SALTON COMMUNITY SERVICES DISTRICT

Parks and Recreation Meeting Agenda

September 6, 2022

Open Session 1:00pm

1209 Van Buren Ave.

Salton City, CA 92275

www.saltoncsd.ca.gov

Members

Lidia A. Sierra member, Vice President of the Board

Irene Hernandez Member

Nancy del Castillo Member

Lizbeth Flores Member

1. **Call to Order:** **1:00pm**

2. **Roll Call:**

3. **Pledge of Allegiance:** Lidia A. Sierra member, Vice President of the Board

4. **Public Comments:**

   This is a Public Meeting, and this is The Time for the Public Comments. At This Time, You May Address the Committee for (3) Minutes on Items That Are Within the Subject Matter Jurisdiction of the Salton Community Services District, Parks and Recreation Committee

5. **Consent Calendar items:**

   Approval of meeting minutes for September 1, 2022

6. **Old Business:**

7. **New Business:**
   A. **Nomination for Chairperson of the Parks and Recreation Committee.**
   B. **Discussion to approve the Parks and Recreation Bylaws.**
   C. **Discussion of the Per Capita Grant for remodeling the Salton City Park Building**
   D. **Discussion of Grass vs Artificial Turf for the Desert Shores Park**

8. **Adjournment:**

Thania Garcia, Board Secretary

Upon written request, this agenda will be made in appropriate alternative format to persons with disabilities as required by Section 202 of the American with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the Secretary of the Board at least 72 hours before the meeting. Any public record, relating to an open session agenda item, that is distributed within 72 hours prior to the meeting is available for public inspection at 1209 Van Buren St, Suite 1, Salton City, California 92275

SALTON COMMUNITY SERVICES DISTRICT

Parks and Recreation Meeting Minutes

September 1, 2022

Open Session 8:00am

1209 Van Buren Ave.

Salton City, CA 92275

www.saltoncsd.ca.gov

Members

Lidia A. Sierra member, Vice President of the Board

Irene Hernandez Member

Nancy del Castillo Member

Lizabeth Flores Member

1. **Call to Order:** **8:00am**

2. **Pledge of Allegiance:** Lidia A. Sierra member, Vice President of the Board

3. **Roll Call:**

   No Quorum made meeting postponed till Tuesday September 5, 2022

4. **Public Comments:**

   This is a Public Meeting, and this is The Time for the Public Comments. At This Time, You May Address the Committee for (3) Minutes on Items That Are Within the Subject Matter Jurisdiction of the Salton Community Services District, Parks and Recreation Committee

5. **Consent Calendar items:**

6. **Old Business:**

7. **<u>New Business:</u>**

   A. **Discussion to approve the Parks and Recreation Bylaws.**
   B. **Discussion of the Per Capita Grant for remodeling the Salton City Park Building**
   C. **Discussion of Grass vs Artificial Turf for the Desert Shores Park**

8. **<u>Adjournment:</u>**

   Meeting adjourned at 8:06am

_____

Thania Garcia, Board Secretary

_____

, Chairperson

SALTON COMMUNITY SERVICES DISTRICT

PARKS AND RECREATION COMMITTEE BYLAWS

1. OFFICERS OF THE PARKS AND RECREATION COMMITTEE

1.1 The officer of the Parks and Recreation is the Chairperson who has been nominated within the committee and approved by majority vote.

1.2 The Chairperson of the Parks and Recreation Committee shall serve as chairperson at all Parks and Recreation meetings. The Chairperson shall have the same rights as the other members of the Committee in voting, introducing plans, recommendations for changes to the Board of Directors and any discussion.

1.3 In the absence of the Chairperson, the Committee Secretary shall serve as chairperson over all meetings of the Parks and Recreation Committee. If the Chairperson and Committee Secretary are both absent, the remaining members shall select one amongst themselves to act as chairperson for the meeting.

1.4 The Chairperson and all members of the Parks and Recreation Committee shall be selected and voted in by the Board of Directors. Every member nominated must reside within the district service area. Employees of the Salton Community Services District and Consultants to such District are not eligible to serve on the committee to avoid any conflict of interest or appearance of such.

