discount,” the accrual of which, to the extent properly allocable to each Beneficial Owner thereof, is treated as interest on the Series 2009B Bonds which is excluded from gross income for federal income tax purposes and State of California personal income taxes. For this purpose, the issue price of a particular maturity of the Series 2009B Bonds is the first price at which a substantial amount of such maturity of the Series 2009B 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 Series 2009B Bonds accrues daily over the term to maturity of such Series 2009B 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 Series 2009B Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such Series 2009B Bonds. Beneficial Owners of the Series 2009B Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Series 2009B Bonds with original issue discount, including the treatment of Beneficial Owners who do not purchase such Series 2009B Bonds in the original offering to the public at the first price at which a substantial amount of such Series 2009B Bonds is sold to the public.

Series 2009B Bonds purchased, whether at original issuance or otherwise, for an amount higher than their principal amount payable at maturity (or, in some cases, at their earlier 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, the amount of tax-exempt interest received, and a Beneficial Owner’s basis in a Premium Bond, will be reduced by the amount of

amortizable bond premium properly allocable to such Beneficial Owner. Beneficial Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

The Code imposes various restrictions, conditions, and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Series 2009B Bonds. The District has made certain representations and covenanted to comply with certain restrictions, conditions, and requirements designed to ensure that interest on the Series 2009B Bonds will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Series 2009B Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Series 2009B Bonds. The opinion of Special Tax Counsel assumes the accuracy of these representations and compliance with these covenants. Special Tax Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken), or events occurring (or not occurring), or any other matters coming to Special Tax Counsel's attention after the date of issuance of the Series 2009B Bonds may adversely affect the value of, or the tax status of interest on, the Series 2009B Bonds.

Although Special Tax Counsel is of the opinion that interest on the Series 2009B Bonds is excluded from gross income for federal income tax purposes and is exempt from State of California personal income taxes, the ownership or disposition of, or the accrual or receipt of interest on, the Series 2009B Bonds may otherwise affect a Beneficial Owner's federal, state, or local tax liability. The nature and extent of these other tax consequences depends upon the particular tax status of the Beneficial Owner or the Beneficial Owner's other items of income or deduction. Special Tax Counsel expresses no opinion regarding any such other tax consequences.

Future legislative proposals, if enacted into law, clarification of the Code, or court decisions may cause interest on the Series 2009B 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 Beneficial Owners 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 Series 2009B Bonds. Prospective purchasers of the Series 2009B Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Special Tax Counsel expresses no opinion.

The opinion of Special Tax Counsel is based on current legal authority, covers certain matters not directly addressed by such authorities, and represents Special Tax Counsel's judgment as to the proper treatment of the Series 2009B Bonds for federal income tax purposes. It is not binding on the Internal Revenue Service ("IRS") or the courts. Furthermore, Special Tax Counsel cannot give and has not given any opinion or assurance about the future activities of the Authority or the District or about the effect of future changes in the Code, the applicable regulations, the interpretation thereof or the enforcement thereof by the IRS. The Authority and the District have covenanted, however, to comply with the requirements of the Code.

Special Tax Counsel's engagement with respect to the Series 2009B Bonds ends with the issuance of the Series 2009B Bonds, and, unless separately engaged, Special Tax Counsel is not obligated to defend the Authority, the District, or the Beneficial Owners regarding the tax-exempt status of the Series 2009B Bonds in the event of an audit examination by the IRS. Under current procedures, parties (such as the Beneficial Owners) other than the Authority and its appointed counsel 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 IRS positions with which the Authority and the District legitimately disagree may not be practicable.

Any action of the IRS, including but not limited to selection of the Series 2009B 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 Series 2009B Bonds, and may cause the Authority, the District, or the Beneficial Owners to incur significant expense.

### **CERTAIN LEGAL MATTERS**

Manatt, Phelps & Phillips, LLP, Bond Counsel to the Authority, will render opinions with respect to the legality of the Bonds, the Facility Sublease and the Trust Agreement. The forms of such legal opinions proposed to be delivered by Bond Counsel are included as APPENDIX C to this Official Statement. Certain tax matters related to the Bonds will be passed upon by the Law Office of Perry Israel. Certain legal matters will be passed upon for the Underwriter by Orrick, Herrington & Sutcliffe LLP; and for the District and the Authority by \_\_\_\_\_, \_\_\_\_\_, California, as counsel to the District and the Authority.

### **ABSENCE OF MATERIAL LITIGATION**

At the time of delivery of and payment for 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 or governmental or public entity pending or, to the best knowledge of the District, threatened against the District (i) which affects or seeks to prohibit, restrain or enjoin the issuance of the Bonds, the Facility Sublease, the Facility Lease, the Trust Agreement, or the Continuing Disclosure Certificate, (ii) contesting the validity of the Facility Sublease, the Facility Lease, the Trust Agreement or the Continuing Disclosure Certificate, the powers of the District to enter into or perform its obligations under the Facility Sublease, the Facility Lease, the Trust Agreement or the Continuing Disclosure Certificate, or the existence or powers of the District, or (iii) which, if determined adversely to the District, would materially impair the District's ability to meet its obligations under the Facility Sublease or materially and adversely affect the District's financial condition.

The District does have claims pending against it. The aggregate amount of the uninsured liabilities of the District which may result from all claims will not, in the opinion of the District, materially affect the District's finances or impair its ability to make Base Rental Payments under the Facility Sublease.

### **CONTINUING DISCLOSURE**

Pursuant to the Continuing Disclosure Certificate of the District, dated as of \_\_\_\_\_, 2009 (the "Continuing Disclosure Certificate"), the District will covenant for the benefit of holders and beneficial owners of the Bonds to provide certain financial information and operating data relating to the District by not later than nine months following the end of the District's fiscal year (which currently would be April 1) commencing with the report for the 2008-09 Fiscal Year (the "Annual Report"), and to provide notices of the occurrence of certain enumerated events, if material. The Annual Report and notices of material events will be filed by the District with the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access system or such other electronic system designated by the Municipal Securities Rulemaking Board. The specific nature of the information to be contained in the Annual Report or the notices of material events is set forth in "APPENDIX D – 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 District has never failed to comply in all material respects with any previous undertakings with regard to S.E.C. Rule 15c2-12(b)(5) to provide annual reports or notices of material events.

**UNDERWRITING**

The Bonds are to be purchased by E.J. De La Rosa & Co., Inc. (the "Underwriter"). The Underwriter has agreed, subject to certain terms and conditions set forth in the Bond Purchase Agreement, dated \_\_\_\_\_, 2009, by and between the Underwriter and the District, to purchase the Series 2009A Bonds at a purchase price of \$\_\_\_\_\_ (which represents the aggregate initial principal amount of the Series 2009A Bonds, [plus \$\_\_\_\_\_ of original issue premium/less \$\_\_\_\_\_ of original issue discount and] less \$\_\_\_\_\_ of Underwriter's discount) and the Series 2009B Bonds at a purchase price of \$\_\_\_\_\_ (which represents the aggregate initial principal amount of the Series 2009B Bonds, [plus \$\_\_\_\_\_ of original issue premium/less \$\_\_\_\_\_ of original issue discount and] less \$\_\_\_\_\_ of Underwriter's discount). The Underwriter will purchase all the Bonds if any are purchased. The Bonds may be offered and sold to certain dealers (including dealers depositing said Bonds into investment trusts) and others at prices lower than the initial public offering price, and the public offering price may be changed from time to time by the Underwriter.

**MISCELLANEOUS**

References are made herein to certain documents and reports which are brief summaries thereof which do not purport to be complete or definitive and reference is made to such documents and reports for full and complete statements of the contents thereof.

Any statements in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the District and the purchasers or Owners of any of the Bonds.

The execution and delivery of this Official Statement has been duly authorized by the District and the Authority.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

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

SAN DIEGUITO PUBLIC FACILITIES AUTHORITY

By: \_\_\_\_\_  
Executive Director

**APPENDIX A**  
**SUMMARY OF PRINCIPAL LEGAL DOCUMENTS**

**APPENDIX B**

**DISTRICT 2007-08 AUDITED FINANCIAL STATEMENTS**



**APPENDIX C-1**

**FORM OF BOND COUNSEL OPINION  
(SERIES 2009A BONDS)**

**APPENDIX C-2**

**FORM OF BOND COUNSEL OPINION  
(SERIES 2009B BONDS)**

**APPENDIX C-3**  
**FORM OF SPECIAL TAX COUNSEL OPINION**  
**(SERIES 2009B BONDS)**

**APPENDIX D**

**FORM OF CONTINUING DISCLOSURE CERTIFICATE**

**APPENDIX E**  
**COUNTY OF SAN DIEGO INVESTMENT POLICY**

**APPENDIX F**

**FORM OF SERIES 2009A BOND AND TAX CREDIT STRIP REQUEST**

**APPENDIX G**  
**BOOK-ENTRY ONLY SYSTEM**

EXHIBIT G

Form of Energy Service Contract



San Dieguito Union High School District and Chevron Energy Solutions Company  
Chevron ES Project #: Project Number DWCES32036  
Chevron ES Contract # CU \_\_\_\_\_

Proprietary and Confidential

**DRAFT FOR REVIEW PURPOSES ONLY**

**ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT**

**SOLAR PROJECT**

THIS ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT ("Agreement") effective as of [Month, Day, Year] ("Effective Date"), is made and entered into between **Chevron ENERGY SOLUTIONS COMPANY, a division of Chevron U.S.A. Inc.**, a Pennsylvania corporation, with principal offices at 345 California Street, Suite 1800, San Francisco, California, 94104 ("Chevron ES") and **San Dieguito Union High School District**, a body corporate and politic organized under the laws of the State of California with principal offices at 710 Encinitas Boulevard, Encinitas, CA 92024 ("Customer"). The attachments listed below as being attached are attached hereto and fully incorporated herein.

ATTACHMENTS TO AGREEMENT

Attachment	Title	Attached	Not Applicable/	
			Not Attached	
A	General Terms and Conditions	Attached		
B	Definitions	Attached		
C	General Conditions Definitions	Attached		
D	Scope of Work	Attached		
E	Project Schedule and Payment Schedule	Attached		
F	Operations and Maintenance Services	Attached		
G	Operations and Maintenance Payment Schedule			
H	Energy Management and Guarantee Services	Attached		
I	Guaranteed Savings & CSI Guaranteed Payments			
J	Schedule of Total Program Costs			

**CHEVRON ES:**  
Chevron Energy Solutions Company, a Division of  
Chevron U.S.A., Inc.

**CUSTOMER:**  
San Dieguito Union High School District

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

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

Title:

Title:

## DRAFT FOR REVIEW PURPOSES ONLY

### ATTACHMENT A

#### GENERAL TERMS AND CONDITIONS

##### **ARTICLE 1. RECITALS**

- 1.1 Whereas Customer desires to engage Chevron ES to provide design, procurement and construction services related to the Project;
- 1.2 Whereas, this Agreement and attached Scope of Work set forth the terms and conditions for Chevron ES' Work as requested by Customer. The Scope of Work will contain a description of the Work to be performed and identify the equipment and materials to be provided or installed;
- 1.3 Whereas, this Agreement shall not be effective until Customer's financing of the Project closes.
- 1.4 Whereas, this Agreement shall not be effective until performance based incentives relating to the Project under the California Solar Initiative have been reserved for the Project at Incentive Level Step 5 in the amounts shown on Attachment I. The California Solar Initiative reservation requirement shall be considered fulfilled on the date the California Southern Edison issues the Conditional Request Reservation Approval letter to Customer.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the Parties agree as follows:

##### **ARTICLE 2. DEFINITIONS**

For purposes of this Agreement, the defined terms shall have the meanings set forth in Attachment B, Definitions, or as elsewhere set forth in this Agreement.

##### **ARTICLE 3. PROJECT TO BE IMPLEMENTED/SCOPE OF WORK**

Chevron ES will design, engineer, permit, procure, construct and deliver to Customer the Project in accordance and in compliance with this Agreement, the Standard of Care and Applicable Laws. The scope of work to be performed by Chevron ES is more fully described in Attachment D – Scope of Work. Project costs are more fully described in Attachment E – Project Schedule and Payment Schedule contains the Project Schedule and Payment Schedule pertaining to the Work.

##### **ARTICLE 4. TERM OF THE AGREEMENT**

The term of this Agreement shall commence on the Effective Date and, except for any obligations, representations and warranties that survive termination, shall terminate on the Final Completion Date of the Project pursuant to Section 6.3 below ("Termination Date"), unless terminated earlier pursuant to Article 12 below.

##### **ARTICLE 5. PROJECT IMPLEMENTATION**

- 5.1 **Project Schedule.** The Work shall proceed in conformity with the Project Schedule. Commercial Operation of the Project shall be achieved no later than [November 22, 2010 ("Commercial Operation Date"). If the Work has not commenced within 60 days of Customer issuing its written notice to proceed, Customer shall receive a credit of one hundred dollars \$100 per day against the Contract Price until Work has commenced. In addition, if the Work has not commenced by such date, Customer shall have the right to terminate this Agreement. Failure to achieve Commercial Operation by the Commercial Operation Date is discussed in Section 7.2.
- 5.2 **Project Meetings/Status Updates.** Chevron ES will give reasonable advance notice to Customer of all regularly scheduled meetings between Chevron ES and its engineering and other subcontractors that relate to the design and construction of the Project. Also during the course of Work, Chevron ES will periodically (but no less than bi-monthly) provide reports to Customer of the general status and progress of Work.
- 5.3 **Installation Location Access.** Customer warrants that it has the right to grant, and hereby grants to Chevron ES and Chevron ES' consultants and subcontractors, a non-exclusive right of entry to the Installation Location without the need for prior consent 24 hours a day, 7 days each week, except as limited by the access and security rules and procedures required by Customer. Customer will identify access point(s) to the Installation Location and provide parking free of charge for Chevron ES and subcontractor personnel. Chevron ES agrees to comply with all access and security rules and procedures of Customer, provided that Chevron ES is informed of such rules and procedures.
- 5.4 **Subcontractors.** Chevron ES may subcontract portions of the Work to any person or entity qualified to perform such subcontracted Work. Chevron ES shall be solely responsible for managing the performance of all subcontractors and

## DRAFT FOR REVIEW PURPOSES ONLY

for paying all subcontractors it utilizes, and shall remain liable and responsible for the work of any subcontractor to the same extent as if the work had been performed by Chevron ES.

### 5.5 Design Phase.

#### 5.4.1 Chevron ES' Responsibilities During Design.

- 5.4.1.1 Upon Chevron ES' receipt of any payments called for by the Project Payment Schedule to be made prior to commencement of the Work and a written notice to proceed from Customer, and upon demonstration by Customer that the Project has been fully funded, Chevron ES and/or a subcontractor retained by Chevron ES will commence Project design and preparation of the Construction Documents. Chevron ES and/or Chevron ES' engineering subcontractor or both will be properly licensed and qualified to provide such engineering services required for the Project.
- 5.4.1.2 Chevron ES shall have no obligation to inspect, investigate or analyze or have studies or investigations conducted to determine the existence or non-existence on or below the surface of the Installation Location of (i) Hazardous Substances, or (ii) Adverse Site Conditions.

**5.4.2 Customer's Authorized Representative.** Customer shall designate a representative with whom Chevron ES shall consult on a reasonable, regular basis and who is authorized to act on Customer's behalf with respect to Project design. Customer's representative shall render decisions in a timely manner consistent with the Project Schedule with regard to any documents submitted by Chevron ES, and other requests made by Chevron ES, to avoid unreasonable delay in the orderly and sequential progress of Chevron ES' design services, including without limitation timely approval of Construction Documents in accordance with Section 5.4.4.

**5.4.3 Customer's Obligations - Generally With Respect to Design.** Customer shall provide the following materials in its possession to Chevron ES but Customer provides no representation or warranty to Chevron ES with respect to the accuracy of such material. However, in the event that Chevron ES reliance upon materials provided by Customer results in additional time or costs for Chevron ES, Chevron ES shall be entitled to a Change Order reflective of the additional costs and time.

- 5.4.3.1 all surveys or other information in Customer's possession or control that describe the physical characteristics, legal limitations, and existing utility locations in and around the Installation Location;
- 5.4.3.2 any environmental review documentation and all known information concerning subsurface conditions, including without limitation, the existence of any known Hazardous Substances in or around the general area of the Installation Location or otherwise where the Work may be performed;
- 5.4.3.3 all relevant information in Customer's possession or control, including any as-built drawings and photographs, of prior construction undertaken in the general area surrounding the Installation Location and otherwise where the Work may be performed, including without limitation the Facilities where the Interface Facilities will be constructed; and
- 5.4.3.4 any and all easements, zoning variances, planning approvals, including any resolution of any environmental impact issues, and any other legal authorization regarding utilization of the Installation Location site essential to the execution of the Work.

In the event that Customer discloses information under this Section after the Construction Documents have been executed that constitutes a Change to the Work, Chevron ES will provide prompt notice of such to Customer, and the Parties will meet and confer with respect to those Changes. If Customer authorizes a Change Order to the Scope of Work, Chevron ES shall be compensated, and receive an extension of Time, if necessary, to perform the additional Work in accordance with Section 5.6.2 below.

#### 5.4.4 Customer's Obligations - Review of Construction Documents.

- 5.4.4.1 Chevron ES will prepare and submit the Construction Documents and the terms and conditions of any permit approvals required for the Project to Customer for review. Chevron ES reserves the right to issue the Construction Documents in phases to allow construction to be performed in phases. Customer shall review the Construction Documents and provide any comments in writing to Chevron ES within ten (10) business days after receipt of those Documents. If Customer fails to provide written comments within the ten (10) business day period, Customer shall be deemed to have approved the Construction Documents. Customer's right to review the Construction Documents and its approval or deemed approval shall not relieve Chevron ES of its obligation to prepare Construction Documents that are consistent with the Scope of Work and the terms and conditions of this Agreement.
- 5.4.4.2 At Customer's request and if applicable, Chevron ES will draft for Customer's execution purchase orders and contracts for equipment prior to the completion of the Construction Documents in order to meet the Project Schedule
- 5.4.4.3 In the event Chevron ES reasonably believes any of Customer's comments or directions regarding the Construction Documents or the terms and conditions of any Applicable Permits constitute a Change to the

## DRAFT FOR REVIEW PURPOSES ONLY

Work requiring a Change Order, Chevron ES will provide notice to that effect to Customer within ten (10) business days, and the Parties will meet and confer with respect to those requested Changes. If Customer authorizes a Change Order, Chevron ES' Contract Price shall be increased and/or it shall be given an extension of Time within which to perform the additional Work in accordance with Section 5.4.5 below.

### 5.5 Construction Phase.

**5.5.1 General Provisions.** Upon (i) Customer's approval of the Construction Documents pursuant to Section 5.4.4 above, and (ii) Chevron ES' receipt from Customer of a written notice to proceed, Chevron ES will commence the construction of the Project in accordance with the Construction Documents. The construction will be performed by Chevron ES and/or one or more licensed subcontractors qualified and licensed to perform the Work. The construction will be performed in a lien free and good and workmanlike manner, and in accordance with the Standard of Care, all Applicable Laws and Applicable Permits.

