



San Dieguito River Park
Joint Powers Authority
18372 Sycamore Creek Road
Escondido, CA 92025
(858) 674-2270 Fax (858) 674-2280
www.sdrp.org

**JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Chair Don Mosier
Del Mar City Council

Vice-Chair Dianne Jacob
Supervisor, County of San Diego

Olga Diaz
Escondido City Council

Dave Grosch
Poway City Council

Mark Kersey
San Diego City Council

Sherri Lightner
San Diego City Council

Dave Roberts
Supervisor, County of San Diego

Dave Zito
Solana Beach City Council

Tom Golich
Citizens Advisory Committee

Becky Bartling, Ex Officio
22nd District Agricultural Assoc.

Mark Ochendusko
Interim Executive Director

**SAN DIEGUITO RIVER PARK
JOINT POWERS AUTHORITY
11:00 a.m. – 12:30 p.m.
Friday, June 19, 2015
County Administration Center
1600 Pacific Highway, Room 302/303
San Diego**

Speaker slips will be available. Please fill out a slip and give it to the Chair prior to the meeting if you wish to speak to an item on the agenda. The Board may take action on any item listed on the Consent or Action Agenda.

Introductions and Announcements

Roll Call

Approval of the Minutes of May 15, 2015

Executive Director's Report

Public Comment

This portion of the agenda provides an opportunity for members of the public to address the Board on items of interest within the jurisdiction of the Board and not appearing on today's agenda. Comments relating to items on today's agenda are to be taken at the time the item is heard. Pursuant to the Brown Act, no action shall be taken by the Board on public comment items.

DISCUSSION/ACTION

1. Approval of Executive Director Employment Agreement (page 8)
2. Approval of Ramona Grasslands Conservation Bank Conservation Easement Monitoring Endowment Agreement (page 14)

INFORMATION

3. Park Project Status (oral)

- a. Lagoon Ranger Station

4. Coordination Reports (oral)

- a. San Dieguito River Valley Conservancy
- b. Friends of the San Dieguito River Valley
- c. Volcan Mountain Preserve Foundation
- d. San Dieguito Lagoon Committee

5. Jurisdictional Status Reports

An opportunity for the Board members to report on actions taken within their jurisdictions to further the park planning process, or on problems which have arisen.

6. Communications

THE NEXT REGULAR JPA MEETING WILL BE July 17, 2015

If you have any questions, please call Mark Ochenduszkowski at (858) 674-2270. ****Due to the high cost of printing and mailing the JPA and CAC agendas, the JPA has converted to an email distribution of both agendas. Please advise the office at 858 674-2270 if you do not have an e-mail address and want other arrangements to be made. The agenda and minutes are available at no cost on the San Dieguito River Park web site at www.sdrp.org

**SAN DIEGUITO RIVER PARK
JOINT POWERS AUTHORITY
Minutes of Closed Session Meeting, May 15, 2015**

MEMBERS PRESENT

Don Mosier - Chair
Dave Grosch
Mark Kersey
Dave Roberts
Dave Zito
Tom Golich
Olga Diaz
Dianne Jacob

REPRESENTING

City of Del Mar
City of Poway
City of San Diego
County of San Diego
City of Solana Beach
Citizens Advisory Committee
City of Escondido
County of San Diego

VISITORS/STAFF PRESENT

Wayne Brechtel
Mark Ochenduszko

JPA Counsel
San Dieguito River Park JPA

Counsel Brechtel stated that the Board met in closed session to interview potential Executive Director candidates and provided direction to the Interim Executive Director to negotiate a contract with the new Executive Director. No further reportable action was taken.