1.5 Each member of the Board of Directors shall nominate one member of the community to serve on the Parks and Recreation Committee. If a member of the Board of Directors wishes to serve on the Committee, that will stand as their nominee. Should a Board Member be nominated by another Board member, the nominating Board Member has used their selection. The nominated Board Member retains the right to nominate a Committee Member. A maximum of two Board Members may serve on the committee, with preference given to members of the community. The Parks and Recreation Committee Member serves as long as the nominating Board Member remains on the Board of Directors, at which time the new member of the Board of Directors may either choose a new member or request previous member remain as part of the Committee.

2. MEETINGS

2.1 Regular meetings of the Parks and Recreation shall commence at 1:00 p.m. on the 1st Thursday of each calendar month in the District Office located at 1209 Van Buren Ave. Suite 1, Salton City in the Board Room unless otherwise directed by the Board of Directors.

2.2 Members of the Parks and Recreation Committee shall attend all regular committee meetings unless there is good cause for their absence.

2.3 No Committee action may be taken on an item not on the posted agenda; provided, however, matters deemed to be emergencies or of an urgent nature may be added to the agenda under the procedures of the Brown Act.

2.4 Pursuant to the Brown Act:

a. Committee Members may briefly respond to statements or questions from the public.

b. Committee Members may, on their own initiative or in response to public questions, ask questions for clarification, provide references to staff or other resources for information.

c. The Chairperson or a Committee majority in open session may take actions to direct secretary to place a matter on a future agenda.

2.5 The Chairperson shall conduct all meetings in a manner consistent with the policies of the SCSD. All comments shall be directed to the Chairperson. The Chairperson shall determine the order in which agenda items shall be considered for discussion and/or actions taken by the Committee and shall announce the Committee's decisions on all subjects. The Chairperson shall vote on all motions except in the case of a conflict of interest. On roll call votes, the maker of the motion shall be called first, the Committee member seconding the motions shall be called second, and the remainder are polled with the Chairperson voting last, unless the Chairperson made the motion or seconded the motion.

2.6 A majority of the Committee shall constitute a quorum for the recommendation to the board of directors. When there is no quorum for a regular meeting, the Chairperson,

or any Committee member shall adjourn such meeting, or, if no Committee member is present, the Committee Secretary shall adjourn the meeting.

2.7 A roll call vote shall be taken upon votes and shall be entered in the minutes of the Committee showing those Committee members voting aye, voting no, and those abstaining or absent. Unless a Committee member states that they are not voting because of a conflict of interest and steps down from the dais prior to the discussion of the items, his or her silence shall be recorded as affirmative vote and vote of abstention shall be recorded as abstention.

2.8 Any person attending a public meeting of the Parks and Recreation Committee may record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding that the recording cannot continue without noise, illumination, or obstruction of view that constitutes or would constitute a disruption of the proceedings.

2.9 All video tape recorders, still and/or motion picture cameras shall remain stationary and shall be located and operated from behind the public speaker's podium once the meeting begins. The Chairperson retains the discretion to alter these guidelines, including the authority to require that all video tape recorder, still and/or motion picture cameras be located in the back of the room.

3. AGENDAS

3.1 The Committee Secretary, in cooperation with the Chairperson and/or General Manager shall prepare an agenda for each committee meeting of the Parks and Recreation Committee. Any Member may call the Committee Secretary and request an item to be placed on the regular meeting agenda no later than 3:30 p.m. two weeks prior to the meeting date. The General Manager shall establish a SCSD policy to guide staff in preparation of meeting agendas.

3.2 A block of not to exceed 30 minutes time shall be set aside to receive general public comments. Comments on agenda items should be held until the appropriate item is called. Unless otherwise directed by the Chairperson, members of the public shall state their name and their general place of residence prior to giving their comment. Public comment shall be directed to the Chairperson of the Committee and limited to three (3) minutes unless extended or shortened at the Chairperson's discretion.