### 5.5.2 Chevron ES' Responsibilities During Construction Phase.

- 5.5.2.1. As an independent contractor to Customer, Chevron ES will be responsible for providing, or causing to be provided by Chevron ES' subcontractor(s), all labor, materials, equipment, tools, transportation and other facilities and services necessary for the proper execution, construction, and completion of the Work in accordance with the Construction Documents. Chevron ES will also be responsible for all means, methods, techniques, sequences and procedures employed for the construction required by the Construction Documents. Chevron ES shall ensure that all persons performing the Work are skilled in the tasks assigned to them. Chevron ES shall enforce appropriate discipline and good order among, and shall be responsible for all acts and omissions of, its employees, its subcontractors, their agents and employees, and other persons or entities performing portions of the Work for or on behalf of Chevron ES or any of its subcontractors
- 5.5.2.2 Chevron ES will make all reasonable efforts to coordinate construction activities and perform the Work to minimize disruption to Customer's operations at the Installation Location or other areas where Work may be performed. Chevron ES will provide at least thirty (30) calendar days written notice to Customer of any planned power or other utility outages that will be necessary for the construction. Chevron ES will cooperate with Customer in scheduling Work and utility-related outages. Any outages must be approved by Customer but such approval may not be unreasonably withheld.
- 5.5.2.3. Chevron ES shall be responsible for the preparation of the Installation Location for construction, including but not limited to clearance of all above and below ground obstructions, such as vegetation, buildings, appurtenances, and utilities, as set forth in the Scope of Work; provided, however, that Chevron ES shall not be responsible to remove or remediate any Hazardous Substances it discovers in the performance of its duties under this Section. Chevron ES will provide written notice to Customer of any required disruption or movement of large amounts of surface soil at least five (5) days prior to disrupting or moving the soil.
- 5.5.2.4. Chevron ES will be responsible for initiating and maintaining reasonable and appropriate safety precautions and programs in connection with the Work. Without limiting the foregoing, Chevron ES will take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (1) employees of Chevron ES and subcontractors performing Work under this Agreement; (2) Chevron ES' property and other materials to be incorporated into the Project under the care, custody, and control of Chevron ES or its subcontractors; (3) other property at or adjacent to the Installation Location not designated for removal, relocation, or replacement during the course of construction. Chevron ES will give notices and comply with Applicable Laws relating to safety of persons and property. Chevron ES shall promptly remedy damage and loss to property caused in whole or in part by Chevron ES, a subcontractor, or anyone directly or indirectly employed by any of them.
- 5.5.2.5. Chevron ES will assist Customer to obtain those Applicable Permits required to be in Customer's name, to perform the Work. Customer will cooperate with Chevron ES to the extent necessary to obtain those Applicable Permits required to be in Customer's name. Customer shall confirm approval of the Applicable Permits in writing to Chevron ES within 5 business days of receipt of such Permits. Chevron ES has included in the Scope of Work those Applicable Permits which Chevron ES shall be responsible for obtaining to complete the Project. If additional Applicable Permits are required, Chevron ES will assist Customer in obtaining those Applicable Permits. In addition, Chevron ES will assist Customer in obtaining any necessary planning approvals and resolution of any environmental impact issues with respect to the Project, including any CEQA issues or approvals from the Coastal Commission. Chevron ES shall be entitled to receive additional time to complete the Project, for providing assistance to Customer for any permits not listed in the Scope of Work, in the event such assistance results in additional time for Chevron ES.
- 5.5.2.6 Chevron ES will maintain in good order at the Installation Location a copy of the Scope of Work, all Change Orders, this Agreement, one record copy of the Construction Documents, and other pertinent construction-related documents at the discretion of Chevron ES. Chevron ES shall keep the Installation Location reasonably free of materials and accumulation of waste or rubbish caused by the Work. Upon Substantial

## DRAFT FOR REVIEW PURPOSES ONLY

Completion, Chevron ES shall remove from and about the Installation Location all waste materials, rubbish, tools, construction equipment, machinery and surplus materials, brought onto the premises by Chevron ES.

5.5.2.7 Chevron ES shall comply with the provisions of the California Education Code Section 45125.2 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. Chevron ES shall not permit any employees to have any contact with Customer's pupils until such time as Chevron ES has verified in writing to the Board that such employee has not been convicted of a felony, as defined in California Education Code Section 45122.1. Chevron ES's responsibility shall extend to all employees, subcontractors and employees of subcontractors regardless of whether such individuals are paid or unpaid, concurrently employed by Customer or acting as independent contractor of Chevron ES. Verification of compliance with this Section 5.5.2.7 shall be provided in writing to Customer prior to each individual's commencement of employment or participation in the Project and prior to permitting contact with pupils.

5.5.2.8 Chevron ES shall comply with all applicable provisions of the California Labor Code, Division 2, Part 7, Chapter 1, Articles 1-5, including (without limitation) the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars (\$1,000). Chevron ES and its subcontractors shall keep accurate certified payroll records of employees. Chevron ES shall provide to Customer all certified payroll records of employees working on the Project on a monthly basis. Chevron ES will also comply with the labor standards set forth in Subchapter IV of Chapter 31 of Title 40 of the United States Code.

5.5.2.9 Trenches.

5.5.2.9.1 Pursuant to California Labor Code Section 6705, if the Work includes the excavation of any trench or trenches five (5) feet or more in depth, Chevron ES shall, in advance of excavation, promptly submit to Customer and/or a registered civil or structural engineer employed by Customer or its architect, a detailed plan showing the design of shoring for protection from the hazard of caving ground during the excavation of such trench or trenches. No excavation of such trench or trenches shall be commenced until a shoring plan has been accepted by Customer or by the person to whom authority to accept such plan has been delegated by Customer. Pursuant to California Labor Code Section 6705, nothing in this Section shall impose tort liability upon Customer or any of its employees. Chevron ES shall not commence any portion of the Work that consists of excavation until it has secured all Applicable Permits. Any permits shall be prominently displayed at the respective Site prior to the commencement of any excavation.

5.5.2.9.2 Pursuant to California Public Contract Code Section 7104, if the Work includes digging trenches or other excavations that extend deeper than four feet below the surface, Chevron ES shall promptly, and before the following conditions are disturbed, notify Customer, in writing, of any: (i) material that Chevron ES believes may be material that is hazardous waste, as defined in California Health and Safety Code Section 25117 that is required to be removed to a Class I, Class II or Class III disposal site in accordance with provisions of existing law; (ii) subsurface or latent physical conditions at the Installation Location differing from those indicated by information provided to Chevron ES; or (iii) unknown physical conditions at the Installation Location of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided in this Contract. Customer shall promptly investigate the conditions and, if it finds that the conditions do materially so differ or do involve hazardous waste, and cause a decrease or increase in Chevron ES's cost of, or time required for, performance of any part of the Work, shall issue a Change Order under the procedures provided herein. In the event that a dispute arises between Customer and Chevron ES whether the conditions materially differ, or involve hazardous waste or cause a decrease or increase in Chevron ES's cost of, or time required for, performance of any part of the Work, Chevron ES shall not be excused from the scheduled completion of the Work as provided in this Agreement, but shall proceed with all Work under the terms of this Agreement. Chevron ES shall retain any and all rights provided either by this Agreement or by law which pertain to the resolution of disputes and protests between contracting parties.

### **5.5.3 Customer's Responsibilities During Construction Phase.**

5.5.3.1 Customer shall designate a representative authorized to act on Customer's behalf with respect to Project construction. Customer may from time to time change the designated representative and shall provide notice to Chevron ES of such change.

5.5.3.2 Customer shall provide a temporary staging area for Chevron ES, or its subcontractors, to use during the construction phase to store and assemble equipment and materials for completion of the Work, if needed. Chevron ES shall be responsible for the security and protection of the equipment, machinery and tools stored prior to Substantial Completion. Further, the

## DRAFT FOR REVIEW PURPOSES ONLY

Customer shall provide Chevron ES access to Customer's network to allow CES can obtain the data monitoring of the system up and running.

- 5.5.3.3 Customer shall remain responsible for the maintenance of the portion of the Installation Location and other property areas over which it has control that are not directly affected by Chevron ES's Work. Customer shall keep the Installation Location free of obstructions, waste, and materials within the control of Customer.
- 5.5.3.4 As provided in Section 5.5.2.5, Customer will cooperate with Chevron ES to the extent necessary to obtain those Applicable Permits required to be in Customer's name.
- 5.5.3.5 Customer shall allow Chevron ES, and/or its subcontractor, access to and reasonable use of necessary quantities of Customer's water, chemicals, boiler fuel and other utilities, including electrical power, as needed for construction, startup, and commissioning of the Work at no cost to Chevron ES.
- 5.5.3.6 Customer shall coordinate the Work to be performed by Chevron ES with its own operations and with any other construction project that is ongoing at or around the Installation Location, with the exception that Chevron ES will coordinate the Interconnection Facilities work (as defined in Section 5.5.3.8 below), if any, required to be performed. Customer shall reasonably defer to Chevron ES's Work schedule with respect to matters under this Section, but in the event it cannot do so, Customer shall provide Chevron ES Time relief required to account for associated schedule delays.
- 5.5.3.7 Customer will provide all utilities and related services that are required in connection with the Work, including without limitation telephone, electricity, incoming water, sewage, and solid waste disposal. Chevron ES will be responsible for physically connecting to such utilities and shall be responsible to supply or obtain fuel, reagents, chemicals, lubricants and other consumables and other services required for Chevron ES to perform the Work.
- 5.5.3.8 With Chevron ES's assistance, Customer shall enter into separate contracts directly with the appropriate utilities for the performance of Interconnection Facilities work, which contracts (the "Interconnection Agreements") and work shall be managed by Chevron ES. Chevron ES shall perform any work required to be performed by Customer and included in the Scope of Work. The Parties understand and expect that, upon conclusion of the utilities' Interconnection Facilities work, the utilities will retain ownership of all improvements constructed by utilities. "Interconnection Facilities" means the distribution or transmission lines and other facilities required to connect Project Equipment to the appropriate water, telecommunication, natural gas and electrical distribution utility systems.

### 5.6 Changes to the Work.

**5.6.1 Changes/Change Orders.** If during design or construction of the Project a Change occurs, a Change Order to the Scope of Work and/or the Project Schedule may be made if agreed in writing and signed by both Parties. Any Change Order shall state the reason for the Change Order, any change to the Contract Price determined in accordance with Section 5.6.2 below, and the extension of Time, if needed, for Chevron ES to accommodate such Change. Chevron ES may, at its discretion, suspend (for which suspension there shall be a day-for-day extension of Time) performance of the Work affected by any proposed Change until an agreement has been reached with Customer regarding the Change Order; provided, however, Customer may issue a Change Order directive requiring Chevron ES to proceed with such Change (each a "Directed Change") and Chevron ES shall proceed with such Work as and when directed by Customer. In such event, Chevron ES shall be reimbursed for its costs for such Directed Change, if any, on a time and materials basis. Chevron ES shall maintain complete and accurate records of the costs incurred due to any Directed Change. Customer may specify a Change Order at any time even if no Change has occurred. If Customer requests a proposal from Chevron ES with respect to a proposed Change Order and Customer subsequently elects not to proceed with such Change Order, Customer shall issue a Change Order to reimburse Chevron ES for any actual costs reasonably incurred for estimating services, design services and/or preparation of the proposal requested by Customer (if such proposal contemplated a significant change to the Project). Any disputes concerning Changes, Change Orders, and compensation for Changes/Change Orders or extensions of Time shall be resolved in accordance with Article 13 below.

**5.6.2 Change Order Costs/Time Extensions.** The Parties shall agree on the amount to be paid to Chevron ES (or any reduction to the Contract Price) and the extension of Time, if any, necessary in connection with a Change Order. The amount to be paid shall be sufficient to cover all costs estimated to be incurred because of such changes made by such Change Order, including without limitation extra design and engineering fees actually incurred and only if the Change Order was requested by Customer; extra costs for labor, subcontracting, materials, equipment, and supervision; extra project management expenses as provided in Article 8; disruption; taxes; increased labor, material and equipment costs caused by any delays. The extension of Time, if any, shall be sufficient to complete the Work as impacted by the Change Order.

## DRAFT FOR REVIEW PURPOSES ONLY

**5.6.3 Request for Change.** If Chevron ES intends to request a Change Order, it shall submit a notice of Change to Customer within ten (10) days after the facts upon which such a claim is based become known to Chevron ES. No later than eighteen (18) days after such Change notice, Chevron ES shall submit to Customer a written statement setting forth in reasonable detail the general nature and impact of the circumstances giving rise to such requested Change and the reasons therefore. Failure to provide such notice or explanation within the times set forth in this Section 5.6.3 shall give rise to a rebuttable presumption that no compensable event (whether monetary or in the form of Time relief) has occurred.

### 5.7 Hazardous Substances.

**5.7.1 Hazardous Substances.** Chevron ES will promptly provide written notice to Customer if Chevron ES observes any Hazardous Substances at or around the Installation Location during the course of Work that have not been (i) already identified in the Scope of Work, or (ii) generated or utilized by Chevron ES or any of its subcontractors, agents or representatives in the performance of the Work which generation or utilization had previously been disclosed to Customer. Chevron ES shall have no obligation to investigate the Installation Location for the presence of Hazardous Substances prior to commencement of any Work unless otherwise specified in the Scope of Work. With the exception of Hazardous Substances that were generated or utilized by Chevron ES or its subcontractors, agents or representatives in the performance of Work, Customer shall be solely responsible for the investigation, identification, remediation, removal and/or proper transportation and disposal of any Hazardous Substances, and shall comply with all Applicable Laws and Applicable Permits. Chevron ES shall comply with all Applicable Laws and Applicable Permits in connection with the use, handling and disposal of any Hazardous Substances in the performance of its Work.

**5.7.2 Indemnity.** Customer shall indemnify, defend and hold Chevron ES harmless from and against any and all Losses of whatever nature, including but not limited to, consultants' and attorneys' fees, damages for bodily injury and property damage, fines, penalties, cleanup costs, and third party claims that in any way arise from or in any manner are related to the discovery, release, or threatened release of any Hazardous Substances at or around the Installation Location except to the extent caused or exacerbated by Chevron ES, or its subcontractors, agents, or representatives. This indemnification shall survive any termination of this Agreement.

## ARTICLE 6. SUBSTANTIAL COMPLETION, COMMERCIAL OPERATION, FINAL COMPLETION

**6.1 Commercial Operation.** When in Chevron ES's reasonable judgment the Project is ready for Performance Tests as set forth in Attachment D – Scope of Work, Chevron ES shall provide ten (10) business days' notice of its intent to conduct such Performance Tests to Customer. Chevron ES shall conduct such Performance Tests in accordance with applicable procedures and the Standard of Care. Promptly after Chevron ES reasonably determines that the Performance Tests have been successfully completed in accordance with applicable procedures and the Standard of Care and all other conditions for Commercial Operation have been achieved as set forth in the Construction Documents, and the Project has been designed, engineered, constructed and completed in accordance with the Construction Documents in a lien free and good and workmanlike manner, Chevron ES will submit to Customer a written Certificate of Commercial Operation. Customer (or a third party inspector satisfactory to Customer) shall, within fifteen (15) business days of receipt of the Certificate of Commercial Operation, review the Work, for the sole purpose of determining that the Work is in substantial conformance with the Scope of Work and in order to obtain DSA approval and sign and return the Certificate of Commercial Operation to Chevron ES acknowledging and agreeing: (1) that the Work is in accordance with the Construction Documents so Customer can occupy or utilize the Work for its intended use; (2) the date of such Commercial Operation; and (3) that from the date of Commercial Operation Customer will assume responsibility for the security of, insurance coverage for, utilities for, and damage to or destruction of the Project. Customer agrees that approval of the Certificate of Commercial Operation shall not be unreasonably withheld. Customer must respond to Chevron ES in writing with respect to the Certificate of Commercial Operation within fifteen (15) business days of receipt. On the date of Commercial Operation, Customer will assume operational control of the Project subject to Chevron ES's obligations under Section 6.3. If one Facility is ready for Performance Tests prior to the other Facilities, Chevron ES may initiate the procedures under this Section 6.1 with respect to such Facility and Commercial Operation for such Facility may be established prior to Commercial Operation of the other Facilities.

\

**6.2 Close-Out Documentation.** As necessary for Final Completion of the Work, Chevron ES shall submit to Customer the following materials and documentation ("Close-Out Documentation"):

- 6.2.1** All permit sign-offs or other approvals of any governmental agency or department having jurisdiction over the Project.
- 6.2.2** Two hard copies and one electronic record set of all the following Project documentation, as applicable: (a) approved shop drawings and product data; (b) all test data and testing laboratory reports; (c) record or "as-built" specifications legibly marked to show the manufacturer, trade name, catalog number, and supplier of

## DRAFT FOR REVIEW PURPOSES ONLY

each product and item of equipment actually installed; and (d) of the record or "as-built" drawings. Unless otherwise specified, "as-built" drawings shall include but not be limited to underground and schematic drawings, including piping and instrumentation diagrams, electrical one-line diagrams, electrical schematics, and control wiring diagrams.

- 6.2.3 Three duplicate sets of operating instructions and maintenance recommendations for all equipment and systems installed at the Project.
- 6.2.4 The originals of warranties, guarantees, bonds, or certificates of compliance obtained in the performance of the Work.
- 6.2.5 Any and all documents required for the Division of the State Architect certification.

### 6.3 **Final Completion and Final Payment.**

- 6.3.1 **Final Completion.** Final Completion of the Project shall be deemed to have occurred on the date when all of the following have occurred (the "Final Completion Date"): (i) the Project has achieved Substantial Completion, (ii) all Punch list items have been completed, (iii) the Close-Out Documentation shall have been delivered to Customer, and (iv) Chevron ES has furnished Customer with: (a) a release of Chevron ES's lien rights in form and substance reasonably satisfactory to Customer; (b) Chevron ES's certification that all claims for payment for labor and Equipment for which Chevron ES is responsible in connection with the Work have been paid or satisfied; (c) copies of waivers or releases of lien rights given by Subcontractors that have furnished more than \$10,000 of goods, services or both for the Project; (d) notice of all known claims of Chevron ES or any Subcontractor that may affect Customer or the Project; and (e) a letter of indemnification regarding claims not addressed by waivers/releases pursuant to (c) above or claims identified pursuant to (d) above.
- 6.3.2 **Notice of Final Completion.** When Chevron ES considers that Final Completion of the Project has occurred, it shall submit a written Certificate of Final Completion to Customer that Final Completion has occurred as set forth in Section 6.3.1 above. Customer (or an inspector selected by Customer) and Chevron ES will inspect the Work within ten (10) business days after receipt of Chevron ES' Certificate of Final Completion for the sole purpose of determining whether the Work has achieved Final Completion in accordance with the Construction Documents and, if Customer determines that Final Completion has been achieved, shall recommend to Customer's Board of Trustees to accept the Project as complete at the next regularly scheduled meeting of such Board of Trustees, file a notice of completion with the San Diego County Recorder's Officer and sign and return the Certificate acknowledging Final Completion as of the date of such Certificate. If Customer determines that any Work is incomplete or defective, Customer will promptly (but no later than fifteen (15) business days after receipt of Chevron ES' Certificate of Final Completion) notify Chevron ES in writing of such, itemizing and describing such incomplete or defective items with particularity. Chevron ES shall promptly complete all items and remedy all identified deficiencies, if any, after which Chevron ES shall send another written Certificate of Final Completion to Customer. Customer shall promptly (but no later than ten (10) business days) (i) re-inspect the Work for the sole purpose of determining whether such incomplete and/or deficient Work has been completed and/or corrected, and (ii) provide written notice to Chevron ES as to (a) its agreement that the Project has achieved Final Completion, or (b) its rejection of the Work, describing with particularity its reasons for rejection, in which case the Parties shall repeat the process herein described until Final Completion is achieved. Customer must respond to Chevron ES in writing with respect to the Certificate of Final Completion within fifteen (15) business days of receipt. Promptly after Final Completion, Chevron ES shall remove its personnel, supplies, equipment, waste materials, rubbish, and temporary facilities from the Installation Location.
- 6.3.2 **Final Payment.** Customer shall make the final payment of the Contract Price (including the retention of 10% of the Contract Price) within forty-five (45) days after Customer's Board of Trustees accepts the Project as complete at a Customer's first regularly scheduled meeting of such Board of Trustees. If there is a dispute between Chevron ES and Customer, Customer may withhold from the final payment an amount not to exceed 150% of the disputed amount, after receipt of Certificate of Final Completion by Customer.

### **ARTICLE 7. COMMERCIAL OPERATION DATE AND DELAY.**

- 7.1 **Commercial Operation Date.** The Commercial Operation Date may be extended beyond [November 22, 2010] only for causes and events expressly set forth in this Agreement, an approved Change Order or at the direction of Customer pursuant to Section 5.1.
- 7.2 **Schedule Guarantee and consequences of failure to meet.** Chevron ES shall perform the Work so as to achieve Commercial Operation of each Facility of the Project not later than the Commercial Operation Date. If any Site of Project has not achieved Commercial Operation by the Commercial Operation Date, then Customer shall receive a credit of \$1,300 per day against the Contract Price from such date until the Commercial Operation Date. In addition, if



## DRAFT FOR REVIEW PURPOSES ONLY

the Project has not achieved Commercial Operation by the Commercial Operation Date, Customer shall have the right to terminate this Agreement.

### **ARTICLE 8. COMPENSATION, BILLING AND PAYMENT**

**8.1 Guaranteed Maximum Price.** Customer shall pay Chevron ES \$13,737,960.00] for the Work ("Contract Price"). Chevron ES will be responsible for paying all of the subcontractors it utilizes for the design, construction, management and other expenses necessary to complete the Work described in the Scope of Work. Customer shall be responsible for payment of any design, construction, or other professionals retained by Customer to assist and otherwise advise Customer regarding the Project and for payment of its own representatives acting on its behalf. Except for approved Change Orders that are signed by both Parties and explicitly provide for an increase in the Contract Price, the Contract Price is a fixed price and is not subject to change.

8.1.1 The Contract Price is comprised of the following elements:

8.1.1.1 Management Fee. Customer agrees to pay, and Chevron ES agrees to accept the lump sum management fee of the sum of: (1) 4.3% of the amounts of all subcontractors for construction of the Project and (2) no more than 10% of the costs for all Customer initiated Change Orders relating to the Project, including but not limited to Chevron ES' design, development, engineer, procure and construction costs.. This management fee (except with respect to (2) is included in the Contract Price set forth above. The management fee will be paid on a percentage completion basis in accordance with Section 8.3

8.1.1.2 General Conditions. Payment of all items included in the General Conditions attached hereto as Attachment C are included in the Contract Price.

