

BOARD OF TRUSTEES REGULAR BOARD MEETING

Board of Trustees Joyce Dalessandro Barbara Groth Beth Hergesheimer Amy Herman

> Superintendent Ken Noah

John Salazar

THURSDAY, APRIL 4, 2013 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 speaker 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 and/or at the district office. Please contact the Office of the 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 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

DISTRICT OFFICE BOARD ROOM 101 THURSDAY, APRIL 4, 2013 6:30 PM 710 ENCINITAS BLVD., ENCINITAS, CA. 92024 PRELIMINARY FUNCTIONS (ITEMS 1 – 6) A. Consideration and/or deliberation of student discipline matters (1 case) B. 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. (4 Issues / 1 Superintendent Search plus 3 other issues) C. To conference with Labor Negotiators, pursuant to Government Code Section 54957.8. Agency Negotiators: Superintendent, Deputy Superintendent, and Associate Superintendents Employee Organizations: San Diequito Faculty Association / California School Employees Association D. To confer with real property negotiator: Approximately 13.5 acre portion of 305-031-29 and 305-040-36 Property: Eric Dill, Associate Superintendent, Business and/or John Agency Negotiator: Addleman, Director, Planning and Financial Management Negotiating Parties: Pardee Homes Under negotiation: Instructions pertaining to price, terms of payment, and delivery REGULAR MEETING / OPEN SESSION 6:30 PM 3. RECONVENE REGULAR BOARD MEETING / CALL TO ORDERBOARD PRESIDENT * WELCOME / MEETING PROTOCOL REMARKS 4. PLEDGE OF ALLEGIANCE 5. REPORT OUT OF CLOSED SESSION 6. APPROVAL OF MINUTES, MARCH 21, 2013, REGULAR BOARD MEETING Motion by_____, second by _____, to approve March 21st, 2013, as shown in the attached supplement(s). NON-ACTION ITEMS......(ITEMS 7 - 10) 7. STUDENT UPDATES.......STUDENT REPRESENTATIVES 8. BOARD UPDATES......BOARD OF TRUSTEES 9. SUPERINTENDENT'S REPORTS, BRIEFINGS, AND LEGISLATIVE UPDATES......KEN NOAH, SUPERINTENDENT

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.

CONSENT AGENDA ITEMS (ITEMS 11 - 15)

11. SUPERINTENDENT

A. GIFTS AND DONATIONS

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

B. FIELD TRIP REQUESTS

Accept the Field Trips, as shown in the attached supplement(s).

12. HUMAN RESOURCES

A. 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 supplement(s).
- B. APPROVAL/RATIFICATION OF AGREEMENTS (None Submitted)

13. EDUCATIONAL SERVICES

A. APPROVAL/RATIFICATION OF AGREEMENTS

Approve/ratify entering into the following agreement and authorize Christina M. Bennett or Eric R. Dill to execute the agreement:

 Santomieri Systems, to provide software programing services in order for San Dieguito Union High School District to exchange data with the San Diego County Foster Youth and Homeless Education Services Foster Youth – Student Information System (FYSIS), during the period April 5, 2013 until project completion, at the rate of \$125.00 per hour, to be expended from the General Fund 03-00.

14. PUPIL SERVICES / SPECIAL EDUCATION

SPECIAL EDUCATION

- A. APPROVAL/RATIFICATION OF NON-PUBLIC SCHOOL / NON-PUBLIC AGENCY CONTRACTS, INDEPENDENT CONTRACTOR AGREEMENTS, AND/OR MEMORANDUMS OF UNDERSTANDING (None Submitted)
- B. APPROVAL/RATIFICATION OF AMENDMENT TO AGREEMENTS (None Submitted)
- C. APPROVAL/RATIFICATION OF PARENT SETTLEMENT AND RELEASE AGREEMENTS

Approve/ratify the following Parent Settlement and Release Agreements, to be funded by the General Fund 06-00/Special Education, and authorize the Director of Special Education to execute the agreements:

1. Student ID No. 2069067475, in the amount of \$5,500.00.

PUPIL SERVICES

D. APPROVAL/RATIFICATION OF AGREEMENTS (None Submitted)

15. BUSINESS

A. APPROVAL/RATIFICATION OF AGREEMENTS

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

1. Geocon, Inc., to provide geotechnical investigation, testing and reporting services for Torrey Pines High School's four proposed new light poles at the track field stadium, during

- the period April 5, 2013 through project completion, in an amount not to exceed \$6,800.00, to be expended from Mello-Roos Funds as well as subject to availability of Proposition AA GO Bond Funds.
- 2. Roesling Nakamura Terada Architects, Inc., to provide architectural and engineering services at La Costa Canyon High School, during the period April 5, 2013 through completion of three phases, in an amount not to exceed \$1,856,686.47, subject to issuance of a formal notice to proceed for each phase and availability of funds, to be expended from Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds.
- 3. Roesling Nakamura Terada Architects, Inc., to provide architectural and engineering services at Torrey Pines High School, during the period April 5, 2013 through completion of three phases, in an amount not to exceed \$4,430,736.00, subject to issuance of a formal notice to proceed for each phase and availability of funds, to be expended from Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds.
- 4. MVEI, to provide architectural and engineering services at San Dieguito Academy, during the period April 5, 2013 through completion of three phases, in an amount not to exceed \$3,436,280.00, subject to issuance of a formal notice to proceed for each phase and availability of funds, to be expended from Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds.
- 5. MVEI, to provide architectural and engineering services at the La Costa Valley middle school site, during the period April 5, 2013 through project completion, in an amount not to exceed \$759,800.00, subject to issuance of a formal notice to proceed for each phase and availability of funds, to be expended from Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds.
- Erickson-Hall Construction, to provide construction management services for the HVAC maintenance project phase at Diegueño Middle School, during the period April 5, 2013 through project completion, in an amount not to exceed \$107,026.00 plus expenses, to be expended from Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds.
- 7. Erickson-Hall Construction, to provide construction management services for the HVAC maintenance project phase at Oak Crest Middle School, during the period April 5, 2013 through project completion, in an amount not to exceed \$98,721.00 plus expenses, to be expended from Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds.
- 8. Balfour Beatty Construction LLC, to provide construction management services for the Canyon Crest Academy and San Dieguito Academy fields projects phase, during the period April 5, 2013 through project completion, in an amount not to exceed \$440,015.00 plus expenses, to be expended from Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds.

B. APPROVAL/RATIFICATION OF AMENDMENT TO AGREEMENTS

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

- 1. La Costa Valley Homeowners Association, extending the license to use facilities for school bus off-loading and loading of students for access to the pedestrian bridge for an additional one-year period, April 1, 2013 through March 31, 2014, in the amount of \$100.00 per year, to be expended from the General Fund 03-00.
- 2. Siemens Industry, Inc. to begin work on phase I of the mechanical, operational, and energy efficiency related improvements at La Costa Canyon High School, Oak Crest Middle School, and Diegueno Middle School, as noted in the energy service contract B2009-17, to be performed upon receipt of a written notice to proceed from the District, for an amount not to exceed \$4,347,770.00 to be expended from Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds.
- 3. URS Corporation, to add the Phase I Environmental Site Assessment (ESA) and Phase II supplemental sampling and analysis at the proposed new middle school site at Pacific

Highlands Ranch, for an estimated amount not to exceed \$18,420.00, to be expended from Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds.

C.	AWARD/RATIFICATION OF CONTRACTS (None Submitted)
D.	APPROVAL OF CHANGE ORDERS (None Submitted)
E.	ACCEPTANCE OF CONSTRUCTION PROJECTS (None Submitted)
F.	APPROVAL OF BUSINESS REPORTS
	Approve the following business reports:
	 Purchase Orders Membership Listing (None Submitted)
ROLL C	ALL VOTE FOR CONSENT AGENDA(ITEMS 11 - 15)
DISCUS	SSION / ACTION ITEMS(ITEMS 16 - 20)
16. AD	poption of Resolution, Layoff / Reductions of Hours of Classified Employees / Positions R Fiscal Year 2013-2014
	 Motion by, second by, to adopt Resolution Initiating Layoff and/or Reductions of Hours and/or Months of Classified Employees/Positions for Fiscal Year 2013-2014, as shown in the attached supplement(s). Roll Call
17 An	
I7. AL	 Motion by, second by, to adopt the Resolution of Teaching Assignments Outside of Credential Authorization, as shown in the attached supplement(s). Roll Call
18. AD	OPTION OF RESOLUTION / TAX & REVENUE ANTICIPATION NOTES (TRANS) FOR 2013-14
	 Motion by, second by, to adopt the attached Resolution for Tax and Revenue Anticipation Notes (TRANs) for fiscal year 2013-14, as shown in the attached supplement(s). Roll Call
	OPTION OF RESOLUTION REGARDING ACQUISITION OF REAL PROPERTY FOR A MIDDLE SCHOOL IN E PACIFIC HIGHLANDS RANCH AREA
	 Motion by, second by, to adopt the resolution authorizing acquisition of real property for a middle school in the Pacific Highlands Ranch area, and authorize the Superintendent or Associate Superintendent, Business Services, to take all necessary action to complete the acquisition of property, to be expended from Proposition AA GO Bond funds, as shown in the attached supplement(s).
	Roll Call

2	20. TITLE III PROGRAM IMPROVEMENT PLAN ADDENDUM, 2013
	Motion by, second by, to approve the Title III Program Improvement Plan Addendum, 2013, as shown in the attached supplement(s).
INF	FORMATION ITEMS(ITEMS 21 - 29)
2	21. Proposed Board Policy Revisions (4): BP & AR #0450, "Comprehensive Safety Plan"; BP #1250, "Visitors / Outsiders"; AR #1340, "Access to District Records"
	This item is being submitted for first read and will be resubmitted for board action on May 2, 2013.
2	22. Business Services Update Eric Dill, Associate Superintendent
2	23. HUMAN RESOURCES UPDATETORRIE NORTON, ASSOCIATE SUPERINTENDENT
2	24. EDUCATIONAL SERVICES UPDATERICK SCHMITT, DEPUTY SUPERINTENDENT
2	25. 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)
2	26. Future Agenda Items
2	27. ADJOURNMENT TO CLOSED SESSION(As REQUIRED)
	A. Consideration and/or deliberation of student discipline matters (1 case)
	B. To consider personnel issues, pursuant to Government Code Sections 11126 and 54957; limited to consideration of the appointment, employment, evaluation of performance, discipline

C. To conference with Labor Negotiators, pursuant to Government Code Section 54957.8.

Agency Negotiators: Superintendent, Deputy Superintendent, and Associate Superintendents Employee Organizations: San Dieguito Faculty Association / California School Employees Association

/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.

D. To confer with real property negotiator:

Property: Approximately 13.5 acre portion of 305-031-29 and 305-040-36 Agency Negotiator: Eric Dill, Associate Superintendent, Business and/or John

Addleman, Director, Planning and Financial Management

Negotiating Parties: Pardee Homes

(4 Issues / 1 Superintendent Search plus 3 other issues)

Under negotiation: Instructions pertaining to price, terms of payment, and delivery

- 28. REPORT FROM CLOSED SESSION (AS NECESSARY)
- 29. MEETING ADJOURNED

The next regularly scheduled Board Meeting will be held on <u>Thursday</u>, <u>May 2, 2013</u>, <u>at 6:30 PM</u> in the SDUHSD District Office Board Room 101. The District Office is located at 710 Encinitas Blvd., Encinitas, CA, 92024.



MINUTES

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

REGULAR BOARD MEETING

Board of Trustees Joyce Dalessandro Barbara Groth Beth Hergesheimer Amy Herman John Salazar

> Superintendent Ken Noah

March 21, 2013

THURSDAY, MARCH 21, 2013 6:30 PM

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

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

- 1. President Groth 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 and/or deliberate about student discipline matters (4 cases)
- B. 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. (2 Issues)
- C. Conference with Labor Negotiators, pursuant to Government Code Section 54957.8. Agency Negotiators: Superintendent, Deputy Superintendent, and Associate Superintendents Employee Organizations: San Dieguito Faculty Association / California School Employees Association
- D. Confer with real property negotiator:

Property: Approximately 13.5 acre portion of 305-031-29 and 305-040-36

Eric Dill, Associate Superintendent, Business and/or John Agency Negotiator:

Addleman, Director, Planning and Financial Management

Pardee Homes Negotiating Parties:

Under negotiation: Instructions pertaining to price, terms of payment, and delivery

OPEN SESSION / ATTENDANCE

BOARD OF TRUSTEES

STUDENT BOARD REPRESENTATIVES

Joyce Dalessandro Zoe Eprile, Torrey Pines High School Barbara Groth Kailey Lawson, Canyon Crest Academy Beth Hergesheimer Maria Lopez, San Dieguito Academy

Amy Herman John Salazar

DISTRICT ADMINISTRATORS / STAFF

Ken Noah, Superintendent

Eric Dill, Associate Superintendent, Business Services

Torrie Norton, Associate Superintendent, Human Resources

Laurie Brady, Principal, Carmel Valley Middle School

Becky Banning, Executive Assistant to the Superintendent / Recording Secretary

3.	RECONVENE REGULAR MEETING / CALL TO ORDER(ITEM 3)
	The regular meeting of the Board of Trustees was called to order at 6:30 PM by Ms. Barbara Groth.
4.	PLEDGE OF ALLEGIANCE(ITEM 4)
	Ms. Barbara Groth led the Pledge of Allegiance.
5.	REPORT OUT OF CLOSED SESSION(ITEM 5)
	There was no reportable action taken.
6.	APPROVAL OF MINUTES OF THE SPECIAL SESSION AND REGULAR MEETING OF MARCH 7, 2013; THE BOARD WORKSHOP OF MARCH 13, 2013; AND THE SPECIAL SESSION OF MARCH 14, 2013 (4 TOTAL) It was moved by Ms. Amy Herman, seconded by Ms. Joyce Dalessandro, to approve the Minutes of March 7^{th} , 13^{th} , and 14^{th} (4 total), as presented. Motion unanimously carried.
NON-	-ACTION ITEMS (ITEMS 7 - 10)
	BOARD UPDATES(ITEM 7)
	A. STUDENT UPDATES STUDENT BOARD REPRESENTATIVES
	Students gave updates about events and activities at their schools.
	B. BOARD UPDATES BOARD OF TRUSTEES
	All board members attended the Bond Finance Workshop of March 13 th and the Special Session of March 14 th .
	Ms. Joyce Dalessandro – Attended the Ribbon cutting ceremony for the Farmer's Market program at Canyon Crest Academy; also spent three days scoring essays at Torrey Pines High School.
	Ms. Barbara Groth – Attended the California Interscholastic Federation (CIF) Coordinating Council meeting for the county.
	Ms. Beth Hergesheimer – Attended the Farmers' Market Ribbon Cutting Ceremony at Canyon Crest Academy.
	Ms. Amy Herman – Visited Earl Warren Middle School to celebrate their Distinguished School recognition; visited Canyon Crest Academy; and attended the Ribbon-Cutting ceremony for the Farmers Market at Canyon Crest Academy.
	Mr. John Salazar – Attended the sectional competition for the Robotics Club where students from San Dieguito Academy were selected as best school spirit team.
8.	SUPERINTENDENT'S REPORTS, BRIEFINGS AND LEGISLATIVE UPDATES
	Superintendent Noah attended a meeting of the Southern California Superintendents in Carlsbad, where some of the topics discussed were Adult Education, ROP, and Common Core State Standards. Mr. Noah also summarized ways in which the district is meeting regularly for the purpose of preparing and planning the bond work. Mr. Noah and Mr. Eric Dill went to the County Board of Supervisors meeting on Tuesday of this week. Mr. Noah also reviewed coming events.
9.	SCHOOL UPDATE, CARMEL VALLEY MIDDLE SCHOOLLAURIE BRADY, PRINCIPAL
	Principal Brady celebrated highlights and accomplishments at the school this year such as an increase in API scores ranking them in highest in the county, and top five in the state; Carmel Valley Middle School placed first in the county Olympiad competition; the school's honor band participated in a recent competition and got superior rating in all five areas. Other highlights included the success of a targeted learning center, the AVID program, Study Island and the overall school climate. Principal Brady also commended Assistant Principal Adam Camacho for his support and leadership and said his is an extraordinary administrator.
10.	REVIEW PROCESS FOR AWARD OF CAPITAL ITEMS ERIC DILL
	Mr. Dill gave an update the process for Award of Capital Items; he introduced Attorney Andreas Chialtas, from Atkinson, Andelson, Loya, Ruud, and Romo. Mr. Chialtas practices primarily in the

areas of school facilities, land use and management, public works and real property law. Mr. Chialtas reviewed what the district has done to date relative to the bond work and gave examples of transparency and appropriate actions taken by the district thus far.

<u>CONSENT ITEMS</u>...... (ITEMS 11 - 15)

*It was moved by Ms. Beth Hergesheimer, seconded by Ms. Joyce Dalessandro, that all consent Items 11 through 15, be approved as listed below. Motion unanimously carried.

11. SUPERINTENDENT

A. GIFTS AND DONATIONS
 Accept the Gifts and Donations, as presented.

B. FIELD TRIP REQUESTS

Accept the Field Trips, as presented.

12. HUMAN RESOURCES

A. 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 supplement(s).
- B. APPROVAL/RATIFICATION OF AGREEMENTS (None Submitted)

13. EDUCATIONAL SERVICES

A. APPROVAL/RATIFICATION OF AGREEMENTS (None Submitted)

14. Pupil Services / Special Education

SPECIAL EDUCATION

- A. APPROVAL/RATIFICATION OF NON-PUBLIC SCHOOL / NON-PUBLIC AGENCY CONTRACTS, INDEPENDENT CONTRACTOR AGREEMENTS, AND/OR MEMORANDUMS OF UNDERSTANDING
 - Approve/ratify entering into the following non-public school / non-public agency master contracts (NPS/NPAs), independent contractor agreements (ICAs), and/or memorandums of understanding (MOUs), and authorize Christina M. Bennett or Eric R. Dill to execute all pertinent documents.
 - Spencer R. Wetter, Ph.D. (ICA), to provide school neuropsychological evaluations, observations, parent/teacher/student interviews, review of records, assessment of students, interpretations of results, and attendance at IEP meetings to discuss findings and recommendations, during the period February 1, 2013 through June 30, 2013, for an amount not to exceed \$4,000.00, to be expended from the General Fund/Restricted 06-00.
 - 2. Fallbrook Union High School District (MOU), to provide transportation services for a San Dieguito Union High School District special education student residing in a Fallbrook group home to TERI, Inc., a Nonpublic School (NPS) under contract with the District, during the period July 1, 2012 through June 30, 2013, for an amount not to exceed \$71,280.00, to be expended from the General Fund/Restricted 06-00.
- B. APPROVAL/RATIFICATION OF AMENDMENT TO AGREEMENTS (None Submitted)
- C. APPROVAL/RATIFICATION OF PARENT SETTLEMENT AND RELEASE AGREEMENTS (None Submitted)

PUPIL SERVICES

D. APPROVAL/RATIFICATION OF AGREEMENTS (None Submitted)

15. BUSINESS

A. APPROVAL/RATIFICATION OF AGREEMENTS

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

- 1. Leadership Associates, to conduct a superintendent search, during the period March 14, 2013 through completion of the search, for an amount not to exceed \$26,500.00, to be expended from the General Fund 03-00.
- B. APPROVAL/RATIFICATION OF AMENDMENT TO AGREEMENTS

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

- 1. Siemens Industry, Inc. to begin work on phase VI of the mechanical, operational, and energy efficiency related improvements at Torrey Pines High School, as noted in the energy service contract, to be performed upon receipt of a written notice to proceed from the District, for an amount not to exceed \$690,824.00, to be expended from Mello-Roos Funds, Capital Facilities Fund 25-19, and Proposition AA GO Bond Funds.
- C. AWARD/RATIFICATION OF CONTRACTS (None Submitted)
- D. APPROVAL OF CHANGE ORDERS (None Submitted)
- E. ACCEPTANCE OF CONSTRUCTION PROJECTS (None Submitted)
- F. APPROVAL OF BUSINESS REPORTS

Approve the following business reports:

- 1. Purchase Orders
- 2. Membership Listing (None Submitted)
- 3. Replacement Warrants

ROLL CALL VOTE FOR CONSENT	<u>г agenda</u> (Items 11 - 15)
Joyce DalessandroBarbara GrothBeth HergesheimerAmy HermanJohn Salazar	Zoe Eprile, Torrey Pines High School Kailey Lawson, Canyon Crest Academy Cassidy Mayeda, San Dieguito Academy Kirra Sarquilla, Sunset High School Allison Zimmerman, La Costa Canyon High School
DISCUSSION / ACTION ITEMS	(ITEMS 16 - 18)

16. ADOPTION OF RESOLUTION OF ANNEXATION / COMMUNITY FACILITIES DISTRICT 94-2 ANNEXATION No. 3 / LA COSTA TOWN SQUARE / A 63-UNIT FAMILY SUBDIVISION/DEVELOPMENT / SOLUTIONS 2LAC, LLC

PUBLIC HEARING

Public hearing opened at 7:23 PM. President Groth called for public comments; no comments presented. Public hearing closed at 7:23 PM.

It was then moved by Ms. Joyce Dalessandro, seconded by Ms. Amy Herman, to adopt the Resolution of the Board of Trustees of the San Dieguito Union High School District Acting as the Legislative Body of the San Dieguito Union High School District Community Facilities District No. 94-2. Motion unanimously carried. (Roll call)

17. APPROVAL OF PROPOSED NEW BOARD POLICY #7215, "INDEPENDENT CITIZENS" OVERSTGHT COMMITTEE BYLAWS"

It was moved by Ms. Beth Hergesheimer, seconded by Ms. Amy Herman, to approve proposed new Board Policy #7215, "Independent Citizens' Oversight Committee Bylaws", as presented. Motion unanimously carried.

18. ADOPTION OF RESOLUTION / ENERGY SERVICES CONTRACT

PUBLIC HEARING

Public hearing opened at 7:25 PM. President Groth called for public comments; no comments presented. Public hearing closed at 7:25 PM.

It was then moved by Ms. Beth Hergesheimer, seconded by Ms. Joyce Dalessandro, to adopt to adopt the resolution to enter into an energy services contract with Siemens Industry, Inc. to identify and implement District wide capital improvements that increase energy efficiencies and reduce related costs and environmental impacts, and authorize Christina M. Bennett or Eric R. Dill to execute all necessary documents. Motion unanimously carried. (Roll call)

INFORMATION ITEMS	(ITEMS 119 - 26)
Notes (TRANs) for 2013-14 would be present Addleman will be present in Los Angeles to with the control of the c	ERIC DILL, ASSOCIATE SUPERINTENDENT doption of Resolution / Tax & Revenue Anticipation at the next board meeting. Mr. Dill and Mr. tness the bond pricing sale on Wednesday, Marched at La Costa Canyon High School daily sales are
	TORRIE NORTON, EXECUTIVE SUPERINTENDENT Association President Bob Croft, has accompanied alle planning in accordance to the teachers' contract.
21. EDUCATIONAL SERVICES UPDATE	
22. Public Comments – (No comments presented)	
23. FUTURE AGENDA ITEMS - None discussed.	
24. ADJOURNMENT TO CLOSED SESSION - Not require	ed.
25. CLOSED SESSION - Nothing further to report out of	of closed session.
26. ADJOURNMENT OF MEETING - Meeting adjourned	at 7:32 PM.
Beth Hergesheimer, Board Clerk	// <u>2013</u> Date
Ken Noah, Superintendent	/ / <u>2013</u> Date

San Dieguito Union High School District INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 28, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED AND

SUBMITTED BY: Ken Noah, Superintendent

SUBJECT: ACCEPTANCE OF GIFTS AND DONATIONS

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EXECUTIVE SUMMARY

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

RECOMMENDATION:

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

FUNDING SOURCE:

Not applicable

KN/bb

GIFTS AND DONATIONS SDUHSD BOARD MEETING April 4, 2013

Item #	Donation	Description	Donor Donor	Department	School Site
1	\$40.00	Rachel Rodas Copy Account	Rachel Rodas	Social Studies	DNO
2	\$1,403.15	Conservatory Teachers	Canyon Crest Academy Foundation, Inc.	Various	CCA
3	\$88.00	Conservatory Teachers	IBM Employee Services Center	Various	CCA
4	\$500.00	Conservatory Teachers	SDSU Research Foundation	Various	CCA
5	\$183.03	Conservatory Teachers	TRUIST	Various	CCA
6	\$876.84	Misc. Donations	Canyon Crest Academy Foundation, Inc.	Various	CCA
7	\$4,700.00	Tutoring Support - Per Shared Vision	San Dieguito Academy Foundation	Various	SDA
_		Japanese Program	Human International Academy	World Language	SDA
9	\$2,725.00	Projectors, Ukrainian Egg Project; Novels	Oak Crest Foundation, Inc.	Various	OCMS
10	\$474.95	Artist-In-Residence Program - Mark Weed	Earl Warren Middle School PTSA	Music	EWMS
11	*\$587.00	Drum Kit	Alexis Larky	Music	EWMS
12	\$800.00	Mini Grant for Emergency Safety Supplies	Diegueño Middle School PTSA	Various	DNO
13	\$7,328.01	C-7, P-1, G-8 Projector Project	Diegueño Middle School PTSA	Various	DNO
14	\$565.00	Substitute Support - Robotics Competitions	San Dieguito Academy Foundation	Science	SDA
15	\$2,915.94	BenQ Projectors	Canyon Crest Academy Foundation, Inc.	Various	CCA
16	*\$600.00	Art Supplies	Mr. Carl Provder	Art	SDA
	\$23,599.92	Monetary Donations			
	\$1,187.00	*Value of Donated Items			
_	\$24,786.92	TOTAL VALUE			

San Dieguito Union High School District INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 28, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Rick Schmitt

Associate Superintendent/Educational Services

SUBMITTED BY: Ken Noah, Superintendent

SUBJECT: APPROVAL / RATIFICATION OF FIELD

TRIP REQUESTS

EXECUTIVE SUMMARY

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

RECOMMENDATION:

The administration recommends that the Board approve / ratify the field trips, as shown on the attached supplement.

FUNDING SOURCE:

As listed on the attached supplement.

FIELD TRIP REQUESTS SDUHSD BOARD MEETING April 4, 2013

Item#	Date	Sponsor, Last Name	First Name	School Team/Club	Total # Students	Total # Chaperones	Event Description / Name of Conference	City	State	Class Time	\$ Cost
1	04/19/13 - 04/22/13	Barry	Melissa	SDA Speech & Debate	12	1		Valencia	CA	2 Days	SDA Foundation
2	04/26/13 - 04/29/13	Barry	Melissa	SDA Speech & Debate	2	1	Speech & Debate Competition	Louisville	KY	2 Days	SDA Foundation
3	05/09/13	Stimson	George	SDA ROP Robotics & Engineering	4	1	Robotics Venture Capital Meeting	Ontario	CA	1 Day	SDA Foundation
4	06/16/23 - 06/23/13	Barry	Melissa	SDA Speech & Debate	5	2	Speech & Debate National Competition	Birmingham	AL	0	SDA Foundation
5	04/24/13 - 04/27/13	Numbers	Chris	TP Boys Tennis	3	1	Boys Tennis Tournament	Ojai	CA	3 Days	TPHS Foundation
6	04/26/13	McCarty	Brett	EW Band	41	6	Band Festival	Cypress	CA	1 Day	EW Parent Donations
7	04/24/13 - 04/27/13	Salas	Daniel	LCC Yearbook/ Journalism	4	1	JEA/NSPA Journalism Convention	San Francisco	CA	2 Days	LCC Foundation

^{*} 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: March 26, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Torrie Norton

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

Leave of Absence Resignation

Classified

Change in Assignment Employment Resignation

RECOMMENDATION:

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

FUNDING SOURCE:

General Fund

PERSONNEL LIST

CERTIFICATED PERSONNEL

Leave of Absence

- Susan Atkinson, Teacher (math/geoscience) at Canyon Crest Academy, requests a 33% Unpaid Leave (67% assignment) to take part in the District-approved STRS Reduced Workload Program (year #1), for the 2013-14 school year, effective 8/20/13 through 6/13/14.
- Abigail Brown-McLellan, Teacher (math) at Torrey Pines High School, requests a 20% Unpaid Leave of Absence (80% assignment) for the 2013-14 school year, effective 8/20/13 through 6/13/14.
- 3. <u>Patricia Cameron</u>, Teacher (biological science) at La Costa Canyon High School, requests a 40% Unpaid Leave of Absence (60% assignment) to take part in the District-approved STRS Reduced Workload Program (year #1), for the 2013-14 school year, effective 8/20/13 through 6/13/14.
- 4. <u>Michael Estrin</u>, Teacher (math) at Torrey Pines High School, requests a 20% Unpaid Leave of Absence (80% assignment) to take part in the District-approved STRS Reduced Workload Program (year #7), for the 2013-14 school year, effective 8/20/13 through 6/13/14.
- 5. **Neal Glasgow**, Teacher (art) at San Dieguito Academy, requests a 33% Unpaid Leave of Absence (67% assignment) to take part in the District-approved STRS Reduced Workload Program (year #1), for the 2013-14 school year, effective 8/20/13 through 6/13/14.
- 6. <u>Jamie Ritchie</u>, Teacher (English) at La Costa Canyon High School, requests a 40% Unpaid Leave of Absence (60% assignment) to take part in the District-approved STRS Reduced Workload Program (year #2), for the 2013-14 school year, effective 8/20/13 through 6/13/14.
- 7. <u>Barbara Swovelin</u>, Teacher (English) at Torrey Pines High School, requests a 20% Unpaid Leave of Absence (80% assignment) to take part in the District-approved STRS Reduced Workload Program (year #3), for the 2013-14 school year, effective 8/20/13 through 6/13/14.

Resignation

- **1.** <u>Luisa Figueroa</u>, Teacher (Spanish) at Torrey Pines High, resignation for retirement purposes, effective 6/15/13.
- **2.** <u>Ken Noah</u>, District Superintendent, resignation for retirement purposes, effective 6/30/13.

dr **4/04/13** certbdagenda

PERSONNEL LIST

CLASSIFIED PERSONNEL

Employment

- 1. <u>Balderas, Marlene</u>, Nutrition Services Assistant I, SR25, 31.3% FTE, Diegueño Middle School, effective 3/26/13
- **2.** <u>Sullivan, Christopher</u>, Construction Projects Information Technician, SR48, 100% FTE, Facility-Construction Department, effective 4/01/13

Change in Assignment

- 1. <u>Gutierrez, Stephanie,</u> from Payroll Technician, SR44, 48.75% FTE to Accounting Technician, SR42, 100% FTE, District Office, Finance Department, effective 4/01/13
- 2. <u>McCauley, Lucienne, from Planning Finance Technician, SR45 to Facilities Planning Analyst, SR62, 100%, effective 4/01/13</u>

Resignation

- **1.** <u>Lauer, Evan,</u> School Bus Driver, SR38, 50% FTE, Transportation Department, effective 3/26/13
- **2.** <u>Sands, Russell, School Bus Driver, SR38, 50% FTE, Transportation Department, effective 3/29/13</u>

4/04/13 classbdagenda

ITEM 13A

San Dieguito Union High School District INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 28, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Michael Grove, Executive Director of Curriculum,

Instruction and Assessment

Rick Schmitt, Deputy Superintendent

SUBMITTED BY: Ken Noah

Superintendent

SUBJECT: APPROVAL/RATIFICATION OF

PROFESSIONAL SERVICES CONTRACTS/

EDUCATIONAL SERVICES

EXECUTIVE SUMMARY

The attached Professional Services Report/Educational Services summarizes one contract.

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 13A

Date: 04-04-13

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

EDUCATIONAL SERVICES - PROFESSIONAL SERVICES REPORT

Contract Effective	Consultant/ Vendor	Description of Services	<u>School/</u> Department	Fee Not to Exceed
<u>Dates</u>			Budget	
04/05/13 until	Santomieri	Provide software programing services in order for San	General Fund	\$125.00
project	Systems	Dieguito Union High School District to exchange data with the		per hour
completion		San Diego County Foster Youth and Homeless Education		
		Services Foster Youth – Student Information System (FYSIS)		

ITEM 14C

San Dieguito Union High School District INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 21, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Chuck Adams, Director of Special Education

Rick Schmitt, Deputy Superintendent

SUBMITTED BY: Ken Noah

Superintendent

SUBJECT: APPROVAL OF PARENT SETTLEMENT

AGREEMENT

EXECUTIVE SUMMARY

The attached Special Education Agreements report summarizes one Parent Settlement Agreement.

RECOMMENDATION:

The administration recommends that the Board approve and/or ratify the settlement as shown on the attached Special Education Agreements report.

FUNDING SOURCE:

As noted on the attached report.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT BOARD MEETING

ITEM 14C

DATE: 04-04-13

SPECIAL EDUCATION AGREEMENTS

Student SSID No.	<u>Description of Services</u>	Date Executed	School/Department Budget	<u>Amount</u>
2069067475	Parent Settlement Agreement	3-19-13	General Fund Special Education 06-00	\$5,500.00

San Dieguito Union High School District INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 28, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Christina M. Bennett, Director of Purchasing/Risk Mgt

Eric R. Dill, Associate Superintendent/Business

SUBMITTED BY: Ken Noah

Superintendent

SUBJECT: APPROVAL/RATIFICATION OF

PROFESSIONAL SERVICES CONTRACT/

BUSINESS

EXECUTIVE SUMMARY

The attached Professional Services Report/Business summarizes eight contracts.

Of note, four agreements pertain to architectural services. Two of the agreements are with Roesling Nakamura Terada Architects (RNT), and two are with MVEI. Both RNT and MVEI were two of the four architectural firms awarded a contract for master planning and preconstruction services by the Board at their March 17, 2011 board meeting. At that time, District Staff presented the results and recommendations from an architectural request for qualifications (RFQ) with this goal in mind. RNT and MVEI were two of the twenty-five (25) firms responding to that request. The services performed by both RNT and MVEI were outstanding and therefore it is staff's recommendation that the two firms continue to provide architectural services to the District. RNT will provide services for La Costa Canyon High School and Torrey Pines High School. MVEI will provide services for the La Costa Valley middle school site and San Dieguito Academy. The architectural services to be provided by the agreements are subject to the ongoing positive performance of the firms, a notice to proceed for each phase, and subject to the availability of funding.

Of note, three agreements pertain to construction management services. Two of the agreements are with Erickson-Hall Construction (Erickson-Hall), and one is with Balfour-Beatty Construction (Balfour-Beatty). Both Erickson-Hall and Balfour-Beatty were two of the five firms awarded a contract for preconstruction and cost estimating services by the Board at their June 16, 2011 board meeting. At that time, District Staff presented the results and recommendation from a RFQ for construction services with this goal in mind. Erickson-Hall and Balfour-Beatty were two of the ten (10) firms responding to that request. The services performed by both

Erickson-Hall and Balfour-Beatty were outstanding and therefore it is staff's recommendation that the two firms continue to provide construction services to the District. Erickson-Hall will provide services for Diegueño Middle School and Oak Crest Middle School. Balfour-Beatty will provide services for Canyon Crest Academy and San Dieguito Academy. The construction services to be provided by the agreements are for the first phase at each school. Future phases will be contracted subject to the ongoing positive performance of the firms and the availability of funding.

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 report.

Date: 04-04-13

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

BUSINESS - PROFESSIONAL SERVICES REPORT

Contract Effective Dates	Contractor/ Vendor	Description of Services	School/ Department Budget	Fee Not to Exceed
04/05/13 through project completion	Geocon, Inc.	Provide geotechnical investigation, testing and reporting services for Torrey Pines High School's four proposed new light poles at the track field stadium	Mello-Roos Funds as well as subject to the availability of Proposition AA GO Bond Funds	\$6,800.00
04/05/13 through completion of three phases	Roesling Nakamura Terada Architects, Inc.	Provide architectural and engineering services at La Costa Canyon High School	Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds	\$1,856,686.47
04/05/13 through completion of three phases	Roesling Nakamura Terada Architects, Inc.	Provide architectural and engineering services at Torrey Pines High School	Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds	\$4,430,736.00
04/05/13 through completion of three phases	MVEI	Provide architectural and engineering services at San Dieguito Academy	Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds	\$3,436,280.00
04/05/13 through completion of three phases	MVEI	Provide architectural and engineering services at the La Costa Valley middle school site	Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds	\$759,800.00

04/05/13 through project completion	Erickson-Hall Construction	Provide construction management services for the HVAC maintenance project phase at Diegueño Middle School	Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds	\$107,026.00 plus expenses
04/05/13 through project completion	Erickson-Hall Construction	Provide construction management services for the HVAC maintenance project phase at Oak Crest Middle School	Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds	\$98,721.00 plus expenses
04/05/13 through project completion	Balfour Beatty Construction LLC	Provide construction management services for the Canyon Crest Academy and San Dieguito Academy fields projects phase	Capital Facilities Fund 25-19, Mello-Roos Funds, and Proposition AA GO Bond Funds	\$440,015.00 plus expense

ITEM 15B

San Dieguito Union High School District INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 28, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Christina M. Bennett, Director of Purchasing/Risk Mgt

Eric R. Dill, Associate Superintendent/Business

SUBMITTED BY: Ken Noah

Superintendent

SUBJECT: APPROVAL/RATIFICATION OF

AMENDMENTS TO AGREEMENTS

EXECUTIVE SUMMARY

The attached Amendment to Agreements Report summarizes three amendments to agreements.

RECOMMENDATION:

The administration recommends that the Board approve and/or ratify the amendment to agreements, as shown in the attached Amendment Report.

FUNDING SOURCE:

As noted on attached list

ITEM 15B

Date: 04-04-13

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

BUSINESS SERVICES - AMENDMENT TO AGREEMENTS REPORT

Contract Effective Dates	<u>Contractor/</u> <u>Vendor</u>	Description of Services	<u>School/</u> <u>Department</u> <u>Budget</u>	Fee Not to Exceed
04/01/13 – 03/31/14	La Costa Valley Homeowners Association	Extending the license to use facilities for school bus off- loading and loading of students for access to the pedestrian bridge for an additional one-year period	General Fund 03-00	\$100.00
NA	Siemens Industry, Inc.	To begin work on phase I of the mechanical, operational, and energy efficiency related improvements at La Costa Canyon High School, Oak Crest Middle School, and Diegueno Middle School	Capital Facilities Fund 25-19, Mello- Roos Bond Funds, and Proposition AA Bond Funds	\$4,347,770.00
NA	URS Corporation	To add the Phase I Environmental Site Assessment (ESA) and Phase II supplemental sampling and analysis at the proposed new middle school site at Pacific Highlands Ranch	Capital Facilities Fund 25-19, Mello- Roos Bond Funds, and Proposition AA Bond Funds	\$18,420.00

ITEM 15F

San Dieguito Union High School District INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 25, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Eric R. Dill

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:

- 1. Purchase Orders
- 2. Membership Listing (None Submitted)

RECOMMENDATION:

It is recommended that the Board approve the following business reports: 1) Purchase Orders, and 2) Membership Listings (None Submitted).

FUNDING SOURCE:

Not applicable

SAN DIEGUITO UNION HIGH FROM 03/12/13 THRU 03/25/13

ITEM 15F

			FROM 03/12/13 THRU	J 03,	/25/13	IIEW ISF
PO NBR	DATE	FUND	VENDOR	LOC	DESCRIPTION	AMOUNT
232067	03/12/13	03	COSTCO CARLSBAD	003	MATERIALS AND SUPPLI	\$215.78
	03/12/13	03	AMAZON.COM		MATERIALS AND SUPPLI	\$790.56
	03/12/13	03	NEW MANAGEMENT, INC.		MATERIALS AND SUPPLI	\$4,218.00
	03/12/13	03	· ·		MATERIALS AND SUPPLI	\$233.51
	03/12/13	03			PROF/CONSULT./OPER E	\$520.00
	03/12/13	03			MATERIALS AND SUPPLI	\$475.15
	03/12/13	03	MACGILL DISCOUNT SCH			\$73.16
	03/12/13	06	SCHOOL OUTFITTERS		MATERIALS AND SUPPLI	\$95.14
	03/12/13	03	B&H PHOTO-VIDEO-PRO		MATERIALS AND SUPPLI	\$113.40
	03/12/13	03	STAPLES ADVANTAGE		MATERIALS AND SUPPLI	\$268.12
	03/12/13	06	STAPLES ADVANTAGE		MATERIALS AND SUPPLI	\$80.81
	03/12/13	03			REPAIRS BY VENDORS	\$94.45
	03/13/13	03	SOUTHWEST SCHOOL/OFF		MATERIALS AND SUPPLI	\$35.61
	03/13/13	03	AMAZON.COM		MATERIALS AND SUPPLI	\$20.06
	03/13/13	11	AUGUSOFT, INC.		OTHER SERV.& OPER.EX	\$7,000.00
	03/13/13	21-09	STAPLES ADVANTAGE		NON CAPITALIZED EQUI	\$3,289.06
232083	03/13/13	03	FLINN SCIENTIFIC INC		MATERIALS AND SUPPLI	\$851.47
	03/13/13	03	SMART AND FINAL CORP		MATERIALS AND SUPPLI	\$10.78
	03/13/13	0.3			MATERIALS AND SUPPLI	\$1,457.97
	03/13/13	06	WEISER, DAVID		PROJ WORKBILITY STIP	\$1,440.00
	03/13/13	03	STAPLES ADVANTAGE		MATERIALS AND SUPPLI	\$88.08
232088	03/13/13	03	STAPLES ADVANTAGE		MATERIALS AND SUPPLI	\$158.33
	03/13/13	03	RUBIO'S	014	REFRESHMENTS	\$120.00
	03/14/13	03	ONE STOP TONER AND I		MATERIALS AND SUPPLI	\$371.48
232091	03/14/13	03	RASIX COMPUTER CENTE	035	MATERIALS AND SUPPLI	\$339.75
232092	03/14/13	06	ONE STOP TONER AND I	030	MATERIALS AND SUPPLI	\$63.68
232093	03/14/13	03	SEHI-PROCOMP COMPUTE	035	NON-CAPITALIZED TECH	\$6,037.20
232094	03/14/13	03	RASIX COMPUTER CENTE	008	MATERIALS AND SUPPLI	\$275.08
232095	03/14/13	03	RASIX COMPUTER CENTE	008	MATERIALS AND SUPPLI	\$92.18
232096	03/15/13	06	PACIFIC SALES	030	MATERIALS AND SUPPLI	\$517.32
232097	03/15/13	06	ROYAL BUSINESS GROUP	028	OFFICE SUPPLIES	\$17.82
232098	03/15/13	03	SOUTHWEST SCHOOL/OFF	012	AERIES SUPPLIES	\$457.65
232099	03/15/13	03	STAPLES ADVANTAGE	012	MATERIALS AND SUPPLI	\$26.42
232100	03/15/13	03	STAPLES ADVANTAGE	012	MATERIALS AND SUPPLI	\$412.10
232101	03/15/13	03	TROXELL COMMUNICATIO	014	MATERIALS AND SUPPLI	\$563.76
232102	03/15/13	03	AREY JONES EDUCATION	035	NON-CAPITALIZED TECH	\$542.48
232103	03/15/13	03	AMAZON.COM	012	MATERIALS AND SUPPLI	\$107.99
	03/15/13	06	MISSION FEDERAL CRED	040	MATERIALS AND SUPPLI	\$10,262.00
	03/15/13	03		012	MATERIALS AND SUPPLI	\$86.38
			PROCURETECH		MATERIALS AND SUPPLI	\$49.18
			CULVER NEWLIN INC		MATERIALS AND SUPPLI	\$4,626.72
			CULVER NEWLIN INC		NON CAPITALIZED EQUI	\$7,058.24
	03/18/13	06	OCEANSIDE TRANSMISSI			\$91.86
	03/18/13	03	SAN DIEGUITO UHSD CA			\$81.00
	03/18/13	03	WESTERN ASSOCIATION		MATERIALS AND SUPPLI	\$356.40
	03/18/13	06	OAK GROVE INSTITUTE		SUB/ROOM & BOARD	\$85,382.88
	03/18/13	03			MATERIALS AND SUPPLI	\$24.83
	03/18/13	03	AMAZON.COM		MATERIALS AND SUPPLI	\$214.55
	03/18/13	03			NON-CAPITALIZED TECH	\$345.51
			AMAZON.COM		NON CAPITALIZED EQUI	\$641.12
	03/18/13	03			MATERIALS AND SUPPLI	\$535.84
	03/18/13	03			MATERIALS AND SUPPLI	\$257.02
	03/18/13	03	PERMA BOUND		MATERIALS AND SUPPLI	\$514.94
	03/18/13	03			MATERIALS AND SUPPLI	\$206.89
232122	03/18/13	06	ONE STOP TONER AND I	030	MATERIALS AND SUPPLI	\$48.59

SAN DIEGUITO UNION HIGH

FROM 03/12/13 THRU 03/25/13

VENDOR LOC DESC ITEM 15F TIMOTINIT

PO NBR	DATE	FUND	VENDOR	LOC	DESCRIPTION	AMOUNT
232123	03/18/13	06	MOBILITY SOLUTIONS	030	MATERIALS AND SUPPLI	\$46.60
	03/19/13		PAR, INC.		MATERIALS AND SUPPLI	\$491.84
	03/19/13	03	MISSION FEDERAL CRED			\$63.71
	03/19/13	03			NON-CAPITALIZED TECH	\$4,631.30
	03/19/13	03			MATERIALS AND SUPPLI	\$792.60
	03/19/13	03	STAPLES ADVANTAGE		MATERIALS AND SUPPLI	\$71.40
232130	03/19/13	21-09	QUALITY FLOORS BY GE		NON-CAPITALIZED IMPR	\$475.00
232131	03/19/13	03	WOODWIND & BRASSWIND	004	MATERIALS AND SUPPLI	\$107.95
232132	03/19/13	03	TROXELL COMMUNICATIO	013	MATERIALS AND SUPPLI	\$2,429.95
232133	03/19/13	03	WOODWIND & BRASSWIND	013	MATERIALS AND SUPPLI	\$156.37
232134	03/19/13	13	MAINLAND VENTURES	031	PURCHASES FOOD	\$67.15
232135	03/19/13	03	LANGFORD, MICHAEL	013	OTHER SERV.& OPER.EX	\$300.00
232136	03/19/13	03	RASIX COMPUTER CENTE	004	MATERIALS AND SUPPLI	\$56.48
232137	03/19/13	0.3	GOPHER SPORT	014	MATERIALS AND SUPPLI	\$1,223.21
232138	03/19/13	03	RASIX COMPUTER CENTE	003	MATERIALS AND SUPPLI	\$361.48
232139	03/19/13	03	WARD'S NATURAL SCIEN	003	MATERIALS AND SUPPLI	\$76.22
232140	03/19/13	03	AMAZON.COM	023	MATERIALS AND SUPPLI	\$102.58
232141	03/19/13	21-09	CULVER NEWLIN INC	035	NON CAPITALIZED EQUI	\$3,120.84
232142	03/19/13	21-09	AMAZON.COM	035	MATERIALS AND SUPPLI	\$30.23
232143	03/19/13	03	COLLEGE BOARD	014	MATERIALS AND SUPPLI	\$18,872.00
232144	03/19/13	06	ONE STOP TONER AND I	030	MATERIALS AND SUPPLI	\$48.59
232145	03/20/13	06	ESCONDIDO METAL SUPP	013	MATERIALS AND SUPPLI	\$150.00
232146	03/20/13	06	HOME DEPOT	013	MATERIALS AND SUPPLI	\$40.00
232147	03/20/13	06	T E R I INC	030	OTHER CONTR-N.P.S.	\$27,731.18
232148	03/20/13	06	MISSION FEDERAL CRED	013	MATERIALS AND SUPPLI	\$18.26
232149	03/20/13	06	MCMASTER-CARR SUPPLY	013	MATERIALS AND SUPPLI	\$140.04
232150	03/20/13	06	PROVO CANYON SCHOOL	030	OTHER CONTR-N.P.S.	\$87,219.00
232151	03/20/13	06	MISSION FEDERAL CRED	013	MATERIALS AND SUPPLI	\$205.66
232152	03/20/13	06	AMAZON.COM	013	MATERIALS AND SUPPLI	\$56.58
232153	03/20/13	06	GO KART GALAXY	013	MATERIALS AND SUPPLI	\$272.96
232154	03/21/13	21-09	AREY JONES EDUCATION	025	NON-CAPITALIZED TECH	\$1,492.45
232155	03/21/13	03	POWER SYSTEMS INC	014	MATERIALS AND SUPPLI	\$624.53
232156	03/21/13	03		014	MATERIALS AND SUPPLI	\$75.59
232157	03/21/13	03	NEWMIND GROUP, INC.	035	MATERIALS AND SUPPLI	\$2,790.00
	03/21/13	03	NEWMIND GROUP, INC.	035	MATERIALS AND SUPPLI	\$8,370.00
232159	03/21/13	06	APPLE COMPUTER INC	030	MATERIALS AND SUPPLI	\$433.92
232160	03/21/13	03	MOORE MEDICAL, LLC	003	MEDICAL SUPPLIES	\$33.20
232161	03/21/13	03	B&H PHOTO-VIDEO-PRO	014	NON CAPITALIZED EQUI	
	03/21/13	06	ONE STOP TONER AND I	028	OFFICE SUPPLIES	\$164.11
	03/21/13	03	JONES SCHOOL SUPPLY	005	MATERIALS AND SUPPLI	\$2,768.50
	03/21/13	06	MAYER JOHNSON COMPAN		MATERIALS AND SUPPLI	\$35.79
	03/22/13	06	CAREER KIDS, LLC		MATERIALS AND SUPPLI	\$412.51
	03/22/13	03	STAPLES STORES		MATERIALS AND SUPPLI	\$648.00
	03/22/13	06			MATERIALS AND SUPPLI	\$149.31
	03/22/13	06	PEARSON & AGS ASSESS		MATERIALS AND SUPPLI	\$402.97
232169	03/22/13	03	AMAZON.COM		MATERIALS AND SUPPLI	\$17.36
232170	03/22/13	06			MATERIALS AND SUPPLI	\$103.14
	03/22/13	03			MATERIALS AND SUPPLI	\$1,994.40
232172	03/22/13	03	RASIX COMPUTER CENTE	014	MATERIALS AND SUPPLI	\$103.14
	03/22/13	03	AMAZON.COM		MATERIALS AND SUPPLI	\$229.33
	03/22/13	03/06			MATERIALS AND SUPPLI	\$569.35
	03/22/13	03			MATERIALS AND SUPPLI	
	03/22/13	03	RASIX COMPUTER CENTE		MATERIALS AND SUPPLI	
	03/25/13	06	PULDE, DANA		OTHER SERV.& OPER.EX	\$650.00
232179	03/25/13	03	I S U INS SERVICES O	037	OTHER INSURANCE	\$250.00

10/2011	10/1122011					
SAN DIEGUITO UNION HIGH FROM 03/12/13 THRU 03/25/13					ITEM 15F	
	DATE		VENDOR	LOC	DESCRIPTION	AMOUNT
232180	03/25/13	03	US AIR CONDITIONING	025	BLDGREPAIR MATERIA	\$2,439.50
232181	03/25/13	03	BARNES & NOBLE BOOKS	035	MATERIALS AND SUPPLI	\$80.00
232182	03/25/13	06	UNITED HEALTH SUPPLI	030	MATERIALS AND SUPPLI	\$32.36
232183	03/25/13	03	SCHOOL SPECIALTY, IN	003	MATERIALS AND SUPPLI	\$66.46
232184	03/25/13	03	SEHI-PROCOMP COMPUTE	035	MATERIALS AND SUPPLI	\$281.97
232185	03/25/13	03	FRONTIER FENCE COMPA	025	REPAIRS BY VENDORS	\$570.00
232186	03/25/13	03	FERGUSON ENTERPRISES	025	EQUIPMENT REPLACEMEN	\$1,813.80
232187	03/25/13	03	SUBMAN	024	REFRESHMENTS	\$125.28
232188	03/25/13	03	AMAZON.COM	021	MATERIALS AND SUPPLI	\$75.59
730029	03/19/13	03	FERGUSON ENTERPRISES	025	NON CAPITALIZED EQUI	\$1,329.90
730030	03/19/13	03	CED	025	NON CAPITALIZED EQUI	\$864.45
830054	03/18/13	06	UNIVERSITY OF DALLAS	022	TRAVEL AND CONFERENC	\$750.00
830055	03/15/13	03	CSBA	022	CONFERENCE, WORKSHOP,	\$45.00
830056	03/21/13	06	WORKABILITY REGION 5	022	CONFERENCE, WORKSHOP,	\$170.00
					REPORT TOTAL	\$323,530.38

ITEM 15F

Individual Membership Listings For the Period of March 12, 2013 through March 25, 2013

Staff Member

Organization Name

Amount

<u>Name</u>

None to report

San Dieguito Union High School District

INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 20, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Sue Koehnen

Director of Human Resources

SUBMITTED BY: Ken Noah, Superintendent

SUBJECT: LAYOFF CLASSIFIED EMPLOYEE/POSITIONS

FOR FISCAL YEAR 2013-2014

EXECUTIVE SUMMARY

Due to the current State budget projections, the District is forced to make budget reductions for the 2013-2014 school year. In addition to the budget reductions in certificated and management staffing, reductions in classified services are necessary. The attached resolution lists the positions to be eliminated.

The District has informed the California School Employees Association, (CSEA), of this situation and is in the process of negotiating impacts and effects of the resulting layoff.

The purpose of this recommended Board action is to initiate the process of deleting the identified positions and ensuring implementation of all layoff rights for the affected incumbent.

RECOMMENDATION:

It is recommended that the Board of Trustees approve and adopt the attached resolution.

BOARD OF TRUSTEES OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

Resolution Initiating Layoff and/or Reduction in Hours

On motion of Mem adopted:	ber,	seconded by Member	, the following reso	olution is		
WHEREAS, a reduction in the number of classified employees or the level of services to be provided thereby is required due to the lack of work and/or lack of funds within the District anticipated for the 2013-2014 school year; and						
WHEREAS, applicable provisions of the Education Code, the Master Agreement between the Board of Trustees and the California School Employees Association and its Chapter 241, and the rules and regulations of the Personnel Commission of the San Dieguito Union High School District require notice to the employees that they may be laid off or reduced in assignment, as well as notification of their rights of displacement, if any, and reemployment rights; and						
WHEREAS, the Bo reductions in assignment co			intendent implement the layoff	s and/or		
NOW, THEREFORE, BE IT RESOLVED that this Board hereby initiates the layoffs and/or reductions in assignment of the following positions and the corresponding employees effective at the end of the day on the dates indicated below:						
ITEMS 1 – 2 EFFECTIVE J	lune 30, 2013					
ITEM 1 03 School Bus Driver, as	follows					
01 position eliminated 02 positions eliminated	0.9700 FTE	ST+5 months ST+5 months	no employee no employees			
ITEM 2 01 Lead Grounds Worker	as follows:					
01 position eliminated	1.0000 FTE	12 months	01 employee			
BE IT FURTHER RESOLVED that the Superintendent determine the order of layoff pursuant to Education Code Section 45308, and give all appropriate notices to affected employees pursuant to the applicable provisions of the Education Code, the Master Agreement between the Board of Trustees and the California School Employees Association and its Chapter 241, and the rules and regulations of the Personnel Commission of the San Dieguito Union High School District.						
PASSED AND ADOPTED by the Board of Trustees of the San Dieguito Union High School District of San Diego County, California on the 4^{th} day of April, 2013 by the following vote:						
Ayes:						
Noes:						
Absent:						
Abstain:						

San Dieguito Union High School District

INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 20, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Torrie Norton

Associate Superintendent/Human Resources

SUBMITTED BY: Ken Noah

Superintendent

SUBJECT: RESOLUTION ADOPTIONS (2) / TEACHING

ASSIGNMENTS OUTSIDE CREDENTIAL

AUTHORIZATION PER

EDUCATION CODES §44263 & §44865

EXECUTIVE SUMMARY

Attached are two resolutions for adoption.

The first is for Dexter Harvey, a Teacher at Torrey Pines High School. He holds a Single Subject teaching credential in History, but his current assignment is teaching American Government. He has years of experience teaching American Government.

Ed Code §44263 allows a fully-credentialed teacher, with consent, to teach a departmentalized class outside his credential subject area, provided he has completed 9 upper division semester units in the subject to be taught. Mr. Harvey has completed 10 upper division semester units. Board approval is required for Mr. Harvey's assignment.

The second resolution is for five (5) teachers who hold valid credentials but are teaching out of their credentialed area at Sunset Continuation High School. These teachers do have the special skills and/or coursework necessary to allow them to teach outside their credentialed area and have consented to teach these courses. However, for these teachers to continue teaching in their assignments for the 2012-13 school year, it is necessary that the Board of Trustees approve a resolution authorizing them to teach a course not authorized on their credential at a continuation high school pursuant to EC §44865.

Sunset Continuation High School

EC 44865 Carol Anschuetz US History, American Government, ASB

EC 44865 Michele Brown Cuisine
EC 44865 Emily Clark Psychology

Page 2

EC 44865 James Fritts Child Development, Earth/Space

EC 44865 Michelle Horsley Drawing

RECOMMENDATION:

It is recommended that the Board of Trustees approve the attached Board Resolutions.

FUNDING SOURCE:

Not Applicable.

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT **RESOLUTION, 2013**

TEACHING ASSIGNMENTS OUTSIDE CREDENTIAL AUTHORIZATION PER EC §44263

- WHEREAS, There is currently one (1) teacher who does not have the specific credential to teach classes assigned to him; and
- WHEREAS, The following teacher does not hold credentials in the subject areas listed, but they do have the coursework necessary to allow him to teach outside his credential area, with his consent, pursuant to EC §44263 and with Board approval; and
- NOW, THEREFORE, LET IT BE RESOLVED that the following named teacher be authorized to

	ach courses outside his strict for the 2012-13 sch		he San Dieguito Union	High Schoo
Torrey Pines	High School			
EC 44263	Dexter Harvey	America	n Government	
	i NED AND APROVED, b	y the San Dieguito	Union High School Dist	rict Board o
Ayes	Noes	Abstain	Absent	
Darbara Crath	Doord Dropidont			
Barbara Grotn,	Board President			
Beth Hergeshe	imer, Board Clerk	 Date		

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT RESOLUTION, 2013

TEACHING ASSIGNMENTS OUTSIDE CREDENTIAL AUTHORIZATION PER EC §44865

- **WHEREAS,** There are currently five (5) teachers who do not have the specific credential to teach classes assigned to them at a continuation high school; and
- WHEREAS, The following teachers do not hold credentials in the subject areas listed, but they do have the special skills and/or coursework necessary to allow them to teach outside their credential area at a continuation high school, with their consent, pursuant to EC §44865 and with Board approval; and
- **NOW, THEREFORE, LET IT BE RESOLVED** that the following named teachers be authorized to teach courses outside their credential at a continuation high school within the San Dieguito Union High School District for the 2012-13 school year.

Sunset Continuation High School

Beth Hergesheimer, Board Clerk

EC 44865	Carol Anschuetz	US History, American Government, ASB
EC 44865	Michele Brown	Cuisine
EC 44865	Emily Clark	Psychology
EC 44865	James Fritts	Child Development, Earth/Space
EC 44865	Michelle Horsley	Drawing
	NED AND APROVED, by the Day of April, 2013.	the San Dieguito Union High School District Board of
Ayes	Noes	Abstain Absent
Barbara Groth,	Board President	
		<u> </u>
B 11 11 1 1	D 161 1	

Date

San Dieguito Union High School District

INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 21, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Delores Perley, Director of Finance

Eric Dill, Assoc. Superintendent, Business

SUBMITTED BY: Ken Noah

Superintendent

SUBJECT: ADOPT RESOLUTION FOR TAX & REVENUE

ANTICIPATION NOTES (TRANs) FOR FISCAL

YEAR 2013-14

EXECUTIVE SUMMARY

BACKGROUND:

Tax and Revenue Anticipation Notes (TRANs) are short-term debt instruments issued by school districts to eliminate cash flow deficiencies, which result from fluctuations in revenue receipts and expenditure disbursements. Generally, TRANs are issued for 12 months and repaid out of revenues of the fiscal year in which the borrowing occurs. The TRANs will be issued through a pooled financing program of school districts located in San Diego County. The San Diego County Office of Education and the County of San Diego organize the pooled program.

CURRENT CONSIDERATION:

The purpose of the temporary borrowing is to increase available cash resources, which provide operating funds to cover cash shortfalls. Cash shortfalls arise because monthly cash receipts fluctuate throughout the year while monthly expenses are relatively constant. The borrowing may also provide an additional source of revenue because the cost of borrowing is less than reinvestment income, producing a net gain to the District. This has occurred in recent years, however, weak market conditions are reducing the reinvestment spreads at the current time.

The attached resolution authorizes the issuance by the District of TRANs in an amount not to exceed \$25,000,000. This amount was increased by \$5,000,000 for the 2012-13 TRANs, no change was made for 2013-14. As we deplete the District's reserve amounts, the anticipated amount to cover cash flow deficiencies, has increased. In 2012-13 the amount borrowed was \$18,225,000. Although we estimate the need to borrow more in 2013-14, we do not expect to use the full amount; rather, we are stating this sum while we

work through our 13-14 cash flow projections and also as a precaution in the event of further unforeseen actions by the state or volatility in our property tax revenue which could affect our cash flow in the next fiscal year.

The resolution authorizes various financing documentation, including a Purchase Contract, Trust Agreement, Credit Agreement, Preliminary Official Statement and Financial Advisory Agreement, which will be on file in the District Office. The Credit Agreement will be entered into with a highly rated financial institution only if the use of credit enhancement provides an economic benefit to the District, based upon the advice of the District's financial advisor. The resolution authorizes the Superintendent, the Associate Superintendent of Business Services, or the Director of Purchasing and Risk Management to sign financing documentation in connection with the issuance of the TRANs. The resolution also appoints the law firm of Orrick, Herrington, & Sutcliffe as bond counsel to the District. Orrick is a national law firm, which specializes in municipal bond law. Government Financial Strategies is the financial advisory firm assisting the District with the TRANs.

RECOMMENDATION:

It is recommended that the Board adopt the attached resolution for Tax and Revenue Anticipation Notes for fiscal year 2013-14.

FUNDING SOURCE: General Fund / Unrestricted (03-00)

RESOLUTION NO. ____

RESOLUTION OF SAN DIEGUITO UNION HIGH SCHOOL DISTRICT AUTHORIZING THE BORROWING OF FUNDS FOR FISCAL YEAR 2013-2014 AND THE ISSUANCE AND SALE OF ONE OR MORE SERIES OF 2013 TAX AND REVENUE ANTICIPATION NOTES THEREFOR IN AN AMOUNT NOT TO EXCEED \$25,000,000 AND PARTICIPATION IN THE SAN DIEGO COUNTY AND SCHOOL DISTRICT TAX AND REVENUE ANTICIPATION NOTE PROGRAM AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY TO ISSUE AND SELL SAID NOTES

WHEREAS, school districts and the County of San Diego (the "County") are authorized by Sections 53850 to 53858, both inclusive, of the Government Code of the State of California (the "Act") (being Article 7.6, Chapter 4, Part 1, Division 2, Title 5 of the Government Code) to borrow money by the issuance of temporary notes;

WHEREAS, the legislative body (the "Board") of the school district specified in Section 22 hereof (the "District") has determined that an amount not to exceed the maximum amount of borrowing specified in Section 22 hereof (the "Principal Amount") is needed for the requirements of the District, a political subdivision situated in the County, for any of the purposes of the District, as authorized by the Act, and that it is necessary that said Principal Amount be borrowed for such purpose at this time by the issuance of one or more series of notes therefor in anticipation of the receipt of taxes, income, revenue, cash receipts and other moneys to be received, accrued or held by the District and provided for or attributable to its fiscal year ending June 30, 2014 (the "Repayment Fiscal Year");

WHEREAS, the District hereby determines to borrow, for the purposes set forth above, the Principal Amount by the issuance of one or more series of its 2013 Tax and Revenue Anticipation Notes, with an appropriate series designation if more than one note is issued (collectively, the "Note");

WHEREAS, to the extent required by law, the District requests the Board of Supervisors of the County to borrow, on the District's behalf, the Principal Amount by the issuance of the Note;

WHEREAS, it appears, and this Board hereby finds and determines, that the Principal Amount, when added to the interest payable thereon, does not exceed 85% of the estimated amount of the uncollected taxes, income, revenue (including, but not limited to, revenue from the state and federal governments), cash receipts and other moneys of the District provided for or attributable to the Repayment Fiscal Year, and available for the payment of the principal of the Note and the interest thereon which, at the time of receipt are not restricted to other purposes, except to the extent such other purposes have been funded from Note proceeds (exclusive of any moneys required to be used to repay a treasurer's loan as described in Section 17 hereof);

WHEREAS, no money has heretofore been borrowed by or on behalf of the District through the issuance of tax and revenue anticipation notes or temporary notes in anticipation of the receipt of, or payable from or secured by, taxes, income, revenue, cash receipts or other moneys for the Repayment Fiscal Year;

WHEREAS, pursuant to Section 53856 of the Act, certain moneys which will be received or accrued by the District and provided for or attributable to the Repayment Fiscal Year can be pledged for the payment of the principal of the Note and the interest thereon (as hereinafter provided);

WHEREAS, the District has determined that it is in the best interests of the District to participate in the San Diego County and School District Tax and Revenue Anticipation Note Program (the "Program"), whereby participating school districts and the County (collectively, the "Issuers") will simultaneously issue tax and revenue anticipation notes, which will be marketed together with some or all of the notes issued by other school districts and the County participating in the Program upon the determination by a District Officer at that time that participation in such Program is in the best financial interests of the District, or alternatively, the District may issue its note on a stand-alone basis, depending on market conditions;

WHEREAS, the financial advisor to the participating school districts (the "Financial Advisor") appointed in Section 21 hereof, together with the underwriter and such counderwriters, if any, identified in the Purchase Agreement hereinafter defined (the "Underwriter"), will structure one or more pools of notes (which may include a single note of one participating school district) or series of note participations (referred to herein as the "Note Participations," the "Series" and/or the "Series of Note Participations") distinguished by (i) whether and what type(s) of Credit Instrument (as hereinafter defined) secures Note Participations comprising each Series and (ii) possibly other features, all of which the District hereby authorizes the Financial Advisor to determine;

WHEREAS, the Program requires the Issuers participating in any particular Series to deposit their tax and revenue anticipation notes with a trustee, pursuant to a trust agreement (the "Trust Agreement") between such Issuers and the banking institution named therein as trustee (the "Trustee");

WHEREAS, the Trust Agreement provides, among other things, that for the benefit of owners of Note Participations, that the District shall provide notices of the occurrence of certain enumerated events, if deemed by the Districts to be material;

WHEREAS, the Program requires the Trustee, pursuant to the Trust Agreement, to execute and deliver the Note Participations evidencing and representing proportionate, undivided interests in the payments of principal of and interest on the tax and revenue anticipation notes issued by the Issuers comprising such Series;

WHEREAS, the District desires to have the Trustee execute and deliver a Series of Note Participations which evidence and represent interests of the owners thereof in its Note and the notes issued by other Issuers in such Series, if any; if the District Officer determines at the time of issuance of its Note that participation in such Program is in the best financial interests of the District:

WHEREAS, as additional security for the owners of the Note Participations, all or a portion of the payments by the District or by the other Issuers of their respective notes may or may not be secured either by an irrevocable letter (or letters) of credit or policy (or policies) of

insurance or other credit instrument (or instruments) (collectively, the "Credit Instrument") issued by the credit provider or credit providers designated in the Trust Agreement, as finally executed (collectively, the "Credit Provider"), which may be issued pursuant to a credit agreement or agreements or commitment letter or letters designated in the Trust Agreement (collectively, the "Credit Agreement") between the Issuers and the respective Credit Provider;

WHEREAS, the net proceeds of the Note may be invested under an investment agreement with an investment provider to be determined on behalf of the Issuers by the County Officer, as hereinafter defined, in the Pricing Confirmation set forth in Exhibit A to the Purchase Agreement hereinafter defined;

WHEREAS, the Program requires that each participating Issuer approve the Trust Agreement and the alternative Credit Instruments, if any, in substantially the forms presented to the Board, or, in the case of the Credit Instruments, if any, if not presented, in a form which complies with such requirements and standards as may be determined by the Board, with the final form and type of Credit Instrument and corresponding Credit Agreement, if any, determined upon execution by the County Officer, as hereinafter defined, of the Pricing Confirmation;

WHEREAS, pursuant to the Program, in the event that other Issuers participate with the District in a Series of notes sold into a pool, each participating Issuer will be responsible for its share of (a) the fees of the Trustee and the costs of issuing the applicable Series of Note Participations, and (b), if applicable, the fees of the Credit Provider, the Issuer's allocable share of all Predefault Obligations and the Issuer's Reimbursement Obligations, if any (each as defined in the Trust Agreement), and in the event that the Note is sold on a stand-alone basis, the District will be responsible for (a) the fees of the Trustee and the costs of issuing the applicable Series of Note Participations, and (b), if applicable, the fees of the Credit Provider, all Predefault Obligations and the Issuer's Reimbursement Obligations, if any;

WHEREAS, pursuant to the Program, the Note and the notes issued by other Issuers, if any, participating in the same Series (all as evidenced and represented by a Series of Note Participations) will be offered for sale through negotiation with the Underwriter or directly to a purchaser or purchasers under the terms of a placement or purchase agreement (the "Purchase Agreement") approved by an Authorized District Representative and the County Officer, as referred to in Section 4;

WHEREAS, the District has determined that it may be desirable to provide for the issuance of an additional parity note (the "Parity Note") during the Repayment Fiscal Year, the principal and interest on which are secured by Pledged Revenues, hereinafter defined, on a parity with the Note; and

WHEREAS, it is necessary to engage the services of certain professionals to assist the District in its participation in the Program;

NOW, THEREFORE, the Board hereby finds, determines, declares and resolves as follows:

Section 1. Recitals. All the above recitals are true and correct and this Board so finds and determines.