3.3 Those items on the Parks and Recreation Committee Agenda, which are considered to be of a routine and non-controversial nature, are placed under "Consent Calendar Items". These items shall be approved, adopted, and accepted, etc. by one motion of the Committee Members. For example, approval of Minutes, approval of Recommendations, accepting developer improvements, Parks and Recreation Packet Approvals.

a. Committee members may request that any item listed under "Consent Calendar" be removed from the "Consent Calendar", and the Committee will then take action separately on that item. A member of the public will be given an opportunity to comment on the "Consent Calendar", however, only a member of the Committee for discussion, will typically be heard after other "Consent Calendar" are approved unless the Chairperson orders an earlier or later time.

b. A Committee member may ask questions on any item on the Consent Calendar. When a Committee Member has a minor question for clarification concerning a consent item, which will not involve extended discussion, the item may be discussed for clarification and the questions will be addressed along with the rest of the "Consent Calendar". Committee members are encouraged to seek clarifications prior to the meeting if possible.

c. When a Committee member wishes to pull an item simply to register a dissenting vote, the Committee member shall inform the presiding officer that they wish to register a dissenting vote without discussion. These items will be handled along with the rest of the Consent Calendar, and the Committee Secretary will register a "NO" vote in the minutes.

4. <u>PREPARATION OF MINUTES AND MAINTENANCE OF TAPES</u>

4.1 The minutes of the Committee shall be kept by the Committee Secretary and shall be neatly produced and kept in a file for that purpose, with a record of each particular type of business transacted in paragraphs with proper subheadings;

4.2 The Committee Secretary shall be required to make a record only of such business as was actually passed upon by a vote of the Committee and except as provided in Section below, shall not be required to record any remarks by Committee members or any other person.

4.3 Any Member may request for inclusion into the minutes brief comments pertinent to an agenda item, only at the meeting in which the item(s) is discussed.

4.4 Written materials delivered to the Committee at the meeting that were not contained in the Committee Agenda Packet for review by the Committee prior to the meeting shall not be included in the meeting minutes.

4.5 The Committee Secretary shall attempt to record the names and general place of residence of persons addressing the Committee, the title of the subject matter to which their remarks relate, and whether they spoke in support or opposition of such matter.

4.6 Whenever the Committee acts in a quasi-judicial proceeding such as in assessment matters, the Committee Secretary shall compile a summary of the testimony of the witnesses.

4.7 Any electronic media of a SCSD meeting made for whatever purpose, by direction of the SCSD, shall be subject to inspection pursuant to the California Public Records Act. SCSD tape and film records may be erased thirty (30) days after the taping or recording.

5. MEMBERS OF THE PARKS AND RECREATION COMMITTEE

5.1 Members shall prepare themselves to discuss agenda items at the meeting of the Parks and Recreation Committee. Information may be requested from staff or exchanged between Members before meetings.

5.2 Information that is exchanged before meetings shall be distributed through the Committee Secretary, and all Members will receive all information being distributed.

5.3 Members shall at all times conduct themselves with courtesy to each other, to staff and to members of the audience present at Committee meetings.

5.4 Differing viewpoints are healthy in the decision-making process. Individuals have the right to disagree with ideas and opinions, but without being disagreeable. Once the Parks and Recreation Committee takes action, Members should not create barriers to the implementation of said action.

5.5 At the Chairperson and/or General Manager's discretion, the District Counsel shall act as parliamentarian.

5.6 Barring an emergency, members unable to attend a scheduled meeting must notify the Secretary or Chairperson 24 hours prior to the time and date of the meeting.

5.7 Should a member miss three (3) meeting within four (4) months, they will be removed as a committee member.

6. AUTHORITY OF PARKS AND RECREATION COMMITTEE MEMBERS

6.1 This the unit of authority within the SCSD. Apart from their normal function as part of this unit, Members have no individual authority. As individuals, Members may not commit the SCSD to any policy, act or expenditure.

6.2 Members do not represent any fractional segment of the community, but are, rather, a part of the body, which represents and acts for the community as a whole.

6.3 The primary responsibilities of the Parks and Recreation Committee are to make recommendations to the Board of Directors regarding Park matters.

7. MEMBER GUIDELINES

7.1 Committee Members, by making a request to the General Manager, shall have access to information relative to the Parks and Recreation Committee. If the General Manager cannot provide the requested information in a timely manner, a reason of information deficiency, or major interruption of work schedules, workloads, and priorities, then the General Manager shall inform the individual Committee Member why the information is not or cannot be made available.

7.2 In handling complaints from residents, property owners within the SCSD, or other members of the public, Committee Members are encouraged to listen carefully to the concerns, but the complaint should be referred to the General Manager for processing and the SCSD's response, if any.