**8.2 Invoices.** Chevron ES shall submit invoices to Customer setting forth the total amounts due to Chevron ES from Customer in accordance with the Payment Schedule in Attachment E. Each invoice shall be provided together with all supporting documentation for any payment due (including, without limitation, unconditional lien waivers for all prior payments and conditional lien waivers for the payment being sought). Submission of an invoice shall constitute a representation by Chevron ES that the portion of the Work reflected in such invoice is in conformity with this Agreement, all applicable Permits and the Standard of Care. Customer shall have the right (by itself or by a consultant satisfactory to Customer) to inspect and approve all Work before making any payment.

**8.3 Payment.** Subject to Customer's right to withhold retention of 10%, Customer shall pay each undisputed invoice or undisputed portion thereof within thirty (30) days after receipt by Customer of all such invoices and supporting documentation ("Due Date"). Late payments shall accrue Interest for each calendar day past the Due Date. If any undisputed payment is not paid by the Due Date, Chevron ES shall have the right to treat such non-payment as a default under Section 11.1 below. If Customer disputes any part of the invoice, Customer shall provide Chevron ES with a written explanation setting forth the basis for the dispute, including any reasonable request for additional documentation relating to the charges covered by the invoice, not later than the Due Date. The right to dispute any amount with respect to an invoice shall be deemed waived and released if such written explanation is not provided to Chevron ES by the Due Date. Upon resolution of any disputed amount (whether by agreement between the Parties or pursuant to Section 13.1 below), the agreed-upon amount shall be paid within five (5) days after resolution of the dispute.

**8.4 Payment of Subcontractors and Suppliers.** Upon payment by Customer of any invoice, Chevron ES shall promptly pay each subcontractor and supplier all amounts due with respect to the Work reflected in the invoice. Chevron ES shall be responsible to keep the Installation Location clear and free from all liens and clouds on title. Customer assumes no obligation to pay any subcontractor or supplier.

**8.5 Title.** Customer shall have title to any and all materials and equipment installed in the course of construction or installation including, without limitation, the photovoltaic modules, materials, equipment, tools and supplies, in each case to the extent such have qualified for payment in accordance with this Agreement. Title to the same shall pass to Customer, subject to payment of the applicable portion of the Contract Price in accordance with this Agreement, simultaneously with incorporation into the Project at the Installation Location.

**8.6 Right to Withhold.** In addition to amounts which Customer may retain under any and all other provisions in this Agreement, Customer may withhold or, on account of subsequently discovered information, nullify the whole or a part of any progress payment or retention payment or any other payment in an amount, as may be reasonably necessary to cover:

8.6.1. Payments which may be past due and payable for just claims against Chevron ES for labor or materials furnished in and about the performance of construction of the Project under this Agreement.

**DRAFT FOR REVIEW PURPOSES ONLY**

- 8.6.2. Construction required by this Agreement deemed defective and not remedied within a reasonable time.
- 8.6.3. Failure of Chevron ES to make proper payments to the subcontractors or for material or labor furnished to the Project.
- 8.6.4. Completion of the Project if there exists a reasonable doubt that it can be completed for balance due pursuant to this Agreement then unpaid.
- 8.6.5. Failure of Chevron ES to keep and/or obtain: the record (“as-built”) drawings up to date, guarantees, operating manuals or other documents required in its capacity as design builder directing the work of subcontractors or pursuant to any provision of this Agreement.

8.7 This section intentionally left blank..

**ARTICLE 9. LIABILITY AND INDEMNIFICATION**

- 9.1 **Indemnification by Chevron ES.** Chevron ES shall defend, indemnify and hold harmless Customer, its officers, directors, employees and agents from and against any Losses arising out of or relating to Chevron ES’ performance or nonperformance under this Agreement or any act of Chevron ES’ subcontractors relating to this Agreement, but only to the extent caused by the negligent or other intentional acts or omissions of Chevron ES or any agent or employee of Chevron ES or its subcontractors, and in no event to the extent caused by the acts or omissions of Customer or Customer’s agents or employees.
- 9.2 **Indemnification by Customer.** Customer shall defend, indemnify and hold harmless Chevron ES, its officers, directors, employees and agents from and against any Losses arising out of or relating to Customer’s performance or nonperformance under this Agreement, but only to the extent caused by the negligent or other intentional acts or omissions of Customer or any agent or employee of Customer, and in no event to the extent caused by the acts or omissions of Chevron ES, any subcontractor, or their agents or employees.
- 9.3 **Waiver of Consequential Damages and Limitation of Liability.** Except to the extent expressly provided elsewhere in this Agreement, under no circumstances shall either Party be liable to the other for loss of profits or for any special, indirect, incidental, consequential or punitive damages, however caused and on any theory of liability. “Consequential Damages” includes, but is not limited to, operational losses in the performance of business including lost revenues and any increase in operating expense, and any lost profits. It is expressly understood and agreed to by both Parties that each Party’s liability to the other shall be limited to reimbursement of only those actual and direct damages arising solely from a Party’s breach of this Agreement, negligence or willful misconduct.

**ARTICLE 10. INSURANCE**

- 10.1 **Chevron ES’ Insurance.** No policy shall be canceled except after thirty (30) days’ prior written notice has been given to Customer.
- 10.2 **Insurance.** Chevron ES shall procure and maintain and shall require all subcontractors, if any, whether primary or secondary, to procure and maintain either:

**Comprehensive General Liability Insurance.**

with a combined single limit per occurrence

of not less than .....\$1,000,000.00

i) OR

**Commercial General Liability and Property Damage Insurance**

(including automobile insurance) which provides

limits of not less than:

**DRAFT FOR REVIEW PURPOSES ONLY**

- (a) Per occurrence (combined single limit) . . . . . \$1,000,000.00
- (b) Project Specific Aggregate (for this project only). . . . . \$1,000,000.00
- (c) Products/Completed Operations . . . . . \$1,000,000.00
- (d) Personal & Advertising Injury limit . . . . . \$1,000,000.00

**AND**

Builder's Risk (or Course of Construction Coverage) Applicable/Fire Insurance(See Article 22) Project Replacement Value at.....100%

(One Hundred Percent)

**Insurance Covering Special Hazards:** Following special hazards shall be covered by riders or riders to above-mentioned commercial liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance, in amounts as follows:

- Automotive and truck where operated in amounts ..... \$1,000,000.00.
- Material hoist where used in amounts ..... \$1,000,000.00
- Explosion, collapse & Underground (XCU) coverage ..... \$1,000,000.00.
- Excess Liability Insurance coverage in the amount of .....\$1,000,000.00

**Additional Insured Endorsement:** Any general liability policy provided by Chevron ES hereunder shall contain an endorsement which applies its coverage to Customer, members of Customer's board of trustees, and the officers, agents, employees and volunteers of Customer, the State Allocation Board, if applicable, the architect, and the architect's consultants, individually and collectively, as additional insureds, on form #CG 20 10 11 8 or equivalent.

**10.3 BUILDER'S RISK/APPLICABLE INSTALLATION/FIRE INSURANCE**

a. It is Chevron ES's responsibility to maintain or cause to be maintained builder's risk insurance or applicable installation coverage on all work, material, equipment, appliances, tools, and structures which are a part of the contract and subject to loss or damage by fire, extended coverage, and vandalism and malicious mischief. Customer accepts no responsibility until the contract is formally accepted by the Customer's Board of Trustees for the work. Chevron ES is required to file with Customer a certificate evidencing builder's risk or applicable installation of not less than the amount identified in the special conditions insurance coverage.

- b. Provide insurance coverage on completed value form, all-risk or special causes of loss coverage.
  - 1. Insurance policies shall be so conditioned as to cover the performance of any extra work performed under the contract.
  - 2. Coverage shall include all materials stored on site and in transit.
  - 3. Coverage shall include Chevron ES' and its subcontractor's tools and equipment.
  - 4. Insurance shall include boiler, machinery and material hoist coverage.

c. Company or companies providing insurance coverage shall be reasonably acceptable to Customer and authorized to conduct business in the State of California.

[In lieu of any insurances required in this Section, Chevron ES may self insure hereunder and use a Self Administered Claims Program for this purpose. Chevron ES will provide Customer with a Letter of Self Insurance. In addition, Chevron ES will notify Customer in writing 30 days prior to cancellation of the Self Administered Claims Program.] [OPEN—being discussed by risk managers]

## DRAFT FOR REVIEW PURPOSES ONLY

- 10.4 Bonds.** Prior to commencing the Work, Chevron ES shall provide (i) a payment bond in the amount of one hundred percent (100%) of the Contract Price; and (ii) a performance bond in the amount of one hundred percent (100%) of the Contract Price. The surety supplying such bonds shall be an "admitted surety insurer," as defined by Section 995.120 of the California Code of Civil Procedure authorized to do business as a surety in the State of California and reasonably satisfactory to Customer

### **ARTICLE 11. DEFAULT AND REMEDIES**

- 11.1 Default.** A Party shall be in default (an "Event of Default") under this Agreement if it: (1) fails to make any payment due under this Agreement by the applicable Due Date for such payment specified in Section 8.3; (2) defaults in the performance in any material respect of its obligations under this Agreement and such default is not cured within thirty (30) days after written notice thereof to the defaulting Party, provided that (A) such failure to perform shall not be deemed a default hereunder if it is due to causes beyond the control of the defaulting Party pursuant to Section 12.2 below, and (B) if a non-monetary default cannot reasonably be cured within the thirty (30) day period provided for herein, such Party shall have such additional time as is necessary to effectuate a cure so long as a cure is commenced within such thirty (30) day period (by providing to the non-defaulting Party written notice of a proposal or schedule to cure the default) and diligently prosecuted to completion within ninety (90) days; or (3) is dissolved, becomes insolvent, or proceedings under bankruptcy are commenced by or against the Party.
- 11.2 Remedies.** Upon the occurrence of an Event of Default, the defaulting Party shall be liable for the non-defaulting Party's actual losses incurred by reason of such Event of Default and any cost of funding; legal fees; and the costs of any payment or delivery required to have been made on or before the date of the Event of Default and not made including Interest on sums due. In addition, the non-defaulting Party shall be entitled to terminate this Agreement pursuant to Section 12.1 below.

### **ARTICLE 12. TERMINATION / FORCE MAJEURE EVENTS**

- 12.1 Termination for Cause.** In addition to the remedies provided for in Section 11.2, in the event of an Event of Default the non-defaulting Party may terminate this Agreement by providing five (5) business days written notice to the defaulting Party in the case of a monetary Default and ten (10) business days written notice to the defaulting Party in the case of a non-monetary Default. In addition, if Chevron ES stops work for more than ten consecutive business days, does not commence construction at the Installation Location within 60 days of receiving Customer's notice to proceed or achieve Substantial Completion by [date], then, in addition to any remedies provided for in Section 11.2 or any other remedies available at law or equity, Customer shall have the right to terminate this Agreement and the right to obtain alternative companies to finish the Work. Customer shall also have the right to terminate this Agreement if any Adverse Site Conditions are discovered. Upon termination of this Agreement, each Party shall forthwith return to the other all papers, materials, and property of the other held by such Party in connection herewith. Each Party shall also assist the other in the orderly termination of this Agreement and the transfer of all aspects hereof, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each Party. Notwithstanding any termination of this Agreement, the Parties shall remain bound by the provisions of Section 16.4, Confidentiality.
- 12.2 Force Majeure.** A party shall not be in default in the performance of any obligation under this Agreement (other than an obligation to make payments) when such failure to perform is due to a Force Majeure Event that prevents the affected party's performance or makes such performance materially more onerous or costly. The party suspending performance due to a Force Majeure Event shall (i) give written notice of such fact to the other party promptly after suspending performance and (ii) exercise commercially reasonable efforts to mitigate or remediate the impacts of the Force Majeure Event. The term "Force Majeure Event" shall mean any cause beyond the reasonable control of the affected Party and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which it has been unable to overcome through commercially reasonable efforts. Without limiting the foregoing, the following are examples of Force Majeure Events: acts of God and the public enemy; shutdown of utility services for more than two consecutive business days;; flood, earthquake, hurricane, tornado, storm, fire; civil disobedience, widespread labor disputes not caused by or particular to Chevron ES; sabotage, terrorism; any restraint, order, action or non-action of any governmental or other public authority or court (whether valid or invalid), and/or inability to obtain or keep in force and without modification the necessary governmental authorizations, permits, licenses, certificates or approvals, including the Applicable Permits. Neither Party shall be relieved of its obligation to perform if such failure is due to causes arising out of its own negligence or due to removable or remediable causes which it fails to remove or remedy within a reasonable time period through commercially reasonable efforts. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of an event of Force Majeure shall give prompt written notice of such fact to the other Party.

### **ARTICLE 13. DISPUTE RESOLUTION**

## DRAFT FOR REVIEW PURPOSES ONLY

- 13.1 Dispute Resolution.** In the event of a dispute, claim, or controversy arising out of or in connection with this Agreement ("Dispute"), the Parties will confer and attempt to resolve the Dispute informally. If such Dispute can not be resolved in this manner within ten (10) days after written notice of the Dispute is given to the other Party, then the matter shall be referred to the Parties' executive officers for their review and resolution. If the Dispute can not be resolved by such officers within the fifteen (15) day period following such referral, the Dispute shall be resolved by binding arbitration conducted by JAMS pursuant to the appropriate JAMS Arbitration Rules in effect at the time the arbitration is commenced. If the Dispute involves an amount in excess of \$250,000, JAMS Comprehensive Arbitration Rules and Procedures shall apply. For Disputes involving lesser amounts, JAMS Streamlined Arbitration Rules and Procedures shall apply. The award rendered by the arbitrator shall be final and binding on the Parties and shall be deemed enforceable in any court having jurisdiction thereof. The arbitration shall be heard by a single arbitrator who shall by training, education, or experience have knowledge of the general subject matter of the Dispute. If the Dispute solely involves Customer's obligations relating to the payment of amounts owed as specified in Article 8 above, each Party shall submit to the arbitrator its final written offer regarding its desired award and set forth its position supporting such desired award, and the arbitrator shall, within sixty (60) calendar days after the demand for arbitration, accept one of the two final offers, which shall be the award of the arbitrator. All other Disputes shall be determined by the arbitrator in a detailed and reasoned written opinion following: (1) limited discovery (as specified by the arbitrator) lasting no more than thirty (30) days; (2) the submission of written briefs by each of the Parties; and (3) no more than three (3) days of hearings (to be held consecutively). The arbitrator shall deliver his or her written determination to the Parties no more than sixty (60) calendar days after the last hearing date. The arbitration shall take place at the JAMS office geographically closest to the site where the Project is located.
- 13.2 Attorneys' Fees.** The prevailing Party in any arbitration proceeding pursuant to Section 13.1 above may recover its reasonable costs and attorneys' fees expended in connection with such arbitration proceeding from the other Party.

### **ARTICLE 14. LIMITED PERFORMANCE WARRANTY**

- 14.1 Limited Warranty.** Chevron ES warrants the Work of this Project as stated in the Scope of Work. Chevron ES shall obtain from all subcontractors and Equipment vendors standard guarantees and warranties supported by manufacturers' guarantees and warranties (if any and where applicable) on the machinery, Equipment, services, technology and other items used in the Work and Chevron ES warrants that the Equipment shall have a manufacturer's warranty as stated in the Scope of Work. Subcontractor, Equipment and material warranties shall be provided directly by the subcontractor, equipment and/or material manufacturers and such warranties shall be assigned directly to Customer by Chevron ES. Chevron ES shall be Customer's agent in working with the equipment and material manufacturers in resolving any equipment or material warranty issues. If any material defects are discovered within the equipment/material manufacturer's warranty period, Chevron ES will work with the equipment or material manufacturer as Customer's agent to facilitate the manufacturer's correction of the equipment or material defect. Such warranty services shall be performed in a timely manner and at the reasonable convenience of Customer. This warranty expressly excludes any remedy for damage or defect caused by improper use, operations of the installed equipment by users other than Chevron ES or its subcontractors, corrosion, erosion, deterioration, abuse, modifications or repairs not performed by an authorized Chevron ES subcontractor, improper operation, or normal wear and tear under normal usage. At Customer's option, Customer may contact the manufacturer directly to resolve such warranty issues and Customer acknowledges that the manufacturer shall have sole responsibility for such issues. Chevron ES warrants that it will perform the Work and any repairs in such a manner so that the warranties from subcontractors and manufacturers remain in effect for their stated terms.

EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, CUSTOMER EXPRESSLY AGREES THAT CHEVRON ES MAKES NO OTHER WARRANTIES AND ASSUMES NO OTHER LIABILITIES, WHETHER IN CONTRACT OR IN TORT, IN CONNECTION WITH THE DESIGN AND IMPLEMENTATION OF EQUIPMENT AND MATERIALS PROVIDED HEREUNDER WHETHER EXPRESS OR IMPLIED, IN LAW, IN EQUITY OR IN COMMUNICATION BETWEEN CHEVRON ES AND CUSTOMER. EXCEPT AS PROVIDED ABOVE, CHEVRON ES SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER SHALL HAVE NO REMEDIES AGAINST EITHER CHEVRON ES OR ANY CHEVRON ES SUBCONTRACTOR FOR ANY DEFECTIVE WORK INSTALLED EXCEPT IN ACCORDANCE WITH THE WARRANTY SET FORTH ABOVE OR THE WARRANTY PROVIDED BY SUCH SUBCONTRACTOR. SPECIFICALLY, CHEVRON ES, OR CHEVRON ES' SUBCONTRACTORS, SHALL NOT BE LIABLE TO CUSTOMER FOR LOSS OF PROFITS OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY.. This Article 14 shall survive the Terminate Date.

### **ARTICLE 15. REPRESENTATIONS, WARRANTIES and COVENANTS.**

- 15.1 Representations and Warranties of Customer**

**15.1.1 Corporate Existence, Authority, Organization, Solvency.** Customer represents and warrants that it is the type of legal entity indicated in the introductory paragraph hereof, duly organized, validly existing and in good standing under the laws of the state of its formation and it has the full power, authority, and legal right to execute, deliver, and

## DRAFT FOR REVIEW PURPOSES ONLY

perform the terms of this Agreement, and that the execution, delivery, and performance of this Agreement have been duly authorized by all necessary action on the part of Customer. This Agreement, when executed by Customer, constitutes a legal, valid, and binding obligation of Customer, enforceable against Customer in accordance with its terms, except as enforceability may be limited by general equitable principles and by bankruptcy, insolvency, reorganization, debtor relief or similar laws affecting the rights of creditors generally or equitable remedies in certain instances. Customer has full corporate power and authority to lease, operate or otherwise hold the Installation Location and to own, operate or otherwise hold the Project, and all other of its properties and assets and to carry on its operations as presently conducted. On the date hereof, Customer is not insolvent and has and throughout the term of this Agreement will continue to have the financial capability to perform its obligations hereunder.

**15.1.2 No Conflicts.** Customer's execution, delivery, and performance of this Agreement do not conflict with or result in any violation of or breach or default (with or without notice or lapse of time or both) under, or give rise to a right of termination, cancellation or acceleration or any obligation or to loss of benefit under, or result in the creation of any encumbrance of any kind or nature upon any of the properties of Customer under, any provision of (i) Applicable Law or Applicable Permit, or (ii) any note, loan, credit agreement, bond, mortgage, indenture, deed of trust, license, lease, contract, instrument, permit, authorization, commitment, agreement or arrangement to which Customer is a Party or by which any of its properties or assets is bound., other than in the case of (ii) above, any such items that would not prevent Customer from performing, or materially adversely impact its ability to perform, under this Agreement.

**15.1.3 Litigation.** There are no actions, suits, proceedings or investigations pending or, to the knowledge of Customer or its officers, threatened against it at law or in equity before any court or before any Governmental Authority whether or not covered by insurance which individually or in the aggregate may result in any materially adverse effect on the operations, properties or assets or the condition, financial or otherwise, of Customer or in any impairment of Customer's ability to perform its obligations under this Agreement. Neither Customer nor any of its officers has knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any Governmental Authority which may result in any such materially adverse effect or such impairment.

**15.1.4 Compliance with Laws.** Customer has complied with all Applicable Laws such that it has not been subject to any fines, penalties, injunctive relief or criminal liabilities which in the aggregate have materially affected or may materially affect the operations or financial condition of Customer.