Section 2. Authorization of Issuance. This Board hereby determines to borrow, and, to the extent required by the Act, requests the Board of Supervisors of the County to borrow on behalf of the District, solely for the purpose of anticipating taxes, income, revenue, cash receipts and other moneys to be received, accrued or held by the District and provided for or attributable to the Repayment Fiscal Year, and not pursuant to any common plan of financing of the District, by the issuance by the Board of Supervisors of the County, in the name of the District, the Note, which may be issued in one or more series, in a combined amount not to exceed the Principal Amount under Sections 53850 et seq. of the Act, designated the District's "2013 Tax and Revenue Anticipation Note," with an appropriate series designation if more than one series is issued, to be issued in the form of fully registered notes, to be dated the date of delivery to the respective initial purchaser thereof, to mature (with or without option of prior redemption at the election of the District) not more than 15 months after each such delivery date on a date indicated on the face thereof and determined in the related Pricing Confirmation (as it pertains to each series, the "Maturity Date"), and to bear interest, payable on the respective Maturity Date, and, if such Maturity Date is more than 12 months from the date of issuance, the interim interest payment date set forth in the related Pricing Confirmation, and computed upon the basis of a 360-day year consisting of twelve 30-day months, at a rate or rates, if more than one Note is issued, not to exceed 12% per annum, as determined at the time of the sale of the respective Note (as it pertains to each series, the "Note Rate").

If the respective Note as evidenced and represented by the Series of Note Participations is secured in whole or in part by a Credit Instrument and is not paid at maturity or is paid (in whole or in part) by a draw under or claim upon a Credit Instrument which draw or claim is not fully reimbursed on such date, it shall become a Defaulted Note (as defined in the Trust Agreement), and the unpaid portion thereof (or the portion thereof with respect to which a Credit Instrument applies for which reimbursement on a draw or claim has not been fully made) shall be deemed outstanding and shall continue to bear interest thereafter until paid at the Default Rate (as defined in the Trust Agreement). If the respective Note as evidenced and represented by the Series of Note Participations is unsecured in whole or in part and is not fully paid at maturity, the unpaid portion thereof (or the portion thereof to which no Credit Instrument applies which is unpaid) shall be deemed outstanding and shall continue to bear interest thereafter until paid at the Default Rate. In each case set forth in the preceding two sentences, the obligation of the District with respect to such Defaulted Note or unpaid Note shall not be a debt or liability of the District prohibited by Article XVI, Section 18 of the California Constitution and the District shall not be liable thereon except to the extent of any available revenues provided for or attributable to the Repayment Fiscal Year, as provided in Section 8 hereof. The percentage of the respective Note as evidenced and represented by the Series of Note Participations to which a Credit Instrument, if any, applies (the "Secured Percentage") shall be equal to the amount of the Credit Instrument divided by the aggregate amount of unpaid principal of and interest on notes (or portions thereof) of all Issuers of notes comprising such Series of Note Participations, expressed as a percentage (but not greater than 100%) as of the maturity date. Both the principal of and interest on the Note shall be payable in lawful money of the United States of America.

Each Note may be issued in conjunction with the note or notes of one or more other Issuers, if any, as part of the Program and within the meaning of Section 53853 of the Act, upon the determination of the District Officer at the time of issuance of the Note that participation in such Program is in the best financial interests of the District.

Section 3. Form of Note. The Note shall be issued in fully registered form without coupons and shall be substantially in the form and substance set forth in Exhibit A, as attached hereto and by reference incorporated herein, the blanks in said form to be filled in with appropriate words and figures to be inserted or determined at closing.

Section 4. Sale of Note; Delegation. The Note as evidenced and represented by the Note Participations may be sold to the Underwriter pursuant to the terms and provisions of the Purchase Agreement. The form of the Purchase Agreement, including the form of the Pricing Confirmation set forth as Exhibit A thereto, presented to this meeting is hereby approved; provided, however, in the event one or more Authorized District Representatives identified in Section 22 hereof decides it is in the best interest of the District to sell the Note pursuant to a private placement, an Authorized District Representative may approve a different form of one or more Purchase Agreements and/or Pricing Confirmation. The Chief Financial Officer, or in the absence of such officer, his or her assistant, the County Treasurer-Tax Collector, or, in the absence of such officer, his or her assistant and the Debt Finance Manager (each a "County Officer") are each hereby individually authorized and directed to execute and deliver the Purchase Agreement by executing and delivering the Pricing Confirmation, each in substantially said form, with such changes thereto as such County Officer executing the same shall approve, such approval to be conclusively evidenced by his or her execution and delivery thereof; provided, however, that the Note Rate shall not exceed 12% per annum, and that the District's pro rata share of Underwriter's discount on the Note, when added to the District's share of the costs of issuance of the Note Participations, shall not exceed 1.0% of the amount of the Note; provided further, that there shall be no Underwriter's discount in the event of a private placement of the Series of Note Participations, but such private placement will be subject to a placement fee to be approved by an Authorized District Representative. Delivery of an executed copy of the Pricing Confirmation by fax or telecopy shall be deemed effective execution and delivery for all purposes.

Section 5. <u>Program Approval</u>. The Note may be combined with notes of other Issuers, if any, into a Series as set forth in the Preliminary Official Statement, hereinafter mentioned, and shall be sold simultaneously with such other notes of that Series supported by the Credit Instrument (if any) referred to in the Pricing Confirmation, and shall be evidenced and represented by the Note Participations which shall evidence and represent proportionate, undivided interests in the in the proportion that the face amount of the Note which the Series of Note Participations represents bears to the total aggregate face amount of such respective Note and the notes issued by other Issuers which the Series of Note Participations represent. Such Note Participations may be delivered in book-entry form.

The forms of Trust Agreement and alternative general types and forms of Credit Agreements, if any, presented to this meeting or otherwise to the Board, are hereby approved, and the President or Chairperson of the Board of the District, the Superintendent, the Assistant Superintendent for Business, the Business Manager or Chief Financial Officer of the District, as

the case may be, or, in the absence of any such officer, his or her assistant (each a "District Officer") is hereby authorized and directed to execute and deliver the Trust Agreement and a Credit Agreement, if applicable, which shall be identified in the Pricing Confirmation, in substantially one or more of said forms (a substantially final form of Credit Agreement to be delivered to the District Officer following execution by the County Officer of the Pricing Confirmation), with such changes therein as said officer shall require or approve, such approval of this Board and such officer to be conclusively evidenced by the execution of the Trust Agreement and the Credit Agreement, if any. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement. The District Officer is hereby authorized and directed to comply with and carry out all of the provisions of the Trust Agreement with respect to continuing disclosure; provided however, that failure of the District to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default hereunder. Any Credit Agreement identified in the Pricing Confirmation but not at this time before the Board shall include reasonable and customary terms and provisions relating to fees, increased costs of the Credit Provider, if any, payable by the District, negative and affirmation covenants of the District and events of default. The proposed form of preliminary offering document, which may be a preliminary official statement, preliminary private offering memorandum or preliminary limited offering memorandum (the "Preliminary Official Statement") relating to the Series of Note Participations, in substantially the form presented to this meeting or otherwise to the Board, is hereby approved with such changes, additions, completion and corrections as any Authorized District Representative may approve, and the Underwriter is hereby authorized and directed to cause to be mailed to prospective bidders the Preliminary Official Statement in connection with the offering and sale of the Series of Note Participations. Such Preliminary Official Statement, together with any supplements thereto, shall be in form "deemed final" by the District for purposes of Rule 15c2-12, promulgated by the Securities and Exchange Commission (the "Rule"), unless otherwise exempt, but is subject to revision, amendment and completion in a final official statement, private offering memorandum or limited offering memorandum (the "Official Statement"). The Official Statement in substantially said form is hereby authorized and approved, with such changes therein as any Authorized District Representative may approve. The Authorized District Representative is hereby authorized and directed, at or after the time of the sale of any Series of Note Participations, for and in the name and on behalf of the District, to execute a final Official Statement in substantially the form of the Preliminary Official Statement presented to this meeting, with such additions thereto or changes therein as the Authorized District Representative may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

The District Officer is hereby authorized and directed to provide the Financial Advisor and the Underwriter with such information relating to the District as they shall reasonably request for inclusion in the Preliminary Official Statement. Upon inclusion of the information relating to the District therein, the Preliminary Official Statement is, except for certain omissions permitted by the Rule, hereby deemed final within the meaning of the Rule; provided that no representation is made as to the information contained in the Preliminary Official Statement relating to the other Issuers, if any, or any Credit Provider. If, at any time prior to the execution of the Pricing Confirmation, any event occurs as a result of which the information contained in the Preliminary Official Statement relating to the District might include an untrue statement of a material fact or omit to state any material fact necessary to make the

statements therein, in light of the circumstances under which they were made, not misleading, the District shall promptly notify the Financial Advisor and the Underwriter.

The Trustee is authorized and directed to execute Note Participations on behalf of the District pursuant to the terms and conditions set forth in the Trust Agreement, in the aggregate principal amount specified in the Trust Agreement, and substantially in the form and otherwise containing the provisions set forth in the form of the Note Participations contained in the Trust Agreement. When so executed, the Note Participations shall be delivered by the Trustee to the purchaser upon payment of the purchase price thereof, pursuant to the terms of the Trust Agreement.

Subject to Section 8 hereof, the District hereby agrees that if its Note as evidenced and represented by the Series of Note Participations shall become a Defaulted Note, the unpaid portion thereof or the portion to which a Credit Instrument applies for which no reimbursement on a draw or claim has been made shall be deemed outstanding and shall not be deemed to be paid until (i) the Credit Provider providing a Credit Instrument with respect to the Series of Note Participations, and therefore, if applicable, all or a portion of the District's Note, if any, has been reimbursed for any drawings or payments made under the Credit Instrument with respect to the Note, including interest accrued thereon, as provided therein and in the applicable Credit Agreement, and, (ii) the holders of the Series of the Note Participations which evidence and represent the Note are paid the full principal amount represented by the unsecured portion of the Note plus interest accrued thereon (calculated at the Default Rate) to the date of deposit of such aggregate required amount with the Trustee. For purposes of clause (ii) of the preceding sentence, holders of the Series of Note Participations will be deemed to have received such principal amount upon deposit of such moneys with the Trustee.

The District agrees to pay or cause to be paid, in addition to the amounts payable under the Note, any fees or expenses of the Trustee and, to the extent permitted by law, if the District's Note as evidenced and represented by the Series of Note Participations is secured in whole or in part by a Credit Instrument, any Predefault Obligations and Reimbursement Obligations (to the extent not payable under the Note), (i) arising out of an "Event of Default" hereunder (or pursuant to Section 8 hereof) or (ii) arising out of any other event (other than an event arising solely as a result of or otherwise attributable to a default by any other Issuer). In the case described in (ii) above with respect to Predefault Obligations, the District shall owe only the percentage of such fees, expenses and Predefault Obligations equal to the ratio of the principal amount of its Note over the aggregate principal amounts of all notes, including the Note, of the Series of which the Note is a part, at the time of original issuance of such Series. Such additional amounts will be paid by the District within twenty-five (25) days of receipt by the District of a bill therefor from the Trustee.

Section 6. No Joint Obligation; Owners' Rights. The Note shall be marketed and sold on either a stand-alone basis or simultaneously with the notes of other Issuers, if any, and aggregated and combined with notes of such other Issuers participating in the Program into a Series of Note Participations evidencing and representing an interest in several, and not joint, obligations of each such Issuer. The obligation of the District to Owners is a several and not a joint obligation and is strictly limited to the District's repayment obligation under this

Resolution, the resolution of the County providing for the issuance of the Note, and the Note as evidenced and represented by such Series of Note Participations.

Owners of Note Participations, to the extent of their interest in the Note, shall be treated as owners of the Note and shall be entitled to all the rights and security thereof; including the right to enforce the obligations and covenants contained in this Resolution and the Note. The District hereby recognizes the right of the Owners acting directly or through the Trustee to enforce the obligations and covenants contained in the Note, this Resolution and the Trust Agreement. The District shall be directly obligated to each Owner for the principal and interest payments on the Note evidenced and represented by the Note Participations without any right of counterclaim or offset arising out of any act or failure to act on the part of the Trustee.

The provisions of this Section 6 apply equally to a Parity Note, if any, as if referred to herein, in the event that the District Officer determines at the time of issuance of the Parity Note that participation in a similar Program to pool the Parity Note with the notes of other issuers is in the best financial interests of the District.

Section 7. Disposition of Proceeds of Note. The moneys received from the sale of the Note allocable to the District's costs related to the issuance of the Note, if sold on a standalone basis or the District's share of the costs of issuance if issued in a pool with other Issuers, shall be deposited in the Costs of Issuance Fund held and invested by the Trustee under the Trust Agreement and expended on costs of issuance as provided in the Trust Agreement. The moneys received from the sale of the Note (net of the District's costs related to the issuance of the Note if sold on a stand-alone basis or the District's share of the costs of issuance if issued in a pool with other Issuers) shall be deposited in the District's Proceeds Subaccount within the Proceeds Fund hereby authorized to be created pursuant to, and held and invested by the Trustee under, the Trust Agreement for the District and said moneys may be used and expended by the District for any purpose for which it is authorized to expend funds upon requisition from the Proceeds Subaccount as specified in the Trust Agreement. Amounts in the Proceeds Subaccount are hereby pledged to the payment of the Note.

The Trustee will not create separate accounts within the Proceeds Fund, but will keep records to account separately for proceeds of the Note Participations allocable to the District's Note on deposit in the Proceeds Fund which shall constitute the District's Proceeds Subaccount.

The provisions of this Section 7 apply equally to a Parity Note, if any, as if referred to herein, in the event that the District Officer determines at the time of issuance of the Parity Note that participation in a similar Program to pool the Parity Note with the notes of other issuers is in the best financial interests of the District.

Section 8. Source of Payment. The Principal Amount of the Note, together with the interest thereon, shall be payable from taxes, income, revenue (including, but not limited to, revenue from the state and federal governments), cash receipts and other moneys which are received, accrued or held by the District and are provided for or attributable to the Repayment Fiscal Year and which are available for payment thereof. As security for the payment of the principal of and interest on the Note and the amount, if any owed the Credit Provider, the District

hereby pledges certain Unrestricted Revenues (as hereinafter provided, the "Pledged Revenues") which are received, accrued or held by the District and are provided for or attributable to the Repayment Fiscal Year, and the principal of the Note and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the first moneys received by the District from such Pledged Revenues, and, to the extent not so paid, shall be paid from any other taxes, income, revenue, cash receipts and other moneys of the District lawfully available therefor (all as provided for in Sections 53856 and 53857 of the Act). The term "Unrestricted Revenues" shall mean all taxes, income, revenue (including, but not limited to, revenue from the state and federal governments), cash receipts, and other moneys, which are generally available for the payment of current expenses and other obligations of the District. The Noteholders, Owners and Credit Provider shall have a first lien and charge on such Unrestricted Revenues as herein provided which are received, accrued or held by the District and are provided for or attributable to the Repayment Fiscal Year. Notwithstanding the foregoing, the terms "Unrestricted Revenue" and "Pledged Revenues" shall exclude moneys which, when received by the District, will be encumbered for a special purpose unless an equivalent amount of the proceeds of the Note is set aside and used for said special purpose; and provided further, the terms "Unrestricted Revenues" and "Pledged Revenues" shall exclude any moneys required to be used to repay a treasurer's loan as described in Section 17 hereof. The District may incur indebtedness secured by a pledge of its Pledged Revenues subordinate to the pledge of Pledged Revenues hereunder and may issue subordinate tax and revenue anticipation notes.

In order to effect the pledge referred to in the preceding paragraph, the District agrees to the establishment and maintenance of the Payment Account as a special fund of the District (the "Payment Account") by the Trustee as the responsible agent to maintain such fund until the payment of the principal of the Note and the interest thereon, and the District agrees to cause to be deposited (and shall request specific amounts from the District's funds on deposit with the County Treasurer-Tax Collector for such purpose) directly therein on the dates specified in the related Pricing Confirmation for each series of the Note as sequentially numbered Repayment Dates (each individual date a "Repayment Date" and collectively "Repayment Dates") (and any amounts received thereafter provided for or attributable to the Repayment Fiscal Year) until the amount on deposit in such fund, is equal on the respective Repayment Dates identified in the Pricing Confirmation to the percentages of the principal of the Note and interest due on the Note, as specified in the related Pricing Confirmation. Any such deposit may take into consideration anticipated investment earnings on amounts invested in a Permitted Investment, as defined in the Trust Agreement, with a fixed rate of return through the Maturity Date.

The District Officer is hereby authorized to approve the determination of the Repayment Dates and percentages of the principal and interest due on the Note at maturity required to be on deposit in the Payment Account on each Repayment Date, all as specified in the related Pricing Confirmation. The execution and delivery of the Pricing Confirmation by the County Officer shall be conclusive evidence of approval by this Board and such District Officer; provided, however, that the maximum number of Repayment Dates for each Note shall be six. In the event that on each such Repayment Date, the District has not received sufficient Unrestricted Revenues to permit the deposit into the Payment Account of the full amount of Pledged Revenues to be deposited in the Payment Account from said Unrestricted Revenues, then the amount of any deficiency shall be satisfied and made up from any other moneys of the District

lawfully available for the payment of the principal of the Note and the interest thereon, as and when such other moneys are received or are otherwise legally available; and in connection therewith, the District authorizes the County Treasurer-Tax Collector to transfer any District funds then held or later received by the County Treasurer-Tax Collector, to the Trustee for deposit into the District's Payment Account to make up any such deficiency.

Any moneys placed in the Payment Account shall be for the benefit of the owner of the Note and (to the extent provided in the Trust Agreement) the Credit Provider. The moneys in the Payment Account shall be applied only for the purposes for which the Payment Account is created until the principal of the Note and all interest thereon are paid or until provision has been made for the payment of the principal of the Note at maturity with interest to maturity and, if applicable, the payment of all Predefault Obligations and Reimbursement Obligations owing to the Credit Provider, if any.

The moneys in the Payment Account shall be used by the Trustee, to the extent necessary, to pay the principal of and interest on the Note, or, if applicable, to reimburse the Credit Provider for payments made under or pursuant to the Credit Instrument. In the event that moneys in the Payment Account are insufficient to pay the principal of and interest on the Note in full, such moneys shall be applied in accordance with the priority set forth in the Trust Agreement. Any moneys remaining in or accruing to the Payment Account after the principal of the Note and the interest thereon and any Predefault Obligations and Reimbursement Obligations, if applicable, have been paid, or provision for such payment has been made, shall be transferred by the Trustee to the District, subject to any other disposition required by the Trust Agreement. Nothing herein shall be deemed to relieve the District from its obligation to pay its Note in full on the Maturity Date.

Moneys in the Proceeds Subaccount and the Payment Account shall be invested by the Trustee pursuant to the Trust Agreement in investment agreement(s) and/or other Permitted Investments as described in and under the terms of the Trust Agreement and as designated in the Pricing Confirmation. In the event the County Officer designates an investment agreement or investment agreements as the investments in the related Pricing Confirmation, the District hereby directs the Trustee to invest such funds pursuant to the investment agreement or investment agreements (which shall be with a provider rated in one of the two highest long-term rating categories by the rating agency or agencies then rating the Note Participations and acceptable to the Credit Provider, if any, and the particulars of which pertaining to interest rate and investment provider will be set forth in the Pricing Confirmation) and authorizes the Trustee to enter into such investment agreement on behalf of the District. The District's funds shall be accounted for separately and the obligation of the provider of the Investment Agreement with respect to the District under the Investment Agreement shall be severable. Any such investment by the Trustee shall be for the account and risk of the District and the District shall not be deemed to be relieved of any of its obligations with respect to the Note, the Predefault Obligations or Reimbursement Obligations, if any, by reason of such investment of the moneys in its Proceeds Subaccount and Payment Account.

The District shall promptly file with the Trustee and the Credit Provider, if any, such financial reports at the times and in the forms required by the Trust Agreement.

Anything herein to the contrary notwithstanding, the District may at any time during the Repayment Fiscal Year issue or provide for the issuance of a Parity Note by the County on its behalf, secured by a first lien and charge on Pledged Revenues; provided that (i) the District shall have received confirmation from each rating agency rating the outstanding Note or Series of Note Participations related to the Note, that the issuance of such Parity Note (or related series of note participation if sold into a pool) will not cause a reduction or withdrawal of such rating agency's rating on the outstanding Note or Series of Note Participations related to the Note, (ii) the maturity date of any such Parity Note shall be later than the outstanding Note and (iii) the District shall have received the written consent of the Credit Provider, if any, to the issuance of the Parity Note. In the event that the District issues a Parity Note, or provides for the issuance of a Parity Note by the County on its behalf, the District shall make appropriate deposits into the Payment Account with respect to such Parity Note, and in such event, the Payment Account shall also be held for the benefit of the holders of the Parity Note.

Section 9. Execution of Note. The County Officer shall be authorized to execute the Note by manual or facsimile signature and the Clerk of the Board of Supervisors of the County or any Deputy Clerk shall be authorized to countersign the Note by manual or facsimile signature and to affix the seal of the County to the Note either manually or by facsimile impression thereof. Said officers of the County are hereby authorized to cause the blank spaces of the Note to be filled in as may be appropriate pursuant to the related Pricing Confirmation. In case any officer whose signature shall appear on any Note shall cease to be such officer before the delivery of such Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

Section 10. Representations and Covenants.

- (A) The District is a political subdivision duly organized and existing under and by virtue of the laws of the State of California and has all necessary power and authority to (i) adopt the Resolution and enter into and perform its obligations under the Purchase Agreement and (ii) authorize the County to issue the Note on its behalf.
- (B) (i) Upon the issuance of the Note, the District will have taken all action required to be taken by it to authorize the issuance and delivery of the Note and the performance of its obligations thereunder and (ii) the District has full legal right, power and authority to request the County to issue and deliver the Note on behalf of the District and to perform its obligations as provided herein and therein.
- (C) The issuance of the Note, the adoption of the Resolution and the execution and delivery of the Purchase Agreement, Trust Agreement and Credit Agreement, if any, and compliance with the provisions hereof and thereof will not conflict with or violate any law, administrative regulation, court decree, resolution, charter, by-laws or other agreement to which the District is subject or by which it is bound.
- (D) Except as may be required under blue sky or other securities law 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 District required for the issuance and sale of the Note or the consummation by the District of the other transactions contemplated by

this Resolution except those the District shall obtain or perform prior to or upon the issuance of the Note.

- (E) The District has (or will have prior to the issuance of the Note) duly, regularly and properly adopted a preliminary budget for the Repayment Fiscal Year setting forth expected revenues and expenditures and has complied with all statutory and regulatory requirements with respect to the adoption of such budget. The District hereby covenants that it will (i) duly, regularly and properly prepare and adopt its final budget for the Repayment Fiscal Year, (ii) provide to the Credit Provider, if any, the Financial Advisor and the Underwriter (or owner of the Series of Note Participations in the event of a private placement), promptly upon adoption, copies of such final budget and of any subsequent revisions, modifications or amendments thereto and (iii) comply with all applicable law pertaining to its budget.
- (F) The sum of the principal amount of the District's Note plus the interest payable thereon, on the date of its issuance, will not exceed 85% of the estimated amounts of the District's uncollected taxes, income, revenue (including, but not limited to, revenue from the state and federal governments), cash receipts, and other moneys to be received or accrued by the District for the general fund of the District provided for or attributable to the Repayment Fiscal Year all of which will be legally available to pay principal of and interest on the Note (exclusive of any moneys required to be used to repay a treasurer's loan as described in Section 17 hereof).
- (G) The County has experienced an *ad valorem* property tax collection rate of not less than 85% of the average aggregate amount of *ad valorem* property taxes levied within the District in each of the last five fiscal years for which information is available, and the District, as of the date of adoption of this Resolution and on the date of issuance of the Note, reasonably expects the County to collect at least 85% of such amount for the Repayment Fiscal Year.
- (H) The District (i) is not currently in default on any debt obligation and (ii) to the best knowledge of the District, has never defaulted on any debt obligation.
- (I) The District's most recent audited financial statements present fairly the financial condition of the District as of the date thereof and the results of operation for the period covered thereby. Except as has been disclosed to the Financial Advisor and the Underwriter and the Credit Provider, if any, and in the Preliminary Official Statement and to be set forth in the final Official Statement, there has been no change in the financial condition of the District since the date of such audited financial statements that will in the reasonable opinion of the District materially impair its ability to perform its obligations under this Resolution and the Note. The District agrees to furnish to the Financial Advisor, the Underwriter (or owners of the Series of Note Participations in the event of a private placement), the Trustee and the Credit Provider, if any, promptly, from time to time, such information regarding the operations, financial condition and property of the District as such party may reasonably request.
- (J) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, arbitrator, governmental or other board, body or official, pending or, to the best knowledge of the District, threatened against or affecting the District questioning the validity of any proceeding taken or to be taken by the District in connection with the Note,

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the Purchase Agreement, the Trust Agreement, the Credit Agreement, if any, or this Resolution, or seeking to prohibit, restrain or enjoin the execution, delivery or performance by the District of any of the foregoing, or wherein an unfavorable decision, ruling or finding would have a materially adverse effect on the District's financial condition or results of operations or on the ability of the District to conduct its activities as presently conducted or as proposed or contemplated to be conducted, or would materially adversely affect the validity or enforceability of, or the authority or ability of the District to perform its obligations under, the Note, the Purchase Agreement, the Trust Agreement, the Credit Agreement, if any, or this Resolution.

- (K) The District will not directly or indirectly amend, supplement, repeal, or waive any portion of this Resolution (i) without the consent of the Credit Provider, if any, or (ii) in any way that would materially adversely affect the interests of the Note holders or Note Participation Owners.
- (L) Upon issuance of the Note, the Note and this Resolution will constitute legal, valid and binding agreements of the District, enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy or other laws affecting creditors' rights, the application of equitable principles if equitable remedies are sought, the exercise of judicial discretion in appropriate cases and the limitations on legal remedies against public entities, as applicable, in the State of California.
- (M) It is hereby covenanted and warranted by the District that all representations and recitals contained in this Resolution are true and correct, and that the District and its appropriate officials have duly taken, or will take, all proceedings necessary to be taken by them, if any, for the levy, receipt, collection and enforcement of the Pledged Revenues in accordance with law for carrying out the provisions of this Resolution and the Note.
- (N) Except for a Parity Note, if any, pursuant to Section 8 hereof, the District shall not incur any indebtedness secured by a pledge of its Unrestricted Revenues unless such pledge is subordinate in all respects to the pledge of Unrestricted Revenues hereunder.
- (O) So long as the Credit Provider is not in default under the Credit Instrument, the District hereby agrees to pay its *pro rata* share of all Predefault Obligations and all Reimbursement Obligations attributable to the District in accordance with provisions of the applicable Credit Agreement, if any, and/or Trust Agreement, as applicable. The District shall pay such amounts promptly upon receipt of notice from the Credit Provider that such amounts are due to it by instructing the Trustee to pay such amounts to the Credit Provider on the District's behalf by remitting to the Credit Provider moneys held by the Trustee for the District and then available for such purpose under the Trust Agreement. If such moneys held by the Trustee are insufficient to pay the District's *pro rata* share of such Predefault Obligations and all Reimbursement Obligations attributable to the District (if any), the District shall pay the amount of the deficiency to the Trustee for remittance to the Credit Provider.
- (P) As a condition to the issuance of the issuance of the Notes, the District will either (1) then not have a negative or qualified certification applicable to Fiscal Year 2011-2012 or Fiscal Year 2012-2013 within the meaning of Section 42133 of the Education Code of the State of California or (2) if the District does then have a negative or qualified certification

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applicable to Fiscal Year 2011-2012 or Fiscal Year 2012-2013 within the meaning of Section 42133 of the Education code of the State of California, the District shall provide to the Financial Advisor and Bond Counsel the written determination by the County Superintendent of Schools that the repayment of the Notes is probable within the meaning of Section 42133 of the Education Code of the State of California.

- (Q) The District funded its Reserve for Economic Uncertainties for Fiscal Year 2012-2013 in at least the minimum amount recommended, and will fund its Reserve for Economic Uncertainties for Fiscal Year 2013-2014 in at least the minimum amount recommended by the State Superintendent of Public Instruction.
- (R) The District will maintain a positive general fund balance in the Repayment Fiscal Year.

Section 11. <u>Tax Covenants.</u> The District will not take any action or fail to take any action if such action or failure to take such action would adversely affect the exclusion from gross income of the interest payable on the Note under Section 103 of the Internal Revenue Code of 1986 (the "Code"). Without limiting the generality of the foregoing, the District will not make any use of the proceeds of the Note or any other funds of the District which would cause the Note to be "arbitrage bonds" within the meaning of Section 148 of the Code, a "private activity bond" within the meaning of Section 141(a) of the Code, or an obligation the interest on which is subject to federal income taxation because it is "federally guaranteed" as provided in Section 149(b) of the Code. The District, with respect to the proceeds of the Note, will comply with all requirements of such sections of the Code and all regulations of the United States Department of the Treasury issued or applicable thereunder to the extent that such requirements are, at the time, applicable and in effect.

The District hereby (i) represents that the aggregate face amount of all tax-exempt obligations (including any tax-exempt leases, but excluding private activity bonds), issued and to be issued by the District during calendar year 2013, including the Note, is not reasonably expected to exceed \$5,000,000, provided that such amount shall be increased by the lesser of \$10,000,000 or the aggregate face amount of such tax-exempt obligations as are attributable to financing capital expenditures for public school facilities, or in the alternative, (ii) covenants that the District will take all legally permissible steps necessary to ensure that all of the gross proceeds of the Note will be expended no later than the day that is six months after the respective dates of issuance of the Note so as to satisfy the requirements of Section 148(f)(4)(B) of the Code.

Notwithstanding any other provision of this Resolution to the contrary, upon the District's failure to observe, or refusal to comply with, the covenants contained in this Section 11, no one other than the holders or former holders of the Note, the Owners or the Trustee on their behalf shall be entitled to exercise any right or remedy under this Resolution on the basis of the District's failure to observe, or refusal to comply with, such covenants.

The covenants contained in this Section 11 shall survive the payment of the Note.

Section 12. Events of Default and Remedies.

If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

- (a) Failure by the District to make or cause to be made the deposits to the Payment Account or any other payment required to be paid hereunder on or before the date on which such deposit or other payment is due and payable;
- (b) Failure by the District to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Resolution, for a period of fifteen (15) days after written notice, specifying such failure and requesting that it be remedied, is given to the District by the Trustee or the Credit Provider, if applicable, unless the Trustee and the Credit Provider shall agree in writing to an extension of such time prior to its expiration;
- (c) Any warranty, representation or other statement by or on behalf of the District contained in this Resolution or the Purchase Agreement (including the Pricing Confirmation) or in any instrument furnished in compliance with or in reference to this Resolution or the Purchase Agreement or in connection with the Note, is false or misleading in any material respect;
- (d) A petition is filed against the District under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect and is not dismissed within 30 days after such filing, but the Trustee shall have the right to intervene in the proceedings prior to the expiration of such 30 days to protect its and the Owners' interests;
- (e) The District files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any petition against it under such law;
- (f) The District admits insolvency or bankruptcy or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including without limitation a receiver, liquidation or trustee) of the District or any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than 30 days, but the Trustee shall have the right to intervene in the proceedings prior to the expiration of such 30 days to protect its and the Owners' interests;
- (g) An "Event of Default" under the terms of the resolution, if any, of the County providing for the issuance of the Note.

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Whenever any Event of Default referred to in this Section 12 shall have happened and be continuing, the Trustee shall, in addition to any other remedies provided herein or by law or under the Trust Agreement, have the right, at its option without any further demand or notice, to take one or any combination of the following remedial steps:

- (a) Without declaring the Note to be immediately due and payable, require the District to pay to the Trustee, for deposit into the Payment Account of the District, an amount equal to the principal of the Note and interest thereon to maturity, plus all other amounts due hereunder, and upon notice to the District the same shall become immediately due and payable by the District without further notice or demand; and
- (b) Take whatever other action at law or in equity (except for acceleration of payment on the Note) which may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its rights hereunder.

Notwithstanding the foregoing, if the District's Note is secured in whole or in part by a Credit Instrument, as long as the Credit Provider has not failed to comply with its payment obligations under the Credit Instrument, the Credit Provider shall have the right to direct the remedies upon any Event of Default hereunder so long as such action will not materially adversely affect the rights of any Owner, and the Credit Provider's prior consent shall be required to any remedial action proposed to be taken by the Trustee hereunder, except that nothing contained herein shall affect or impair the right of action of any Owner of a Note Participation to institute suit directly against the District to enforce payment of the obligations evidenced and represented by such Owner's Note Participation.

If the Credit Provider is not reimbursed on the Maturity Date for the drawing or payment, as applicable, used to pay principal of and interest on the Note due to a default in payment on the Note by the District, or if any principal of or interest on the Note remains unpaid after the Maturity Date, the Note shall be a Defaulted Note, the unpaid portion thereof or the portion to which a Credit Instrument applies for which no reimbursement on a draw or claim has been made shall be deemed outstanding and shall bear interest at the Default Rate until the District's obligation on the Defaulted Note is paid in full or payment is duly provided for, all subject to Section 8 hereof.

Section 13. <u>Trustee.</u> The Trustee is hereby appointed as paying agent, registrar and authenticating agent for the Note. The District hereby directs and authorizes the payment by the Trustee of the interest on and principal of the Note when such become due and payable, from the Payment Account held by the Trustee in the name of the District in the manner set forth herein. The District hereby covenants to deposit funds in such account at the time and in the amount specified herein to provide sufficient moneys to pay the principal of and interest on the Note on the day on which it matures. Payment of the Note shall be in accordance with the terms of the Note and this Resolution.

The District hereby agrees to maintain the Trustee as paying agent, registrar and authenticating agent of the Note.

Section 14. Approval of Actions. The officers of the County mentioned in Section 9 hereof are hereby authorized and directed to execute the Note and cause the Trustee to authenticate and accept delivery of the Note, pursuant to the terms and conditions of this Resolution. All actions heretofore taken by the officers and agents of the County, the District or this Board with respect to the sale and issuance of the Note and participation in the Program are hereby approved, confirmed and ratified and the officers and agents of the County and the officers of the District are hereby authorized and directed, for and in the name and on behalf of the District, to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Note in accordance with, and related transactions contemplated by, this Resolution. The officers of the District referred to above in Section 4 hereof are hereby designated as "Authorized District Representatives" under the Trust Agreement.

Section 15. <u>Proceedings Constitute Contract</u>. The provisions of the Note and of this Resolution shall constitute a contract between the District and the registered owner of the Note and the Credit Provider, if any, and such provisions shall be enforceable by mandamus or any other appropriate suit, action or proceeding at law or in equity in any court of competent jurisdiction, and shall be irreparable.

Section 16. <u>Limited Liability</u>. Notwithstanding anything to the contrary contained herein or in the Note or in any other document mentioned herein, the District shall not have any liability hereunder or by reason hereof or in connection with the transactions contemplated hereby except to the extent payable from moneys available therefor as set forth in Section 8 hereof and the County is not liable for payment of the Note or any other obligation of the District hereunder.

Section 17. Treasurer's Loans. To the extent necessary in the judgment of the District Officer, the District Officer is hereby authorized to enter into borrowings pursuant to Section 6 of Article XVI of the California Constitution (and statutes implementing such Article); provided, however, that such amounts shall only be borrowed to the extent that such borrowings, when added to the amount of the Note and interest owed thereon, and to other items of indebtedness issued pursuant to the Government Code, shall not at the time of such borrowings exceed 85% of the estimated remaining uncollected taxes, income, revenue, cash receipts and other moneys to be received or accrued by the District during the Repayment Fiscal Year which will be available for payment of such borrowings, the Note and other items of indebtedness issued pursuant to the Government Code and the interest thereon.

Section 18. <u>Submittal of Resolution to County</u>. To the extent required by law, the Secretary of the governing board of the District is hereby directed to submit one certified copy each of this Resolution to the Clerk of the Board of Supervisors of the County, to the Treasurer-Tax Collector of the County and to the County Superintendent of Schools.

Section 19. <u>Indemnification of County</u>. The District shall indemnify and hold harmless, to the extent permitted by law, the County and its officers and employees ("Indemnified Parties"), against any and all losses, claims, damages or liabilities, joint or several, to which such Indemnified Parties may become subject because of action or inaction related to

the adoption of a resolution by the Board of Supervisors providing for the issuance and sale of the Note, or related to the proceedings for sale, award, issuance and delivery of the Note in connection with the Program, or in connection with any information pertaining to the District included in (or omitted from but required to be stated in) the Preliminary Official Statement or the final Official Statement. The District shall also reimburse any such Indemnified Parties for any legal or other expenses incurred in connection with investigating or defending any such claims or actions.

Section 20. Appointment of Bond Counsel. The law firm of Orrick, Herrington & Sutcliffe LLP, Los Angeles, California is hereby appointed Bond Counsel for the District. The District acknowledges that Bond Counsel regularly performs legal services for many private and public entities in connection with a wide variety of matters, and that Bond Counsel has represented, is representing or may in the future represent other public entities, underwriters, trustees, rating agencies, insurers, credit enhancement providers, lenders, financial and other consultants who may have a role or interest in the proposed financing or that may be involved with or adverse to District in this or some other matter. Given the special, limited role of Bond Counsel described above, the District acknowledges that no conflict of interest exists or would exist, waives any conflict of interest that might appear to exist, and consents to any and all such relationships.

Section 21. <u>Appointment of Financial Advisor</u>. Any District Officer is hereby authorized, in consultation with the San Diego County Office of Education, to appoint Government Financial Strategies inc. to serve as Financial Advisor for the District in connection with the Program, and to execute an agreement for financial advisory services with such firm.

Section 22. Resolution Parameters.

- (a) Name of District: San Dieguito Union High School District
- (b) Maximum Amount of Borrowing: \$25,000,000
- (c) Authorized District Representatives:
 - (1) Superintendent
 - (2) Associate Superintendent, Business Services
 - (3) Director of Purchasing and Risk Management

Section 23. Severability. In the event any provision of this Resolution shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 24. Effective Date. This Resolution shall take effect from and after its date of adoption.

[Attach form of Certification of the Clerk of the Board with respect to the Resolution, if desired (such form of Certification is <u>not</u> required.)]

EXHIBIT A

FORM OF NOTES

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

COUNTY OF SAN DIEGO, CALIFORNIA

2013 TAX AND REVENUE ANTICIPATION NOTE, SERIES __*/

Interest Rate	Maturity Date	Date of Original Issue
First <u>Repayment Date</u>	Second Repayment Date	Third <u>Repayment Date</u>
% (Total of principal and interest due on Note at maturity)**/	% (Total of principal and interest due on Note at maturity)**/	% (Total of principal and interest due on Note at maturity)
REGISTERED OWNER:		
PRINCIPAL AMOUNT: \$		

FOR VALUE RECEIVED, the San Dieguito Union High School District (the "District"), located in the County of San Diego, California (the "County"), acknowledges itself indebted to and promises to pay to the registered owner identified above, or registered assigns, on the maturity date set forth above, the principal sum specified above in lawful money of the United States of America, and to pay interest thereon on each Interest Payment Date, as defined in the Trust Agreement, at the rate of interest specified above (the "Interest Rate"). Principal of and interest on this Note are payable in such coin or currency of the United States as at the time of payment is legal tender for payment of private and public debts, such principal to be paid upon surrender hereof at the principal corporate trust office of Wells Fargo Bank, National Association in Los Angeles, California, or its successor in trust (the "Trustee"). Interest is payable as specified in the Trust Agreement. Interest shall be calculated on the basis of a 360-day year, consisting of twelve 30-day months, in like lawful money from the date hereof until the maturity date specified above and, if funds are not provided for payment at maturity, thereafter on the basis of a 360-day year for actual days elapsed until payment in full of said principal sum. Both the principal of and interest on this Note shall be payable only to the registered owner hereof

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^{*/} If more than one Series is issued under the Program in the Repayment Fiscal Year.

^{**/} Number of Repayment Dates and percentages to be determined in Pricing Confirmation (as defined in the Resolution).

upon surrender of this Note as the same shall fall due; *provided, however*, no interest shall be payable for any period after maturity during which the holder hereof fails to properly present this Note for payment. If the District fails to pay this Note when due or the Credit Provider (as defined in the Resolution hereinafter described), if any, is not reimbursed in full for the amount drawn on or paid pursuant to the Credit Instrument (as defined in the Resolution) to pay all or a portion of this Note on the date of such payment, this Note shall become a Defaulted Note (as defined and with the consequences set forth in the Resolution).

It is hereby certified, recited and declared that this Note (the "Note") represents the authorized issue of the Note in the aggregate principal amount made, executed and given pursuant to and by authority of certain resolutions of the governing boards of the District and the County duly passed and adopted heretofore, under and by authority of Article 7.6 (commencing with Section 53850) of Chapter 4, Part 1, Division 2, Title 5 of the California Government Code (collectively, the "Resolution"), to all of the provisions and limitations of which the owner of this Note, by acceptance hereof, assents and agrees.

The principal of the Note, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received or accrued by the District for the general fund of the District and are provided for or attributable to the Fiscal Year ending June 30, 2014 (the "Repayment Fiscal Year"). As security for the payment of the principal of and interest on the Note, the District has pledged certain Unrestricted Revenues of the District (the "Pledged Revenues") received, accrued or held by the District and provided for or attributable to the Repayment Fiscal Year, and the principal of the Note and the interest thereon shall constitute a first lien and charge thereon and shall be payable from the Pledged Revenues, and, to the extent not so paid, shall be paid from any other moneys of the District lawfully available therefor, as set forth in the Resolution. Notwithstanding the foregoing, the terms "Unrestricted Revenues" and "Pledged Revenues" exclude any moneys required to be used to repay a treasurer's loan, as more particularly described in the Resolution. The County is not liable for payment of this Note. The full faith and credit of the District is not pledged to the payment of the principal or interest on this Note.

The County, the District and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and the County, the District and the Trustee shall not be affected by any notice to the contrary.

It is hereby certified that all of the conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the State of California and that the amount of this Note, together with all other indebtedness of the District, does not exceed any limit prescribed by the Constitution or statutes of the State of California.

IN WITNESS WHEREOF, the Board of Supervisors of the County has caused this Note to be executed by the manual or facsimile signature of a duly authorized officer of the County and countersigned by the manual or facsimile signature of its duly authorized officer.

	COUNTY OF SAN DIEGO
	Ву:
	Chief Financial Officer
Countersigned	
By: Clerk of the Board of Supervisors	

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[STATEMENT OF INSURANCE] $^{*/}$

OHSUSA:753357050.1 A-4

^{*/} To be used only if Credit Instrument is a policy of municipal bond insurance.

SECRETARY'S CERTIFICATE

	I,	, Secretary of the Board, hereby certify as follows:
due notice and	meeting of the B	true and correct copy of a resolution duly adopted at a soard duly and regularly held at the regular meeting place, 2013, of which meeting all of the members of said had reof were present; and at said meeting said resolution was
	AYES:	
	NOES:	
	ABSENT:	
of the public,	,	ting was posted at least 72 hours before said meeting at, California, a location freely accessible to members ption of said resolution appeared on said agenda.
original resolu	cord in my office; the fo ution adopted at said mee nded, modified or rescind	ed the same with the original minutes of said meeting on regoing resolution is a full, true and correct copy of the eting and entered in said minutes; and said resolution has led since the date of its adoption, and the same is now in
	Dated:, 2013	
		Secretary of the Board

San Dieguito Union High School District

INFORMATION FOR BOARD OF TRUSTEES

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 26, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: John Addleman, Director Planning Services

Eric Dill,

Associate Superintendent, Business

SUBMITTED BY: Ken Noah, Superintendent

SUBJECT: ADOPTION OF RESOLUTION REGARDING

ACQUISTION OF REAL PROPERTY FOR A MIDDLE SCHOOL IN PACIFIC HIGHLANDS

RANCH AREA

EXECUTIVE SUMMARY

Background

The District and Pardee Homes entered into a Funding and Mitigation Agreement dated July 14, 1998. On May 1, 2003, the Board amended and restated that Funding and Mitigation Agreement, as well as authorized the acquisition of Parcels 1 and 2 of the Pardee Property for the construction of Canyon Crest Academy. The Amendment and Restatement of Funding and Mitigation Agreement included the option to purchase Parcel 3 for a middle school and a portion of Parcel 4 for a general school purpose. At the October 9, 2009 meeting the Board entered into a Second Amended Funding and Mitigation Agreement to amend the timing of a future purchase to be the same for both parcels.

In March 2010, the District's Long Term Task Force identified the need to expand the district's middle school capacity to accommodate growing enrollment. To meet this growth, it was determined that a new middle school in Pacific Highlands Ranch would need to be built to alleviate growth pressures in the Carmel Valley Middle School attendance area by using the purchase option.

The cost of the new middle school is estimated at \$71.2 million and is expected to be opened in phases. The first phase to include the 500 seat classroom building and interim facilities for administration, media center, and food service in the Fall of 2015, with those permanent facilities delivered in the Fall of 2016. A second 500 seat classroom building to be constructed in 2021 or as demand is realized.

Financing

On November 6, 2012 the voters of the San Dieguito Union High School District community approved the Proposition AA general obligation bond measure to finance certain specified capital projects and facilities.

The purchase of the property will be financed pursuant to the availability of Proposition AA bond funds and is a valid expense under the bond measure.

The purchase price of the Pardee land for the middle school is based upon the lesser of a formula price or fair market value. The purchase price in the Amendment and Restatement of Funding and Mitigation Agreement is \$385,875/acre escalated every July 1. In today's dollars the purchase price is \$764,006/acre. At the next regular board meeting an appraisal will be commissioned to officially determine the purchase price per the formula.

Conditions

Prior to the close of escrow certain conditions will need to be met.

- A Resolution and Finding pursuant to Ed Code Section 17213 Hazardous sites. At the time of conveyance in 2003 of Parcels 1 and 2, all California Environmental Quality Act (CEQA) compliance and findings regarding hazardous materials and other matters required by law were undertaken. The Preliminary Environmental Assessment reports utilized for that determination included both Parcels 3 and 4. To ensure the parcels' condition has not changed since the testing undertaken in 2003, a Phase 1 Environmental Site Assessment (ESA) is proposed as part of the District's due diligence.
- Completion of the District's CEQA compliance.
- Approval by the California Department of Education (CDE), to the extent available. A site walk was conducted with a representative of CDE on February 21, 2013. It was indicated at the site walk and the followup Form 4.0 report received from CDE that the District not abandon the site as an option and to pursue its full approval.

Changes

Since approval of the Second Amended Funding and Mitigation Agreement in 2009, Parcel 4 has since been subdivided such that the portion related to the District's option to purchase is better described by and now referred to as Parcel 5 pursuant to Parcel Map No. 21000 recorded in December 2012.

RECOMMENDATION:

It is recommended that the Board adopt the resolution authorizing acquisition of real property for a middle school in the Pacific Highlands Ranch area, and authorize the Superintendent or Associate Superintendent, Business Services, to take all necessary action to complete the acquisition of property, as shown in the attached supplement(s).

FUNDING SOURCE:

Proposition AA GO Bond Funds

RESOLUTION OF THE GOVERNING BOARD OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT REGARDING ACQUISITION OF REAL PROPERTY FOR A MIDDLE SCHOOL IN THE PACIFIC HIGHLANDS AREA

TO: A) ADOPT FINDINGS PURSUANT TO EDUCATION CODE SECTION 17213 ET SEQ. REGARDING THE SAFE CONDITION AND ABSENCE OF HAZARDOUS SUBSTANCES ON THE PARDEE HOMES PROPERTY PLANNED TO BE ACQUIRED FOR CONSTRUCTION OF A NEW MIDDLE SCHOOL IN PACIFIC HIGHLANDS RANCH, B) AUTHORIZE ACQUISITION OF REAL PROPERTY PURSUANT TO THE SCHOOL SITE PURCHASE AGREEMENT FOR MIDDLE SCHOOL AND ESCROW INSTRUCTIONS, C) APPROVE THE SCHOOL SITE PURCHASE AGREEMENT FOR MIDDLE SCHOOL AND ESCROW INSTRUCTIONS, D) AUTHORIZE THE SUPERINTENDENT OR ASSOCIATE SUPERINTENDENT, BUSINESS SERVICES TO TAKE ALL NECESSARY ACTION TO COMPLETE THE ACQUISITION OF PROPERTY PURSUANT TO THE SCHOOL SITE PURCHASE AGREEMENT AND E) AUTHORIZE THE ASSOCIATE SUPERINTENDENT, BUSINESS SERVICES TO ACCEPT CONVEYANCE OF THE DEED FOR THE DISTRICT'S INTEREST IN REAL PROPERTY.

On motion of Member	, seconded by Member
	, the following Resolution is adopted:

WHEREAS, Pardee Homes is the Owner of certain parcels of real estate which it intends to sell to the San Dieguito Union High School District (the "District") for construction of a new middle school at Pacific Highlands (the "Pardee Property") described in the School Site Purchase Agreement for Middle School and Escrow Instructions attached hereto as Exhibit A and incorporated herein in full by this reference (the "Purchase Agreement"); and

WHEREAS, District and Pardee Homes entered into a Funding and Mitigation Agreement dated July 14, 1998, an Amendment and Restatement of Funding and Mitigation Agreement dated May 1, 2003, and a Second Amended Funding and Mitigation Agreement dated October 19, 2009 (collectively, the "Amendment") which among other things, set forth the terms of the sale of the Pardee Property; and

WHEREAS, on May 1, 2003, the Board completed the acquisition of Parcels 1 and 2 of the Pardee Property; and

WHEREAS, at the time of the conveyance of Parcels 1 and 2 of the Pardee Property, all California Environmental Quality Act (CEQA) compliance and findings regarding hazardous materials and other matters required by law to be made prior to acquisition of Pardee Property were undertaken; and

WHEREAS, the Governing Board of the District wishes to authorize the acquisition of the remaining portion of the Pardee Property contemplated to be purchased by the District pursuant to the Amendment and as authorized by Education Code section 35162; and

WHEREAS, The remaining portion of the Pardee Property to be purchased by the District is described as Parcel 3 and Parcel 4 in the Amendment, but the portion of Parcel 4 to be acquired by the District is hereafter referred to as Parcel 5 pursuant to Parcel Map No. 21000 recorded at the San Diego County Recorder's Office, file number 2012-0567217 (9/19/12). Parcels 3 and 5 are hereinafter referred to as the "Property."

WHEREAS, the Property has remained vacant land since the 2003 conveyance of Parcels 1 and 2 of the Pardee Property and the District has investigated the condition of the Property to ensure its condition has not changed since the testing undertaken in 2003; and

WHEREAS, the Amendment sets forth the consideration to be paid by the District for the real property as described in the Purchase Agreement attached hereto as Exhibit A, and

WHEREAS, Pardee Homes intends to convey to the District its interests in real property, as described in the Purchase Agreement and referred to herein as Parcels 3 and 5 or the Property; and

WHEREAS, Government Code section 27281 provides that in order that the deed to said Property may be recorded, this Board may authorize the Superintendent or Associate Superintendent, Business Services to accept and consent to the deed and the recordation thereof:

NOW THEREFORE BE IT RESOLVED by the Governing Board of the San Dieguito Union High School District as follows:

- 1. In accordance with Education Code Section 17213 et seq., the Board finds that the Property to be purchased for a middle school site is not a current or former hazardous waste disposal site or a solid waste disposal site; and
- 2. In accordance with Education Code Section 17213 et seq., the Board finds that the Property to be purchased as a school site is not a hazardous substance release site, and
- 3. In accordance with Education Code Section 17213, the Board finds that consultation regarding the school site Property identified no facilities which might reasonably be anticipated to emit hazardous air emissions or to handle hazardous or acutely hazardous materials, substances or waste; and

- 4. Having made the determinations set forth above, this Board hereby authorizes the acquisition of the Property in general accordance with the terms and conditions set forth in the Purchase Agreement as set forth in Exhibit A, and
- 5. The Superintendent or the Associate Superintendent, Business Services of the District is hereby authorized to take any and all necessary steps, including revision of the attached Purchase Agreement, other than as to price, to finalize the terms of said Agreement and execute it on behalf of the District and to take any and all necessary steps, including execution of escrow instructions to complete the acquisition of the Property described therein in substantial accord with the terms of the Purchase Agreement as set forth in Exhibit A, and
- 6. That any and all actions of the Superintendent or the Associate Superintendent, Business Services, or any designee of either of them, taken to date to complete the Purchase Agreement are hereby ratified; and
- 7. That the Superintendent or the Associate Superintendent, Business Services of the District is hereby authorized to accept the Grant Deed from Pardee Homes for Parcels 3 and 4 of the Pardee Property described in Exhibit A and accept the conveyance of the deed to said Property on behalf of the Governing Board; and
- 8. That this Board consents to recordation of said deed after acceptance and after execution of the Certificate of Acceptance attached hereto as Exhibit B and incorporated by this reference, by Superintendent, Ken Noah or by Associate Superintendent, Business Services, Eric Dill, as its duly authorized officer.

PASSED AND ADOPTED by the Governing Board of the San Dieguito Union High School District of San Diego County, California, this day of 4th day of April, 2013 by the following vote:

AYES:	
NOES:	
ABSENT:	
	Barbara Groth, President, Board of Trustees San Dieguito Union High School District

EXHIBIT A

SCHOOL SITE PURCHASE AGREEMENT FOR MIDDLE SCHOOL AND ESCROW INSTRUCTIONS

SCHOOL SITE PURCHASE AGREEMENT FOR MIDDLE SCHOOL AND ESCROW INSTRUCTIONS

This School Site Purchase Agreement for Middle School and Escrow Instructions ("Agreement") is dated as of April 4, 2013, by and between the San Dieguito Union High School District, a California public school district, organized and existing under the constitution and laws of the State of California ("Buyer") and Pardee Homes, a California corporation, formerly known as Pardee Construction Company ("Seller"), and is entered into with reference to the recitals set forth below, and constitutes (i) a contract of purchase and sale between the parties and (ii) escrow instructions to First American Title Company, Attn: ________, ("Escrow Agent"), the consent to which appears at the end of this Agreement.

The addresses and telephone numbers of the parties to this Agreement are as follows. Telephone numbers are included for information only.

BUYER: SELLER: San Dieguito Union High School District Pardee Homes

710 Encinitas Boulevard 6025 Edgewood Bend Court Encinitas, California 92024 San Diego, CA 92130 Attn: Eric Dill, Attn: Ms. Beth Fischer

Associate Superintendent, Business Services

Telephone: (760) 753-6491 Telephone: (858) 794-2531 Facsimile: (760) 943-3508 Facsimile: (858) 794-2560 beth.fischer@pardeehomes.com

Send copies of any notice to Buyer also to: Send copies of any notice to Seller to:

Laura D. Romano

Attorney at Law
Seltzer Caplan McMahon Vitek
1901 First Avenue, 1st Floor
San Diego, CA 92101
Telephone: (619) 696-9913
Facsimile: (619) 696-9917

Thomas F. Steinke, Esq
Seltzer Caplan McMahon Vitek
750 B Street, Suite 2100
San Diego, CA 92101
Telephone: (619) 696-9913
Facsimile: (619) 685-3038
Facsimile: (619) 702-6819

ldromano@sbcglobal.net steinke@scmv.com

RECITALS

A. Seller is the owner of that certain parcel of real property located in the City of San Diego ("City"), County of San Diego, California, comprised of approximately _____ net acres of land, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"). The Property is described as Parcel 3 and Parcel 4 in the Amendment defined in Recital C below, but the portion of Parcel 4 to be acquired by the Buyer is hereafter referred to as Parcel 5 pursuant to Parcel Map No. 21000 recorded at the San Diego County Recorder's Office, file number 2012-0567217 (9/19/12).

- B. Buyer and Seller entered into that certain Funding and Mitigation Agreement dated as of July 14, 1998 (the "Mitigation Agreement") providing for various matters concerning the mitigation of school facilities, including the potential sale of the Property to Buyer for use as a school site.
- C. Buyer and Seller entered into that certain Amendment and Restatement of Funding and Mitigation Agreement dated as of May 1, 2003 and Second Amendment to Funding and Mitigation Agreement dated as of October 19, 2009 (collectively, the "Amendment") which amend and restate the Mitigation Agreement in its entirety. A copy of said Amendment is attached hereto as Exhibit B and is incorporated herein by this reference.
- D. Buyer and Seller entered into a School Site Purchase Agreement dated as of May 1, 2003 by which Buyer purchased Parcels 1 and 2 from Seller (the "First Purchase Agreement"). A copy of the First Purchase Agreement is attached hereto as Exhibit G and incorporated herein by this reference; and
- E. The findings required by the provisions of the Mitigation Agreement and Amendment by which Buyer may acquire the Property and the conditions and covenants in the First Purchase Agreement have been met; and
- G. The Buyer now desires and agrees to purchase the Property for future development as a public middle school site, and Seller agrees to sell the Property to Buyer upon the terms and conditions set forth herein;
- NOW, THEREFORE, in consideration of the above recitals which are hereby incorporated in full in to this agreement and in consideration of the covenants herein and other good and valuable consideration, it is mutually agreed as follows:
- 1. <u>Definitions</u>. Unless this Agreement otherwise indicates, the following terms shall have the following meanings whenever used in this Agreement:
- 1.1 "Business Day" means and refers to any day other than a Saturday, Sunday, or legal holiday in the State of California or school holiday for Buyer.
- 1.2 "Cash" means (a) currency; (b) certified checks or government warrants currently dated, payable to Escrow Agent and honored upon presentation for payment; (c) amounts credited by wire-transfer into Escrow Agent's bank account, or (e) if monies are deposited with Escrow Agent within three (3) days of Closing Date, funds in such form as Escrow Agent in its sole discretion requires.
 - 1.3 "City" means the City of San Diego, a municipal corporation.
- 1.4 "Close of Escrow" means the date and time at which the Grant Deed is filed for record with the County Recorder of San Diego County, California. The "Closing Date" means the date defined in Section 12.1 below.

- 1.4A "Contingency Period" shall have the meaning described in Section 9.2 below.
- 1.5 "Escrow Agent" refers to First American Title Company.
- 1.6 "Hazardous Materials Laws" means any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Property, or soil or groundwater conditions, including but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 142 U.S.C. section 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. section 1801 et seq., the California Hazardous Waste Control Act and the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code section 25100 et seq., and section 25300 et seq., the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code section 25249.5 et seq., the Porter-Cologne Water Quality Control Act, California Water Code section 13000 et seq., and any amendments to, and regulations implementing, the foregoing.
- 1.7 "Hazardous Substances" or "Hazardous Materials" means substances or materials which are flammable, explosive, asbestos, radioactive or toxic, and any substances defined or regulated as hazardous substances, hazardous materials, toxic substances or hazardous waste under any Hazardous Materials Laws and including petroleum, crude oil, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or any other substance or material to the extent such substance or material would require clean-up or would make the Property not suitable for use as a school site.
 - 1.8 "Party" or "Parties" means the Buyer and/or Seller, as the context may require.
- 1.9 "Unavoidable Delays" means delays, circumstances, or conditions resulting from any one or a combination of the following: (a) Acts of God, war, weather, material shortages, strikes or other similar acts beyond the reasonable control of Buyer or Seller, (b) acts, omissions or failure to take action by City or any other governmental entity, including, but not limited to, the failure to issue any required permits, consents or other prior authorizations necessary to enable Buyer or Seller to perform any of their obligations pursuant to this Agreement, or (c) acts or omissions or failure to take action by Buyer or Seller necessary to enable the other party to perform any of its obligations pursuant to this Agreement.

2. Agreement of Sale.

- 2.1 <u>Conveyance of the Property</u>. Seller hereby agrees to convey the Property to Buyer and Buyer hereby agrees to purchase the Property from Seller for the Purchase Price specified in paragraph 3 below and upon all other terms and conditions set forth in this Agreement.
 - 2.2 <u>Interests Conveyed by Seller</u>. The Property includes all easements, interests, rights

and powers appurtenant to and for the benefit of the Property. The foregoing, in addition to the Property will be conveyed to Buyer by Grant Deed described below, whether or not the Grant Deed makes specific reference thereto.

3. <u>Purchase Price</u>. Buyer agrees to purchase and Seller agrees to sell the Property for the purchase price ("Purchase Price") specified in the price formula contained in the Amendment. The Purchase Price shall be paid by Buyer's deposit into Escrow of Cash from the sale of duly authorized general obligation bonds.

4. Escrow.

- 4.1 <u>Commencement of Escrow</u>. Within five (5) Business Days after the execution and delivery of this Agreement by Buyer and Seller, and escrow ("Escrow") shall be commenced by Buyer and Seller with Escrow Agent by delivering a fully executed original of this Agreement to the Escrow Agent and procuring the Escrow Agent's consent in the form attached hereto as Exhibit C. This Agreement and the Escrow Instructions set forth herein, and if required by Escrow Agent, the printed form instructions of Escrow Agent approved and signed by both parties and attached hereto as Exhibit D, shall constitute the Escrow Instructions for the Escrow. If any of the instructions of Exhibit D are inconsistent with any provisions of this Agreement, then the terms and conditions of this Agreement shall govern. The date on which a fully executed original of this Agreement has been deposited with Escrow Agent shall be deemed to be the date of commencement of the Escrow. Immediately upon receipt of the original of this Agreement, Escrow Agent shall provide both parties with written notice of the date of the Commencement of Escrow.
- 4.2 <u>Deposit in Escrow</u>. To cover the Purchase Price, Buyer will deposit into Escrow prior to 10:00 a.m. on the last business day before the Close of Escrow, the Cash including the Cash necessary to cover its share of the closing costs and prorations. Funds placed in Escrow more than five (5) days prior to Close of Escrow shall be placed in an interest bearing account reasonably acceptable to Buyer.
- 5. <u>Delivery of Possession</u>. Title to the Property shall pass immediately upon Close of Escrow. Possession will be delivered to Buyer upon Close of Escrow.
- 6. <u>Vesting of Title</u>. Unless otherwise designated in the Escrow instructions of Buyer, title to the Property shall vest in Buyer.
- 7. <u>Buyer's Deliveries to Escrow Agent</u>.
- 7.1 <u>Deliveries Before Closing Date</u>. Prior to 10:00 a.m. on the last Business Day before the Closing Date (hereinafter described), Buyer shall deliver to Escrow Agent each of the following:
 - 7.1.1 Cash to cover the Purchase Price as provided in the Amendment, together with the

funds called for by Section 4.2 above;

- 7.1.2 All documents required by Buyer to satisfy or waive the contingencies set forth in Section 9 of this Agreement;
- 7.1.3 The Easement Deed(s) described in Section 10 below duly executed by Buyer and in recordable form; and
- 7.1.4 Such other documents and sums as are required by Escrow Agent or this Agreement to be deposited by Buyer to carry out this Agreement and including approval of the purchase and sale by action and recordation of the deed by Buyer's Board of Trustees.
- 8. Seller's Deliveries to Escrow Agent.
- 8.1 <u>Deliveries Before Closing Date</u>. Prior to 10:00 a.m. on the last Business Day before the Closing Date (hereinafter described), Seller shall deliver to Escrow Agent each of the following:
- 8.1.1 A grant deed for Property ("Grant Deed") duly executed and acknowledged by Seller on Escrow Agent's standard form conveying the Property to Buyer;
 - 8.1.2 The Cash necessary to cover Seller's share of the closing costs and prorations;
- 8.1.3 The Easement Deed(s) described in Section 10 below duly executed by Seller and in recordable form; and
- 8.1.4 An affidavit of non-foreign status ("Affidavit") required pursuant to Section 1445 of the Internal Revenue Code in the form attached hereto as Exhibit E; and
- 8.1.5 Such other documents as are required by Escrow Agent or this Agreement to be deposited by Seller to carry out this Agreement.
- 9. <u>Conditions</u>. The Close of Escrow shall be subject to the satisfaction or waiver of each of the following conditions:
- 9.1 Conveyance of Title with Conditions and Title Insurance. Title shall be conveyed by Grant Deed and is to be free of liens, encumbrances, restrictions, rights and conditions of record or known to Seller, other than the following: (1) current property taxes and assessments, and (2) covenants, conditions, restrictions and public utility easements of record, if any, approved or deemed approved by Buyer as provided below, provided the same would not in the judgment of Buyer adversely affect the use of the Property as a public school site. Within its sole discretion, Seller shall use its commercially reasonable efforts to ensure the removal of any exceptions identified by Buyer as objectionable in a timely fashion.