These minutes approved by Board Action

Date Executive Director

**SAN DIEGUITO RIVER PARK
JOINT POWERS AUTHORITY
Minutes of May 15, 2015**

MEMBERS PRESENT

Don Mosier - Chair
Dianne Jacob – Vice Chair
Olga Diaz
Dave Grosch
Mark Kersey
Dave Roberts
Dave Zito
Tom Golich

REPRESENTING

City of Del Mar
County of San Diego
City of Escondido
City of Poway
City of San Diego
County of San Diego
City of Solana Beach
Citizens Advisory Committee

VISITORS/STAFF PRESENT

Wayne Brechtel
Mark Ochenduszeko
Shawna Anderson
Brenda Miller
Brenda Hunt
Jacqueline Winterer
Leana Bulay
Alice Brown
Bill Michalsky
Gary Hagar Hager
Catherine Blakespear
Jeremy Blakespear
Adam Kaye
Adam Wilson
Allison Don

JPA Counsel
San Dieguito River Park JPA
San Dieguito River Park JPA
San Dieguito River Park JPA
Hosaka, Rotherham & Company
Friends of the San Dieguito River Valley
San Dieguito River Park JPA
San Dieguito Lagoon Committee
Sierra Club
Councilman Kersey's Staff
Deputy Mayor Encinitas

Supervisor Robert's Staff
Supervisor Jacob's Staff
Council President Lightner's Staff

Introduction and Announcements

Chair Mosier convened the meeting at 11:00 a.m. in the County Administration Building, 1600 Pacific Highway, Room 302/303, San Diego, CA 92101

Roll Call

Roll call was taken with all persons in room introducing themselves.

Approval of Minutes of April 8, 2015 and April 17, 2015

Boardmember Zito made a motion to approve the minutes of April 8, 2015 and April 17, 2015. Boardmember Grosch seconded the motion.

Yes votes: Mosier, Jacob, Roberts, Golich, Grosch, Zito, Kersey. Abstain: Diaz. Absent: Lightner

Executive Director's Report – No Report

Public Comment- No Public Comment

CONSENT

1. Receive and File Third Party Auditor's Report for Fiscal Year Ending June 30, 2014

Recommendation: *It is recommended that the Board of Directors receive and file the Audit Report as of June 30, 2014 for the San Dieguito River Valley Open Space Park Joint Powers Authority prepared by Hosaka, Rotherham & Company.*

Vice-Chair Jacob moved to receive and file the third party auditor's report for fiscal year ending June 30, 2014. Boardmember Roberts seconded the motion.

Yes votes: Mosier, Jacob, Roberts, Golich, Diaz, Grosch, Zito, Kersey. Absent: Lightner

ACTION AGENDA

2. Approval of Grants for Passenger Vans for the Watershed Explorer Program.

Recommendation: *Approve the purchase of two 15-person vans for the Watershed Explorer Program.*

A. Adopt Resolution R15-2 authorizing the Interim Executive Director to apply for and accept a County of San Diego Neighborhood Reinvestment Grant for \$53,500 to purchase a van to be owned and maintained by the JPA.

B. Authorize staff to accept the \$53,500 from the San Dieguito River Valley Conservancy to purchase ad own a van for the Watershed Explorers Program.

San Dieguito River Park Interpretive Ranger Leana Bulay presented the new week long Watershed Explorer Program available to under-served students throughout the County of San Diego, ages 8-14, of an opportunity to experience the San Dieguito River Watershed from Volcan Mountain to the San Dieguito Lagoon. Ms. Bulay presented a PowerPoint program showing what the students experienced during the week and explained the need for transportation vehicles for program success. Two 15 passenger vans would enable a class of 30 students to participate. The San Dieguito River Valley Conservancy has received a grant from The San Diego Foundation to pay for one 15 passenger van. Ms.

Bulay stated that board approval is being requested before purchasing the van. Ms. Bulay also stated that staff is seeking board approval to apply for a Neighborhood Reinvestment Program grant of \$53,500 through Supervisor Jacob's office to acquire a second van. The students will be oriented to the San Dieguito River Watershed and Park by watching a DVD while being driven to the Watershed Explorer Program location. The first group of 25 students from High Tech High, were hosted from March 23 through March 27. The program was a great success except for the daily problems with transportation.

The Board discussed maintenance, new vehicle warranty, seeking grants to fund maintenance needed in the future, the use of the vehicles by partner organizations, and the need for additional grants to purchase DVD equipment.