7.3 Members, when seeking clarification of the Parks and Recreation, should confer directly with the General Manager.

7.4 When approached by SCSD personnel concerning specific SCSD policy, Members should direct inquiries to the General Manager. The chain of command should always be followed.

7.5 Members and General Manager should develop a working relationship so that current issues, concerns and SCSD projects can be discussed comfortably and openly.

7.6 When responding to constituent requests and concerns, Members should respond to individuals in a positive manner and route their questions and/or concerns to the General Manager, or in their absence, to the Committee Secretary.

8. MEMBER COMPENSATION

Parks and Recreation Committee Members are not compensated for their time. Committee Members have agreed to volunteer their time.

9. CORRESPONDENCE DISTRIBUTION POLICY

Time permitting, pertinent and necessary documents shall be accumulated and delivered to the Parks and Recreation Committee with agenda packets. The General Manager shall establish policy and procedures for receiving, processing and distribution of SCSD correspondence.

10. CONFLICTS AND RELATED POLICY

State laws are in place, which attempt to eliminate any action by a Committee Member or the SCSD that may reflect a conflict of interest. The purpose of such laws and regulations is to ensure that all actions are taken in the public interest. Laws, which regulate conflicts, are very complicated. The following provides a brief policy summary of various conflict related laws.

10.1 Conflict of Interest

Each Member is encouraged to review the SCSD Conflict Code on an annual basis. The general rule is that an official may not participate in the making of a governmental decision if it is: (1) reasonably foreseeable that the decision will have a (2) material financial effect on the (3) official or a member of his or her family or on an economic

interest of the official, and (4) the effect is distinguishable from the effect on the public generally. Additionally, the FPPC regulations relating to interests in real property have recently been changed. If the real property in which the Member has an interest is located within 500 feet of the boundaries of the property affected by decision, that interest is now deemed to be directly involved in the decision.

10.2 Interest in Contracts, Government Code Section 1090

The prohibitions of Government Code Section 1090 provide that the Parks and recreation Committee Members may not contract with any business in which another Committee Member has financial interest.

10.3 Incompatible Office

The basic rule is that public policy requires that when the duties of two offices are repugnant or overlap so that their exercise may require contradictory or inconsistent actions, to the detriment to the other public interest, their discharge by one person is incompatible with that interest.

11. RESTRICTIONS ON RULE

The rules contained herein are guidelines and shall govern the Committee in all cases to which they are applicable, and in which they are not inconsistent with State and Federal laws.

State of California - Natural Resources Agency
DEPARTMENT OF PARKS AND RECREATION

GRANT CONTRACT

2018 Parks Bond Act
Per Capita Grant Program

GRANTEE Salton CSD

THE PROJECT PERFORMANCE PERIOD is from July 01, 2018 through June 30, 2024

CONTRACT PERFORMANCE PERIOD is from July 01, 2018 through June 30, 2048

The GRANTEE agrees to the terms and conditions of this Contract, and the State of California, acting through its Director of the Department of Parks and Recreation, pursuant to the State of California, agrees to fund the total State grant amount indicated below.

The GRANTEE agrees to complete the GRANT SCOPE(s) as defined in the GRANT SCOPE/Cost Estimate Form or acquisition documentation for the application(s) filed with the State of California.

The General and Special Provisions attached are made a part of and incorporated into the Contract.

Salton CSD
Grantee

By
(Signature of Authorized Representative)

Title General Manager

Date 4/16/2022

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

By

Date

CERTIFICATION OF FUNDING
(For State Use Only)

CONTRACT NO	AMENDMENT NO	FISCAL SUPPLIER I.D.			PROJECT NO.
C9801243		0000148542			18-13-017
AMOUNT ENCUMBERED BY THIS DOCUMENT		FUND.			
$177,952.00		Drought, Water, Cln Air, Cstl Protc, Outdoor Fund			
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT		ITEM	CHAPTER	STATUTE	FISCAL YEAR
		3790-101-6088	29	18	2021/22
TOTAL AMOUNT ENCUMBERED TO DATE		Reporting Structured.	Account/Alt Account.	ACTIVITY CODE	PROJECT / WORK PHASE
$ $177,952.00		37900091		69801	

I. RECITALS

This CONTRACT is entered into between the California Department of Parks and Recreation (hereinafter referred to as "GRANTOR," "DEPARTMENT" or "STATE") and Salton CSD (hereinafter referred to as "GRANTEE").