### 15.2 Representations and Warranties of Chevron ES.

**15.2.1 Corporate Existence, Authority, Organization, Solvency.** Chevron ES represents and warrants that it is a division of Chevron U.S.A. Inc. ("CUSA") and that CUSA is the type of legal entity indicated in the introductory paragraph hereof, duly organized, validly existing and in good standing under the laws of the state of its formation, and Chevron ES has the full power, authority, and legal right to execute, deliver, and perform the terms of this Agreement, and that the execution, delivery, and performance of this Agreement have been duly authorized by all necessary action on the part of Chevron ES. Chevron ES has the lawful power to engage in the business it presently conducts and contemplates conducting pursuant to this Agreement, is duly licensed or qualified and in good standing in each jurisdiction wherein the nature of the business transacted by it makes such licensing or qualification necessary. This Agreement, when executed by Chevron ES, constitutes a legal, valid, and binding obligation of Chevron ES, enforceable against Chevron ES in accordance with its terms, except as enforceability may be limited by general equitable principles and by bankruptcy, insolvency, reorganization, debtor relief or similar laws affecting the rights of creditors generally or equitable remedies in certain instances. Chevron ES' financial condition is such that it is able to perform its obligations in accordance with this Agreement.

**15.2.2 No Conflicts.** Chevron ES' execution, delivery, and performance of this Agreement do not conflict with or result in any violation of or breach or default (with or without notice or lapse of time or both) under, or give rise to a right of termination, cancellation or acceleration or any obligation or to loss of benefit under, or result in the creation of any encumbrance of any kind or nature upon any of the properties of Chevron ES under, any provision of (i) Applicable Law, or (ii) any note, loan, credit agreement, bond, mortgage, indenture, deed of trust, license, lease, contract, instrument, permit, authorization, commitment, agreement or arrangement to which Chevron ES is a party or by which any of its properties or assets is bound, other than in the case of (ii) above, any such items that would not prevent Chevron ES from performing, or materially adversely impact its ability to perform, under this Agreement.

**15.2.3 Litigation.** There are no actions, suits, proceedings or investigations pending or, to the knowledge of Chevron ES or its officers, threatened against it at law or in equity before any court or before any Governmental Authority whether or not covered by insurance which individually or in the aggregate may result in any materially adverse effect on the business, properties or assets or the condition, financial or otherwise, of Chevron ES or in any impairment of Chevron ES' ability to perform its obligations under this Agreement. Neither Chevron ES nor any of its officers has knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any Governmental Authority which may result in any such materially adverse effect or such impairment.

**15.2.4 Patents, Licenses, Franchises.** Chevron ES owns or possesses all the patents, trademarks, service marks, trade names, copyrights, licenses, franchises, permits and rights with respect to the foregoing necessary to perform the

## DRAFT FOR REVIEW PURPOSES ONLY

Work and other work hereunder and to carry on its business as presently conducted and presently planned to be conducted without conflict with the rights of others.

**15.2.5 Compliance with Laws.** Chevron ES has complied with all Applicable Laws such that it has not been subject to any fines, penalties, injunctive relief or criminal liabilities which in the aggregate have materially affected or may materially affect Chevron ES' ability to perform the Work.

**15.2.6 Cost Savings.** Chevron ES represents and warrants that the schedule of estimated "Total Program Guaranteed Savings" described in Attachment I hereto is based on a good faith estimate of the projected savings to be realized by Customer based on reasonable market assumptions as set forth in the schedule.

**15.2.7 Ongoing Program Costs.** Chevron ES represents and warrants that the "Schedule of Total Program Costs" attached hereto is a good faith estimate of the projected costs of the Project to Customer (excluding the initial installation and financing costs) and is based on reasonable market assumptions as set forth in the schedule.

**15.2.8. Net Metering.** Chevron ES represents and warrants that the Work will be completed so that the Project will qualify for net metering.

**15.2.9 California Solar Initiative.** Chevron ES represents and warrants that the Project will satisfy the requirements of the California Solar Initiative and manufacturer warranties will be in effect with respect to the Equipment to the extent necessary to satisfy the eligibility criteria relating to the California Solar Initiative.

**15.2.10. Electrical Installation.** Chevron ES electrical installation shall be performed pursuant to the Scope of Work. Chevron ES represents and warrants that the electrical interconnection plan set out in the Scope of Work shows that there is a suitable electrical interconnection point of sufficient capacity to accommodate the Equipment as designed located near the planned location of such Equipment and for any underground placement of electrical cable or conduit, there are no foreseeable rocks or other obstructions that would prevent ordinary trenching equipment to be used for the installation of underground electrical cable.

**15.3 Survival.** The provisions of this Article 15 shall survive the termination of this Agreement.

### **ARTICLE 16. MISCELLANEOUS PROVISIONS.**

**16.1 Independent Contractor.** Chevron ES' performance of Work under this Agreement shall be as an independent contractor to Customer, and not as an employee, representative, joint venturer, partner or agent of Customer, and Chevron ES shall be responsible for its own work. As an independent contractor, Chevron ES will be responsible for the means, methods, techniques, sequences, and procedures employed to implement the Project. Chevron ES shall also employ, at its own expense, all personnel necessary to perform the Work, represents that all personnel engaged in performing such Work are fully qualified, authorized, and permitted to do so under all Applicable Laws, and shall be responsible for all matters including payment of its employees, compliance with social security, worker's compensation requirements, and withholding for federal, local, and state taxes.

**16.2. Governing Law/Venue.** The Parties expressly understand and agree that the performance of all obligations hereunder shall be governed by, and interpreted and construed in accordance with, the laws of the State of California, without reference to or application of its rules of conflict of laws.

**16.3 Notices.** Any notice, payment or other communication under this Agreement shall be made in writing to the address specified below, and may be sent by facsimile or other electronic means, except that any notices required by this Agreement shall also be sent by certified mail, return receipt requested.

**To Chevron ES :**

Chevron Energy Solutions Company,  
a division of Chevron U.S.A. Inc.

**With Copy to:**

Chevron Energy Solutions Company, a  
division of Chevron U.S.A. Inc.

**To Customer:**

Attention: Sarah Smith  
Phone Number: (626) 304-4729  
Fax Number: (626) 304-4701

Attention: General Counsel  
Phone number: (415) 733-4800  
Fax number: (415) 733-4957

**16.4 Confidentiality.** Neither Party shall disclose the terms of this Agreement to a third Party (other than such Party's and its affiliates' employees, lenders, counsel, accountants or consultants) except in order to comply with any Applicable Law, order, regulation or rule; provided, however, that each Party shall notify the other Party of any proceeding of which it is aware that may result in such disclosure and the Party subject to such proceeding shall use reasonable efforts to prevent or limit the disclosure; and further provided that each Party is deemed to have consented to such disclosure of the terms of the this Agreement as is necessary to comply with applicable regulatory reporting and filing

**DRAFT FOR REVIEW PURPOSES ONLY**

requirements. Chevron ES acknowledges that Customer is subject to the Public Records Act. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation, provided, however, that all monetary damages shall be limited to actual direct damages and a breach of this section shall not give rise to the right to suspend or terminate the Agreement.

- 16.5 Construction of Agreement.** This Agreement is the result of arms-length negotiations between two sophisticated Parties and ambiguities or uncertainties in it shall not be construed for or against either Party, but shall be construed in a manner that most accurately reflects the intent of the Parties when such Agreement was executed.
- 16.6 Successors and Assigns.** This Agreement may not be assigned without the written consent of the non-assigning Party, provided that Chevron ES shall have the right without Customer's consent to assign its rights and obligations in this Agreement to any affiliate, subsidiary or successor company (including any company that controls, is controlled by, or is under common control with Chevron ES, who shall be bound to the terms and conditions of this Agreement so long as Customer is given 60 days prior notice of the proposed assignment, such successor is at least as creditworthy as Chevron ES and Chevron ES provides Customer with financial information regarding such successor upon such assignment in order for Customer to confirm such creditworthiness. Customer may assign its warranty rights to any successor owner of the Installation Location.
- 16.7 Binding Effect.** Except as otherwise provided herein, the terms and conditions of this Agreement shall apply to, be binding upon and inure to the benefit of, the Parties hereto and their respective heirs, legal representatives, successors and permitted assigns.
- 16.8 Waivers.** The waiver by either Party of any term, covenant, agreement or condition herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement or condition herein, nor shall any custom or practice which may develop between the Parties in the administration of this Agreement be construed to waive or lessen the right of such Party to insist upon the performance by the other Party in strict accordance with all of the provisions of this Agreement.
- 16.9 Severability.** If any term, covenant, condition, or provision of this Agreement or the application thereof to any person or circumstance shall, at any time or 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 to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.
- 16.10 Conflicts of Interest.** Conflicts of interest relating to this Agreement are strictly prohibited. Except as otherwise expressly provided herein, no Party nor any director, employee or agent of any Party shall give to or receive from any director, employee or agent of any other Party any gift, entertainment or other favor of significant value, or any commission, fee or rebate in connection with this Agreement. Likewise, no Party nor any director, employee or agent of any Party, shall without prior notification thereof to all Parties enter into any business relationship with any director, employee or agent of another Party or of any affiliate of another Party, unless such person is acting for and on behalf of the other Party or any such affiliate. A Party shall promptly notify the other Parties of any violation of this section and any consideration received as a result of such violation shall be paid over or credited to the Party against whom it was charged. Any representative of any Party, authorized by that Party, may audit the records of the other Parties related to this Agreement, including the expense records of the Party's employees involved in this Agreement, upon reasonable notice and during regular business hours, for the sole purpose of determining whether there has been compliance with this term.
- 16.11 Entire Agreement.** This Agreement constitutes the entire and exclusive agreement between the Parties with respect to its subject matter and supersedes and cancels all previous and contemporaneous representations, understandings, agreements, commitments and writings in respect thereof. Neither Party may modify, change, or amend this Agreement without the express written consent of the other Party. Any waiver by either Party of any right contained in this Agreement shall not be deemed to be a waiver of any other right, whether or not of a similar kind.
- 16.12 Necessary Acts.** The Parties each agree to execute, acknowledge, deliver and file or cause to be executed, acknowledged, delivered, and filed such further documents or other papers and to do all such things and acts, as may be reasonably requested by the other Party, or Lender, in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby.

**Article 17 REBATE PROGRAMS/TAX CREDITS.**

- 17.1** Chevron ES shall provide reasonable assistance and cooperation to Customer in the preparation and submittal of any and all applications or other documentation necessary for Customer to participate in any rebate or other incentive program in effect as of the Effective Date offered with respect to the energy system by any utility or Governmental Authority (a "Rebate Program"). Chevron ES shall attend all site verification visits conducted by the applicable public utility or Government Authority and shall assist Customer in satisfying the requirements of the Rebate Program.



## **DRAFT FOR REVIEW PURPOSES ONLY**

- 17.2** The Parties acknowledge and agree that any rebates or incentives payable under any Rebate Program will be paid directly to, and retained by, Customer by the public utility or Government Authority.
- 17.3** All tax credits and/or other incentives or enhancements available with respect to the Project shall belong to, and be retained by, Customer.

### **Article 18 GENERAL CONDITIONS**

Attachment C is hereby incorporated into this Agreement by reference. In the event that there a conflict exists between Attachment C and this Agreement, the terms of this Agreement shall govern.

### **Article 19 CREDITWORTHINESS**

If, at any time, Customer's credit rating falls below investment grade as defined by Moody's Investors Services (or other nationally-recognized independent rating agency), Customer agrees to provide Chevron ES with current information regarding its creditworthiness upon the request of Chevron ES. At its sole option, Chevron ES may then require Customer to provide security satisfactory to Chevron ES, and the Work may be withheld until such security is received. If Customer deposits the contract amount into a third-party escrow account with an escrow agent and agreement acceptable to Chevron ES, then the terms of this paragraph are not applicable.

Engineering, Procurement and Construction Agreement ITEM 18  
San Dieguito Union High School District and Chevron Energy Solutions Company  
Chevron ES Project #: Project Number DWCES32036  
Chevron ES Contract # CU \_\_\_\_\_

Proprietary and Confidential

## DRAFT FOR REVIEW PURPOSES ONLY

### ATTACHMENT B

#### DEFINITIONS

For the purposes of this Agreement, including the Scope of Work and Change Orders, the defined terms herein shall have the meaning set forth as follows:

1. **Adverse Site Conditions** means (i) soil, sub-surface or latent physical conditions, including without limitation subsurface conditions, at the Installation Location differing materially from those shown in documents provided by Customer to Chevron ES prior to the Effective Date, unknown to Chevron ES and not apparent to Chevron ES without performing destructive testing or opening concealed portions of the Installation Location, or (ii) unknown physical conditions at the Installation Location of any unusual nature differing materially from those ordinarily encountered in the performance of work of the character contemplated in the Scope of Work and not apparent to Chevron ES without performing destructive testing or opening concealed portions of the Installation Location.
2. **Agreement** means this Engineering, Procurement and Construction Agreement, all Change Orders, the Attachments listed in the Engineering, Procurement Agreement and all other documents the Parties mutually agree are a part of this Agreement, and any amendment to this Agreement.
3. **Applicable Laws** means all laws, statutes, regulations, ordinances, directives, decisions, interpretations, approvals, rulings, Applicable Permits, applications, certifications, exemptions, building codes, rules or orders of any Governmental Authority having jurisdiction over the performance of the Work, the Parties or the Project, as may be in effect as of the Effective Date.
4. **Applicable Permits** means all permits, waivers, authorizations, licenses, approvals and/or clearances issued or required as of the Effective Date to be issued by any Governmental Authority having jurisdiction over the Project or the Work.
5. **Change** means, a condition experienced by Chevron ES during the course of the Work that could not be reasonably foreseen by Chevron ES and that in Chevron ES's reasonable judgment requires a change to the Scope of Work of Project Schedule. Those Changes that may result in an increase in the Contract Price and/or Time extension are Changes due to: (1) damage or threat of damage to any equipment or other Work caused by the act or omission of Customer, its agents or employees, or any third party that could not have been reasonably prevented by Chevron ES; (2) significant delays caused by Customer or other parties outside the control of Chevron ES; (3) unforeseen inadequate access to the Installation Location or other areas where Work will be performed to perform Work safely and consistent with standard industry practices without undue work, cost or expense; (4) Adverse Site Conditions; (5) discovery of Hazardous Substances not previously disclosed by Customer to Chevron ES prior to the Effective Date; (6) material changes in Applicable Law first imposed after the Effective Date.
6. **Change Order** means a written document signed by both Chevron ES and Customer and further described in Section 5.6.1.
7. **Commercial Operation** has the meaning set forth in Section 6.1.
8. **Commercial Operation Date** means [November 22, 2010] as such date may be extended in accordance with Section 7.1.
9. **Construction** means any Work to be performed that involves any and all construction, alteration, repair, addition to, subtraction from, improving, moving, wrecking or demolishing any building, highway, road, parking facility, excavation, or other structure or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, and the cleaning of grounds or structures in connection with any of the above activities.
10. **Construction Documents** means this Agreement, its Exhibits and Attachments, any and all Change Orders, and the plans and specifications that describe the technical requirements for the Work and the Project.
11. **Contract Price** means the total amount of compensation that Customer shall pay to Chevron ES for satisfactorily completing the Scope of Work, including Change Orders, and all other obligations under this Agreement.
12. **Energy** means [to come] produced or provided by the Project.
13. **Equipment** means all materials, appliances, parts, instruments, appurtenances, accessories, machinery, apparatuses, structures, and equipment provided by or on behalf of Chevron ES that are, or shall be, incorporated into the [energy system] or the Interface Facilities.

14. **Facilities** mean the Customer's buildings or other facilities where the Energy will be consumed.  
**Facility means a Customer building or other facility where the Energy will be consumed. Two Facilities will be located at Canyon Crest Academy. The third Facility will be located at La Costa Canyon High School.**

15. **Final Completion** has the meaning set forth in Section 6.3 above.

16. **Force Majeure** has the meaning set forth in Article 12 above.

17. **Governmental Authority** means any federal, state, local, municipal entity or other political subdivision thereof and any governmental, executive, legislative, judicial, administrative or other regulatory agency, department, authority, commission, board, bureau, court or instrumentality or similar body, whether federal, state or local.

18. **Hazardous Substances** means any hazardous, toxic or dangerous wastes, substances, chemicals, constituents, contaminants, pollutants, and materials and any other carcinogenic, corrosive, ignitable, radioactive, reactive, toxic or otherwise hazardous substances or mixtures (whether solids, liquids, gases) now or at any time subject to regulation, control, remediation or otherwise addressed under Applicable Laws.

19. **Installation Location** means that area or areas where Work will be performed and where the Project materials and equipment and any other related equipment will be located, including laydown and temporary storage areas.

20. **Interest** means interest calculated at the lesser of the per annum rate of interest announced from time to time by Citibank as its "prime" rate for commercial loans plus two percent (2%) or the maximum rate permitted by Applicable Laws.

21. **Interface Facilities** means the foundations, pipes, wires and other appurtenances that connect the Project's Energy distribution systems to the Facilities.

22. **Losses** means claims, actions, liabilities, damages, losses, costs, and/or expenses (including reasonable attorneys' fees) incurred or asserted against a Party.

23. **Party or Parties** means Chevron ES, Customer, each or both of them, as the context may require pursuant to the terms and conditions of this Agreement.

24. **Performance Tests** means the tests set forth in Construction Documents designed to determine if the Project has been designed, engineered and constructed in accordance with the Construction Documents.

25. **Project** means the entirety of the Work to be performed by Chevron ES to develop, design, engineer, equipment procure, construct, test, commission and start-up the **solar energy systems and the Interface Facilities** in accordance with the Scope of Work.

26. **Scope of Work** means the amount and extent of Work that is contemplated to be performed by Chevron ES, and/or Chevron ES' subcontractors, for implementation of the Project in accordance with the Scope of Work attached to this Agreement as amended by Change Orders.

27. **Standard of Care** means the standard of care and skill generally accepted for the design and construction of photovoltaic solar power generation facilities in the general region of the Project during the relevant time period.

28. **Time** means the time period within which Chevron ES shall complete the Work in accordance with the Project Schedule.

29. **Work** means the design, procurement, installation and/or construction of the Project pursuant to this Agreement as described in the Scope of Work. The Work described in the Scope of Work shall also include all labor necessary to produce such services, all materials, fabrications, assemblies, and equipment incorporated or to be incorporated in such installation.

**ATTACHMENT C**  
**GENERAL CONDITIONS DEFINITION**  
**FOR**  
**SAN DIEGUITO UNION HIGH SCHOOL DISTRICT**

The following items (if required in the performance of the work) shall be included in the general conditions.

Category 1 – Project Staffing

- Project executive (Mandatory 10% time)
- Project manager (One during construction)
- Project superintendent (One full-time on each school site during construction)
- Assistant superintendent, if required or needed
- Project engineer (Full-time during construction)
- Purchasing agent (part time)
- Accountant/Cost Engineer (part time)
- Secretary (One full-time on each school site during construction)
- Scheduler (part time)
- Pick-up trucks/autos including fuel and maintenance for on site staff
- Travel and Subsistence

Category 2

- Any cost associated with Bidding requirements and General Requirements in the Project Manual (other than items in Category 1 above)
- Blueprinting and copy service
- Change shacks
- Debris boxes/dump fees
- Detailing, drafting and engineering for layout of work
- Drinking water
- Dual gate signage and administration
- Dust control
- Field office equipment, including furniture, computers, copy machines, fax machines, hardwired telephones, cellular telephones, ISP's and all other FF&E items
- Field office supplies, paper, postage, printing, and miscellaneous
- Field offices and trailers (two trailers for each school site PM and IOR)
- Field office utilities (and all monthly charges including power, water and sanitary)
- Field site clean up and building clean up
- Fire extinguishers
- First aid equipment

- Fuel and maintenance for all equipment
- Owned equipment rental
- Generators
- Guarantees and warranties
- Hoisting, forklift, and miscellaneous material handling
- Interior scaffolding and rolling towers
- Job photos
- Layout and batterboards including laser equipment
- Master record drawings (as-builts)
- Miscellaneous equipment maintenance
- Miscellaneous hauling and drayage
- Miscellaneous equipment rental
- Miscellaneous supplies not incorporated into the work
- Mockups and samples
- Move-on and move-off charges
- Operating and maintenance manuals
- Parking
- Periodic cleanup (including street cleaning) during construction
- Power cords
- Project closeout including final clean up, glass and exterior skin clean up
- Project signage
- Protection of existing facilities, landscaping and adjoining properties
- Punch list administration
- Safety, including OSHA and OPSC administration (see note below)
- Sales tax on purchases not incorporated into the work
- Scheduling, including scheduling consultants if needed
- Security including guard service and/or alarms
- Shop drawings and submittals
- Sidewalk protection
- Small tools and equipment not incorporated into the work
- Storage sheds/trailers
- Street barricades/traffic control
- Subs/pay telephone
- Telephone/ISP hookup and monthly charges
- Temporary fencing and gates including building materials/equipment compound
- Temporary lighting and heating
- Temporary power boxes
- Temporary power poles, hookup and monthly charges
- Temporary protection
- Temporary roads and maintenance

- Temporary toilets
- Temporary water hookup and monthly charges
- Traffic control and flagman
- Trash removal from site and building
- Utility relocations temporary to accommodate work
- USA utility surveys
- Worker hoist, ramps, and temporary ladders and stairs
- Weather protection
- Testing and inspection engineers (not in owner's responsibility)
- Assist with compliance and comply as required by law with fingerprinting requirements

*SPECIAL NOTE*

Safety and Health:

The highest standards of safety for students must be maintained at all times during construction that occurs while schools are in session.