Boardmember Kersey moved staff recommendation, to approve the purchase of two 15-person vans for the Watershed Explorer Program. Boardmember Diaz seconded the motion.

Yes votes: Mosier, Golich, Diaz, Grosch, Zito, Kersey. Abstain: Jacob, Roberts. Absent: Lightner.

3. Coast to Crest Trail Status Update

Shawna Anderson presented a PowerPoint and explained the status of the Coast to Crest Trail and the importance of this primary goal of the San Dieguito River Park. The Coast to Crest Trail is 71 miles long. The completed trails are 45 miles; 5 miles are in the permit process and 21 miles are gaps of non completed trails. Ms. Anderson stated that there is an additional 23 miles of trails in the San Dieguito River Park that connect to the Coast to Crest Trail. Two examples are the Piedras Pintadas Trail and the Old Coach Trail.

Supervisor Jacob explained that the County of San Diego has negotiated to purchase 175 acres of property that will allow for the connection of the Santa Ysabel East and West Preserves and showed on a diagram where the proposed nature center will be built in Santa Ysabel.

Speaker Catherine Blakespear, advocated for continued focus to finish the Coast to Crest Trail from Del Mar to the Safari Park. Boardmember Golich suggested looking into connecting the San Elijo Lagoon to the Escondido Creek.

Speaker Jeremy Blakespear spoke regarding the political will to finish the Coast to Crest Trail from the Polo Fields to Safari Park.

Boardmember Roberts made a comment about adding the City of Encinitas as a member agency of the San Dieguito River Park JPA in the future and that the JPA.

4. Update Re Lagoon Ranger Station Design/Location

Shawna Anderson presented the issue of the lagoon ranger station design and location. The JPA is on track to have this issue heard at the California Coastal Commission meeting in June. An application to construct the lagoon ranger station was submitted to the California Coastal Commission in September of 2014. There have been discussions with the California Coastal Commission regarding the long term planning and the deed restrictions regarding certain uses of the property. The California Coastal Commission staff is asking where the future interpretive center will be located in relation to the ranger

Station. The JPA's architect prepared conceptual drawing of an expansion scenario which has been submitted to the California Coastal Commission showing the potential expansion of an interpretive center attached to the ranger station. With approval of the ranger station, the JPA is not committed to this expansion nor would it preclude the JPA from pursuing another interpretive center location in the future.

INFORMATION

5. Park Project Status (oral) – No Reports

6. Coordination Reports (oral)
 - a. San Dieguito River Valley Conservancy – No Report
 - b. Friends of the San Dieguito River Valley - Jacqueline Winterer announced that \$5,000 will be given to the City of Del Mar for the River Path Expansion Project.
 - c. Volcan Mountain Preserve Foundation – No Report
 - d. San Dieguito Lagoon Committee – Alice Brown reported on the Annual Lagoon Day held April 19. Ms. Brown stated that Jacqueline Winterer presented a history of the San Dieguito Lagoon and that work is continuing with the Del Mar River Path Extension.

7. Jurisdictional Status Reports

Boardmember Zito reported that the Solana Beach City Council unanimously agreed to approve the fifty year extension of the Joint Exercise Powers of Authority Agreement.

8. Communications – No communications.

9. Adjourn to Closed Session – It was not necessary to adjourn to closed session.

Chair Mosier adjourned the meeting at 11:56 AM

These minutes approved by Board Action

Date

Executive Director

DATE: June 19, 2015
TO: JPA Board of Directors
FROM: Staff
SUBJECT: Approval of Executive Director Employment Agreement

RECOMMENDATION:

Approve the attached Employment Agreement for Executive Director.

BACKGROUND:

At the San Dieguito River Park JPA Board of Director's meeting, the Board directed the the Interim Executive Director to complete a reference check, and if successful, prepare an employment agreement, and offer the Executive Director position to Kevin McKernan. The attached employment agreement was prepared following the terms and conditions directed by the Board and the position was offered and accepted. Mr. McKernan's first day of employment is scheduled to be Monday, June 29, 2015.