The current preliminary title report for the Property shall be dated and ordered upon the Commencement of the Escrow. The Title Report shall be attached to this Agreement as Exhibit F. All easements other than for public utilities must be expressly approved by the Buyer in writing. Buyer shall notify Seller in writing of its approval or disapproval of the preliminary title report and underlying documents within sixty (60) days after the Commencement of Escrow. Silence shall be deemed disapproval, in which event this Agreement shall terminate. Within ten (10) Calendar Days after any title objections, Seller shall notify Buyer in writing whether Buyer is willing or able to satisfy or eliminate the title concerns or objections of Buyer. If Seller fails to indicate that it will satisfy any and all objections, Buyer may terminate this Agreement by written notice to Seller and Escrow Agent prior to the end of the Contingency Period or waive its objection and proceed to complete the transactions specified in this Agreement.

Seller shall order for Buyer a standard CLTA or ALTA owners policy of title insurance (at Buyer's election) dated as of the Closing Date, with liability not less than the Purchase Price, issued by the First American Title Company, showing title vested in Buyer and subject only to the liens and encumbrances approved or deemed approved during the Contingency Period. If Seller fails to deliver title as specified above, Buyer in its sole discretion, may terminate this Agreement by written notice to Seller and Escrow Agent of such determination before the date specified for Close of Escrow.

- 9.2 <u>Board Approval</u>. Buyer's delivery to Seller and Escrow Agent, within ninety (90) days of the Commencement of Escrow (the "Contingency Period") of the written approval of the Buyer's governing board, stating Buyer's intention to purchase the Property in accordance with the terms of this Contract. Prior to Close of Escrow, Buyer will provide the Escrow Agent a Resolution and Certificate of Acceptance of the Deed of conveyance of the Property in accordance with Government Code section 27281. Prior to Close of Escrow, Buyer will adopt the Resolution and Findings if appropriate in accordance with Education Code section 17213. Buyer is authorized to undertake all actions necessary to effectuate the transaction contemplated by this Agreement and to execute any and all documents which may be required in connection with the same.
- 9.3 <u>Planning Agency Report</u>. Buyer's receipt of a report prior to Close of Escrow from the City of San Diego Planning Agency ("Planning Agency") regarding acquisition of the Property for a proposed school site as required pursuant to the provisions of Government Code section 65402 and Public Resources Code section 21151.2. Buyer shall submit all information to the Planning Agency as required pursuant to the provisions of Government Code section 65402 and Public Resources Code section 21151.2 within five (5) business days from the Commencement of Escrow.
- 9.4 <u>State Department of Education School Site Report</u>. Prior to Close of Escrow, if provided by the State Department of Education, Buyer's receipt of a letter approving the site from the State Department of Education with respect to the Property in accordance with Education Code section 17251 and Title 5 of the California Code of Regulations section 14010.

If no letter has been provided by the State Department of Education, Buyer will confirm that it has walked through the site with an authorized representative of the State Department of Education and received verbal approval of the site. Buyer shall submit all required information to the State Department of Education as it becomes available pursuant to the provisions of Education Code section 17251 and Title 5 of the California Code of Regulations section 14010, and as otherwise required by law.

- 9.5 <u>CEQA Compliance</u>. Buyer's compliance with any requirements imposed by the California Environmental Quality Act (Public Resources Code section 21000 et seq.) on or before the Close of Escrow.
- 9.6 Environmental Assessment. Buyer's determination prior to Close of Escrow pursuant to Section 18 of this Agreement that any and all studies of the site by Buyer or others are fully satisfactory to Buyer as Buyer shall determine in its sole discretion and that no Hazardous Substances or Materials are present on the Property and that there is no condition making the site not feasible for development as a middle school and that there is no condition or substance at, on, under or related to the Property presently or potentially posing a significant hazard to human health or the environment and a determination by Buyer that the provisions of Education Code section 17213, and following, as applicable, and any and all other applicable provisions of the California Education Code and the laws of California and the United States have been complied with pertaining to the purchase of the Property by Buyer. In accordance with Section 24 below, Buyer's Environmental Assessment shall take into consideration all site conditions after the site is graded.
- 9.7 Zoning Exemption. If necessary as determined solely by Buyer, Buyer's adoption of a resolution pursuant to Government Code section 53094 which renders inapplicable any City zoning ordinance of the City of San Diego which may be applicable and incompatible with the development of the Property for middle school purposes, and no objection by the City within 60 (sixty) days thereafter to said resolution. Buyer shall adopt any such resolution no later than sixty (60) days from the date of Commencement of Escrow. Buyer retains the sole discretion to determine whether this condition has been satisfied.
- 9.8 <u>Provision of Reports</u>. No later than thirty (30) calendar days after the Commencement of Escrow, Seller shall provide or make available to Buyer all soil, engineering, geological and environmental tests, reports and/or studies, including the most recent topographic maps, surveys, hydrology tests, studies and/or reports and any and all other site studies, reports or test results (hereafter collectively referred to as "Reports") regarding the condition of the Property, which have been performed since Buyer acquired the Property and which are in the possession and control of Seller and which relate to the Property, provided, however, Seller is required only to provide Reports in its possession or control not previously provided to Buyer and provided Seller shall not be required to provide copies of any proprietary materials including (without limitation) internal proformas and memoranda.

- 9.9 <u>Physical Condition</u>. No later than the expiration of the Contingency Period, Buyer shall have notified Seller and Escrow Agent that it has determined within its sole discretion whether the physical condition of the Property is suitable for use as a public school site, provided that such acceptance by Buyer shall not be required until immediately prior to the Close of Escrow.
- 9.10 <u>Seller's Performance, Representation and Warranties</u>. Seller shall have duly performed each and every undertaking and agreement to be performed by it under this Agreement and Seller's representation and warranties shall be true and correct in all material respects as of the Close of Escrow.
 - 9.11 [Intentionally omitted]
- 9.12 <u>Buyer's Performance, Representations and Warranties</u>. Buyer shall have duly performed each and every undertaking and agreement to be performed by it under this Agreement and Buyer's representations and warranties shall be true and correct in all material respects as of the Close of Escrow. Buyer shall apply for and diligently process the approvals described above and shall use its reasonable commercial efforts to obtain the same in a timely fashion.
 - 9.13 [intentionally omitted]
- 9.14 Failure of Conditions Precedent. The conditions set forth in Sections 9.1 through 9.10 inclusive, are for Buyer's benefit and may only be waived by Buyer. The conditions set forth in Section 9.12 are for Seller's benefit and may only be waived by Seller. In the event any of the foregoing conditions precedent set forth in this Article 9 are neither satisfied nor waived in writing within the applicable time frame as provided for above, any party who is not then in default hereunder may terminate the Escrow and this Agreement by giving a written notice of termination to the other party and Escrow Agent. The giving of such notice shall be optional, not mandatory; no delay in the giving of such notice shall affect the rights hereunder of the party giving the same. In the event such notice is given, Escrow Agent shall return the Cash to Buyer and the provisions of Sections 12.6 and 12.7 below shall apply. Neither party may object to the notice of termination following the failure of either party to satisfy any of the conditions set forth above, and the unsatisfied condition shall not be deemed to be a default by that party.
- 9.15 <u>Copies of Documents to Other Party</u>. Each party will, concurrently with its delivery to Escrow Agent of any notices described in this Article 9, deliver a copy of the same to all persons listed beginning on page 1.
- 10. <u>Additional Obligations</u>. The following additional obligations of the Parties shall be completed before or after the Close of Escrow as specified:
 - 10.1 Pursuant to the First Purchase Agreement, an easement has been reserved or

conveyed as to Parcels 3 and 4 for stormwater. The legal description for this easement and a drawing depicting the easement was attached as Exhibit J to the First Purchase Agreement, which itself is attached hereto as Exhibit G.

- 10.2 As to Parcel 4 described in the Amendment, an instrument shall be recorded, as a condition to the transfer of Parcel 4, to the effect that no portion of Parcel 4 will be used for a bus facility, as more particularly described in the Amendment.
- 10.3 To the extent the form and substance of the documents described above in this Section 10 (the "Additional Obligations") are not specifically identified in Exhibits to this Agreement, they shall be agreed upon, if feasible, by the Parties during the Contingency Period but in any event prior to the Close of Escrow.
- 10.4 Pursuant to the Amendment, in the event the Buyer determines that it will no longer use the Property and determines to offer the Property for sale as surplus property, the Buyer shall, to the extent permitted by law, including but not limited to, federal tax laws relating to the tax-exempt status of any Bonds issued to purchase the Property, apply to the Department of Education for a waiver of the requirements of the Education Code and Government Code relating to the sale of surplus property and to permit Seller the first right of refusal to purchase the Property at its fair market value, as determined by paragraph 3.10 of the Amendment.
- 10.4 Drainage, sewage, water, general utility and street easements are required on and around the Property and are to be dedicated in accordance with the Seller's Tentative Map approved by the City of San Diego. The locations of these easements as identified in the First Purchase Agreement and Exhibit I, attached hereto and incorporated herein by this reference, are hereby accepted by Buyer. The easements as required by Seller's Tentative Map or otherwise required, will be identified in Easement Deeds to be approved by the Buyer in a final form that will assure the location of the easements does not impair the Buyer's ability to efficiently construct the planned school facilities on the Property. These easements are to be prepared and recorded before or after the Close of Escrow as and when required by the relevant utility companies or as is necessary to allow for the most efficient development of the Property.

11. Pre-Closing Obligations.

- 11.1 <u>Seller's Promise Not to Further Encumber</u>. During the term of the Escrow, Seller agrees that Seller shall not do any of the following without the prior written consent of Buyer which consent shall not be unreasonably withheld or delayed:
- 11.1.1 Make or allow to be made, extend or allow to be extended, any leases, contracts, options or agreements whatsoever affecting the Property which cannot be lawfully terminated on or before the Closing Date;
 - 11.1.2 Cause or permit any lien, encumbrance, mortgage, deed of trust, right, restriction

or easement to be placed upon the Property which Seller cannot remove before the Closing Date;

- 11.1.3 Cause or permit any mortgage, deed of trust or other lien to be foreclosed upon due to Seller's actions or omissions, including failure to make a required payment or failure to obtain the consent of a beneficiary under any deed of trust and/or mortgage under any mortgage on the Property to enter into this Agreement, if such consent is required under the terms of such deed of trust and/or mortgage;
- 11.1.4 Permit any tenant or other person to occupy or dwell on the Property which Seller warrants is now unoccupied; or
- 11.1.5 Alter or adversely affect the physical condition of the Property except for Seller's grading and other improvements referred to in Section 24 below.

12. The Closing.

- 12.1 <u>Closing Date</u>. The Escrow shall close within five (5) calendar days from the date all of the conditions to the Close of Escrow have been either satisfied or waived (the "Closing Date") but in no event later than July 31, 2013. Unless otherwise subsequently agreed to in a writing signed by Buyer and Seller, if the Close of Escrow fails to occur by the Closing Date, the Escrow shall close as soon thereafter as possible unless Escrow Agent and the other party receive notice from either party to cancel the escrow.
- 12.2 <u>Conditions to Closing</u>. Escrow Agent shall close the Escrow on the Closing Date by (i) filing for record the Grant Deed and such other documents as may be necessary to procure the Title Policy described below; and (ii) delivering funds and documents as set forth in Paragraph 3 above and this paragraph 12.2 WHEN AND ONLY WHEN each of the following conditions has been satisfied:
- 12.2.1 All funds and documents required by Paragraphs 3, 7, 8 and 10 have been delivered to Escrow Agent.
- 12.2.2 Escrow Agent has received written notice from each party that all of the contingencies set forth in paragraph 9 have been or, upon the Closing Date, will be satisfied or waived.
- 12.2.3 Escrow Agent has procured or can procure the Title Policy with liability in the amount of the Purchase Price insuring that fee title to the Property vests in Buyer subject only to those title exceptions described in Section 9.1, above.
- 12.3 <u>Recordation</u>. Escrow Agent shall record or cause to be recorded by the San Diego County Recorder, the Grant Deed and the Easement Deeds, in that order.

- 12.4 <u>Additional Escrow Instructions</u>. If required by Escrow Agent, Buyer and Seller shall execute Escrow Agent's usual form of escrow instructions for transactions of this type, provided, however, that (i) in the event that any portion of such additional escrow instructions shall be inconsistent with the provisions of this Agreement, the provisions of this Agreement shall prevail to the extent of any such inconsistency; and (ii) such escrow instructions shall specifically provide that no provision thereof shall have the effect of modifying this Agreement unless it is expressly so stated and such express statement is initialed by Buyer and Seller.
- 12.5 <u>Supplemental Escrow Instructions</u>. The parties agree that any amendments or additions to the initial form escrow instructions must be executed in writing by both parties.
- 12.6 <u>Delayed Closing</u>. If Escrow Agent cannot close the Escrow by the Closing Date or any permitted extensions thereof, it will, nevertheless, close the Escrow when all contingencies have been satisfied or waived, notwithstanding that one or more of such contingencies has not been timely satisfied or timely waived unless (i) a notice of termination has already been delivered to Escrow Agent in accordance with other provisions of this Agreement, or (ii) after the Closing Date or any permitted extensions thereof and prior to the Close of the Escrow, Escrow Agent received a written notice to terminate the Escrow and this Agreement from a party, who, at the time such notice is delivered is not in default hereunder. No delay in the giving of such notice shall affect the rights hereunder of the party giving the same.
- 12.6.1 Escrow Agent shall have no liability or responsibility for determining whether or not a party giving a Termination Notice is or is not in default hereunder. Within three (3) business days after receipt of any Termination Notice or Default Notice from one party, Escrow Agent shall deliver one copy of such notice to the other party. Unless the Escrow Agent receives written objection to the Termination Notice or Default Notice from the other party stating that the Notice does not comply with this Agreement within five (5) business days after Escrow Agent delivers such notice to the other party, (i) Escrow Agent shall forthwith terminate the Escrow and return all documents, moneys or other items held by it to the party depositing same, except that Escrow Agent may retain such documents and other items usually retained by escrow agents in accordance with standard escrow termination procedures and practices, and (ii) the escrow termination charges shall be paid as provided in Section 12.8 below. Notwithstanding the foregoing provisions of this subparagraph, Escrow Agent may, (a) retain any passbooks, certificates or acceptable negotiable instruments on deposit with it by Buyer until such time as its escrow termination charges are paid in full, or (b) deduct from any Cash or other moneys deposited with Escrow Agent by Buyer sufficient funds to pay its escrow termination charges. If written objection to the termination of escrow is delivered to Escrow Agent within such five (5) day period, Escrow Agent is authorized to hold all funds and instruments delivered to it in connection with the Escrow and may, in Escrow Agent's sole discretion, take no further action until otherwise directed, either by the parties' mutual written instructions or final order of a court of competent jurisdiction.
 - 12.7 Escrow Termination. If this Agreement is terminated pursuant to Section 9.13: (i)

Escrow shall be deemed cancelled and Buyer and Seller shall execute any cancellation instructions reasonably requested by Escrow Agent; (ii) within ten (10) business days of such termination, Escrow Agent shall return to Buyer the Cash deposited to cover the Purchase Price (if the Cash has been previously deposited into the Escrow by Buyer); (iii) within ten (10) Business Days of such termination, Buyer shall return to Seller all documents delivered to Buyer by Seller under this Agreement in accordance with the provisions of Section 18.2 and if requested by Seller, Buyer shall, at no cost to Seller, forthwith provide, without representation or warranty, all studies, reports or other documentation prepared by or at the discretion of Buyer relating to the Physical Inspection of the Property by Buyer, free of liens and fully paid for by Buyer, and deliver to Seller the copies of all such studies, reports and documentation; and Seller shall return to Buyer all documents delivered to Seller by Buyer under this Agreement, if any; and (iv) such termination of this Agreement and Escrow shall be without prejudice to whatever rights the parties may have against each other in connection with this Agreement. The obligations of Seller and Buyer as set forth in this Section 12.7 shall survive the termination of the Escrow. Termination of this Agreement and/or termination of escrow due to a failure of conditions as specified in Section 9 in its entirety shall not constitute a breach or default of this Agreement.

12.8 Escrow Cancellation and Title Changes. If Escrow fails to close due to Seller's default under this Agreement, Seller shall be responsible to reimburse Buyer for all Escrow cancellation and title charges paid by Buyer. If Escrow fails to close due to Buyer's default under this Agreement, Buyer shall be responsible to reimburse Seller for all escrow cancellation and title charges paid by Seller. If Escrow fails to close for any other reason other than the foregoing, Buyer and Seller shall each be responsible to pay one-half (½) of any Escrow cancellation and title charges. Upon the termination of this Agreement, each party shall promptly sign and deliver to Escrow Agent any Escrow cancellation instructions reasonably required by Escrow Agent. Cancellation of the Escrow as provided in this Section 12 shall be without prejudice to whatever legal or equitable rights Buyer or Seller may have against each other arising from this Agreement or otherwise.

13. Prorations, Fees and Costs.

- 13.1 <u>Charges to Be Prorated and Bonds, Assessments, Liens.</u> Escrow Agent shall prorate, apportion between the parties, in Cash, to the Close of Escrow, only County and City (if any) general and special taxes and assessments (including any Mello Roos bond assessments for school facilities) based on the latest information available to Escrow Agent. Any bond or assessment which is a lien that exists prior to the Close of Escrow shall be paid by Seller to make it current and shall be prorated in the aforesaid fashion.
- 13.2 <u>Basis of Proration</u>. All prorations or adjustments called for in this Agreement shall be made by Escrow Agent on the basis of a thirty (30) day month and three hundred sixty (360) day year, unless otherwise specifically instructed in writing by Buyer and Seller.

- 13.3 <u>Seller's Charges</u>. In addition to the charges to be prorated between Seller and Buyer as set forth in Section 13.1 above, Seller shall pay (i) subject to Section 12.8, one-half (½) of Escrow Agent's fees and charges; (ii) the premium for the CLTA portion of the Title Policy; (iii) all prepayment penalties, reconveyance fees, trustees or forwarding fees for the reconveyance of any deed of trust or release of any mortgage, lien or encumbrance against the Property.
- 13.4 <u>Buyer's Charges</u>. In addition to the charges to be prorated between Seller and Buyer as set forth in Section 12.1 above, Buyer shall pay (i) subject to Section 12.8, one-half (½) of Escrow Agent's fees and charges; (ii) the cost of transfer taxes, recording fees, and all other similar fees and charges incurred in connection with the Escrow, if any, and (iii) the ALTA portion of the Title Policy premium, including the cost of any ALTA survey (if Buyer elects to obtain an ALTA policy).
- 13.5 <u>Supplemental Taxes</u>. If a supplemental property tax assessment is currently due and payable, it shall be paid by Seller at or prior to Close of Escrow. If there are any supplemental property tax assessments levied against the Property, after the Closing Date as a result of a sale or construction prior to the Close of Escrow, if any, the parties shall once again prorate such assessments and make the appropriate accountings between them.

14. Distribution of Funds and Documents.

- 14.1 Retention of Cash. Except as specified in Section 3 above all Cash received by Escrow Agent, until disbursed in accordance with this Agreement, shall be kept on deposit with other escrow funds in Escrow Agent's general escrow account(s), in any state or national bank, and may be transferred to any other such general escrow account(s) unless otherwise expressly provided by the Parties.
- 14.2 <u>Disbursements</u>. All disbursements by Escrow Agent shall be made by checks of Escrow Agent or wire transfer if requested by the party receiving such disbursement.
- 14.3 <u>Payment of Encumbrances</u>. Escrow Agent shall, at the Close of Escrow, pay from funds to which Seller is entitled and from funds, if any, deposited by Seller with Escrow Agent, to the obligees thereof, all liens and encumbrances other than those permitted hereby to be shown in the Title Policy.
- 14.4 <u>Return After Recording</u>. Escrow Agent shall cause the County Recorder to mail the Grant Deed (and each other document which is herein expressed to be, or by general usage is recorded) after recordation, to the grantee, the San Dieguito Union High School District at the address identified on page 1 to the attention of the Associate Superintendent, Business Services.
- 14.5 <u>Delivery of Instruments</u>. Escrow Agent shall, at the Close of Escrow, deliver by United States mail (or hold for personal pickup, if requested) each non-recorded document received hereunder by Escrow Agent, to the payee or person (i) acquiring rights under said

document or (ii) for whose benefit said document was acquired.

- 14.6 <u>Delivery of Cash</u>. Escrow Agent shall, at the Close of Escrow, deliver by personal service (or hold for personal pickup, if requested) (i) to Seller, the Cash and (ii) to Buyer, or order, any excess funds theretofore delivered to Escrow Agent by Buyer.
- 14.7 <u>Conformed Instruments</u>. Escrow Agent shall, at the Close of Escrow, deliver to Seller a copy of the Grant Deed (conformed to show recording data) and each document recorded to place title in the condition required by this Agreement.
- 15. <u>Seller's Representations and Warranties</u>. Escrow Agent shall have no concern with, or liability or responsibility for this paragraph. Seller makes the following representations and warranties:
- 15.1 Seller (and the person(s) signing this Agreement for Seller) each have full power and authority to enter into this Agreement and to sign this Agreement and to bind Seller to this Agreement and to sell, transfer and convey all right, title and interest in and to the Property in accordance with this Agreement.
- 15.2 No one other than Seller will be in possession of any portion of the Property immediately prior to the Close of Escrow.
- 15.3 Based on the actual knowledge of Seller's officers having supervisory authority over the Property, there is no suit, action, arbitration, legal, administrative or other proceeding or inquiry pending or threatened against the Property, or any portion thereof, or pending or threatened against Seller which would materially and adversely affect the title, value and ownership of the Property or which would subject an owner of the Property, or any portion thereof, to liability.
- 15.4 To Seller's actual knowledge, except as may be covered by any documents delivered to Buyer herein, including the Title Report, the Tentative Map, the Amendment, and the Easement Deed(s) specified in Section 10 above, there are no:
- 15.4.1 Intended public improvements, or private rights which will result in the creation of any liens upon the Property or any portion thereof.
- 15.4.2 Uncured notices which have been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the Property or any portion thereof.
 - 15.4.3 Actual or impending mechanics' liens against the Property or any portion thereof.
 - 15.5 Seller has owned the Property for over ten (10) years and throughout that time has

been familiar with the uses of the Property and based on that information, Seller represents to Seller's actual knowledge that, except as may be provided in the reports pertaining to the Property obtained by the District and Seller and/or delivered by Seller to the District pursuant to Section 9.8 above, including without limitation the reports described in section 9.8 hereof, there is no existing violation of any Hazardous Materials Laws, nor is there any pending litigation, administrative proceeding or other action or written threat of any such matter involving any environmental or other matter concerning the Property.

- 15.6 To Seller's actual knowledge, there is no lease, license, permit, option, right of first refusal or other agreement, written or oral, which after the Close of Escrow would materially and adversely affect the Property or any portion thereof, except as may be disclosed in the Title Report.
- 15.7 Entering into this Agreement will not constitute a breach or default under any agreement to which Seller is bound and/or to which the Property is subject, including any deed of trust and/or mortgage.
 - 16. Buyer's Acknowledgment and Representation and Warranties.
- 16.1 Buyer represents and warrants to Seller that Buyer has full power and authority to enter into this Agreement and the persons signing this Agreement for Buyer have the full power and authority to sign for Buyer and to bind Buyer, and to purchase the Property in accordance with this Agreement.
- 16.2 Buyer represents and warrants to Seller that prior to Close of Escrow it will take all actions necessary to assure the funds necessary for the purchase of the Property by Buyer will have been budgeted and appropriated by all applicable governmental authorities and that no further financing approval will be required for Buyer to proceed with the acquisition of the Property on the terms and conditions set forth in this Agreement and the Amendment.
- 17. <u>Seller's Promise to Remove Personal Property</u>. Prior to Close of Escrow, Seller promises to remove or cause to be removed from the Property at Seller's expense, any and all personal property and/or trash, rubbish or any other materials including, but not limited to, any Hazardous Substances or Materials in tanks, barrels, equipment, pipelines or other containers known to be on or under the Property, unless otherwise agreed to in writing by Buyer.
- 18. Environmental Assessment-Physical Inspection. Buyer's obligation to purchase the Property pursuant to this Agreement and the Amendment shall be contingent upon a determination by Buyer during the Contingency Period that no Hazardous Substances or Materials are present on the Property and that there is no condition at, on, under or related to the Property presently or potentially posing a significant hazard to human health or the environment or which is inconsistent with the laws of California as they pertain to an acquisition of property for the purpose of construction of a public school.

18.1 Entry Onto the Property. At any time during the term of this Agreement, Buyer, through its employees and agents, may enter upon the Property for the purpose of accomplishing an environmental assessment of the Property generally, including the soils and water on the Property ("Environmental Assessment"), for any other inspections at Buyer's cost and expense, and to begin grading activities pursuant to Section 24 hereof. Seller agrees to cooperate with Buyer in obtaining permits for work proposed by Buyer as described in Exhibit H hereof and incorporated herein by this reference. At least 48 hours prior to Buyer's entry onto the Property, Buyer or Buyer's representative will use its commercially reasonable efforts to contact Seller's representative by telephone to permit Seller the opportunity to accompany Buyer's representative and agents during their entry onto the Property. Should Buyer determine, in its sole discretion, based on its investigations of the Property, that Hazardous Substances or Materials are present on the Property, or that there is a condition at, on, under or related to the Property presently or potentially posing a significant hazard to human health or the environment or which is inconsistent with development of the Property for public school purposes Buyer shall so notify Seller, and Seller may elect, at Seller's sole discretion, to either refuse to take any further action or to undertake to remove such Hazardous Substance or Material or unacceptable condition by Close of Escrow. In the event Seller is unable or unwilling to remove any such Hazardous Substance or Material, or unacceptable condition by the date set for the Close of Escrow, Buyer may elect either (i) to terminate this Agreement, in which case Buyer shall have no obligation to purchase the Property, or (ii) if Seller is taking steps to remove such Hazardous Substance or Material or unacceptable condition, to defer the Closing Date until such Hazardous Substances or Materials, or such conditions have been removed by Seller or (iii) waive its objection and proceed to the Closing, in which event Seller shall not have any obligation for any clean-up work.

Permission to enter the Property is hereby granted in accordance with the following terms and conditions:

- a. To the extent practicable, entry onto the Property shall be by means of existing roads and/or trails;
- b. Damage to vegetation shall be kept to a minimum, consistent with the purposes for which permission to enter is granted;
- c. Any fencing, landscaping, irrigation facilities, paving or other man-made improvements located within the area authorized for entry shall not be disturbed unless essential to the purposes of the permission to enter which is hereby granted, in which case any damage shall be repaired and the Property left in as good condition as found, to the fullest extent it is reasonable and appropriate to do so;
- d. All rights granted hereunder shall terminate upon completion of the studies or

- work described herein, or on Close of Escrow or the termination of this Agreement whichever shall first occur;
- e. No cost of any kind shall be incurred by the Seller in connection with performance of the work to be done hereunder; Buyer shall be responsible for obtaining all necessary permits and approvals regarding its activities, however Seller shall cooperate to the extent required as Owner of the Property prior to Close of Escrow.
- f. As to entry on to the Property prior to transfer of title as is provided for in this Section 18, the Seller agrees to indemnify, defend (with counsel of the Seller's choice) and hold the Buyer harmless from any and all penalties, liabilities, claims, costs, expenses, damages, or loss and including all costs, attorneys' fees and expenses, investigative costs and expert witness fees, resulting from claims or court actions arising directly or indirectly out of any damage or injury to persons or property, whether to property value or otherwise, by reason of discovery of, necessity by the Seller for clean-up of, or release of any hazardous waste, material, gas, or substance of any type by the Buyer, its agents, employees or independent contractors in exercising any of the privileges herein granted or in consequence hereof, except and to the extent release of such hazardous substances or materials is caused by the negligence or willful misconduct of the Buyer, its agents, employees, or independent contractors. It is expressly understood that unless and until Buyer acquires legal title to the Property, Buyer neither has nor accepts responsibility for clean-up of any hazardous waste, material, gas or substances of any type which may be discovered or released, as a result of Buyer's studies of the Property, except and to the extent such substances are caused to be released by the negligence or willful misconduct of the Buyer, its agents, employees, or independent contractors.
- g. Except as otherwise expressly provided in this Section 18.1, the Buyer shall indemnify, defend (with counsel of the Buyer's choice) and hold the Seller harmless from any and all claims, actions, costs, expenses, damages and liabilities resulting directly or indirectly from the negligent acts or omissions of the Buyer's agents, employees or independent contractors in the course of entry onto the Property pursuant to the provisions of this Agreement and including, but not limited to, mechanics' liens, personal injury or property damage and from and against all costs, attorneys' fees, and expenses, investigative costs and expert witness fees, and liabilities incurred in connection with such claims or any actions or proceedings brought thereon. With respect to entry on to the Property prior to Close of Escrow, the obligations of Buyer and Seller to indemnify and defend the other party as provided in this Section 18.1 shall survive the termination of this Agreement if termination results in Buyer's determination not to acquire legal title to the Property, and the obligations of Buyer and Seller to indemnify and defend

the other party as provided in this Section 18.1 shall not survive if Buyer acquires the Property.

- 18.2 <u>Delivery of Physical Reports</u>. Seller shall provide copies of the Reports described in Section 9.8 above to Buyer within thirty (30) calendar days after the Commencement of Escrow, and any and all other such Reports received by Seller after Commencement of Escrow shall be provided to Buyer within ten (10) business days of Seller's receipt of such Report or Reports. Seller will authorize those who prepared any Reports to divulge any other information they may have regarding the Property to Buyer provided that Buyer pays any additional costs incurred in connection therewith. Buyer shall be solely responsible for determining the sufficiency or accuracy of the Reports. If Seller and Escrow Agent do not receive Buyer's written approval of the Physical Condition on or before the Contingency Period expires, then this Agreement shall be deemed terminated without further liability to either party, and the Escrow Charges shall be paid as otherwise provided in this Agreement. Such acceptance by Buyer shall not be required until Close of Escrow.
- 19. <u>Purchase "As Is"</u>. Buyer agrees that (i) except for the warranties and representations of Seller, Buyer is purchasing the respective Property on an "As Is" basis without relying on any communications that may have been made by a Selling Party, or any of a Selling Party's agents or employees, with respect to the Property being bought or with respect to the Buying Party's intended use thereof; (ii) the only representations and warranties made with respect to the Property being bought are contained in this Agreement; and (iii) for purposes of this Agreement, Seller's "actual knowledge" as to the Property shall be deemed the actual present knowledge of the officers having supervisory authority over the Property, and without any duty or obligation to make any independent investigation or inquiry. Without limiting the generality of the foregoing, Seller makes no representation or warranty as to the accuracy or completeness of any report or study delivered to a Buyer, except as specifically provided in this Agreement, and Buyer shall be solely responsible for determining the condition of the Property and the suitability thereof as a public school site.
- 20. <u>Risk of Loss</u>. Except as specifically provided in this Agreement, all risk of loss shall remain with Seller until Close of Escrow. In the event the Property is destroyed or materially damaged after Buyer has entered into this Agreement and prior to Close of Escrow, Buyer may rescind this Agreement by written notice to Seller and to Escrow Agent.
- 21. Breach of Representations; Warranties and Covenants by Seller. All Seller's representations, warranties and covenants made as a part of this Agreement ("Representations, Warranties and Covenants") are material and are relied upon by Buyer. All Representations, Warranties and Covenants shall be deemed to have been made as of the Close of Escrow, and shall survive the Close of Escrow. Seller shall indemnify, defend with counsel of Buyer's choice, Buyer as to the Property and hold Buyer harmless from all expense, loss, liability, damages and claims, including Buyer's attorney fees, investigative and expert witness costs, if necessary, arising out of the breach of any Seller Representations, Warranties and Covenants.

Upon Close of Escrow if Buyer so requests, Seller shall deliver to Buyer a certificate in a form satisfactory to Buyer's counsel stating that all Representations, Warranties and Covenants are true and correct as of the Close of Escrow.

- 22. Changes in Representations, Warranties and Covenants of Seller. If, before the Close of Escrow, any of the Representations, Warranties and Covenants cease to be true or Seller or Buyer discovers any information or facts that would materially change the Representations, Warranties and/or Covenants, Seller or Buyer shall immediately give written notice to the other party of those facts and information. After giving of notice if the problem is not remedied before Close of Escrow, the Party who gave the notice may elect to (a) proceed to Close Escrow, in which event such Party shall waive any right or remedy concerning the breach of such Representation, Warranty and/or Covenant or (b) terminate this Agreement in which case Buyer shall have no obligation to purchase the Property and Seller shall have no obligation to sell the Property.
- 23. Notices. All notices pertaining to this Agreement shall be in writing delivered to the Parties hereto personally by hand, courier service or express mail, or by first class mail postage prepaid or by facsimile copy followed by first class mailing of the original, postage prepaid, at the addresses set forth on page one of this Agreement. All notices shall be deemed given when deposited in the mail, first class postage prepaid, addressed to the Party to be notified at the addresses set forth in the introductory provisions of this Agreement; or if delivered by hand, courier service or express mail, shall be deemed given when delivered or if transmitted by facsimile shall be deemed given upon telephonic acknowledgment of receipt by the party to whom the notice is addressed. The Parties may, by notice as provided above, designate a different address to which notices shall be given.
- 24. Grading and Improvements. Prior to Close of Escrow, Seller shall cooperate with Buyer in obtaining a grading permit from the City for the grading of the Property pursuant to the plans and drawings previously approved by Buyer and submitted to the appropriate authorities for approval. As soon as the grading permit is obtained, Buyer shall undertake and complete the site improvements on the Property in accordance with the provisions of Exhibit H attached hereto and incorporated herein by this reference. Prior to the Close of Escrow, Buyer shall have the right to enter and grade and construct the site improvements in connection with the construction of infrastructure improvements required for construction of the middle school. In addition, Buyer may deposit soil from an adjacent grading project at Canyon Crest Academy on the portion of the Property on which Buyer will need fill to construct the school. Such grading and improvements shall be in a good and workmanlike manner in accordance with applicable laws.
 - 25. Extent of Escrow Agent's Responsibilities.
- 25.1 <u>Negligence</u>. Misconduct. Escrow Agent shall not be liable for any of its acts or omissions unless the same shall constitute negligence or willful misconduct.

- 25.2 <u>Information</u>. Escrow Agent shall have no obligation to inform any party of any other transaction or of facts within Escrow Agent's knowledge, even though the same concerns the Property, provided that such matters do not prevent Escrow Agent's compliance with this Agreement.
- 25.3 Form, Validity, Authority. Escrow Agent shall not be responsible for (i) the sufficiency or correctness as to form or the validity of any document deposited with Escrow Agent, (ii) the manner of execution of any such deposited document, unless such execution occurs in Escrow Agent's premises and under its supervision, or (iii) the identity, authority or rights of any person executing any document deposited with Escrow Agent.
- 25.4 <u>Conflicting Demands</u>. If Escrow Agent receives or becomes aware of conflicting demands, instructions or claims with respect to the Escrow, the rights of any party hereto, or funds, documents or other items deposited with Escrow Agent, Escrow Agent shall have the right to discontinue any further acts until such conflict is resolved to its satisfaction, and it shall have the further right to commence or defend any action for the determination of such conflict. The parties shall, immediately after demand therefore by Escrow Agent, reimburse Escrow Agent (in such respective proportions as Escrow Agent shall determine) any reasonable attorneys' fees and court costs incurred by Escrow Agent pursuant to this paragraph.
- 25.5 <u>Miscellaneous</u>. Recordation of any instruments delivered through the Escrow, if necessary or Proper in the issuance of the Title Policy, is authorized. No examination of insurance or as to the amount of payment of personal property taxes is required unless specifically requested. If any party obtains a loan on the Property, then, during the pendency of the Escrow, Escrow Agent is authorized to furnish to the lender, or anyone acting on its behalf, any information concerning this Escrow, including, without limitation, a certified copy of this Agreement and any amendments hereto.

26. General Provisions.

- 26.1 No Broker's Commission. Each party represents to the other that it has not used a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement. In the event any person asserts a claim for a broker's commission or finder's fee against one of the parties to this Agreement, the party against whom the claim is asserted will indemnify, defend and hold the other party harmless from said claim.
- 26.2 <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same agreement.
- 26.3 <u>Severability</u>. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

- 26.4 <u>No Merger</u>. The obligations contained in this Agreement, except for those specifically discharged in Escrow (such as conveyance of title to the Property and delivery of money and documents in the Escrow), shall not merge with transfer of title but shall remain in effect until fulfilled.
- 26.5 <u>Incorporation of Exhibits</u>. All exhibits attached and referred to in this Agreement are incorporated as though fully set forth in this Agreement.
- 26.6 <u>Modifications</u>. All modifications, waivers, amendments, changes or extensions to this Agreement shall be in writing signed by the parties.
- 26.7 <u>Successors</u>. This Agreement shall inure to the benefit of and be binding upon the successors-in-interest, heirs, legatees, assigns and personal representatives of the parties hereto.
- 26.8 <u>Cooperation</u>. Buyer and Seller acknowledge that it may be necessary to execute documents other than those specifically referred to in this Agreement in order to complete the acquisition of the Property as provided in this Agreement. Both Buyer and Seller hereby agree to cooperate with each other by executing any other documents or taking any other action as may be reasonably necessary to complete this transaction in accordance with the intent of the parties as evidenced by this Agreement.
- 26.9 <u>Assignment</u>. This Agreement shall be binding upon the parties and their respective heirs, successors, representatives or assigns. This Agreement may not be assigned by Buyer.
- 26.10 <u>Governing Law</u>. This Agreement is executed in and shall be governed by the laws of the State of California in the courts of North San Diego County.
- 26.11 <u>Waivers</u>. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the party making the waiver. Either party may waive any provision of this Agreement intended for its benefit; provided, however, such waiver shall in no way excuse the other party from the performance of any of its other obligations under this Agreement.
- 26.12 <u>Construction</u>. If any required act falls on a day which is not a Business Day, such action shall instead be required to be performed on the next Business Day. Whenever the word "day" is used, it shall be deemed to refer to a calendar day unless the words "Business Day" are used. As used in this Agreement, the masculine, feminine or neuter gender and the singular or plural numbers shall each be deemed to include the other whenever the context so requires. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party preparing this Agreement or any part hereof.

26.13 <u>Exhibits</u>. The Parties agree to prepare, initial and attach the final Exhibits to each executed Agreement on or before Close of Escrow. The Parties shall deliver to Escrow Agent a complete set of fully initialed Exhibits.

IN WITNESS WHEREOF, the Buyer and Seller have executed this Agreement effective as of the date first written above.

BUYER	SELLER
SAN DIEGUITO UNION HIGH	PARDEE HOMES, a California
SCHOOL DISTRICT, a California	Corporation
Public School District	-
By:	By:
Eric Dill	Name:
Associate Superintendent,	Title:
Business Services	

Exhibit A

Property Description Parcels 3 and 5

LEGAL DESCRIPTION

PARCEL 3

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15; THENCE ALONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

- 1. SOUTH 00°09'23" WEST 1380.82 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND OF THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHERLY LINE OF SAID NORTHWEST QUARTER,
- 2. SOUTH 89°40'45" EAST 809.88 FEET TO THE BEGINNING OF A 3943.56 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE ALONG THE ARC OF SAID CURVE
- 3. SOUTHWESTERLY 758.39 FEET THROUGH A CENTRAL ANGLE OF 11°01'07"; THENCE
- 4. NORTH 40°44'55" WEST 645.92 FEET TO THE WESTERLY LINE OF SAID NORTHWEST QUARTER; THENCE NORTHERLY ALONG SAID WESTERLY LINE,
- 5. NORTH 00°09'23" EAST 165.04 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND CONTAINS 7.074 ACRES MORE OR LESS

LEGAL DESCRIPTION

PARCEL 5

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15; THENCE ALONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

1.	SOUTH 00°09'23" WEST	1545.86 FEET; THENCE LEAVING SAID LINE,
2.	SOUTH 40°44'55" EAST	105.10 FEET; THENCE
3.	SOUTH 49°15'05" WEST	735.63 FEET; THENCE
4.	SOUTH 03°44'10" EAST	535.08 FEET; THENCE
5.	SOUTH 33°24'35" EAST	26.79 FEET; THENCE TO THE TRUE POINT OF BEGINNING;
	THENCE CONTINUING ALONG S	AID LINE,
6.	SOUTH 33°24'35" EAST	181.91 TO A POINT ON THE NORTHWESTERLY LINE OF
	CALTRANS RIGHT-OR-WAY AND	A POINT OF A 3943.56 FOOT RADIUS CURVE CONCAVE
	NORTHWESTERLY; THENCE ALO	NG THE ARC OF SAID CURVE
7.	SOUTHWESTERLY	802.61 FEET THROUGH A CENTRAL ANGLE OF 11°39'40;
	THENCE	
8.	SOUTH 70°51'57" WEST	147.27 FEET; THENCE
9.	NORTH 03°32'11" WEST	501.50 FEET; THENCE
10.	NORTH 82°20'14" EAST	447.01 FEET; THENCE
11.	SOUTH 90°00'00" EAST	177.86 FEET; THENCE
12.	NORTH 63°49'15" EAST	143.93 FEET; TO THE TRUE POINT OF BEGINNING. SAID LAND
	CONTAINS 6.631 ACRES MORE (OR LESS

Exhibit B

Copy of Amendment dated 5-1-03 and Second Amendment dated 10-19-09, including exhibits

ORIGINAL

AMENDMENT AND RESTATEMENT OF FUNDING AND MITIGATION AGREEMENT

(Pacific Highlands Ranch)

THIS AMENDMENT AND RESTATEMENT OF FUNDING AND MITIGATION AGREEMENT dated as of May 1, 2003 ("Amendment"), by and among SAN DIEGUITO UNION HIGH SCHOOL DISTRICT (the "School District"), a school district organized and existing under the laws of the State of California, COMMUNITY FACILITIES DISTRICT NO. 95-1 OF THE SCHOOL DISTRICT ("CFD 95-1"), COMMUNITY FACILITIES DISTRICT NO. 99-1 OF THE SCHOOL DISTRICT ("CFD 99-1"), COMMUNITY FACILITIES DISTRICT NO. 99-2 OF THE SCHOOL DISTRICT ("CFD 99-2), COMMUNITY FACILITIES DISTRICT NO. 99-3 OF THE SCHOOL DISTRICT ("CFD 99-3"), THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT FINANCING AUTHORITY (the "Authority"), and PARDEE HOMES, a California corporation (the "Landowner"), an owner of property within the boundaries of the School District.

WITNESSETH:

WHEREAS, the Landowner is the owner or optionee of the undeveloped property described and/or depicted in <u>Exhibit A</u> hereto which the Landowner proposes to develop for various land uses.

WHEREAS, the Property (other than the Additional Property) is a portion of the Pacific Highlands Ranch Subarea Plan.

WHEREAS, the School District has formed CFD 99-1 (pursuant to the Mello-Roos Community Facilities District Act of 1982, as amended (the "Act")) to fund certain school facilities described in Exhibit B hereto (the "School Facilities").

WHEREAS, the School District has also established CFD 95-1, CFD 99-2 and CFD 99-3 pursuant to the Act to fund school facilities including, without limitation, the School Facilities.

WHEREAS, the School District and the Landowner have agreed upon the payment of certain amounts from the proceeds of bonds to be issued by CFD 99-1 and special taxes to be collected by CFD 99-1, in full mitigation of the impact of the development of the Property on school facilities within the School District.

WHEREAS, School District and the Landowner intend that funding for school facilities required to house students residing within the Property shall be provided on a timely basis pursuant to this Amendment.

WHEREAS, School District and Landowner entered into a Funding and Mitigation Agreement dated as of July 14, 1998 ("Agreement") which, among other things, sets forth the terms and conditions for the establishment of CFD 99-1 and the School District's acquisition of a high school site and junior high school site within Pacific Highlands Ranch.

WHEREAS, School District and Landowner propose to amend and restate the Agreement by this Amendment to, among other things, modify the area to be designated as the high school site, specify the terms for acquiring the high school site and junior high school site, include additional property owned by Landowner in the terms of this Amendment and form a new community facilities district.

NOW, THEREFORE, in consideration of the terms and conditions herein set forth, the School District, on behalf of itself and CFD 95-1, CFD 99-1, CFD 99-2 and CFD 99-3, the Authority and the Landowner DO HEREBY AGREE AS FOLLOWS:

1. <u>Definitions</u>. Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of this Amendment, or any supplemental agreement, and any certificate, opinion or other document herein mentioned, have the meanings herein specified. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Amendment, and the word "herein," "hereof," "hereunder" and other words of a similar import refer to this Amendment as a whole and not to any particular Article, Section or subdivision hereof.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, set forth at Title 5, Division 2, Chapter 2.5 of the California Government Code (commencing with Section 53311).

"Additional Property" means the real property known as the "Shaw/Lorenz Property" and described and/or depicted as such in <u>Exhibit A</u> hereto, which real property Landowner is under contract to acquire as of the date of this Amendment.

"Additional Traffic Improvements" may include all or some of the following to the extent reasonably determined by the School District's traffic engineer, after consultation with Landowner's traffic engineer, to mitigate traffic impacts:

- (i) an additional left turn pocket on southbound Carmel Valley Road at the intersection of Street "B";
- (ii) a right turn lane on northbound Carmel Valley Road at the intersection of Street "B"; and
- (iii) widening of the east portion of Street "B" from 2 to 4 lanes from the planned driveway entrances to Landowner's abutting residential and non-residential land uses eastward to the cul-de-sac terminus of Street "B."

"Additional Traffic Improvements Costs" means the marginal costs of designing, engineering, permitting, inspecting and constructing the Additional Traffic Improvements, as further defined and determined pursuant to Section 3.5.1 below.

"Administrative Expenses" means Administrative Expenses, as that term is defined in the Rate and Method and New Rate and Method.

"Agreement" means the Funding and Mitigation Agreement dated July 14, 1998 by and between the School District and Pardee Construction Company. Pardee Construction Company is now known as Pardee Homes.

"Alternate Prepayment Tax(es)" means funds collected pursuant to Section III.C of the Rate and Method and New Rate and Method.

"Alternative Site A" means the high school site of not more than 50 Net, Usable Acres and the alternative junior high school site of not more than 20 Net, Usable Acres designated the "Senior/Junior High School Alternative Site A" in the Pacific Highlands Ranch Subarea Plan ("Subarea Plan"), State Route 56 Alignment "F" Land Use Plan attached hereto as Exhibit D-2.

"Alternative Site B" means the optional junior high school site designated in the Subarea Plan, State Board 56 Alignment "F" Land Use Plan attached hereto as Exhibit D-2.

"Amendment" means this Amendment and Restatement of the Agreement between the School District and Pardee Homes, as it may be amended or supplemented with the mutual written consent of the parties from time to time.

"Authority" means the San Dieguito Union High School District Financing Authority.

"Board" means the Board of Trustees of the School District.

"Bond Requirements" means Bond Requirements as the term is defined in the Rate and Method and New Rate and Method.

"Bonds" means any "debt" (as defined in Section 53317(d) of the Act) of the CFDs to the extent issued on the basis of, and secured by the Special Taxes and any debt of the Authority secured by the Special Taxes.

"Certificate of Compliance" means (i) a certificate issued by the School District pursuant to Education Code Section 17620(b) acknowledging the fact that the recipient thereof has complied with all requirements of the School District for the payment of school fees and (ii) a certificate issued by the School District acknowledging that adequate provisions have been made for school facilities.

"CFDs" means CFD 95-1, CFD 99-1, CFD 99-2, CFD 99-3, the New CFD and all TPHS CFDs.

"City" means the City of San Diego, California.

"Community Park" means an area of approximately 13 to 20 acres designated in the Subarea Plan.

"Credit Funds" means (i) any and all funds, reductions in liabilities or consideration in lieu of funds, received by School District from the State for any of the Credit

School Facilities, (ii) subject to and in accordance with the provisions of Section 3.1, that fair share of general obligation bonds, Mello-Roos bonds (other than the Bonds) or other indebtedness issued or incurred by the School District and payable from taxes or assessments for the acquisition or the construction of school facilities in the School District which is reasonably allocable to the Property based upon the taxes or assessments levied on property within the CFD other than the Special Taxes and (iii) if, notwithstanding the provisions of this Amendment to the contrary, School District or the State, County, City or any other agency are mandated by future legislation to impose and collect school fees with respect to development of the Property for permanent or temporary school facilities, the amount of any such school fees so collected.

"Credit School Facilities" means the land, facilities, furnishings and equipment for (i) the High School (or any high school constructed or expanded in lieu of the High School) and (ii) the Junior High School (or any junior high school constructed or expanded in lieu of the Junior High School).

"Developed Property" means property for which a building permit has been issued by the City, as further defined in the Rate and Method and New Rate and Method.

"Developed Property Special Tax" means the special tax to be levied on Developed Property at the rates and according to the methodology set forth in the Rate and Method and New Rate and Method.

"District Advance" shall have the meaning set forth in Section 3.5.3.

"District CFDs" means all of the CFDs, Community Facilities District Nos. 99-1, 99-2, 99-3, and 95-1 of the School District and any other community facilities district established by the School District.

"Equivalent Dwelling Unit" or "EDU" means and shall equal one (1) Single Family Dwelling Unit and 3.7 Multi-Family Dwelling Units (i.e., each Multi-Family Dwelling Unit shall equal 0.27 EDU).

"Exchange Parcel" means the 11.211-acre parcel described in <u>Exhibit E-2</u> hereto consisting of a portion of Parcel 1.

"Final Formation of the New CFD" shall be deemed to have occurred upon the occurrence of all of the following: (i) the formation of the New CFD including the authorization for the levy by the New CFD of the New CFD special tax and the authorization of the issuance of New CFD Bonds, (ii) the approval by the qualified electors of the New CFD of the levy of the special tax and the issuance of the New CFD Bonds, and (iii) the entry of a final nonappealable judgment in the Superior Court of the State of California for the Count of San Diego validating the levy of the New CFD Special Tax and the issuance of the New CFD Bonds, if the School District files an action seeking such a judgment within thirty (30) days of the election to authorize the Bonds and Special Taxes of the New CFD.

"Gonsalves Property" means the approximately 12.4-acre parcel abutting Parcel 3 and described in the Gonsalves Property Purchase Agreement attached hereto as <u>Exhibit E</u>.

"Gonsalves Property Purchase Agreement" means the real estate purchase contract by and among the School District, Landowner and the owners of the Gonsalves Property and dated December 27, 2002 relating to the District's acquisition of the Gonsalves Property and Landowner's conveyance of the Exchange Parcel to School District in exchange for the Gonsalves Property.

"GO Funds" shall have the meaning set forth in Section 3.5.5(c).

"High School" means the high school to be constructed initially within Parcels 1 and 2.

"Index" means the Index as the term is defined in the Rate and Method.

"Junior High School" means the junior high school to be constructed within Parcel 3 and any portion of Parcels 2, 3 or 4.

"Landowner Advance" means an advance of funds by Landowner to pay the District's actual reasonable costs expended or incurred in establishing the New CFD and issuing the Notes.

"Multi-Family Dwelling Unit" means a Multi-Family Dwelling Unit as defined in the Rate and Method and New Rate and Method.

"Net Usable Acres" means the area of a school site that is capable of accommodating school buildings, common areas, parking lots, play and athletic facilities and landscaped areas and slopes of not more than 2% (assuming a construction-ready condition).

"New CFD" means a community facilities district established under the Act, encompassing a portion of the Property and Additional Property, as described in Exhibit C hereto, authorized to levy special taxes in accordance with the New Rate and Method and authorized to incur bonded indebtedness.

"New Rate and Method" means the Rate and Method of Apportionment of Special Taxes for the New CFD attached hereto as Exhibit G.

"Note" means a master promissory note of the New CFD in substantially the form attached hereto as <u>Exhibit H-1</u> and a promissory note of each of CFD No. 99-1, CFD No. 99-2, CFD No. 99-3 and CFD No. 95-1 in substantially the form attached hereto as <u>Exhibit H-2</u>.

"Parcel" means any of Parcel 1, Parcel 2, Parcel 3, Parcel 4, the Exchange Parcel and each Surplus Parcel.

"Parcel 1" means the approximately 40.212-acre Parcel 1 depicted on Exhibit E-1 hereto.

"Parcel 2" means the approximately 13.351-acre parcel 2 depicted on Exhibit E-1 hereto.

"Parcel 3" means the approximately 7.074-acre Park Option Parcel 3 depicted on Exhibit E-1 hereto.

"Parcel 4" means the approximately 6.631-acre parcel 4 depicted on Exhibit E-1 hereto, as the acreage of such parcel may be reduced in size and its configuration modified pursuant to Section 3.6.2 below.

"Parcels 1 and 2 School Site Purchase Agreement" means the School Site Purchase Agreement and Escrow Instructions by and between the School District and Landowner dated as of May 1, 2003.

"Park Purchase Agreement" means that certain Pacific Highlands Ranch – Subarea III NCFUA Community Park Site Purchase Agreement dated September 8, 1998, as amended by that certain First Amendment to Pacific Highlands Ranch – Subarea III NCFUA Community Park Site Purchase Agreement by and between Pardee Homes and City approved by the City Council of the City on February 3, 2003, as it may be further amended from time to time.

"Proceeds" means the proceeds of the Bonds and Special Taxes received after the April 15, 2002 and earnings thereon, including Alternate Prepayment Taxes or prepayment of the Special Taxes, less (i) reasonable Administrative Expenses, (ii) Special Taxes required to pay debt service on Bonds outstanding as of April 15, 2002 and (iii) any proceeds of Bonds outstanding or held in an escrow account as of April 15, 2002, including interest earnings thereon.

"Property" means the land described and/or depicted in Exhibit A hereto including the Additional Property.

"Purchase Agreement" means an option and/or purchase agreement with respect to one or more Parcels.

"Purchase Price" means the price to be paid by the School District for all or any portion of a School Site as determined in accordance with Section 3.8 of this Agreement, plus closing costs incurred by Landowner.

"Rate and Method" means the Rate and Method of Apportionment of Special Taxes for CFD 99-1.

"School Facilities" means the school facilities described in Exhibit B hereto.

"School Site" means the High School or Junior High School site or portion thereof to be acquired from Landowner within Alternative Site A.

"School Site Purchase Agreement" means a school site purchase agreement by and between Pardee Homes and School District relating to the sale of Parcels 3, 4 or any Surplus Parcel from Pardee Homes to School District with terms consistent with the requirements of this Amendment.

"Single-Family Dwelling Unit" means a Single Family Dwelling Unit as defined in the Rate and Method and New Rate and Method.

"Site Improvements" means improvements to or benefiting a School Site consisting of mass grading of the School Site in accordance with the mass grading plan approved by the City and the School District and the provision of the off-site infrastructure improvements required to serve the School Site, including frontage street improvements and water, sewer, storm drain and dry utilities stubbed to the School Site pursuant to improvement plans approved by the City and the School District.

"Special Tax(es)" means, collectively, the special tax(es) to be levied in each fiscal year at the rates and according to the methodology set forth in the Rate and Method and New Rate and Method with respect to CFD 99-1 and the New CFD, respectively, and the special taxes of the remaining CFDs.

"State Funding Law" means the Leroy F. Greene School Facilities Act of 1998 and the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 (Statutes of 1998, Chapter 407-SB 50), and all standards and regulations adopted by appropriate State agencies in the implementation of such law, as such legislation may be amended or superseded.

"State Funds" shall have the meaning set forth in Section 3.5.5(a).

"Surplus Parcel" means a parcel of real property abutting Parcels 2, 3 or 4 and determined by Caltrans and the City not required to be included in the SR 56 right-of-way.

"Tentative Map" means vesting tentative tract map no. 1693, as approved and conditioned by the City Council of the City on February 25, 2003.

"TPHS CFDs" means any and all new community facilities districts established by the School District, or annexations into existing community facilities districts (to the extent only of the annexed area) approved by the School District relating to land within the Torrey Pines High School attendance area.

2. Authority for this Amendment. This Amendment is entered into pursuant to the provisions of the Act (with respect to the CFD) and Section 17620, et seq., of the Education Code, Chapter 4.7 (commencing with Section 65970), Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code (with respect to mitigation of development impacts on school facilities) and other applicable law with respect to the acquisition of real property by the School District. This Amendment, if implemented in accordance with its terms, shall discharge all obligations of the Landowner and the Property with respect to the funding or provision of school facilities.

3. Mitigation of School Facilities.

3.1 <u>Mitigation</u>. Landowner agrees to participate in and execute all documents requested by School District that are required under the Act for the formation of the New CFD and authorization of the Bonds and Special Taxes of the New CFD. Landowner, and its

respective successors and assigns, shall be deemed to have fulfilled and fully mitigated any obligation to assist in financing school facilities for grades 7-12 and to reserve, dedicate or otherwise make available school sites to serve the student population of the School District to be generated by development within the boundaries of the Property, so long as the provisions of this Amendment are complied with by the Landowner. As a result, the School District and CFD 99-1, including their successors and assigns, hereby each covenant that each of them will not under any circumstances at any time:

- (a) exercise any power or authority (under Section 17620 of the California Education Code or any other provision of applicable law) to levy a fee, charge, dedication, special tax or other form of requirement against any development of the Property or seek to impose, or have imposed by the City or any other governmental entity, as a condition of approval of any action required in connection with development of the Property, any fee, charge, dedication, special tax or other form of requirement for the purpose of funding or financing school facilities, except as provided in Section 3.2;
- (b) require the City or any other governmental entity to exercise, or cooperate with the City or any other governmental entity in the exercise of, the power under Title 7, Division 1, Chapter 4.7 of the California Government Code (commencing with Section 65970) or any other provision of applicable state law or City ordinances, resolutions or policies, to require the dedication of land, the payment of fees in lieu thereof, or both for classroom or related facilities for junior high or high schools as a condition to the approval of any development of the Property, except as provided in Section 3.2;
- (c) oppose development of the Property on the basis of inadequate school facilities or seek other forms of mitigation with respect to the adequacy of school facilities, including, but not limited to, the establishment of developer fees, the payment of money by the Landowner, the dedication of land, or the application of an assessment or requirement of any nature against the Landowner or any portion of the Property permitted by present or future State law, rulings, regulations and court decisions or City ordinances, resolutions or policies if the proceeds of such fees, assessment or requirement will be used to finance or fund any school facilities, except as provided in Section 3.2; or
- (d) issue bonds, except the Bonds, or incur any other form of indebtedness, payable from taxes or assessments of any kind (other than the School District's portion of the existing property taxes) levied on any portion of the Property, the proceeds of which are to be used in whole or in part, directly or indirectly, for funding or financing school facilities; provided, however, that the limitations contained in this clause (d) shall not be applicable to any general obligation bonds, Mello-Roos bonds or other bonds, which may be approved by the registered voters within the boundaries of the School District or issued pursuant to the Landscaping and Lighting Act of 1972 or other assessment proceedings available to the School District with respect to an assessment district encompassing the entire School District.
- 3.2 <u>Commercial Property Mitigation</u>. Notwithstanding anything in Section 3.1 to the contrary, School District may levy fees authorized by and in accordance with applicable State law against any development of the Property other than development of "Residential Property"

(excluding, however, "Senior Citizen Housing") as those terms are defined in the Rate and Method and New Rate and Method.

3.3 School District Acknowledgement. Entry into this Amendment and Final Formation of the New CFD constitutes satisfaction of any conditions of approval for development of the Property imposed by the City as it relates to mitigation of grades 7-12 school facilities impacts. Entry into this Amendment and the formation of CFD 99-1 constitutes satisfaction of any such conditions of approval for development of the portion of the Property outside the New CFD imposed by the City. Within three (3) business days after Final Formation of the New CFD, the School District shall execute and record a Notice of Cessation and Extinguishment of Lien of Special Taxes in the form attached hereto as Exhibit I with respect to that portion of the Property within the New CFD terminating the authority of CFD 99-1 to levy Special Taxes within such portion of the Property. Alternatively, Landowner may require the School District to record such Notice only with respect to those portions of the Property within which homes are being marketed for sale and require recordation of such Notice with respect to the remainder of the Property within the New CFD upon the close of escrow of the sale of the Gonsalves Property in accordance with the Gonsalves Property Purchase Agreement. School District agrees to record a notice of cancellation and extinguishment of lien of the special taxes of the New CFD terminating the authority to levy such special taxes on all property within the NEW CFD, other than those portions for which the above-referenced CFD 99-1 Notice has been recorded, if the Gonsalves Property is not acquired in accordance with the Gonsalves Property Purchase Agreement.

The School District acknowledges that this Amendment makes adequate provision for schools and satisfies the objectives and policies of the City's Comprehensive General Plan and the Future Urbanizing Area Subarea 3 Framework Plan with respect to schools and the reservation and potential acquisition of the High School Site and Junior High School site. The School District authorizes the Superintendent or his designee to execute letters or other written materials, the content of which shall be subject to the Superintendent's approval, as requested by Landowner stating generally that adequate provision for schools has been made in connection with development of the Property. Upon receipt of Landowner's written request with respect to any parcel within the Property and Additional Property, the School District shall deliver a Certificate of Compliance with respect to such parcel.

As requested by School District from time to time, Landowner shall make a Landowner Advance, not to exceed \$50,000 in the aggregate, to pay the District's actual reasonable costs expended or incurred of establishing the New CFD and issuing the Note(s), including the costs incurred with third parties such as legal counsel, financial advisor, district engineer and special tax consultant for such purposes. Any funds advanced by Landowner pursuant to this Section 3.3 shall be included in the principal amount of the Note(s) provided pursuant to Section 3.5.4 below, or if such Note(s) are not issued, such funds advanced shall be reimbursed from Special Taxes of the New CFD as a first priority for use of such Special Taxes. District shall provide for such reimbursement in the resolutions of intention and formation of the New CFD in accordance with Government Code Section 53314.9.

3.4 <u>Priority of Funding of School Facilities</u>. All Proceeds of CFD 99-1 and the New CFD shall be reserved to finance the acquisition or construction of the School Facilities and other expenses and obligations of CFD 99-1 and the New CFD.

3.5 Acquisition of Parcels 1 and 2 and Exchange Parcel.

3.5.1 School Site Purchase Agreement. School District shall acquire Parcels 1 and 2 for the High School from Landowner in accordance with the Parcel 1 and 2 School Site Purchase Agreement and this Amendment. The Parcel 1 and 2 School Site Purchase Agreement shall provide for payment of the Purchase Price of Parcels 1 and 2 through (i) installment payments of the District from State Funds and GO Funds, (ii) Proceeds and (iii) exchange of the Gonsalves Property. The Parcel 1 and 2 School Site Purchase Agreement shall provide for School District's reimbursement to Landowner of the Additional Traffic Improvements Costs in cash at the close of escrow or, if the Site Improvements have not been completed at the close of escrow, School District shall deposit in escrow cash in an amount equal to the reasonable estimate of the Additional Traffic Improvements Costs based upon the contracts awarded for the Site Improvements and Additional Traffic Improvements and other available information. The Additional Traffic Improvements Costs shall be determined based on the actual marginal costs incurred and, to the extent requested, the School District shall be entitled to all reasonable back up supporting such actual costs, including copies of any applicable contracts or change orders. In addition, prior to bidding any work which includes the Additional Traffic Improvements or incurring any actual additional marginal costs in excess of \$25,000 which were not included as part of a bid package reviewed by the School District, the Landowner shall provide 15 days prior notice to the School District as to the cost being incurred, or the bids being requested, as applicable, and provide the School District the opportunity to confer with the payee of such cost regarding such additional costs or with the preparer of the bid package. In addition, the School District shall be entitled to review the winning bid with respect to any work which includes the Additional Traffic Improvements. School District shall have the right to review the plans and specifications and bid packages for the Additional Traffic Improvements and confer with Landowner's contractor regarding all aspects of the Additional Traffic Improvements Costs. The reasonable estimate of the Additional Traffic Improvements Costs shall be based on the construction contract and any applicable change orders relating to the Additional Traffic Improvements or, prior to award of such contract, Landowner's engineer's reasonable estimate of such costs, as approved by the School District. School District's approval of the reasonable estimate of the Additional Traffic Improvements Costs shall not be unreasonably withheld. After submission by Landowner to School District of an itemized bill for the actual costs of the Additional Traffic Improvements Costs. School District's approval of the bill and upon the City's determination of completion of the Site Improvements and Additional Traffic Improvements, an amount equal to the actual Additional Traffic Improvements Costs shall be disbursed from escrow to Landowner and all remaining amounts of School District's deposit in escrow shall be paid to the School District. The actual Additional Traffic Improvements Costs paid by School District shall equal the marginal costs of the Additional Traffic Improvements in excess of the costs of those public improvements required by City as conditions of the Tentative Map.

3.5.2 <u>Determination of Purchase Price</u>. School District and Landowner shall determine the Purchase Price of Parcels 1, 2, 3, 4 and any Surplus Parcels in accordance

with Section 3.8 below, provided School District and Landowner have mutually agreed to use Integra Realty to prepare the appraisal of Parcels 1 and 2.

3.5.3 Exchange Parcel. Two conditions of the close of escrow of the conveyance of the Exchange Parcel and Parcels 1 or 2 to School District shall be (i) City approval of an amendment to the Park Purchase Agreement approving the Gonsalves Property, an adjoining approximately 1-acre parcel owned by Landowner and Parcel 3 as the new Community Park site to be provided within Pacific Highlands Ranch and (ii) execution of the Parcel 1 and 2 School Site Purchase Agreement. Landowner agrees to accept School District's grant of the Gonsalves Property in accordance with the terms of the Gonsalves Property Purchase Agreement in exchange for Landowner's grant of the Exchange Parcel. The price paid by the School District for the Gonsalves Property, not to exceed \$6,500,000, and the costs paid by the School District in acquiring the Gonsalves Property and matters related thereto, not to exceed \$100,000, (collectively, the "District Advance") shall accrue interest at the rate of 5% per annum from the date of payment until repaid as provided in Section 3.5.6.

3.5.4 <u>Issuance of Notes</u>. Concurrent with the close of escrow of Parcel 1 and Parcel 2, the CFDs and Authority collectively, or each individually, shall issue and Landowner agrees to acquire one or more Notes in amounts equal to or exceeding the total of the Purchase Price of Parcel 1 and Parcel 2 and Landowner Advance payable solely from Proceeds. The Note(s) shall accrue interest, exempt from state and Federal taxation at the rate of 5% per annum and may be prepaid at any time without penalty. Notwithstanding the foregoing, the total amount of interest paid on all Notes shall equal interest accrued and payable at the rate of 5% per annum on the outstanding and unpaid portion of the Purchase Price of Parcels 1 and 2 and Landowner Advance until paid in full. The CFDs and Authority shall provide at their expense reasonable assurances as to the enforceability of the Note(s) and tax exemption including, without limitation, an unqualified enforceability and tax-exemption opinion from a nationally-recognized bond counsel firm. The initial principal amount of the Notes shall be not less than the following:

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New CFD = 100% of Parcels 1 and 2 Purchase Price

CFD 99-1 = 100% of Parcels 1 and 2 Purchase Price

CFD 95-1 = $20,000,000

CFD 99-2 - $5,000,000

CFD 99-3 = $5,000,000
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If additional property is annexed into CFD 95-1, CFD 99-2 or CFD 99-3 prior to repayment of the Note(s) in full the principal amount of the applicable Note shall be increased by an amount equal to the amount of principal and interest that could be repaid with 100% of the Special Taxes of the annexed real property. Upon an installment payment by District of State Funds or GO Funds, the principal amount of one or more of the Notes shall be reduced by the amount of such payment applied to principal, as directed by Landowner. When the entire Purchase Price, Landowner Advance and accrued interest has been paid in full, any remaining principal amount of all outstanding Notes shall be extinguished and no longer payable.