**ATTACHMENT D**  
**SCOPE OF WORK**

**SOLAR PV SCOPE OF WORK**

Chevron ES will provide *turnkey design, engineering, DSA approval, project and construction management, product delivery, installation, testing, and commissioning* of a cost-effective and energy efficient PV system that will maximize the solar and renewable energy resource potential of the District at the following campuses:

<b>SDUHSD</b>	<b>kW<sub>dc</sub></b>
Canyon Crest	1,118
La Costa Canyon	948
<b>TOTAL</b>	<b>2,066</b>

\*PV layouts for each campus are attached

***List of SDUHSD Facilities:***

- Canyon Crest - South Lot
- Canyon Crest - North Lot
- La Costa Canyon

***Chevron ES Solar PV Installation:***

- Design and engineering for DSA approval
- Soils reports and underground utility locating
- Fabrication and installation of tube steel solar PV canopies, single and double cantilever, on campus parking lots as noted above; maintain parking below and traffic circulation between canopies.
- All columns and beams are to be HSS tube steel.
- Columns and beams (excluding galvanized C purlins) to be primed and painted per District specification.
- Provide and install, including receiving and offloading, Solar PV modules, type Sharp 235W or equal.
- Provide and install inverters type Satcon or equal.
- Provide and install solar canopy structure.
- Provide and install electrical switchgear, transformers, meters and metering hardware, combiner boxes, conduit and wire necessary to provide complete and fully operational systems.
- Provide and install new concrete pad for inverter yard and switchgear.
- Provide and install fencing around new inverter yard and switchgear.
- Perform all saw cutting, boring, coring, trenching, backfill, encasement and slurry as required for underground conduits to PV equipment POCs. All soil, concrete and asphalt will be disposed of off-site.
- Safe off existing power to light poles in parking lots; District to remove existing poles and concrete bases. Provide and install new T8 fluorescent lighting between each column, under new carport structures.
- Provide and install panel displays at Customer designated location (one (1) per site) showcasing the solar PV technology, real time tracking of production, savings and environmental benefits.
- Site safety, general conditions (temp. fencing, toilets, trailers, temp lighting, trash, etc.) and cleanup
- Application for Utility Interconnection Agreement with SDG&E.
- Commissioning of PV System

***General Clarifications and Qualifications:***

- All canopy conduit to be stubbed up inside the concrete column.
- Prevailing wage and bonding included.
- Minimum 5 degree slope on canopies
- Chevron ES will replace in kind, where applicable (ie grass, concrete, asphalt, etc.)
- To reduce expense of mobilization, Chevron ES has assumed project construction will be allowed to proceed smoothly and in a continuous flow. Minimal allowance has been made to demobilize and remobilize resources due to scheduled interruptions. Chevron ES has assumed at Canyon Crest, the whole lot, for both north and south lots, will be made available for construction in one mobilization. (Assuming each lot has its own mobilization and not done at the same time.) At La Costa Canyon, Chevron assumed a minimum of ½ the lot at a time. Detailed coordination will be finalized at time of scheduling construction and will be coordinated, to determine availability, between District/campus and Chevron ES.
- The PV shade structure is not weather tight and will not provide shelter from rain.
- Chevron ES assumes that the facilities are compliant to all relevant building codes. No allowances have been made to bring existing systems up to code. All newly installed systems will be code compliant.
- Chevron ES is not responsible for delays to work by the utility companies or the District.
- Chevron ES will provide District/Facility staff a minimum of 8hours of consecutive training providing a complete overview of installation and operation of Solar PV System.

***General Exclusions:***

- All tree removal, trimming and landscape.
- Premium time except for main electrical tie in.
- Permits, fees, structural and electrical work not specifically included herein are not included.
- Utility permits and fees
- Hazardous material abatement and/or removal of any kind. At this time Chevron ES has no knowledge of any hazardous materials that may affect construction of this project.
- Repair or replace damaged or inoperable existing equipment that is not specifically being replaced under the scope of work. When such items are discovered we will immediately notify the District representative.
- Demo, relocate, install or wiring of blue phones, CCTA, parking permit dispensers
- Parking lot improvements, renovations, or restriping in lots where new PV system is being installed.
- All scope of work not shown on final approved drawings and not required to achieve the project design criteria noted above.
- Fire sprinklers, fire alarm or fire life safety (usually not required by DSA)

***Districts/Facilities Responsibilities:***

- Trim or remove trees as needed to provide solar access at each Facility. Removal per approved construction schedule so as not to cause added expense for temp fencing, etc.
- Remove light poles including concrete bases in areas with solar canopies. Removal per approved construction schedule so as not to cause added expense for temp lighting, etc.
- Each Panel display location will require 120V power source and campus LAN connection.
- DSA fees and inspector of record and associated inspections
- Performance monitoring responsibilities as listed below.

**SCADA NETWORK/PERFORMANCE MONITORING INSTALLATION SCOPE OF WORK**

***Overview of SCADA Network Installation & Equipment Requirements***

Chevron ES will provide a revenue-grade billing, supervisory control and data acquisition (SCADA) or data acquisition service (DAS). This will provide readily available access to various internal and external information collected on the distributive generation (ie. solar PV) plant. All relevant parties will have access to perform their contractual obligations



**DRAFT ITEM 18**

and is herein outlined as the “Expected Level of System Service” (ELSS). The ELSS is established between the generation facility, its devices, and the data or relevant forms of “Key Performance Indicators” (KPIs) made available on a Virtual Private Network (VPN) and Virtual Local Area Network (VLAN) in a protected De-Militarized Zone (DMZ). Each device must either be TCP/IP enabled or have the ability to present information through a TCP/IP based gateway or DAS. Devices can be, but are not limited to: revenue grade billing meters, net generation output meters (NGOMs), net energy meters (NEMs), Direct Current (DC) inverters, etc. In addition, there are ancillary devices and software applications that may need access to segments of the SCADA node in order to perform as they are designed; ie educational information displays.

***Chevron ES SCADA/Monitoring Installation:***

- Supply and install hardware specific to the SCADA system and/or respective SCADA node(s).
- Supply and install, terminate, label, and test all Data Point of Connection (DPOC) communication cabling from each SCADA/node to the predetermined and respective DPOC(s); in accordance to District Facility specifications.
- Test and Verify District Facility Network connectivity.
  - a. DMZ Creation verification
  - b. VPN/VLAN Testing & Verification
  - c. TCP/IP Internal Addressing & Verification
  - d. Service Level Agreement(s) (SLA(s))
- Supply, install, and configure a TCP/IP based digital Net Energy Meter (NEMs).
- Connect the data portion of digital NEM(s) to their respective DPOC(s).
- Supply, install, and configure a TCP/IP based digital Net Generation Output Meter (NGOM).
- Perform the physical installation, labeling, testing and certification testing of each data circuit(s) from the digital NEM(s) to their respective DPOC(s).
- Establish a Service Level Agreement on network connectivity and access between all SCADA devices in the Solar PV system, Chevron ES, and District/Facility.
- Provide a 50” Wall mounted, interactive display, for public access, with all relevant hardware mounting hardware, surge suppression, digital engine and remote display content management and scheduling software.
- Mount hardware at predetermined location that the District/Facility has prepared for installation.
- Configure display, perform connectivity and each data circuit testing on the District Facility SCADA VPN/VLAN & internal network.
- Establish a Service Level Agreement on network connectivity and access between all SCADA devices in the Solar PV system, Chevron ES, appropriate software & hardware vendors, and District/Facility.
- Provide basic display management system training to designated District/Facility maintenance and content publishing personnel, with an overview of more advanced feature sets inherent to the software platform.

***District Facility Responsibilities:***

- Create a SCADA DMZ and VPN/VLAN for both internal and respective external access routing of SCADA system with a common subnet, gateways, primary and secondary Domain Name Servers (DNS).
- Provide internal, static TCP/IP addressing per SCADA node and the appropriate network translation and routing, without compromising system security and service stability, with each associated out-bound network services, establishing remote access to each device in District/Facility firewall(s).
- Provide external, static TCP/IP addressing for each SCADA node and the appropriate network translation and routing, without compromising system security and service, to each device with associated in-bound network services, establishing remote access to each device in each District/Facility firewall(s).
- Provide the physical location(s) of the nearest IDF/MDF/ODF to each SCADA node or Chevron ES provided TCP/IP device(s), establishing each DPOC.
- Provide information regarding each District/Facility communications and data specifications.
- Provide authorization to access each DPOC for termination, certification, labeling and testing.
- Provide patch panel access and port locations to terminate the physical connection of each SCADA node or TCP/IP device DPOC, excluding the Public Access Display, of which is to be established by each District/Facility to the predetermined location(s).
- Establish a Service Level Agreement on network connectivity and access between all SCADA devices in the Solar PV system, Chevron ES, and District Facility.
- Determine a site location to place public access display, this will impact some component types that Chevron ES will have to procure in order to maintain a successful installation.

- Provide 120VAC supply power and a CAT 6 network connectivity to the predefined location/wall where display is to be located.
- Provide and place the display on the SCADA LAN for internal information access with IP address, Subnet, and Gateway, Primary and Secondary DNS.

**ADDITIONAL MISC. SCOPE OF WORK**

***Approvals & Permits:***

Chevron ES, its designers, contractors and inspectors shall provide documentation required for all approvals by the Division of the State Architect (DSA). All associated fees for DSA and plan check are the responsibility of the District. Additionally, The Customer shall retain the services of a DSA-approved Inspector of Record (IOR) and Special Inspection Agency (SIA) who will represent DSA as the authority having jurisdiction and perform all inspections necessary. Chevron ES shall notify the IOR and SIA of required inspections and shall provide reasonable access and accommodations for inspections.

Chevron ES will assist customer in the filing of CEQA Notice of Exemption Relating to Project

***CSI Rebate Information:***

Chevron ES will submit the rebate application and all required documents to CCSE on behalf of the District.

***Warranty:***

- Chevron performance warranty will be for 15 year from date of Substantial Completion, per the terms stated in the Guarantee Section Attachment H
- From the date of Substantial Completion and continuing for 10 years, Chevron ES warrants that the energy system will be free from defects in material, installation and workmanship, and shall conform to the specifications contained in the Construction Documents.
- Manufacturer's warranty on major equipment:
  - Satcon Inverters and other large equipment – 15year warranty
  - Sharp 235W panels – 25 year warranty

***Criteria for Achieving Beneficial Use (Substantial Completion):***

Shall occur when SDG&E issues the Permission-To-Operate letter and systems generate expected energy.

Chevron ES will perform all work set out in the Interconnection Agreements even if such Interconnection Agreements are not in place on the Effective Date.

**ATTACHMENT E**

**PROJECT SCHEDULE AND PAYMENT SCHEDULE**

ID	Task Name	Duration	Start	Finish
1	<b>PV Project - 2 San Dieguito High Schools 2009</b>	<b>279 days</b>	<b>Wed 10/28/09</b>	<b>Mon 11/22/10</b>
2	<b>District Contract Signed</b>	<b>100 days</b>	<b>Wed 10/28/09</b>	<b>Tue 3/16/10</b>
3	Coastal Development Committee Approval - La Costa Canyon On	5 mons	Wed 10/28/09	Tue 3/16/10
4	Board Approval	1 day	Thu 11/12/09	Thu 11/12/09
5	Application for CSI (No Later Than)	1 day	Thu 11/12/09	Thu 11/12/09
6	Signed NTP	1 day	Thu 12/31/09	Thu 12/31/09
7	<b>Submit Plans to DSA</b>	<b>50 days</b>	<b>Fri 1/1/10</b>	<b>Thu 3/11/10</b>
8	100% Drawings	20 days	Fri 1/1/10	Thu 1/28/10
9	Review Submittal Process at DSA	15 days	Fri 1/29/10	Thu 2/18/10
10	Award Contracts to Sub Contractors	5 days	Fri 2/12/10	Thu 2/18/10
11	Utility Review and Applications	30 days	Fri 1/29/10	Thu 3/11/10
12	Project Kick Off/Safety Meeting	1 day	Fri 2/19/10	Fri 2/19/10
13	<b>Canopy Crest Academy Phase I (south lot)</b>	<b>109 days</b>	<b>Fri 1/1/10</b>	<b>Wed 6/2/10</b>
14	Prep of Site by District, Remove Its/bollards/trees	15 days	Fri 1/1/10	Thu 1/21/10
15	UG Electrical/demo/trenching/boring	7 days	Mon 2/22/10	Tue 3/2/10
16	DSA IOR Inspection	1 day	Wed 3/3/10	Wed 3/3/10
17	<b>Canopy Construction Phase I</b>	<b>74 days</b>	<b>Fri 2/19/10</b>	<b>Wed 6/2/10</b>
18	<b>Structural Material/Fabrication</b>	<b>17 days</b>	<b>Fri 2/19/10</b>	<b>Mon 3/15/10</b>
19	Steel Mill Run and Fab	15 days	Fri 2/19/10	Thu 3/11/10
20	DSA in Plant Inspection	2 days	Fri 3/12/10	Mon 3/15/10
21	<b>Parking Structures Phase I</b>	<b>57 days</b>	<b>Tue 3/16/10</b>	<b>Wed 6/2/10</b>
22	<b>Deliver to Site</b>	<b>37 days</b>	<b>Tue 3/16/10</b>	<b>Wed 5/5/10</b>
23	Core, Dig/Pour Piers	4 days	Tue 3/16/10	Fri 3/19/10
24	Special Inspection of concrete	1 day	Mon 3/22/10	Mon 3/22/10
25	Concrete Cure	4 days	Mon 3/22/10	Thu 3/25/10
26	Deliver Steel to site	5 days	Fri 3/26/10	Thu 4/1/10
27	Steel Erection	6 days	Fri 4/2/10	Fri 4/9/10
28	DSA Inspection of Welds	6 days	Fri 4/2/10	Fri 4/9/10
29	Painting of Structure/ drying time	4 days	Mon 4/12/10	Thu 4/15/10
30	Form/Pour/Cure Inverter Pad	4 days	Fri 4/16/10	Wed 4/21/10
31	Inverter Delivery & set	5 days	Thu 4/22/10	Wed 4/28/10
32	Inverter Tie-in to Swgr	5 days	Thu 4/29/10	Wed 5/5/10
33	<b>PV Panel Installation</b>	<b>18 days</b>	<b>Fri 4/16/10</b>	<b>Tue 5/11/10</b>
34	Sub Assembly to Structure ("C" brackets)	5 days	Fri 4/16/10	Thu 4/22/10
35	Install Panels	5 days	Fri 4/23/10	Thu 4/29/10
36	Panel Wiring	5 days	Fri 4/30/10	Thu 5/6/10
37	PV Electrical Tie-In & testing	3 days	Fri 5/7/10	Tue 5/11/10
38	Turn Over South Lot to Campus	0 days	Tue 5/11/10	Tue 5/11/10
39	<b>Project Close Out</b>	<b>16 days</b>	<b>Wed 5/12/10</b>	<b>Wed 6/2/10</b>
40	EOR Inspection and Letter	1 day	Wed 5/12/10	Wed 5/12/10
41	IOR Letter to Utility	5 days	Thu 5/13/10	Wed 5/19/10
42	Utility Set Meters and PPI	10 days	Thu 5/20/10	Wed 6/2/10
43	<b>Canopy Construction Phase II Canyon Crest (north lot)</b>	<b>57 days</b>	<b>Wed 5/12/10</b>	<b>Thu 7/29/10</b>
44	Prep of Site by District, Remove Its/bollards/trees	15 days	Wed 5/12/10	Tue 6/1/10
45	UG Electrical/demo/trenching/boring	7 days	Wed 6/2/10	Thu 6/10/10
46	DSA IOR Inspection	1 day	Fri 6/11/10	Fri 6/11/10
47	<b>Parking Structures Phase II</b>	<b>57 days</b>	<b>Wed 5/12/10</b>	<b>Thu 7/29/10</b>
48	<b>Deliver to Site</b>	<b>36 days</b>	<b>Wed 5/12/10</b>	<b>Wed 6/30/10</b>
49	Core, Dig/Pour Piers	4 days	Wed 5/12/10	Mon 5/17/10
50	Special Inspection of concrete	1 day	Tue 5/18/10	Tue 5/18/10
51	Concrete Cure	4 days	Tue 5/18/10	Fri 5/21/10
52	Deliver Steel to site	5 days	Mon 5/24/10	Fri 5/28/10
53	Steel Erection	6 days	Mon 5/31/10	Mon 6/7/10
54	DSA Inspection of Welds	6 days	Mon 5/31/10	Mon 6/7/10
55	Painting of Structure/ drying time	4 days	Tue 6/8/10	Fri 6/11/10
56	Form/Pour/Cure Inverter Pad	4 days	Mon 6/14/10	Thu 6/17/10
57	Inverter Delivery & set	4 days	Fri 6/18/10	Wed 6/23/10
58	Inverter Tie-in to Swgr	5 days	Thu 6/24/10	Wed 6/30/10
59	<b>PV Panel Installation</b>	<b>18 days</b>	<b>Mon 6/14/10</b>	<b>Wed 7/7/10</b>
60	Sub Assembly to Structure ("C" brackets)	5 days	Mon 6/14/10	Fri 6/18/10
61	Install Panels	5 days	Mon 6/21/10	Fri 6/25/10
62	Panel Wiring	5 days	Mon 6/28/10	Fri 7/2/10
63	PV Electrical Tie-In & testing	3 days	Mon 7/5/10	Wed 7/7/10
64	<b>Project Close Out</b>	<b>16 days</b>	<b>Thu 7/8/10</b>	<b>Thu 7/29/10</b>
65	EOR Inspection and Letter	1 day	Thu 7/8/10	Thu 7/8/10
66	IOR Letter to Utility	5 days	Fri 7/9/10	Thu 7/15/10
67	Utility Set Meters and PPI	10 days	Fri 7/16/10	Thu 7/29/10
68	<b>Canopy Construction Phase III La Costa Canyon (whole lot)</b>	<b>125 days</b>	<b>Tue 6/1/10</b>	<b>Mon 11/22/10</b>
69	Prep of Site by District, Remove Its/bollards/trees	15 days	Tue 6/1/10	Mon 6/21/10
70	UG Electrical/demo/trenching/boring	12 days	Tue 6/22/10	Wed 7/7/10
71	DSA IOR Inspection	1 day	Thu 7/8/10	Thu 7/8/10
72	<b>Parking Structures Phase II</b>	<b>80 days</b>	<b>Tue 6/22/10</b>	<b>Mon 10/11/10</b>
73	<b>Deliver to Site</b>	<b>46 days</b>	<b>Tue 6/22/10</b>	<b>Tue 8/24/10</b>
74	Core, Dig/Pour Piers	6 days	Tue 6/22/10	Tue 6/29/10
75	Special Inspection of concrete	1 day	Wed 6/30/10	Wed 6/30/10
76	Concrete Cure	4 days	Wed 6/30/10	Mon 7/5/10
77	Deliver Steel to site	5 days	Tue 7/6/10	Mon 7/12/10
78	Steel Erection	10 days	Tue 7/13/10	Mon 7/26/10
79	DSA Inspection of Welds	10 days	Tue 7/13/10	Mon 7/26/10
80	Painting of Structure/ drying time	6 days	Tue 7/27/10	Tue 8/3/10
81	Form/Pour/Cure Inverter Pad	4 days	Wed 8/4/10	Mon 8/9/10
82	Inverter Delivery & set	4 days	Tue 8/10/10	Fri 8/13/10
83	Inverter Tie-in to Swgr	7 days	Mon 8/16/10	Tue 8/24/10
84	<b>PV Panel Installation</b>	<b>31 days</b>	<b>Wed 8/4/10</b>	<b>Wed 9/15/10</b>
85	Sub Assembly to Structure ("C" brackets)	10 days	Wed 8/4/10	Tue 8/17/10
86	Install Panels	10 days	Wed 8/18/10	Tue 8/31/10
87	Panel Wiring	10 days	Wed 8/25/10	Tue 9/7/10
88	PV Electrical Tie-In & testing	6 days	Wed 9/8/10	Wed 9/15/10
89	Turn Over Phase III Lots to Campuses	0 days	Wed 9/15/10	Wed 9/15/10
90	<b>Project Close Out</b>	<b>18 days</b>	<b>Thu 9/16/10</b>	<b>Mon 10/11/10</b>
91	EOR Inspection and Letter	1 day	Thu 9/16/10	Thu 9/16/10
92	IOR Letter to Utility	2 days	Fri 9/17/10	Mon 9/20/10
93	Utility Set Meters and PPI	15 days	Tue 9/21/10	Mon 10/11/10
94	<b>Commissioning and Final Close Out - ALL</b>	<b>30 days</b>	<b>Tue 10/12/10</b>	<b>Mon 11/22/10</b>

<b>ESTIMATED PAYMENT SCHEDULE</b>				
Project Name:	San Dieguito Union High School District			
Total Project Amount:	\$ 13,737,960			
Total # of days from contract execution to 100% project completion	240 days			
<b>Draw Schedule</b>				
Days after				
Contract signed	Amount Advanced	Amount	Notes	
0	\$2,060,694.00	15.00%	Mobilization	
30	\$137,379.60	1.00%	DSA Submittal and Approval	
60	\$686,898.00	5.00%	Construction Started	
90	\$2,747,592.00	20.00%	Major Equipment Delivery/Install - CCA PHI	
120	\$2,060,694.00	15.00%	Major Equipment Delivery/Install - LCA PHI	
150	\$2,472,832.80	18.00%	Major Equipment Delivery/Install - CCA PHII	
180	\$1,923,314.40	14.00%	Major Equipment Delivery/Install - LCA PHII	
210	\$274,759.20	2.00%	Substantial Completion	
240	\$1,373,796.00	10.00%	Final Completion	
	\$13,737,960.00	100.00%		
Note: Actual monthly payments will be based on progress for % of actual work completed. Amounts may differ +/- from the estimated values listed herein.				