Respectfully submitted,

Mark J. Ochendusko
Interim Executive Director

Attachments: Executive Director Employment Agreement

**SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK JOINT POWERS
AUTHORITY**

EXECUTIVE DIRECTOR EMPLOYMENT AGREEMENT

THIS AGREEMENT (herein "Agreement") is made this ____ day of June, 2015, (the "Effective Date") by and between the SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK JOINT POWERS AUTHORITY ("JPA"), a governmental entity as employer, and Kevin McKernan (herein "McKernan"), an individual as employee.

**I
RECITALS**

A. JPA is a governmental entity existing pursuant to California law and the Joint Exercise of Powers Agreement, as amended ("JEPA Agreement"), executed by the member agencies, having the powers and duties therein specified and generally responsible for planning and promoting a regional open space park in the San Dieguito valley; and

B. The JPA's Executive Director position is currently vacant; and

C. The JPA desires to hire Kevin McKernan as its Executive Director to manage the operations of the JPA,

NOW, THEREFORE, the parties agree as follows:

**II
EMPLOYMENT AS EXECUTIVE DIRECTOR**

A. Employment.

Effective June 29, 2015, McKernan is hired to be the JPA's Executive Director.

B. Term and Hours.

McKernan shall work on a full-time salaried basis as an exempt executive level employee and accept full responsibility for management of the JPA as its Executive Director.

C. Salary.

McKernan's salary shall be Ten Thousand Dollars (\$10,000.00) per month.

D. Expense Reimbursement.

JPA shall reimburse McKernan for reasonable and documented expenses for attendance at meetings, for official business related travel, and for other work related activities where expenses are incurred incident to the performance of McKernan's job and in conformance with JPA policies on budget and for expense reimbursement.

E. Benefits.

McKernan's payroll shall include standard deductions and payment of employer taxes (federal, state, FICA). In addition to said deductions, McKernan shall be entitled to benefits as follows:

- i. Health/life/dental benefit levels as provided to other management level employees;
- ii. Participation in the San Diego County Employee Retirement System Tier C (with the same benefits and employer and employee contribution rates as other newly hired general employees)

**SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK JOINT POWERS
AUTHORITY**

EXECUTIVE DIRECTOR EMPLOYMENT AGREEMENT

- in Tier C);
- iii. Access to participation (at the employee's expense and discretion) in the County's Section 457 Deferred Compensation Program subject to the provisions and limits of the program;
- iv. Twenty (20) paid leave days per year accrued on a pro rata basis;
- v. Eleven (11) holidays year as recognized by the JPA and provided to employees accrued on a pro rata basis; and
- vi. Ten (10) sick leave days per year in accordance with the rules applicable to all other JPA employees.

F. Duties.

McKernan's duties and responsibilities shall include, but not be limited to, the following:

- i. Providing overall direction and oversight to the day to day operations of the JPA;
- ii. Supervision and management of all department heads, departments and employees¹, including sole authority, except as McKernan may delegate to staff, to hire and terminate JPA employees in accordance with applicable law and JPA policies, rules and regulations;
- iii. Assisting the JPA Board in community and public relations matters;
- iv. Preparing, monitoring, managing, and overseeing the JPA budget and the JPA's revenues and expenses;
- v. Overseeing timely development and presentation to the JPA Board of a proposed budget for each fiscal year;
- vi. Assuring that JPA's financial affairs are properly managed, accounted for, and audited, and that appropriate reports thereon are made to the JPA Board and to others as required by law;
- vii. Attending all regular and special meetings of the JPA Board and of JPA Board subcommittees as requested, assuming overall responsibility for preparation and presentation of all agendas and staff reports;
- viii. Representing the JPA Board and staff in contacts and communications with the public, member agencies, and other outside agencies and organizations;
- ix. Such other and further activities as the JPA Board may from time to time direct; and
- x. Such other and further activities as McKernan determines necessary to competently and professionally carry out his job within the scope of Board adopted goals and policies.

¹ Except for general counsel who reports directly to the JPA Board.

**SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK JOINT POWERS
AUTHORITY**

EXECUTIVE DIRECTOR EMPLOYMENT AGREEMENT

Direction From JPA Board

McKernan shall take direction as to matters of JPA business only from the JPA Board as a whole, or from the Chair of the JPA Board or a duly authorized JPA Board subcommittee which has been granted the power by the JPA Board to give direction to McKernan.

H. Outside Communications.

McKernan shall restrict the content of any statements, written or oral, that he and/or his staff make on behalf of the JPA to the positions approved by the JPA Board as reflected in the JPA's adopted plans, policies, programs, and goals, and as reflected in the JPA Agreement, or as may otherwise be approved from time to time by the JPA Board.

III

AT WILL EMPLOYMENT/SEVERANCE PAY

McKernan's employment is on a month-to-month continuous basis. McKernan understands and agrees that he is an "at will" employee at the JPA and that he serves at the pleasure of the JPA Board subject to termination at any time with or without cause subject only to the rights expressly set forth in this Agreement. If terminated without cause, McKernan will be provided ninety (90) days severance pay based on his rate of total compensation at the time of dismissal.

IV

PERFORMANCE OBJECTIVES AND REVIEW

Within ninety (90) days of the effective date of this agreement, McKernan and the JPA Board shall mutually agree on performance objectives and a performance evaluation process. A performance review of McKernan, following the agreed-to process will be conducted prior to the end of Fiscal Year 2016. A performance review will thereafter be conducted annually prior the conclusion of each fiscal year.

V

DISPUTE RESOLUTION

A. Informal Meet and Confer.

The parties agree to meet and confer informally as the first step towards resolution of any dispute. The JPA Board may be represented by a representative of its choosing, and McKernan may be represented as well.

B. JPA Board Resolution.

If the parties are unable to resolve the matter informally through meet and confer, the matter shall be submitted to the JPA Board for final resolution at a meeting to be held by the JPA Board within 30 days of submittal, and the JPA Board shall make a final decision within 45 days of the initial meet and confer session, unless McKernan and the JPA Board mutually agree to a longer period.

C. Litigation.

Neither party shall commence any litigation, arbitration, nor other formal dispute resolution process until the above referenced informal meet and confer session and final JPA Board determination have occurred.

**SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK JOINT POWERS
AUTHORITY**

EXECUTIVE DIRECTOR EMPLOYMENT AGREEMENT

VI

TERMINATION OF AGREEMENT

This Agreement may be terminated by either party by providing 30-days written notice to the other. Termination by the JPA Board shall require a majority vote at a duly noticed public meeting.

VII

MISCELLANEOUS PROVISIONS

A. Entire Agreement.

This Agreement represents the entire agreement between the parties and supersedes any prior agreements, written or oral, and any representations, written or oral, not expressly included herein.

B. Integration Clause.

If any part, provision, paragraph or subparagraph of this Agreement shall be held to be void or unenforceable by a final judgment of a court of competent jurisdiction, then unless that provision is found in such proceeding to be material to this Agreement, said void or unenforceable provision shall be severed from this Agreement and the balance of this Agreement shall remain in full force and effect. In the event that the void or unenforceable provision is found to be material to this Agreement then the entire Agreement shall be voided.

C. Attorney's Fees.

The prevailing party in any litigation to interpret or enforce this Agreement shall be entitled to recover his or its attorneys' fees in addition to costs.

D. Independent Review: Interpretation.

McKernan and JPA affirm in signing this Agreement that they have each had an opportunity to review and consider this Agreement, and to have it reviewed and to receive advice from independent advisors of their own choosing, including attorneys, and that each knowingly and voluntarily enters into this Agreement. McKernan and JPA further affirm that this Agreement was the mutual product of their negotiations, including give and take, and that neither party shall be considered the drafter of this Agreement such that the Agreement is interpreted against that party.

G. Public Record.

McKernan acknowledges that this Agreement, upon final execution, will become a public record under California law available for public inspection and copying.

**SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK JOINT POWERS
AUTHORITY**

EXECUTIVE DIRECTOR EMPLOYMENT AGREEMENT

G. Counterparts.

This Agreement may be signed in counterparts.

DATED: _____

SAN DIEGUITO RIVER VALLEY
REGIONAL OPEN SPACE PARK
JOINT POWERS AUTHORITY

By: _____
Donald Mosier, Chair of the JPA Board

APPROVED BY JPA BOARD ACTION DATED _____

ACCEPTED:

DATED: _____

By: _____
Kevin McKernan

TO: JPA Board
FROM: Legal Counsel
SUBJECT: Ramona Grasslands Endowment Agreement

=====

RECOMMENDATION:

Authorize the Executive Director to execute the Ramona Grasslands Conservation Bank Conservation Easement Monitoring Endowment Agreement.

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Background

In July 2013, the Board authorized the Executive Director to accept a conservation easement for the Ramona Grasslands Conservation Bank, which consists of approximately 210 acres of grasslands in the County of San Diego that is adjacent to the County owned Ramona Grasslands. The JPA's role as the conservation easement holder was to be limited to a monitoring role only, with no property management responsibilities. Further, the Board conditioned its approval on a final long term management plan that was acceptable to the Executive Director and the JPA attorney. An acceptable long-term management plan was completed and two identical conservation easements covering the 210 acre Conservation Bank were accepted by the Executive Director in 2014. A \$43,230.00 endowment fund was also provided to the JPA, \$1,980.00 to pay for the JPA's first year monitoring obligations, and \$41,250.00 to fund a non-wasting endowment to cover the cost of the JPA's annual monitoring obligations after the first year.

Although the approved management plan does not obligate the JPA to manage the property or otherwise make the JPA financially responsible for the property, some staff time is required to comply with the annual monitoring requirements, estimated at 30 hours of ranger time annually. To cover the cost of this obligation, the Executive Director required the \$41,250.00 endowment fund. This amount was based on a conservative estimate that assumed an annual income of 4% - \$1,650.00. The endowment fund is currently in the JPA's Fidelity income account, which had a return of 9.8% during the last fiscal year ending June 30, 2014.

As a follow-up to the transaction, the mitigation bank sponsors and wildlife agencies requested a formal endowment agreement to confirm that the endowment fund will be held in a non-wasting endowment and be used for the JPA's monitoring obligations. The attached Endowment Agreement is consistent with those terms and consistent with the JPA's current management of the endowment funds. It was executed and returned by the Conservation Bank sponsors in early 2015, and is now ready for final Board approval.

Citizens Advisory Committee Recommendation: - This item has not been reviewed by the CAC.

Issues – No additional issues have been identified.

Fiscal Impact – None.

ALTERNATE ACTIONS

1. Approve the Endowment Agreement.
2. Do not approve the Endowment Agreement .

=====

RECOMMENDATION:

Authorize the Executive Director to execute the Ramona Grasslands Conservation Bank Conservation Easement Monitoring Endowment Agreement.

=====

Respectfully submitted,

D. Wayne Brechtel
Legal Counsel

Attachment:

1. Ramona Grasslands Conservation Bank Conservation Easement Monitoring Endowment Agreement.

RAMONA GRASSLANDS CONSERVATION BANK CONSERVATION EASEMENT MONITORING ENDOWMENT AGREEMENT

This Ramona Grasslands Conservation Bank Conservation Easement Monitoring Endowment Agreement ("Endowment Agreement") is entered into as of September 2014, by and between Judd RR Investments, LLC, a California limited liability company ("Judd"), Kearny PCCP Otay 311, LLC, a Delaware limited liability company, ("Kearny") and the San Dieguito River Valley Regional Open Space Park Joint Powers Authority, a joint powers authority formed under the California Government Code ("JPA") (collectively, Judd, Kearny, and the JPA shall be referred to as the "Parties" or individually as a "Party").

RECITALS

A. Judd and Kearny, each, are parties to separate Conservation Easements with the JPA, which in total, consists of approximately 210.43 acres commonly known as the "Ramona Grasslands," located in the County of San Diego, State of California (the "Conservation Easements").