3.5.5 <u>District Advance and Note Repayment Sources</u>. The following sources of funds shall be applied first to repayment of the District Advance plus accrued interest

and then to the installment payments of the Purchase Price and repayment of the Notes, plus accrued interest:

- (a) One hundred percent (100%) of all funds received by the School District from the State relating to the acquisition of land for the High School ("State Funds");
 - (b) One hundred percent (100%) of all Proceeds; and
- (c) Proceeds of any district-wide general obligation bond or SFID general obligation bond earmarked for the High School ("GO Funds").
- 3.5.6 Irrevocable Pledge of Repayment Sources. School District, CFDs and the Authority hereby make an irrevocable pledge of the Proceeds, State Funds and GO Funds to the installment payments of the Purchase Price of Parcels 1 and 2, repayment of the principal amount of the Notes and accrued interest subordinate only to repayment of the District Advance, plus accrued interest. Each of the CFDs and the Authority hereby covenant to Landowner and with respect to its Note not to issue any further debt with a pledge of Special Taxes of the CFD superior to, or in parity with this pledge to repayment of the Note except debt issued solely to repay such Note. School District and CFDs also covenant and agree to levy the Special Taxes at the maximum authorized rate and agree not to reduce the maximum authorized rate of the Special Taxes prior to payment of principal and interest on the Notes in full.
- 3.5.7 <u>Authorization of Issuance of GO Bonds</u>. Unless and until the repayment of principal and accrued interest on the Notes in full, School District agrees to include in every School District-wide general obligation bond authorization measure or school facilities improvement district general obligation bond authorization measure which the Board, in its sole discretion, elects to place on a ballot funding for the High School in an amount not less than the outstanding principal amount of installment payments and accrued interest.
- 3.5.8 Establishment of Note Repayment Special Fund. School District shall establish a discrete, interest-earning special fund, designated the "Pardee Note Repayment Fund," within 15 days of approval of this Amendment. School District, CFDs and Authority shall deposit in the Pardee Note Repayment Fund within fifteen (15) days of receipt all Proceeds of the CFDs, State Funds and GO Funds received by School District, CFDs and Authority on or after April 15, 2002. The accrued interest on the Note and outstanding principal shall be reduced by the amount of State Funds paid by School District to Landowner as installment payments of the Purchase Price of Parcels 1 and 2 as set forth in Section 3.5.4 above and 3.5.5. Payments of principal and accrued interest on each Note shall be paid not less often than the first business day following each April 1 and October 1 in an amount equal to 100% of the funds on deposit in the Pardee Note Repayment Fund at the time of the payment less any amount required to reimburse District for the District Advance, plus accrued interest. Upon payment in full of the Notes and accrued interest in accordance with this Amendment and reimbursement of any funds advanced by Landowner pursuant to Section 3.3 above, any excess funds remaining in the Pardee Note Repayment Fund shall be available to the School District for any lawful purpose. In addition to all other remedies available to Landowner, either of the following two events shall cause the penalties described in Section 3.5.9 below to become operative without any action by Landowner:

- (i) Failure of the CFDs or Authority to pay outstanding principal and accrued interest on the Note with the proceeds of Bonds, excluding proceeds required to pay actual costs of issuance, CFD administrative expenses, capitalized interest required prior to the receipt of Special Tax revenues and fund a reserve fund for the Bonds, within fifteen (15) days of the issuance and sale of Bonds; or
- (ii) Failure of School District to make an installment payment towards the Purchase Price of Parcels 1 and 2 in the full amount of State Funds received by School District within fifteen (15) days of receipt of such State Funds.
- Payments. District and Authority covenant and agree to issue Bonds in one or more series to repay the principal amount of the Note and accrued interest at the earliest possible time subject to standard underwriting criteria for similar land-secured bonds and market conditions that would not make it impractical to issue the Bonds. For purposes of this Section 3.5.9, the parties acknowledge and agree that an interest rate on the Bonds in excess of 5% shall not be grounds for determining that the proposed issuance is impractical. The failure of the CFDs or Authority to issue Bonds within 150 days of a determination that annual Special Taxes authorized to be levied within the CFDs on Developed Property and not required to pay the principal and interest of any outstanding Bonds of the CFDs, net of annual administrative expenses of the CFDs, equal or exceed \$300,000 in the aggregate shall constitute a breach of the foregoing covenant by the School District, CFDs and Authority which shall, without any action by Landowner, cause the nonexclusive penalties described below in this Section 3.5.9 to become operative unless existing market conditions make it impractical to issue the Bonds or the Bonds cannot be issued in accordance with standard underwriting criteria for similar land-secured bonds.

If the above-described event or either of the events described in clauses (i) and (ii) of Section 3.5.8 occurs and is not cured to the Landowner's satisfaction within sixty (60) days of Landowner's written notice to School District of such event: (i) the interest rate on the outstanding principal amount of the Note shall be increased to twelve percent (12%) per annum and (ii) School District's option to acquire any remaining Parcels shall terminate.

School District shall provide to Landowner on or before August 1 each year, and also upon Landowner's written request, not to exceed one additional time each calendar year, certification of the amount of Developed Property within each of the CFDs (i.e., numbers of Single-Family Dwelling Units and Multi-Family Dwelling Units) and the amount of annual Special Taxes levied in each CFD in the current fiscal year or projected to be levied in the current fiscal year. Prior to repayment of the Notes in full, School District shall provide Landowner copies of all draft documents relating to the issuance of Bonds prior to approval of such documents by the Board.

3.5.10 <u>Reduction in Installment Payments and Note Amount</u>. The outstanding, unpaid installment payments of the Purchase Price and the outstanding principal amount of the Notes shall be reduced according to the formula described in Exhibit "J" attached hereto if the assessed valuation of the Gonsalves Property is reduced below \$6,500,000 or if the Gonsalves Property is acquired by the City for park purposes earlier than June 30, 2013.

3.6 Acquisition of Parcel 3, Parcel 4 and Surplus Parcels.

- 3.6.1 <u>Parcel 3 (Park Option Parcel)</u>: School District may acquire Parcel 3 pursuant to the terms of a School Site Purchase Agreement for Junior High School purposes only, at any time prior to the earlier to occur of the following dates (the "Parcel 3 Option Expiration Date"):
- (i) the date of the Board's determination that acquisition of Parcel 3 is no longer required;
- (ii) the date the School District acquires any other junior high school site to serve students residing within Pacific Highlands Ranch;
- (iii) the date not later than thirty (30) days following Landowner's notification to School District of the issuance of a building permit for the 8,972nd EDU within the District CFDs; or
- (iv) the date the City of San Diego acquires Parcel 3 pursuant to the Park Purchase Agreement.

As of December 31, 2002, building permits for 5,367.52 EDUs within the District CFDs had been issued. School District agrees to provide to Landowner each August 1, commencing August 1, 2003, a written certification of the number of EDUs for which building permits had been issued within the District CFDs as of June 30 of the current year. In addition, within thirty (30) days of Landowner's written request, but not more often than twice each calendar year, School District shall provide to Landowner a written certification of the total number of EDUs issued within the District CFDs as of the date of Landowner's request. The EDU thresholds set forth in 3.6.1 above shall include all EDUs for which building permits have been issued prior and subsequent to execution of this Amendment within the area included within the boundaries of the District CFDs (or the area subject to mitigation agreements that provide for inclusion in the District CFDs) and any other land within Subarea 3 of the City's Future Urbanizing Area not included in CFD 99-1.

- 3.6.2 <u>Parcel 4</u>. 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;
 - (ii) the date Parcel 3 is acquired by the School District; or
 - (iii) January 1, 2010.

School District covenants and agrees that, if acquired, Parcel 4 shall only be used for Junior High and High School play areas, classrooms, educational facilities or student parking, and shall not be used for school bus parking, services, maintenance or other transportation purposes. The

Additional Traffic Improvements are expected to reduce the developable area of Landowner's abutting property from that permitted by the Tentative Map. The acreage of Parcel 4 which School District may acquire shall be reduced automatically upon Landowner's completion of the Additional Traffic Improvements by an amount equal to the area of the increase in the right-of-way for Street "B" and Carmel Valley Road required to be accommodated on Landowner's abutting property in excess of the planned right-of-way for those roadway segments in the Tentative Map. The reduced acreage shall be taken from Parcel 4 in the area contiguous to Landowner's property to the west.

- 3.6.3 Acquisition and Transfer of Surplus SR56 Right-of-Way. Landowner shall make a good faith effort to acquire any Surplus Parcel abutting Parcels 2, 3 or 4 prior to the City's transfer of such Surplus Parcel to Caltrans. To the extent Landowner is able to acquire any such Surplus Parcel, the first 2.742 acres acquired shall be sold to School District at School District's option in accordance with a School Site Purchase Agreement at the same Purchase Price per acre determined for the abutting Parcel and any acreage in excess of the first 2.742 acres acquired by the School District shall be donated to the School District when the School District acquires the abutting parcel.
- 3.7 <u>School Site Purchase Agreement(s)</u>. School District and the Landowner have entered into the Parcel 1 and 2 School Site Purchase Agreement for School District's purchase of those Parcels prior to or concurrent with execution of this Amendment. School District and the Landowner shall enter into a School Site Purchase Agreement with respect to Parcel 3, Parcel 4 or any Surplus Parcel prior to acquisition of such Parcel(s).
- 3.8 School Site Purchase Price. The Parcel 1 and 2 School Site Purchase Agreement and each School Site Purchase Agreement shall provide that the purchase price for the applicable Parcel (the "Purchase Price"), excluding the portion of all Surplus Parcels exceeding 2.742 acres, shall be the lesser of (i) \$385,875 per acre escalating at the rate of five percent (5%) per year commencing July 1, 1999 until the Parcel is acquired by the School District or (ii) the fair market value of the Parcel as improved with the Site Improvements and determined pursuant to this Section 3.8. Each party shall pay the reasonable and customary closing costs related to the purchase of the Parcel.

The fair market value of the Parcel shall be determined by an M.A.I. appraiser mutually acceptable to Landowner and School District. If the parties cannot agree on an appraiser, each shall select an M.A.I. appraiser who shall appraise the Parcel and Landowner and School District shall attempt to agree on the fair market value of the Parcel on the basis of the two appraisals. If Landowner and School District cannot so agree, the two appraisers shall select a third M.A.I. appraiser who shall determine the Parcel's fair market value. The appraiser(s) shall determine the Parcel's fair market value by using as the valuation date a date that is not more than 120 days prior to the close of escrow. The appraisal shall be based upon the highest and best use of the Parcel. Notwithstanding anything herein to the contrary, the value of the Parcel shall be determined in a manner such that it will be eligible for State funding up to the amount of the Purchase Price and Landowner and School District shall instruct the appraiser(s) to assume that the Parcel has adequate access to public streets and utilities to serve the Parcel's highest and best use.

Except for the Parcel 1 and 2 School Site Purchase Agreement, each School Site Purchase Agreement shall either provide that the Purchase Price shall be paid in cash at the close of escrow, or shall provide for payment of the Purchase Price in installment payments subject to terms acceptable to Landowner in its sole discretion.

- 3.9 School Site Improvements. Landowner shall construct the Site Improvements in connection with the construction of infrastructure improvements required for the final map that includes the Parcel. If at the time the School District acquires a Parcel, the Site Improvements have not been completed, Landowner shall post a bond to secure Landowner's performance of its obligation to complete the Site Improvements. The amount of the performance bond shall not exceed the reasonable estimated costs of completing those Site Improvements (including reasonable contingencies) that are not completed when the Parcel is acquired. To the extent the parties cannot agree as to the reasonable costs of completing the Site Improvements, the School District shall select an independent engineer with expertise in the area to determine the reasonable costs of completing the Site Improvements. School District acknowledges and agrees that no off-site infrastructure improvements shall be required to be constructed or provided by Landowner with respect to Parcels 3, 4 or any Surplus Parcel in excess of the Additional Traffic Improvements and those required to be provided by the Tentative Map.
- Right of Refusal. Each School Site Purchase Agreement shall provide that in the event the School District determines that it will no longer use a Parcel and determines to offer the Parcel for sale as surplus property, the School District shall, to the extent permitted by law, including but not limited to federal tax laws relating to the tax-exempt status of any Bonds issued to purchase the Parcel, apply to the Department of Education for a waiver of the requirements of the Education Code and Government Code relating to the sale of surplus property and to permit Landowner the first right of refusal to purchase the School Site at its fair market value. For purposes of this paragraph, the Parcel's fair market value shall be determined by an appraiser mutually acceptable to the Landowner and the School District. If the parties cannot agree on an appraiser, each shall select an appraiser who shall, in turn, agree upon the appraiser to perform the appraisal of the Parcel. The School District's application for a waiver shall be made within thirty (30) days following determination by the School District that the Parcel is surplus. In the event the School District obtains such waiver, the School District shall, to the extent permitted by law, make a written offer to the Landowner to sell the Parcel at the greater of its appraised value or the amount of any bona fide offer received within thirty (30) days after completion of the appraisal. Landowner shall have thirty (30) days from the date of receipt of School District's written offer to notify the School District, in writing, if Landowner desires to exercise its right to purchase the Parcel. In the event Landowner notifies the School District that it will purchase the Parcel, payment shall be made to the School District in a cashier's check for the full amount of the purchase price within sixty (60) days following the notification by Landowner to the School District that it will purchase the Parcel.
- 4. Equal Treatment. In order to equalize treatment of developers seeking to develop within School District boundaries, School District agrees to use its best efforts to enter into agreements comparable to this Amendment with the owners of the other properties within the School District in order to obtain financial commitments for school facilities from them equal to or greater than that committed by the Landowner hereby; provided, however, if, notwithstanding

the use of such best efforts, School District is unable to enter into such agreements, such inability shall not constitute a breach of this Amendment.

Within thirty (30) days of Landowner's written request, School District shall provide Landowner with copies of all mitigation agreements entered into with other developers or landowners that have not previously been provided to Landowner and shall provide to Landowner all public records related to such agreements.

5. Covenant to House Students. To the extent permitted by law, School District covenants that children residing within CFD 99-1 and the New CFD who wish to attend the Credit School Facilities shall be given first priority and opportunity to enroll in and attend the Credit School Facilities funded or to be funded, in whole or in part, through this Amendment, subject to and in accordance with the School District's Local Goals and Policies with respect to Mello-Roos Districts, as such Goals and Policies may be amended from time to time.

6. State Funds.

- 6.1 <u>State or Federal Aid Applications</u>. School District shall utilize its best efforts to pursue approval of any Federal or State for the Credit School Facilities funding that may become available to School District under the State Funding Law, any other State law and any Federal law.
- 6.2 <u>Application of Credit Funds</u>. Landowner and School District agree that, should School District receive Credit Funds, they shall be applied for financing the acquisition or construction of the Credit School Facilities, by the School District or CFD 99-1, as applicable, in the manner described in Section 53313.9 of the Act as in effect on the date of this Amendment.
- 7. Modification of the Rate and Method. In order to accomplish the acquisition and/or construction of the School Facilities in accordance with the terms of this Amendment, the School District, CFD and Landowner intend that any obligations under this Amendment to fund such acquisition and/or construction through the CFDs is a debt of the CFDs, payable solely out of the Proceeds, which has been incurred pursuant to the Act within the meaning of Government Code Section 53331(b). Any reduction in the maximum authorized rate of the Special Taxes or any termination of the levying of the Special Taxes (other than by reason of the prepayment of the Special Tax obligation for any particular period or by operation of this Amendment) would interfere with the timely retirement of that debt, except to the extent such debt has been excused in writing by the School District and the Landowner or otherwise satisfied.
- 8. Amendment Not Terminated by Project Modifications or Change in Law. No development, change of development, governmental approval, nor change in any governmental approval of development of any portion of the Property shall constitute the basis for any change or termination of this Amendment because performance of the Amendment by Landowner or Landowner's assignee will provide for the complete mitigation of impacts, direct and cumulative, of the development of the Property on School District's ability to provide adequate Grade 7-12 School Facilities to students resulting from development of the Property. Neither the provisions of this Amendment nor the RMA of CFD 99-1 shall be affected by any existing applicable law or subsequent legislation enacted by the State of California acting through the

Legislature or initiative process, or any subsequent judicial decisions relating to the matters provided for in this Amendment. The Special Taxes of the CFD provided for in this Amendment are hereby appropriated and dedicated to the costs related to future acquisition, construction and financing of the School Facilities and other such related costs of School District.

- 9. <u>Binding on New CFD</u>. Upon its formation, the New CFD shall automatically become a party to this Amendment, and all provisions which apply to the School District and CFDs shall also apply to the New CFD. The Board acting as the legislative body of the New CFD, shall perform all parts of this Amendment which require performance on the part of the New CFD.
- 10. <u>Independent Contractor</u>. In performing this Amendment, Landowner is an independent contractor and not an agent of the School District or the CFDs. Neither the School District nor CFDs shall have any responsibility for payment of or to any contractor or supplier of Landowner.
- 11. Dispute Resolution. School District and Landowner will attempt in good faith to resolve promptly any dispute, controversy, or claim arising out of or relating to this Amendment or any claimed breach thereof by direct negotiation between the parties. The disputing party shall give the other party written notice of the dispute. Within fifteen (15) days after notice is given, the parties shall meet at a mutually acceptable time and place, and thereafter as often as the parties reasonably deem necessary, to exchange relevant information and attempt to resolve the dispute. If the matter has not been resolved within sixty (60) days after the disputing party gives notice, or if the party receiving notice will not meet within fifteen (15) days, either party may initiate mediation of the controversy, claim or dispute with a mutually acceptable mediator or, if the parties cannot agree on the mediator, with Judicial Arbitration & Mediation Services, Inc. ("JAMS"), or if JAMS does not exist, such organization as to which School District and Landowner agree. If the matter has not been resolved within sixty (60) days after a party has given notice of the intent to initiate mediation, or either party will not participate in the mediation, or if the mediator has concluded that the parties are at impasse, whichever shall happen first, either party may commence litigation or seek an alternative method of resolving the dispute. All deadlines specified in this Section may be extended or modified by mutual agreement of the parties in writing. Notwithstanding anything in this Amendment to the contrary, each party shall be entitled to file suit prior to undertaking any of the actions called for in this Section 11 so long as such suit is reasonably required to preserve such party's rights under this Amendment.
- 12. Representations, Warranties and Covenants of the School District. The School District, CFDs and Authority represent and warrant to, and covenants with the Landowner that:
- (a) The School District is a school district of the state organized and operating pursuant to the Constitution and laws of the State, the CFDs and Authority are duly formed and existing pursuant to the Constitution and laws of the State, and the School District, CFDs and Authority have all necessary power and authority to enter into and perform their duties under this Amendment and, when executed and delivered by the respective parties hereto, this Amendment will constitute the legal, valid and binding obligation of the School District, CFDs and Authority enforceable in accordance with its terms, except as enforcement hereof may be limited by

bankruptcy, insolvency or other laws affecting enforcement of creditors' rights generally and by the application of equitable principles of equitable remedies are sought.

- (b) The execution and delivery by the School District, CFDs and Authority of this Amendment and compliance by the School District, CFDs and Authority with the provisions hereof, will not conflict with, or constitute a violation of or default under, the Constitution of the State or any existing law, charter, ordinance, regulation, decree, order or resolution applicable to the School District, CFDs and Authority, and will not conflict with or result in a violation or breach of, or constitute a default under, any contract, agreement, indenture, mortgage, lease or other instrument to which the School District, CFDs and Authority are subject or by which it is bound.
- (c) To the best knowledge of the School District, CFDs and Authority there is no action, suit or proceeding of any court or governmental agency or body pending or threatened against the School District, CFDs or Authority in any way contesting or effective the validity of this Amendment or contesting the powers of the School District, CFDs or Authority to enter into or perform its obligations under this Amendment or in which a final adverse decision could materially adversely affect the operations of the School District, CFDs or Authority or the consummation of the transactions contemplated by this Amendment.
- (d) The School District, CFDs and Authority are not in breach of or default under any applicable law or administrative regulation of the State 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 School District, CFDs or Authority is a party or is otherwise subject, which breach or default would materially adversely affect the School District's, CFDs' or Authority's ability to enter into or perform its obligations under this Amendment, 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 and which would materially adversely affect the School District's, CFDs' or Authority's ability to enter into or perform its obligations under this Amendment.

13. Representations, Warranties and Covenants of the Landowner.

- (a) Landowner is a corporation organized and existing pursuant to the laws of the State of California and has all necessary power and authority to enter into and perform its duties under this Amendment and, when executed and delivered by the respective parties hereto, this Amendment will constitute the legal, valid and binding obligation of the Landowner enforceable in accordance with its terms, except as enforcement hereof may be limited by bankruptcy, insolvency or other laws affecting enforcement of creditors' rights generally and by the application of equitable principles if equitable remedies are sought.
- (b) The execution and delivery by the Landowner of this Amendment and compliance by the Landowner with the provisions hereof, will not conflict with, or constitute a violation of or default under, the Constitution or laws of the state of California or any existing law, charter, ordinance, regulation, decree, order or resolution applicable to the Landowner, and will not conflict with or result in a violation or breach of, or constitute a default under, any

agreement, indenture, mortgage, lease or other instrument to which the Landowner is subject or by which it is bound.

- (c) To the best knowledge of the Landowner there is no action, suit or proceeding of any court or governmental agency or body pending or threatened against the Landowner in any way contesting or effective the validity of this Amendment or contesting the powers of the Landowner to enter into or perform its obligations under this Amendment or in which a final adverse decision could materially adversely affect the operations of the Landowner or the consummation of the transactions contemplated by this Amendment.
- (d) The Landowner is not in breach of or default under any applicable law or administrative regulation of the State 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 Landowner is a party or is otherwise subject, which breach or default would materially adversely affect the Landowner's ability to enter into or perform its obligations under this Amendment, 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 and which would materially adversely affect the Landowner's ability to enter into or perform its obligations under this Amendment.
- 14. General. This Amendment contains the entire agreement between the parties with respect to the matters herein provided for, and may only be amended by a subsequent written agreement signed on behalf of both parties. This Amendment shall inure to the benefit of and be binding upon the successors and assigns of the parties with respect to all or any portion of the Property. This Amendment shall be construed and governed by the Constitution and laws of the State of California. The captions of the sections of this Amendment are provided for convenience only, and shall not have any bearing on the interpretation of any section hereof.
- 15. <u>Execution</u>. This Amendment may be executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same agreement.
- 16. <u>Exhibits</u>. All Exhibits attached hereto are incorporated into this Amendment by reference.
- 17. <u>Notices</u>. All notices required or provided under this Amendment shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested. Notices given to the School District, CFD or Authority shall be addressed as follows:

San Dieguito Union High School District 710 Encinitas Boulevard Encinitas, CA 92024-3508 Attn: Peggy Lynch, Superintendent

Fax No: (760) 753-6491

Notices given to Landowner shall be addressed as follows:

Pardee Homes 10880 Wilshire Boulevard, Suite 1900 Los Angeles, CA 90024 Attn: Len Frank

Fax No: (310) 446-1292

With a copy to:

Pardee Homes 12626 High Bluff Drive, Suite 100 San Diego, CA 92130 Attn: Beth Fischer Fax No: (858) 794-2599

and to:

Hewitt & O'Neil LLP 19900 MacArthur Boulevard, Suite 1050 Irvine, CA 92612 Attn: John P. Yeager Fax No: (949) 798-0511

18. Agreement Superseded. Except as provided in this Section 18, upon execution of this Amendment by all parties hereto, the Agreement shall be superseded in its entirety. Notwithstanding the foregoing, School District's option to acquire Alternative Site B pursuant to the terms of the Agreement shall remain in effect until and terminate upon the close of escrow of Parcel 1.

[Signature page follows]

04/28/03 4000-52 H&O: #2325 v7 IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day and year first above written.

DIST	RICT / CONTOURING HIGH SCHOOL
By:	Authorized Signatory
By:	Authorized Signatory
	MUNITY FACILITIES DISTRICT 5-1 OF THE SCHOOL DISTRICT
By:	Authorized Signatory
By:	Authorized Signatory
	MUNITY FACILITIES DISTRICT 9-1 OF THE SCHOOL DISTRICT
Ву:	Authorized Signatory
Ву:	Authorized Signatory
	OUNITY FACILITIES DISTRICT O-2 OF THE SCHOOL DISTRICT
By:	Authorized Signatory
Ву:	Authorized Signatory

	OUNITY FACILITIES DISTRICT -3 OF THE SCHOOL DISTRICT
Ву:	Authorized Signatory
Ву:	Authorized Signatory
SCHO	AN DIEGUITO UNION HIGH OL DISTRICT FINANCING ORITY
Ву:	Authorized Signatory
By:	Authorized Signatory
PARDI	EE HOMES, a California corporation
Ву:	Dethe France, Vicepresdent
By:	Charles Com
	Charles Corum Assistant Vice President

EXHIBIT A

DESCRIPTION/DEPICTION OF PROPERTY OF LANDOWNER AND SHAW/LORENZ PROPERTY

EXHIBIT A

April 23, 2003

OWNERS LIST

FOR

COMMUNITY FACILITIES DISTRICT NO. 03-1

OF THE

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

OWNERS & ADDRESS (REF. PARCEL NO.)	ASSESSORS PARCELS	ACREAGE (ACRES)	TOTAL VOTES
Pardee Construction Co.	304-031-17	39.96	
10880 Wilshire Blvd. #1900	305-010-15	39.68	
Los Angeles, CA 90024	305-010-19	33.12	
(Reference Parcel No. 1)	305-010-21	79.23	
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	305-010-22	64.49	
	305-010-23	7.77	
	305-010-24	8.80	
	305-010-25	48.57	
	305-011-03	39.70	
	305-011-04	39.70	
	305-011-05	15.81	
	305-011-09	59.04	
	305-011-10	5.01	
	305-021-12	89.18	
	305-021-13	2.94	
	305-021-18	97.94	
	305-022-01	80.00	
	305-030-30	16.94	
	305-030-34	11.38	
	305-030-35	55.52	1
	305-031-12	179.43	
	305-031-13	87.57	
	305-040-22	22.00	
	305-040-23	76.60	
	305-041-01	140.00	
	305-113-01	27.46	
	305-113-02	6.81	
	305-130-01 thru 58		
	305-131-01 thru 48		
	305-132-01 thru 44	42.72	
	306-011-33	31.49	
	308-010-03	84.42	
	308-021-03	39.44	
	308-021-09	38.97	
	308-030-40	1.80	1
	308-030-42	12.62	}
		1626.11	1627

2187 NEWCASTLE AVENUE • SUITE 103 • CARDIFF BY THE SEA, CA 92007 03015CFD.DOC (760) 436-8500 • FAX (760) 436-8603

April 23, 2003 Owners List CFD No. 03-1 Page 2

OWNERS & ADDRESS (REF. PARCEL NO.)	ASSESSORS PARCELS	ACREAGE (ACRES)	TOTAL VOTES
Shaw Texas III, LLC 7245 Rue De Roark La Jolla, CA 92037 (Reference Parcel No. 3)	308-021-01	38.38	39
Shaw Texas IV, LLC 7245 Rue De Roark La Jolla, CA 92037 (Reference Parcel No. 4)	308-021-10	39.16	40
Shaw Valley III, LLC 7245 Rue De Roark La Jolla, CA 92037 (Reference Parcel No. 5)	308-030-27	60.25	61
Shaw Texas VI, LLC 7245 Rue De Roark La Jolla, CA 92037 (Reference Parcel No. 6)	308-041-07 308-041-08	34.34 <u>6.50</u> 40.84	41
	TOTAL	1804.74 AC	1808

EXHIBIT B

DESCRIPTION OF SCHOOL FACILITIES

The capital school facilities for grades 7-12 needed by the School District in order to serve the student population anticipated to be generated as a result of development of the Property.

EXHIBIT C <u>NEW CFD BOUNDARY MAP</u>

EXHIBIT D

ALIGNMENT "F" LAND USE PLAN FROM ORIGINAL AGREEMENT

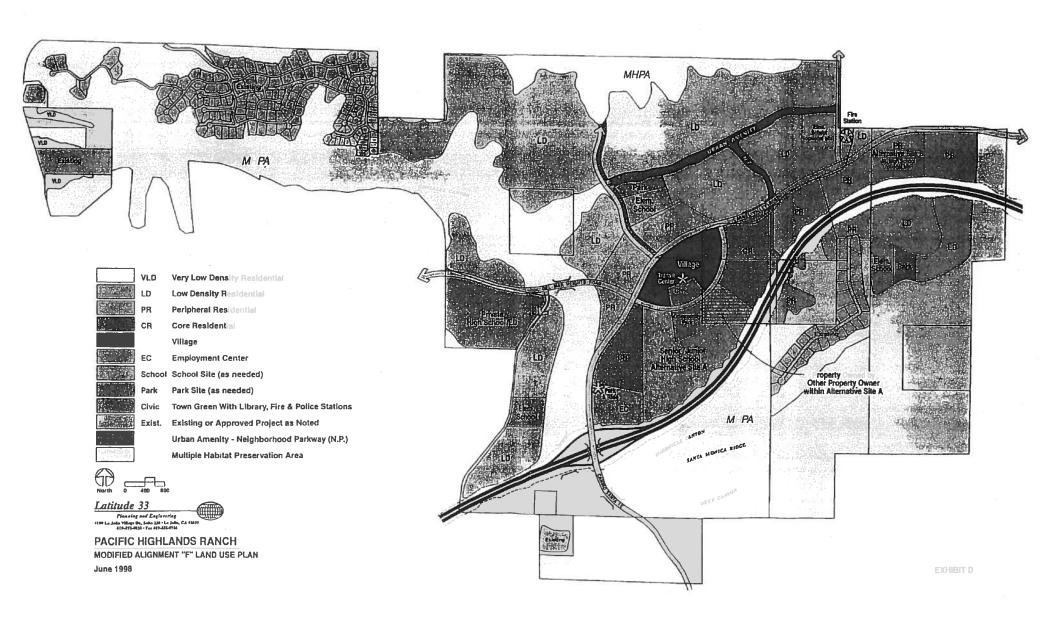


EXHIBIT E-1 MAP DEPICTING PARCELS 1, 2, 3 AND 4

EXHIBIT E-1

LEGAL DESCRIPTION

ALL THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15 AND THE EAST HALF OF SECTION 16, BOTH IN TOWNSHIP 14 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL '1':

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15; THENCE ALONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

1. SOUTH 00°09'23" WEST	828.03 FEET	TO THE TRUE POINT OF BEGINNING ; THENCE CONTINUING ALONG SAID WESTERLY LINE,
2. SOUTH 00°09'23" WEST	717.83 FEET;	THENCE LEAVING SAID LINE,
3. SOUTH 40°44'55" EAST	105.10 FEEY;	THENCE
4. SOUTH 49°15'05" WEST	735.63 FEET;	THENCE
5. SOUTH 03°44'10" EAST	535.08 FEET;	THENCE
6. SOUTH 33°24'35" EAST	26.79 FEET;	THENCE
7. SOUTH 63°49'15" WEST	143.93 FEET;	THENCE
8. NORTH 90°00'00" WEST	177.86 FEET;	THENCE
9. SOUTH 82°20'14" WEST	447.01 FEET;	THENCE
10. NORTH 03°55'36" WEST	135.57 FEET;	THENCE
11. NORTH 03°30'00" WEST	1451.95 FEET;	THENCE
11. NORTH 23°53'06" EAST	257. 55 FEET	TO THE BEGINNING OF A 1155.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE ALONG THE ARC OF SAID CURVE
13. NORTHEASTERLY	1253.19 FEET	THROUGH A CENTRAL ANGLE OF 62°10'01' TO THE TRUE POINT OF BEGINNING.

SAID LAND CONTAINS 40.212 ACRES MORE OR LESS.

PARCEL '2':

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15; THENCE ALONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

1. SOUTH 00°09'23" WEST 1545.86 FEET; THENCE LEAVING SAID WESTERLY LINE,

\\LATSERV1\ENGINEERING\300\330\Docs\PARCELS(H5) duc

2. SOUTH 40°44'55" EAST	105.10 FEET	TO THE TRUE POINT OF BEGINNING ; THENCE CONTINUING ALONG SAID LINE,
3. SOUTH 40°44'55' WEST	540.82 FEET	TO A POINT ON THE NORTHWESTERLY LINE OF CALTRANS RIGHT-OF-WAY AND A POINT OF A 3943.56 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE ALONG THE ARC OF SAID CURVE
4. SOUTHWESTERLY	1091.92 FEET	THROUGH A CENTRAL ANGLE OF 15°51'52"; THENCE
5. NORTH 33°24'35' WEST	208.70 FEET;	THENCE
6. NORTH 03°44'10" WEST	535.08 FEET;	THENCE
7. NORTH 49°15′05° EAST	735.63 FEET	TO THE TRUE POINT OF BEGINNING.

SAID LAND CONTAINS 13.351 ACRES MORE OR LESS.

PARCEL '3':

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15; THENCE *LONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

1. SOUTH 00°09'23" WEST	1380.82 FEET	TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHERLY LINE OF SAID NORTHWEST QUARTER,	
2. SOUTH 89°40'45" EAST	809.88 FEET	TO THE BEGINNING OF A 3943.56 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE ALONG THE ARC OF SAID CURVE	
3. SOUTHWESTERLY	758.39 FEET	THROUGH A CENTRAL ANGLE OF 11°01'07"; THENCE	
4. NORTH 40°44'55" WEST	645.92 FEFT	TO THE WESTERLY LINE OF SAID NORTHWEST QUARTER; THENCE NORTHERLY ALONG SAID WESTERLY LINE,	
5. NORTH 00°09'23" EAST	165.04 FEET	TO THE TRUE POINT OF BEGINNING.	
SAID LAND CONTAINS 7.074 ACRES MORE OR LESS.			

PARCEL '4':

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15; THENCE ALONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

1. SOUTH 00°09'23" WEST 1545.86 FEET; THENCE LEAVING SAID LINE,

2. SOUTH 40°44'55" EAST 105.10 FEET; THENCE

3. SOUTH 49°15'05" WEST 735,63 FEET; THENCE

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4. SOUTH 03°44'10" EAST	535.08 FEET;	THENCE	
5. SOUTH 33°24'35" EAST	26.79 FEET	TO THE TRUE POINT OF BEGINNING ; THENCE CONTINUING ALONG SAID LINE,	
6. SOUTH 33°24'35" EAST	181.91 FEET	TO A POINT ON THE NORTHWESTERLY LINE OF CALTRANS RIGHT-OF-WAY AND A POINT OF A 3943.56 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE ALONG THE ARC OF SAID CURVE	
7. SOUTHWESTERLY	802.61 FEET	THROUGH A CENTRAL ANGLE OF 11°39'40"; THENCE	
8. SOUTH 70°51'57" WEST	147.27 FEET;	THENCE	
9. NORTH 03°32'11" WEST	501.50 FEET,	THENCE	
10. NORTH 82°20'14" EAST	447.01 FEET;	THENCE	
11. SOUTH 90°00'00" EAST	177.86 FEET;	THENCE	
12. NORTH 63°49'15" EAST	143.93 FEET	TO THE TRUE POINT OF BEGINNING.	
SAID LAND CONTAINS 6.631 ACRES MORE OR LESS.			

ITEM 19

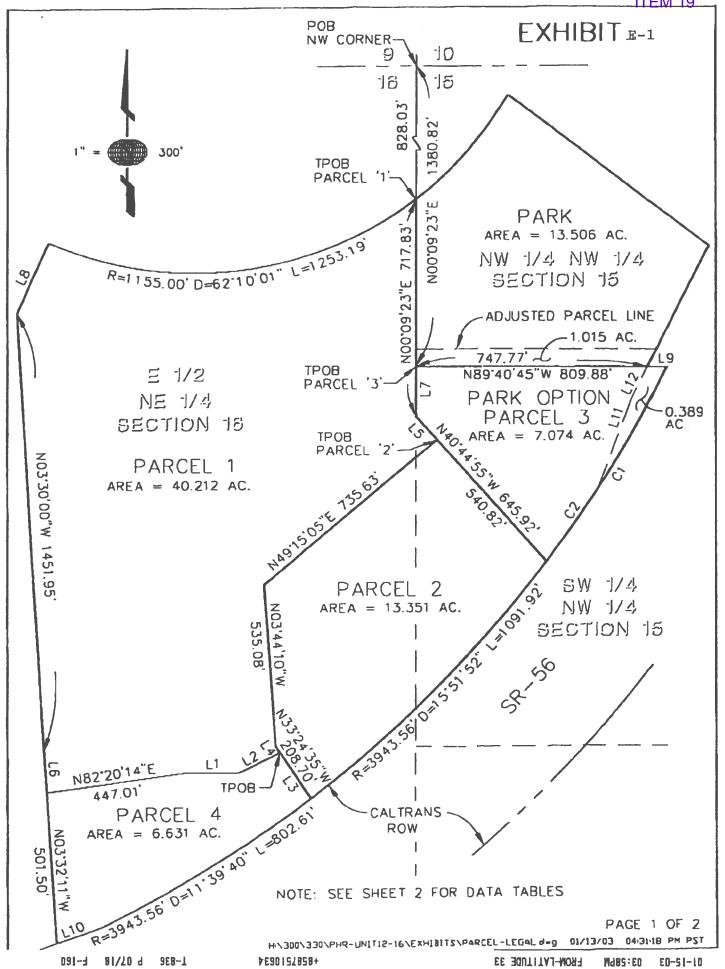


EXHIBIT E-2

MAP DEPICTING EXCHANGE PARCEL

EXHIBIT E-2

LEGAL DESCRIPTION

ALL THAT PORTION OF PARCEL 3 GF FARCEL MAP NO. 18971 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON MAY 23, 2002 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, OF OFFICIAL RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 3; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID PARCEL, SOUTH 00°09'23" WEST A DISTANCE OF 828.03 FEET THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EASTERLY LINE, SOUTH 00°09'23" WEST A DISTANCE OF 856.90 FEET; THENCE LEAVING SAID EASTERLY LINE, SOUTH 49°15'05" WEST A DISTANCE OF 253.96 FEET; THENCE NORTH 90°00'00" WEST A DISTANCE OF 345.70 FEET; THENCE NORTH 05°27'36" WEST A DISTANCE OF 788.88 FEET TO A POINT ON A NON-TANGENT 1155.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A LINE RADIAL TO SAID POINT BEARS SOUTH 04°29'45" EAST; THENCE ALONG THE ARC OF SAID CURVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 33°11'11" AN ARC LENGTH OF 668.99 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND CONTAINS AN AREA OF 11.211 ACRES MORE OR LESS.

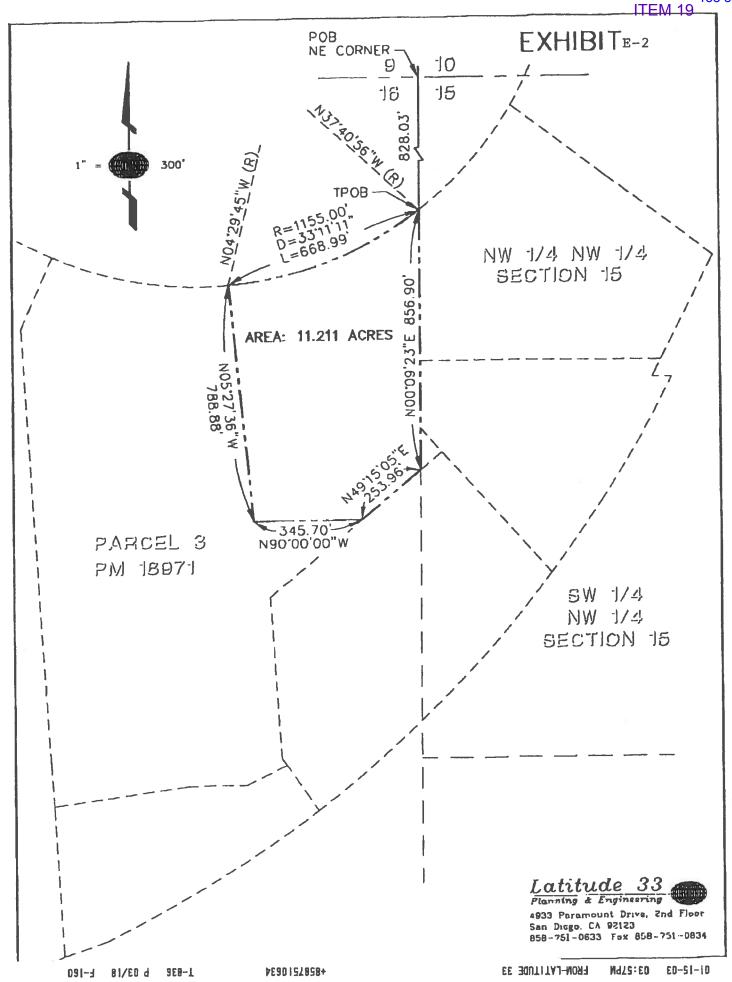


EXHIBIT F

[This Exhibit Has Been Intentionally Omitted.]

EXHIBIT G

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES OF NEW CFD

[To Be Attached When Finalized]

EXHIBIT G

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES FOR COMMUNITY FACILITIES DISTRICT NO. 03-1 OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

An Annual Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 03-1 of the San Dieguito Union High School District ("CFD No. 03-1") shall be levied and collected each Fiscal Year in an amount determined by the Board of Trustees (the "Board") of the San Dieguito Union High School District (the "District"), acting in its capacity as the legislative body of CFD No. 03-1 through the application of the appropriate amount or rate of Annual Special Tax for Developed Property and Undeveloped Property as described below. All of the property in CFD No. 03-1, as depicted on the map of the boundaries thereof on file with the Secretary of the Board, unless exempted by law or by the provisions of Sections III. through V. hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

1. <u>Definitions</u>.

"Administrative Expenses" means the expenses incurred by the District on behalf of CFD No. 03-1 related to the determination of the amount of the levy of Annual Special Taxes; the collection of the Annual Special Taxes, including expenses of collecting delinquencies, and any amounts necessary to replenish the reserve fund; the administration of the bonds of CFD No. 03-1, including the payment of salaries and benefits of any employee of the District whose employment duties directly relate to the administration of CFD No. 03-1 of the District and costs otherwise incurred in order to carry out the authorized purposes of CFD No. 03-1.

"Alternate Prepayment Tax" means the method of reducing the Maximum Special Tax for an Assessor's Parcel as provided for in Section III.C.

"Annual Special Tax" means the annual special tax to be levied in each Fiscal Year pursuant to Section IV, on each Assessor's Parcel classified as Developed Property and Undeveloped Property to pay, as applicable, the Bond Requirements, and to pay for the cost of constructing, leasing, and/or acquiring the Facilities.

"Assessable Area" means all of the square footage within the perimeter of a Dwelling Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, detached accessory structure or similar area, as determined by the building department of the applicable City or County.

"Assessor's Parcel" means a parcel of land designated on a map of the San Diego County Assessor's Office within the jurisdictional boundaries of the District which has been assigned a discrete identifying number.

"Bond Requirements" means the amount necessary in any Fiscal Year, taking into consideration anticipated delinquencies (i) to pay principal of and interest on the bonds at the time outstanding in CFD No. 03-1 or any certificates of participation or other obligations issued to finance the Facilities, (ii) to make any deposits required to be made with respect to any reserve fund created with respect to such bonds or obligations, and (iii) to pay for Administrative Expenses.

"City" means individually the City of San Diego or whichever municipal jurisdiction has the authority to approve or regulate land development for parcels within CFD No. 03-1.

"County" means the County of San Diego.

"Developed Property" means any Assessor's Parcel in CFD No. 03-1 for which a building permit has been issued by the applicable City or County as of June 30 of the previous Fiscal Year in which the Annual Special Tax is being levied.

"Dwelling Unit" means any single family residence, duplex, triplex, fourplex, condominium, apartment or other house or structure in which a person or persons may live, and is not considered to be for commercial or industrial use.

"EDU" means an equivalent dwelling unit. One Single-Family Dwelling Unit equals one EDU and one Multi-Family Dwelling Unit equals 0.27 EDUs.

"Exempt Property" means any Assessor's Parcel within the boundaries of CFD No. 03-1 which: (i) is property of the State, federal or other local governments or public agency, except as otherwise provided by Section 53317.3 of the Act, (ii) has been zoned, authorized or designated for non-residential use on the applicable general plan, specific plan or community plan for which the applicable Cities and the County utilize and rely upon for land use planning purposes and for the approval of the development of real property, (iii) is "common area" of a common interest development as those terms are used and defined in Section 1351 of the California Civil Code or any similar subsequent legislation, or (iv) is any property within CFD No. 03-1 which is Senior Citizen Housing. For purposes of interpreting Sections 53317.3 and 53317.5 of the Act, any Assessor's Parcel acquired by a public entity shall be deemed Exempt Property to the extent it is Undeveloped Property at the time of its acquisition.

"Facilities" means those school facilities, including land and other facilities which CFD No. 03-1 is authorized by law to construct, lease, acquire, own or operate.

"Fiscal Year" means the period from July 1st of any calendar year through June 30th of the following calendar year.

"Legally Available Funds" means any funds, except Alternative Prepayment Taxes, available to CFD No. 03-1 to pay Bond Requirements, such as bond reserve fund earnings and other interest earnings not subject to arbitrage.

"Maximum Special Tax" means the maximum annual special tax, determined in accordance with Section III. that can be levied by the Board in any Fiscal Year on Developed Property and Undeveloped Property.

"Multi-Family" means any Dwelling Unit that does not exceed 1,600 square feet of Assessable Area and is located on a Residential Property with density of more than fifteen (15) Dwelling Units per gross are.

"Residential Property" means any Assessor's Parcel of land located within the boundaries of CFD No. 03-1 at any time during which it is Zoned for residential purposes.

"Senior Citizen Housing" means any senior citizen housing, residential care facilities for the elderly, or multi-level facilities for the elderly which would be subject to the limitations on school fees set forth in California Government Code Section 65995.1, as in effect on the date of formation of the CFD, on July 1 of any Fiscal Year during which Annual Special Taxes are levied.

"Single-Family" means and Dwelling Unit not classified as Multi-Family.

"Undeveloped Property" means all Residential Property within CFD No. 03-1 not classified as Developed Property, and not exempt from the Annual Special Tax pursuant to law or Section V. hereof.

"Tax Class A or Tax Class B" means the classification of Assessor's Parcels of Developed Property pursuant to Section II.

"Zoned" means any Assessor's Parcel of land used, zoned, allowed or designated for a specific purpose on the applicable general plan, specific plan or community plan for which the City or the County utilizes and relies upon for planning purposes and for the approval of development of real property.

II. Classification of Property.

Beginning with the Fiscal Year commencing July 1, 2003 and each Fiscal Year thereafter, the District shall classify all Residential Property on the following basis: Developed Property, Undeveloped Property or Exempt Property. Further, the Assessor's Parcels for which building permits are issued for the first 1,126 EDUs within the District shall be assigned to Tax Class A. Once Assessor's Parcels representing 1,126 EDUs are classified as Tax Class A, all remaining Assessor's Parcels shall be classified as Tax Class B.

III. Maximum Special Tax.

A Maximum Special Tax may be levied up to the amounts specified in this Section III. on (i) Developed Property to the extent necessary to pay the Bond Requirements and to provide for the cost of constructing, leasing and/or acquiring the Facilities pursuant to Section III.A. below and (ii) on Undeveloped Property to the extent necessary to pay the Bond Requirements pursuant to Section III.B. following.

A. Developed Property: Maximum Special Tax

Beginning with the Fiscal Year commencing July 1, 2003, and each Fiscal Year thereafter, all Developed Property classified as either Tax Class A or Tax Class B shall be subject to an Annual Special Tax in each Fiscal Year up to and including an amount equal to the Maximum Special Tax for each Dwelling Unit type listed in Table 1 below multiplied by the number of Dwelling Units for each Developed Property.

Table 1

Dwelling Unit Type	<u>Maximum</u>	Special Tax
	Tax Class A	Tax Class B
Single-Family	\$1,014	\$855
Multi-Family	\$274	\$231

B. Undeveloped Property: Maximum Special Tax

In the event that on July 1 of any Fiscal Year, the maximum projected revenues that can be generated from the levy of the Annual Special Tax for such Fiscal Year on all Developed Property together with all other Legally Available Funds of CFD No. 03-1 available to pay the Bond Requirements, shall be insufficient to pay the Bond Requirements for such Fiscal Year, then all Undeveloped Property shall be subject to an Annual Special Tax, for such Fiscal Year only, up to an amount not to exceed, per gross acre of Undeveloped Property (or a proportionate amount thereof for any portion of such gross acre), the lesser of (i) \$949 or (ii) the aggregate amount of the actual delinquencies in the payment of Annual Special Taxes for Developed Property for the prior Fiscal Year, divided by the total number of gross acres of Undeveloped Property in CFD No. 03-1.

C. Alternate Prepayment Tax for reducing the Maximum Special Tax

The owner of any Assessor's Parcel of Developed Property classified as either Tax Class A or Tax Class B may elect to prepay fifty percent of the aggregate Maximum Special Tax obligation attributable to the Assessor's Parcel within five (5) business days from the time of issuance of the initial building permit with respect to such Assessor's Parcel provided that all delinquencies and charges of Annual Special Taxes due to date have been paid in full as determined by the District. The aggregate Maximum Special Tax obligation for each Developed Property type classified as either Tax Class A or Tax Class B is listed in Table 2 below.

If an owner prepays fifty percent of the aggregate Maximum Special Tax obligation on any such Assessor's Parcel, the Maximum Special Tax for each Developed Property type shall be fifty percent of the applicable rate specified in Table 1, and the Assessor's Parcel shall thereafter be subject to an Annual Special Tax in each Fiscal Year in an amount equal to fifty percent of the annual Special Tax on Developed Property of a similar type for which no Alternate Prepayment Tax has been paid, and as determined pursuant to Section III.A. and IV., for the corresponding Fiscal Year. Prepayments of the aggregate Maximum Special Tax obligation collected pursuant to this Section III.C. may be used for any legal purposes of CFD No. 03-1.

	Table 2	
	Agg	regate
	Maximum	Special Tax
	obligatio	on Amount
Developed Property Type		
	Tax Class A	Tax Class B
Single-Family	\$13,524	\$11,403
Multi-Family	\$3,654	\$3.080

Notwithstanding any of the above, the aggregate Maximum Special Tax obligation shall be adjusted in each Fiscal Year, commencing July 1, 1999, through July 1, 2002 by the lesser of (i) the proportionate change in the Lee Saylor Cost of Construction Index for Class D Construction as measured on July 1 of each Fiscal Year from the first of the preceding Fiscal Year, or (ii) two percent. Commencing July 1, 2003 and each Fiscal Year thereafter, the aggregate Maximum Special Tax obligation shall be adjusted in each Fiscal Year in proportion to changes in the Lee Saylor Cost of Construction Index for Class D Construction as measured on July 1 each Fiscal Year from the first of the preceding Fiscal Year. If said index is superseded or discontinued, the adjustment provided for herein shall be made by reference to the index used to determine variation in the cost of constructing public school improvements comparable to the Facilities as determined by the Board.

IV. <u>Annual Apportionment of the Annual Special Tax to Developed Property and Undeveloped Property.</u>

Beginning with the Fiscal Year commencing July 1, 2003, and each Fiscal Year thereafter, the Board, acting as the legislative body of CFD No. 03-1, shall determine the Annual Special Tax to be collected in CFD No. 03-1 from all Developed Property and Undeveloped Property. The Board shall levy the Annual Special Tax in the following priority:

First:

From Assessor's Parcels of Developed Property by proportionately levying up to the Maximum Special Tax in Table 1 of Section III. hereof to meet the Bond Requirements, and to pay for the cost of constructing, leasing and/or acquiring the Facilities.

Second:

If additional moneys are needed to pay the Bond Requirements, Legally Available Funds shall be used.

Third:

If additional moneys are needed to pay the Bond Requirements, the Annual Special Tax may be levied on Assessor's Parcels of Undeveloped Property pursuant to Section III.B.

V. <u>Limitations</u>.

The Board shall not impose any Annual Special Tax on any Exempt Property. Under no circumstances will the Annual Special Tax levied against any Assessor's Parcel of Developed Property be increased by more than ten percent (10%) as a consequence of delinquency or default by the owner of any other Assessor's Parcel(s) within CFD No. 03-1.

The Annual Special Tax may be levied on any Assessor's Parcel for a period not to exceed 35 years commencing the first Fiscal Year in which the Annual Special Tax is levied on such Assessor's Parcel of Developed Property and ending at the close of the 35th Fiscal Year; provided, however, that the expiration of such period shall not extinguish or otherwise effect the rights of the District or CFD No. 03-1 to collect any delinquent Annual Special Taxes or penalties or interest thereon.

VI. Appeals and Interpretation Procedure.

Any taxpayer whose property is subject to the levy of the Annual Special Tax and who claims that the amount or application of the Annual Special Tax has not been properly computed may file a notice with the Board appealing the levy of the Annual Special Tax. The Superintendent of the District or his or her designee will promptly review the claim and, if necessary, meet with the claimant and decide the appeal. If the findings of the Superintendent or his or her designee support a determination that the amount of application of the Annual Special Tax

should be modified or changed, the Annual Special Tax levy shall be so modified or changed and, if applicable, a refund of prior Annual Special Tax payment shall be granted and made from available funds of CFD No. 03-1. If a claimant disagrees with the findings and determination of the Superintendent or his or her designee, the claimant may appeal such determination to the Board and the decision of the Board shall be final.

Interpretation of this rate and method of apportionment may be made by the Board by resolution thereof for the purpose of clarifying any vagueness or ambiguity as it relates to the application of the annual Special Tax, the application of the method of apportionment, the classification of any property, or any definition contained herein.

VI. Collection of Special Tax.

The Annual Special Tax shall be levied and collection in the same manner as ordinary ad valorem property taxes are levied and collected by the County. Notwithstanding any provision to the contrary herein, CFD No. 03-1 may collect any Annual Special Tax at a different time and/or in a different manner if necessary to meet its financial obligations. All Annual Special Taxes shall be subject to the same penalties and lien priorities in the case of delinquency as is provided for ad valorem taxes; provided, however, CFD No. 03-1 may covenant for the benefit of bondholders to commence and diligently pursue to completion judicial foreclosure proceedings for the payment of delinquent installments of Annual Special Taxes.

EXHIBIT H-1

FORM OF MASTER PROMISSORY NOTE

U.S. \$[PURCHASE PRICE]	, 2002
FOR VALUE RECEIVED, the undersigned, Community Facilities San Dieguito Union High School District, a public body corporate and poliunder the laws of the State of California ("CFD No" or the "Mak to Pardee Homes, a California corporation ("Payee"), at 10880 Wilshire Be Los Angeles, California 92024, or such other place for the payment of this the Payee may from time to time designate in writing, the principal sum ofDollars (\$), together with interest thereon earned at the the times hereinafter set forth and in accordance with the terms of this Not Amendment and Restatement of Funding and Mitigation Agreement by an Union High School District ("School District"), CFD No. 95-1 of the School 99-1 of the School District, CFD No. 99-2 of the School District, CFD No. District, the SDUHSD Financing Authority and Pardee Homes dated as of (the "Amendment), subject to reduction and payment as provided herein. In the principal and interest evidenced hereby as follows:	itic duly organized er"), promises to pay oulevard, Suite 1900, s Note (this "Note") as fup to e rate and payable at e and that certain d among San Dieguito ool District, CFD No 99-3 of the School, 2002
1. Aggregate Obligations. On the date hereof, in ad CFD No. 95-1 of the School District has issued a note to the Payee in the if of up to, (ii) CFD No. 99-1 of the School District has issued a note initial principal amount of up to, (iii) CFD No. 99-2 of the School note to the Payee in the initial principal amount of up to, and (iv School District has issued a note to the Payee in the initial principal and (each such note is herein referred to as a "CFD Note" and, collectively The CFD Notes together with this Note are herein referred to as the "Notes"	initial principal amount ote to the Payee in the ol District has issued a control of the nount of up to as the "CFD Notes").
The Notes were issued in exchange for the purchase from Pay purchase price of \$[Purchase Price]. Notwithstanding anything concontrary, in no event shall the total aggregate amount paid on all of amount, in the aggregate, equal to [the Purchase Price plus Lando interest accrued on the Outstanding Principal Amount (as herein desemi-annually at a rate of 5% per annum.	itained herein to the f the Notes exceed an owner Advance] plus
2. Outstanding Amounts. The initial principal amount Purchase Price plus Landowner Advance]. In accordance with Section payable under this Note, shall be reduced by (i) payments made by the and (ii) payments made under each of the CFD Notes. The initial principal amount payable under each of the CFD Notes.	on 8 hereof, amounts Maker under this Note

3. <u>Interest Rate</u>. Except as set forth in Section 5 below, the Outstanding Principal Amount of this Note shall bear interest from the date hereof until paid in full at the rate

less any reduction in such initial principal amount, as made in accordance with Section 8 hereof,

is herein referred to as the "Outstanding Principal Amount."

of 5% per annum ("Interest Rate") compounded semi-annually. Maker represents that interest paid on this Note is excluded from gross income for federal income tax purposes, and is exempt from State of California personal income tax.

4. Payment of Principal and Interest.

(A) <u>Source</u>. Except as set forth in Section 4(B) below, Maker shall pay all amounts due hereunder in the event and to the extent it receives (i) Proceeds, (ii) State Funds and (iii) GO Funds (all as defined in the Amendment), provided the pledge of Proceeds, State Funds and GO Funds hereunder shall be subordinate to senior pledges of such Proceeds, State Funds and GO Funds to the repayment of District Advances (as defined in the Amendment) and accrued interest thereon (collectively, the "Senior Obligations")..

The Proceeds, State Funds and GO Funds, net of the portion of such amounts pledged for the payment of the Senior Obligations, are herein collectively referred to as the "Available Funds."

Maker covenants and agrees with respect to this Note not to issue any Bonds (as defined in the Amendment) on parity with or senior to this Note secured in whole or in part by Special Taxes (as defined in the Amendment) other than Bonds issued to fund payments under this Note and the Senior Obligations. Maker further covenants and agrees to levy Special Taxes each year on Developed Property at the maximum assigned rate for so long as principal and interest remains due and payable pursuant to this Note.

- (B) <u>Maturity Date</u>. Notwithstanding anything contained herein to the contrary, the entire Outstanding Principal Amount of this Note, together with all unpaid interest accrued thereon, shall be due and payable without notice or demand on the date following the thirtieth (30th) anniversary date of this Note from any and all funds of the Maker.
- (C) Scheduled Payments. Commencing on the date of this Note and continuing during the term of this Note, on or before the first business day following each April 1 and October 1 (each a "Payment Date"), to the extent that Available Funds are on deposit in the Pardee Note Prepayment Fund (as defined in the Amendment), such Available Funds shall, subject to and in accordance with the Amendment, be used to repay the Outstanding Principal Amount and accrued interest or any portion thereof, together with any and all other sums or payments required hereunder, on the earliest practicable date that such Available Funds are available therefore.
- (D) <u>Unpaid Interest</u>. Any accrued but unpaid interest, as adjusted under Section 8 hereof, shall bear interest at the Interest Rate until paid.
- (E) <u>Lawful Money</u>. Interest and principal shall be payable in lawful money of the United States.
- 5. <u>Default</u>. An "Event of Default" shall occur hereunder (a) upon the failure of the Maker to pay all unpaid amounts due upon the Maturity Date, (b) upon the failure of Maker to pay, from and to the extent of Available Amounts, any interest, principal or other payment due hereunder, other than all amounts due on the Maturity Date, within thirty (30)

calendar days after the applicable Payment Date; or (c) upon the failure of Maker to perform any other obligation, covenant, or agreement under this Note or set forth in Sections 3.5.8 and 3.5.9 of the Amendment by the date such performance is due, taking into account all applicable cure periods. Upon occurrence of any Event of Default, Payee may declare the entire Outstanding Principal Amount and accrued interest of this Note (if not then due and payable), and all other sums or payments required hereunder, to be due and payable immediately, the interest rate on the outstanding principal amount of the Note shall increase to 12% per annum ("Default Rate") and, notwithstanding the term of the Note, the outstanding principal and accrued interest of the Note and all other sums or payments required hereunder shall thereupon become and be immediately due and payable.

- 6. <u>Prepayment.</u> Maker may prepay all or any part of the unpaid Outstanding Principal Amount due hereunder, together with accrued interest, in whole or in part, at any time during the term hereof without premium, penalty or charge from any source of funds.
- 7. Costs of Collection. Maker promises to pay (a) all costs and expenses of collection, including without limitation reasonable attorneys' fees, in the event this Note or any portion of this Note is placed in the hands of attorneys or collection is effected without suit; (b) reasonable attorneys' fees, as determined by the judge of the court, and all other costs, expenses and fees incurred by Payee in the event suit is instituted to collect this Note or any portion of this Note; and (c) all costs and expenses, including without limitation reasonable attorneys' fees and costs incurred in making any appearances in any such proceeding or in seeking relief from any stay or injunction issued in or arising out of any such proceeding.
- 8. <u>Crediting of Payments</u>. All payments made pursuant to the Notes shall be credited and the Outstanding Principal Amount and accrued interest owed hereunder shall be determined in the manner set forth below and in Section 1 above:
- (A) <u>Payments Made Pursuant To This Note</u>. All payments and prepayments made hereunder shall be credited first to unpaid interest, if any, which has accrued, and second to unpaid Outstanding Principal Amount; and
- (B) <u>Payments Made Pursuant to CFD Notes</u>. Any and all payments and prepayments made pursuant to any and all CFD Notes shall reduce the amounts due under this Note; such payments shall be credited to the unpaid interest, if any, which has accrued and to the unpaid Outstanding Principal Amount in the same manner and to the same extent as if such payments were actually paid on this Note on the date the payments were made on such other CFD Notes.
- 9. <u>Waiver of Notice, Etc.</u> Maker waives diligence, grace, demand, presentment for payment, exhibition of this Note, protest, notice of protest, notice of dishonor, notice of demand, notice of nonpayment, and any and all exemption rights after the indebtedness evidenced by this Note, to the fullest extent permitted by applicable laws.
- 10. No Waiver by Payee. Delay or failure by Payee to exercise any power, option or election herein shall not constitute a waiver of the right to subsequently exercise such power or option or any other power, option or election herein given to Payee.

11. <u>Notices</u>. Except as otherwise provided herein, all notices or communications required or permitted hereunder shall be in writing to the respective parties as follows:

If to Payee:

Pardee Homes

12626 High Bluff Drive, Suite 100

San Diego, CA 92130 Attn: Beth Fischer

and to:

Pardee Homes

10880 Wilshire Blvd., Suite 1900

Los Angeles, CA 90024 Attn: Chief Financial Officer

If to Maker:

San Dieguito Union High School District

710 Encinitas Boulevard Encinitas, CA 92024-3508 Attn: Superintendent

A notice or communication shall be effective on the date of personal delivery if personally delivered before 5:00 p.m., otherwise on the day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or when received, if transmitted by electronic facsimile transmission (with electronic confirmation of receipt) if transmitted before 5:00 p.m. on a normal business day, otherwise on the first business day following transmission; or on the day following delivery to the applicable overnight courier, if sent by overnight courier. Either party may change the address to which notices are to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

- 12. <u>Computation of Interest</u>. The computation of interest hereunder shall be based on a year of three hundred sixty (360) days and a month of thirty (30) days. Notwithstanding any other provision of this Note, if the Interest Rate or the Default Rate shall exceed the maximum rate permitted by law, then such Interest Rate or Default Rate, as applicable, shall be reduced to the maximum rate permitted by law.
- 13. <u>Miscellaneous</u>. This Note shall be governed by and construed under the laws of the United States and the laws of the State of California. The use of the term "Maker" shall be deemed to include the successors and assigns of the undersigned. Time is of the essence of the performance of each provision hereof. In the event that the final date for payment of any amount hereunder falls on a Saturday, Sunday or state or federal holiday, such payment may be made on the next succeeding business day. If Maker consists of more than one (1) person or entity, each shall be jointly and severally liable to Payee hereunder. All payments due hereunder shall be sent to Payee at the address set forth above or to such other place as Payee or other legal holder of this Note may designate in writing from time to time.

IN WITNESS WHEREOF, Maker has executed this Note on the year and date first hereinabove set forth.

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[CFD No]		
Ву:			
District Represer	ntative	_	

EXHIBIT H-2

FORM OF PROMISSORY NOTE

U.S. \$[PARTIAL PURCHASE PRICE], 2002
FOR VALUE RECEIVED, the undersigned, Community Facilities District No of the San Dieguito Union High School District, a public body corporate and politic duly organized under the laws of the State of California ("CFD No " or the "Maker"), promises to pay to Pardee Homes, a California corporation ("Payee"), at 10880 Wilshire Boulevard, Suite 1900, Los Angeles, California 92024, or such other place for the payment of this Note (this "Note") as the Payee may from time to time designate in writing, the principal sum of up to Dollars (\$), together with interest thereon earned at the rate and payable at the times hereinafter set forth and in accordance with the terms of this Note and that certain Amendment and Restatement of Funding and Mitigation Agreement by and among San Dieguito Union High School District ("School District"), CFD No. 95-1 of the School District, CFD No. 99-1 of the School District, CFD No. 99-2 of the School District, CFD No. 99-3 of the School District, the SDUHSD Financing Authority and Pardee Homes dated as of, 2002 (the "Amendment). Maker promises to pay the principal and interest evidenced hereby as
follows:
1. Aggregate Obligations. On the date hereof, in addition to this Note, (i) CFD No. 95-1 of the School District has issued a note to the Payee in the initial principal amount of up to, (ii) CFD No. 99-1 of the School District has issued a note to the Payee in the initial principal amount of up to, (iii) CFD No. 99-2 of the School District has issued a note to the Payee in the initial principal amount of up to, and (iv) CFD No. 99-3 of the School District has issued a note to the Payee in the initial principal amount of up to (each such note is herein referred to as a "CFD Note" and, collectively as the "CFD Notes"). The CFD Notes together with this Note are herein referred to as the "Notes." The note issued by CFD No is also herein referred to as the "Master Note."
The Notes were issued in exchange for the purchase from Payee of property with a purchase price of \$[Purchase Price plus Landowner Advance]. Notwithstanding anything contained herein to the contrary, in no event shall the total aggregate amount paid on all of the Notes exceed an amount, in the aggregate, equal to [the Purchase Price] plus interest accrued on the unpaid portion thereof, compounded semi-annually at a rate of 5% per annum.
2. <u>Outstanding Amounts</u> . The initial principal amount of this Note is \$[Partial Purchase Price]. The unpaid principal, as of any date, is herein referred to as the "Outstanding Principal Amount."
3. <u>Interest Rate</u> . Except as set forth in Section 5 below, the Outstanding Principal Amount of this Note shall bear interest from the date hereof until paid in full at the rate of 5% per annum ("Interest Rate") compounded semi-annually. Maker represents that interest paid on this Note is excluded from gross income for federal income tax purposes, and is exempt

from State of California personal income tax.

4. Payment of Principal and Interest.

(A) Source. Except as set forth in Section 4(B) below, Maker shall pay all amounts due hereunder in the event and to the extent it receives (i) Proceeds, (ii) State Funds and (iii) GO Funds (all as defined in the Amendment), provided the pledge of Proceeds, State Funds and GO Funds hereunder shall be subordinate to senior pledges of such Proceeds, State Funds and GO Funds to the repayment of District Advances (as defined in the Amendment) and accrued interest thereon (collectively, the "Senior Obligations").