The DEPARTMENT hereby grants to GRANTEE a sum (also referred to as "GRANT MONIES") not to exceed $177,952, subject to the terms and conditions of this AGREEMENT and the 2018/19 California State Budget, Chapter 29, statutes of 2018, Item number – 3790-101-6088 (appropriation chapter and budget item number hereinafter referred to as "PER CAPITA GRANT"). These funds shall be used for completion of the GRANT SCOPE(S).

The Grant Performance Period is from July 01, 2018 to June 30, 2024.

II. GENERAL PROVISIONS

A. Definitions

As used in this CONTRACT, the following words shall have the following meanings:

1. The term "ACT" means the California Drought, Water, Parks Climate, Coastal Protection, and Outdoor Access for All Act of 2018, as referred to in section I of this CONTRACT.

2. The term "APPLICATION" means the individual project APPLICATION packet for a project pursuant to the enabling legislation and/or grant program process guide requirements.

3. The term "DEPARTMENT" or "STATE" means the California Department of Parks and Recreation.

4. The term "DEVELOPMENT" means capital improvements to real property by means of, but not limited to, construction, expansion, and/or renovation, of permanent or fixed features of the property.

5. The term "GRANTEE" means the party described as the GRANTEE in Section I of this CONTRACT.

6. The term "GRANT SCOPE" means the items listed in the GRANT SCOPE/Cost Estimate Form or acquisition documentation found in each of the APPLICATIONS submitted pursuant to this grant.

7. The term "PROCEDURAL GUIDE" means the document identified as the "Procedural Guide for California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 Per Capita Program." The

PROCEDURAL GUIDE provides the procedures and policies controlling the administration of the grant.

B. Project Execution

1. Subject to the availability of GRANT MONIES, the STATE hereby grants to the GRANTEE a sum of money not to exceed the amount stated in Section I of this CONTRACT, in consideration of, and on condition that, the sum be expended in carrying out the purposes as set forth in the scope described in the enabling legislation and referenced in the APPLICATION, Section I of this CONTRACT, and under the terms and conditions set forth in this CONTRACT.

   The GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the GRANT SCOPE(S).

   The GRANTEE agrees to submit any change or alteration from the original GRANT SCOPE(S) in writing to the STATE for prior approval. This applies to any and all changes that occur after STATE has approved the APPLICATION. Changes in the GRANT SCOPE(S) must be approved in writing by the STATE.

2. The GRANTEE shall complete the GRANT SCOPE(S) in accordance with the time of the Performance Period set forth in Section I of this CONTRACT, and under the terms and conditions of this CONTRACT.

3. The GRANTEE shall comply with the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., Title 14, California Code of Regulations, Section 15000 et seq.).

4. The GRANTEE shall comply with all applicable current laws and regulations affecting DEVELOPMENT projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities, including but not limited to the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and the California Unruh Act (California Civil Code §51 et seq.).

C. Project Costs

1. GRANTEE agrees to abide by the PROCEDURAL GUIDE.

2. GRANTEE acknowledges that STATE may make reasonable changes to its procedures as set forth in the PROCEDURAL GUIDE. If STATE makes any changes to its procedures and guidelines, STATE agrees to notify GRANTEE within a reasonable time.

D. Project Administration

1. If GRANT MONIES are advanced for DEVELOPMENT projects, the advanced funds shall be placed in an interest bearing account until expended. Interest earned on the advanced funds shall be used on the project as approved by the STATE. If grant monies are advanced and not expended, the unused portion of the

grant and any interest earned shall be returned to the STATE within 60 days after project completion or end of the Grant Performance Period, whichever is earlier.

2. The GRANTEE shall submit written project status reports within 30 calendar days after the STATE has made such a request. In any event, the GRANTEE shall provide the STATE a report showing total final project expenditures within 60 days of project completion or the end of the grant performance period, whichever is earlier. The Grant Performance Period is identified in Section I of this CONTRACT.

3. The GRANTEE shall make property or facilities acquired and/or developed pursuant to this contract available for inspection upon request by the STATE.

E. Project Termination

1. Project Termination refers to the non-completion of a GRANT SCOPE. Any grant funds that have not been expended by the GRANTEE shall revert to the STATE.