B. The Conservation Easements obligate the JPA to perform annual compliance monitoring and reporting to ensure that the purposes of the Conservation Easements are being accomplished.

C. In order to fund the JPA's obligations to perform annual compliance monitoring and reporting, Judd and Kearny desire to pay a non-wasting endowment to the JPA in accordance with the terms of this Endowment Agreement.

AGREEMENT

In consideration of the above-referenced Recitals, and for good and valuable consideration, the Parties agree as follows:

I. Non-Wasting Endowment. No later than seven (7) days after recordation of the Conservation Easements, Judd and Kearny shall pay to the JPA a total endowment in the amount of Forty Three Thousand Two Hundred Thirty Dollars (\$43,230.00) (the "non-wasting Endowment"). The JPA shall use the non-wasting Endowment in accordance with the terms of the Conservation Easements, as follows:

A. First-Year Compliance Monitoring/Reporting. One Thousand Nine Hundred Eighty Dollars (\$1,980.00) to be used by the JPA for the first-year costs of performing compliance monitoring and reporting in accordance with the Long-Term Management Plan.

B. Annual Compliance Monitoring/Reporting. Forty One Thousand Two Hundred Fifty Dollars (\$41,250.00) to be held by the JPA in a non-wasting Endowment account. The JPA shall use only the income generated from the non-wasting Endowment, estimated to be One Thousand Six Hundred Fifty Dollars (\$1,650.00) based on an annual return of four percent (4%), for the annual (non-first year) costs of performing compliance monitoring and reporting in accordance with the Long-Term Management Plan.

2. Resource Agency Authorization. Judd and Kearny represent that it has, or will by the time of the recordation of the Conservation Easements, receive approval from the California Department of Fish and Wildlife and the United States Fish and Wildlife Service (“Signatory Agencies”) for the JPA to hold the non-wasting Endowment, and to use the non-wasting Endowment to perform its duties in accordance with the terms of the Conservation Easements.

3. Termination.

(a) Upon thirty (30) days written notice, this Endowment Agreement may be terminated: (i) by written agreement of the Parties and the Signatory Agencies; (ii) by the JPA, or Judd and Kearny, upon the default of any other Party to this Endowment Agreement or the Conservation Easements; (iii) by Judd and Kearny, with approval of the Signatory Agencies, based upon a determination that the JPA is not achieving a sufficient rate of return on the principal of the non-wasting Endowment; or (iv) by the JPA, with approval of the Signatory Agencies, based upon its determination that holding the non-wasting Endowment has ceased to be consistent with its primary land conservation purposes. Upon termination, the JPA shall return the then-current balance of the non-wasting Endowment to any person or entity as directed by the Signatory Agencies.

(b) In the event this Endowment Agreement is terminated in accordance with Section 3(a), the Parties agree that the JPA shall have no further obligation to perform the annual compliance monitoring and reporting under the Conservation Easements, which shall be transferred to another entity as directed by the Signatory Agencies. This provision shall survive the termination of this Endowment Agreement.

4. No Joint Venture. Nothing in this Endowment Agreement is intended to create a joint venture, partnership, or common enterprise relationship between the JPA and Judd, or the JPA and Kearny.

5. Counterparts. This Endowment Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

[Remainder of page intentionally blank; signature page to follow.]

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

SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK JOINT POWERS AUTHORITY

By: _____
Its Executive Director

JUDD RR INVESTMENTS, LLC

By: _____
Judd G. Halenza, Its Manager

KEARNY PCCP OTAY 311, LLC

By:  _____
John V. Bragg Jr., Its Vice President

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

SAN DIEGUITO RIVER VALLEY REGIONAL OPEN SPACE PARK JOINT POWERS AUTHORITY

By: _____
Its Executive Director

JUDD RR INVESTMENTS, LLC

By: 
Judd G. Halenza, Its Manager

KEARNY PCCP OTAY 311, LLC

By: _____
John V. Bragg Jr., Its Vice President