The Proceeds, State Funds and GO Funds, net of the portion of such amounts pledged for the payment of the Senior Obligations, are herein collectively referred to as the "Available Funds."

Maker covenants and agrees with respect to this Note not to issue any Bonds (as defined in the Amendment) on parity with or senior to this Note secured in whole or in part by Special Taxes (as defined in the Amendment) other than Bonds issued to fund payments due under this Note and the Senior Obligations. Maker further covenants and agrees to levy Special Taxes each year on Developed Property at the maximum assigned rate for so long as principal and interest remains due and payable pursuant to this Note.

- (B) <u>Maturity Date</u>. Notwithstanding anything contained herein to the contrary, the entire Outstanding Principal Amount of this Note, together with all unpaid interest accrued thereon, shall be due and payable without notice or demand on the date following the thirtieth (30th) anniversary date of this Note from any and all funds of the Maker.
- (C) Scheduled Payments. Commencing on the date of this Note and continuing during the term of this Note, on or before the first business day following each January 1 and July 1 (each a "Payment Date"), to the extent that Available Funds are on deposit in the Pardee Note Prepayment Fund (as defined in the Amendment), such Available Amounts shall, subject to and in accordance with the Amendment, be used to repay the Outstanding Principal Amount and accrued interest or any portion thereof, together with any and all other sums or payments required hereunder.
- (D) <u>Unpaid Interest</u>. Any accrued but unpaid interest, as adjusted under Section __ hereof, shall bear interest at the Interest Rate until paid.
- (E) <u>Lawful Money</u>. Interest and principal shall be payable in lawful money of the United States.
- 5. <u>Default</u>. An "Event of Default" shall occur hereunder (a) upon the failure of the Maker to pay all unpaid amounts due upon the Maturity Date, (b) upon the failure of Maker to pay, from and to the extent of Available Amounts, any interest, principal or other payment due hereunder, other than all amounts due on the Maturity Date, within thirty (30) calendar days after the applicable Payment Date; or (c) upon the failure of Maker to perform any other obligation, covenant, or agreement under this Note or set forth in Sections 3.5.8 and 3.5.9 of the Amendment by the date such performance is due, taking into account all applicable cure periods. Upon occurrence of any Event of Default, Payee may declare the entire Outstanding Principal Amount and accrued interest of this Note (if not then due and payable), and all other

sums or payments required hereunder, to be due and payable immediately, the interest rate on the outstanding principal amount of the Note shall increase to 12% per approximately.

outstanding principal amount of the Note shall increase to 12% per annum ("Default Rate") and, notwithstanding the term of the Note, the outstanding principal and accrued interest of the Note and all other sums or payments required hereunder shall thereupon become and be immediately due and payable.

- 6. <u>Prepayment</u>. Maker may prepay all or any part of the unpaid Outstanding Principal Amount due hereunder, together with accrued interest, in whole or in part, at any time during the term hereof without premium, penalty or charge from any source of funds.
- 7. Costs of Collection. Maker promises to pay (a) all costs and expenses of collection, including without limitation reasonable attorneys' fees, in the event this Note or any portion of this Note is placed in the hands of attorneys for collection is effected without suit; (b) reasonable attorneys' fees, as determined by the judge of the court, and all other costs, expenses and fees incurred by Payee in the event suit is instituted to collect this Note or any portion of this Note; and (c) all costs and expenses, including without limitation reasonable attorneys' fees and costs incurred in making any appearances in any such proceeding or in seeking relief from any stay or injunction issued in or arising out of any such proceeding.
- 8. <u>Crediting of Payments</u>. All payments made under the Notes shall be credited and the Outstanding Principal Amount and accrued interest owed hereunder shall be determined in the manner set forth below:
- (A) <u>Payments Made Pursuant To This Note</u>. All payments and prepayments made hereunder shall be credited first to unpaid interest, if any, which has accrued, and second to unpaid Outstanding Principal Amount.
- (B) Other Payments. Notwithstanding anything contained herein to the contrary, in no event shall the amounts due under this Note and all other Notes, at any time, exceed the amounts due and owning under the Master Note. In the event that the Master Note is paid or deemed paid in full in accordance with its terms, this Note shall be deemed paid in full and the Maker will have no further obligation herein under.
- 9. <u>Waiver of Notice, Etc.</u> Maker waives diligence, grace, demand, presentment for payment, exhibition of this Note, protest, notice of protest, notice of dishonor, notice of demand, notice of nonpayment, and any and all exemption rights after the indebtedness evidenced by this Note, to the fullest extent permitted by applicable laws.
- 10. <u>No Waiver by Payee</u>. Delay or failure by Payee to exercise any power, option or election herein shall not constitute a waiver of the right to subsequently exercise such power or option or any other power, option or election herein given to Payee.
- 11. <u>Notices</u>. Except as otherwise provided herein, all notices or communications required or permitted hereunder shall be in writing to the respective parties as follows:

If to Payee:

Pardee Homes

12626 High Bluff Drive, Suite 100

San Diego, CA 92130 Attn: Beth Fischer

and to:

Pardee Homes

10880 Wilshire Blvd., Suite 1900

Los Angeles, CA 90024 Attn: Chief Financial Officer

If to Maker:

San Dieguito Union High School District

710 Encinitas Boulevard Encinitas, CA 92024-3508 Attn: Superintendent

A notice or communication shall be effective on the date of personal delivery if personally delivered before 5:00 p.m., otherwise on the day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or when received, if transmitted by electronic facsimile transmission (with electronic confirmation of receipt) if transmitted before 5:00 p.m. on a normal business day, otherwise on the first business day following transmission; or on the day following delivery to the applicable overnight courier, if sent by overnight courier. Either party may change the address to which notices are to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

- 12. <u>Computation of Interest</u>. The computation of interest hereunder shall be based on a year of three hundred sixty (360) days and a month of thirty (30) days. Notwithstanding any other provision of this Note, if the Interest Rate or the Default Rate shall exceed the maximum rate permitted by law, then such Interest Rate or Default Rate, as applicable, shall be reduced to the maximum rate permitted by law.
- 13. <u>Miscellaneous</u>. This Note shall be governed by and construed under the laws of the United States and the laws of the State of California. The use of the term "Maker" shall be deemed to include the successors and assigns of the undersigned. Time is of the essence of the performance of each provision hereof. In the event that the final date for payment of any amount hereunder falls on a Saturday, Sunday or state or federal holiday, such payment may be made on the next succeeding business day. If Maker consists of more than one (1) person or entity, each shall be jointly and severally liable to Payee hereunder. All payments due hereunder shall be sent to Payee at the address set forth above or to such other place as Payee or other legal holder of this Note may designate in writing from time to time.

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IN WITNESS WHEREOF, Maker has hereinabove set forth.	s executed this Note on the year and date first
*	[CFD No]
	Ву:
**	District Representative

EXHIBIT I

FORM OF NOTICE OF CESSATION AND EXTINGUISHMENT OF LIEN (CFD No. 99-1)

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

San Dieguito Union High School District 710 Encinitas Boulevard Encinitas, CA 92024-3508 Attn: Superintendent

With a copy to: Pardee Homes

10880 Wilshire Boulevard, Suite 1900

Los Angeles, CA 92024-3508

Attn: Beth Fischer

(Space Above Line for Recorder's Use)

NOTICE OF CESSATION OF SPECIAL TAX
AND EXTINGUISHMENT OF LIEN
FOR SPECIFIC PARCELS WITHIN
COMMUNITY FACILITIES DISTRICT NO. 99-1
(PACIFIC HIGHLANDS RANCH)
OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

NOTICE IS HEREBY GIVEN by Community Facilities District No. 99-1 (Pacific Highlands Ranch) of the San Dieguito Union High School District ("CFD No. 99-1") pursuant to Government Code Section 53330.5 that the lien for special taxes levied on hereinafter described specific parcels within CFD No. 99-1, approved pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (commencing with Government Code Section 53311), and identified by way of that document recorded as follows:

NOTICE	OF SPECIAL TAX LIEN – Community Facilities District No. 99-1 of the Sa	UI.
Dieguito	Union High School District recorded with the San Diego County Recorder's	
office on	as Instrument No.	

has been extinguished and such special taxes shall hereinafter permanently cease to be levied on such parcels.

04/28/03 4000-52 H&O: #2325 v7 NOTICE IS HEREBY GIVEN by CFD No. 99-1 that upon recording of this Notice of Cessation and Extinguishment of Lien, the above-described lien for special taxes is hereby cancelled as against the following described property:

Assessor's Parcel No(s)
[Insert APNs]

Legal Description

[Insert legal description.]

This Notice of Cessation and Extinguishment of Lien does not affect, or extend to, any properties other than as specified above.

to, any properties other than as specified	above.
made to the boundary map of CFD No. 99	o the boundaries of CFD No. 99-1, reference is hereby 9-1 as previously filed as Instrument No in the San Diego, State of California, on
DATED:, 2002	
	Clerk of the Board of Trustees of the San Dieguito Union High School District
STATE OF CALIFORNIA)	
COUNTY OF	SS.
On	before me,, a
personally known to me (or proved to me whose name(s) is/are subscribed to the wire executed the same in his/her/their authorize	on the basis of satisfactory evidence) to be the person(s) thin instrument and acknowledged to me that he/she/they red capacity(ies), and that by his/her/their signature(s) on upon behalf of which the person(s) acted, executed the
WITNESS my hand and of	ficial seal.
Signature	(Seal)

EXHIBIT J

METHODOLOGY FOR CALCULATING NOTE AND INSTALLMENT PAYMENT REDUCTION

School District and Landowner have agreed on a net present value of \$504,667 for the additional property tax liability assumed by Landowner in exchanging the Exchange Parcel for the Gonzalves Property. The parties agree that such net present value would decrease if the County Tax Assessor determined an assessed valuation for the Gonzalves Property of less than \$6,500,000 or if the City were to acquire the Gonzalves Property prior to June 30, 2013. If either event occurs, the outstanding, unpaid installment payments of the purchase price of Parcels 1 and 2 and the outstanding principal amount of the Note shall be reduced as set forth below.

- 1. Determine if the assessed valuation of the Gonzalves Property is less than \$6,500,000 or the City has acquired the Gonzalves Property prior to June 30, 2013.
- 2. Recalculate the net present value of Landowner's property tax liability using the reduced assessed valuation or early acquisition date to determine Landowner's remaining property tax liability according to the attached spreadsheet. For example, if the City acquires the Gonzalves Property earlier than June 30, 2013, Pardee's remaining property tax liability shall be zero for each fiscal year after the City's acquisition and may be reduced in the fiscal year in which the property is acquired, if the County approves an exemption. If the County Tax Assessor reduces the assessed valuation of the Gonzalves Property, Landowner's remaining tax liability shall be a reduced amount based upon the new assessed valuation from the first year in which the new assessed valuation applies until June 30, 2013.
- 3. The reduction in the outstanding, unpaid installment payments of the purchase price of Parcels 1 and 2 and the outstanding principal amount of the Note shall be determined according to the following formula:

$$(1 - \underbrace{\text{New NPV}}_{\$504,667} \times \$504,667 = \text{Amount of reduction}$$

New NPV = the amount of the recalculated net present value of Landowner's property tax liability determined pursuant to paragraph 2 above.



C Discount Rates

		9 Years			10,5 Years		
Total Increase in Taxes	5	623,456,01	Reduced Exchange Parcel Acreage (1)	\$	738,793.13	Reduced Exchange Parcel Acreage (1)	
NPV of Increase @ 5%	TS	489,222.94	1.24	5	558,891.73	1.42	
NPV of Increase @ 6%	15	467,571.59	1.18	\$	530,744.53	1.34	
NPV of Inclease @ 7%	13	447,330,83	1,13	9	504,667,48	1928	
NPV of Increase @ 8%	3	428,388.58	1.08	\$	480,475.86	1.22	
NPV of Increase @ 9%	s	410,642.44	1.04	\$	458,003.83	1.16	
NPV of Increase @ 10%	s	393,999.66	1.00	\$	437,102.14	1.11	
NPV of Increase @ 11%	5	378,375.66	0.96	\$	417,636.38	1,06	
NPV of Increase @ 12%	s	363,693.37	0.92	\$	399,485.31	1.01	

Value per Acre at 11/21/02

\$ 394,931

(1) NPV divided by \$394,931 per acre.

SECOND AMENDMENT

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. <u>Amendment to Section 3.6.2 of Amended Agreement.</u> 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.

C: Banchamis

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:

ITEM 19

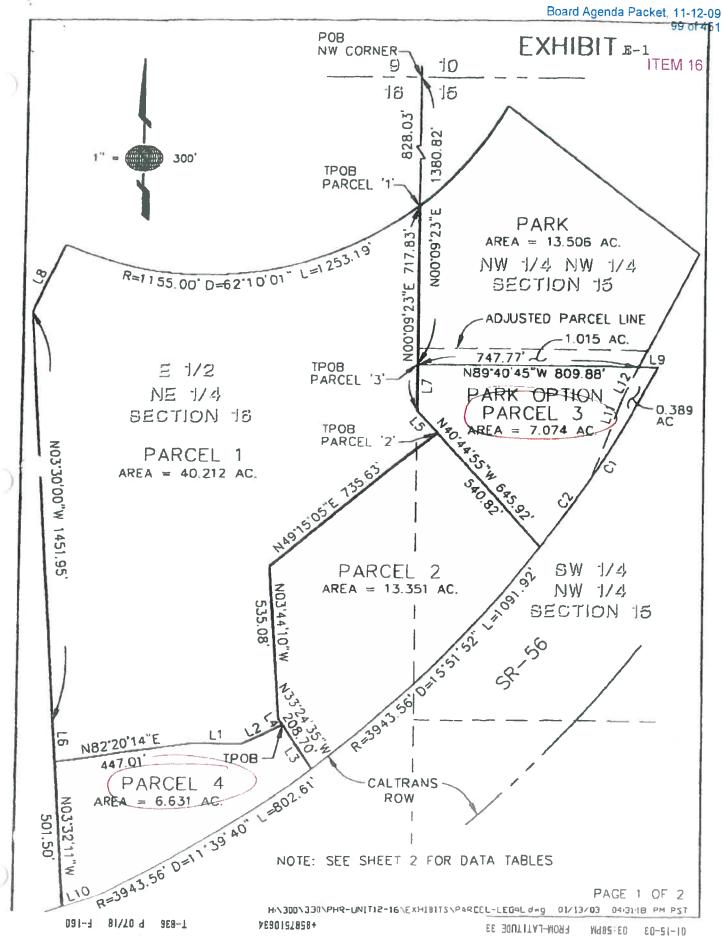


Exhibit C

CONSENT OF ESCROW AGENT

Exhibit D

ESCROW INSTRUCTIONS

Exhibit E

AFFIDAVIT OF NON-FOREIGN STATUS

Exhibit F

TITLE REPORT

$\label{eq:continuous} \mbox{Exhibit G}$ FIRST PURCHASE AGREEMENT AND EXHIBITS

ORIGINAL

SCHOOL SITE PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS

This Real Estate Purchase Contract and Escrow Instructions ("Agreement") is dated as of May 1, 2003, by and between the San Dieguito Union High School District, a California School District, hereinafter referred to as "Buyer," and Pardee Homes, a California corporation, formerly known as Pardee Construction Company, hereinafter referred to as "Seller," and is entered into with reference to the recitals set forth below, and constitutes (i) a contract of purchase and sale between the parties and (ii) escrow instructions to First American Title Company, Attention: Ms. Angelique Sizemore, ("Escrow Agent"), the consent to which appears at the end of this Agreement.

The addresses and telephone numbers of the parties to this Agreement are as follows. Telephone numbers are included for information only.

BUYER:

San Dieguito Union High School Dist.

710 Encinitas Boulevard

Encinitas, California 92024

Attn: Eric J. Hall, Asst. Suptd. Telephone: (760) 753-6491

Facsimile: (760) 635-0591

Copies of any notice to Seller

should also be sent to:

Ms. Ellen R. Michaels, Senior Deputy

Office of County Counsel

1600 Pacific Highway, Suite 355

San Diego, CA 92102

Telephone: (619) 531-4896

Facsimile: (619) 531-6005

SELLER:

Pardee Homes

12626 High Bluff Drive

Suite 100

San Diego, CA 92130

Attn: Ms. Beth Fischer

Telephone: (858) 794-2500

Facsimile: (858) 794-2599

Copies of any notice to

Seller shall also be sent

to:

Sandler and Rosen, LLP

1801 Avenue of the Stars

Suite 510

Los Angeles, CA 90067

Attn: Steven E. Levy, Esq.

Telephone: (310) 277-4411

Facsimile: (310) 277-5954

RECITALS

A. Seller is the owner of that certain parcel of real property located in the City of San Diego ("City"), County of San Diego, California, comprised of approximately 53.5 net acres of land, more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Property") and also described as Parcels 1 and 2 in the Amendment defined in Recital C below. In addition, Buyer is acquiring from Seller approximately 11.2 acres of real property located adjacent to the Property pursuant to that

certain Real Estate Purchase Contract and Escrow Instructions dated as of December 27, 2002 between Buyer and Seller (the "Exchange Agreement").

- B. Buyer and Seller entered into that certain Funding and Mitigation Agreement dated as of July 14, 1998 (the "Mitigation Agreement") providing for various matters concerning the mitigation of school facilities, including the potential sale of the Property to Buyer for use as a school site.
- C. Concurrently herewith, Buyer and Seller are entering into that certain Amendment and Restatement of Funding and Mitigation Agreement" dated as of May 1, 2003 (the "Amendment") which amends and restates the Mitigation Agreement in its entirety. A copy of said Amendment is attached hereto as **Exhibit B** and is incorporated herein by this reference.
- D. Buyer and Seller agree that, if applicable, they will enter into separate and additional School Site Purchase Agreements and Escrow Instructions in the future in accordance with the Amendment for Buyer's purchase from Seller of Parcels 3, 4, and any Surplus Parcels (as identified in the Amendment).
- E. As provided in the Mitigation Agreement and the Amendment, Buyer now desires and agrees to purchase the Property for future development as a public high school site, and Seller agrees to sell the Property to Buyer upon the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the above recitals which are hereby incorporated in full into this agreement and in consideration of the covenants herein and other good and valuable consideration, it is mutually agreed as follows:

- 1. <u>Definitions</u>. Unless this Agreement otherwise indicates, the following terms shall have the following meanings whenever used in this Agreement:
- 1.1 "Business Day" means and refers to any day other than a Saturday, Sunday or legal holiday in the State of California or school holiday for Buyer.
- 1.2 "Cash" means (a) currency; (b) certified checks or government warrants currently dated, payable to Escrow Agent and honored upon presentation for payment; (c) amounts credited by wire-transfer into Escrow Agent's bank account, or (d) if monies are deposited with Escrow Agent within three (3) days of the Closing Date, funds in such form as Escrow Agent in its sole discretion requires.
 - 1.3 "City" means the City of San Diego, a municipal corporation.

- 1.4 "Close of Escrow" means the date and time at which the Grant Deed is filed for record with the County Recorder of San Diego County, California. The "Closing Date" means the date defined in Section 12.1 below.
 - 1.4A "Contingency Period" shall have the meaning described in Section 9.2 below.
 - 1.5 "Escrow Agent" refers to First American Title Company.
- 1.6 "Hazardous Materials Laws" means any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Property, or soil or groundwater conditions, including but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 142 U.S.C. section 9601 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. section 1801 et seq., the California Hazardous Waste Control Act and the Carpenter-Presley-Tanner Hazardous Substance Account Act., California Health and Safety Code section 25100 et seq., and section 25300 et seq., the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code section 25249.5 et seq., the Porter-Cologne Water Quality Control Act, California Water Code section 13000 et seq., and any amendments to, and regulations implementing, the foregoing.
- 1.7 "Hazardous Substances" or "Hazardous Materials" means substances or materials which are flammable, explosive, asbestos, radioactive or toxic, and any substances defined or regulated as hazardous substances, hazardous materials, toxic substances or hazardous waste under any Hazardous Materials Laws and including petroleum, crude oil, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or any other substance or material to the extent such substance or material would require clean-up or would make the Property not suitable for use as a school site.
- 1.7A "Notes" means the promissory notes to be issued by Buyer as payment for the Property, as more particularly described in Section 3.5.4 of the Amendment. Said Notes shall be substantially in the form of Exhibit H attached to the Amendment.
 - 1.8 "Party" or "Parties" means the Buyer and/or Seller, as the context may require.
- 1.9 "Unavoidable Delays" means delays, circumstances or conditions resulting from any one or a combination of the following: (a) acts of God, war, weather, material shortages, strikes or other similar acts beyond the reasonable control of Buyer or Seller, (b) acts, omissions or failure to take action by City or any other governmental entity, including, but not limited to, the failure to issue any required permits, consents or other prior authorizations necessary to enable Buyer or Seller to perform any of their obligations pursuant to this Agreement, or (c) acts or omissions or failure to take action by Buyer or

Seller necessary to enable the other party to perform any of its obligations pursuant to this Agreement.

2. Agreement of Sale.

- 2.1 <u>Conveyance of the Property</u>. Seller hereby agrees to convey the Property to Buyer and Buyer hereby agrees to purchase the Property from Seller for the Purchase Price specified in paragraph 3 below and upon all other terms and conditions set forth in this Agreement.
- 2.2 <u>Interests Conveyed by Seller</u>. The Property includes all easements, interests, rights and powers appurtenant to and for the benefit of the Property. The foregoing, in addition to the Property, will be conveyed to Buyer by Grant Deed described below, whether or not the Grant Deed makes specific reference thereto.
- 3. Purchase Price. Buyer agrees to purchase and Seller agrees to sell the Property for the purchase price ("Purchase Price") specified in the price formula contained in the Amendment. The Purchase Price shall be paid by Buyer's deposit into Escrow of Notes duly executed by Buyer on behalf of various community facilities districts of Buyer (the "Executed Notes") and by installment payments by Buyer of State funds and general obligation funds, as identified in and pursuant to the Amendment.

4. Escrow.

- 4.1 Commencement of Escrow. Within five (5) Business Days after the execution and delivery of this Agreement by Buyer and Seller, an escrow ("Escrow") shall be commenced by Buyer and Seller with Escrow Agent by delivering a fully executed original of this Agreement to the Escrow Agent and procuring the Escrow Agent's consent in the form attached hereto as Exhibit C. This Agreement and the Escrow Instructions set forth herein, and if required by Escrow Agent, the printed form instructions of Escrow Agent approved and signed by both parties and attached hereto as Exhibit D shall constitute the Escrow Instructions for the Escrow. If any of the instructions on Exhibit D are inconsistent with any provisions of this Agreement, then the terms and conditions of this Agreement shall govern. The date on which a fully executed original of this Agreement has been deposited with Escrow Agent shall be deemed to be the date of Commencement of the Escrow. Immediately upon receipt of the original of this Agreement Escrow Agent shall provide both parties with written notice of the date of the Commencement of Escrow.
- 4.2 <u>Deposit in Escrow</u>. To cover the Purchase Price, Buyer will deposit into Escrow prior to 10:00 a.m. on the last business day before the Close of Escrow the Executed Notes in the form and manner specified in the Amendment. Concurrently therewith, Buyer shall also deposit the Cash necessary to cover its share of the closing costs and prorations.

Funds placed in escrow more than five (5) days prior to Close of Escrow shall be placed in an interest bearing account reasonably acceptable to Buyer.

- 5. <u>Delivery of Possession</u>. Title to the Property shall pass immediately upon Close of Escrow. Possession will be delivered to Buyer upon Close of Escrow.
- 6. <u>Vesting of Title</u>. Unless otherwise designated in the escrow instructions of Buyer, title to the Property shall vest in Buyer.
- 7. <u>Buyer's Deliveries to Escrow Agent.</u>
- 7.1 <u>Deliveries Before Closing Date</u>. Prior to 10:00 a.m. on the last Business Day before the Closing Date (hereinafter described), Buyer shall deliver to Escrow Agent each of the following:
- 7.1.1 Executed Notes to cover the Purchase Price as provided in the Amendment, together with the funds called for by Section 4.2 above;
- 7.1.2 All documents required by Buyer to satisfy or waive the contingencies set forth in Section 9 of this Agreement;
- 7.1.3 The Easement Deeds described in Section 10 below duly executed by Buyer and in recordable form; and
- 7.1.4 Such other documents and sums as are required by Escrow Agent or this Agreement to be deposited by Buyer to carry out this Agreement and including approval of the purchase and sale by action and recordation of the deed by Buyer's Board of Trustees.
- 8. Seller's Deliveries to Escrow Agent.
- 8.1 <u>Deliveries Before Closing Date</u>. Prior to 10:00 a.m. on the last Business Day before the Closing Date (hereinafter described), Seller shall deliver to Escrow Agent each of the following:
- 8.1.1 A grant deed ("Grant Deed") duly executed and acknowledged by Seller on Escrow Agent's standard form conveying the Property to Buyer;
- 8.1.2 The Cash necessary to cover Seller's share of the closing costs and prorations;
- 8.1.3 The Easement Deeds described in Section 10 below duly executed by Seller and in recordable form;

- 8.1.4 An affidavit of non-foreign status ("Affidavit") required pursuant to Section 1445 of the Internal Revenue Code in the form attached hereto as **Exhibit E**; and
- 8.1.5 Such other documents as are required by Escrow Agent or this Agreement to be deposited by Seller to carry out this Agreement.
- 9. <u>Conditions</u>. The Close of Escrow shall be subject to the satisfaction or waiver of each of the following conditions:
- 9.1 Conveyance of Title with Conditions and Title Insurance. Title shall be conveyed by Grant Deed and is to be free of liens, encumbrances, restrictions, rights and conditions of record or known to Seller, other than the following: (1) current property taxes and assessments, and (2) covenants, conditions, restrictions and public utility easements of record, if any, approved or deemed approved by Buyer as provided below, provided the same would not in the judgment of Buyer adversely affect the use of the Property as a public school site. Within its sole discretion, Seller shall use its commercially reasonable efforts to ensure the removal of any exceptions identified by Buyer as objectionable in a timely fashion.

The current preliminary title report for the Property shall be dated and ordered upon the Commencement of the Escrow. The Title Report shall be attached to this Agreement as **Exhibit F**. All easements other than for public utilities must be expressly approved by the Buyer in writing. Buyer shall notify Seller in writing of its approval or disapproval of the preliminary title report and underlying documents within sixty (60) days after the Commencement of Escrow. Silence shall be deemed disapproval, in which event this Agreement shall terminate. Within ten (10) Calendar Days after any title objections, Seller shall notify Buyer in writing whether Buyer is willing or able to satisfy or eliminate the title concerns or objections of Buyer. If Seller fails to indicate that it will satisfy any and all objections, Buyer may terminate this Agreement by written notice to Seller and Escrow Agent prior to the end of the Contingency Period or waive its objection and proceed to complete the transactions specified in this Agreement.

Seller shall order for Buyer a standard CLTA or ALTA owners policy of title insurance (at Buyer's election) dated as of the closing date, with liability not less than the Purchase Price, issued by the First American Title Company, showing title vested in Buyer and subject only to the liens and encumbrances approved or deemed approved during the Contingency Period. If Seller fails to deliver title as specified above, Buyer in its sole discretion may terminate this Agreement by written notice to Seller and Escrow Agent of such determination before the date specified for Close of Escrow.

9.2 <u>Board Approval</u>. Buyer's delivery to Seller and Escrow Agent, within ninety (90) days of the Commencement of Escrow (the "Contingency Period") of the written approval of the Buyer's governing board, stating Buyer's intention to purchase the Property

in accordance with the terms of this Contract. Prior to Close of Escrow Buyer will provide the Escrow Agent a Resolution and Certificate of Acceptance of the Deed of conveyance of the Property in accordance with Government Code section 27281. Prior to Close of Escrow Buyer will adopt the Resolution and Findings if appropriate in accordance with Education Code section 17213. Buyer is authorized to undertake all actions necessary to effectuate the transaction contemplated by this Agreement and to execute any and all documents which may be required in connection with the same.

- 9.3 Planning Agency Report. Buyer's receipt of a report prior to Close of Escrow from the City of San Diego Planning Agency ("Planning Agency") regarding acquisition of the Property for a proposed school site as required pursuant to the provisions of Government Code section 65402 and Public Resources Code section 21151.2. Buyer shall submit all information to the Planning Agency as required pursuant to the provisions of Government Code section 65402 and Public Resources Code section 21151.2 within five (5) business days from the Commencement of Escrow.
- 9.4 State Department of Education School Site Report. Prior to Close of Escrow Buyer's receipt of a letter approving the site from the State Department of Education with respect to the Property in accordance with Education Code section 17251 and 5 California Code of Regulations section 14010. Buyer shall submit all required information to the State Department of Education as it becomes available pursuant to the provisions of Education Code section 17251 and 5 California Code of Regulations section 14010, and as otherwise required by law.
- 9.5 <u>CEQA Compliance</u>. Buyer's compliance with any requirements imposed by the California Environmental Quality Act (Public Resources Code section 21000 et seq.) on or before the Close of Escrow.
- 9.6 Environmental Assessment. Buyer's determination prior to Close of Escrow pursuant to Section 18 of this Agreement that any and all studies of the site by Buyer or others are fully satisfactory to Buyer as Buyer shall determine in its sole discretion and that no Hazardous Substances or Materials are present on the Property and that there is no condition making the site not feasible for development as a high school and that there is no condition or substance at, on, under or related to the Property presently or potentially posing a significant hazard to human health or the environment and a determination by Buyer that the provisions of Education Code section 17213, and following, as applicable, and any and all other applicable provisions of the California Education Code and the laws of California and the United States have been complied with pertaining to the purchase of the Property by Buyer. In accordance with Section 24 below, Buyer's Environmental Assessment shall take into consideration all site conditions after the site is graded.
- 9.7 Zoning Exemption. If necessary as determined solely by Buyer, Buyer's adoption of a resolution pursuant to Government Code section 53094 which renders

inapplicable any City zoning ordinance of the City of San Diego which may be applicable and incompatible with the development of the Property for high school purposes, and no objection by the City within 60 (sixty) days thereafter to said resolution. Buyer shall adopt any such resolution no later than sixty (60) days from the date of Commencement of Escrow. Buyer retains the sole discretion to determine whether this condition has been satisfied.

- 9.8 Provision of Reports. No later than thirty (30) calendar days after the Commencement of Escrow, Seller shall provide or make available to Buyer all soil, engineering, geological and environmental tests, reports and/or studies, including the most recent topographic maps, surveys, hydrology tests, studies and/or reports and any and all other site studies, reports or test results (hereafter collectively referred to as "Reports") regarding the condition of the Property, which have been performed since Buyer acquired the Property and which are in the possession and control of Seller and which relate to the Property, provided, however, Seller is required only to provide Reports in its possession or control not previously provided to Buyer and provided Seller shall not be required to provide copies of any proprietary materials including (without limitation) internal proformas and memoranda. Buyer acknowledges it has already received the reports listed in Exhibit G attached hereto and incorporated herein in full by this reference which is a two page Transmittal from Seller to Buyer dated January 16, 2003, listing various reports and documents pertaining to the Property.
- 9.9 Physical Condition. No later than the expiration of the Contingency Period, Buyer shall have notified Seller and Escrow Agent that it has determined within its sole discretion whether the physical condition of the Property is suitable for use as a public school site; provided however, Buyer's acceptance of the physical condition of the Property in its entirety is subject to Seller's completion to the sole satisfaction of Buyer of the work described in Section 24 and Exhibit H of this Agreement below (which is incorporated here in full by this reference) including the work pertaining to the use of imported soils for the grading and other work described in Exhibit H, and further provided that such acceptance by Buyer shall not be required until immediately prior to the Close of Escrow.
- 9.10 Seller's Performance, Representation and Warranties. Seller shall have duly performed each and every undertaking and agreement to be performed by it under this Agreement and Seller's representation and warranties shall be true and correct in all material respects as of the Close of Escrow.
- 9.11 <u>Establishment of a New Community Facilities District</u>. Buyer and Seller shall have duly performed each and every undertaking and act necessary for the final and formal establishment of the New Community Facilities District ("New CFD") described in the Amendment, including Buyer's adoption of an ordinance levying special tax and the execution and recording by Buyer's Clerk of the Board of Trustees of notice of special tax lien for CFD-03-1.

- 9.12 <u>Buyer's Performance, Representations and Warranties</u>. Buyer shall have duly performed each and every undertaking and agreement to be performed by it under this Agreement and Buyer's representations and warranties shall be true and correct in all material respects as of the Close of Escrow. Buyer shall apply for and diligently process the approvals described above and shall use its reasonable commercial efforts to obtain the same in a timely fashion.
- 9.13 Exchange Agreement. The Close of Escrow pursuant to the Exchange Agreement shall have occurred.
- 9.14 Failure of Conditions Precedent. The conditions set forth in Sections 9.1 through 9.10 inclusive are for Buyer's benefit and may only be waived by Buyer. The condition set forth in Sections 9.11, 9.12 and 9.13 are for Seller's benefit and may only be waived by Seller. In the event any of the foregoing conditions precedent set forth in this Article 9 are neither satisfied nor waived in writing within the applicable time frame as provided for above, any party who is not then in default hereunder may terminate the escrow and this Agreement by giving a written notice of termination to the other party and Escrow Agent. The giving of such notice shall be optional, not mandatory; no delay in the giving of such notice shall affect the rights hereunder of the party giving the same. In the event such notice is given, Escrow Agent shall return the Executed Notes to Buyer (if the Executed Notes have been previously deposited into the Escrow by Buyer) and the provisions of Sections 12.6 and 12.7 below shall apply. Neither party may object to the notice of termination following the failure of either party to satisfy any of the conditions set forth above, and the unsatisfied condition shall not be deemed to be a default by that party.
- 9.15 <u>Copies of Documents to Other Party</u>. Each party will, concurrently with its delivery to Escrow Agent of any notices described in this Article 9, deliver a copy of the same to all persons listed beginning on page 1.
- 10. <u>Easement Deeds</u>. The following additional obligations of the Parties shall be completed before or after the Close of Escrow as specified:
- 10.1 As to Parcel 1 described in the Amendment, an easement must be reserved or conveyed so that Seller will have necessary access to and across Parcel 3 described in the Amendment. The legal description for this easement and a drawing depicting the easement location is attached hereto and incorporated herein in full as Exhibit I. This easement shall be conveyed and recorded after conveyance of the Property and prior to Close of Escrow.
- 10.2 If Parcel 4 described in the Amendment is acquired by Buyer, an instrument shall be recorded, as a condition to such transfer, to the effect that no portion of Parcel 4 will be used for a bus facility, as more particularly described in the Amendment.

- 10.3 To the extent the form and substance of the documents described above in this Section 10 (the "Easement Deeds") are not specifically identified in Exhibits to this Agreement, they shall be agreed upon, if feasible, by the Parties during the Contingency Period but in any event prior to the Close of Escrow.
- and around the Property and are to be dedicated in accordance with the Seller's Tentative Map approved by the City of San Diego. The locations of these easements as identified in Exhibit J, attached hereto and incorporated herein by this reference, consisting of eight (8) pages marked XXXXX-1-B through XXXXX-8-B, are hereby accepted by Buyer. These easements as required by Seller's Tentative Map will be identified in Easement Deeds to be approved by the Buyer in a final form that will assure the location of the easements does not impair the Buyer's ability to efficiently construct the planned school facilities on the Property. These easements are to be prepared and recorded before or after the Close of Escrow as and when required by the relevant utility companies or as is necessary to allow for the most efficient development of the Property.

11. Pre-Closing Obligations.

- 11.1 <u>Seller's Promise Not to Further Encumber</u>. During the term of the Escrow, Seller agrees that Seller shall not do any of the following without the prior written consent of Buyer which consent shall not be unreasonably withheld or delayed:
- 11.1.1 Make or allow to be made, extend or allow to be extended, any leases, contracts, options or agreements whatsoever affecting the Property which cannot be lawfully terminated on or before the Closing Date;
- 11.1.2 Cause or permit any lien, encumbrance, mortgage, deed of trust, right, restriction or easement to be placed upon the Property which Seller cannot remove before the Closing Date;
- 11.1.3 Cause or permit any mortgage, deed of trust or other lien to be foreclosed upon due to Seller's actions or omissions, including failure to make a required payment or failure to obtain the consent of a beneficiary under any deed of trust and/or mortgage under any mortgage on the Property to enter into this Agreement, if such consent is required under the terms of such deed of trust and/or mortgage;
- 11.1.4 Permit any tenant or other person to occupy or dwell on the Property which Seller warrants is now unoccupied; or
- 11.1.5 Alter or adversely affect the physical condition of the Property except for Seller's grading and other improvements referred to in Section 24 below.

12. The Closing.

- 12.1 <u>Closing Date</u>. The Escrow shall close within five (5) calendar days from the date all of the conditions to the Close of Escrow have been either satisfied or waived (the "Closing Date") but in no event later than December 31, 2003. Unless otherwise subsequently agreed to in a writing signed by Buyer and Seller, if the Close of Escrow fails to occur by the Closing Date, the Escrow shall close as soon thereafter as possible unless Escrow Agent and the other party receive notice from either party to cancel the escrow.
- 12.2 Conditions to Closing. Escrow Agent shall close the Escrow on the Closing Date by (i) filing for record the Grant Deed and such other documents as may be necessary to procure the Title Policy described below; and (ii) delivering funds and documents as set forth in Paragraph 3 above and this paragraph 11 WHEN AND ONLY WHEN each of the following conditions has been satisfied:
- 12.2.1 All funds and documents required by Paragraphs 3, 7, 8 and 10 have been delivered to Escrow Agent.
- 12.2.2 Escrow Agent has received written notice from each party that all of the contingencies set forth in paragraph 9 have been or, upon the Closing Date, will be satisfied or waived.
- 12.2.3 Escrow Agent has procured or can procure the Title Policy with liability in the amount of the Purchase Price insuring that fee title to the Property vests in Buyer subject only to those title exceptions described in Section 9.1, above.
- 12.3 <u>Recordation</u>. Escrow Agent shall record or cause to be recorded by the San Diego County Recorder, the Grant Deed and the Easement Deeds, in that order.
- 12.4 Additional Escrow Instructions. If required by Escrow Agent, Buyer and Seller shall execute Escrow Agent's usual form of escrow instructions for transactions of this type, provided, however, that (i) in the event that any portion of such additional escrow instructions shall be inconsistent with the provisions of this Agreement, the provisions of this Agreement shall prevail to the extent of any such inconsistency; and (ii) such escrow instructions shall specifically provide that no provision thereof shall have the effect of modifying this Agreement unless it is expressly so stated and such express statement is initialed by Buyer and Seller.
- 12.5 <u>Supplemental Escrow Instructions</u>. The parties agree that any amendments or additions to the initial form escrow instructions must be executed in writing by both parties.
- 12.6 <u>Delayed Closing</u>. If Escrow Agent cannot close the Escrow by the Closing Date or any permitted extensions thereof, it will, nevertheless, close the Escrow when all

contingencies have been satisfied or waived, notwithstanding that one or more of such contingencies has not been timely satisfied or timely waived unless (1) a notice of termination has already been delivered to Escrow Agent in accordance with other provisions of this Agreement, or (ii) after the Closing Date or any permitted extensions thereof and prior to the Close of the Escrow, Escrow Agent received a written notice to terminate the Escrow and this Agreement from a party, who, at the time such notice is delivered is not in default hereunder. No delay in the giving of such notice shall affect the rights hereunder of the party giving the same.

12.6.1 Escrow Agent shall have no liability or responsibility for determining whether or not a party giving a Termination Notice is or is not in default hereunder. Within three (3) business days after receipt of any Termination Notice or Default Notice from one party, Escrow Agent shall deliver one copy of such notice to the other party. Unless the Escrow Agent receives written objection to the Termination Notice or Default Notice from the other party stating that the Notice does not comply with this Agreement within five (5) business days after Escrow Agent delivers such notice to the other party, (i) Escrow Agent shall forthwith terminate the Escrow and return all documents, moneys or other items held by it to the party depositing same, except that Escrow Agent may retain such documents and other items usually retained by escrow agents in accordance with standard escrow termination procedures and practices, and (ii) the escrow termination charges shall be paid as provided in Section 12.8 below. Notwithstanding the foregoing provisions of this subparagraph, Escrow Agent may, (a) retain any passbooks, certificates or acceptable negotiable instruments on deposit with it by Buyer until such time as its escrow termination charges are paid in full, or (b) deduct from any cash or other moneys deposited with Escrow Agent by Buyer sufficient funds to pay its escrow termination charges. If written objection to the termination of escrow is delivered to Escrow Agent within such five (5) day period, Escrow Agent is authorized to hold all funds and instruments delivered to it in connection with the Escrow and may, in Escrow Agent's sole discretion, take no further action until otherwise directed, either by the parties' mutual written instructions or final order of a court of competent jurisdiction.

12.7 Escrow Termination. If this Agreement is terminated pursuant to Section 9.13: (i) Escrow shall be deemed cancelled and Buyer and Seller shall execute any cancellation instructions reasonably requested by Escrow Agent; (ii) within ten (10) business days of such termination, Escrow Agent shall return to Buyer the Executed Notes deposited to cover the Purchase Price (if the Executed Notes have been previously deposited into the Escrow by Buyer); (iii) within ten (10) Business Days of such termination, Buyer shall return to Seller all documents delivered to Buyer by Seller under this Agreement in accordance with the provisions of Section 18.2 and if requested by Seller, Buyer shall, at no cost to Seller, forthwith provide, without representation or warranty, all studies, reports or other documentation prepared by or at the discretion of Buyer relating to the Physical Inspection of the Property by Buyer, free of liens and fully paid for by Buyer, and deliver to Seller the copies of all such studies, reports and documentation; and Seller shall return to

Buyer all documents delivered to Seller by Buyer under this Agreement, if any; and (iv) such termination of this Agreement and Escrow shall be without prejudice to whatever rights the parties may have against each other in connection with this Agreement. The obligations of Seller and Buyer as set forth in this Section 12.7 shall survive the termination of the Escrow. Termination of this Agreement and/or termination of escrow due to a failure of conditions as specified in Section 9 in its entirety shall not constitute a breach or default of this Agreement.

default under this Agreement, Seller shall be responsible to reimburse Buyer for all Escrow cancellation and title charges paid by Buyer. If Escrow fails to close due to Buyer's default under this Agreement, Buyer shall be responsible to reimburse Seller for all escrow cancellation and title charges paid by Seller. If Escrow fails to close for any other reason other than the foregoing, Buyer and Seller shall each be responsible to pay one-half (1/2) of an any Escrow cancellation and title charges. Upon the termination of this Agreement, each party shall promptly sign and deliver to Escrow Agent any Escrow cancellation instructions reasonably required by Escrow Agent. Cancellation of the Escrow as provided in this Section 12 shall be without prejudice to whatever legal or equitable rights Buyer or Seller may have against each other arising from this Agreement or otherwise.

13. Prorations, Fees and Costs.

- 13.1 <u>Charges to Be Prorated and Bonds, Assessments, Liens</u>. Escrow Agent shall prorate, apportion between the parties, in cash, to the Close of Escrow, only County and City (if any) general and special taxes and assessments (including any Mello Roos bond assessments for school facilities) based on the latest information available to Escrow Agent. Any bond or assessment which is a lien that exists prior to the Close of Escrow shall be paid by Seller to make it current and shall be prorated in the aforesaid fashion.
- 13.2 <u>Basis of Proration</u>. All prorations or adjustments called for in this Agreement shall be made by Escrow Agent on the basis of a thirty (30) day month and three hundred sixty (360) day year, unless otherwise specifically instructed in writing by Buyer and Seller.
- 13.3 <u>Seller's Charges</u>. In addition to the charges to be prorated between Seller and Buyer as set forth in Section 13.1 above, Seller shall pay (i) subject to Section 12.8, one-half of Escrow Agent's fees and charges; (ii) the premium for the CLTA portion of the Title Policy; (iii) all prepayment penalties, reconveyance fees, trustees or forwarding fees for the reconveyance of any deed of trust or release of any mortgage, lien or encumbrance against the Property.
- 13.4 <u>Buyer's Charges</u>. In addition to the charges to be prorated between Seller and Buyer as set forth in Section 12.1 above, Buyer shall pay (i) subject to Section 12.8, one-half of Escrow Agent's fees and charges; (ii) the cost of transfer taxes, recording fees, and

all other similar fees and charges incurred in connection with the Escrow, if any, and (iii) the ALTA portion of the Title Policy premium, including the cost of any ALTA survey (if Buyer elects to obtain an ALTA policy).

13.5 <u>Supplemental Taxes</u>. If a supplemental property tax assessment is currently due and payable, it shall be paid by Seller at or prior to Close of Escrow. If there are any supplemental property tax assessments levied against the Property, after the Closing Date as a result of a sale or construction prior to the Close of Escrow, if any, the parties shall reprorate such assessments and make the appropriate accountings between them.

14. Distribution of Funds and Documents.

- 14.1 <u>Retention of Cash</u>. Except as specified in Section 3 above all Cash received by Escrow Agent, until disbursed in accordance with this Agreement, shall be kept on deposit with other escrow funds in Escrow Agent's general escrow account(s), in any state or national bank, and may be transferred to any other such general escrow account(s) unless otherwise expressly provided by the Parties.
- 14.2 <u>Disbursements</u>. All disbursements by Escrow Agent shall be made by checks of Escrow Agent or wire transfer if requested by the party receiving such disbursement.
- 14.3 <u>Payment of Encumbrances</u>. Escrow Agent shall, at the Close of Escrow, pay from funds to which Seller is entitled and from funds, if any, deposited by Seller with Escrow Agent, to the obligees thereof, all liens and encumbrances other than those permitted hereby to be shown in the Title Policy.
- 14.4 <u>Return After Recording</u>. Escrow Agent shall cause the County Recorder to mail the Grant Deed (and each other document which is herein expressed to be, or by general usage is recorded) after recordation, to the grantee, the San Dieguito Union High School District at the address identified on page 1 to the attention of the Assistant Superintendent, Business Services.
- 14.5 <u>Delivery of Instruments</u>. Escrow Agent shall, at the Close of Escrow, deliver by United States mail (or hold for personal pickup, if requested) each non-recorded document received hereunder by Escrow Agent, to the payee or person (i) acquiring rights under said document or (ii) for whose benefit said document was acquired.
- 14.6 <u>Delivery of Executed Notes</u>. Escrow Agent shall, at the Close of Escrow, deliver by personal service (or hold for personal pickup, if requested) (i) to Seller, the Executed Notes in the form specified in the Amendment and (ii) to Buyer, or order, any excess funds theretofore delivered to Escrow Agent by Buyer.

- 14.7 <u>Conformed Instruments</u>. Escrow Agent shall, at the Close of Escrow, deliver to Seller a copy of the Grant Deed (conformed to show recording data) and each document recorded to place title in the condition required by this Agreement.
- 15. <u>Seller's Representations and Warranties</u>. Escrow Agent shall have no concern with, or liability or responsibility for this paragraph. Seller makes the following representations and warranties:
- 15.1 Seller (and the person(s) signing this Agreement for Seller) each have full power and authority to enter into this Agreement and to sign this Agreement and to bind Seller to this Agreement and to sell, transfer and convey all right, title and interest in and to the Property in accordance with this Agreement.
- 15.2 No one other than Seller will be in possession of any portion of the Property immediately prior to the Close of Escrow.
- 15.3 Based on the actual knowledge of Seller's officers having supervisory authority over the Property, there is no suit, action, arbitration, legal, administrative or other proceeding or inquiry pending or threatened against the Property, or any portion thereof, or pending or threatened against Seller which would materially and adversely affect the title, value and ownership of the Property or which would subject an owner of the Property, or any portion thereof, to liability.
- 15.4 To Seller's actual knowledge, except as may be covered by any documents delivered to Buyer herein, including the Title Report, the Tentative Map, the Amendment, and the Easement Deeds specified in Section 10 above, there are no:
- 15.4.1 Intended public improvements, or private rights which will result in the creation of any liens upon the Property or any portion thereof, except as may be necessary for Seller to complete the improvements described in Section 24 below.
- 15.4.2 Uncured notices which have been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the Property or any portion thereof.
- 15.4.3 Actual or impending mechanics' liens against the Property or any portion thereof.
- 15.5 Seller has owned the Property for over ten (10) years and throughout that time has been familiar with the uses of the Property and based on that information, Seller represents to Seller's actual knowledge that, except as may be provided in the reports pertaining to the Property obtained by the District and Seller and/or delivered by Seller to the District pursuant to Section 9.8 above, including without limitation the Reports listed in

- **Exhibit** G, there is no existing violation of any Hazardous Materials Laws, nor is there any pending litigation, administrative proceeding or other action or written threat of any such matter involving any environmental or other matter concerning the Property.
- 15.6 To Seller's actual knowledge, there is no lease, license, permit, option, right of first refusal or other agreement, written or oral, which after the Close of Escrow would materially and adversely affect the Property or any portion thereof, except as may be disclosed in the Title Report.
- 15.7 Entering into this Agreement will not constitute a breach or default under any agreement to which Seller is bound and/or to which the Property is subject, including any deed of trust and/or mortgage.
- 16. <u>Buyer's Acknowledgement and Representation and Warranties.</u>
- 16.1 Buyer represents and warrants to Seller that Buyer has full power and authority to enter into this Agreement and the persons signing this Agreement for Buyer have the full power and authority to sign for Buyer and to bind Buyer, and to purchase the Property in accordance with this Agreement.
- 16.2 Buyer represents and warrants to Seller that prior to Close of Escrow Buyer in conjunction with execution of the Amendment and creation of a Community Facilities District, will take all actions necessary to assure the funds necessary for the purchase of the Property by Buyer will have been budgeted and appropriated by all applicable governmental authorities and that no further financing approval will be required for Buyer to proceed with the acquisition of the Property on the terms and conditions set forth in this Agreement and the Amendment.
- 17. <u>Seller's Promise to Remove Personal Property</u>. Prior to Close of Escrow, Seller promises to remove or cause to be removed from the Property at Seller's expense, any and all personal property and/or trash, rubbish or any other materials including, but not limited to, any Hazardous Substances or Materials in tanks, barrels, equipment, pipelines or other containers known to be on or under the Property, unless otherwise agreed to in writing by Buyer.
- 18. Environmental Assessment-Physical Inspection. Buyer's obligation to purchase the Property pursuant to this Agreement and the Amendment shall be contingent upon a determination by Buyer during the Contingency Period that no Hazardous Substances or Materials are present on the Property and that there is no condition at, on under or related to the Property presently or potentially posing a significant hazard to human health or the environment or which is inconsistent with the laws of California as they pertain to an acquisition of property for the purpose of construction of a public school.

Entry Onto the Property. At any time during the term of this Agreement, Buyer, through its employees and agents, may enter upon the Property for the purpose of accomplishing an environmental assessment of the Property generally, including the soils and water on the Property ("Environmental Assessment") and for any other inspections at Buyer's cost and expense. At least 48 hours prior to Buyer's entry onto the Property, Buyer or Buyer's representative will use its commercially reasonable efforts to contact Seller's representative by telephone to permit Seller the opportunity to accompany Buyer's representative and agents during their entry onto the Property. Should Buyer determine, in its sole discretion, based on its investigations of the Property, that Hazardous Substances or Materials are present on the Property, or that there is a condition at, on, under or related to the Property presently or potentially posing a significant hazard to human health or the environment or which is inconsistent with development of the site for public school purposes Buyer shall so notify Seller, and Seller may elect, at Seller's sole discretion, to either refuse to take any further action or to undertake to remove such Hazardous Substance or Material or unacceptable condition by Close of Escrow. In the event Seller is unable or unwilling to remove any such Hazardous Substance or Material, or unacceptable condition by the date set for the Close of Escrow, Buyer may elect either (i) to terminate this Agreement, in which case Buyer shall have no obligation to purchase the Property, or (ii) if Seller is taking steps to remove such Hazardous Substance or Material or unacceptable condition, to defer the Closing Date until such Hazardous Substances or Materials, or such conditions have been removed by Seller or (iii) waive its objection and proceed to the Closing, in which event Seller shall not have any obligation for any clean-up work.

Permission to enter the Property is hereby granted in accordance with the following terms and conditions:

- a. To the extent practicable, entry onto the Property shall be by means of existing roads and/or trails;
- b. Damage to vegetation shall be kept to a minimum, consistent with the purposes for which permission to enter is granted;
- c. Any fencing, landscaping, irrigation facilities, paving or other man-made improvements located within the area authorized for entry shall not be disturbed unless essential to the purposes of the permission to enter which is hereby granted, in which case any damage shall be repaired and the Property left in as good condition as found, to the fullest extent it is reasonable and appropriate to do so;
- d. All rights granted hereunder shall terminate upon completion of the studies described herein, or on Close of Escrow or the termination of this Agreement whichever shall first occur;

- e. No cost of any kind shall be incurred by the Seller in connection with performance of the work to be done hereunder; Buyer shall be responsible for obtaining all necessary permits and approvals regarding its activities.
- f. As to entry on to the Property prior to transfer of title as is provided for in this Section 18, the Seller agrees to indemnify, defend (with counsel of the Seller's choice) and hold the Buyer harmless from any and all penalties, liabilities, claims, costs, expenses, damages, or loss and including all costs, attorneys' fees and expenses, investigative costs and expert witness fees, resulting from claims or court actions arising directly or indirectly out of any damage or injury to persons or property, whether to property value or otherwise, by reason of discovery of, necessity by the Seller for clean-up of, or release of any hazardous waste, material, gas, or substance of any type by the Buyer, its agents, employees or independent contractors in exercising any of the privileges herein granted or in consequence hereof, except and to the extent release of such hazardous substances or materials is caused by the negligence or willful misconduct of the Buyer, its agents, employees, or independent contractors. It is expressly understood that unless and until Buyer acquires legal title to the Property, Buyer neither has nor accepts responsibility for clean-up of any hazardous waste, material, gas or substances of any type which may be discovered or released, as a result of Buyer's studies of the Property, except and to the extent such substances are caused to be released by the negligence or willful misconduct of the Buyer, its agents, employees, or independent contractors. Except as otherwise expressly provided in this Section 18.1, the Buyer shall indemnify, defend (with counsel of the Buyer's choice) and hold the Seller harmless from any and all claims, actions, costs, expenses, damages and liabilities resulting directly or indirectly from the negligent acts or omissions of the Buyer's agents, employees or independent contractors in the course of entry onto the Property pursuant to the provisions of this Agreement and including, but not limited to, mechanics' liens, personal injury or property damage and from and against all costs, attorneys' fees, and expenses, investigative costs and expert witness fees, and liabilities incurred in connection with such claims or any actions or proceedings brought thereon. With respect to entry on to the Property prior to Close of Escrow, the obligations of Buyer and Seller to indemnify and defend the other party as provided in this Section 18.1 shall survive the termination of this Agreement if termination results in Buyer's determination not to acquire legal title to the Property, and the obligations of Buyer and Seller to indemnify and defend the other party as provided in this Section 18.1 shall not survive if Buyer acquires the Property.
- 18.2 <u>Delivery of Physical Reports</u>. Seller shall provide (or has provided pursuant to the Exchange Agreement) copies of the Reports described in Section 9.8 above and

Exhibit G attached hereto to Buyer within thirty (30) calendar days after the Commencement of Escrow, and any and all other such Reports received by Seller after Commencement of Escrow shall be provided to Buyer within ten (10) business days of Seller's receipt of such Report or Reports. Seller will authorize those who prepared any Reports to divulge any other information they may have regarding the Property to Buyer provided that Buyer pays any additional costs incurred in connection therewith. Buyer shall be solely responsible for determining the sufficiency or accuracy of the Reports. If Seller and Escrow Agent do not receive Buyer's written approval of the Physical Condition on or before the Contingency Period expires, then this Agreement shall be deemed terminated without further liability to either party, and the Escrow Charges shall be paid as otherwise provided in this Agreement. Notwithstanding any provision in this Agreement to the contrary, however, Buyer's acceptance of the physical condition of the Property in its entirety is subject to Seller's completion to the sole satisfaction of Buyer of the work described in Section 24 below and Exhibit H attached hereto, including the work pertaining to the use of imported soils for the grading and other work described in Exhibit H, and further provided that such acceptance by Buyer shall not be required until Close of Escrow.

- 19. Purchase "As Is". Buyer agrees that (i) except for the warranties and representations of Seller, Buyer is purchasing the respective Property on an "As Is" basis without relying on any communications that may have been made by a Selling Party, or any of a Selling Party's agents or employees, with respect to the Property being bought or with respect to the Buying Party's intended use thereof; (ii) the only representations and warranties made with respect to the Property being bought are contained in this Agreement; and (iii) for purposes of this Agreement, Seller's "actual knowledge" as to the Property shall be deemed the actual present knowledge of the officers having supervisory authority over the Property, and without any duty or obligation to make any independent investigation or inquiry. Without limiting the generality of the foregoing, Seller makes no representation or warranty as to the accuracy or completeness of any report or study delivered to a Buyer, except as specifically provided in this Agreement, and Buyer shall be solely responsible for determining the condition of the Property and the suitability thereof as a public school site.
- 20. Risk of Loss. Except as specifically provided in this Agreement, all risk of loss shall remain with Seller until Close of Escrow. In the event the Property is destroyed or materially damaged after Buyer has entered into this Agreement and prior to Close of Escrow, Buyer may rescind this Agreement by written notice to Seller and to Escrow Agent.
- 21. Breach of Representations, Warranties and Covenants by Seller. All Seller's representations, warranties and covenants made as a part of this Agreement ("Representations, Warranties and Covenants") are material and are relied upon by Buyer. All Representations, Warranties and Covenants shall be deemed to have been made as of the Close of Escrow, and shall survive the Close of Escrow. Seller shall indemnify, defend with counsel of Buyer's choice, Buyer as to the Property and hold Seller Buyer harmless from all expense, loss, liability, damages and claims, including Buyer's attorney fees, investigative

and expert witness costs, if necessary, arising out of the breach of any Seller Representations, Warranties and Covenants. Upon Close of Escrow if Buyer so requests, Seller shall deliver to Buyer a certificate in a form satisfactory to Buyer's counsel stating that all Representations, Warranties and Covenants are true and correct as of the Close of Escrow.

- 22. Changes in Representations, Warranties and Covenants of Seller. If, before the Close of Escrow, any of the Representations, Warranties and Covenants cease to be true or Seller or Buyer discovers any information or facts that would materially change the Representations, Warranties and/or Covenants, Seller or Buyer shall immediately give written notice to the other Party of those facts and information. After giving of notice if the problem is not remedied before Close of Escrow, the Party who gave the notice may elect to (a) proceed to Close Escrow, in which event such Party shall waive any right or remedy concerning the breach of such Representation, Warranty and/or Covenant or (b) terminate this Agreement in which case Buyer shall have no obligation to purchase the Property and Seller shall have no obligation to sell the Property.
- 23. Notices. All notices pertaining to this Agreement shall be in writing delivered to the Parties hereto personally by hand, courier service or express mail, or by first class mail postage prepaid or by facsimile copy followed by first class mailing of the original, postage prepaid, at the addresses set forth on page one of this Agreement. All notices shall be deemed given when deposited in the mail, first class postage prepaid, addressed to the Party to be notified at the addresses set forth in the introductory provisions of this Agreement; or if delivered by hand, courier service or express mail, shall be deemed given when delivered or if transmitted by facsimile shall be deemed given upon telephonic acknowledgement of receipt by the Party to whom the notice is addressed. The Parties may, by notice as provided above, designate a different address to which notices shall be given.
- 24. Grading and Improvements. As soon as practicable hereafter, Seller shall process and obtain a grading permit from the City for the sheet grading of the Property pursuant to the plans and drawings previously approved by Buyer and submitted to the City (the City approved grading plan is referred to herein as the "Approved Grading Plan"). As soon as the grading permit is obtained, and as a condition to the Close of Escrow hereunder. Seller shall undertake and complete the site improvements on the Property in accordance with the provisions of Exhibit H attached hereto and incorporated herein in full by this reference. The Parties agree that the improvements to the Property will be made first to Parcel 1 and then to Parcel 2. In addition, prior to the Close of Escrow, Seller shall have the right to enter and grade and construct the site improvements in connection with the construction of infrastructure improvements required for the final map that includes the Property pursuant to and in accordance with the Amendment and this Agreement. In addition, after Close of Escrow, subject to express authorization by Buyer, Seller shall have the right to enter the Property for the purpose of completing all improvements specified in this Agreement and in Exhibit H, including but not limited to final installation of necessary infrastructure and

super pad improvements to the Property and punch list items associated with such improvements. Such grading and improvements shall be in a good and workmanlike manner in accordance with applicable laws.

The Parties agree and understand that Seller will be installing off site traffic improvements in accordance with Seller's Tentative Map covering the Property. Buyer's Mitigated Negative Declaration pertaining to the construction of a school on the Property calls for the incorporation of Additional Traffic Improvements as identified in the Amendment. The Amendment also provides for Buyer's payment of the Additional Traffic Improvements costs.

25. Extent of Escrow Agent's Responsibilities.

- 25.1 <u>Negligence, Misconduct</u>. Escrow Agent shall not be liable for any of its acts or omissions unless the same shall constitute negligence or willful misconduct.
- 25.2 <u>Information</u>. Escrow Agent shall have no obligation to inform any party of any other transaction or of facts within Escrow Agent's knowledge, even though the same concerns the Property, provided that such matters do not prevent Escrow Agent's compliance with this Agreement.
- 25.3 <u>Form, Validity, Authority</u>. Escrow Agent shall not be responsible for (i) the sufficiency or correctness as to form or the validity of any document deposited with Escrow Agent, (ii) the manner of execution of any such deposited document, unless such execution occurs in Escrow Agent's premises and under its supervision, or (iii) the identity, authority or rights of any person executing any document deposited with Escrow Agent.
- 25.4 <u>Conflicting Demands</u>. If Escrow Agent receives or becomes aware of conflicting demands, instructions or claims with respect to the Escrow, the rights of any party hereto, or funds, documents or other items deposited with Escrow Agent, Escrow Agent shall have the right to discontinue any further acts until such conflict is resolved to its satisfaction, and it shall have the further right to commence or defend any action for the determination of such conflict. The parties shall, immediately after demand therefore by Escrow Agent, reimburse Escrow Agent (in such respective proportions as Escrow Agent shall determine) any reasonable attorneys' fees and court costs incurred by Escrow Agent pursuant to this paragraph.
- 25.5 <u>Miscellaneous</u>. Recordation of any instruments delivered through the Escrow, if necessary or proper in the issuance of the Title Policy, is authorized. No examination of insurance or as to the amount of payment of personal property taxes is required unless specifically requested. If any party obtains a loan on the Property, then, during the pendency of the Escrow, Escrow Agent is authorized to furnish to the lender, or anyone

acting on its behalf, any information concerning this Escrow, including, without limitation, a certified copy of this Agreement and any amendments hereto.

26. General Provisions.

- 26.1 <u>No Broker's Commission</u>. Each party represents to the other that it has not used a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement. In the event any person asserts a claim for a broker's commission or finder's fee against one of the parties to this Agreement, the party against whom the claim is asserted will indemnify, defend and hold the other party harmless from said claim.
- 26.2 <u>Counterparts</u>. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same agreement.
- 26.3 <u>Severability</u>. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.
- 26.4 <u>No Merger</u>. The obligations contained in this Agreement, except for those specifically discharged in Escrow (such as conveyance of title to the Property and delivery of money and documents in the Escrow), shall not merge with transfer of title but shall remain in effect until fulfilled.
- 26.5 <u>Incorporation of Exhibits</u>. All exhibits attached and referred to in this Agreement are incorporated as though fully set forth in this Agreement.
- 26.6 <u>Modifications</u>. All modifications, waivers, amendments, changes or extensions to this Agreement shall be in writing signed by the parties.
- 26.7 <u>Successors</u>. This Agreement shall inure to the benefit of and be binding upon the successors-in-interest, heirs, legatees, assigns and personal representatives of the parties hereto.
- 26.8 <u>Cooperation</u>. Buyer and Seller acknowledge that it may be necessary to execute documents other than those specifically referred to in this Agreement in order to complete the acquisition of the Property as provided in this Agreement. Both Buyer and Seller hereby agree to cooperate with each other by executing any other documents or taking any other action as may be reasonably necessary to complete this transaction in accordance with the intent of the parties as evidenced by this Agreement.

- 26.9 <u>Assignment</u>. This Agreement shall be binding upon the parties and their respective heirs, successors, representatives or assigns. This Agreement may not be assigned by Buyer.
- 26.10 Governing Law. This Agreement is executed in and shall be governed by the laws of the State of California in the courts of North San Diego County.
- 26.11 <u>Waivers</u>. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the party making the waiver. Either party may waive any provision of this Agreement intended for its benefit; provided, however, such waiver shall in no way excuse the other party from the performance of any of its other obligations under this Agreement.
- 26.12 <u>Construction</u>. If any required act falls on a day which is not a Business Day, such action shall instead be required to be performed on the next Business Day. Whenever the word "day" is used, it shall be deemed to refer to a calendar day unless the words "Business Day" are used. As used in this Agreement, the masculine, feminine or neuter gender and the singular or plural numbers shall each be deemed to include the other whenever the context so requires. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party preparing this Agreement or any part hereof.

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26.13 <u>Exhibits</u>. The Parties agree to prepare, initial and attach the final Exhibits to each executed Agreement on or before Close of Escrow. The Parties shall deliver to Escrow Agent a complete set of fully initialed Exhibits.

IN WITNESS WHEREOF, the Buyer and Seller have executed this Agreement effective as of the date first written above.

"BUYER"

SAN DIEGUITO UNION HIGH

SCHOOL DISTRICT

A California Public School District

By:____

Name: Eric J. Hall

Title: Assistant Superintendent

Business Services

"SELLER"

PARDEE HOMES

A California Corporation

By:___

e: Beth Fischer

Title: Vie President

By:

Name: John Arvin

Title: Vice President

Exhibit A

Legal Description of the Property

NOTE: PURSUANT TO SECTION 26.13 THE EXHIBIT IS TO BE INITIALED AND ATTACHED BEFORE CLOSE OF ESCROW.