***A Schedule of Values (SOV) will be provided after Contract execution. Invoices shall be in the form and contain the information requested by the Customer and shall be subject to approval by the Customer prior to payment.***

***The fee for the Feasibility Services plus Design, Engineering, Bonding, Insurance & Mobilization will be invoiced to the Customer upon both parties signing the Energy Services Contract and due and payable as detailed in Contract Attachment A.***

**ATTACHMENT F**

**OPERATIONS AND MAINTENANCE SERVICES**

**EQUIPMENT AND FACILITIES COVERED UNDER THE SERVICES AGREEMENT**

CHEVRON ES shall perform the Services with respect to the Generating Facilities as defined in the Solar Services Contract at the Facilities upon which the Generating Facilities are being constructed on Purchaser's Properties at the following addresses:

- 1) Canyon Crest -,5951 Village Center San Diego, CA 92130, and
- 2) La Costa Canyon 3451 Camino De Los Carlsbad Carlsbad, CA 9200

**SERVICES PROVIDED UNDER THE SERVICES AGREEMENT BY CHEVRON ES**

The following shall comprise the Services provided by Chevron ES under this Agreement:

**Preventative Operation and Maintenance Services.**

Chevron ES will provide but is not limited to the following Services and receive payment as described in **Exhibit G**:

- a Chevron ES Inspection: Inspect PV modules, combiner boxes, inverters, isolation transformers, and PV service roof penetrations and support structure on an annual basis for 15 years unless the Solar Services Contract is terminated earlier by Customer.
- b Monitoring: Chevron ES will monitor system performance on a real-time basis.
- c Cleaning:
  - i Removal of dust, dirt, and debris from outside cabinets of combiner boxes, inverters, transformers, and disconnect switches on an annual basis.
  - ii Pressure washing of PV modules and removal of accumulated dust and debris with pressure hose on an annual basis.
- d In the event that Chevron ES determines additional cleaning and site maintenance services are necessary, Chevron ES shall provide the necessary services and receive payment as described in **Exhibit G**.

**2. Repair Services**

- a Chevron ES shall provide repairs for the Generating Facilities as required to restore the Generating Facilities to normal operating parameters or to replace deteriorated, damaged, parts pursuant to the Preventive Maintenance Services (the "Repair Services").
- b "Repairs" will include any of the following as necessary: Procuring parts or materials, removing damaged or out-of-specifications parts or materials, providing labor to remove panels to respond to roof leaks, and installing repaired or replacement parts or materials, and testing.
- c In the event that Chevron ES determines repair services are necessary, Chevron ES will provide for those repairs and receive payment on a time and materials basis as described in **Exhibit G**. In such event, Chevron ES will, except in the event of an emergency or in the event that Chevron ES otherwise believes that a failure of the Generating Facilities is imminent, provide advance notice to, and receive prior written approval from Purchaser, of the scope, schedule and reasons for the repair.

**3. Inverter Replacement**

- a In the event that Chevron ES determines inverter replacement is necessary, Chevron ES will provide for those repairs and receive payment on a time and materials basis as described in **Exhibit G**. In such event, Chevron ES will, except in the event of an emergency or in the event that Chevron ES otherwise believes that a failure of

the Generating Facilities is imminent, provide advance notice to, and receive prior written approval from Purchaser, of the scope, schedule and reasons for the replacement.

### **III. SERVICES AND EQUIPMENT TO BE COVERED BY PURCHASER**

Chevron ES' obligations under this Services Agreement are expressly conditioned upon Purchaser's providing and being responsible for the following, without cost to Chevron ES:

1. The Generating Facilities described herein shall be made available to Chevron ES as of the Effective Date of the Solar Services Contract.
2. Operate and maintain security systems associated with Generating Facilities.
3. Allowing Chevron ES and its personnel access as necessary to the Generating Facilities, and any related areas that may be reasonably necessary for performance of the Services, including reasonable work, parking, and equipment staging areas.
4. Allowing Chevron ES and its personnel to access reasonable quantities of water, electrical power, and other utilities then existing at the Facility as necessary for Chevron ES to satisfy its obligations under this Services Agreement, all free of charge to Chevron ES.
5. Purchaser shall be responsible pursuant to applicable law for the remediation of any known Hazardous Substances encountered by Chevron ES during the performance of the Services which Hazardous Substances were not deposited by Chevron ES, including any backfill with clean soil as may be reasonably required.

Chevron ES shall have no obligation to provide the Services to the extent such provision of Services is materially adversely affected by Purchaser's failure to satisfy the conditions set forth in this Section III.

**ATTACHMENT G**

**OPERATIONS AND MAINTENANCE SERVICES  
PAYMENT SCHEDULE**

<b>Year</b>	<b>Measurement &amp; Verification</b>	<b>Operation &amp; Maintenance</b>
1	\$19,192	\$36,514
2	\$19,960	\$37,609
3	\$20,758	\$38,738
4	\$21,588	\$39,900
5	\$22,452	\$41,097
6	\$23,350	\$42,330
7	\$24,284	\$43,600
8	\$25,255	\$44,908
9	\$26,266	\$46,255
10	\$27,316	\$47,642
11	\$28,409	\$49,072
12	\$29,545	\$50,544
13	\$30,727	\$52,060
14	\$31,956	\$53,622
15	\$33,234	\$55,231

The First Year's Annual Fees shown in the table above shall be invoiced by Chevron ES to the customer in a lump sum on the first anniversary of the M&V Commencement Date. All subsequent Annual Fees listed above will be billed annually on the anniversary of the M&V Commencement Date. The customer, or their designee, shall approve each Request for Payment, without any retention amount withheld, within thirty (30) calendar days after receipt thereof. A failure to timely approve a Request for Payment hereunder shall be a material default by Customer under this Contract.



## ATTACHMENT H

## TOTAL PROGRAM GUARANTEE SAVINGS

**I. Standard Energy Management Descriptions & Definitions**

1. **M&V Commencement Date:** "M&V Commencement Date" shall be the first day of the month following both: 1) The signed Certificate of Final Completion, and 2) Chevron ES' receipt of the Contract Amount.
2. **Construction Period:** The "Construction Period" is the period beginning with the first day of the month that equipment is first installed and continuing until the M&V Commencement Date.
3. **Measurement Year:** A "Measurement Year" is each one-year period following the M&V Commencement Date, plus the Construction Period (Measurement Year 0) which may not necessarily be a one-year period.
4. **EC Savings:** The energy conservation savings, or "EC Savings", having units of dollars (\$), are those savings calculated as set forth in Article III or this Attachment H.
5. **Energy Savings Term:** The "Energy Savings Term" shall be the Construction Period followed by the number of Measurement Years shown in Attachment I.
6. **Savings Measurement & Verification Plan:** The "Savings Measurement & Verification Plan" is the scope of work defined by this Attachment H and provides for the quantification of EC Savings for the purpose of meeting the Guaranteed Savings.
7. **Projected Energy Savings:** "Projected Energy Savings" are those savings expected from the installation and continued operation of the Scope of Work.
8. **Termination of Guaranteed Savings:** If the Contract is terminated pursuant to Attachment A by Chevron ES after a material breach by Customer or if Customer terminates the Operation and Maintenance Services, the Guaranteed Savings shall also be terminated.
9. **Baselines:** In determining Baselines, Chevron ES identified some of the factors which may affect energy use for the Facilities, including but not limited to: hours and levels of occupancy; adjustments in labor force; building use and operational procedures; temperature, humidification, and ventilation levels; installed lighting and scheduled use; building construction and size; general level of repair and efficiency of heating and air conditioning equipment and other energy-using equipment; and amount of heating and air conditioning and other energy-using equipment. After consideration of those factors and certain other anomalous use of the Facilities, Chevron ES establishes initial Baselines. It is understood that due to changes in factors affecting energy use, the Baselines may be revised from time to time as detailed in this Attachment if such change is agreed to by Customer and Chevron ES.
10. **Base Energy Rates:** The "Base Energy Rates", having units of dollars per energy unit, are presented herein and shall be used by Chevron ES to calculate the EC Savings.

**II. Guaranteed Savings Terms and Conditions**

1. For the purpose of determining EC Savings, Chevron ES shall prepare reports, take on-site measurements, monitor building automation systems, and/or additional work as required by and detailed in the Savings Measurement & Verification Plan. Customer shall have the right to review and engage consultants to review any such reports and measurements in order to confirm the EC Savings.
2. The Customer acknowledges and consents to Chevron ES' right to monitor EC Savings and energy management performance by conducting on-site measurements, including, but not limited to, reading meters and installing and observing on-site monitoring equipment. The Customer shall cooperate fully with any such measures instituted by Chevron ES pursuant to this Subsection. Chevron ES shall not institute any measures that unreasonably interfere with Customer's operations at the Facilities. At Chevron ES' request, to facilitate Chevron ES' monitoring of the Scope of Work, Customer shall open up a communication path via the Internet, between Customer's Energy Management System(s) and Chevron ES' office in Overland Park, KS. Customer shall provide at its expense any networking, telecommunication, encryption, or security hardware and/or software necessary to achieve such communication path, as well as any similar hardware, software, or encryption devices necessary for use at Chevron ES' office. Chevron ES will provide the customer with the precise locations for network communication ports within Customer's facilities. Customer agrees not to charge Chevron ES to install or maintain such communication paths for the duration of this agreement.
3. For the purpose of determining EC Savings, Customer shall cooperate with Chevron ES by providing utility information, changes in factors affecting energy use, and/or additional information as requested by Chevron ES personnel.
4. Savings Guarantee: Subject to changes in the Baselines which are agreed to by Chevron ES and Customer, Chevron ES guarantees that the Customer will realize total EC Savings during the Energy Savings Term of not less than the Guaranteed Savings.
  - a. Guarantee Payment: Should the Customer's total EC Savings during any Measurement Year be less than the Guaranteed Savings for that year, Chevron ES guarantees that it shall pay to the Customer, within 30 days of the acceptance of the annual energy savings report, the difference between the Guaranteed Savings for such year and the total EC Savings for that Measurement Year, not to exceed the guarantee amount. If in the judgment of the Customer, Customer would benefit from additional energy services or energy saving retrofits, Customer and Chevron ES may mutually agree upon such services or retrofits in lieu of Guarantee Payment. For the purposes of this Contract, such services or retrofits actually delivered by Chevron ES will be considered a Guarantee Payment for that Measurement Year.
  - b. Excess Savings: For each Measurement Year in which the EC Savings exceed the Guaranteed Savings, the Excess Savings shall be the difference. Chevron ES may elect to credit any Excess Savings for any year against any Guarantee Payment required to be made by Chevron ES in the year following the year in which such Excess Savings were achieved.
5. Changes in Factors Affecting Energy Use

**DRAFT ITEM 18**

- a. The Customer shall notify Chevron ES in writing within ten (10) business days of any change in any factor that affects the Baselines as set forth. Chevron ES will determine the effect that any such change will have on EC Savings and present to the client a written analysis of the effects of the changes. Changes that are long term or permanent will be reflected in a change to the Baseline. Temporary changes that affect energy use will be calculated and added to the corresponding month's EC savings. Notwithstanding the foregoing, no changes shall be incorporated into the Baselines unless reasonably agreed to by Customer and Chevron ES.
- b. If a in the Baseline occurs and results in a reduction of EC Savings, then the level of dollar energy savings to be guaranteed by Chevron ES will be decreased by the same amount.
- c. Customer and Chevron ES may from time to time desire to make changes for the express purpose of increasing EC Savings. It is agreed that these changes will only be made with the written consent of both parties, which will not be unreasonably withheld. The Baseline will not be adjusted to reflect any changes agreed to under this subparagraph. If Chevron ES elects to pay for the cost of any such changes that would not unreasonably interfere with the conduct of Customer's business, and the Customer does not consent to the changes, then the Baseline will be adjusted upward by the amount of savings projected from the changes.
- d. During the Energy Savings Term when the effect on savings cannot be accurately determined due to construction or major changes, Projected Energy Savings for the facility will be used for the period of such changes and until the effect of the changes can be determined by Chevron ES.
- e. Customer shall not cause, and shall take all commercially reasonable steps to prevent any third party from causing, any overshadowing, shading or other interference with the solar insolation that falls on the Generating Facility. Upon discovering, or otherwise becoming aware of, any actual or potential overshadowing, shading or other interference with insolation, customer shall promptly provide the other party with notice of same.
- f. In the event an unforeseeable overshadowing or shading condition not caused by Chevron ES or its subcontractor exists and continues for five (5) calendar days or more, Customer agrees that Chevron ES' Guaranteed Savings for such Generating Facility shall be reduced based upon such shading condition, and Chevron ES shall present Purchaser with a proposed reduction to the Guaranteed Savings reflecting such overshadowing, shading or other interference.
- g. Chevron ES has the right to charge the Customer for work required to assess the effect on savings for any large scale changes, including, but not limited to, building additions, new buildings, and new or changed HVAC equipment, that require more than forty (40) hours per year to be spent in calculating their effect on the energy savings. Such hours will be billed at current Chevron ES engineering rates. Before initiating such work, Chevron ES will notify the Customer in writing of the intent and cost associated with the work. The Customer will, within 45 days in writing, notify Chevron ES with permission to proceed or, alternatively at no charge, to stipulate that the Projected Energy Savings for the existing facility in question be used as Energy Use Savings for the purpose of meeting the guarantee. If Chevron ES does not receive written notice within 45 days, the Projected Energy Savings for the existing facility in question will be used as EC Savings until such time that the Customer approves the work, as long as the scope of the work has not changed.
- h. If the Customer fails to notify Chevron ES of changes in factors affecting energy use or fails to supply Chevron ES with requested information that is required for the calculation of saving in a timely manner, EC Savings for the period will be equal to those Projected Energy Savings for the period.
- i. Any changes made by Chevron ES to the Baselines or savings calculations, as outlined in this contract, shall be presented to the Customer for approval. The Customer shall have 30 days to approve or question the changes in writing. If the Customer notifies Chevron ES within 30 days of their non-approval of the changes, Chevron ES will work with the client to answer any questions or make any necessary corrections.

**III. Calculation of EC Savings**

1. Energy Savings Report: Annually within 90 days after receipt of all needed information for each Measurement Year during the Energy Savings Term, Chevron ES shall submit an annual energy savings report with a precise calculation of the EC Savings to the Customer, unless additional information is needed to accurately calculate the EC Savings, in which case the Customer shall be notified of such a situation within the 90 day period.
2. EC Savings equals [insert actual equation used].

**IV. Savings Measurement & Verification Plan**

The following details the methodologies and calculations to be used in determining the EC Savings under this Contract.

ECM	Measurement and Verification Options		
	Electric Usage	Electric Demand	Natural Gas Usage
ECM-1 Solar PV	M&V Option B	N/A	N/A

1. M&V Option A: Not Used.
2. M&V Option B: Energy savings performance of Scope of Work are measured and verified at the end-use site. Option B techniques [Is there somewhere that sets forth what Option B consists of?] are designed for projects where long-term continuous measurement of performance is desired and warranted. Under Option B, while some parameter may be stipulated

**DRAFT ITEM 18**

or measured once then stipulated, some individual loads are continuously monitored to determine performance; and this measured performance is compared with an equipment-use Baseline to determine the EC Savings.

- a. Ongoing post-retrofit production will be measured and the quantified EC savings will be calculated and presented in ongoing reports. During the Construction Period, the EC Savings will be calculated by adding the production measured for the period between Substantial Completion or Beneficial Use of the EC Measure and the M&V Commencement Date.
- b. Scope of Work  
No baseline measurements are necessary because pre-retrofit PV production is zero. Kilowatt-hours produced by the PV system will be measured using automated metering. Monthly production will be compared against the monthly utility bills and any differences will be reconciled. Projected kWh production is shown in the table below.

Total Projected Production				
Year 1	Canyon Crest North Lot	Canyon Crest South Lot	La Costa Canyon	Total Annual Production
1	835,395	860,922	1,369,708	3,066,025
2	829,547	854,896	1,360,120	3,044,563
3	823,740	848,911	1,350,599	3,023,251
4	817,974	842,969	1,341,145	3,002,088
5	812,248	837,068	1,331,757	2,981,074
6	806,563	831,209	1,322,435	2,960,206
7	800,917	825,390	1,313,178	2,939,485
8	795,310	819,612	1,303,985	2,918,908
9	789,743	813,875	1,294,858	2,898,476
10	784,215	808,178	1,285,794	2,878,186
11	778,725	802,521	1,276,793	2,858,039
12	773,274	796,903	1,267,855	2,838,033
13	767,861	791,325	1,258,980	2,818,167
14	762,486	785,786	1,250,168	2,798,439
15	757,149	780,285	1,241,416	2,778,850

3. M&V Option C: Not Used.

4. Stipulated Savings: Not Used.

**V. Base Energy Rates**

EC Savings shall be calculated using the Base Energy Rates or actual energy rates for that meter, whichever results in greater EC Savings. Actual energy rates will be calculated at the end of each Measurement Year using utility billing information for that Measurement Year and using the same methodology as was employed to determine the Base Energy Rate in the Comprehensive Energy Analysis Report.

The Base Energy Rates are shown below.

Base Energy Rates	
Year	\$/kWh Value
1	0.1759

The base energy rates shown in the table above are to be increased each year on a cumulative basis by five percent (5%) beginning on the first anniversary of the M&V Commencement Date and continuing on the first day of each Contract Year thereafter.

**VI. Stipulated Non-Energy \$ Savings**

Not Used.

**ATTACHMENT I**

**GUARANTEED SAVINGS & CSI GUARANTEED PAYMENTS**

The Guaranteed Production Savings are identified below:

Year	Guaranteed Savings \$
1	\$ 539,402
2	\$ 562,407
3	\$ 586,394
4	\$ 611,404
5	\$ 637,480
6	\$ 664,669
7	\$ 693,017
8	\$ 722,574
9	\$ 753,392
10	\$ 785,524
11	\$ 819,027
12	\$ 853,958
13	\$ 890,379
14	\$ 928,354
15	\$ 967,948

The California Solar Initiative (CSI) guarantee is based upon the actual amount reserved by the District per Facility. The current step for the CSI rate, in CCSE territory, is shown at \$0.32/kwh. However should the District reserve at a lower incentive rate than stipulated herein, the guaranteed savings will reduce to reflect the actual \$/kwh reserved per Facility. The following table specifies the expected annual guaranteed CSI payment based upon the Annual Modeled Energy Output and the current Trigger Tracker Rate for CCSE of \$0.32/kwh per Facility:

Year 1	Canyon Crest North Lot	Canyon Crest South Lot	La Costa Canyon		Total CSI Incentive
1	\$ 267,326	\$ 275,495	\$ 438,307		\$ 981,128
2	\$ 265,455	\$ 273,567	\$ 435,238		\$ 974,260
3	\$ 263,597	\$ 271,652	\$ 432,192		\$ 967,440
4	\$ 261,752	\$ 269,750	\$ 429,166		\$ 960,668
5	\$ 259,919	\$ 267,862	\$ 426,162		\$ 953,944

The CSI Rebate Guarantee will only apply to the actual reserved amount approved by CSI. That information is not known at this time, we are currently waiting for District submittal and CCSE approval. The Agreement will not be effective until a Conditional Request Reservation Approval Letter is received by the District showing that a reservation matching the above amounts have been made.