2. The GRANTEE may unilaterally rescind this CONTRACT at any time prior to the commencement of the project. The commencement of the project means the date of the letter notifying GRANTEE of the award or when the funds are appropriated, whichever is later. After project commencement, this CONTRACT may be rescinded, modified or amended only by mutual agreement in writing between the GRANTEE and the STATE, unless the provisions of this CONTRACT provide that mutual agreement is not required.

3. Failure by the GRANTEE to comply with the terms of the (a) PROCEDURAL GUIDE, (b) any legislation applicable to the ACT, (c) this CONTRACT as well as any other grant contracts, specified or general, that GRANTEE has entered into with STATE, may be cause for suspension of all obligations of the STATE unless the STATE determines that such failure was due to no fault of the GRANTEE. In such case, STATE may reimburse GRANTEE for eligible costs properly incurred in performance of this CONTRACT despite non-performance of the GRANTEE. To qualify for such reimbursement, GRANTEE agrees to mitigate its losses to the best of its ability.

4. Any breach of any term, provision, obligation or requirement of this CONTRACT by the GRANTEE shall be a default of this CONTRACT. In the case of any default by GRANTEE, STATE shall be entitled to all remedies available under law and equity, including but not limited to: a) Specific Performance; b) Return of all GRANT MONIES; c) Payment to the STATE of the fair market value of the project property or the actual sales price, whichever is higher; and d) Payment to the STATE of the costs of enforcement of this CONTRACT, including but not limited to court and arbitration costs, fees, expenses of litigation, and reasonable attorney fees.

5. The GRANTEE and the STATE agree that if the GRANT SCOPE includes DEVELOPMENT, final payment may not be made until the work described in the GRANT SCOPE is complete and the GRANT PROJECT is open to the public.

F. Budget Contingency Clause

If funding for any fiscal year is reduced or deleted by the budget act for purposes of this program, the STATE shall have the option to either cancel this contract with no liability occurring to the STATE, or offer a CONTRACT amendment to GRANTEE to reflect the reduced grant amount. This Paragraph shall not require the mutual agreement as addressed in Paragraph E, provision 2, of this CONTRACT.

G. Hold Harmless

1. The GRANTEE shall waive all claims and recourse against the STATE including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this CONTRACT except claims arising from the concurrent or sole negligence of the STATE, its officers, agents, and employees.

2. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the ACQUISITION, DEVELOPMENT, construction, operation or maintenance of the property described as the project which claims, demands or causes of action arise under California Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of the STATE, its officers, agents, or employees.

3. The GRANTEE agrees that in the event the STATE is named as codefendant under the provisions of California Government Code Section 895 et seq., the GRANTEE shall notify the STATE of such fact and shall represent the STATE in the legal action unless the STATE undertakes to represent itself as codefendant in such legal action in which event the GRANTEE agrees to pay the STATE's litigation costs, expenses, and reasonable attorney fees.

4. The GRANTEE and the STATE agree that in the event of judgment entered against the STATE and the GRANTEE because of the concurrent negligence of the STATE and the GRANTEE, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. Neither party shall request a jury apportionment.

5. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the GRANTEE has certified. The GRANTEE acknowledges that it is solely responsible for compliance with items to which it has certified.

H. Financial Records

1. The GRANTEE shall maintain satisfactory financial accounts, documents, including loan documents, and all other records for the project and to make them available to the STATE for auditing at reasonable times. The GRANTEE also agrees to retain such financial accounts, documents and records for five years following project

termination or issuance of final payment, whichever is later.

2. The GRANTEE shall keep such records as the STATE shall prescribe, including records which fully disclose (a) the disposition of the proceeds of STATE funding assistance, (b) the total cost of the project in connection with such assistance that is given or used, (c) the amount and nature of that portion of the project cost supplied by other sources, and (d) any other such records that will facilitate an effective audit.

3. The GRANTEE agrees that the STATE shall have the right to inspect and make copies of any books, records or reports pertaining to this contract or matters related thereto during regular office hours. The GRANTEE shall maintain and make available for inspection by the STATE accurate records of all of its costs, disbursements and receipts with respect to its activities under this contract. Such accounts, documents, and records shall be retained by the GRANTEE for at least five years following project termination or issuance of final payment, whichever is later.