EXHIBIT "A"

LEGAL DESCRIPTION PARCEL 1 REMAINDER

ALL THAT PORTION OF PARCEL 3 OF PARCEL MAP NO. 18971 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON MAY 23, 2002 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, OF OFFICIAL RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 3; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3,

1. SOUTH 00°09'23" WEST	828.03 FEET	TO THE TRUE POINT OF BEGINNING ; THENCE CONTINUING ALONG SAID EASTERLY LINE,
2. SOUTH 00°09'23" WEST	717.83 FEET;	THENCE LEAVING SAID EASTERLY LINE,
3. SOUTH 40°44′55" EAST	105.10 FEET;	THENCE
4. SOUTH 49°15'05" WEST	735.63 FEET;	THENCE
5. SOUTH 03°44'10" EAST	535.08 FEET;	THENCE
6. SOUTH 33°24'35" EAST	26.79 FEET;	THENCE
7. SOUTH 63°49'15" WEST	143.93 FEET;	THENCE
8. NORTH 90°00′00" WEST	177.86 FEET;	THENCE
9. SOUTH 82°20'14" WEST	447.01 FEET;	THENCE
10. NORTH 03°55′36″ WEST	135.57 FEET;	THENCE
11. NORTH 03°30'00" WEST	1451.95 FEET;	THENCE
12. NORTH 23°53'06" EAST	257.55 FEET	TO THE BEGINNING OF A 1155.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE ALONG THE ARC OF SAID CURVE
13. NORTHEASTERLY	1253.19 FEET	THROUGH A CENTRAL ANGLE OF 62°10'01" TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THOSE PORTIONS AS DESCRIBED IN DEED RECORDED JUNE 6, 2003 AS DOCUMENT NO. 2003-0673468 OF OFFICIAL RECORD AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 3; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID PARCEL,

1. SOUTH 00°09'23" WEST	828.03 FEET	TO THE TRUE POINT OF BEGINNING ; THENCE CONTINUING ALONG SAID EASTERLY LINE,
2. SOUTH 00°09'23" WEST	856.90 FEET;	THENCE LEAVING SAID EASTERLY LINE,

3. SOUTH 49°15'05" WEST	253.96 FEET;	THENCE
4. NORTH 90°00′00" WEST	345.70 FEET;	THENCE
5. NORTH 05°27'36" WEST	788.88 FEET	TO A POINT ON A NON-TANGENT 1155.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A LINE RADIAL TO SAID POINT BEARS SOUTH 04°29'45" EAST; THENCE ALONG THE ARC OF SAID CURVE
6. NORTHEASTERLY	668.99 FEET	THROUGH A CENTRAL ANGLE OF 33°11′11″ TO THE TRUE POINT OF BEGINNING.
SAID LAND CONTAINS AN ARE	a of 29.001 acf	RES MORE OR LESS.
BY:		JOHN EARDENSOHN, L.S. 5278 (MY LICENSE EXPIRES 12-31-03)
DATED:		

REVISED: 8/11/2003

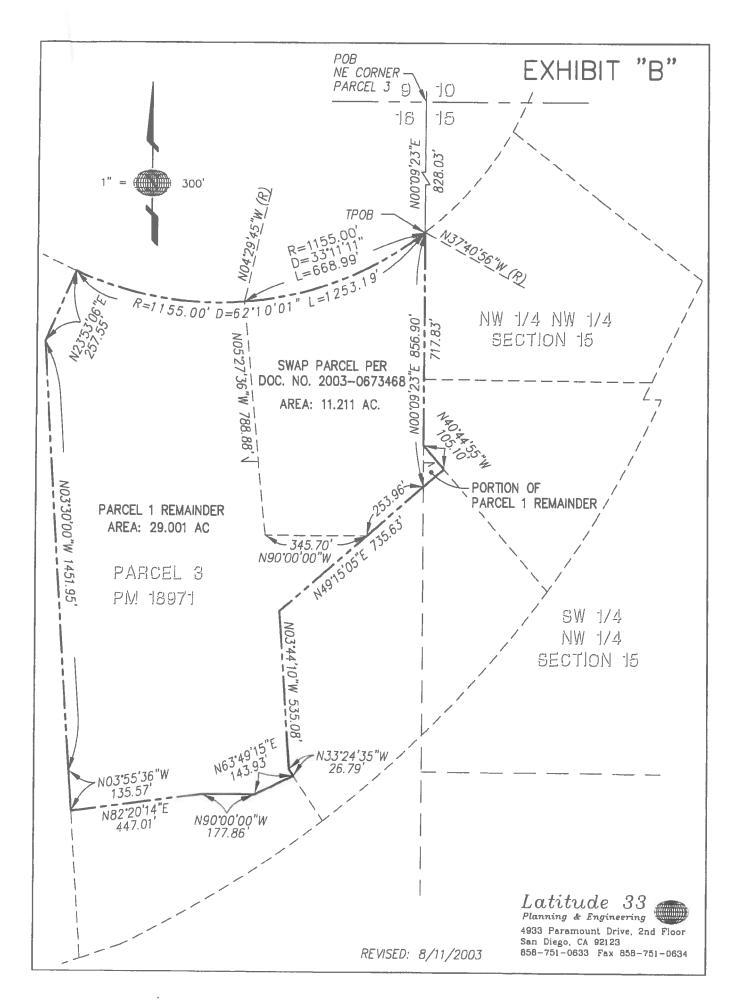


Exhibit B

The Amendment and Restatement of Funding and Mitigation Agreement

("the Amendment")

AMENDMENT AND RESTATEMENT OF FUNDING AND MITIGATION AGREEMENT

(Pacific Highlands Ranch)

THIS AMENDMENT AND RESTATEMENT OF FUNDING AND MITIGATION AGREEMENT dated as of May 1, 2003 ("Amendment"), by and among SAN DIEGUITO UNION HIGH SCHOOL DISTRICT (the "School District"), a school district organized and existing under the laws of the State of California, COMMUNITY FACILITIES DISTRICT NO. 95-1 OF THE SCHOOL DISTRICT ("CFD 95-1"), COMMUNITY FACILITIES DISTRICT NO. 99-1 OF THE SCHOOL DISTRICT ("CFD 99-1"), COMMUNITY FACILITIES DISTRICT NO. 99-2 OF THE SCHOOL DISTRICT ("CFD 99-2), COMMUNITY FACILITIES DISTRICT NO. 99-3 OF THE SCHOOL DISTRICT ("CFD 99-3"), THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT FINANCING AUTHORITY (the "Authority"), and PARDEE HOMES, a California corporation (the "Landowner"), an owner of property within the boundaries of the School District.

WITNESSETH:

WHEREAS, the Landowner is the owner or optionee of the undeveloped property described and/or depicted in Exhibit A hereto which the Landowner proposes to develop for various land uses.

WHEREAS, the Property (other than the Additional Property) is a portion of the Pacific Highlands Ranch Subarea Plan.

WHEREAS, the School District has formed CFD 99-1 (pursuant to the Mello-Roos Community Facilities District Act of 1982, as amended (the "Act")) to fund certain school facilities described in Exhibit B hereto (the "School Facilities").

WHEREAS, the School District has also established CFD 95-1, CFD 99-2 and CFD 99-3 pursuant to the Act to fund school facilities including, without limitation, the School Facilities.

WHEREAS, the School District and the Landowner have agreed upon the payment of certain amounts from the proceeds of bonds to be issued by CFD 99-1 and special taxes to be collected by CFD 99-1, in full mitigation of the impact of the development of the Property on school facilities within the School District.

WHEREAS, School District and the Landowner intend that funding for school facilities required to house students residing within the Property shall be provided on a timely basis pursuant to this Amendment.

WHEREAS, School District and Landowner entered into a Funding and Mitigation Agreement dated as of July 14, 1998 ("Agreement") which, among other things, sets forth the terms and conditions for the establishment of CFD 99-1 and the School District's acquisition of a high school site and junior high school site within Pacific Highlands Ranch.

WHEREAS, School District and Landowner propose to amend and restate the Agreement by this Amendment to, among other things, modify the area to be designated as the high school site, specify the terms for acquiring the high school site and junior high school site, include additional property owned by Landowner in the terms of this Amendment and form a new community facilities district.

NOW, THEREFORE, in consideration of the terms and conditions herein set forth, the School District, on behalf of itself and CFD 95-1, CFD 99-1, CFD 99-2 and CFD 99-3, the Authority and the Landowner DO HEREBY AGREE AS FOLLOWS:

1. <u>Definitions</u>. Unless the context otherwise requires, the terms defined in this Section 1 shall, for all purposes of this Amendment, or any supplemental agreement, and any certificate, opinion or other document herein mentioned, have the meanings herein specified. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Amendment, and the word "herein," "hereof," "hereunder" and other words of a similar import refer to this Amendment as a whole and not to any particular Article, Section or subdivision hereof.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, set forth at Title 5, Division 2, Chapter 2.5 of the California Government Code (commencing with Section 53311).

"Additional Property" means the real property known as the "Shaw/Lorenz Property" and described and/or depicted as such in <u>Exhibit A</u> hereto, which real property Landowner is under contract to acquire as of the date of this Amendment.

"Additional Traffic Improvements" may include all or some of the following to the extent reasonably determined by the School District's traffic engineer, after consultation with Landowner's traffic engineer, to mitigate traffic impacts:

- (i) an additional left turn pocket on southbound Carmel Valley Road at the intersection of Street "B";
- (ii) a right turn lane on northbound Carmel Valley Road at the intersection of Street "B"; and
- (iii) widening of the east portion of Street "B" from 2 to 4 lanes from the planned driveway entrances to Landowner's abutting residential and non-residential land uses eastward to the cul-de-sac terminus of Street "B."

"Additional Traffic Improvements Costs" means the marginal costs of designing, engineering, permitting, inspecting and constructing the Additional Traffic Improvements, as further defined and determined pursuant to Section 3.5.1 below.

"Administrative Expenses" means Administrative Expenses, as that term is defined in the Rate and Method and New Rate and Method.

"Agreement" means the Funding and Mitigation Agreement dated July 14, 1998 by and between the School District and Pardee Construction Company. Pardee Construction Company is now known as Pardee Homes.

"Alternate Prepayment Tax(es)" means funds collected pursuant to Section III.C of the Rate and Method and New Rate and Method.

"Alternative Site A" means the high school site of not more than 50 Net, Usable Acres and the alternative junior high school site of not more than 20 Net, Usable Acres designated the "Senior/Junior High School Alternative Site A" in the Pacific Highlands Ranch Subarea Plan ("Subarea Plan"), State Route 56 Alignment "F" Land Use Plan attached hereto as Exhibit D-2.

"Alternative Site B" means the optional junior high school site designated in the Subarea Plan, State Board 56 Alignment "F" Land Use Plan attached hereto as Exhibit D-2.

"Amendment" means this Amendment and Restatement of the Agreement between the School District and Pardee Homes, as it may be amended or supplemented with the mutual written consent of the parties from time to time.

"Authority" means the San Dieguito Union High School District Financing Authority.

"Board" means the Board of Trustees of the School District.

"Bond Requirements" means Bond Requirements as the term is defined in the Rate and Method and New Rate and Method.

"Bonds" means any "debt" (as defined in Section 53317(d) of the Act) of the CFDs to the extent issued on the basis of, and secured by the Special Taxes and any debt of the Authority secured by the Special Taxes.

"Certificate of Compliance" means (i) a certificate issued by the School District pursuant to Education Code Section 17620(b) acknowledging the fact that the recipient thereof has complied with all requirements of the School District for the payment of school fees and (ii) a certificate issued by the School District acknowledging that adequate provisions have been made for school facilities.

"CFDs" means CFD 95-1, CFD 99-1, CFD 99-2, CFD 99-3, the New CFD and all TPHS CFDs.

"City" means the City of San Diego, California.

"Community Park" means an area of approximately 13 to 20 acres designated in the Subarea Plan.

"Credit Funds" means (i) any and all funds, reductions in liabilities or consideration in lieu of funds, received by School District from the State for any of the Credit

School Facilities, (ii) subject to and in accordance with the provisions of Section 3.1, that fair share of general obligation bonds, Mello-Roos bonds (other than the Bonds) or other indebtedness issued or incurred by the School District and payable from taxes or assessments for the acquisition or the construction of school facilities in the School District which is reasonably allocable to the Property based upon the taxes or assessments levied on property within the CFD other than the Special Taxes and (iii) if, notwithstanding the provisions of this Amendment to the contrary, School District or the State, County, City or any other agency are mandated by future legislation to impose and collect school fees with respect to development of the Property for permanent or temporary school facilities, the amount of any such school fees so collected.

"Credit School Facilities" means the land, facilities, furnishings and equipment for (i) the High School (or any high school constructed or expanded in lieu of the High School) and (ii) the Junior High School (or any junior high school constructed or expanded in lieu of the Junior High School).

"Developed Property" means property for which a building permit has been issued by the City, as further defined in the Rate and Method and New Rate and Method.

"Developed Property Special Tax" means the special tax to be levied on Developed Property at the rates and according to the methodology set forth in the Rate and Method and New Rate and Method.

"District Advance" shall have the meaning set forth in Section 3.5.3.

"District CFDs" means all of the CFDs, Community Facilities District Nos. 99-1, 99-2, 99-3, and 95-1 of the School District and any other community facilities district established by the School District.

"Equivalent Dwelling Unit" or "EDU" means and shall equal one (1) Single Family Dwelling Unit and 3.7 Multi-Family Dwelling Units (i.e., each Multi-Family Dwelling Unit shall equal 0.27 EDU).

"Exchange Parcel" means the 11.211-acre parcel described in Exhibit E-2 hereto consisting of a portion of Parcel 1.

"Final Formation of the New CFD" shall be deemed to have occurred upon the occurrence of all of the following: (i) the formation of the New CFD including the authorization for the levy by the New CFD of the New CFD special tax and the authorization of the issuance of New CFD Bonds, (ii) the approval by the qualified electors of the New CFD of the levy of the special tax and the issuance of the New CFD Bonds, and (iii) the entry of a final nonappealable judgment in the Superior Court of the State of California for the Count of San Diego validating the levy of the New CFD Special Tax and the issuance of the New CFD Bonds, if the School District files an action seeking such a judgment within thirty (30) days of the election to authorize the Bonds and Special Taxes of the New CFD.

"Gonsalves Property" means the approximately 12.4-acre parcel abutting Parcel 3 and described in the Gonsalves Property Purchase Agreement attached hereto as Exhibit E.

"Gonsalves Property Purchase Agreement" means the real estate purchase contract by and among the School District, Landowner and the owners of the Gonsalves Property and dated December 27, 2002 relating to the District's acquisition of the Gonsalves Property and Landowner's conveyance of the Exchange Parcel to School District in exchange for the Gonsalves Property.

"GO Funds" shall have the meaning set forth in Section 3.5.5(c).

"High School" means the high school to be constructed initially within Parcels 1 and 2.

"Index" means the Index as the term is defined in the Rate and Method.

"Junior High School" means the junior high school to be constructed within Parcel 3 and any portion of Parcels 2, 3 or 4.

"Landowner Advance" means an advance of funds by Landowner to pay the District's actual reasonable costs expended or incurred in establishing the New CFD and issuing the Notes.

"Multi-Family Dwelling Unit" means a Multi-Family Dwelling Unit as defined in the Rate and Method and New Rate and Method.

"Net Usable Acres" means the area of a school site that is capable of accommodating school buildings, common areas, parking lots, play and athletic facilities and landscaped areas and slopes of not more than 2% (assuming a construction-ready condition).

"New CFD" means a community facilities district established under the Act, encompassing a portion of the Property and Additional Property, as described in <u>Exhibit C</u> hereto, authorized to levy special taxes in accordance with the New Rate and Method and authorized to incur bonded indebtedness.

"New Rate and Method" means the Rate and Method of Apportionment of Special Taxes for the New CFD attached hereto as Exhibit G.

"Note" means a master promissory note of the New CFD in substantially the form attached hereto as Exhibit H-1 and a promissory note of each of CFD No. 99-1, CFD No. 99-2, CFD No. 99-3 and CFD No. 95-1 in substantially the form attached hereto as Exhibit H-2.

"Parcel" means any of Parcel 1, Parcel 2, Parcel 3, Parcel 4, the Exchange Parcel and each Surplus Parcel.

"Parcel 1" means the approximately 40.212-acre Parcel 1 depicted on Exhibit E-1 hereto.

"Parcel 2" means the approximately 13.351-acre parcel 2 depicted on Exhibit E-1 hereto.

"Parcel 3" means the approximately 7.074-acre Park Option Parcel 3 depicted on Exhibit E-1 hereto.

"Parcel 4" means the approximately 6.631-acre parcel 4 depicted on Exhibit E-1 hereto, as the acreage of such parcel may be reduced in size and its configuration modified pursuant to Section 3.6.2 below.

"Parcels 1 and 2 School Site Purchase Agreement" means the School Site Purchase Agreement and Escrow Instructions by and between the School District and Landowner dated as of May 1, 2003.

"Park Purchase Agreement" means that certain Pacific Highlands Ranch – Subarea III NCFUA Community Park Site Purchase Agreement dated September 8, 1998, as amended by that certain First Amendment to Pacific Highlands Ranch – Subarea III NCFUA Community Park Site Purchase Agreement by and between Pardee Homes and City approved by the City Council of the City on February 3, 2003, as it may be further amended from time to time.

"Proceeds" means the proceeds of the Bonds and Special Taxes received after the April 15, 2002 and earnings thereon, including Alternate Prepayment Taxes or prepayment of the Special Taxes, less (i) reasonable Administrative Expenses, (ii) Special Taxes required to pay debt service on Bonds outstanding as of April 15, 2002 and (iii) any proceeds of Bonds outstanding or held in an escrow account as of April 15, 2002, including interest earnings thereon.

"Property" means the land described and/or depicted in Exhibit A hereto including the Additional Property.

"Purchase Agreement" means an option and/or purchase agreement with respect to one or more Parcels.

"Purchase Price" means the price to be paid by the School District for all or any portion of a School Site as determined in accordance with Section 3.8 of this Agreement, plus closing costs incurred by Landowner.

"Rate and Method" means the Rate and Method of Apportionment of Special Taxes for CFD 99-1.

"School Facilities" means the school facilities described in Exhibit B hereto.

"School Site" means the High School or Junior High School site or portion thereof to be acquired from Landowner within Alternative Site A.

"School Site Purchase Agreement" means a school site purchase agreement by and between Pardee Homes and School District relating to the sale of Parcels 3, 4 or any Surplus Parcel from Pardee Homes to School District with terms consistent with the requirements of this Amendment.

"Single-Family Dwelling Unit" means a Single Family Dwelling Unit as defined in the Rate and Method and New Rate and Method.

"Site Improvements" means improvements to or benefiting a School Site consisting of mass grading of the School Site in accordance with the mass grading plan approved by the City and the School District and the provision of the off-site infrastructure improvements required to serve the School Site, including frontage street improvements and water, sewer, storm drain and dry utilities stubbed to the School Site pursuant to improvement plans approved by the City and the School District.

"Special Tax(es)" means, collectively, the special tax(es) to be levied in each fiscal year at the rates and according to the methodology set forth in the Rate and Method and New Rate and Method with respect to CFD 99-1 and the New CFD, respectively, and the special taxes of the remaining CFDs.

"State Funding Law" means the Leroy F. Greene School Facilities Act of 1998 and the Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 (Statutes of 1998, Chapter 407-SB 50), and all standards and regulations adopted by appropriate State agencies in the implementation of such law, as such legislation may be amended or superseded.

"State Funds" shall have the meaning set forth in Section 3.5.5(a).

"Surplus Parcel" means a parcel of real property abutting Parcels 2, 3 or 4 and determined by Caltrans and the City not required to be included in the SR 56 right-of-way.

"Tentative Map" means vesting tentative tract map no. 1693, as approved and conditioned by the City Council of the City on February 25, 2003.

"TPHS CFDs" means any and all new community facilities districts established by the School District, or annexations into existing community facilities districts (to the extent only of the annexed area) approved by the School District relating to land within the Torrey Pines High School attendance area.

2. Authority for this Amendment. This Amendment is entered into pursuant to the provisions of the Act (with respect to the CFD) and Section 17620, et seq., of the Education Code, Chapter 4.7 (commencing with Section 65970), Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code (with respect to mitigation of development impacts on school facilities) and other applicable law with respect to the acquisition of real property by the School District. This Amendment, if implemented in accordance with its terms, shall discharge all obligations of the Landowner and the Property with respect to the funding or provision of school facilities.

3. Mitigation of School Facilities.

3.1 <u>Mitigation</u>. Landowner agrees to participate in and execute all documents requested by School District that are required under the Act for the formation of the New CFD and authorization of the Bonds and Special Taxes of the New CFD. Landowner, and its

respective successors and assigns, shall be deemed to have fulfilled and fully mitigated any obligation to assist in financing school facilities for grades 7-12 and to reserve, dedicate or otherwise make available school sites to serve the student population of the School District to be generated by development within the boundaries of the Property, so long as the provisions of this Amendment are complied with by the Landowner. As a result, the School District and CFD 99-1, including their successors and assigns, hereby each covenant that each of them will not under any circumstances at any time:

- (a) exercise any power or authority (under Section 17620 of the California Education Code or any other provision of applicable law) to levy a fee, charge, dedication, special tax or other form of requirement against any development of the Property or seek to impose, or have imposed by the City or any other governmental entity, as a condition of approval of any action required in connection with development of the Property, any fee, charge, dedication, special tax or other form of requirement for the purpose of funding or financing school facilities, except as provided in Section 3.2;
- (b) require the City or any other governmental entity to exercise, or cooperate with the City or any other governmental entity in the exercise of, the power under Title 7, Division 1, Chapter 4.7 of the California Government Code (commencing with Section 65970) or any other provision of applicable state law or City ordinances, resolutions or policies, to require the dedication of land, the payment of fees in lieu thereof, or both for classroom or related facilities for junior high or high schools as a condition to the approval of any development of the Property, except as provided in Section 3.2;
- (c) oppose development of the Property on the basis of inadequate school facilities or seek other forms of mitigation with respect to the adequacy of school facilities, including, but not limited to, the establishment of developer fees, the payment of money by the Landowner, the dedication of land, or the application of an assessment or requirement of any nature against the Landowner or any portion of the Property permitted by present or future State law, rulings, regulations and court decisions or City ordinances, resolutions or policies if the proceeds of such fees, assessment or requirement will be used to finance or fund any school facilities, except as provided in Section 3.2; or
- (d) issue bonds, except the Bonds, or incur any other form of indebtedness, payable from taxes or assessments of any kind (other than the School District's portion of the existing property taxes) levied on any portion of the Property, the proceeds of which are to be used in whole or in part, directly or indirectly, for funding or financing school facilities; provided, however, that the limitations contained in this clause (d) shall not be applicable to any general obligation bonds, Mello-Roos bonds or other bonds, which may be approved by the registered voters within the boundaries of the School District or issued pursuant to the Landscaping and Lighting Act of 1972 or other assessment proceedings available to the School District with respect to an assessment district encompassing the entire School District.
- 3.2 <u>Commercial Property Mitigation</u>. Notwithstanding anything in Section 3.1 to the contrary, School District may levy fees authorized by and in accordance with applicable State law against any development of the Property other than development of "Residential Property"

EXHIBIT R

(excluding, however, "Senior Citizen Housing") as those terms are defined in the Rate and Method and New Rate and Method.

3.3 School District Acknowledgement. Entry into this Amendment and Final Formation of the New CFD constitutes satisfaction of any conditions of approval for development of the Property imposed by the City as it relates to mitigation of grades 7-12 school facilities impacts. Entry into this Amendment and the formation of CFD 99-1 constitutes satisfaction of any such conditions of approval for development of the portion of the Property outside the New CFD imposed by the City. Within three (3) business days after Final Formation of the New CFD, the School District shall execute and record a Notice of Cessation and Extinguishment of Lien of Special Taxes in the form attached hereto as Exhibit I with respect to that portion of the Property within the New CFD terminating the authority of CFD 99-1 to levy Special Taxes within such portion of the Property. Alternatively, Landowner may require the School District to record such Notice only with respect to those portions of the Property within which homes are being marketed for sale and require recordation of such Notice with respect to the remainder of the Property within the New CFD upon the close of escrow of the sale of the Gonsalves Property in accordance with the Gonsalves Property Purchase Agreement. School District agrees to record a notice of cancellation and extinguishment of lien of the special taxes of the New CFD terminating the authority to levy such special taxes on all property within the NEW CFD, other than those portions for which the above-referenced CFD 99-1 Notice has been recorded, if the Gonsalves Property is not acquired in accordance with the Gonsalves Property Purchase Agreement.

The School District acknowledges that this Amendment makes adequate provision for schools and satisfies the objectives and policies of the City's Comprehensive General Plan and the Future Urbanizing Area Subarea 3 Framework Plan with respect to schools and the reservation and potential acquisition of the High School Site and Junior High School site. The School District authorizes the Superintendent or his designee to execute letters or other written materials, the content of which shall be subject to the Superintendent's approval, as requested by Landowner stating generally that adequate provision for schools has been made in connection with development of the Property. Upon receipt of Landowner's written request with respect to any parcel within the Property and Additional Property, the School District shall deliver a Certificate of Compliance with respect to such parcel.

As requested by School District from time to time, Landowner shall make a Landowner Advance, not to exceed \$50,000 in the aggregate, to pay the District's actual reasonable costs expended or incurred of establishing the New CFD and issuing the Note(s), including the costs incurred with third parties such as legal counsel, financial advisor, district engineer and special tax consultant for such purposes. Any funds advanced by Landowner pursuant to this Section 3.3 shall be included in the principal amount of the Note(s) provided pursuant to Section 3.5.4 below, or if such Note(s) are not issued, such funds advanced shall be reimbursed from Special Taxes of the New CFD as a first priority for use of such Special Taxes. District shall provide for such reimbursement in the resolutions of intention and formation of the New CFD in accordance with Government Code Section 53314.9.

3.4 <u>Priority of Funding of School Facilities</u>. All Proceeds of CFD 99-1 and the New CFD shall be reserved to finance the acquisition or construction of the School Facilities and other expenses and obligations of CFD 99-1 and the New CFD.

3.5 Acquisition of Parcels 1 and 2 and Exchange Parcel.

3.5.1 School Site Purchase Agreement. School District shall acquire Parcels 1 and 2 for the High School from Landowner in accordance with the Parcel 1 and 2 School Site Purchase Agreement and this Amendment. The Parcel 1 and 2 School Site Purchase Agreement shall provide for payment of the Purchase Price of Parcels 1 and 2 through (i) installment payments of the District from State Funds and GO Funds, (ii) Proceeds and (iii) exchange of the Gonsalves Property. The Parcel 1 and 2 School Site Purchase Agreement shall provide for School District's reimbursement to Landowner of the Additional Traffic Improvements Costs in cash at the close of escrow or, if the Site Improvements have not been completed at the close of escrow, School District shall deposit in escrow cash in an amount equal to the reasonable estimate of the Additional Traffic Improvements Costs based upon the contracts awarded for the Site Improvements and Additional Traffic Improvements and other available information. The Additional Traffic Improvements Costs shall be determined based on the actual marginal costs incurred and, to the extent requested, the School District shall be entitled to all reasonable back up supporting such actual costs, including copies of any applicable contracts or change orders. In addition, prior to bidding any work which includes the Additional Traffic Improvements or incurring any actual additional marginal costs in excess of \$25,000 which were not included as part of a bid package reviewed by the School District, the Landowner shall provide 15 days prior notice to the School District as to the cost being incurred, or the bids being requested, as applicable, and provide the School District the opportunity to confer with the payee of such cost regarding such additional costs or with the preparer of the bid package. In addition, the School District shall be entitled to review the winning bid with respect to any work which includes the Additional Traffic Improvements. School District shall have the right to review the plans and specifications and bid packages for the Additional Traffic Improvements and confer with Landowner's contractor regarding all aspects of the Additional Traffic Improvements Costs. The reasonable estimate of the Additional Traffic Improvements Costs shall be based on the construction contract and any applicable change orders relating to the Additional Traffic Improvements or, prior to award of such contract, Landowner's engineer's reasonable estimate of such costs, as approved by the School District. School District's approval of the reasonable estimate of the Additional Traffic Improvements Costs shall not be unreasonably withheld. After submission by Landowner to School District of an itemized bill for the actual costs of the Additional Traffic Improvements Costs. School District's approval of the bill and upon the City's determination of completion of the Site Improvements and Additional Traffic Improvements, an amount equal to the actual Additional Traffic Improvements Costs shall be disbursed from escrow to Landowner and all remaining amounts of School District's deposit in escrow shall be paid to the School District. The actual Additional Traffic Improvements Costs paid by School District shall equal the marginal costs of the Additional Traffic Improvements in excess of the costs of those public improvements required by City as conditions of the Tentative Map.

3.5.2 <u>Determination of Purchase Price</u>. School District and Landowner shall determine the Purchase Price of Parcels 1, 2, 3, 4 and any Surplus Parcels in accordance

with Section 3.8 below, provided School District and Landowner have mutually agreed to use Integra Realty to prepare the appraisal of Parcels 1 and 2.

3.5.3 Exchange Parcel. Two conditions of the close of escrow of the conveyance of the Exchange Parcel and Parcels 1 or 2 to School District shall be (i) City approval of an amendment to the Park Purchase Agreement approving the Gonsalves Property, an adjoining approximately 1-acre parcel owned by Landowner and Parcel 3 as the new Community Park site to be provided within Pacific Highlands Ranch and (ii) execution of the Parcel 1 and 2 School Site Purchase Agreement. Landowner agrees to accept School District's grant of the Gonsalves Property in accordance with the terms of the Gonsalves Property Purchase Agreement in exchange for Landowner's grant of the Exchange Parcel. The price paid by the School District for the Gonsalves Property, not to exceed \$6,500,000, and the costs paid by the School District in acquiring the Gonsalves Property and matters related thereto, not to exceed \$100,000, (collectively, the "District Advance") shall accrue interest at the rate of 5% per annum from the date of payment until repaid as provided in Section 3.5.6.

and Parcel 2, the CFDs and Authority collectively, or each individually, shall issue and Landowner agrees to acquire one or more Notes in amounts equal to or exceeding the total of the Purchase Price of Parcel 1 and Parcel 2 and Landowner Advance payable solely from Proceeds. The Note(s) shall accrue interest, exempt from state and Federal taxation at the rate of 5% per annum and may be prepaid at any time without penalty. Notwithstanding the foregoing, the total amount of interest paid on all Notes shall equal interest accrued and payable at the rate of 5% per annum on the outstanding and unpaid portion of the Purchase Price of Parcels 1 and 2 and Landowner Advance until paid in full. The CFDs and Authority shall provide at their expense reasonable assurances as to the enforceability of the Note(s) and tax exemption including, without limitation, an unqualified enforceability and tax-exemption opinion from a nationally-recognized bond counsel firm. The initial principal amount of the Notes shall be not less than the following:

New CFD = 100% of Parcels 1 and 2 Purchase Price CFD 99-1 = 100% of Parcels 1 and 2 Purchase Price CFD 95-1 = \$20,000,000 CFD 99-2 - \$5,000,000 CFD 99-3 = \$5,000,000

If additional property is annexed into CFD 95-1, CFD 99-2 or CFD 99-3 prior to repayment of the Note(s) in full the principal amount of the applicable Note shall be increased by an amount equal to the amount of principal and interest that could be repaid with 100% of the Special Taxes of the annexed real property. Upon an installment payment by District of State Funds or GO Funds, the principal amount of one or more of the Notes shall be reduced by the amount of such payment applied to principal, as directed by Landowner. When the entire Purchase Price, Landowner Advance and accrued interest has been paid in full, any remaining principal amount of all outstanding Notes shall be extinguished and no longer payable.

3.5.5 <u>District Advance and Note Repayment Sources</u>. The following sources of funds shall be applied first to repayment of the District Advance plus accrued interest

and then to the installment payments of the Purchase Price and repayment of the Notes, plus accrued interest:

- (a) One hundred percent (100%) of all funds received by the School District from the State relating to the acquisition of land for the High School ("State Funds");
 - (b) One hundred percent (100%) of all Proceeds; and
- (c) Proceeds of any district-wide general obligation bond or SFID general obligation bond earmarked for the High School ("GO Funds").
- 3.5.6 <u>Irrevocable Pledge of Repayment Sources</u>. School District, CFDs and the Authority hereby make an irrevocable pledge of the Proceeds, State Funds and GO Funds to the installment payments of the Purchase Price of Parcels 1 and 2, repayment of the principal amount of the Notes and accrued interest subordinate only to repayment of the District Advance, plus accrued interest. Each of the CFDs and the Authority hereby covenant to Landowner and with respect to its Note not to issue any further debt with a pledge of Special Taxes of the CFD superior to, or in parity with this pledge to repayment of the Note except debt issued solely to repay such Note. School District and CFDs also covenant and agree to levy the Special Taxes at the maximum authorized rate and agree not to reduce the maximum authorized rate of the Special Taxes prior to payment of principal and interest on the Notes in full.
- 3.5.7 <u>Authorization of Issuance of GO Bonds</u>. Unless and until the repayment of principal and accrued interest on the Notes in full, School District agrees to include in every School District-wide general obligation bond authorization measure or school facilities improvement district general obligation bond authorization measure which the Board, in its sole discretion, elects to place on a ballot funding for the High School in an amount not less than the outstanding principal amount of installment payments and accrued interest.
- 3.5.8 Establishment of Note Repayment Special Fund. School District shall establish a discrete, interest-earning special fund, designated the "Pardee Note Repayment Fund," within 15 days of approval of this Amendment. School District, CFDs and Authority shall deposit in the Pardee Note Repayment Fund within fifteen (15) days of receipt all Proceeds of the CFDs, State Funds and GO Funds received by School District, CFDs and Authority on or after April 15, 2002. The accrued interest on the Note and outstanding principal shall be reduced by the amount of State Funds paid by School District to Landowner as installment payments of the Purchase Price of Parcels 1 and 2 as set forth in Section 3.5.4 above and 3.5.5. Payments of principal and accrued interest on each Note shall be paid not less often than the first business day following each April 1 and October 1 in an amount equal to 100% of the funds on deposit in the Pardee Note Repayment Fund at the time of the payment less any amount required to reimburse District for the District Advance, plus accrued interest. Upon payment in full of the Notes and accrued interest in accordance with this Amendment and reimbursement of any funds advanced by Landowner pursuant to Section 3.3 above, any excess funds remaining in the Pardee Note Repayment Fund shall be available to the School District for any lawful purpose. In addition to all other remedies available to Landowner, either of the following two events shall cause the penalties described in Section 3.5.9 below to become operative without any action by Landowner:

- (i) Failure of the CFDs or Authority to pay outstanding principal and accrued interest on the Note with the proceeds of Bonds, excluding proceeds required to pay actual costs of issuance, CFD administrative expenses, capitalized interest required prior to the receipt of Special Tax revenues and fund a reserve fund for the Bonds, within fifteen (15) days of the issuance and sale of Bonds; or
- (ii) Failure of School District to make an installment payment towards the Purchase Price of Parcels 1 and 2 in the full amount of State Funds received by School District within fifteen (15) days of receipt of such State Funds.
- Payments. District and Authority covenant and agree to issue Bonds in one or more series to repay the principal amount of the Note and accrued interest at the earliest possible time subject to standard underwriting criteria for similar land-secured bonds and market conditions that would not make it impractical to issue the Bonds. For purposes of this Section 3.5.9, the parties acknowledge and agree that an interest rate on the Bonds in excess of 5% shall not be grounds for determining that the proposed issuance is impractical. The failure of the CFDs or Authority to issue Bonds within 150 days of a determination that annual Special Taxes authorized to be levied within the CFDs on Developed Property and not required to pay the principal and interest of any outstanding Bonds of the CFDs, net of annual administrative expenses of the CFDs, equal or exceed \$300,000 in the aggregate shall constitute a breach of the foregoing covenant by the School District, CFDs and Authority which shall, without any action by Landowner, cause the nonexclusive penalties described below in this Section 3.5.9 to become operative unless existing market conditions make it impractical to issue the Bonds or the Bonds cannot be issued in accordance with standard underwriting criteria for similar land-secured bonds.

If the above-described event or either of the events described in clauses (i) and (ii) of Section 3.5.8 occurs and is not cured to the Landowner's satisfaction within sixty (60) days of Landowner's written notice to School District of such event: (i) the interest rate on the outstanding principal amount of the Note shall be increased to twelve percent (12%) per annum and (ii) School District's option to acquire any remaining Parcels shall terminate.

School District shall provide to Landowner on or before August 1 each year, and also upon Landowner's written request, not to exceed one additional time each calendar year, certification of the amount of Developed Property within each of the CFDs (i.e., numbers of Single-Family Dwelling Units and Multi-Family Dwelling Units) and the amount of annual Special Taxes levied in each CFD in the current fiscal year or projected to be levied in the current fiscal year. Prior to repayment of the Notes in full, School District shall provide Landowner copies of all draft documents relating to the issuance of Bonds prior to approval of such documents by the Board.

3.5.10 <u>Reduction in Installment Payments and Note Amount</u>. The outstanding, unpaid installment payments of the Purchase Price and the outstanding principal amount of the Notes shall be reduced according to the formula described in Exhibit "J" attached hereto if the assessed valuation of the Gonsalves Property is reduced below \$6,500,000 or if the Gonsalves Property is acquired by the City for park purposes earlier than June 30, 2013.

3.6 Acquisition of Parcel 3, Parcel 4 and Surplus Parcels.

- 3.6.1 <u>Parcel 3 (Park Option Parcel)</u>: School District may acquire Parcel 3 pursuant to the terms of a School Site Purchase Agreement for Junior High School purposes only, at any time prior to the earlier to occur of the following dates (the "Parcel 3 Option Expiration Date"):
- (i) the date of the Board's determination that acquisition of Parcel 3 is no longer required;
- (ii) the date the School District acquires any other junior high school site to serve students residing within Pacific Highlands Ranch;
- (iii) the date not later than thirty (30) days following Landowner's notification to School District of the issuance of a building permit for the 8,972nd EDU within the District CFDs; or
- (iv) the date the City of San Diego acquires Parcel 3 pursuant to the Park Purchase Agreement.

As of December 31, 2002, building permits for 5,367.52 EDUs within the District CFDs had been issued. School District agrees to provide to Landowner each August 1, commencing August 1, 2003, a written certification of the number of EDUs for which building permits had been issued within the District CFDs as of June 30 of the current year. In addition, within thirty (30) days of Landowner's written request, but not more often than twice each calendar year, School District shall provide to Landowner a written certification of the total number of EDUs issued within the District CFDs as of the date of Landowner's request. The EDU thresholds set forth in 3.6.1 above shall include all EDUs for which building permits have been issued prior and subsequent to execution of this Amendment within the area included within the boundaries of the District CFDs (or the area subject to mitigation agreements that provide for inclusion in the District CFDs) and any other land within Subarea 3 of the City's Future Urbanizing Area not included in CFD 99-1.

- 3.6.2 <u>Parcel 4</u>. 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;
 - (ii) the date Parcel 3 is acquired by the School District; or
 - (iii) January 1, 2010.

School District covenants and agrees that, if acquired, Parcel 4 shall only be used for Junior High and High School play areas, classrooms, educational facilities or student parking, and shall not be used for school bus parking, services, maintenance or other transportation purposes. The

Additional Traffic Improvements are expected to reduce the developable area of Landowner's abutting property from that permitted by the Tentative Map. The acreage of Parcel 4 which School District may acquire shall be reduced automatically upon Landowner's completion of the Additional Traffic Improvements by an amount equal to the area of the increase in the right-of-way for Street "B" and Carmel Valley Road required to be accommodated on Landowner's abutting property in excess of the planned right-of-way for those roadway segments in the Tentative Map. The reduced acreage shall be taken from Parcel 4 in the area contiguous to Landowner's property to the west.

- 3.6.3 Acquisition and Transfer of Surplus SR56 Right-of-Way. Landowner shall make a good faith effort to acquire any Surplus Parcel abutting Parcels 2, 3 or 4 prior to the City's transfer of such Surplus Parcel to Caltrans. To the extent Landowner is able to acquire any such Surplus Parcel, the first 2.742 acres acquired shall be sold to School District at School District's option in accordance with a School Site Purchase Agreement at the same Purchase Price per acre determined for the abutting Parcel and any acreage in excess of the first 2.742 acres acquired by the School District shall be donated to the School District when the School District acquires the abutting parcel.
- 3.7 <u>School Site Purchase Agreement(s)</u>. School District and the Landowner have entered into the Parcel 1 and 2 School Site Purchase Agreement for School District's purchase of those Parcels prior to or concurrent with execution of this Amendment. School District and the Landowner shall enter into a School Site Purchase Agreement with respect to Parcel 3, Parcel 4 or any Surplus Parcel prior to acquisition of such Parcel(s).
- 3.8 School Site Purchase Price. The Parcel 1 and 2 School Site Purchase Agreement and each School Site Purchase Agreement shall provide that the purchase price for the applicable Parcel (the "Purchase Price"), excluding the portion of all Surplus Parcels exceeding 2.742 acres, shall be the lesser of (i) \$385,875 per acre escalating at the rate of five percent (5%) per year commencing July 1, 1999 until the Parcel is acquired by the School District or (ii) the fair market value of the Parcel as improved with the Site Improvements and determined pursuant to this Section 3.8. Each party shall pay the reasonable and customary closing costs related to the purchase of the Parcel.

The fair market value of the Parcel shall be determined by an M.A.I. appraiser mutually acceptable to Landowner and School District. If the parties cannot agree on an appraiser, each shall select an M.A.I. appraiser who shall appraise the Parcel and Landowner and School District shall attempt to agree on the fair market value of the Parcel on the basis of the two appraisals. If Landowner and School District cannot so agree, the two appraisers shall select a third M.A.I. appraiser who shall determine the Parcel's fair market value. The appraiser(s) shall determine the Parcel's fair market value by using as the valuation date a date that is not more than 120 days prior to the close of escrow. The appraisal shall be based upon the highest and best use of the Parcel. Notwithstanding anything herein to the contrary, the value of the Parcel shall be determined in a manner such that it will be eligible for State funding up to the amount of the Purchase Price and Landowner and School District shall instruct the appraiser(s) to assume that the Parcel has adequate access to public streets and utilities to serve the Parcel's highest and best use.

Except for the Parcel 1 and 2 School Site Purchase Agreement, each School Site Purchase Agreement shall either provide that the Purchase Price shall be paid in cash at the close of escrow, or shall provide for payment of the Purchase Price in installment payments subject to terms acceptable to Landowner in its sole discretion.

- 3.9 School Site Improvements. Landowner shall construct the Site Improvements in connection with the construction of infrastructure improvements required for the final map that includes the Parcel. If at the time the School District acquires a Parcel, the Site Improvements have not been completed, Landowner shall post a bond to secure Landowner's performance of its obligation to complete the Site Improvements. The amount of the performance bond shall not exceed the reasonable estimated costs of completing those Site Improvements (including reasonable contingencies) that are not completed when the Parcel is acquired. To the extent the parties cannot agree as to the reasonable costs of completing the Site Improvements, the School District shall select an independent engineer with expertise in the area to determine the reasonable costs of completing the Site Improvements. School District acknowledges and agrees that no off-site infrastructure improvements shall be required to be constructed or provided by Landowner with respect to Parcels 3, 4 or any Surplus Parcel in excess of the Additional Traffic Improvements and those required to be provided by the Tentative Map.
- Right of Refusal. Each School Site Purchase Agreement shall provide that in the event the School District determines that it will no longer use a Parcel and determines to offer the Parcel for sale as surplus property, the School District shall, to the extent permitted by law, including but not limited to federal tax laws relating to the tax-exempt status of any Bonds issued to purchase the Parcel, apply to the Department of Education for a waiver of the requirements of the Education Code and Government Code relating to the sale of surplus property and to permit Landowner the first right of refusal to purchase the School Site at its fair market value. For purposes of this paragraph, the Parcel's fair market value shall be determined by an appraiser mutually acceptable to the Landowner and the School District. If the parties cannot agree on an appraiser, each shall select an appraiser who shall, in turn, agree upon the appraiser to perform the appraisal of the Parcel. The School District's application for a waiver shall be made within thirty (30) days following determination by the School District that the Parcel is surplus. In the event the School District obtains such waiver, the School District shall. to the extent permitted by law, make a written offer to the Landowner to sell the Parcel at the greater of its appraised value or the amount of any bona fide offer received within thirty (30) days after completion of the appraisal. Landowner shall have thirty (30) days from the date of receipt of School District's written offer to notify the School District, in writing, if Landowner desires to exercise its right to purchase the Parcel. In the event Landowner notifies the School District that it will purchase the Parcel, payment shall be made to the School District in a cashier's check for the full amount of the purchase price within sixty (60) days following the notification by Landowner to the School District that it will purchase the Parcel.
- 4. Equal Treatment. In order to equalize treatment of developers seeking to develop within School District boundaries, School District agrees to use its best efforts to enter into agreements comparable to this Amendment with the owners of the other properties within the School District in order to obtain financial commitments for school facilities from them equal to or greater than that committed by the Landowner hereby; provided, however, if, notwithstanding

the use of such best efforts, School District is unable to enter into such agreements, such inability shall not constitute a breach of this Amendment.

Within thirty (30) days of Landowner's written request, School District shall provide Landowner with copies of all mitigation agreements entered into with other developers or landowners that have not previously been provided to Landowner and shall provide to Landowner all public records related to such agreements.

5. <u>Covenant to House Students.</u> To the extent permitted by law, School District covenants that children residing within CFD 99-1 and the New CFD who wish to attend the Credit School Facilities shall be given first priority and opportunity to enroll in and attend the Credit School Facilities funded or to be funded, in whole or in part, through this Amendment, subject to and in accordance with the School District's Local Goals and Policies with respect to Mello-Roos Districts, as such Goals and Policies may be amended from time to time.

6. State Funds.

- 6.1 State or Federal Aid Applications. School District shall utilize its best efforts to pursue approval of any Federal or State for the Credit School Facilities funding that may become available to School District under the State Funding Law, any other State law and any Federal law.
- 6.2 <u>Application of Credit Funds</u>. Landowner and School District agree that, should School District receive Credit Funds, they shall be applied for financing the acquisition or construction of the Credit School Facilities, by the School District or CFD 99-1, as applicable, in the manner described in Section 53313.9 of the Act as in effect on the date of this Amendment.
- 7. Modification of the Rate and Method. In order to accomplish the acquisition and/or construction of the School Facilities in accordance with the terms of this Amendment, the School District, CFD and Landowner intend that any obligations under this Amendment to fund such acquisition and/or construction through the CFDs is a debt of the CFDs, payable solely out of the Proceeds, which has been incurred pursuant to the Act within the meaning of Government Code Section 53331(b). Any reduction in the maximum authorized rate of the Special Taxes or any termination of the levying of the Special Taxes (other than by reason of the prepayment of the Special Tax obligation for any particular period or by operation of this Amendment) would interfere with the timely retirement of that debt, except to the extent such debt has been excused in writing by the School District and the Landowner or otherwise satisfied.
- 8. Amendment Not Terminated by Project Modifications or Change in Law. No development, change of development, governmental approval, nor change in any governmental approval of development of any portion of the Property shall constitute the basis for any change or termination of this Amendment because performance of the Amendment by Landowner or Landowner's assignee will provide for the complete mitigation of impacts, direct and cumulative, of the development of the Property on School District's ability to provide adequate Grade 7-12 School Facilities to students resulting from development of the Property. Neither the provisions of this Amendment nor the RMA of CFD 99-1 shall be affected by any existing applicable law or subsequent legislation enacted by the State of California acting through the

Legislature or initiative process, or any subsequent judicial decisions relating to the matters provided for in this Amendment. The Special Taxes of the CFD provided for in this Amendment are hereby appropriated and dedicated to the costs related to future acquisition, construction and financing of the School Facilities and other such related costs of School District.

- 9. <u>Binding on New CFD</u>. Upon its formation, the New CFD shall automatically become a party to this Amendment, and all provisions which apply to the School District and CFDs shall also apply to the New CFD. The Board acting as the legislative body of the New CFD, shall perform all parts of this Amendment which require performance on the part of the New CFD.
- 10. <u>Independent Contractor</u>. In performing this Amendment, Landowner is an independent contractor and not an agent of the School District or the CFDs. Neither the School District nor CFDs shall have any responsibility for payment of or to any contractor or supplier of Landowner.
- Dispute Resolution. School District and Landowner will attempt in good faith to 11. resolve promptly any dispute, controversy, or claim arising out of or relating to this Amendment or any claimed breach thereof by direct negotiation between the parties. The disputing party shall give the other party written notice of the dispute. Within fifteen (15) days after notice is given, the parties shall meet at a mutually acceptable time and place, and thereafter as often as the parties reasonably deem necessary, to exchange relevant information and attempt to resolve the dispute. If the matter has not been resolved within sixty (60) days after the disputing party gives notice, or if the party receiving notice will not meet within fifteen (15) days, either party may initiate mediation of the controversy, claim or dispute with a mutually acceptable mediator or, if the parties cannot agree on the mediator, with Judicial Arbitration & Mediation Services, Inc. ("JAMS"), or if JAMS does not exist, such organization as to which School District and Landowner agree. If the matter has not been resolved within sixty (60) days after a party has given notice of the intent to initiate mediation, or either party will not participate in the mediation, or if the mediator has concluded that the parties are at impasse, whichever shall happen first, either party may commence litigation or seek an alternative method of resolving the All deadlines specified in this Section may be extended or modified by mutual agreement of the parties in writing. Notwithstanding anything in this Amendment to the contrary, each party shall be entitled to file suit prior to undertaking any of the actions called for in this Section 11 so long as such suit is reasonably required to preserve such party's rights under this Amendment.
- 12. Representations, Warranties and Covenants of the School District. The School District, CFDs and Authority represent and warrant to, and covenants with the Landowner that:
- (a) The School District is a school district of the state organized and operating pursuant to the Constitution and laws of the State, the CFDs and Authority are duly formed and existing pursuant to the Constitution and laws of the State, and the School District, CFDs and Authority have all necessary power and authority to enter into and perform their duties under this Amendment and, when executed and delivered by the respective parties hereto, this Amendment will constitute the legal, valid and binding obligation of the School District, CFDs and Authority enforceable in accordance with its terms, except as enforcement hereof may be limited by

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bankruptcy, insolvency or other laws affecting enforcement of creditors' rights generally and by the application of equitable principles of equitable remedies are sought.

- (b) The execution and delivery by the School District, CFDs and Authority of this Amendment and compliance by the School District, CFDs and Authority with the provisions hereof, will not conflict with, or constitute a violation of or default under, the Constitution of the State or any existing law, charter, ordinance, regulation, decree, order or resolution applicable to the School District, CFDs and Authority, and will not conflict with or result in a violation or breach of, or constitute a default under, any contract, agreement, indenture, mortgage, lease or other instrument to which the School District, CFDs and Authority are subject or by which it is bound.
- (c) To the best knowledge of the School District, CFDs and Authority there is no action, suit or proceeding of any court or governmental agency or body pending or threatened against the School District, CFDs or Authority in any way contesting or effective the validity of this Amendment or contesting the powers of the School District, CFDs or Authority to enter into or perform its obligations under this Amendment or in which a final adverse decision could materially adversely affect the operations of the School District, CFDs or Authority or the consummation of the transactions contemplated by this Amendment.
- (d) The School District, CFDs and Authority are not in breach of or default under any applicable law or administrative regulation of the State 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 School District, CFDs or Authority is a party or is otherwise subject, which breach or default would materially adversely affect the School District's, CFDs' or Authority's ability to enter into or perform its obligations under this Amendment, 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 and which would materially adversely affect the School District's, CFDs' or Authority's ability to enter into or perform its obligations under this Amendment.

13. Representations, Warranties and Covenants of the Landowner.

- (a) Landowner is a corporation organized and existing pursuant to the laws of the State of California and has all necessary power and authority to enter into and perform its duties under this Amendment and, when executed and delivered by the respective parties hereto, this Amendment will constitute the legal, valid and binding obligation of the Landowner enforceable in accordance with its terms, except as enforcement hereof may be limited by bankruptcy, insolvency or other laws affecting enforcement of creditors' rights generally and by the application of equitable principles if equitable remedies are sought.
- (b) The execution and delivery by the Landowner of this Amendment and compliance by the Landowner with the provisions hereof, will not conflict with, or constitute a violation of or default under, the Constitution or laws of the state of California or any existing law, charter, ordinance, regulation, decree, order or resolution applicable to the Landowner, and will not conflict with or result in a violation or breach of, or constitute a default under, any

agreement, indenture, mortgage, lease or other instrument to which the Landowner is subject or by which it is bound.

- (c) To the best knowledge of the Landowner there is no action, suit or proceeding of any court or governmental agency or body pending or threatened against the Landowner in any way contesting or effective the validity of this Amendment or contesting the powers of the Landowner to enter into or perform its obligations under this Amendment or in which a final adverse decision could materially adversely affect the operations of the Landowner or the consummation of the transactions contemplated by this Amendment.
- (d) The Landowner is not in breach of or default under any applicable law or administrative regulation of the State 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 Landowner is a party or is otherwise subject, which breach or default would materially adversely affect the Landowner's ability to enter into or perform its obligations under this Amendment, 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 and which would materially adversely affect the Landowner's ability to enter into or perform its obligations under this Amendment.
- 14. General. This Amendment contains the entire agreement between the parties with respect to the matters herein provided for, and may only be amended by a subsequent written agreement signed on behalf of both parties. This Amendment shall inure to the benefit of and be binding upon the successors and assigns of the parties with respect to all or any portion of the Property. This Amendment shall be construed and governed by the Constitution and laws of the State of California. The captions of the sections of this Amendment are provided for convenience only, and shall not have any bearing on the interpretation of any section hereof.
- 15. Execution. This Amendment may be executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same agreement.
- 16. <u>Exhibits</u>. All Exhibits attached hereto are incorporated into this Amendment by reference.
- 17. <u>Notices</u>. All notices required or provided under this Amendment shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested. Notices given to the School District, CFD or Authority shall be addressed as follows:

San Dieguito Union High School District 710 Encinitas Boulevard Encinitas, CA 92024-3508 Attn: Peggy Lynch, Superintendent

Fax No: (760) 753-6491

Notices given to Landowner shall be addressed as follows:

Pardee Homes 10880 Wilshire Boulevard, Suite 1900 Los Angeles, CA 90024 Attn: Len Frank Fax No: (310) 446-1292

With a copy to:

Pardee Homes 12626 High Bluff Drive, Suite 100 San Diego, CA 92130 Attn: Beth Fischer Fax No: (858) 794-2599

and to:

Hewitt & O'Neil LLP 19900 MacArthur Boulevard, Suite 1050 Irvine, CA 92612 Attn: John P. Yeager Fax No: (949) 798-0511

18. Agreement Superseded. Except as provided in this Section 18, upon execution of this Amendment by all parties hereto, the Agreement shall be superseded in its entirety. Notwithstanding the foregoing, School District's option to acquire Alternative Site B pursuant to the terms of the Agreement shall remain in effect until and terminate upon the close of escrow of Parcel 1.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the day and year first above written.

DIST	DIEGUITO UNION HIGH SCHOOL RICT
Ву:	Anthorized Circula
	Authorized Signatory
Ву:	Authorized Signatory
COM	MUNITY FACILITIES DISTRICT
NO. 9	5-1 OF THE SCHOOL DISTRICT
Ву:	
	Authorized Signatory
Ву:	A d i 10i
	Authorized Signatory
	MUNITY FACILITIES DISTRICT 9-1 OF THE SCHOOL DISTRICT
By:	
	Authorized Signatory
By:	
,	Authorized Signatory
	MUNITY FACILITIES DISTRICT 9-2 OF THE SCHOOL DISTRICT
By:	A .1 1 2 C
	Authorized Signatory
Ву:	
Dy.	Authorized Signatory

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NO. 99	9-3 OF THE SCHOOL DISTRICT
Ву:	Authorized Signatory
Ву:	Authorized Signatory
SCHO	AN DIEGUITO UNION HIGH OL DISTRICT FINANCING ORITY
By:	Authorized Signatory
Ву:	Authorized Signatory
PARD	EE HOMES, a California corporation
Ву:	
Ву:	

COMMUNITY FACILITIES DISTRICT

EXHIBIT A

<u>DESCRIPTION/DEPICTION OF PROPERTY OF LANDOWNER</u> <u>AND SHAW/LORENZ PROPERTY</u>

ITEM 19

SOWARDS AND BROWN ENGINEERING, INC.—

EXHIBIT B

EXHIBIT A

April 23, 2003

OWNERS LIST

FOR

COMMUNITY FACILITIES DISTRICT NO. 03-1

OF THE

SAN DIEGUITO UNION HIGH SCHOOL DISTRICT, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

OWNERS & ADDRESS (REF. PARCEL NO.)	ASSESSORS PARCELS	ACREAGE (ACRES)	TOTAL VOTES
Pardee Construction Co.	304-031-17	39.96	
10880 Wilshire Blvd. #1900	305-010-15	39.68	
Los Angeles, CA 90024	305-010-13	33.12	
(Reference Parcel No. 1)	305-010-19	79.23	
(Neierence Parcer No. 1)	305-010-21	64.49	
	305-010-22		
	305-010-23	7.77	
	305-010-24	8.80	
	305-010-25	48.57	
	305-011-03	39.70	
	305-011-04	39.70	
		15.81	
	305-011-09 305-014-10	59.04	
	305-011-10	5.01	
	305-021-12	89.18	
	305-021-13	2.94	
	305-021-18	97.94	
	305-022-01	80.00	
	305-030-30	16.94	
	305-030-34	11.38	
	305-030-35	55.52	
	305-031-12	179.43	
	305-031-13	87.57	1
	305-040-22	22.00	
	305-040-23	76.60	
	305-041-01	140.00	
	305-113-01	27.46	
	305-113-02	6.81	
	305-130-01 thru 58		
	305-131-01 thru 48		
	305-132-01 thru 44	42.72	
	306-011-33	31.49	
	308-010-03	84.42	1
	308-021-03	39.44	1
	308-021-03	38.97	
	308-021-09		ļ
		1.80	İ
	308-030-42	12.62	4007
		1626.11	1627

2187 NEWCASTLE AVENUE • SUITE 103 • CARDIFF BY THE SEA, CA 92007 03015CFD.DOC (760) 436-8500 • FAX (760) 436-8603

April 23, 2003 Owners List CFD No. 03-1 Page 2

OWNERS & ADDRESS (REF. PARCEL NO.)	ASSESSORS PARCELS	ACREAGE (ACRES)	TOTAL VOTES
Shaw Texas III, LLC 7245 Rue De Roark La Jolla, CA 92037 (Reference Parcel No. 3)	308-021-01	38.38	39
Shaw Texas IV, LLC 7245 Rue De Roark La Jolla, CA 92037 (Reference Parcel No. 4)	308-021-10	39.16	40
Shaw Valley III, LLC 7245 Rue De Roark La Jolla, CA 92037 (Reference Parcel No. 5)	308-030-27	60.25	61
Shaw Texas VI, LLC 7245 Rue De Roark La Jolla, CA 92037 (Reference Parcel No. 6)	308-041-07 308-041-08	34.34 <u>6.50</u> 40.84	41
	TOTAL	1804.74 AC	1808

TEM 19

EXHIBIT B

EXHIBIT B

DESCRIPTION OF SCHOOL FACILITIES

The capital school facilities for grades 7-12 needed by the School District in order to serve the student population anticipated to be generated as a result of development of the Property.

EXHIBIT C

<u>NEW CFD BOUNDARY MAP</u>

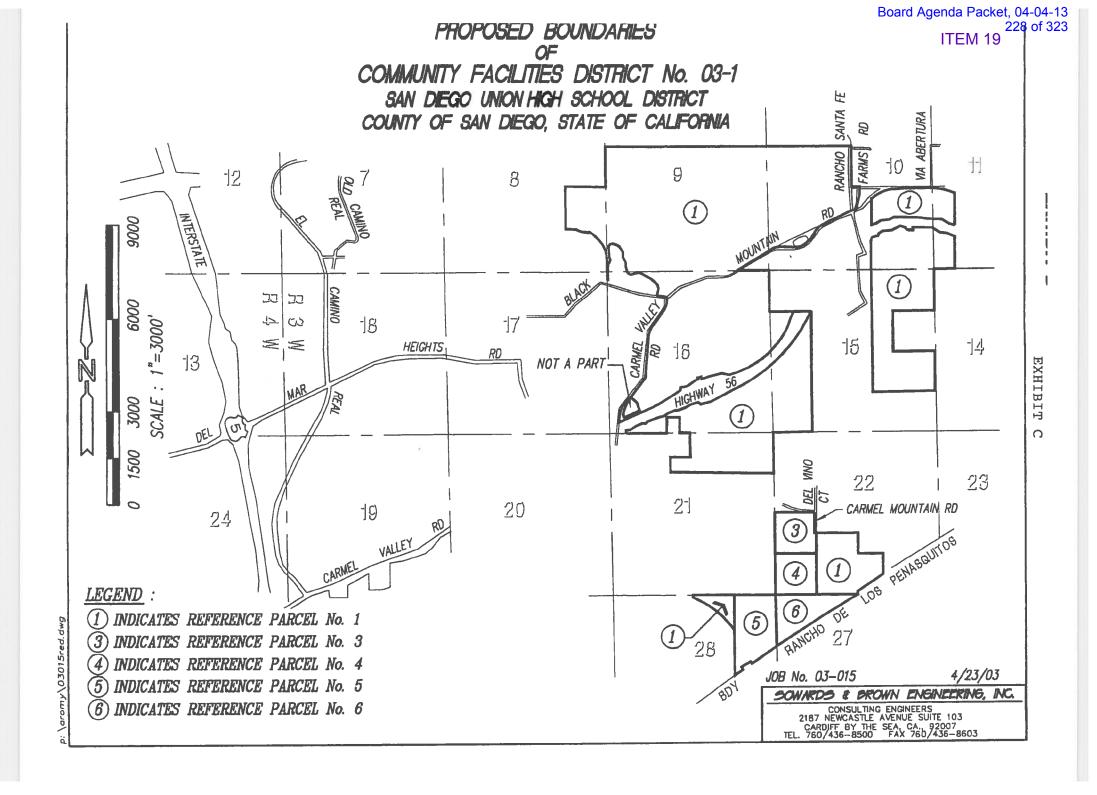


EXHIBIT D

ALIGNMENT "F" LAND USE PLAN FROM ORIGINAL AGREEMENT

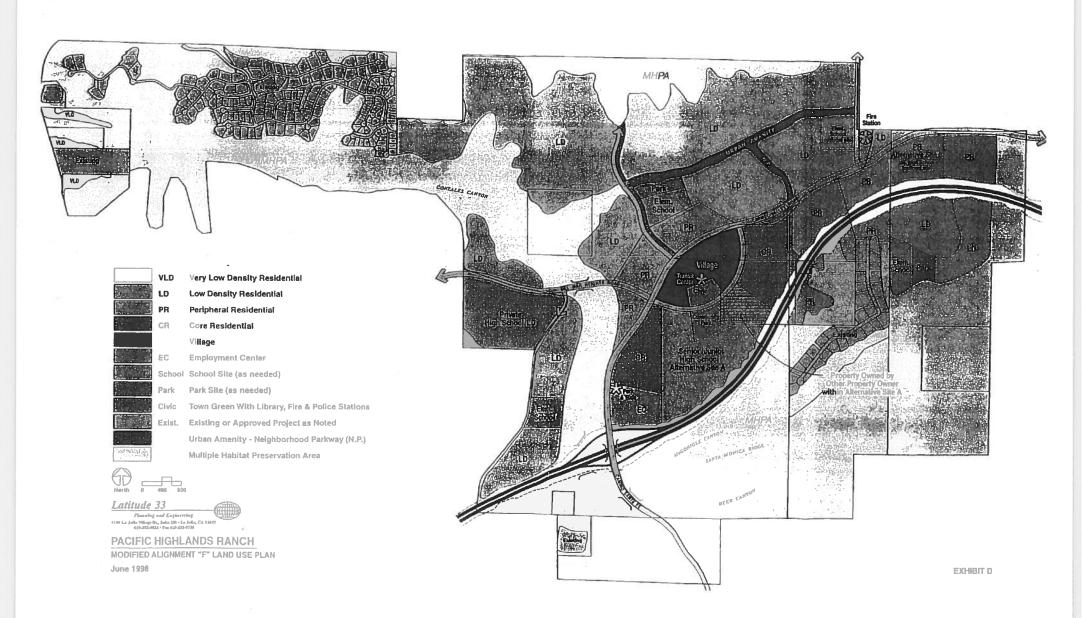


EXHIBIT E-1

MAP DEPICTING PARCELS 1, 2, 3 AND 4

ITEM 19

EXHIBIT B

EXHIBIT E-1

LEGAL DESCRIPTION

ALL THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15 AND THE EAST HALF OF SECTION 16, BOTH IN TOWNSHIP 14 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL '1':

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15; THENCE ALONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

SECTION 15, THEREE MEST	, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
1. SOUTH 00°09'23" WEST	828.03 FEET	TO THE TRUE POINT OF BEGINNING ; THENCE CONTINUING ALONG SAID WESTERLY LINE,
2, SOUTH 00°09'23" WEST	717.83 FEET;	THENCE LEAVING SAID LINE,
3. SOUTH 40°44'55" EAST	105.10 FEET;	THENCE
4. SOUTH 49°15'05" WEST	735.63 FEET;	THENCE
5. SOUTH 03°44'10" EAST	535.08 FEET;	THENCE
6. SOUTH 33°24'35" EAST	26.79 FEET;	THENCE
7. SOUTH 63°49'15" WEST	143.93 FEET;	THENCE
8. NORTH 90°00'00" WEST	177.86 FEET;	THENCE
9. SOUTH 82°20'14" WEST	447.01 FEET;	THENCE
10. NORTH 03°55'36" WEST	135.57 FEET;	THENCE
11. NORTH 03°30'00" WEST	1451.95 FEET;	THENCE
11. NORTH 23°53'06" EAST	257 .55 FEET	TO THE BEGINNING OF A 1155.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE ALONG THE ARC OF SAID CURVE
13. NORTHEASTERLY	1253.19 FEET	THROUGH A CENTRAL ANGLE OF 62°10'01" TO THE TRUE POINT OF BEGINNING.

SAID LAND CONTAINS 40.212 ACRES MORE OR LESS.

PARCEL '2':

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15; THENCE ALONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

1. SOUTH 00°09'23" WEST 1545 86 FEET; THENCE LEAVING SAID WESTERLY LINE,

\\LATSERV1\ENGINEERING\300\330\Docs\PARCELS(HS) doc

2. SOUTH 40°44'55" EAST 105.10 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID LINE,

3. SOUTH 40°44'55' WEST 540.82 FEE! TO A POINT ON THE NORTHWESTERLY LINE OF

CALTRANS RIGHT-OF-WAY AND A POINT OF A 3943.56 FOOT RADIUS CURVE CONCAVE

NORTHWESTERLY; THENCE ALONG THE ARC OF SAID

CURVE

4. SOUTHWESTERLY 1091.92 FEET THROUGH A CENTRAL ANGLE OF 15°51′52°; THENCE

5. NORTH 33°24'35" WEST 208.70 FEET; THENCE

6. NORTH 03°44'10" WEST 535.08 FEET; THENCE

7. NORTH 49°15'05" EAST 735.63 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND CONTAINS 13.351 ACRES MORE OR LESS.

PARCEL '3':

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15; THENCE ALONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

1. SOUTH 00°09'23" WEST

1380.82 FEET

TO THE SOUTHWEST CORNER OF SAID NORTHWEST
QUARTER OF THE NORTHWEST QUARTER AND THE
TRUE POINT OF BEGINNING; THENCE ALONG THE

SOUTHERLY LINE OF SAID NORTHWEST QUARTER,

2. SOUTH 89°40'45" EAST 809.88 FEET TO THE BEGINNING OF A 3943.56 FOOT RADIUS

CURVE CONCAVE NORTHWESTERLY; THENCE ALONG

THE ARC OF SAID CURVE

3. SOUTHWESTERLY 758.39 FEET THROUGH A CENTRAL ANGLE OF 11°01'07"; THENCE

4. NORTH 40°44'55' WEST 645.92 FEET TO THE WESTERLY LINE OF SAID NORTHWEST

QUARTER; THENCE NORTHERLY ALONG SAID

WESTERLY LINE,

5. NORTH 00°09'23" EAST 165.04 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND CONTAINS 7.074 ACRES MORE OR LESS.