EXHIBIT H

Form of Purchase and Sale Agreement relating to Renewable Energy Credits

## **RENEWABLE ENERGY CERTIFICATE PURCHASE AND SALE AGREEMENT**

This Renewable Energy Certificate Purchase and Sale Agreement (“Agreement”), dated as of \_\_\_\_\_, is entered into by and between \_\_\_\_\_ and Bonneville Environmental Foundation (“BEF” or “Buyer”). \_\_\_\_\_ and BEF may be referred to individually herein as “Party” and collectively as “Parties.” This Agreement supplemental to and does not amend any prior agreement between the Parties.

### **DEFINITIONS**

"Renewable Energy Certificate," "REC," and "WREGIS Certificate," means all rights, title and interest in and to Environmental Attributes from electricity generated by the Specified Resources, plus the REC Reporting Rights. One REC represents the Environmental Attributes made available by the generation of one mega-watt-hour (1 MWh) of Specified Energy by the Specified Resources.

"Environmental Attributes" means any and all non-energy credits, benefits, emissions reductions, environmental air quality credits, and emissions reduction credits, offsets, and allowances, howsoever described or entitled, resulting from the avoidance of the emission of any gas, chemical or other substance including carbon dioxide attributable to the electric generation of the Specified Energy by the Specified Resources, but specifically excluding renewable production tax credits, if any.

"REC Reporting Rights" means the right to report to or register with any agency, authority or other party, including, without limitation under Section 1605(b) of the Energy Policy Act of 1992, or under any present or future domestic, international or foreign emissions trading program, exclusive ownership of the Environmental Attributes.

“Specified Energy” means the undifferentiated electrical energy produced by the Specified Resources, delivered to the interconnected electric grid.

“Specified Resources” means the \_\_\_\_\_[solar photovoltaic panels and related equipment] totaling \_\_\_ MW of generating capacity located at \_\_\_’s facilities located at \_\_\_\_\_. The Specified Resources are estimated to produce approximately \_\_\_\_\_ RECs annually (amounts will vary based on actual production).

“WREGIS” means the Western Renewable Energy Generation Information System, an internet-based REC tracking system located at <http://www.wregis.org>.

### **ARTICLE I: TRANSACTION**

In accordance with the terms of this Agreement, Seller will sell to Buyer, and Buyer will buy from Seller, 100% of RECs generated by the Specified Resources during the period commencing \_\_\_\_\_ and ending \_\_\_\_\_.

Buyer shall pay Seller \$ \_\_\_\_\_ for each REC delivered pursuant to this Agreement.

**ARTICLE II: TAXES, TRANSFER, and PAYMENT**

Taxes and Fees – Each party shall be separately responsible for any taxes or government fees associated with its entry in the Agreement and sales and purchases of RECs hereunder.

Delivery Schedule and Title – Delivery of RECs shall occur via transfers of RECs to Buyer’s account in WREGIS, according to WREGIS protocols. Seller shall transfer RECs to Buyer’s WREGIS account no later than thirty (30) days after RECs produced by the Specified Resources are credited to Seller’s WREGIS account. Such transfer in WREGIS shall constitute delivery and transfer of title of the RECs to Buyer. Seller shall complete the Green-e Energy tracking system attestation form provided as Exhibit A to this Agreement.

If transfer of title using WREGIS is impracticable for any portion of Firm or Unit Contingent RECs specified herein, then Seller shall transfer the RECs to Buyer by delivering to Buyer a completed Green-e Energy Generator Attestation Form (Exhibit B) documenting actual production of RECs, based on gross metered and verified production from the Specified Facility and during the dates specified in this Agreement.

Payment – No later than thirty (30) days after the each transfer of RECs from the Specified Resources to Buyer’s WREGIS account, Buyer shall pay Seller for such transferred RECs at the purchase price identified in Article I. Seller may, but shall not be obligated to issue an invoice to Buyer for such transferred RECs.

Any amount not paid when due under this Agreement shall accrue interest at the lesser of 12% per annum or the highest rate permitted under applicable law until paid.

**ARTICLE III: BUYER’S RIGHT TO AUDIT**

Upon notice from Buyer, Seller shall make all records and accounts showing all data relating to the Agreement available for audit at Seller’s offices during normal office hours, but Seller shall not be required to make such documents available more than twice each year during the term of this Agreement.

**ARTICLE IV: REPRESENTATIONS AND WARRANTIES**

A. Mutual Representations and Warranties. Each Party represents and warrants to the other that: (i) it is duly organized and validly existing under the laws of the jurisdiction of its incorporation or organization; (ii) it has the corporate, governmental and/or other legal capacity and authority to enter hereinto and to perform its obligations hereunder; (iii) such execution and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or government agency applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets; (iv) all

governmental and other authorizations that are required to have been obtained or submitted by it with respect to this Agreement have been obtained or submitted and are in full force and effect; (v) its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application regardless of whether enforcement is sought in a proceeding in equity or at law); (vi) no Event of Default, or event which with notice and/or lapse of time would constitute such an Event of Default, has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations hereunder; (vii) it is not relying upon any representations of the other Party other than those expressly set forth in this Agreement; (viii) it has entered into this Agreement with a full understanding of the material terms and risks of the same, and it is capable of assuming those risks; (ix) it has made its trading and investment decisions based upon its own judgment and any advice from such advisors as it has deemed necessary and not in reliance upon any view expressed by the other Party; and (x) it has not received from the other Party any assurances or promises regarding any financial results or benefits under this Agreement.

B. Warranties of Seller. Seller hereby warrants to Buyer on the date that the RECs are transferred hereunder that it has generated and documented the production of such RECs, that it has good merchantable title to such RECs, that it has not sold the RECs to any other person or entity, and that such RECs shall be free and clear of any liens, taxes, claims, security interests or other encumbrances or any right or interest therein or thereto by any entity of any kind whatsoever. Seller also represents that the Specified Resources from which RECs are sourced began commercial operation after January 1, 2005, and that the Specified Resources were not built in order to comply with a renewable portfolio standard or other renewable energy requirement of any local, state, or federal government entity, or to comply with any mandate by a public utilities commission ruling or as a *quid pro quo* component of a legal settlement.

#### **ARTICLE V: EVENTS OF DEFAULT; REMEDIES**

A. Event of Default. "Event of Default" shall mean, with respect to a Party (the "Defaulting Party"): (a) the failure to make when due any payment under this Agreement if such failure is not remedied within five days after written notice of such failure is given; (b) any such Party's representation or warranty proves to have been incorrect or misleading in any material respect when made; (c) the failure to perform any other covenant set forth in this Agreement if such failure is not remedied within five days after written notice of such failure is given; and/or (d) its bankruptcy.

B. Remedies Upon Event of Default. In the Event of Default by a Party and for so long as the Event of Default is continuing, the non-defaulting Party (the "Performing Party") shall have the right to do any or all of the following: (1) upon five business days' written notice to the Defaulting Party terminate this Agreement and liquidate as set forth below; (2) withhold any payments or deliveries due in respect of this Agreement; and/or (3) exercise such other remedies as may be available at law or in equity or as otherwise provided for in this Agreement.



C. Setoff. If a default occurs, the Performing Party may, at its election, set off any or all amounts that the Defaulting Party owes to it (whether under this Agreement or otherwise and whether or not then due) against any or all amounts which it owes to the Defaulting Party (whether under this Agreement or otherwise and whether or not then due).

D. Limitation of Liability. THE PARTIES AGREE THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED HEREIN SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGE IS PROVIDED, SUCH REMEDY OR MEASURE SHALL BE THE SOLE AND EXCLUSIVE REMEDY THEREFOR. IF NO REMEDY OR MEASURE OF DAMAGE IS EXPRESSLY PROVIDED, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES, INCLUDING THE PURCHASE PRICE AND DIRECT COSTS INCURRED TO PURCHASE COMPARABLE RECS, ONLY AS THE SOLE AND EXCLUSIVE REMEDY. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE PARTIES AGREE THAT NO PARTY SHALL BE REQUIRED TO PAY OR BE LIABLE FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFIT OR BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, CONTRACT OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE DEEMED LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

E. Survival. This Article V survives the expiration or termination of this Agreement, but only until such time as remedies are exercised.

F. Force Majeure. Neither Party shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such Party, including acts of God or the public enemy, expropriation or confiscation of land or facilities, compliance with any law, order or request of any Federal, State, municipal or local governmental authority including any law mandating that the RECs, REC reporting rights, or the environmental attributes represented thereby be delivered or credited to a third party, acts of war, rebellion or sabotage or damage resulting therefrom, fires, floods, storms, explosions, accidents, riots, or strikes.

## **ARTICLE VI: MISCELLANEOUS**

A. Notices. Notices, which may be given by facsimile with an original to follow via regular mail, shall be given as follows or to such other address as may be provided by a Party from time to time in writing. All notices are effective upon receipt.

To Seller:

To BEF:

Bonneville Environmental Foundation  
240 SW 1<sup>st</sup> Avenue  
Portland, OR 97204  
Attn: Contracts Administrator  
Tel: 503.248.1905  
Fax: 503.248.1908

B. Cooperation for Regulatory Eligibility. Seller agrees to reasonably cooperate with Buyer to register the Specified Resources with regulatory authorities in Washington, Oregon, and California solely for the purpose of ensuring that RECs generated by the Specified Resources are eligible for use by utilities for compliance with renewable energy portfolio requirements in such States. Seller shall not be required to register the Specified Resources with any regulatory authority if, in Seller's judgment, such registration may expose Seller to new or changed business or regulatory risks. Buyer shall bear all registration or consultant costs associated with the provisions of this paragraph.

C. Confidentiality. The terms of this Agreement which relate directly to pricing and quantity of RECs produced are confidential and shall not be released by either Party except by order of a court or a regulatory authority with jurisdiction over such Party, except that BEF may release any information to the Center for Resource Solutions for purposes of an audit under Green-e standards.

D. Entire Agreement; Counterparts. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. This Agreement may not be amended, changed, modified, or altered unless such amendment, change, modification, or alteration is in writing and signed by both Parties. This Agreement may be executed in counterparts, including by a facsimile transmission thereof, each of which is an original and all of which constitute one and the same instrument.

E. Assignment. Neither Party shall transfer or assign all or any part of this Agreement nor its rights or obligations hereunder or otherwise dispose of any right, title, or interest herein without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. No right under this Agreement, nor claim for money due or to become due hereunder shall be asserted against the Buyer, or persons acting for the Buyer, by reason of any so-called assignment of this Agreement or any part thereof, unless such assignment has been authorized by the written consent of the Buyer.

F. Successors and Assigns. This Agreement inures to the benefit of, and is binding upon, the Parties and their respective successors and permitted assigns.

G. Severability. If any provision of this Agreement is determined to be invalid, void or unenforceable by any court of competent jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement, provided the basic purposes of this Agreement and the benefits to the Parties are not substantially impaired.

H. No Prior Agreements. This Agreement completely and fully supersedes all other prior understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof.

I. No Waiver. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default, nor shall any delay by a Party in the exercise of any right under this Agreement be considered as a waiver or relinquishment thereof.

J. Headings. The headings used herein are for convenience and reference purposes only.

K. Alternative Dispute Resolution. In the event of a dispute under this Agreement, either Party may demand that any unresolved disagreement be submitted to alternative dispute resolution as outlined hereinafter ("ADR"). Specifically, any controversy, claim, or dispute between the Parties to this Agreement arising out of or relating to this Agreement or the breach thereof, may be settled and finally determined by submission to an ADR service, mutually agreed to by the Parties. Disputes or controversies of \$25,000 or less in amount shall be submitted to a single ADR decision maker selected in accordance with the appropriate rules. In the event that the amount in dispute exceeds \$25,000, the ADR panel may, upon mutual agreement, consist of three members. Unless the ADR service rules otherwise, the site of the arbitration will be in Portland, Oregon.

To the extent that Seller has kept, made, or maintained records, documents, or other materials relating to any transactions under the Agreement, including any and all cost records of any kind, Buyer shall have full and complete access thereto, including the right to audit such materials.

The award of the ADR decision maker shall contain findings of fact and conclusions of law consistent with the Federal Rules of Civil Procedure for a judge sitting without a jury. The award may be confirmed by any court having jurisdiction and the Parties consent to the jurisdiction of the United States District Court of Oregon. Any court reviewing any arbitration award made pursuant to this article shall utilize the standards set forth in the United States Code for reviewing the findings of fact and law of a District Court Judge sitting without a jury.

L. Rules of Construction. "Hereof", "herein", "hereunder", and similar words refer to this Agreement in its entirety. All accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with generally accepted accounting principles consistently applied ("GAAP"). "Or" is not necessarily exclusive.

M. No Third Party Beneficiaries. This Agreement confers no rights whatsoever upon any person other than the Parties and shall not create, or be interpreted as creating, any standard of care, duty or liability to any person not a Party hereto.

N. Negotiated Agreement. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties. Therefore, doubtful or ambiguous provisions, if any, contained in this Agreement shall not be construed against the Party who physically drafted and prepared it.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

**SELLER**

**Bonneville Environmental Foundation**

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

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

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

**EXHIBIT A TO RENEWABLE ENERGY CERTIFICATE PURCHASE AND SALE  
AGREEMENT**

**(GREEN-E ENERGY TRACKING ATTESTATION FORM)**

**EXHIBIT B TO RENEWABLE ENERGY CERTIFICATE PURCHASE AND SALE  
AGREEMENT**

**(GREEN-E ENERGY GENERATOR ATTESTATION FORM)**

EXHIBIT I

Section 17150 Notice



**Union High School District**

710 Encinitas Boulevard, Encinitas, CA 92024  
Telephone (760) 753-6491  
www.sduhsd.net

Donald Steuer  
Chief Financial Officer  
County of San Diego  
Finance and General Government Group  
1600 Pacific Highway, Room 166  
San Diego CA 92101

Randolph E. Ward, Ed.D.  
County Superintendent of Schools  
San Diego County Office of Education  
6401 Linda Vista Road  
San Diego CA 92111-7399

**ITEM 18**

**Board of Trustees**  
Joyce Dalessandro  
Linda Friedman  
Barbara Groth  
Beth Hergesheimer  
Deanna Rich

**Superintendent**  
Ken Noah

**Business Services Division**  
Stephen G. Ma, Associate Superintendent  
Fax (760) 943-3508

**Certification of Associate Superintendent Regarding  
Public Disclosure of Non-Voter-Approved Debt**

Pursuant to Education Code Section 17150, you are hereby notified that on November 12, 2009, the Governing Board of the San Dieguito Union High School District approved the issuance of the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009A (Qualified School Construction Bonds) and the San Dieguito Public Facilities Authority Lease Revenue Bonds, Series 2009B (Tax-Exempt Bonds). Attached as Exhibit A is the estimated repayment schedule for that debt obligation. Attached as Exhibit B is a listing of the School District's projected lease revenues and expenditures for the period of the repayment schedule that demonstrates the debt obligation can be repaid from anticipated lease revenues.

I, Stephen G. Ma, Associate Superintendent for Business Services of the San Dieguito Unified High School District, hereby certify that the information contained in this certification, including the attachments, is accurate and correct to the best of my knowledge.

---

Stephen G. Ma  
Associate Superintendent for Business Services of the  
San Dieguito Unified High School District

November 13, 2009



Exhibit A

Estimated Bond Repayment Schedule



Exhibit B

Projected Lease Revenues and Expenditures

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 2, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED AND  
SUBMITTED BY:** Ken Noah, Superintendent

**SUBJECT:** DISTRICT STRATEGIC PLAN

.....

### EXECUTIVE SUMMARY

The first draft of the San Dieguito Union High School District Strategic Plan was presented to the Board for review, discussion and input on July 16, 2009, during a Strategic Plan Board Workshop. Attached for review is the final version of that plan.

### RECOMMENDATION:

This item is being submitted for first read and will be resubmitted for approval on December 10, 2009.

### FUNDING SOURCE:

Not applicable

KN/bb

# San Dieguito Union High School District

Ken Noah  
Superintendent

## 2009 - 10 DISTRICT STRATEGIC PLAN



To Provide a  
World-Class Education  
for All Students

*Engaged, Inspired, Prepared*  
San Dieguito Union High School District

San Dieguito Union High School District  
**STRATEGIC PLAN**



*To Provide a World-Class Education for All Students  
Engaged, Inspired, Prepared*

# SDUHSD STRATEGIC PLAN

ITEM 19

2009-10

## BOARD POLICY 0400

## STRATEGIC PLAN

### PHILOSOPHY-GOALS-OBJECTIVES AND COMPREHENSIVE PLANS

#### STRATEGIC PLAN

In order to provide a clear focus for district programs, activities and operations, the Board of Trustees shall adopt a Strategic Plan that sets direction for the district which is focused on student learning and describes what the Board wants its schools to achieve.

The Superintendent or designee shall recommend an appropriate process for establishing and/or reviewing the district's Strategic Plan which is inclusive of parents/guardians, students, staff and community members.

The Board shall review the district Strategic Plan at least once each year. Following these reviews the Board may revise or reaffirm the direction it has established for the district.

The Superintendent or designee shall communicate the district's Strategic Plan to staff, parents/guardians and the community and shall regularly report to the Board regarding district progress toward meeting the Plan's annual priorities.



To Provide a  
World-Class Education  
for All Students

*Engaged, Inspired, Prepared*

San Dieguito Union High School District

# San Dieguito Union High School District **STRATEGIC PLAN**

**ENGAGED**

**To provide a world-class education for all students through quality programs that engage students, inspire achievement and service to others, prepare them to be lifelong learners and responsible members of society**

**INSPIRED**

**PREPARED**

# SDUHSD STRATEGIC PLAN

2009-10

# V I S I O N

## “ENGAGED, INSPIRED, PREPARED”

To provide a world-class education for all students through quality programs that engage students, inspire achievement and service to others, prepare them to be lifelong learners and responsible members of society.



To Provide a  
World-Class Education  
for All Students

*Engaged, Inspired, Prepared*

San Dieguito Union High School District





# SDUHSD STRATEGIC PLAN

2009-10

W  
H  
A  
T  
  
W  
E  
  
V  
A  
L  
U  
E

## “HIGH QUALITY STAFF”

- ◆ Achievement
- ◆ Character
- ◆ Relevance
- ◆ Engagement
- ◆ Equity & Access
- ◆ Creativity, Innovation, Critical Thinking
- ◆ Diversity

## “COMMUNITY CONNECTEDNESS”



To Provide a  
World-Class Education  
for All Students

*Engaged, Inspired, Prepared*

San Dieguito Union High School District

**ALL STUDENTS CAN LEARN:  
Not on the same day . . . Not in the same way.  
Each has talents to be discovered, skills to be developed,  
and a mind to be nourished, which is the shared  
responsibility of the community.**

**WHAT  
WE  
BELIEVE**

**A positive, safe and  
supportive learning  
environment is necessary  
for an effective education.**

**Resources must be aligned  
with the core mission of the  
district to maximize student  
achievement and success.**

**Students, as lifelong  
learners, learn best when  
they are actively engaged  
in their learning and use  
relevant applications for  
solving problems.**

**Instruction, staff  
development and  
assessment efforts must  
be aligned to maximize  
effective achievement of  
goals.**

**As members of an  
inclusive community we  
must all model respect and  
demonstrate the highest  
ethical behavior.**

**Student success and  
well-being are best achieved  
through a balanced program  
that addresses the intellectual,  
physical, social, and artistic  
emotional development  
of each student.**

**Individual needs are best  
met by a variety of  
instructional techniques  
and technologies providing  
options for students inside  
and outside the classroom.**

# SDUHSD STRATEGIC PLAN

2009-10

## W H A T W E B E L I E V E

### ◆ ALL STUDENTS CAN LEARN:

Not on the same day...Not in the same way. Each has talents to be discovered, skills to be developed, and a mind to be nourished, which is the shared responsibility of the community.

- ◆ Students, as lifelong learners, learn best when they are actively engaged in their learning and use relevant applications for solving problems.
- ◆ Instruction, staff development and assessment efforts must be aligned to maximize effective achievement of goals.
- ◆ Student success and well-being are best achieved through a balanced program that addresses the intellectual, physical, artistic, social, and emotional development of each student.
- ◆ Individual needs are best met by a variety of instructional techniques and technologies providing options for students inside and outside the classroom.
- ◆ As members of an inclusive community we must all model respect and demonstrate the highest ethical behavior.
- ◆ A positive, safe and supportive learning environment is necessary for an effective education.
- ◆ Resources must be aligned with the core mission of the district to maximize student achievement and success.