PARCEL '4':

BEGINNING AT THE NORTHWEST CORNER OF SAID WEST HALF OF THE NORTHWEST QUARTER OF SECTION 15; THENCE ALONG THE WESTERLY LINE OF SAID NORTHWEST QUARTER,

1. SOUTH 00°09'23" WEST 1545.86 FEET; THENCE LEAVING SAID LINE,

2. SOUTH 40°44'55" EAST 105.10 FEET; THENCE

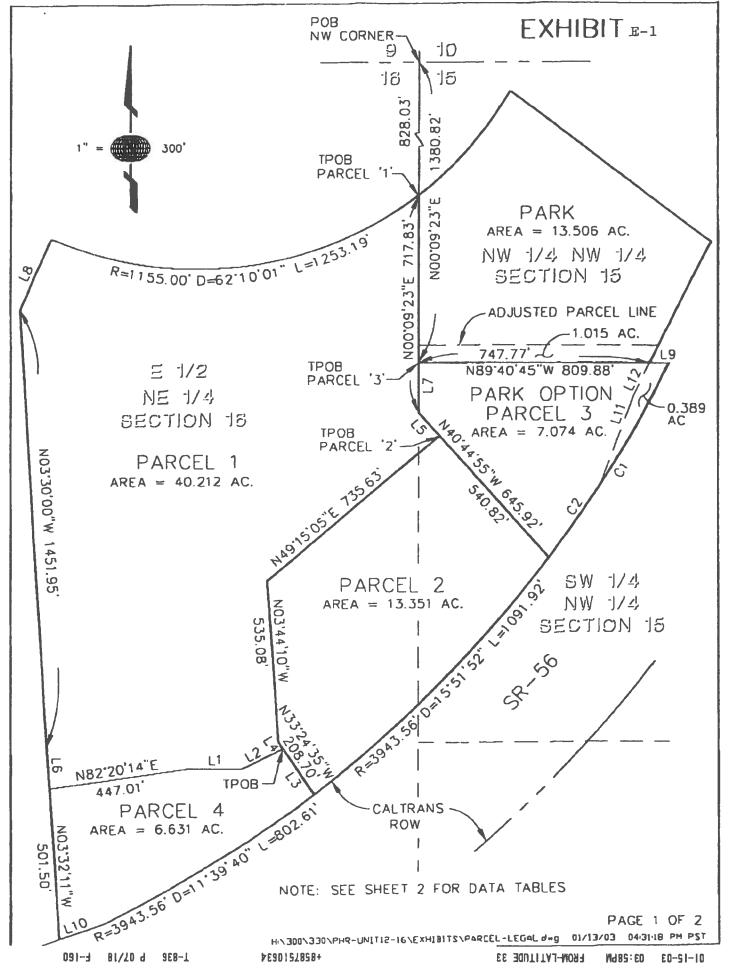
3. SOUTH 49°15'05" WEST 735.63 FEET; THENCE

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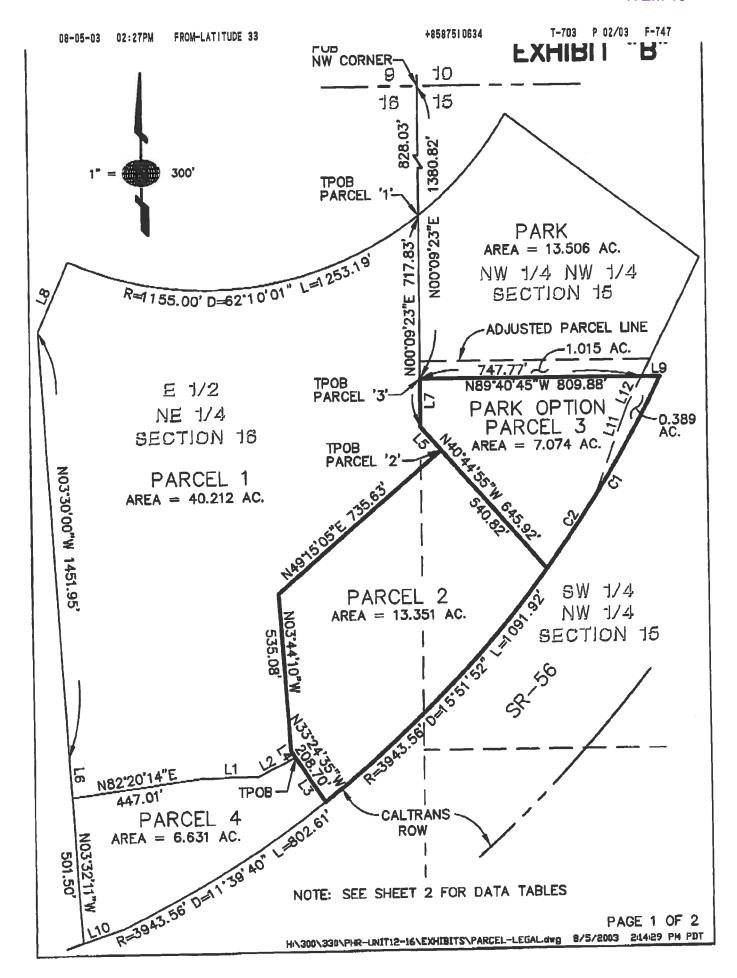
01-12-03 03:57PM FROM-LATITUDE 33 +88587510634 T-836 P 05/18 F-160

4. SOUTH 03°44'10" EAST	535.08 FEET,	THENCE	
5. SOUTH 33°24'35" EAST	26.79 FEET	TO THE TRUE POINT OF BEGINNING ; THENCE CONTINUING ALONG SAID LINE,	
6. SOUTH 33°24'35" EAST	181.91 FEET	TO A POINT ON THE NORTHWESTERLY LINE OF CALTRANS RIGHT-OF-WAY AND A POINT OF A 3943.56 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE ALONG THE ARC OF SAID CURVE	
7. SOUTHWESTERLY	802.61 FEET	THROUGH A CENTRAL ANGLE OF 11°39'40"; THENCE	
8. SOUTH 70°51'57" WEST	147.27 FEET;	THENCE	
9. NORTH 03°32'11" WEST	501.50 FEET,	THENCE	
10. NORTH 82°20'14" EAST	447.01 FEET;	THENCE	
11. SOUTH 90°00'00" EAST	177.86 FEET;	THENCE	
12. NORTH 63°49'15" EAST	143.93 FEET	TO THE TRUE POINT OF BEGINNING.	
SAID LAND CONTAINS 6.631 ACRES MORE OR LESS.			





ITEM 19



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+8587510634

T-703 P.03/03 F-747

DATA TABLES

	INE TABLE	
LINE	LENGTH	BEARING
L1	177.86'	N90'00'00"W
L2	143.93	N63'49'15"E
L3	181.91'	N33°24'35"W
L4	26.79	N33'24'35"W
L5	105.10'	N40'44'55"W
L6	135.57'	NO3'55'36"W
L7	165.04'	N00'09'23"E
L8	257.55	N23'53'06"E
L9	62.11	N89'40'45"W
L10	147.27'	N70°51′57″E
L11	315.64	N19'38'45"E
L12	120.63'	N26'27'42"E

	CURVE		
CURVE	DELTA	LENGTH	RADIUS
C1	11'01'07"	758.39'	3943.56'
C2	0418'21"	296.36	3943.56

EXHIBIT E-2

MAP DEPICTING EXCHANGE PARCEL

EXHIBIT FF-2

LEGAL DESCRIPTION

ALL THAT PORTION OF PARCEL 3 CF FARCEL MAP NO. 18971 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON MAY 23, 2002 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, OF OFFICIAL RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL 3; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID PARCEL, SOUTH 00°09'23" WEST A DISTANCE OF 828.03 FEET THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EASTERLY LINE, SOUTH 00°09'23" WEST A DISTANCE OF 856.90 FEET; THENCE LEAVING SAID EASTERLY LINE, SOUTH 49°15'05" WEST A DISTANCE OF 253.96 FEET; THENCE NORTH 90°CO'00" WEST A DISTANCE OF 345.70 FEET; THENCE NORTH 05°27'36" WEST A DISTANCE OF 788.88 FEET TO A POINT ON A NON-TANGENT 1155.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A LINE RADIAL TO SAID POINT BEARS SOUTH 04°29'45" EAST; THENCE ALONG THE ARC OF SAID CURVE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 33°11'11" AN ARC LENGTH OF 668.99 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND CONTAINS AN AREA OF 11.211 ACRES MORE OR LESS.

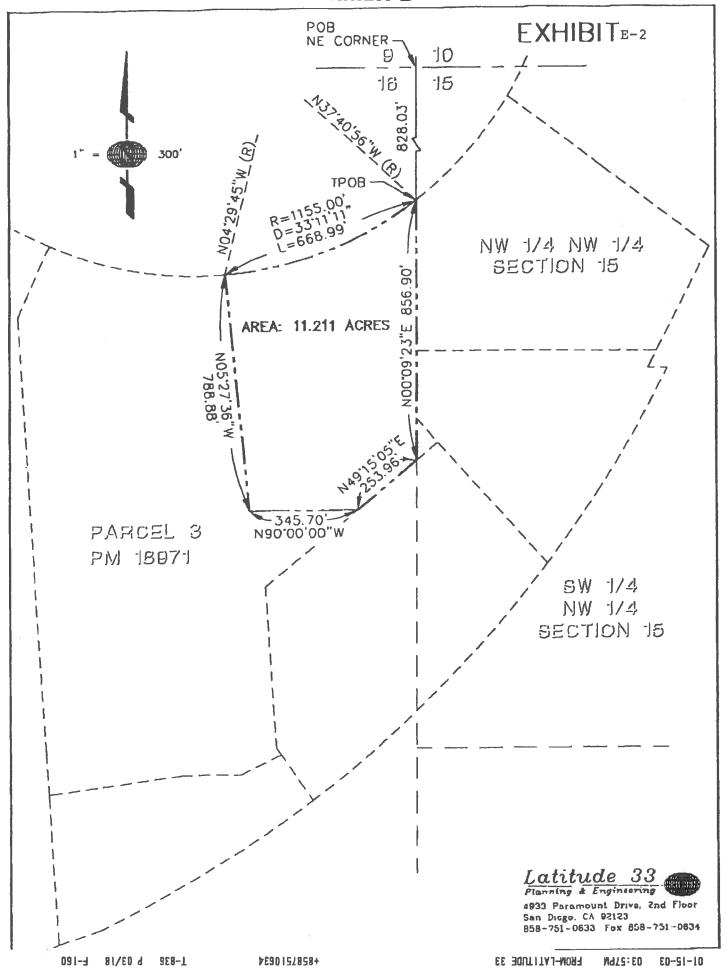


EXHIBIT F

[This Exhibit Has Been Intentionally Omitted.]

EXHIBIT G

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES OF NEW CFD

[To Be Attached When Finalized]

ITEM 19

EXHIBIT B

EXHIBIT G

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES FOR COMMUNITY FACILITIES DISTRICT NO. 03-1 OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

An Annual Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 03-1 of the San Dieguito Union High School District ("CFD No. 03-1") shall be levied and collected each Fiscal Year in an amount determined by the Board of Trustees (the "Board") of the San Dieguito Union High School District (the "District"), acting in its capacity as the legislative body of CFD No. 03-1 through the application of the appropriate amount or rate of Annual Special Tax for Developed Property and Undeveloped Property as described below. All of the property in CFD No. 03-1, as depicted on the map of the boundaries thereof on file with the Secretary of the Board, unless exempted by law or by the provisions of Sections III. through V. hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

1. <u>Definitions</u>.

"Administrative Expenses" means the expenses incurred by the District on behalf of CFD No. 03-1 related to the determination of the amount of the levy of Annual Special Taxes; the collection of the Annual Special Taxes, including expenses of collecting delinquencies, and any amounts necessary to replenish the reserve fund; the administration of the bonds of CFD No. 03-1, including the payment of salaries and benefits of any employee of the District whose employment duties directly relate to the administration of CFD No. 03-1 of the District and costs otherwise incurred in order to carry out the authorized purposes of CFD No. 03-1.

"Alternate Prepayment Tax" means the method of reducing the Maximum Special Tax for an Assessor's Parcel as provided for in Section III.C.

"Annual Special Tax" means the annual special tax to be levied in each Fiscal Year pursuant to Section IV, on each Assessor's Parcel classified as Developed Property and Undeveloped Property to pay, as applicable, the Bond Requirements, and to pay for the cost of constructing, leasing, and/or acquiring the Facilities.

"Assessable Area" means all of the square footage within the perimeter of a Dwelling Unit, not including any carport, walkway, garage, overhang, patio, enclosed patio, detached accessory structure or similar area, as determined by the building department of the applicable City or County.

"Assessor's Parcel" means a parcel of land designated on a map of the San Diego County Assessor's Office within the jurisdictional boundaries of the District which has been assigned a discrete identifying number.

"Bond Requirements" means the amount necessary in any Fiscal Year, taking into consideration anticipated delinquencies (i) to pay principal of and interest on the bonds at the time outstanding in CFD No. 03-1 or any certificates of participation or other obligations issued to finance the Facilities, (ii) to make any deposits required to be made with respect to any reserve fund created with respect to such bonds or obligations, and (iii) to pay for Administrative Expenses.

"City" means individually the City of San Diego or whichever municipal jurisdiction has the authority to approve or regulate land development for parcels within CFD No. 03-1.

"County" means the County of San Diego.

"Developed Property" means any Assessor's Parcel in CFD No. 03-1 for which a building permit has been issued by the applicable City or County as of June 30 of the previous Fiscal Year in which the Annual Special Tax is being levied.

"Dwelling Unit" means any single family residence, duplex, triplex, fourplex, condominium, apartment or other house or structure in which a person or persons may live, and is not considered to be for commercial or industrial use.

"EDU" means an equivalent dwelling unit. One Single-Family Dwelling Unit equals one EDU and one Multi-Family Dwelling Unit equals 0.27 EDUs.

"Exempt Property" means any Assessor's Parcel within the boundaries of CFD No. 03-1 which: (i) is property of the State, federal or other local governments or public agency, except as otherwise provided by Section 53317.3 of the Act, (ii) has been zoned, authorized or designated for non-residential use on the applicable general plan, specific plan or community plan for which the applicable Cities and the County utilize and rely upon for land use planning purposes and for the approval of the development of real property, (iii) is "common area" of a common interest development as those terms are used and defined in Section 1351 of the California Civil Code or any similar subsequent legislation, or (iv) is any property within CFD No. 03-1 which is Senior Citizen Housing. For purposes of interpreting Sections 53317.3 and 53317.5 of the Act, any Assessor's Parcel acquired by a public entity shall be deemed Exempt Property to the extent it is Undeveloped Property at the time of its acquisition.

"Facilities" means those school facilities, including land and other facilities which CFD No. 03-1 is authorized by law to construct, lease, acquire, own or operate.

"Fiscal Year" means the period from July 1st of any calendar year through June 30th of the following calendar year.

"Legally Available Funds" means any funds, except Alternative Prepayment Taxes, available to CFD No. 03-1 to pay Bond Requirements, such as bond reserve fund earnings and other interest earnings not subject to arbitrage.

"Maximum Special Tax" means the maximum annual special tax, determined in accordance with Section III. that can be levied by the Board in any Fiscal Year on Developed Property and Undeveloped Property.

"Multi-Family" means any Dwelling Unit that does not exceed 1,600 square feet of Assessable Area and is located on a Residential Property with density of more than fifteen (15) Dwelling Units per gross are.

"Residential Property" means any Assessor's Parcel of land located within the boundaries of CFD No. 03-1 at any time during which it is Zoned for residential purposes.

"Senior Citizen Housing" means any senior citizen housing, residential care facilities for the elderly, or multi-level facilities for the elderly which would be subject to the limitations on school fees set forth in California Government Code Section 65995.1, as in effect on the date of formation of the CFD, on July 1 of any Fiscal Year during which Annual Special Taxes are levied.

"Single-Family" means and Dwelling Unit not classified as Multi-Family.

"Undeveloped Property" means all Residential Property within CFD No. 03-1 not classified as Developed Property, and not exempt from the Annual Special Tax pursuant to law or Section V. hereof.

"Tax Class A or Tax Class B" means the classification of Assessor's Parcels of Developed Property pursuant to Section II.

"Zoned" means any Assessor's Parcel of land used, zoned, allowed or designated for a specific purpose on the applicable general plan, specific plan or community plan for which the City or the County utilizes and relies upon for planning purposes and for the approval of development of real property.

II. Classification of Property.

Beginning with the Fiscal Year commencing July 1, 2003 and each Fiscal Year thereafter, the District shall classify all Residential Property on the following basis: Developed Property, Undeveloped Property or Exempt Property. Further, the Assessor's Parcels for which building permits are issued for the first 1,126 EDUs within the District shall be assigned to Tax Class A. Once Assessor's Parcels representing 1,126 EDUs are classified as Tax Class A, all remaining Assessor's Parcels shall be classified as Tax Class B.

III. Maximum Special Tax.

A Maximum Special Tax may be levied up to the amounts specified in this Section III. on (i) Developed Property to the extent necessary to pay the Bond Requirements and to provide for the cost of constructing, leasing and/or acquiring the Facilities pursuant to Section III.A. below and (ii) on Undeveloped Property to the extent necessary to pay the Bond Requirements pursuant to Section III.B. following.

A. Developed Property: Maximum Special Tax

Beginning with the Fiscal Year commencing July 1, 2003, and each Fiscal Year thereafter, all Developed Property classified as either Tax Class A or Tax Class B shall be subject to an Annual Special Tax in each Fiscal Year up to and including an amount equal to the Maximum Special Tax for each Dwelling Unit type listed in Table 1 below multiplied by the number of Dwelling Units for each Developed Property.

Table 1

Dwelling Unit Type	Maximum Special Tax		
	Tax Class A	Tax Class B	
Single-Family	\$1,014	\$855	
Multi-Family	\$274	\$231	

B. Undeveloped Property: Maximum Special Tax

In the event that on July 1 of any Fiscal Year, the maximum projected revenues that can be generated from the levy of the Annual Special Tax for such Fiscal Year on all Developed Property together with all other Legally Available Funds of CFD No. 03-1 available to pay the Bond Requirements, shall be insufficient to pay the Bond Requirements for such Fiscal Year, then all Undeveloped Property shall be subject to an Annual Special Tax, for such Fiscal Year only, up to an amount not to exceed, per gross acre of Undeveloped Property (or a proportionate amount thereof for any portion of such gross acre), the lesser of (i) \$949 or (ii) the aggregate amount of the actual delinquencies in the payment of Annual Special Taxes for Developed Property for the prior Fiscal Year, divided by the total number of gross acres of Undeveloped Property in CFD No. 03-1.

C. Alternate Prepayment Tax for reducing the Maximum Special Tax

The owner of any Assessor's Parcel of Developed Property classified as either Tax Class A or Tax Class B may elect to prepay fifty percent of the aggregate Maximum Special Tax obligation attributable to the Assessor's Parcel within five (5) business days from the time of issuance of the initial building permit with respect to such Assessor's Parcel provided that all delinquencies and charges of Annual Special Taxes due to date have been paid in full as determined by the District. The aggregate Maximum Special Tax obligation for each Developed Property type classified as either Tax Class A or Tax Class B is listed in Table 2 below.

If an owner prepays fifty percent of the aggregate Maximum Special Tax obligation on any such Assessor's Parcel, the Maximum Special Tax for each Developed Property type shall be fifty percent of the applicable rate specified in Table 1, and the Assessor's Parcel shall thereafter be subject to an Annual Special Tax in each Fiscal Year in an amount equal to fifty percent of the annual Special Tax on Developed Property of a similar type for which no Alternate Prepayment Tax has been paid, and as determined pursuant to Section III.A. and IV., for the corresponding Fiscal Year. Prepayments of the aggregate Maximum Special Tax obligation collected pursuant to this Section III.C. may be used for any legal purposes of CFD No. 03-1.

Table 2
Aggregate
Maximum Special Tax
obligation Amount
for Fiscal Year 1998-99

 Developed Property Type
 for Fiscal Year 1998-99

 Tax Class A
 Tax Class B

 Single-Family
 \$13,524
 \$11,403

 Multi-Family
 \$3,654
 \$3,080

Notwithstanding any of the above, the aggregate Maximum Special Tax obligation shall be adjusted in each Fiscal Year, commencing July 1, 1999, through July 1, 2002 by the lesser of (i) the proportionate change in the Lee Saylor Cost of Construction Index for Class D Construction as measured on July 1 of each Fiscal Year from the first of the preceding Fiscal Year, or (ii) two percent. Commencing July 1, 2003 and each Fiscal Year thereafter, the aggregate Maximum Special Tax obligation shall be adjusted in each Fiscal Year in proportion to changes in the Lee Saylor Cost of Construction Index for Class D Construction as measured on July 1 each Fiscal Year from the first of the preceding Fiscal Year. If said index is superseded or discontinued, the adjustment provided for herein shall be made by reference to the index used to determine variation in the cost of constructing public school improvements comparable to the Facilities as determined by the Board.

IV. Annual Apportionment of the Annual Special Tax to Developed Property and Undeveloped Property.

Beginning with the Fiscal Year commencing July 1, 2003, and each Fiscal Year thereafter, the Board, acting as the legislative body of CFD No. 03-1, shall determine the Annual Special Tax to be collected in CFD No. 03-1 from all Developed Property and Undeveloped Property. The Board shall levy the Annual Special Tax in the following priority:

First:

From Assessor's Parcels of Developed Property by proportionately levying up to the Maximum Special Tax in Table 1 of Section III. hereof to meet the Bond Requirements, and to pay for the cost of constructing, leasing and/or acquiring the Facilities.

Second:

If additional moneys are needed to pay the Bond Requirements, Legally Available Funds shall be used.

Third:

If additional moneys are needed to pay the Bond Requirements, the Annual Special Tax may be levied on Assessor's Parcels of Undeveloped Property pursuant to Section III.B.

V. <u>Limitations</u>.

The Board shall not impose any Annual Special Tax on any Exempt Property. Under no circumstances will the Annual Special Tax levied against any Assessor's Parcel of Developed Property be increased by more than ten percent (10%) as a consequence of delinquency or default by the owner of any other Assessor's Parcel(s) within CFD No. 03-1.

The Annual Special Tax may be levied on any Assessor's Parcel for a period not to exceed 35 years commencing the first Fiscal Year in which the Annual Special Tax is levied on such Assessor's Parcel of Developed Property and ending at the close of the 35th Fiscal Year; provided, however, that the expiration of such period shall not extinguish or otherwise effect the rights of the District or CFD No. 03-1 to collect any delinquent Annual Special Taxes or penalties or interest thereon.

VI. Appeals and Interpretation Procedure.

Any taxpayer whose property is subject to the levy of the Annual Special Tax and who claims that the amount or application of the Annual Special Tax has not been properly computed may file a notice with the Board appealing the levy of the Annual Special Tax. The Superintendent of the District or his or her designee will promptly review the claim and, if necessary, meet with the claimant and decide the appeal. If the findings of the Superintendent or his or her designee support a determination that the amount of application of the Annual Special Tax

ITEM 19

EXHIBIT B

should be modified or changed, the Annual Special Tax levy shall be so modified or changed and, if applicable, a refund of prior Annual Special Tax payment shall be granted and made from available funds of CFD No. 03-1. If a claimant disagrees with the findings and determination of the Superintendent or his or her designee, the claimant may appeal such determination to the Board and the decision of the Board shall be final.

Interpretation of this rate and method of apportionment may be made by the Board by resolution thereof for the purpose of clarifying any vagueness or ambiguity as it relates to the application of the annual Special Tax, the application of the method of apportionment, the classification of any property, or any definition contained herein.

VI. Collection of Special Tax.

The Annual Special Tax shall be levied and collection in the same manner as ordinary ad valorem property taxes are levied and collected by the County. Notwithstanding any provision to the contrary herein, CFD No. 03-1 may collect any Annual Special Tax at a different time and/or in a different manner if necessary to meet its financial obligations. All Annual Special Taxes shall be subject to the same penalties and lien priorities in the case of delinquency as is provided for ad valorem taxes; provided, however, CFD No. 03-1 may covenant for the benefit of bondholders to commence and diligently pursue to completion judicial foreclosure proceedings for the payment of delinquent installments of Annual Special Taxes.

EXHIBIT H-1

FORM OF MASTER PROMISSORY NOTE

U.S. \$[PURCHASE PRICE]	2002
FOR VALUE RECEIVED, the undersigned, Community Facilities District No San Dieguito Union High School District, a public body corporate and politic duly organiz under the laws of the State of California ("CFD No " or the "Maker"), promises to to Pardee Homes, a California corporation ("Payee"), at 10880 Wilshire Boulevard, Suite 1 Los Angeles, California 92024, or such other place for the payment of this Note (this "Not the Payee may from time to time designate in writing, the principal sum of up to Dollars (\$), together with interest thereon earned at the rate and payabl the times hereinafter set forth and in accordance with the terms of this Note and that certain Amendment and Restatement of Funding and Mitigation Agreement by and among San Di Union High School District ("School District"), CFD No. 95-1 of the School District, CFD 99-1 of the School District, CFD No. 99-2 of the School District, CFD No. 99-3 of the School District, the SDUHSD Financing Authority and Pardee Homes dated as of (the "Amendment), subject to reduction and payment as provided herein. Maker promises the principal and interest evidenced hereby as follows:	ted o pay 1900, te") as le at n le at n le o No. lool 2002
1. Aggregate Obligations. On the date hereof, in addition to this Note in the School District has issued a note to the Payee in the initial principal at of up to, (ii) CFD No. 99-1 of the School District has issued a note to the Payee initial principal amount of up to, (iii) CFD No. 99-2 of the School District has is note to the Payee in the initial principal amount of up to, and (iv) CFD No. 99-3 School District has issued a note to the Payee in the initial principal amount of up to (each such note is herein referred to as a "CFD Note" and, collectively as the "CFD Notes together with this Note are herein referred to as the "Notes."	amount in the ssued a of the
The Notes were issued in exchange for the purchase from Payee of property purchase price of \$[Purchase Price]. Notwithstanding anything contained herein contrary, in no event shall the total aggregate amount paid on all of the Notes excamount, in the aggregate, equal to [the Purchase Price plus Landowner Advance interest accrued on the Outstanding Principal Amount (as herein defined), composemi-annually at a rate of 5% per annum.	to the eed an
2. Outstanding Amounts. The initial principal amount of this Note is Purchase Price plus Landowner Advance]. In accordance with Section 8 hereof, as payable under this Note, shall be reduced by (i) payments made by the Maker under this and (ii) payments made under each of the CFD Notes. The initial principal amount of this less any reduction in such initial principal amount, as made in accordance with Section 8 is herein referred to as the "Outstanding Principal Amount."	mounts is Note is Note
3. <u>Interest Rate</u> . Except as set forth in Section 5 below, the Outst Principal Amount of this Note shall bear interest from the date hereof until paid in full at t	_

of 5% per annum ("Interest Rate") compounded semi-annually. Maker represents that interest paid on this Note is excluded from gross income for federal income tax purposes, and is exempt from State of California personal income tax.

4. Payment of Principal and Interest.

(A) Source. Except as set forth in Section 4(B) below, Maker shall pay all amounts due hereunder in the event and to the extent it receives (i) Proceeds, (ii) State Funds and (iii) GO Funds (all as defined in the Amendment), provided the pledge of Proceeds, State Funds and GO Funds hereunder shall be subordinate to senior pledges of such Proceeds, State Funds and GO Funds to the repayment of District Advances (as defined in the Amendment) and accrued interest thereon (collectively, the "Senior Obligations")..

The Proceeds, State Funds and GO Funds, net of the portion of such amounts pledged for the payment of the Senior Obligations, are herein collectively referred to as the "Available Funds."

Maker covenants and agrees with respect to this Note not to issue any Bonds (as defined in the Amendment) on parity with or senior to this Note secured in whole or in part by Special Taxes (as defined in the Amendment) other than Bonds issued to fund payments under this Note and the Senior Obligations. Maker further covenants and agrees to levy Special Taxes each year on Developed Property at the maximum assigned rate for so long as principal and interest remains due and payable pursuant to this Note.

- (B) <u>Maturity Date</u>. Notwithstanding anything contained herein to the contrary, the entire Outstanding Principal Amount of this Note, together with all unpaid interest accrued thereon, shall be due and payable without notice or demand on the date following the thirtieth (30th) anniversary date of this Note from any and all funds of the Maker.
- (C) <u>Scheduled Payments</u>. Commencing on the date of this Note and continuing during the term of this Note, on or before the first business day following each April 1 and October 1 (each a "Payment Date"), to the extent that Available Funds are on deposit in the Pardee Note Prepayment Fund (as defined in the Amendment), such Available Funds shall, subject to and in accordance with the Amendment, be used to repay the Outstanding Principal Amount and accrued interest or any portion thereof, together with any and all other sums or payments required hereunder, on the earliest practicable date that such Available Funds are available therefore.
- (D) <u>Unpaid Interest</u>. Any accrued but unpaid interest, as adjusted under Section 8 hereof, shall bear interest at the Interest Rate until paid.
- (E) <u>Lawful Money</u>. Interest and principal shall be payable in lawful money of the United States.
- 5. <u>Default</u>. An "Event of Default" shall occur hereunder (a) upon the failure of the Maker to pay all unpaid amounts due upon the Maturity Date, (b) upon the failure of Maker to pay, from and to the extent of Available Amounts, any interest, principal or other payment due hereunder, other than all amounts due on the Maturity Date, within thirty (30)

calendar days after the applicable Payment Date; or (c) upon the failure of Maker to perform any other obligation, covenant, or agreement under this Note or set forth in Sections 3.5.8 and 3.5.9 of the Amendment by the date such performance is due, taking into account all applicable cure periods. Upon occurrence of any Event of Default, Payee may declare the entire Outstanding Principal Amount and accrued interest of this Note (if not then due and payable), and all other sums or payments required hereunder, to be due and payable immediately, the interest rate on the outstanding principal amount of the Note shall increase to 12% per annum ("Default Rate") and, notwithstanding the term of the Note, the outstanding principal and accrued interest of the Note and all other sums or payments required hereunder shall thereupon become and be immediately due and payable.

- 6. <u>Prepayment.</u> Maker may prepay all or any part of the unpaid Outstanding Principal Amount due hereunder, together with accrued interest, in whole or in part, at any time during the term hereof without premium, penalty or charge from any source of funds.
- 7. Costs of Collection. Maker promises to pay (a) all costs and expenses of collection, including without limitation reasonable attorneys' fees, in the event this Note or any portion of this Note is placed in the hands of attorneys or collection is effected without suit; (b) reasonable attorneys' fees, as determined by the judge of the court, and all other costs, expenses and fees incurred by Payee in the event suit is instituted to collect this Note or any portion of this Note; and (c) all costs and expenses, including without limitation reasonable attorneys' fees and costs incurred in making any appearances in any such proceeding or in seeking relief from any stay or injunction issued in or arising out of any such proceeding.
- 8. <u>Crediting of Payments</u>. All payments made pursuant to the Notes shall be credited and the Outstanding Principal Amount and accrued interest owed hereunder shall be determined in the manner set forth below and in Section 1 above:
- (A) Payments Made Pursuant To This Note. All payments and prepayments made hereunder shall be credited first to unpaid interest, if any, which has accrued, and second to unpaid Outstanding Principal Amount; and
- (B) Payments Made Pursuant to CFD Notes. Any and all payments and prepayments made pursuant to any and all CFD Notes shall reduce the amounts due under this Note; such payments shall be credited to the unpaid interest, if any, which has accrued and to the unpaid Outstanding Principal Amount in the same manner and to the same extent as if such payments were actually paid on this Note on the date the payments were made on such other CFD Notes.
- 9. <u>Waiver of Notice, Etc.</u> Maker waives diligence, grace, demand, presentment for payment, exhibition of this Note, protest, notice of protest, notice of dishonor, notice of demand, notice of nonpayment, and any and all exemption rights after the indebtedness evidenced by this Note, to the fullest extent permitted by applicable laws.
- 10. <u>No Waiver by Payee</u>. Delay or failure by Payee to exercise any power, option or election herein shall not constitute a waiver of the right to subsequently exercise such power or option or any other power, option or election herein given to Payee.

11. <u>Notices</u>. Except as otherwise provided herein, all notices or communications required or permitted hereunder shall be in writing to the respective parties as follows:

If to Payee:

Pardee Homes

12626 High Bluff Drive, Suite 100

San Diego, CA 92130 Attn: Beth Fischer

and to:

Pardee Homes

10880 Wilshire Blvd., Suite 1900

Los Angeles, CA 90024 Attn: Chief Financial Officer

If to Maker:

San Dieguito Union High School District

710 Encinitas Boulevard Encinitas, CA 92024-3508 Attn: Superintendent

A notice or communication shall be effective on the date of personal delivery if personally delivered before 5:00 p.m., otherwise on the day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or when received, if transmitted by electronic facsimile transmission (with electronic confirmation of receipt) if transmitted before 5:00 p.m. on a normal business day, otherwise on the first business day following transmission; or on the day following delivery to the applicable overnight courier, if sent by overnight courier. Either party may change the address to which notices are to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

- 12. <u>Computation of Interest</u>. The computation of interest hereunder shall be based on a year of three hundred sixty (360) days and a month of thirty (30) days. Notwithstanding any other provision of this Note, if the Interest Rate or the Default Rate shall exceed the maximum rate permitted by law, then such Interest Rate or Default Rate, as applicable, shall be reduced to the maximum rate permitted by law.
- Miscellaneous. This Note shall be governed by and construed under he laws of the United States and the laws of the State of California. The use of the term "Maker" shall be deemed to include the successors and assigns of the undersigned. Time is of the essence of the performance of each provision hereof. In the event that the final date for payment of any amount hereunder falls on a Saturday, Sunday or state or federal holiday, such payment may be made on the next succeeding business day. If Maker consists of more than one (1) person or entity, each shall be jointly and severally liable to Payee hereunder. All payments due hereunder shall be sent to Payee at the address set forth above or to such other place as Payee or other legal holder of this Note may designate in writing from time to time.

IN WITNESS WHEREOF, Maker has executed this Note on the year and date first hereinabove set forth.

[CFD No]	
Ву:	
District Representative	

ITEM 19

EXHIBIT B

EXHIBIT H-2

FORM OF PROMISSORY NOTE

U.S. \$[PARTIAL PURCHASE PRICE], 2002
FOR VALUE RECEIVED, the undersigned, Community Facilities District No of the San Dieguito Union High School District, a public body corporate and politic duly organized under the laws of the State of California ("CFD No " or the "Maker"), promises to pay to Pardee Homes, a California corporation ("Payee"), at 10880 Wilshire Boulevard, Suite 1900, Los Angeles, California 92024, or such other place for the payment of this Note (this "Note") at the Payee may from time to time designate in writing, the principal sum of up to
Dollars (\$), together with interest thereon earned at the rate and payable at the times hereinafter set forth and in accordance with the terms of this Note and that certain Amendment and Restatement of Funding and Mitigation Agreement by and among San Dieguite Union High School District ("School District"), CFD No. 95-1 of the School District, CFD No. 99-1 of the School District, CFD No. 99-2 of the School District, CFD No. 99-3 of the School District, the SDUHSD Financing Authority and Pardee Homes dated as of, 2002 (the "Amendment). Maker promises to pay the principal and interest evidenced hereby as follows:
1. Aggregate Obligations. On the date hereof, in addition to this Note, (CFD No. 95-1 of the School District has issued a note to the Payee in the initial principal amount of up to, (ii) CFD No. 99-1 of the School District has issued a note to the Payee in the initial principal amount of up to, (iii) CFD No. 99-2 of the School District has issued note to the Payee in the initial principal amount of up to, and (iv) CFD No. 99-3 of the School District has issued a note to the Payee in the initial principal amount of up to, (each such note is herein referred to as a "CFD Note" and, collectively as the "CFD Notes" The CFD Notes together with this Note are herein referred to as the "Notes." The note issued be CFD No is also herein referred to as the "Master Note."
The Notes were issued in exchange for the purchase from Payee of property with purchase price of \$[Purchase Price plus Landowner Advance]. Notwithstanding anythin contained herein to the contrary, in no event shall the total aggregate amount paid on all of the Notes exceed an amount, in the aggregate, equal to [the Purchase Price] plus interest accrued on the unpaid portion thereof, compounded semi-annually at a rate of 5% per annum.
2. <u>Outstanding Amounts</u> . The initial principal amount of this Note i \$[Partial Purchase Price]. The unpaid principal, as of any date, is herein referred to as th "Outstanding Principal Amount."
3. <u>Interest Rate</u> . Except as set forth in Section 5 below, the Outstandin Principal Amount of this Note shall bear interest from the date hereof until paid in full at the rat of 5% per annum ("Interest Rate") compounded semi-annually. Maker represents that interest paid on this Note is excluded from gross income for federal income tax purposes, and is exempted.

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from State of California personal income tax.

4. Payment of Principal and Interest.

(A) <u>Source</u>. Except as set forth in Section 4(B) below, Maker shall pay all amounts due hereunder in the event and to the extent it receives (i) Proceeds, (ii) State Funds and (iii) GO Funds (all as defined in the Amendment), provided the pledge of Proceeds, State Funds and GO Funds hereunder shall be subordinate to senior pledges of such Proceeds, State Funds and GO Funds to the repayment of District Advances (as defined in the Amendment) and accrued interest thereon (collectively, the "Senior Obligations").

The Proceeds, State Funds and GO Funds, net of the portion of such amounts pledged for the payment of the Senior Obligations, are herein collectively referred to as the "Available Funds."

Maker covenants and agrees with respect to this Note not to issue any Bonds (as defined in the Amendment) on parity with or senior to this Note secured in whole or in part by Special Taxes (as defined in the Amendment) other than Bonds issued to fund payments due under this Note and the Senior Obligations. Maker further covenants and agrees to levy Special Taxes each year on Developed Property at the maximum assigned rate for so long as principal and interest remains due and payable pursuant to this Note.

- (B) <u>Maturity Date</u>. Notwithstanding anything contained herein to the contrary, the entire Outstanding Principal Amount of this Note, together with all unpaid interest accrued thereon, shall be due and payable without notice or demand on the date following the thirtieth (30th) anniversary date of this Note from any and all funds of the Maker.
- (C) <u>Scheduled Payments</u>. Commencing on the date of this Note and continuing during the term of this Note, on or before the first business day following each January 1 and July 1 (each a "Payment Date"), to the extent that Available Funds are on deposit in the Pardee Note Prepayment Fund (as defined in the Amendment), such Available Amounts shall, subject to and in accordance with the Amendment, be used to repay the Outstanding Principal Amount and accrued interest or any portion thereof, together with any and all other sums or payments required hereunder.
- (D) <u>Unpaid Interest</u>. Any accrued but unpaid interest, as adjusted under Section __ hereof, shall bear interest at the Interest Rate until paid.
- (E) <u>Lawful Money</u>. Interest and principal shall be payable in lawful money of the United States.
- 5. Default. An "Event of Default" shall occur hereunder (a) upon the failure of the Maker to pay all unpaid amounts due upon the Maturity Date, (b) upon the failure of Maker to pay, from and to the extent of Available Amounts, any interest, principal or other payment due hereunder, other than all amounts due on the Maturity Date, within thirty (30) calendar days after the applicable Payment Date; or (c) upon the failure of Maker to perform any other obligation, covenant, or agreement under this Note or set forth in Sections 3.5.8 and 3.5.9 of the Amendment by the date such performance is due, taking into account all applicable cure periods. Upon occurrence of any Event of Default, Payee may declare the entire Outstanding Principal Amount and accrued interest of this Note (if not then due and payable), and all other

sums or payments required hereunder, to be due and payable immediately, the interest rate on the outstanding principal amount of the Note shall increase to 12% per annum ("Default Rate") and, notwithstanding the term of the Note, the outstanding principal and accrued interest of the Note and all other sums or payments required hereunder shall thereupon become and be immediately due and payable.

- 6. <u>Prepayment.</u> Maker may prepay all or any part of the unpaid Outstanding Principal Amount due hereunder, together with accrued interest, in whole or in part, at any time during the term hereof without premium, penalty or charge from any source of funds.
- 7. Costs of Collection. Maker promises to pay (a) all costs and expenses of collection, including without limitation reasonable attorneys' fees, in the event this Note or any portion of this Note is placed in the hands of attorneys for collection is effected without suit; (b) reasonable attorneys' fees, as determined by the judge of the court, and all other costs, expenses and fees incurred by Payee in the event suit is instituted to collect this Note or any portion of this Note; and (c) all costs and expenses, including without limitation reasonable attorneys' fees and costs incurred in making any appearances in any such proceeding or in seeking relief from any stay or injunction issued in or arising out of any such proceeding.
- 8. <u>Crediting of Payments</u>. All payments made under the Notes shall be credited and the Outstanding Principal Amount and accrued interest owed hereunder shall be determined in the manner set forth below:
- (A) <u>Payments Made Pursuant To This Note</u>. All payments and prepayments made hereunder shall be credited first to unpaid interest, if any, which has accrued, and second to unpaid Outstanding Principal Amount.
- (B) Other Payments. Notwithstanding anything contained herein to the contrary, in no event shall the amounts due under this Note and all other Notes, at any time, exceed the amounts due and owning under the Master Note. In the event that the Master Note is paid or deemed paid in full in accordance with its terms, this Note shall be deemed paid in full and the Maker will have no further obligation herein under.
- 9. <u>Waiver of Notice, Etc.</u> Maker waives diligence, grace, demand, presentment for payment, exhibition of this Note, protest, notice of protest, notice of dishonor, notice of demand, notice of nonpayment, and any and all exemption rights after the indebtedness evidenced by this Note, to the fullest extent permitted by applicable laws.
- 10. No Waiver by Payee. Delay or failure by Payee to exercise any power, option or election herein shall not constitute a waiver of the right to subsequently exercise such power or option or any other power, option or election herein given to Payee.
- 11. <u>Notices</u>. Except as otherwise provided herein, all notices or communications required or permitted hereunder shall be in writing to the respective parties as follows:

ITEM 19

EXHIBIT B

If to Payee:

Pardee Homes

12626 High Bluff Drive, Suite 100

San Diego, CA 92130 Attn: Beth Fischer

and to:

Pardee Homes

10880 Wilshire Blvd., Suite 1900

Los Angeles, CA 90024 Attn: Chief Financial Officer

If to Maker:

San Dieguito Union High School District

710 Encinitas Boulevard Encinitas, CA 92024-3508 Attn: Superintendent

A notice or communication shall be effective on the date of personal delivery if personally delivered before 5:00 p.m., otherwise on the day following personal delivery; or two (2) business days following the date the notice is postmarked, if mailed; or when received, if transmitted by electronic facsimile transmission (with electronic confirmation of receipt) if transmitted before 5:00 p.m. on a normal business day, otherwise on the first business day following transmission; or on the day following delivery to the applicable overnight courier, if sent by overnight courier. Either party may change the address to which notices are to be given to it by giving notice of such change of address in the manner set forth above for giving notice.

- 12. <u>Computation of Interest</u>. The computation of interest hereunder shall be based on a year of three hundred sixty (360) days and a month of thirty (30) days. Notwithstanding any other provision of this Note, if the Interest Rate or the Default Rate shall exceed the maximum rate permitted by law, then such Interest Rate or Default Rate, as applicable, shall be reduced to the maximum rate permitted by law.
- 13. Miscellaneous. This Note shall be governed by and construed under the laws of the United States and the laws of the State of California. The use of the term "Maker" shall be deemed to include the successors and assigns of the undersigned. Time is of the essence of the performance of each provision hereof. In the event that the final date for payment of any amount hereunder falls on a Saturday, Sunday or state or federal holiday, such payment may be made on the next succeeding business day. If Maker consists of more than one (1) person or entity, each shall be jointly and severally liable to Payee hereunder. All payments due hereunder shall be sent to Payee at the address set forth above or to such other place as Payee or other legal holder of this Note may designate in writing from time to time.

IN WITNESS WHEREOF, Maker has hereinabove set forth.	executed this Note on the year and date first
	[CFD No]
	By:

ITEM 19

EXHIBIT B

EXHIBIT I

FORM OF NOTICE OF CESSATION AND EXTINGUISHMENT OF LIEN (CFD No. 99-1)

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

San Dieguito Union High School District 710 Encinitas Boulevard Encinitas, CA 92024-3508 Attn: Superintendent

With a copy to: Pardee Homes 10880 Wilshire Boulevard, Suite 1900

Los Angeles, CA 92024-3508

Attn: Beth Fischer

(Space Above Line for Recorder's Use)

NOTICE OF CESSATION OF SPECIAL TAX
AND EXTINGUISHMENT OF LIEN
FOR SPECIFIC PARCELS WITHIN
COMMUNITY FACILITIES DISTRICT NO. 99-1
(PACIFIC HIGHLANDS RANCH)
OF THE SAN DIEGUITO UNION HIGH SCHOOL DISTRICT

NOTICE IS HEREBY GIVEN by Community Facilities District No. 99-1 (Pacific Highlands Ranch) of the San Dieguito Union High School District ("CFD No. 99-1") pursuant to Government Code Section 53330.5 that the lien for special taxes levied on hereinafter described specific parcels within CFD No. 99-1, approved pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (commencing with Government Code Section 53311), and identified by way of that document recorded as follows:

NOTICE	OF SPECIAL TAX LIEN – Community Facilities District No. 99-1 of the Sa	m
Dieguito	Union High School District recorded with the San Diego County Recorder's	
office on	as Instrument No	

has been extinguished and such special taxes shall hereinafter permanently cease to be levied on such parcels.

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NOTICE IS HEREBY GIVEN by CFD No. 99-1 that upon recording of this Notice of Cessation and Extinguishment of Lien, the above-described lien for special taxes is hereby cancelled as against the following described property:

> Assessor's Parcel No(s) [Insert APNs]

Legal Description

[Insert legal description.] This Notice of Cessation and Extinguishment of Lien does not affect, or extend to, any properties other than as specified above. For further particulars as to the boundaries of CFD No. 99-1, reference is hereby made to the boundary map of CFD No. 99-1 as previously filed as Instrument No. _____ in the Office of the Recorder for the County of San Diego, State of California, on _____. DATED: _____, 2002 Clerk of the Board of Trustees of the San Dieguito Union High School District STATE OF CALIFORNIA SS. COUNTY OF On ______ before me, ______, a notary public in and for said State, personally appeared ______ personally known to me (or 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. WITNESS my hand and official seal. Signature _____ (Seal)

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EXHIBIT J

METHODOLOGY FOR CALCULATING NOTE AND INSTALLMENT PAYMENT REDUCTION

School District and Landowner have agreed on a net present value of \$504,667 for the additional property tax liability assumed by Landowner in exchanging the Exchange Parcel for the Gonzalves Property. The parties agree that such net present value would decrease if the County Tax Assessor determined an assessed valuation for the Gonzalves Property of less than \$6,500,000 or if the City were to acquire the Gonzalves Property prior to June 30, 2013. If either event occurs, the outstanding, unpaid installment payments of the purchase price of Parcels 1 and 2 and the outstanding principal amount of the Note shall be reduced as set forth below.

- 1. Determine if the assessed valuation of the Gonzalves Property is less than \$6,500,000 or the City has acquired the Gonzalves Property prior to June 30, 2013.
- 2. Recalculate the net present value of Landowner's property tax liability using the reduced assessed valuation or early acquisition date to determine Landowner's remaining property tax liability according to the attached spreadsheet. For example, if the City acquires the Gonzalves Property earlier than June 30, 2013, Pardee's remaining property tax liability shall be zero for each fiscal year after the City's acquisition and may be reduced in the fiscal year in which the property is acquired, if the County approves an exemption. If the County Tax Assessor reduces the assessed valuation of the Gonzalves Property, Landowner's remaining tax liability shall be a reduced amount based upon the new assessed valuation from the first year in which the new assessed valuation applies until June 30, 2013.
- 3. The reduction in the outstanding, unpaid installment payments of the purchase price of Parcels 1 and 2 and the outstanding principal amount of the Note shall be determined according to the following formula:
 - (1 New NPV) x \$504,667 = Amount of reduction
- New NPV = the amount of the recalculated net present value of Landowner's property tax liability determined pursuant to paragraph 2 above.

Original Parcel APN Size (Acs.) Attails of Value From 17 Table 1918	305-031-05 423.38	01/02	A Tax Bill								T	D erm of An	nalysis
Property Tables 19492 Tables Addie	\$1,600.06 \$1,600.06	/egr >>>	1	2	3	4	5	6	7	8	9	10	11
		2002	Land Acq. 2003	2004	2005	2008	2007	2008	2008	2010	2011	2012	Half Year 2013
Original Park Site Size (Acs.) Prorated Tax	Pardee 12.47	\$2,070.53	\$2,111.94	\$2,154.18	\$2,197.26	\$2,241.20	\$2,286.03	\$2,331.75	\$2,378.38	\$2,425.95	\$2,474.47	\$2,523.96	\$1,287.22
New Park Site Size (Acs.) Assessed Value Rate Ad Valorem Prop Taxes	Gonsalves 12.47 \$6,500,000 1,0167344 \$66,025,70	B Actual Rate	\$66,025.70	\$ 67,346.21	\$68,693.14	\$70,067.00	\$71,468.34	\$72.897.71	\$74,355.66	\$75,842.78	\$77,359.63	\$78,908.82	\$40,242.48
Increase in Taxes	400,023.70		\$63,913.76	\$65,192.04	\$66,495.88	\$67,825.80	\$69,182.31	\$70,565,96	\$71,977.28	\$73,416.82	\$74,885.16	\$76,382.86	\$38,955.26

		9 Years		L_	10.5	Years	
			Reduced Exchange			Reduced	Г
			Parcel			Exchange Parcel	Н
Total Increase in Taxes	\$	623,465.01	Acreage (1)	5	738,793.13	Acreage (1)	
NPV of Increase @ 5%	\$	489,222.94	1.24	\$	558,891.73	1.42	Ш
NPV of Increase @ 6%	S	487,571.59	1.18	\$	530,744.53	1,34	-
NPV of Michigan (2) 7%	5	447/230183	FIRE	8	60ME97/48	1728	1
NPV of Increase @ 8%	\$	428,388.58	1.08	\$	480,475.86	1.22	
NPV of Increase @ 9%	s	410,642.44	1.04	\$	458,003.83	1.16	l
NPV of Increase @ 10%	s	393,999.66	1,00	\$	437,102.14	1,11	
NPV of increase @ 11%	\$	378,375.68	0.96	\$	417,636.38	1.06	l
NPV of Increase @ 12%	s	363,693.37	0.92	\$	399,485.31	1.01	

C Discount Rates

Value per Acre at 11/21/02

\$ 394,931

(1) NPV divided by \$394,931 per acre.

Exhibit C

Consent of Escrow Agent

NOTE: PURSUANT TO SECTION 26.13 THE EXHIBIT IS TO BE INITIALED AND ATTACHED BEFORE CLOSE OF ESCROW.

Exhibit D

Escrow Instructions

NOTE: PURSUANT TO SECTION 26.13 THE EXHIBIT IS TO BE INITIALED AND ATTACHED BEFORE CLOSE OF ESCROW.

Exhibit E

Non-Foreign Affidavit

NOTE: PURSUANT TO SECTION 26.13 THE EXHIBIT IS TO BE INITIALED AND ATTACHED BEFORE CLOSE OF ESCROW.

Exhibit F

Preliminary Report

NOTE: PURSUANT TO SECTION 26.13 THE EXHIBIT IS TO BE INITIALED AND ATTACHED BEFORE CLOSE OF ESCROW.

Exhibit G

Transmittal Dated January 16, 2003, to Steven Ma from Beth Fischer (2 pages)

EXHIBIT G

12626 High Bluff Drive, Suite 100 San Diego, CA 92130 Phone: 858.794.2500 Fax: 858.794.2599

TRANSMITTAL

Date:

January 16, 2003

To:

Steven Ma

From:

Beth Fischer

Pardee Homes, San Diego

Via:

Overnight

Subject:

Pacific Highlands Ranch

Cc:

Steve Levy

John Yeager (without documents)

Enclosed are the items you requested.

- 1. Vesting Tentative Map Existing Conditions.
- Order No. R9-2002-179, Waste Discharge Requirements and Section 401 Water Quality Certification for Pardee Homes Pacific Highlands Ranch Phases 3 & 4 (Units 5 through 16) Development Project. California Regional Water Quality Board, dated August 2002.
- 3. Pacific Highlands Section 404 Permit, Units 1 16, Glenn Lukos Associates, dated December 2002.
- 4. Mitigation Monitoring and Reporting Program Pacific Highlands Ranch Subarea Plan LDR No. 96-7918.
- 5. Environmental Impact Report, Pacific Highlands Ranch, Units 12-16, Vesting Tentative Map Site, City of San Diego Development Services.
- 6. Planning Commission Staff Report, Pacific Highlands Ranch Units 12-16, dated December 5, 2002.
- 7. California Department of Fish and Game 1603 Agreement.
- 8. Department of the Army, Corps of Engineers, Permit, date November 12, 2002.
- 9. Soil and Geologic Reconnaissance, Pacific Highlands Ranch Units 12 16, Geocon Incorporated, dated October 11, 2002.
- Notice of Determination filed on July 30, 1998 for Master EIR; Notice of Determination filed on July 22, 1999; Copy of Resolution No. R-290520 adopted on July 28, 1998; Copy of the adopted Candidate Findings and Statement of Overriding

ITEM 19

Considerations Regarding the Final Master EIR; Mitigation Monitoring and Reporting Program Pacific Highlands Ranch Subarea Plan LDR No. 96-7918

- 11. Pacific Highlands Ranch Project Book 1.
- 12. Date of Certification of the Master Environmental Impact Report No. 96-7918, Resolution No. R-290520
- 13. Summary Report and Complete Appraisal of 67.86 Acres at Pacific Highlands Ranch, Integra, dated November 30, 2001.
- 14. Pacific Highlands Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2003.
- 15. Map, Units 12 16 Proposed Recycled Water Distribution System.
- 16. Pacific Highlands Ranch Units 12 16 Sewer Study.
- 17. Pacific Highlands Ranch Units 12 16 Water Study.
- 18.

Exhibit H

Scope of Services for Site Improvements San Dieguito Union High School District

The Property subject to this Agreement and the Pardee Property subject to the Exchange Agreement defined above (referred to in full hereafter in this Exhibit H as "the Property") shall be delivered to Buyer in compliance with the Approved Grading Plan approved by the City of San Diego for unit 15 ("the Approved Grading Plan."). Buyer has performed testing for toxic contaminants on the Property, and Buyer has been notified by the Department of Toxic Substances Control that the Property has been approved for acquisition as a school site. The Property will be delivered to Buyer as a "super pad," defined as a sheet graded site in accordance with the Approved Grading Plan, including grubbing, soil compaction, utilities stubbed to the site, erosion control and excluding foundation and paving on site. Seller shall install the necessary infrastructure improvements to the Property (including arterial roads and utility mains and laterals and storm drains) at Seller's expense prior to the Close of Escrow. Possession of the Property shall be delivered to Buyer at Close of Escrow. Super pad improvements are further defined as follows:

- I. Seller shall stub all wet and dry utilities (conduit and/or piping) to the Property in accordance with the plans by Latitude 33, including Pacific Highlands Ranch Unit 15 Phase 1 High School Site (Drawing #32172-D) and Town Center Loop, Street B and Unit 15 Sewer and Water (Drawing #32477-D), as approved by the City of San Diego and the utility companies, as applicable. Seller shall include points of connection to accommodate Buyer's laterals to proposed school buildings provided that Buyer provides Seller with specific design information regarding the location and size of each lateral and point of connection by May 15, 2003. Buyer shall reimburse Seller for the marginal cost of said points of connection.
- II. Seller shall furnish an as-graded Geotechnical report documenting the Geotechnical data and compaction test results for the site, per Title 24 of the California Code Regulations.
- III. The super pad grading will require the use of imported soils. Seller shall use commercially reasonable efforts to ensure that the imported materials are free of any Hazardous Substances. Commercially reasonable efforts of Seller will take in to consideration that the site is to be used for public school purposes. Without limiting the generality of the foregoing, Seller will require its contractor to bury the top four (4) feet of soil from the offsite area in the deepest fill areas on the Property. This soil will not be placed within three (3) vertical feet of the final grade elevation. The Seller will provide a report to the Buyer which will contain documentation that the top four (4) feet of soil

from the offsite area was placed in the deepest fill areas of the Property. The report will be signed by a geologist or engineer registered in the State of California.

- IV. After the super pad improvements are complete, site tests may be undertaken by Buyer, at Buyer's election, to demonstrate that soil content is consistent with previous environmental testing. If Buyer undertakes testing of the site, Buyer shall provide Seller forty-eight (48) hours telephonic notice of the testing in order for Seller in its discretion to attend the testing and obtain its own samples for testing. If tests show soil content is not consistent with previous environmental testing, Seller will remove the unacceptable fill soil.
- V. Seller shall complete all offsite street improvements, including but not limited to street, sidewalks, lighting, etc., as required by City approved street improvement plans in accordance with drawings by Latitude 33 approved by the City of San Diego and in coordination with NTD plans for the site.
- VI. Upon completion of grading, Seller shall prepare an as-built survey of the site demonstrating that the site was graded to within two-tenths of a foot (+/-0.2') of design grades shown on the Approved Grading Plan. A Land Surveyor, or Civil Engineer authorized to practice land surveying in the State of California shall prepare the survey.
- Upon completion of grading, Seller shall provide written certification that the site grading conforms to the lines and grades shown on the Approved Grading Plan.

Exhibit I

Legal Description of Access Easement
and

Drawing of Location of Access Easement
(3 pages)

SEE ATTACHED

EXHIBIT "I"

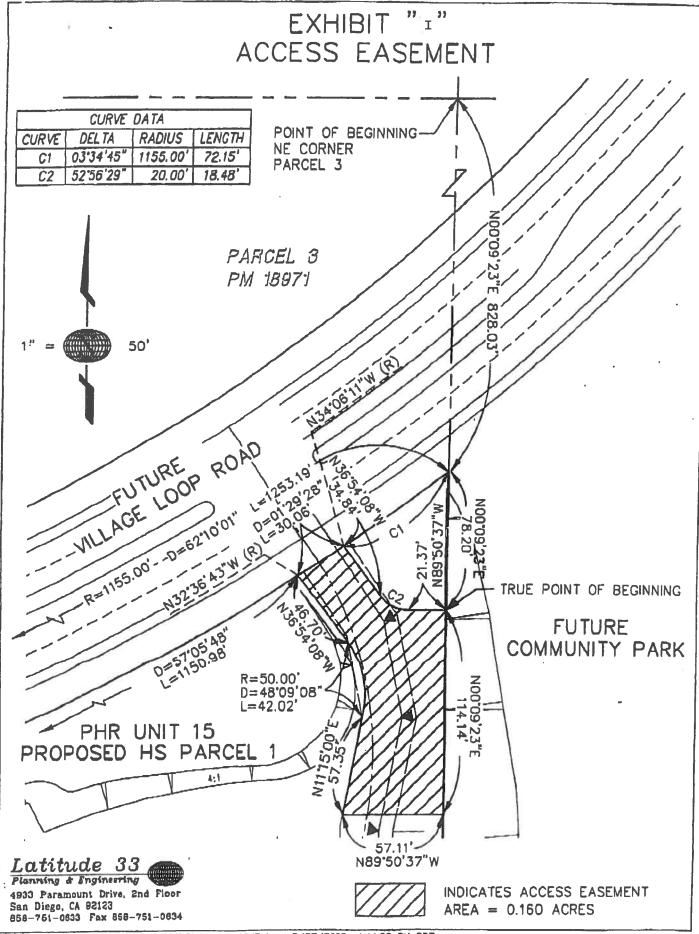
LEGAL DESCRIPTION ACCESS EASEMENT

A PORTION OF PARCEL 3 OF PARCEL MAP NO. 18971 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA RECORDED MAY 23, 2002 AS FILE NO. 2002-0439514 IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL 3; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3,

1. SOUTH 00°09'23" WEST	906.23 FEET	TO THE TRUE POINT OF BEGINNING ; THENCE CONTINUING ALONG SAID EASTERLY LINE
2. SOUTH 00°09'23" WEST	114.14 FEET;	THENCE LEAVING SAID LINE .
3. NORTH 89°50'37" WEST	57.11 FEET;	THENCE
4. NORTH 11°15'00" EAST	57.35 FEET	TO THE BEGINNING OF A 50.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE ALONG THE ARC OF SAID CURVE
5. NORTHEASTERLY AND NORTHWESTERLY	42.02 FEET	THROUGH A CENTRAL ANGLE OF 48°09'08", THENCE
6. NORTH 36°54'08" WEST	46.70 FEET	TO A POINT ON A 1155.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A LINE RADIAL TO SAID POINT BEARS SOUTH 32°36'43" EAST; THENCE ALONG THE ARC OF SAID CURVE
7. NORTHEASTERLY	30.06 FEET	THROUGH A CENTRAL ANGLE OF 01°29'28", A LINE RADIAL TO SAID POINT BEARS SOUTH 34°06'11" EAST; THENCE
8. SOUTH 36°54'08" EAST	34.84 FEET	TO THE BEGINNING OF A 20.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE ALONG THE ARC OF SAID CURVE
9. SOUTHEASTERLY	18.48 FEET	THROUGH A CENTRAL ANGLE OF 52°56'29"; THENCE
10. SOUTH 89°50'37" EAST	21.37 FEET	TO THE True point of Beginning .

SAID EASEMENT CONTAINS AN AREA OF 0.160 ACRES MORE OR LESS.

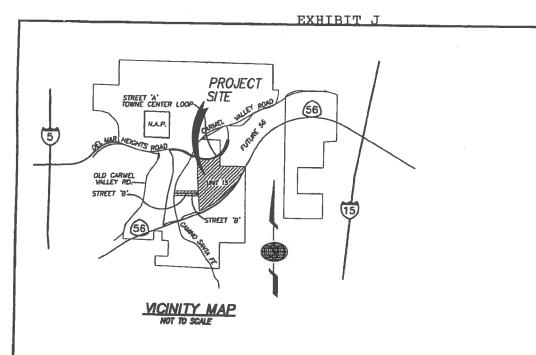


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BY:		
	JOHN EARDENSOHN, L.S. 5278	_
	(MY LICENSE EXPIRES 12-31-03)	
DATE	ED:	

Exhibit J Drawings of the Locations of Easements Drainage, Sewer, Water and General Utility Easement and Street Dedication (8 pages marked XXXXX-1-B through XXXXX-8-B)

01-00696



ASSESSOR'S PARCEL NUMBER:

305-031-12

REFERENCE DRAWING:

PM 18791

MASS GRADING PLANS 32010-D MASS GRADING PLANS 32172-D

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS DRAWING IS THE EASTERLY LINE OF PARCEL 3 OF PARCEL MAP NO. 18971, I.E. N0009'23"E

LEGEND:

FSUT INDICATES EASEMENT

P.O.B. INDICATES POINT OF BEGINNING

T.P.O.B. INDICATES TRUE POINT OF BEGINNING

(R) INDICATES RADIAL

INDICATES GENERAL UTILITY EASEMENT ACQUIRED PARCEL 'A' = 1.076 ACRES
PARCEL 'E' = 0.427 ACRES
PARCEL 'K' = 0.485 ACRES

INDICATES DRAINAGE EASEMENT ACQUIRED PARCEL 'B' = 0.173 ACRES
PARCEL 'C' = 0.320 ACRES
PARCEL 'F' = 0.004 ACRES
PARCEL 'L' = 0.104 ACRES

KOKOH

INDICATES SEWER EASEMENT ACQUIRED PARCEL '0' = 0.138 ACRES PARCEL 'G' = 0.439 ACRES PARCEL 'H' = 0.386 ACRES PARCEL '1' = 0.221 ACRES

INDICATES STREET DEDICATION ACQUIRED PARCEL 'J' = 1.973 ACRES
PARCEL 'M' = 0.029 ACRES

INDICATES WATER EASEMENT ACQUIRED PARCEL 'N' = 0.478 ACRES

Latitude 33

Planning and Engineering 4933 Paramount Drive, Suite 200 San Diego, CA 92123 858-751-0633 Fax 858-751-0834

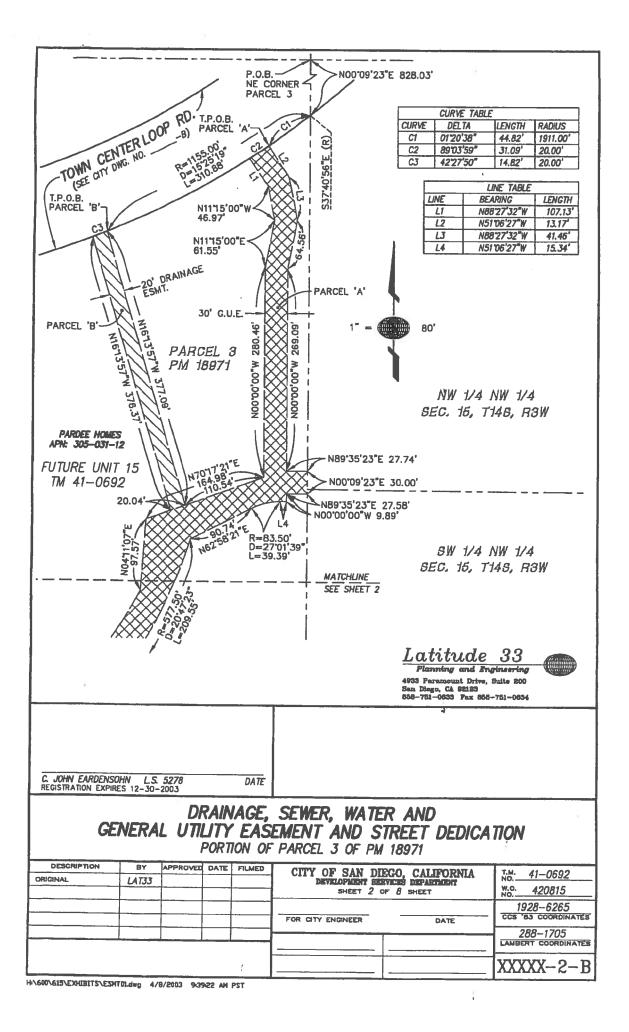
C. JOHN EARDENSOHN L.S. 5278
REGISTRATION EXPIRES 12-30-2003

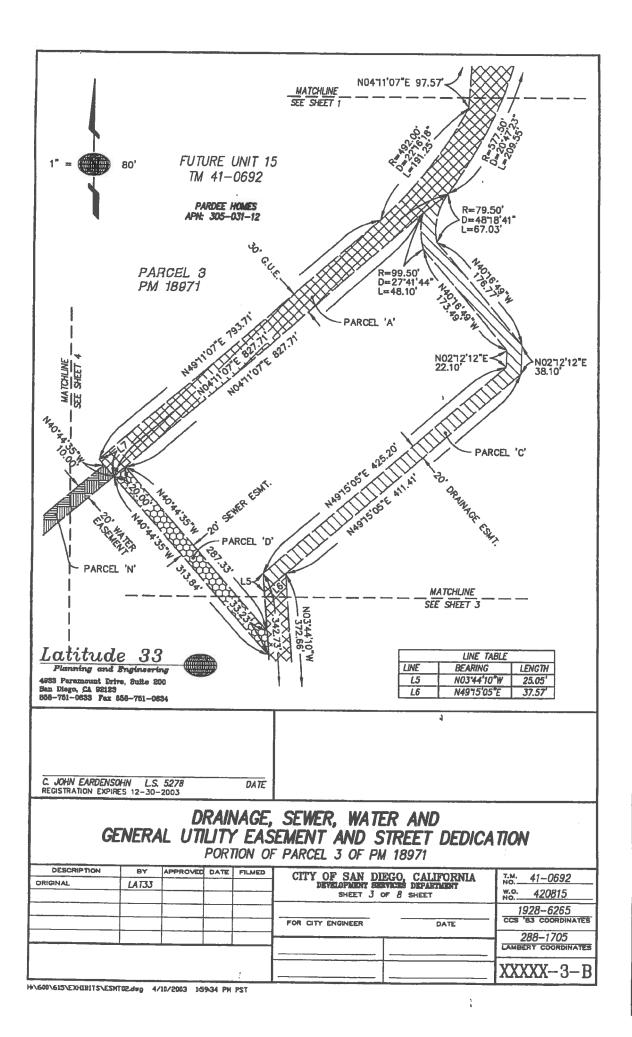
DATE

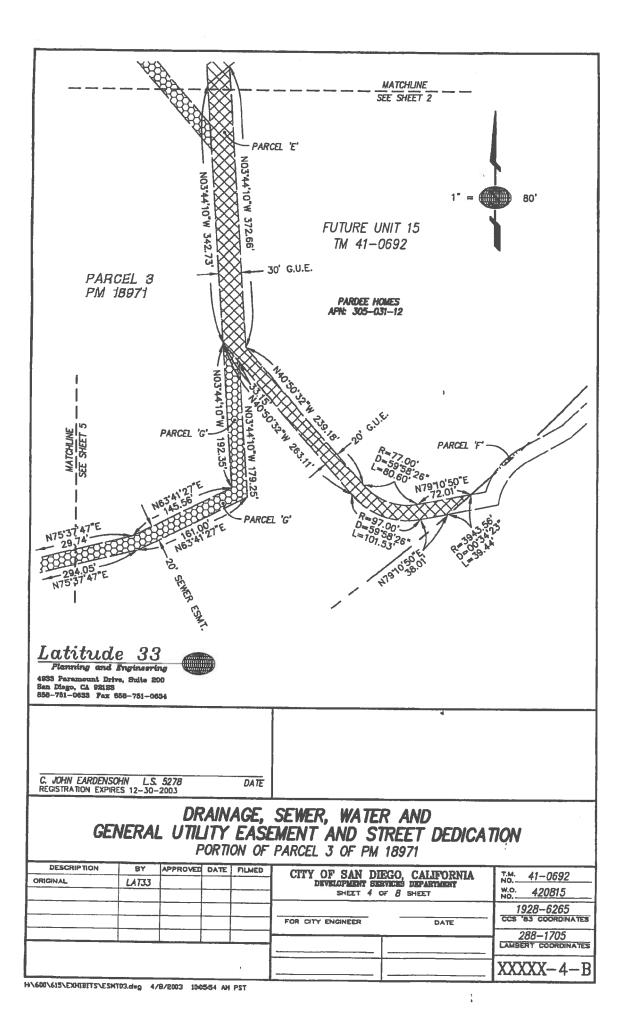
DRAINAGE, SEWER, WATER AND GENERAL UTILITY EASEMENT AND STREET DEDICATION PORTION OF PARCEL 3 OF PM 18971

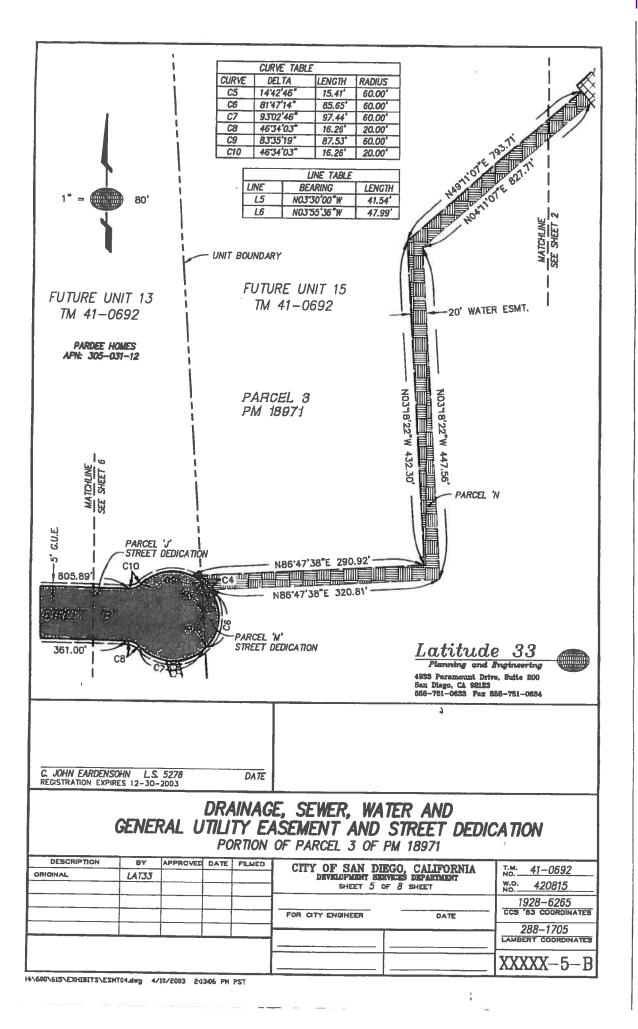
DESCRIPTION	BY	APPROVED	DATE	FILMED	CHILL OF CAN DECO CALLED			
ORIGINAL	LA133				CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT	T.M. 41-0692		
					SHEET 1 OF 8 SHEET	w.o. 420815		
	 				FOR CITY ENGINEER DATE	1928-6265 CCS '83 COORDINATES		
	 		-		FOR CITY ENGINEER DATE	288-1705		
		-				LAMBERT COORDINATES		
						XXXXX-1-B		

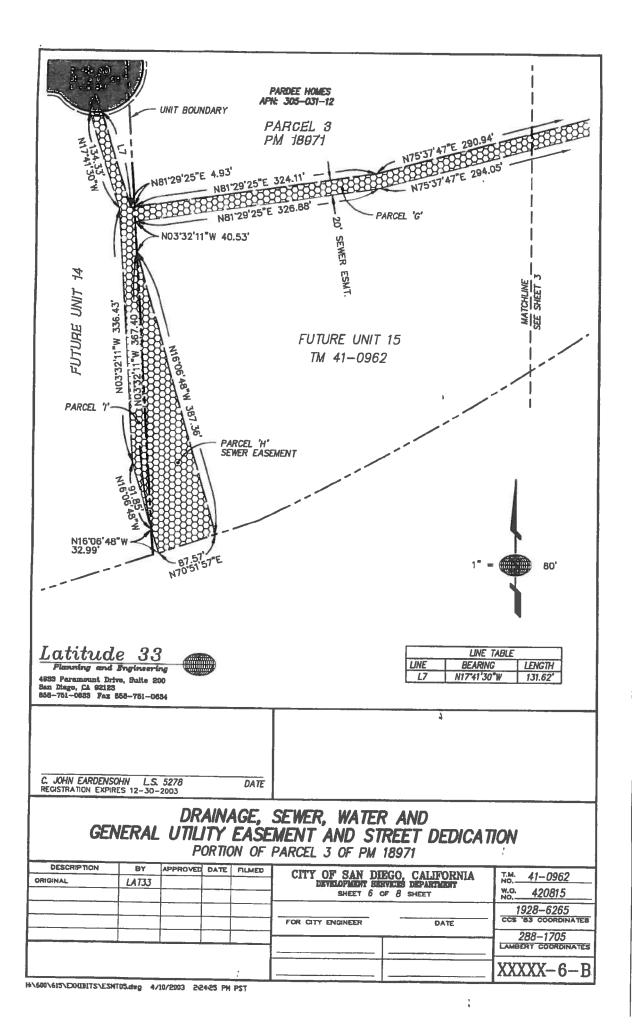
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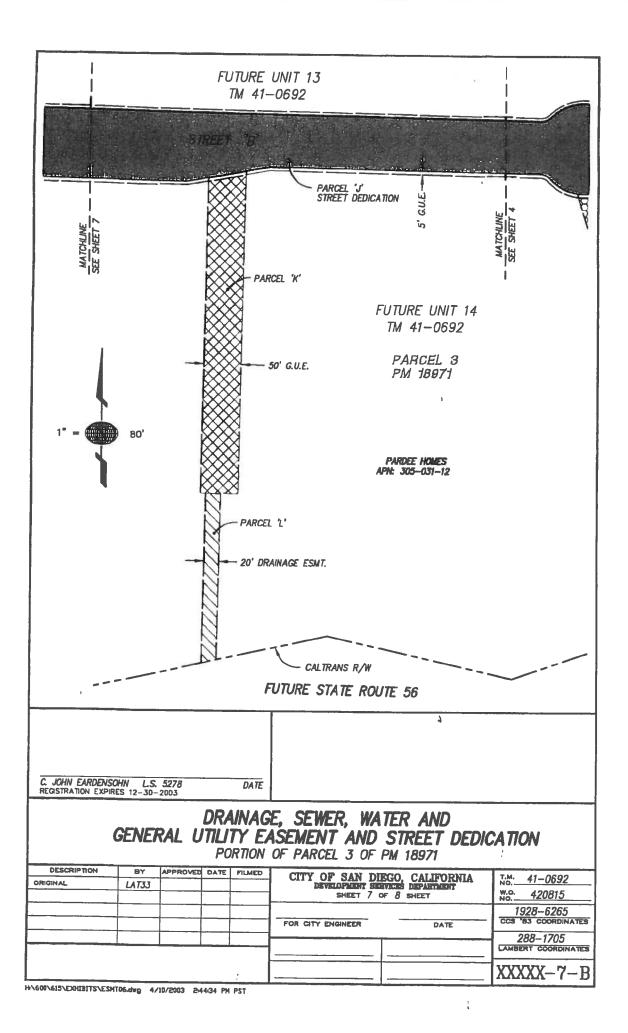












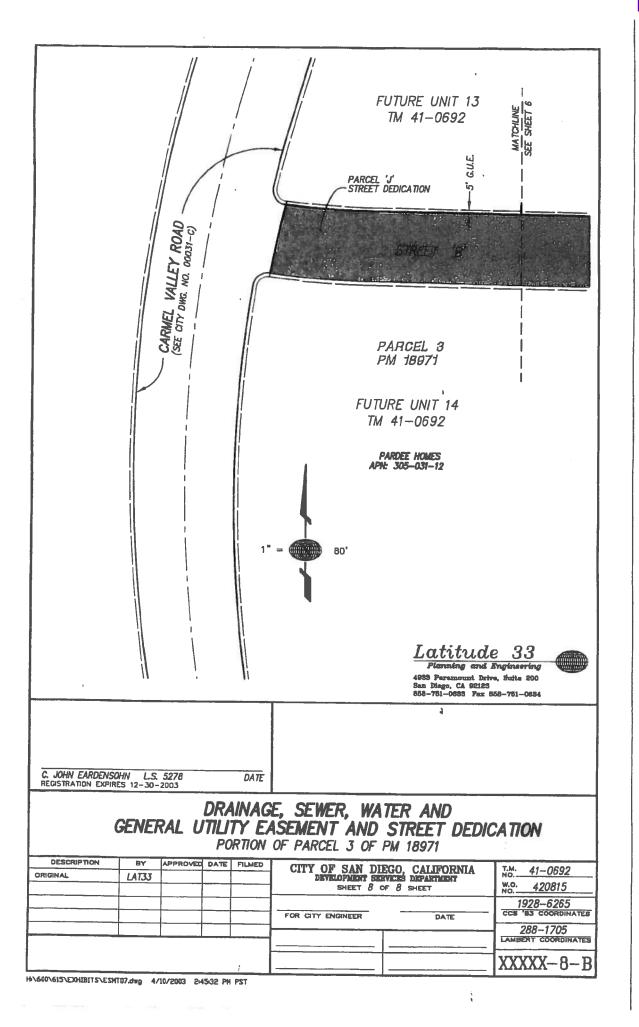


Exhibit H

Descriptions of Grading and Soil Depositing Improvements by Buyer Prior to Close of Escrow

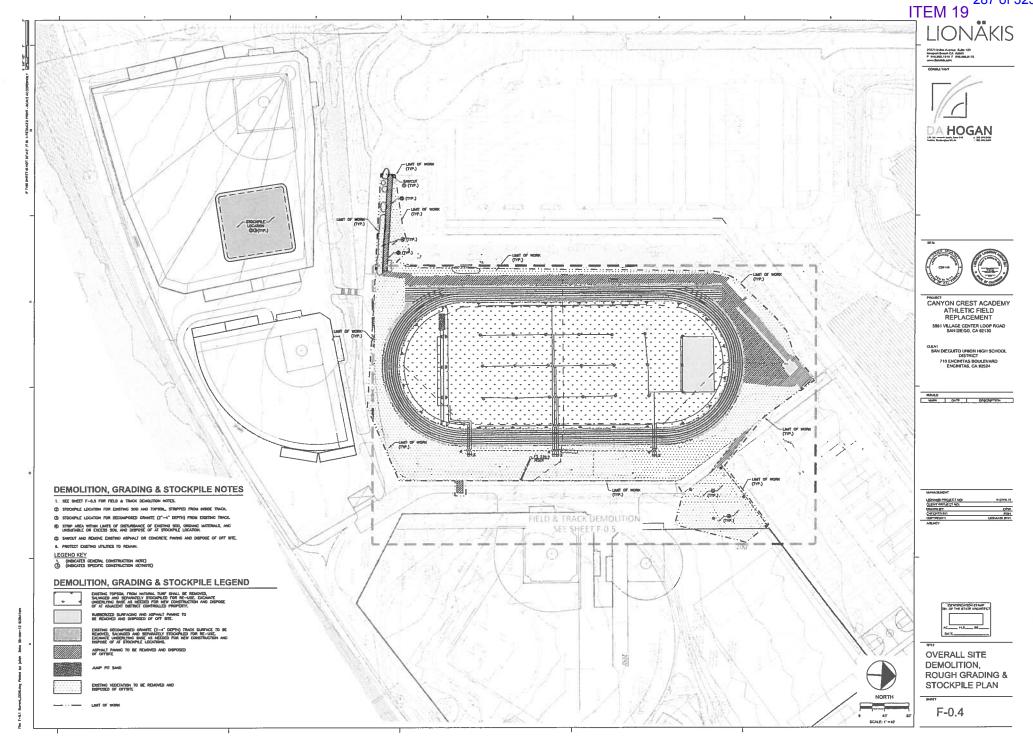
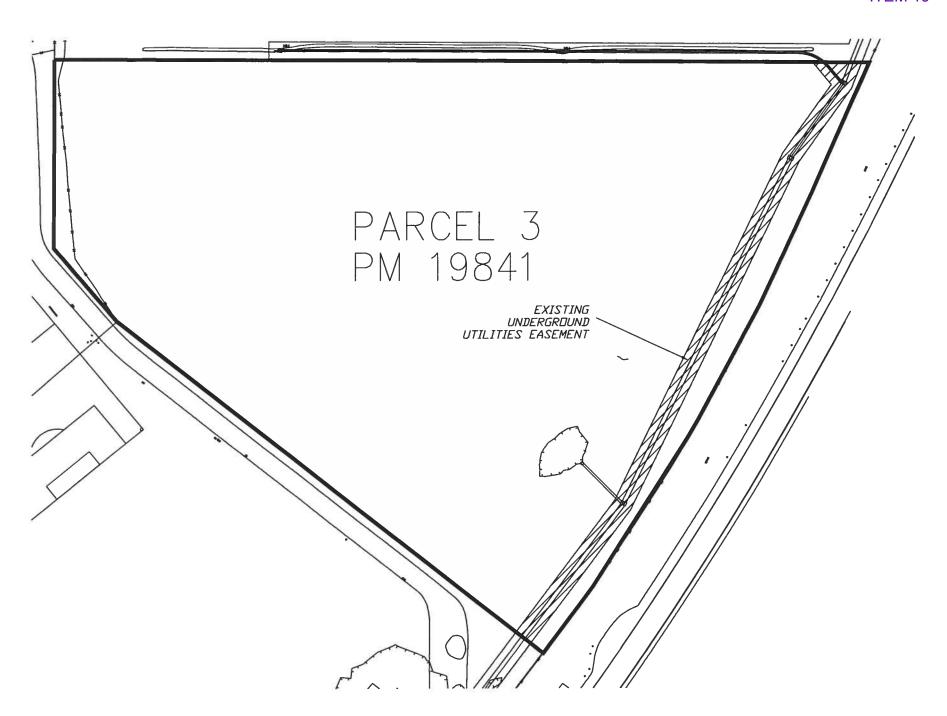


Exhibit I

DESCRIPTIONS OF EASEMENTS ON PARCELS 3 AND 5; DRAWING OF LOCATION OF STORMWATER EASEMENT – PARCEL 3 DRAWING OF LOCATION OF SANITARY EASEMENT – PARCEL 5



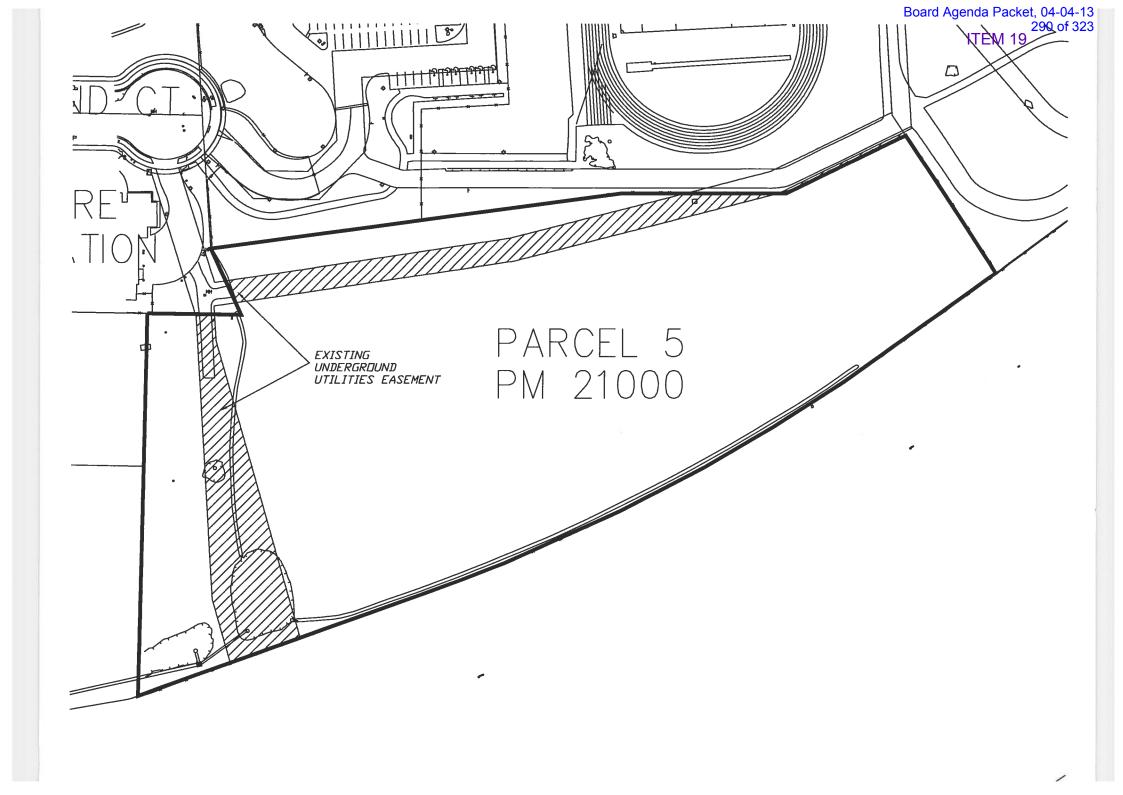


EXHIBIT B (TO RESOLUTION)

EXHIBIT B CERTIFICATE OF ACCEPTANCE

Pardee Homes Property
SCHOOL SITE PURCHASE AGREEMENT FOR MIDDLE SCHOOL
AND ESCROW INSTRUCTIONS

Inis is to certify that	the interest in real property conveyed by the deed or grant
dated	_ from Pardee Homes to the San Dieguito Union High
School District, San Diego	County, a California public school district, is hereby
accepted by the undersigned	ed officer on behalf of the Board of Trustees of the San
Dieguito Union High School	District pursuant to authority conferred by Resolution of the
Board of Trustees of said Di	strict adopted on April 4, 2013, and the grantee consents to
the recordation thereof by its	duly authorized officer.
Dated:	
	ERIC DILL, ASSOCIATE SUPERINTENDENT,
	BUSINESS SERVICES

San Dieguito Union High School District

INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 18, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Dr. Michael Grove, Executive Director of Curriculum

and Assessment

SUBMITTED BY: Ken Noah, Superintendent

SUBJECT: TITLE III PROGRAM IMPROVEMENT PLAN

ADDENDUM

.......

EXECUTIVE SUMMARY

Title III of the federal Elementary and Secondary Education Act provides supplemental funding to school districts to implement educational programs designed to help English Learners and immigrant students attain English language proficiency and meet the state's academic and content standards.

All school districts receiving Title III funding are required to meet the Annual Measurable Achievement Objectives (AMAOs) for their English Learner subgroup. While SDUHSD has made, and continues to make, measurable progress on standardized assessments for the English Learner subgroup, the district has not satisfied one of the three Annual Measurable Achievement Objectives: AMAO 3, English Learner achievement on the California Standards Test in English Language Arts (ELA).

The Title III Improvement Plan Addendum was developed by a District Leadership Team (DLT) and the district Instructional Services department using data collected from the English Learner Subgroup Self-Assessment (ELSSA) tool to identify the strengths and weaknesses of the current LEAP and Title III Year 2 Plan Addendum in terms of its effectiveness with English Learners. The DLT met to review and analyze district EL achievement data and to make recommendations for the district Title III Year 4 Improvement Plan Addendum (IPA).

This Title III Year 4 IPA identifies specific goals, strategies, and action steps that will be taken to ensure that all English Learners at SDUHSD receive a high quality instructional program that provides access to grade level state standards in all content areas in middle and high school.

RECOMMENDATION:

It is recommended that the Board approve the Title III Program Improvement Plan Addendum as shown in the attached supplement(s).

FUNDING SOURCE:

Implementation of the Title III Program Improvement Plan Addendum will require use of Federal and State Categorical funds as well as General Funds allocated for staff development.

Directions: Using the template, provide information requested for each cell in the outline. The cells expand to allow space needed for narrative responses under each item. All Title III LEAs must submit a copy of this Needs Assessment to the Title III Regional COE Lead as part of the review process. The final version is uploaded into CAIS as an attachment under the Needs Assessment item in the Recommended Documents tab.

- 1. Briefly summarize EL linguistic and academic performance challenges, and identify and describe those key factors of the instructional program that prevented the local educational agency (LEA) from meeting Title III AMAOs.
 - a. Describe findings from analyses of the CST, CAPA, CMA, CELDT, CAHSEE, state tools (e.g., ELSSA, APS), Graduation/Drop Out rates (if appropriate), and other assessments used by the LEA to measure EL student English proficiency and academic achievement, and findings derived from other data analyses as these relate to the three AMAOs (Goals 2A, 2B, and 2C).

San Dieguito Union High School District (SDUHSD) is a grade 7-12 district with four middle schools, four comprehensive high schools, one alternative high school and one adult school. SDUHSD serves a student population of approximately 12,365 students. The English Learner (EL) population of the district is about 5% of the total student population.

While SDUHSD has made, and continues to make, measurable progress on standardized assessments for the English Learner subgroup, the district has not satisfied one of the three Annual Measurable Achievement Objectives: AMAO 3, English Learner achievement on the California Standards Test in English Language Arts (ELA). As a result, SDUHSD has developed a Title III Year 4 Improvement Plan that will serve as an addendum to the Local Education Agency Plan (LEAP).

The addendum plan was developed by a District Leadership Team (DLT) and the district Instructional Services department using data collected from the English Learner Subgroup Self-Assessment (ELSSA) tool to identify the strengths and weaknesses of the current LEAP and Title III Year 2 Plan Addendum in terms of its effectiveness with English Learners. The DLT met to review and analyze district EL achievement data and make recommendations for the district Title III Year 4 Improvement Plan Addendum (IPA). This Title III Year 4 IPA identifies specific goals, strategies, and action steps that will be taken to ensure that all English Learners at SDUHSD receive a high quality instructional program that provides access to grade level state standards in all content areas in middle and high school. As this Title III Improvement Plan Addendum is implemented, the expectation is that SDUHSD will continue to improve systems and programs to ensure that EL achievement meets or exceeds state and federal requirements and that district resources are allocated effectively.

An analysis of data was conducted to prepare the SDUHSD Title III Year 4 Improvement Plan Addendum. The analysis was based on data from the California English Language Development Test (CELDT), California Standards Tests (CST), California High School Exit Examination (CAHSEE), California Alternate Performance Assessment (CAPA), and the California Modified Assessment (CMA) as appropriate for the most recent four-year period using the ELSSA tool.

The EL Subgroup must meet Adequate Yearly Progress (AYP) in order for SDUHSD to exit from Title III Program Improvement. AYP for English Learners is measured by the following Annual Measurable Achievement Objectives:

- AMAO 1: Percent making annual progress in English
- AMAO 2: Percent attaining English proficiency
- AMAO 3: Percent proficient in English Language Arts (ELA) and Mathematics

EL Enrollment History at SDUHSD:

English Learner enrollment at SDUHSD has decreased slightly over the last 4 years. Considering English Learners at all grade levels, 63% have been in US schools for 6 or more years. 37% have been enrolled for 5 years or less. Those students enrolled in US schools for 6 years or more are now considered Long Term English Learners (LTELs). A relatively low number of EL students at SDUHSD are recent immigrants.

AMAO 1 and 2 Data Analysis (Goals 2A and 2B)

San Dieguito Union High School District has met all State targets for AMAO 1 and AMAO 2 for the last four years. English Learner achievement has consistently exceeded the state and federal targets in both annual progress in learning English (AMAO 1) and attaining language proficiency (AMAO 2). The district is slightly below the state growth target averages for students at the Beginning and Early Advanced/Advanced not English Proficient levels of the CELDT. However, both of these CELDT levels show a relatively small number of students and do not indicate any major trends. SDUHSD will continue to monitor the results of AMAOs 1 and 2 in the future to make sure English Learners continue to achieve above state targets.

AMAO 3 Data Analysis (Goal 2C)

AMAO 3 is a measure of English Learners' ability to meet state standards in English Language Arts and Mathematics. It validates these students' ability to access grade level content. SDUHSD EL students are not meeting the state Academic Yearly Progress (AYP) targets for AMAO 3. SDUHSD has not met AMAO 3 for four consecutive years in the area of English Language Arts. Data analysis indicates that while the majority of our students, who have been in SDUHSD schools for 5 years or more, score Early Advanced and Advanced on the CELDT, those same students are scoring below proficient on the CST in English Language Arts. The data analysis also indicates that about 30% of English Learners district wide are testing at the basic proficiency level on the CST. It is important to note that SDUHSD has demonstrated consistent improvement in the number of English Learners who scored proficient or above over the past four years in both English Language Arts and Math (8.6% growth in ELA and 4.5% growth in Math). Despite the growth, the district English Learner population has been unable to keep up with the rising federal targets. During the 2011-12 school year, the EL subgroup at SDUHSD met the Safe Harbor target for Mathematics, but missed the ELA target by 1% (or 5 students, based on the number of students with valid scores).

Reclassified students

It is important to include former EL students (Reclassified Fluent English Proficient, RFEP) for the analysis of English Learner achievement data. At SDUHSD, these high-performing RFEP students represent almost one half of the combined EL + RFEP group, and this number continues to grow yearly. In 2012, SDUHSD reclassified 129 students. RFEP students show relatively strong performance at all grade levels. Overall, 82% of RFEP students perform at the Proficient and Advanced levels in ELA and Math.

CAHSEE Data Analysis

CAHSEE data analysis confirms that it may take 5-7 years of U.S. schooling for EL students to become proficient enough to pass the CAHSEE. At SDUHSD, the EL passing rate for Math (86%) is higher than the passing rate for ELA (80%). However, the EL proficiency rates on the CAHSEE are significantly lower than the passing rates in both subjects (45% for ELA and 55% for Math). Those ELs who have struggled to pass the CAHSEE in ELA are students who have been in US schools for less than 6 years. RFEPs are performing as well or better than English Only students in the CAHSEE district-wide, with 95% of RFEP students scoring proficient in ELA and 92% in Math. **Note:** A student can pass the CAHSEE with a scaled score of 350, but in order to be proficient, the scaled score must be 380 or higher.

b. Describe strengths and weaknesses in the design and implementation of the EL related goals (2A-2G and 5A-B) in the **current** LEA Plan/Addendum, the prior Year 2 Title III Plan, and any other appropriate documents, e.g. the LEAs EL Master Plan. The program dimensions listed below are areas to consider in reviewing current plans.

While SDUHSD is dedicated and committed to serving the needs of English Learners and former English Learners (RFEPs), some aspects of the most recent LEAP and Title III Year 2 Plan Addendum were implemented more effectively than others. The Strengths and Weaknesses of the current San Dieguito Union High School District LEAP and Prior Year 2 Title III Plan include the following:

Instructional program design

STRENGTHS: English Learners are placed in appropriate Structured English Immersion (SEI), mainstream classes, and ELD classes based on a number of factors including: CELDT proficiency levels (with emphasis on reading and writing domains), CST proficiency levels, summative assessments and teacher recommendation. English Learners in levels 4 and 5 are placed in mainstream classes with EL authorized instructors. In addition, CELDT and CST data is used effectively when placing students in intervention classes such as Reading, Algebra Readiness, and Academic Literacy. Placement and grouping is flexible as English Learners often demonstrate uneven academic growth. For students who have not passed Algebra during middle school, a math support class is provided as part of their daily schedule in high school.

WEAKNESSES: Across all grade levels at SDUHSD, there is no clear criterion for providing ELD in mainstream classrooms. At all high school sites, there is a need for an intensive CAHSEE intervention structured to meet the needs of English Learners. Currently CAHSEE intervention occurs after ELs have not passed the test. CAHSEE intervention should be offered before sophomore students take their first CAHSEE test with all the support necessary to increase the number of students not just passing, but also scoring proficient in the CAHSEE.

• Implementation of state and district adopted curricula

STRENGTHS: SDUHSD has adopted SBE approved materials for both ELA and Math. Students in grades 7-8 are provided with SBE-adopted basic core instructional materials. However, the last adoption for ELA was made during the 2002-2003 school year. Teachers in the DLT indicated that the adopted ELA materials are outdated and not optimal to meet the needs of English Learners in ELA. State-approved reading intervention programs for English language arts are available at all school sites and have been implemented with increasing fidelity and expertise over the last three years.

WEAKNESSES: More frequent and formalized administration of EL benchmark assessments is needed to inform curriculum

implementation in a timely manner and to maximize student learning potential. All high school ELD teachers need to use Edge cluster and end of unit e-assessments as benchmarks to measure EL student progress in ELD. In addition, high school ELD teachers need to collaborate after each benchmark assessment is completed.

• Implementation of instructional services and methods

STRENGTHS: All teachers are highly qualified to teach English Learners. SDUHSD provides tutors who work directly with English Learners to assist them with language needs and to support ELs in meeting content standards.

WEAKNESSES: Across the district most of our challenges are in the area of instructional consistency, rigor of instruction and the communication of instructional objectives to students on a regular basis. SDUHSD needs to continue to assign experienced and motivated teachers to teach English Learners. Members of the DLT also shared that it was important to continue to keep intervention classes as small as possible in order to provide the individual attention students require to be successful.

Professional development (Goal 2D)

STRENGTHS: Professional development support at SDUHSD focuses on utilizing Specially Designed Academic Instruction in English (SDAIE) strategies to supplement implementation of state adopted curriculum. SDUHSD has trained over 65 teachers in Advanced SDAIE strategies during the last two years. As this plan is being developed, another 40 instructors will be provided with professional development on these research-based strategies. The DLT indicated the need to continue to provide high quality professional development trainings that specifically highlight sound instructional strategies to support English Learners' access to and success in core ELA/Math curriculum.

WEAKNESSES: To support the transfer of training to classroom practice, a coaching model needs to be implemented at all school sites. All teachers that have attended the Advanced SDAIE trainings or who have ELs in mainstream courses need to be supported by English Learner coaches who provide support and guidance in implementing EL strategies in ELA, Mathematics and other academic areas.

Parent & community participation (Goal 2E)

STRENGTHS: At SDUHSD ELAC and DELAC meetings are well-attended and actively advise school and district planning. District and school site EL coordinators will continue to work to develop strategies to maintain and increase parent involvement opportunities, and to help the parents of English Learners become better informed and able to support the education of their children. Ensuring communication with EL parents is an important goal of the district. Much of the information that is disseminated to the parents (both in English and in Spanish) is covered during ELAC breakout sessions that are scheduled eight times throughout the school year. At all site sessions, specific topics are discussed such as the importance of the CST and CELDT scores. Criteria for reclassification and the interventions that are provided at each site in the areas of ELA and Math are also covered.

WEAKNESSES: While some parents fully participate in school events, some schools could do a better job of providing opportunities for parents to learn much more about how to support their student's learning at home. SDUHSD is working to add more sustained parent involvement and education programs in the near future. Many EL parents have transportation and childcare issues and have difficulty getting to parent involvement opportunities including parent conferences, Back to School Nights, ELAC meetings, and parent education trainings.

Parental Notification (Goal 2F)

Not required.

Services for Immigrant Students if the LEA receives Title III Immigrant funds (Goal 2G)

STRENGTHS: SDUHSD continues to provide basic instructional services to recent immigrants with the support of the SDCOE migrant education program. SDUHSD will continue to support immigrant students with English Language Development. With the support of the SDCOE migrant education program, SDUHSD provides afterschool services for Immigrant students who are not proficient in ELA and Math, as well as tutorial services during instructional time on block days.

WEAKNESSES: Even though migrant parent meetings are held five times a year in conjunction with site ELAC meetings, some migrant parents are still hesitant to participate in school activities. SDUHSD needs to continue to work with the SDCOE migrant program to increase the number of migrant parents participating in school activities.

• Graduation, Drop Out(Goal 5A, B)

STRENGTHS: The graduation rate for ELs at SDUHSD has not been a significant factor in EL achievement. About 94% of ELs at SDUHSD are completing all the graduation requirements on time.

2. Describe factors contributing to the failure to meet AMAO(s). Identify and describe factors that prevented the LEA from achieving the AMAO(s) and explain how the identified factors above were verified from evidence gathered.

The factors identified below were verified by the District Leadership Team through data analysis which indicates that English Learners at SDUHSD are still struggling to meet the targets of AMAO 3 in English Language Arts. Based on the English Learner Self-Assessment (ELSSA) data and the results from the ELSSA surveys, the DLT identified several factors which prevented students from meeting the targets for AMAO 3. The program categories which were identified as areas of need were: English language development in core content areas, professional development, programs that support LTELs, and additional proficiency assessments.

(ie., inconsistent implementation, inadequate PD, inadequate resources) SDUHSD has consistently met AMAO 1. SDUHSD will continue to achieve or exceed the targets for AMAO 1. SDUHSD has consistently met AMAO 2 for this cohort over the last four years.	(ie., data analyses, classroom walk throughs, program evaluation, surveys) Title III accountability reports, ELSSA data analysis Title III accountability reports, ELSSA data analysis
SDUHSD has consistently met AMAO 1. SDUHSD will continue to achieve or exceed the targets for AMAO 1. SDUHSD has consistently met AMAO 2	Title III accountability reports, ELSSA data analysis
SDUHSD will continue to achieve or exceed the targets for AMAO 1. SDUHSD has consistently met AMAO 2	
exceed the targets for AMAO 1. SDUHSD has consistently met AMAO 2	Title III accountability reports, ELSSA data analysis
SDUHSD has consistently met AMAO 2	Title III accountability reports, ELSSA data analysis
•	Title III accountability reports, ELSSA data analysis
for this cohort over the last four years.	
SDUHSD will continue to achieve or	
exceed the targets for AMAO 2, cohort 1.	
SDUHSD has consistently met AMAO 2	Title III accountability reports, ELSSA data analysis
for this cohort over the last four years.	
SDUHSD will continue to achieve or	
exceed the targets for AMAO 2, cohort 2.	
SDAIE strategies for ELs in English Language Arts and Math are not consistently implemented in mainstream courses.	Data Analyses, program evaluation, ELSSA surveys, DLT feedback.
e S f	DUHSD will continue to achieve or exceed the targets for AMAO 2, cohort 1. DUHSD will continue to achieve or exceed the targets for AMAO 2, cohort 2. SDAIE strategies for ELs in English Language Arts and Math are not consistently implemented in

	 Professional development and support has not translated to full implementation of SDAIE strategies in English Language Arts classrooms. Lack of Ancillary materials for English Learners. Lack of awareness about English Learner achievement at some sites including the fact that ELs need to score proficient on the CAHSEE and not just achieve a passing score. Lack of consistent formative language proficiency assessments for tracking progress of English Learners. Lack of effective programs and strategies tailored to support and motivate long-term English Learners. 	
AMAO 3 Mathematics	SDUHSD met the SH target for AMAO 3 in Mathematics last year. SDUHSD will continue to monitor EL achievement in this area.	Data Analyses, ELSSA surveys

3. Write a brief description/bulleted outline of each goal below that was identified as an area of focus from the Needs Assessment; the details for these will be part of your plan. Goal statements should be Specific, Measurable, Attainable, Realistic and Timely (i.e., SMART Goals), since they must be made actionable through strategies, actions and tasks in the Title III Improvement Plan.

Goal 2A: (AMAO 1 Annual Progress Learning English)

• SDUHSD has consistently met AMAO 1. SDUHSD will continue to achieve or exceed the targets for AMAO 1.

Goal 2B: (AMAO 2 English Proficiency)

• SDUHSD has consistently met AMAO 2 for both cohorts over the last four years. SDUHSD will continue to achieve or exceed the targets for AMAO 2.

Goal 2C: (AMAO 3-AYP for ELs in English Language Arts)

An increasing percentage of English Learners will attain proficiency in English Language Arts annually. By August 2013, the percentage of English Learners attaining proficiency in English Language Arts will increase from 51% to 56%, as measured by the CST, CMA, CAPA and/or CAHSEE, in order to move toward state defined expectations for proficiency in English Language Arts.

- District office personnel will meet with high school principals to revise CAHSEE preparation and intervention programs for ELs in ELA. All high school principals will make sure that ELs have access to ELA CAHSEE preparation in order to increase the number of ELs passing the test and attaining proficiency. The Executive Director of Curriculum, EL coordinator and principals will establish extended learning opportunities for ELs to receive additional support using appropriate assessment and intervention tools to individualize instruction.
- SDUHSD will implement an Academic Language Development (ALD) course for Long Term English Learners.
- District will provide schools with 1 or more ELD Resource Teacher. The ELD Resource Teacher will provide initial and on-going professional development and coaching to all ELA certificated staff in the delivery of effective ELD instruction.

- Provide Collaboration time to all teachers who have ELs in mainstream and ELD classes to use assessment results to inform instruction. All school sites hold meetings, by grade level or content area, at which teachers discuss formative, benchmark and other assessment results and plan instruction. The English Learner subgroup must become a critical part of these discussions.
- In addition to CST, CELDT, and other summative assessments, SDUHSD is implementing the use of CTB/MCGraw-Hill LAS Links online assessments as an additional assessment for LTELs. This online assessment will be administered to LTEL students three times yearly using forms A and B to provide teachers with students' English language proficiency in reading, writing, speaking and listening. This information will be used for ALD program placement, to monitor EL student progress, and to inform instruction.

Goal 2C: (AMAO 3-AYP for ELs in Mathematics)

An increasing percentage of English Learners will attain proficiency in Mathematics annually. By August 2013, the percentage of English Learners attaining proficiency in Mathematics will increase from 52.3% to 57.1%, as measured by the CST, CMA, CAPA and/or CAHSEE, in order to move toward state defined expectations for proficiency in Mathematics.

- SDUHSD met the SH target for AMAO 3 in Mathematics last year. SDUHSD will continue to monitor EL achievement in this area.
- District office personnel will meet with high school principals to revise Math CAHSEE preparation and intervention
 programs for ELs in ELA. All high school principals will make sure that ELs have access to Math CAHSEE preparation in
 order to increase the number of ELs passing the test and attaining proficiency. The Executive Director of Curriculum, EL
 coordinator and principals will establish extended learning opportunities for ELs to receive additional Math support
 using appropriate assessment and intervention tools to individualize instruction.
- District will provide schools with 1 or more ELD Resource Teacher. The ELD Resource Teacher will provide initial and on-going professional development and coaching to all Math certificated staff in the delivery of effective ELD instruction.

Provide Collaboration time to all teachers who have ELs in mainstream Math classes to use assessment results to inform
instruction. All school sites hold meetings, by grade level or content area, at which teachers discuss formative,
benchmark and other assessment results and plan instruction. The English Learner subgroup must become a critical
part of these discussions.

Goal 2D: (High Quality Professional Development)

Support Secondary English Language Arts through high quality professional development:

• SDUHSD will continue to provide professional development on SDAIE strategies to all middle and high school certificated staff who works directly with English Learners. Professional development will be designed to build students' English language proficiency as well as their content knowledge in ELA and Mathematics.

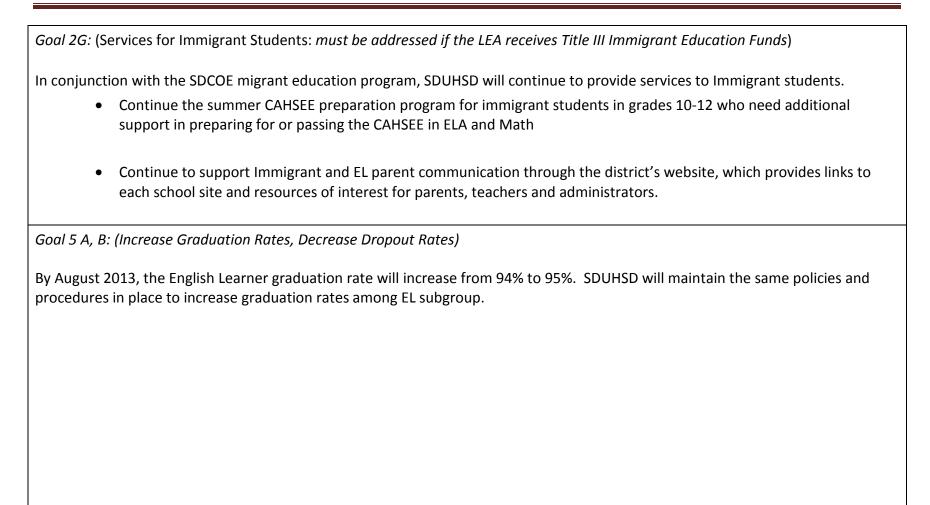
Goal 2E: (Parent and Community Participation)

SDUHSD will promote the involvement of more parents and community members in the education of English learners. By June 2014 the district will improve and increase parent outreach strategies so that more parents of ELs are active and effective participants in the education of their children.

- EL parents will receive information regarding program improvement goals and EL achievement progress on CELDT, CST, and CAHSEE. Trainings will be provided for EL parents to understand how to read and interpret the achievement results.
- Continue to provide district-wide parent education trainings multiple times throughout the school year.

Goal 2F: (Parental Notification)

• Parental Notification is not an issue at SDUHSD. All requirements have been met.



4. Title III Year 4 Requirements [(Section 3122(b) (4) (A)]: Summarize how the LEA will specifically address changes in curriculum, program and method of instruction to address the factors that prevented the AMAO targets being met.

Changes in Curriculum:

About 63 % of English Learners at SDUHSD are considered Long Term English Learners (LTELs); these students have been in a language instructional program for 6 years or more and have not met the current district criteria for reclassification to Fluent English Proficient (RFEP). SDUHSD has adopted a formal definition of LTELs that combines the length of time in U.S. schools with indications of inadequate progress in ELD and state assessments. Most LTELs have stalled at the Early Advanced/Advanced level of the CELDT and have not reached proficiency on the CST. Their conversational skills may be advanced, but their knowledge of academic language and level of academic literacy needed for success in mainstream classes are still limited. Research shows that if English Learners continue to receive explicit ELD instruction once they reach middle levels of English proficiency and as they move into early advanced and advanced levels, they can more rapidly attain near-native levels of oral proficiency and avoid the plateau many experience before becoming advanced speakers of English (Dr. Laurie Olsen, Reparable Harm). According to Dr. Olsen, LTELs need direct, explicit instruction on strategies needed to build vocabulary and comprehend grade-level texts and participate in discussions about the subject matter.

SDUHSD has contracted with Theresa Hancock, Educational Consultant and co-author with Kate Kinsella of the English 3D professional development series, to provide training and guidance to those schools in the district that will pilot an Academic Language Development (ALD) course for LTELs. The ALD course will focus on oral language development, high quality writing, and an emphasis on academic language and complex vocabulary needed for success in grade level English classes using English 3D as the new curriculum. English 3D, aligned to the common core standards, was specifically designed to address the language development challenges faced by long-term English Learners. The goal of the English 3D program is to re-engage students in school through high-interest, engaging topics that are relevant to adolescents' lives and concerns. LTELs enrolled in this specialized language development course will be concurrently enrolled in a grade-level English class and, when the master schedule allows, taught by the same instructor.

Program Changes:

SDUHSD has identified all English Learners performing at the basic or below level in the CST and those who are not scoring proficient on the CAHSEE as a critical subgroup of the EL student population. The Director of Curriculum and Assessment and the EL Coordinator have met with all principals, counselors and site EL coordinators to discuss before, during and after school supplemental programs that will be provided to these students in order to move them past the basic level on the CST or CAHSEE. Each school site has been provided with a list of EL students that scored at the CST basic level during the previous administration. As part of SDUHSD ongoing efforts to provide English Learners with the highest quality educational experience, each school site has created supplemental programs for English Learners as part of their before or after school enrichment programs. Each student was carefully selected by the school administration and/or counselor because they scored Basic or at the low end of the proficient range on the 2012 CST or CAHSEE for either Math and/or ELA. This exciting new program will provide selected English Learners with an opportunity to receive individualized instruction and targeted support towards maximizing their academic success in English Language Arts and Math. EL students will work in structured small groups, as well as through an online platform (PLATO) tailored to meet their identified learning needs.

Changes to Methods of Instruction:

SDUHSD will continue to provide ongoing professional development on research-based instructional strategies. Teachers must be well-prepared to work with the needs of all English Learners. They must be deliberate and skillful in their instructional delivery. According to Echevarria and Short, providing teachers with high-quality professional development on researched-based instructional strategies can lead to instruction for English Learners that improves their academic achievement (Improving Education for English Learners: Research-Based Approaches).

The DLT believes that teachers could benefit from staff development and modeling of lessons to learn strategies in using academic language and writing language objectives. SDUHSD will provide on-site support through coaching on the use of English language objectives and effective SDAIE strategies for English Learners, and on the analysis of assessment data to inform instruction. By providing trained mentor teachers at all school sites, teachers will have access to coaching and mentoring in routines and instructional strategies learned through professional development training from highly qualified peers. The Director of Curriculum and Assessment and the EL coordinator will create this new Teacher On Special Assignment (TOSA) position before the beginning of the 2013-14 school year.

Conclusion

This plan reflects how SDUHSD will take a more proactive and strategic approach to meeting the needs of English learners. SDUHSD EL achievement data clearly indicates that the English Learner subgroup continues to need effective, focused support to meet academic grade level standards. This plan was designed in direct response to specific achievement data with the hope that the actions selected will have a positive impact on the academic success of active and monitored English Learners so that we can create an environment where every student is prepared for success.

San Dieguito Union High School District INFORMATION REGARDING BOARD AGENDA ITEM

TO: BOARD OF TRUSTEES

DATE OF REPORT: March 28, 2013

BOARD MEETING DATE: April 4, 2013

PREPARED BY: Christina M. Bennett, Director of Purchasing/Risk Mgt

Eric R. Dill, Associate Superintendent/Business

SUBMITTED BY: Ken Noah

Superintendent

SUBJECT: PROPOSED BOARD POLICY REVISIONS (4), BP &

AR #0450 "COMPREHENSIVE SAFETY PLAN", BP

#1250 "VISITORS/OUTSIDERS", AR #1340

"ACCESS TO DISTRICT RECORDS"

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EXECUTIVE SUMMARY

Four Board policies and administrative regulations are in need of revision, as proposed on the attached chart, and are being submitted for Board review.

RECOMMENDATION:

These items are being presented for first read and will be resubmitted for board action on May 2, 2013.

FUNDING SOURCE:

Not applicable.

Board Policy Changes April, 2013

Board Policy #	Reason for the Change
BP 0450 / AR 0450	Policy last revised in 2003 and is being updated to reflect changes in language and codes.
AR 1340	Policy last revised in 2003 and is being updated to reflect changes in language and codes.
BP 1250	Policy needs updating to reflect new language regarding registered sex offenders who are parents/guardians of district students.

0450

COMPREHENSIVE SAFETY PLAN

The Governing Board recognizes that students and staff have the right to a safe and secure campus where they are free from physical and psychological harm. The Board is fully committed to maximizing school safety and to creating a positive learning environment that teaches strategies for violence prevention and emphasizes high expectations for student conduct, responsible behavior, and respect for others.

Each principal or designee shall ensure the development of a site-level plan, in accordance with law, tailored to the specific concerns of each school. The school safety plan shall take into account the school's staffstaffing, available resources, and building design, as well as other factors unique to the site. New school campuses shall develop a safety plan within one year of initiating operations. (Education Code 32281, 32286)

The school safety plan shall be reviewed and updated annually by March 1 of each year. Each school shall forward theits comprehensive safety plan to the district for approval. (Education Code 32288)

The Board shall approve the comprehensive district-wide and/or school safety plans in order to ensure compliance with state law, Board policy, and administrative regulation.

By October 15 of each year, the superintendentSuperintendent or designee shall notify the California Department of Education of any schools that have not complied with the requirements of Education Code 35294.1.32281. (Education Code 32288)

Tactical Response Plan

Notwithstanding the process described above, any portion of a comprehensive safety plan that includes tactical responses to criminal incidents that may result in death or serious bodily injury at the school site, including steps to be taken to safeguard students and staff, secure the affected school premises, and apprehend the criminal perpetrator(s), shall be developed by district administrators in accordance with Education Code 32281.

Public Access to Safety Plan(s)

The principal or designee shall ensure that an updated file of all safety-related plans and materials is readily available for inspection by the public. (Education Code 32282)

However, those portions of the comprehensive safety plan that include tactical responses to criminal incidents shall not be publicly disclosed.

San Dieguito Union High School District *Policy Adopted:* July 15, 1999

Policy Revised: February 27, 2003
Policy DRAFT: April 4, 2013

Legal Reference:

0450

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EDUCATION CODE
200—-262.4 Prohibition of Sex Discrimination
32260—-32262— Interagency School Safety Demonstration Act of 1985
35147 32270 School Site Councils safety cadre
32280-32289 School safety plans
32290 Safety devices
35147 School site councils and Advisory Committees advisory committees
35183— School Dress Code: Uniformsdress code; uniforms
35291— Rules
35291.5-
                School-Adopted Discipline Rules adopted discipline rules
   35294 - 35294.9 School Safety Plans
35294.10—35294.15— School Safety and Violence Prevention Act
41510-41514 School Safety Consolidated Competitive Grant Program
48900 <u>48926</u> -48927 Suspension and Expulsion
48950— Speech and Other Communication other communication
49079 Notification to teacher; student act constituting grounds for suspension or expulsion
67381 Violent crime
PENAL CODE
                       Reporting of School Crime
   628 - 628.6
422.55 Definition of hate crime
626.8 Disruptions
11164—11174.3— Child Abuse and Neglect Reporting Act
CALIFORNIA CONSTITUTION
Article 1, Section 28(c) Right to Safe Schools
MANAGEMENT RESOURCES
CODE OF REGULATIONS, TITLE 5
11987-11987.7 School Community Violence Prevention Program requirements
11992-11993 Definition, persistently dangerous schools
UNITED STATES CODE, TITLE 20
7101-7165 Safe and Drug Free Schools and Communities
7912 Transfers from persistently dangerous schools
UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
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Protecting OurSafe Schools: Governing Board Strategies for Governing Boards to Combatensure

San Dieguito Union High School District

Policy Adopted: July 15, 1999
Policy Revised: February 27, 2003
Policy DRAFT: April 4, 2013

Management Resources: CSBA PUBLICATIONS

0450

Student Success, Third Edition, October 2011

Community Schools: Partnerships Supporting Students, Families and Communities, Policy Brief, October 2010

Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2010

Providing a Safe, Nondiscriminatory School *Violence*, 1995, revised 1999 Environment for All Students, Policy Brief, April 2010

CDECALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Safe Schools: A Planning Guide for Action, 19952002
U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Practical Information on Crisis Planning: A Guide for Schools and Communities, January 2007

Early Warning, Timely Response: A Guide to Safe Schools, August 1998

U.S. SECRET SERVICE AND U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates, 2002

WEB SITES

CDECSBA: http://www.csba.org

California Department of Education, Safe Schools: http://www.cde.ca.gov/ls/ss

California Emergency Management Agency: http://www.calema.ca.gov

California Healthy Kids Survey: http://chks.wested.org

Centers for Disease Control and Violence-Prevention-Office: http://www.cdc.gov/ViolencePrevention

http://www.cde.ca.g/spbranch/safety/safetyhome

Federal Bureau of Investigation: http://www.fbi.gov

National Alliance for Safe Schools: http://www.safeschools.org

http://www.safeschools.org

School/Law Enforcement Partnership

http://www.cde.ca.gov/spbranch/safety/slep/partnership.asp

National Center for Crisis Management: http://www.schoolcrisisresponse.com

National School Safety Center: http://www.schoolsafety.us

http://www.nsscl.orgU.S. Department of Education: http://www.ed.gov

U.S. Secret Service, National Threat Assessment Center: http://www.secretservice.gov/ntac_ssi.shtml

San Dieguito Union High School District

Policy Adopted: July 15, 1999
Policy Revised: February 27, 2003
Policy DRAFT: April 4, 2013

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COMPREHENSIVE SAFETY PLAN

DEVELOPMENT AND REVIEW OF SCHOOL SITE SAFETY PLAN

The school site council shall write and develop a comprehensive safety plan relevant to the needs and resources of that particular school. The site council shall consult with local law enforcement in the writing and development of the plan, as well as other school site councils and safety committees, when practical.

In addition, the school site council may consult with other local agencies as appropriate, including health care and emergency services.

The school site council may delegate the responsibility for writing and developing a school safety plan to a school safety planning committee. This committee shall be composed of the following members: (Education Code 35294.1)

- 1. The principal or designee
- 2. One teacher who is a representative of the SDFA
- 3. One parent/guardian whose child attends the school
- 4. One classified employee who is a representative of the CSEA
- 5. Other members, if desired

Before adopting its comprehensive school safety plan, the school site council or school safety planning committee shall hold a public meeting at the school in order to allow members of the public the opportunity to express an opinion about the school safety plan.

The school site council or safety planning committee shall evaluate, and amend as necessary, the safety plan at least once a year to ensure that the plan is properly implemented.

ELEMENTS OF THE SAFETY PLAN

The district wide and/or school site safety plan shall include, but not be limited to:

- 1. An assessment of the current status of school crime committed on campuses and at school-related functions
- 2. Appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:
 - a. Child abuse reporting procedures consistent with Penal Code 11164
 - b. Routine and emergency disaster procedures
 - c. Policies pursuant to Education Code 48915(c) and other school-designated serious acts which would lead to suspension, expulsion or mandatory expulsion recommendations
 - d. Procedures to notify teachers of dangerous students pursuant to Education Code 49079
 - e. A discrimination and harassment policy consistent with the prohibition against

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- discrimination pursuant to Education Code 200-262.4
- f. If the school has adopted a dress code prohibiting students from wearing gang-related apparel," the provisions of that dress code and the definition of "gang-related apparel"
- g. Procedures for safe ingress and egress of students, parents/guardians and employees to and from school
- h. A safe and orderly environment conducive to learning at the school
- The rules and procedures on school discipline adopted pursuant to Education Codes 35291 and 35291.5
- Procedures for reporting school crimes, including hate crimes, on the California Safe Schools Assessment

Among the strategies for providing a safe environment, the plan may also include:

- 1. Development of a positive school climate that promotes respect for diversity, personal and social responsibility, effective interpersonal and communication skills, self-esteem, anger management and conflict resolution.
- 2. Disciplinary policies and procedures that contain prevention strategies, such as strategies to prevent bullying, hazing, and cyberbullying, as well as behavioral expectations and consequences for violations.
- Curriculum that emphasizes prevention and alternatives to violence. This curriculum may include multicultural education, character/values education, media analysis skills, conflict resolution and community service learning.
- 4. Parent involvement strategies, including strategies to help ensure parental support and reinforcement of the school's rules and increase the number of adults on campus.
- 5. Prevention and intervention strategies related to the sale or use of drugs and alcohol which shall reflect expectations for drug-free schools and support for recovering students.
- 6. Collaborative relationships among the city, county, community agencies, local law enforcement, the judicial system and the schools that lead to the development of a set of common goals and community strategies for violence prevention instruction.
- 7. Assessment of the school's physical environment, including a risk management analysis and development of ground security measures such as procedures for the closing of campuses to outsiders, securing the campus perimeter, and protecting buildings against vandalism. In addition, methods for effective enforcement and prevention may be considered, including the presence of law enforcement on campus.
- 8. Crisis intervention strategies, which may include the following:
 - a. Identification of possible crises that may occur, determination of necessary tasks that need to be addressed, and development of procedures relative to each crisis, including the involvement of law enforcement and other public safety agencies as appropriate

a.b. Threat assessment strategies to determine the credibility and seriousness of a threat and

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provide appropriate interventions for the potential offender(s)

- b.c. Assignment of staff members responsible for each identified task and procedure
- e.d. Development of an evacuation plan based on an assessment of buildings and grounds and opportunities for student and staff to practice the evacuation plan
- d.e. Coordination of communication to schools, Governing Board members, parents/guardians and the media
- e.f. Development of a method for the reporting of violent incidents
- f.g. Development of follow-up procedures that may be required after the crisis has occurred, such as counseling
- 9. Staff training in violence prevention and intervention techniques, including preparation to implement the elements of the safety plan.

1250

VISITORS / OUTSIDERS

The Board of Trustees encourages parents/guardians and interested members of the community to visit the schools, view the educational program, and offer constructive comments to the Board.

Besides inviting parents/guardians and the community to open house activities and other special events, the Superintendent or designee shall develop procedures, which facilitate visits during regular school days when all visitors must first register at the school office.

The principal or designee may refuse to register any visitor whose acts or presence he/she judges would disrupt normal school operations, threaten the health and safety of students or staff, or cause property damage.

Any person who is required to register as a sex offender pursuant to Penal Code 290, including a parent/guardian of a district student, shall request written permission from the principal before entering the school campus or grounds. As necessary, the principal shall consult with local law enforcement authorities before allowing the presence of any such person at school or other school activity. The principal also shall report to the Superintendent or designee anytime he/she gives such written permission.

To ensure minimum interruption of the regular classroom program, school visits should be first arranged with the teacher and principal or designee. If a conference is desired, an appointment should be set with the teacher for a time before school, after school, or during the teacher's preparation period.

For the purposes of school safety and security, the principal or designee may design a visible means of identification for visitors while on school premises.

The Board recognizes that under California law, any person whose conduct materially disrupts class work or extracurricular activities or cause a disturbance on school grounds may be guilty of a misdemeanor and subject to a fine, imprisonment, or both. When such conduct occurs, the Superintendent may take action leading to the imposition of these penalties.

Possession of unauthorized dangerous instruments, weapons or devices is prohibited on school premises, on any public right-of-way immediately adjacent to school property, or any other place where a teacher and student(s) are required to be in connection with assigned school activities. No electronic listening or recording device may be used in a classroom without the teacher and principals permission.

LEGAL REFERENCE

CALIFORNIA EDUCATION CODE

32210 Willful disturbance of public school or meeting: Misdemeanor

COMMUNITY RELATIONS

32211 Threatened disruption or interference with classes: misdemeanor

COMMUNITY RELATIONS

1250

35292	Visits to schools (board members)
44810	Willful interference with classroom conduct
44811	Disruption of class work or extracurricular activities
49334	Injurious objects - notice to law enforcement agency
5151.2	Electronic devices
PENAL CODE	
243.5	Assault and battery on school grounds
290	Sex offenders
415.5	Disturbance of peace of school
626.4	Notice of withdrawal or consent; report; action on report; reinstatement of consent;
	hearing; unlawful entry upon campus or facility; punishment
626.6	Committing act, or entry upon campus or facility to commit act, likely to interfere with
	peaceful activities
626.8	Disruptive presence at schools
626.9-626.10	Bringing or possessing firearms or weapons on school grounds
627-627.3	Access to school premises
627.4	Refusal or revocation of registration
627.5	Hearing request following denial or revocation of registration
627.6	Posted signs
653	Loitering about school or public places

San Dieguito Union High School District
Policy Adopted: March 1, 1973
Policy Revised: June 3, 2004
Policy DRAFT: April 4, 2013

1340/AR-1

ACCESS TO DISTRICT RECORDS

RECORDS OPEN TO THE PUBLIC

Public records include any writing containing information relating to the conduct of the district's business prepared, owned or retained by the district regardless of physical form or characteristics.

Writing means any handwriting, typewriting, printing, Photostatting, photographing, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. (Government Code 6252)

A member of the public includes any person, except a member, agent, officer, or employee of the district acting within the scope of his/her office or employment. Governing Board members are entitled access to public records permitted by law in the administration of their duties, and, as to other public records, on the same basis as any other person.

Records to which the public shall have access include but are not limited to:

- 1. The proposed and approved budgets
- 2. Statistical compilations
- 3. Reports and memoranda
- 4. Notices and bulletins
- 5. Minutes of public meetings
- 6. Meeting agendas
- 7. Official communications between governmental branches
- 8. School-based program plans
- 9. Information and data relevant to the evaluation and modification of school improvement plans
- 10. Initial proposals of exclusive employee representatives and of the district
- 11. Tort claims filed against the district and records pertaining to pending litigation which predate the filing of the litigation, unless protected by some other provision of law
- 12. Statements of economic interests required by the Conflict Interest Code
- 13. Contracts of employment and settlement agreements
- 13.14. Instructional materials including, but not limited to, textbooks

CONFIDENTIAL RECORDS

Records to which the general public shall not have access include but are not limited to:

1. Preliminary drafts, notes, inter-district or intra-district memoranda which are not retained by the district in the ordinary course of business, provided that the public interest in withholding these records clearly outweighs the public interest in disclosure

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- 2. Records specifically prepared for litigation to which the district is a party or to claims made pursuant to the Tort Claims Act, until the pending litigation or claim has been finally adjudicated or otherwise settled, unless the records are protected by some other provision of law
- 3. Personnel records, medical records, student records, personal correspondence, or similar materials, the disclosure of which would constitute an unwarranted invasion of personal privacy

The home addresses and home telephone numbers of employees may be disclosed only as follows:

- a. To an agent or a family member of the individual to whom the information pertains
- b. To an officer or employee of a state agency or another school district or county office of education when necessary for the performance of official duties
- c. To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, unless the employee performs law enforcement-related functions or requests in writing that the information not be disclosed
- d. To an agent or employee of a health benefit plan providing health services or administering claims for health services to district employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents
- 4. Test questions, scoring keys and other examination data except as provided by law
- 5. Without affecting the law of eminent domain, the contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the district relative to the acquisition of property, or to prospective public supply and construction contracts until all of the property has been acquired or all of the contract agreement obtained
- 6. Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information
- Library circulation and patron use records of a kept for the purpose of identifying the borrower
 or patron including, but not limited to, his/her name, address, telephone number, email
 address, borrowing information, or use of library information resources of items available in the
 library
- 8. Records for which the disclosure is exempted or prohibited pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege
- 9. Documents prepared by the district to assess its vulnerability to terrorist attack or other criminal acts intended to disrupt district operations and that is for distribution or consideration in closed session (Government Code 6254)
- 10. Recall petitions or petitions for the reorganization of school districts
- 11. The minutes of Board meetings held in closed session
- 12. Computer software developed by the district
- 13. Information security records, the disclosure of which would reveal vulnerabilities to, or increase potential for an attack Written instructional textbooks or other materials for which providing a copy would infringe a copyright or would constitute an unreasonable burden on, the operation of the district's information technology system

- 1340/AR-1
- 13.14. Records that contain individually identifiable health information, including records that may be exempt pursuant to physician-patient privilege, the Confidentiality of Medical Information Act, and the Health Insurance Portability and Accountability Act
- 15. Any other records listed as except from public disclosure in the California Public Records Act or other statutes
- 14.16. Records for which the district can demonstrate that, based on the particular facts of the case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record

With reasonable advance notice, public records will be opened to inspection during district office hours. Any reasonably segregable portion of a record shall be made available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

Within 10 days of receiving any request for a copy of records, the Superintendent or designee shall determine whether to comply with the request and shall immediately inform the person making the request of his/her determination and the reasons for it.

In unusual circumstances, the Superintendent or designee may extend the 10-day limit for up to 14 days by providing written notice to the requester and setting forth the reasons for the extension and the date on which a determination is expected to be made. Unusual circumstances include, but only to the extent reasonably necessary to properly process the request:

- 1. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request
- 2. The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request
- 3. The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the district having substantial subject matter interest therein
- 4. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data

Any person may request a copy of any district record open to the public and not exempt from disclosure. Upon request for a copy that reasonably describes an identifiable record, an exact copy shall be promptly provided unless it is impracticable to do so.

The Superintendent or designee shall charge an amount for copies that reflects no less than 10 cents per printed page/side to cover the direct costs of duplication. Written rRequests to waive the fee shall be submitted to the Superintendent or designee Board.

Computer data shall be provided in a form determined by the Superintendent or designee.

If any person requests a public record be provided in an electronic format, the district shall make that record available in any electronic format in which it holds the information. The district shall provide a copy of the electronic record in the format requested so long as the requested format is one that has been used by the district to create copies for its own use or for use by other agencies. (Government Code 6253.9)

The cost of duplicating an electronic record shall be limited to the direct cost of producing a copy of the record in electronic format. However, the requester shall bear the cost of producing the copy of the

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electronic record, including the cost to construct the record and the cost of programming and computer services necessary to produce the copy, under the following circumstance: (Government Code 6253.9)

- 1. The electronic record is one that is produced only at otherwise regularly scheduled intervals
- 2. The request would require data compilation, extraction, or programming to produce the record

ASSISTANCE IN IDENTIFYING REQUESTED RECORDS

If the superintendent or designee denies a request for disclosable records, he/she shall assist the requester in making a focused and effective request that reasonably describes an identifiable record. To the extent reasonable under the circumstances, the superintendent or designee shall do all of the following: (Government Code 6253.1)

- 1. Assist identifying records and information responsive to the request or the purpose of the request, if specified. If after making a reasonable effort to elicit additional clarifying information from the requester to help identify the record, the superintendent or designee is still unable to identify the information, <a href="https://linear.com/lin
- 2. Describe the information technology and physical location in which the records exist
- Provide suggestions for overcoming any practical basis for denying access to the records or information sought

Provisions of the Public Record Act shall not be construed so as to delay access for purposes of inspecting records open to the public. Any notification denying a request for public records shall state the name and title of each person responsible for the denial. (Government Code 6253)