To Provide a  
World-Class Education  
for All Students

*Engaged, Inspired, Prepared*

San Dieguito Union High School District

**Supporting the needs and welfare of each student**

**Fostering a desire for lifelong learning, achievement and service to others**

**Pursuing a culture where all students are engaged in rigorous, relevant & technology-rich curriculum**

**Sharing a commitment to high expectations for the growth and achievement of each student and staff member**

**PRIORITIES:  
WHAT MATTERS MOST**

**Continuously improving our organization**

**Developing meaningful relationships among students & families**

**Encouraging consistency, creativity and innovation to attain the vision**

**Respecting and valuing the diversity of our community**

**Engaging students, parents and community members as partners in the educational process**

**Cultivating involvement and empowerment**

**Employing quality personnel who are knowledgeable, skilled and care deeply about young people**

# SDUHSD STRATEGIC PLAN

2009-10

## P R I O R I T I E S

### WHAT MATTERS MOST

- ◆ Fostering a desire for lifelong learning, achievement and service to others
- ◆ Sharing a commitment to high expectations for the growth and achievement of each student and staff member
- ◆ Supporting the needs and welfare of each student
- ◆ Encouraging consistency, creativity and innovation to attain the vision
- ◆ Continuously improving our organization
- ◆ Pursuing a culture where all students are engaged in rigorous, relevant & technology-rich curriculum
- ◆ Developing meaningful relationships among students & families
- ◆ Engaging students, parents and community members as partners in the educational process
- ◆ Cultivating involvement & empowerment
- ◆ Respecting and valuing the diversity of our community
- ◆ Employing quality personnel who are knowledgeable, skilled and care deeply about young people.



To Provide a  
World-Class Education  
for All Students

*Engaged, Inspired, Prepared*

San Dieguito Union High School District

## All students

will have the skills and knowledge essential to the pursuit of their personal long-term educational career and life goals

**All students**  
will have the knowledge and skills necessary to meet standards of achievement and performance

**All students**  
will utilize technology in their educational programs as a tool to learn and access information

**All students**  
will demonstrate an understanding of their responsibility as members of an interdependent, global and multicultural society

**All students**  
will demonstrate an understanding of, and responsibility for, ethical behavior

**OUR  
COMMITMENTS**

# SDUHSD STRATEGIC PLAN

2009-10

## OUR COMMITMENTS

- ◆ All students will have the skills and knowledge essential to the pursuit of their personal long-term educational, career and life goals.
- ◆ All students will have the knowledge and skills necessary to meet standards of achievement and performance.
- ◆ All students will demonstrate an understanding of their responsibility as members of an interdependent, global, and multicultural society.
- ◆ All students will demonstrate an understanding of and responsibility for ethical behavior.
- ◆ All students will utilize technology in their educational programs as a tool to learn and access information.



To Provide a  
World-Class Education  
for All Students

*Engaged, Inspired, Prepared*

San Dieguito Union High School District





# SDUHSD STRATEGIC PLAN

2009-10

## A R E A S O F F O C U S

- ◆ Leadership and unique school culture
- ◆ Rigorous, relevant, coherent curriculum
- ◆ Instructional best practice in support of student learning and engagement
- ◆ Assessment and accountability
- ◆ Student support systems & practices
- ◆ 21<sup>st</sup> Century technology and learning
- ◆ Quality staff and professional learning
- ◆ Family & community partnerships
- ◆ Safe & welcoming schools
- ◆ Resources & physical learning environments



To Provide a  
World-Class Education  
for All Students

*Engaged, Inspired, Prepared*

San Dieguito Union High School District

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 5, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED BY:** David Jaffe  
Executive Director, Curriculum & Assessment

**SUBMITTED BY:** Ken Noah  
Superintendent

**SUBJECT:** Site Plans for Student Achievement

-----

### EXECUTIVE SUMMARY

#### ***Single Plan for Student Achievement***

State law requires that school-level plans for programs funded through the Consolidated Application\* be consolidated in a Single Plan for Student Achievement (Education Code 64001), developed by school-site councils with the advice of any applicable school advisory committees. The content of the school plans includes school goals, activities and expenditures for improving the academic performance of student to the proficient level and above. The plan delineates the actions that are required for program implementation and serves as the school's guide in evaluating progress toward meeting the goals.

\*The Consolidated Application is the fiscal mechanism used by the California Department of Education to distribute categorical funds from various state and federal programs to county offices, school districts and charter schools throughout California.

#### **RECOMMENDATION:**

It is recommended that the Board review/ complete an initial read of the plans, leading to the approval of the Site Plans for Student Achievement at the December 10, 2009 Board meeting.

#### **FUNDING SOURCE:**

Consolidated Application Programs (Title I, EIA, ELAP and SIP)

#### ***Overview - Single Plan for Student Achievement (SPSA) 2009-2010***

- Each plan focuses on improving academic achievement for all students and for students

## ITEM 20

in subgroups. Each school analyzed data from the following sources to set current academic goals:

- ◆ California Standards Test (CST)
- ◆ California High School Exit Exam (CAHSEE)
- ◆ California English Language Development Test (CELDT)
- ◆ Advanced Placement enrollment numbers

The methods for improving achievement are unique to each school reflecting the personal commitment that sites have put forward in personalizing these plans to their own site needs.

- All plans have been developed by the school-site councils advised by the District Office's Educational Services Department, school academic departments and applicable school advisory committees, including:
  - ◆ English Learner Advisory Committee
  - ◆ Site Advisory Committee for Special Education Programs
  - ◆ Site Gifted and Talented Advisory Committee
- The Educational Services Department has led the schools in establishing a process for analyzing data, developing student achievement goals and involving administrators, teachers and parents in the development of the SPSA.
- All schools set goals in the following areas:
  - ◆ Increase the number of students proficient in English, Mathematics, Science and Social Science
  - ◆ Increase the number of students testing at grade level in Algebra I
  - ◆ Increase the number of students in subgroups enrolling in and successfully completing Honors/AP level coursework
  - ◆ Creating safe environments where students feel connected to school
- Within each general goal for English, Mathematics, Science and Social Science, schools set sub-goals targeting underperforming students across all subgroups.
- Growth targets in the various goals range from a 2% to 25% increase in number of proficient students, based on site specific discussions, baseline data and actual performance on the 2007-2008 goals.
- All required Signature sheets and Assurances are on file for each site plan.
- Site Plan budgets vary in terms of allocations, based on categorical program participation, and have been reviewed to ensure spending/activities are in compliance with funding regulations. Note: AVID tutors are listed under "TIIG (Targeted Instructional Improvement Grant) Program Additional Support" and in some cases there is not a budgeted amount. Each AVID section has been allotted 400 tutor hours per year using TIIG funds. This equates to roughly \$6,000 per AVID section.
- Educational Services and School Site Councils will continue to monitor progress on goals/activities/funding and may adjust those accordingly on a needs' basis. Any modifications/adjustments (including discretionary money expenditures) will be submitted to the Board of Trustees in an addendum format for approval.

# San Dieguito Union High School District

## INFORMATION REGARDING BOARD AGENDA ITEM

**TO:** BOARD OF TRUSTEES

**DATE OF REPORT:** November 6, 2009

**BOARD MEETING DATE:** November 12, 2009

**PREPARED AND SUBMITTED BY:** Ken Noah,  
Superintendent

**SUBJECT:** CSBA DELEGATE ASSEMBLY / 2010  
NOMINATION PROCEDURES, DEADLINES

.....

### EXECUTIVE SUMMARY

Each year, the California School Board Association Delegate Assembly provides Board members opportunity to nominate Board member candidates within their geographical region or subregion to serve on the Delegate Assembly. Elected delegates serve a two-year term. Those elected in 2010 will serve beginning April 1 through March 31, 2012. The deadline for nominations for 2010 will be Thursday, January 7, 2010. Attached are procedures and details about the nomination and election processes.

### RECOMMENDATION:

This item is provided as information only, and will be resubmitted for action by the Board at the Organizational Board Meeting of December 10, 2009.

### FUNDING SOURCE:

Not applicable

KN/bb

***TIME SENSITIVE – For Board ACTION –  
Nominations due Thursday, January 7, 2010.  
Please deliver to all members of the governing board. Thank you.***

October 30, 2009



**MEMORANDUM**

TO: Board Presidents and Superintendents - CSBA Member Boards of Education  
FROM: Paula S. Campbell, President  
SUBJECT: **Call for Nominations for CSBA Delegate Assembly**

---

**DEADLINE DATE: Nominations and Biographical Sketch forms for CSBA's Delegate Assembly will be accepted until Thursday, January 7, 2010.** Nomination forms and information related to the election process are available to download from the CSBA Web site at [www.csba.org/AboutCSBA.aspx](http://www.csba.org/AboutCSBA.aspx). In a departure from previous years, nomination forms and information are not included with this memo in an effort to cut costs.

Any CSBA member board is eligible to nominate board members within their geographical region or subregion. Each board may nominate as many individuals as it chooses by using the nomination form or submitting a letter of nomination. All nominees must submit a biographical sketch along with their nomination form; an optional one-page, one-sided résumé may also be submitted, but cannot be substituted for the sketch. All nomination materials must be postmarked no later than Thursday, January 7. Faxes are also acceptable, but they must be received by January 7. Because documents will be copied, mailed copies are preferable to faxes.

Delegates serve two-year terms; beginning April 1, 2010 through March 31, 2012. There are two Delegate Assembly meetings each year, one in May prior to CSBA's Legislative Action Conference in Sacramento and one preceding the CSBA Annual Education Conference and Trade show in November/December. Delegates are required to attend these two meetings each year.

For further information about the Delegate Assembly, please contact Michelle Neto in the Administration department at (800) 266-3382. You may download the following official forms and find more information at [www.csba.org/AboutCSBA.aspx](http://www.csba.org/AboutCSBA.aspx). Thank you.

- Nomination Form
- Biographical Sketch Form
- Important Dates
- List of all Delegates whose term expires in 2010
- Delegate Assembly Flyer
- Alphabetical List of Districts
- FAQ

# IMPORTANT

## Deadline date for nomination and biographical sketch forms: **Thursday, January 7, 2010**

### **Important 2010 Dates to keep in mind:**

- Thursday, January 7: U.S. Postmark or fax deadline for *required* Nomination and Biographical Sketch Forms
- By Monday, February 1: Ballots mailed to Member Boards
- February 1 – March 15: Boards vote for Delegates
- Monday, March 15: Deadline for the ballots to be returned to CSBA (U.S. Postmark ONLY)
- By Wednesday, March 31: Ballots to be tallied
- By Thursday, April 1: Election results, except for run-offs, will be posted on CSBA's Web site
- Friday, April 30: Deadline for run-off ballots (U.S. Postmark ONLY)
- Saturday, May 22 – Sunday, May 23: Delegate Assembly meeting in Sacramento



## CSBA DELEGATES WHOSE ELECTED TERM EXPIRES IN 2010

ITEM 21

Below are the names of Delegates in each region/subregion whose term expires in 2010 and are up for re-election, if they choose to run. Delegates must be nominated by a CSBA member board that is located within the region or subregion. If a subregion is not listed, it is because the Delegate's term has not expired. *Nomination and Biographical Sketch forms are due by Thursday, January 7, 2010.*

### **REGION 1 - Counties: Del Norte, Humboldt, Lake, Mendocino**

---

#### **Subregion 1-A (Del Norte, Humboldt)**

Sarie Toste (Northern Humboldt Union HSD)

### **REGION 2 - Counties: Lassen, Modoc, Plumas, Shasta, Siskiyou, Trinity**

---

#### **Subregion 2-C (Lassen, Plumas)**

Janet B. Starceovich (Janesville Union ESD)

### **REGION 3 - Counties: Marin, Napa, Solano, Sonoma**

---

#### **Subregion 3-A (Sonoma)**

Ron Abler (Forestville Union ESD)

#### **Subregion 3-C (Solano)**

Charles B. Wood (Fairfield-Suisun USD)

#### **Subregion 3-D (Marin)**

Cindi Clinton (Novato USD)

### **REGION 4 - Counties: Butte, Colusa, Glenn, Nevada, Placer, Sierra, Sutter, Tehama, Yuba**

---

#### **Subregion 4-A (Glenn, Tehama)**

Rhonda J. Johnson (Red Bluff Joint Union HSD)

#### **Subregion 4-C (Colusa, Sutter, Yuba)**

Vacant (Two-Year Term)

#### **Subregion 4-D (Nevada, Placer, Sierra)**

Lynn MacDonald (Placer Union HSD)

### **REGION 5 - Counties: San Francisco, San Mateo**

---

#### **Subregion 5-B (San Mateo)**

Karen L. Clancy (Belmont-Redwood Shores ESD)

Peter H. Hanley (San Mateo Union HSD)

### **REGION 6 - Counties: Alpine, Amador, El Dorado, Mono, Sacramento, Yolo**

---

#### **Subregion 6-A (Yolo)**

Mary Leland (Washington USD)

#### **Subregion 6-B (Sacramento)**

Janis Green (Twin Rivers USD)

Bruce Roberts (Natomas USD)

Teresa Stanley (Folsom-Cordova USD)

#### **Subregion 6-C (Alpine, Amador, El Dorado, Mono)**

Ellen Driscoll (Rescue Union ESD)

### **REGION 7 - Counties: Alameda, Contra Costa**

---

#### **Subregion 7-A (Contra Costa)**

Laura Canciamilla (Pittsburg USD)

Kathi McLaughlin (Martinez USD)

Raymond Valverde (Liberty Union HSD)

#### **Subregion 7-B (Alameda)**

Gwen Estes (New Haven USD)

George Granger (Castro Valley USD)

Michael McMahon (Alameda City USD)

Anne White (Livermore Valley Joint USD)

### **REGION 8 - Counties: Calaveras, Mariposa, Merced, San Joaquin, Stanislaus, Tuolumne**

---

#### **Subregion 8-A (San Joaquin)**

Richard J. Jones (Lodi USD)

Diana Machado (Linden USD)

Evelyn Moore (Manteca USD)

#### **Subregion 8-C (Stanislaus)**

Faye Lane (Ceres USD)

#### **Subregion 8-D (Merced)**

Ida M. Johnson (Merced Union HSD)

Vacant (One-Year Term)

### **REGION 9 - Counties: Monterey, San Benito, San Luis Obispo, Santa Cruz**

---

#### **Subregion 9-A (San Benito, Santa Cruz)**

Bernard Bricmont (Live Oak ESD)

Vacant (Two-Year Term)

#### **Subregion 9-B (Monterey)**

Bettye L. Lusk (Monterey Peninsula USD)

#### **Subregion 9-C (San Luis Obispo)**

Mark Buchman (San Luis Coastal USD)

### **REGION 10 - Counties: Fresno, Kings, Madera**

---

#### **Subregion 10-B (Fresno)**

Darrell Carter (West Fresno ESD)

Gilbert F. Coelho (Firebaugh-Las Deltas USD)

Betsy J. Sandoval (Clovis USD)

#### **Subregion 10-C (Kings)**

Vacant (Two-Year Term)





**REGION 11 - Counties: Santa Barbara, Ventura & Las Virgenes USD**

---

**Subregion 11-A (Santa Barbara)**

Karen Anderson (Montecito Union ESD)

**Subregion 11-B (Ventura County and Las Virgenes USD)**

Darlene A. Bruno (Hueneme ESD)

Rob Collins (Simi Valley USD)

Deborah D. DeVries (Oxnard ESD)

Jan Iceland (Oak Park USD)

**REGION 12 - Counties: Kern, Tulare**

---

**Subregion 12-A (Tulare)**

Donna S. Martin (Visalia USD)

Richard Morris (Porterville USD)

Vacant (One-Year Term)

**Subregion 12-B (Kern)**

William H. Farris (Sierra Sands USD)

Ralph Nelson (Southern Kern USD)

**REGION 15 - Counties: Orange County and Lowell Jt. USD**

---

Tammie Bullard (Tustin USD)

Shirley Carey (Huntington Beach City ESD)

Meg Cutuli (Los Alamitos USD)

Judy Franco (Newport-Mesa USD)

Susan Henry (Huntington Beach Union HSD)

Donna McDougall (Cypress ESD)

Esther H. Wallace (Magnolia ESD)

Sharon Wallin (Irvine USD)

Vacant (One-Year Term)

**REGION 16 - Counties: Invo, San Bernardino**

---

**Subregion 16-B (San Bernardino)**

Holly Eckes (Adelanto ESD)

Cathline Fort (Etiwanda ESD)

Judy M. Munoz (Victor Valley Union HSD)

Caryn Payzant (Alta Loma ESD)

Wilson So (Apple Valley USD)

Donna West (Redlands USD)

Vacant (Two-Year Term)

**REGION 17 - County: San Diego**

---

Doug Dechairo (Valley Center-Pauma USD)

Katie Dexter (Lemon Grove SD)

James Grier, Jr. (National SD)

Barbara Groth (San Dieguito Union HSD)

Steve Lilly (Vista USD)

Bertha J. Lopez (Sweetwater Union HSD)

Dan Lopez (Ramona USD)

Raquel Marquez-Maden (San Ysidro ESD)

Anne Renshaw (Fallbrook Union ESD)

**REGION 18 - Counties: Imperial, Riverside**

---

**Subregion 18-A (Riverside)**

Jesus M. Holguin (Moreno Valley USD)

Marla Kirkland (Val Verde USD)

Matteo Monica (Desert Sands USD)

Tom Thomas (Lake Elsinore USD)

Vacant (Two-Year Term)

Vacant (Two-Year Term)

**Subregion 18-B (Imperial)**

Salvador Pacheco (Calexico USD)

Vacant (One-Year Term)

**REGION 20 - County: Santa Clara**

---

Frank Biehl (East Side Union HSD)

Cynthia Chang (Los Gatos-Saratoga Jt. Union HSD)

Judy Hannemann (Mountain View-Los Altos Un. HSD)

Kathleen Sullivan (Morgan Hill USD)

Dana Tom (Palto Alto USD)

Vacant (One-Year Term)

**REGION 22 – Los Angeles County: North Los Angeles**

---

Albert S. Beattie, Sr. (Antelope Valley Union HSD)

Gwendolyn Farrell (Westside Union ESD)

John Altin Ginn (Eastside Union SD)

**REGION 23 – Los Angeles County: San Gabriel Valley and East Los Angeles**

---

**Subregion 23-A**

Bob Bruesch (Garvey ESD)

Ed Honowitz (Pasadena USD)

Gregory Krikorian (Glendale USD)

**Subregion 23-B**

Gilbert G. Garcia (Rowland USD)

**Subregion 23-C**

Rosemary Garcia (Azusa USD)

Camie Poulos (West Covina USD)

Joseph Probst (Charter Oak USD)

**REGION 24 – Los Angeles County: Southwest Crescent**

---

Leighton Anderson (Whittier Union HSD)

Dora M. De La Rosa (Palos Verdes Peninsula USD)

Vivian Hansen (Paramount USD)

Donald E. LaPlante (Downey USD)

Barbara Lucky (Palos Verdes Peninsula USD)

Sylvia V. Macias (South Whittier ESD)

Ann M. Phillips (Lawndale ESD)

Mark Steffen (Torrance USD)

10/7/09





# CSBA 2010 Delegate Assembly Nomination Form

**Due: Thursday, January 7, 2010** (U.S. Postmark or fax – 916.669.3305 or 916.371.3407)

CSBA Region/subregion # \_\_\_\_ / \_\_\_\_

The Board of Education of the \_\_\_\_\_  
(Nominating School District or COE)

wishes to nominate: \_\_\_\_\_  
(Nominee)

The nominee is a member of the \_\_\_\_\_  
(Nominee's School District or COE)

and is a member of the California School Boards Association.

Attached is the nominee's required completed one-page biographical sketch and optional one-page, single-sided, résumé.

\_\_\_\_\_  
Board Clerk or Board Secretary (signed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Board Clerk or Board Secretary (printed)

**PLEASE NOTE:**

The nomination and biographical sketch form must be faxed or U.S. postmarked no later than **Thursday, January 7, 2010**. *Nominations U.S. postmarked or faxed after January 7 cannot be accepted.* Any questions, please contact Michelle Neto at (800) 266-3382.

**Return nomination to:**  
California School Boards Association  
3100 Beacon Blvd., P.O. Box 1660 | West Sacramento, CA 95691-1660  
(916) 371-4691 (800) 266-3382 | Fax: (916) 371-3407 or (916) 669-3305 | www.csba.org

ITEM 21

Please complete this **required**, one-page, single-sided, biographical sketch form. An optional, single-sided, one-page résumé may also be submitted, both will be copied exactly as received. Please **do not** state “See résumé” and please do not re-type this form. Any additional page(s) exceeding this one page, single-sided biographical sketch will **not** be accepted.

Name: _____	Region/Subregion: _____
District or COE: _____	Years on board: _____ ADA: _____
Contact Number: _____	E-mail: _____
Are you a continuing Delegate? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, how long have you served as a Delegate?

**Please describe your activities/involvement in CSBA and explain why you are interested in serving as a CSBA Delegate.**

**Please describe your activities/involvement or interests in your local district.**

**Please describe any other education-related activities/involvement.**