4. The GRANTEE shall use a generally accepted accounting system.

I. Use of Facilities

1. The GRANTEE agrees that the GRANTEE shall operate and maintain the property acquired or developed with the GRANT MONIES, for the duration of the Contract Performance Period.

2. The GRANTEE agrees that, during the Contract Performance Period, the GRANTEE shall use the property acquired or developed with GRANT MONIES under this contract only for the purposes of this grant and no other use, sale, or other disposition or change of the use of the property to one not consistent with its purpose shall be permitted except as authorized by the STATE and the property shall be replaced with property of equivalent value and usefulness as determined by the STATE.

3. The property acquired or developed may be transferred to another entity if the successor entity assumes the obligations imposed under this CONTRACT and with the approval of STATE.

4. Any real Property (including any portion of it or any interest in it) may not be used as security for any debt or mitigation, without the written approval of the STATE provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained. Any such permission that is granted does not make the STATE a guarantor or a surety for any debt or mitigation, nor does it waive the STATE'S rights to enforce performance under the Grant CONTRACT.

5. All real property, or rights thereto, acquired with GRANT MONIES shall be subject to an appropriate form of restrictive title, rights, or covenants approved by the STATE. If the project property is taken by use of eminent domain, GRANTEE shall reimburse STATE an amount at least equal to the amount of GRANT MONIES received from STATE or the pro-rated full market value of the real property, including improvements, at the time of sale, whichever is higher.

6. If eminent domain proceedings are initiated against GRANTEE, GRANTEE shall notify STATE within 10 days of receiving the complaint.

J. Nondiscrimination

1. The GRANTEE shall not discriminate against any person on the basis of sex, race, color, national origin, age, religion, ancestry, sexual orientation, or disability in the use of any property or facility developed pursuant to this contract.

2. The GRANTEE shall not discriminate against any person on the basis of residence except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence and pursuant to law.

3. All facilities shall be open to members of the public generally, except as noted under the special provisions of this project contract or under provisions of the enabling legislation and/or grant program.

K. Severability

If any provision of this CONTRACT or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the CONTRACT which can be given effect without the invalid provision or application, and to this end the provisions of this CONTRACT are severable.

L. Liability

1. STATE assumes no responsibility for assuring the safety or standards of construction, site improvements or programs related to the GRANT SCOPE. The STATE'S rights under this CONTRACT to review, inspect and approve the GRANT SCOPE and any final plans of implementation shall not give rise to any warranty or representation that the GRANT SCOPE and any plans or improvements are free from hazards or defects.

2. GRANTEE will secure adequate liability insurance, performance bond, and/or other security necessary to protect the GRANTEE's and STATE'S interest against poor workmanship, fraud, or other potential loss associated with completion of the grant project.

M. Assignability

Without the written consent of the STATE, the GRANTEE'S interest in and responsibilities under this CONTRACT shall not be assignable by the GRANTEE either in whole or in part.

N. Use of Grant Monies

GRANTEE shall not use any grant funds (including any portion thereof) for the purpose of making any leverage loan, pledge, promissory note or similar financial device or transaction, without: 1) the prior written approval of the STATE; and 2) any financial or legal interests created by any such leverage loan, pledge, promissory note or similar financial device or transaction in the project property shall be completely subordinated to this CONTRACT through a Subordination Agreement provided and approved by the STATE, signed by all parties involved in the transaction, and recorded in the County Records against the fee title of the project property.

O. Section Headings

The headings and captions of the various sections of this CONTRACT have been inserted only for the purpose of convenience and are not a part of this CONTRACT and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this CONTRACT.

P. Waiver

Any failure by a party to enforce its rights under this CONTRACT, in the event of a breach, shall *not* be construed as a waiver of said rights; and the waiver of any breach under this CONTRACT shall *not* be construed as a waiver of any subsequent breach.

Salton CSD
GRANTEE

By: _____
Signature of Authorized Representative

Title: GENERAL MANAGER

Date: 4/16/2022

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

By: _____

Date: _____

BOS APPROVED 12-21-21
M.O. #16

FUNDING AGREEMENT

DESERT SHORES COMMUNITY PARK

THIS AGREEMENT FOR FUNDING ("Agreement"), made and entered into this 21 day of December, 2021, by and between the **IMPERIAL COUNTY AIR POLLUTION CONTROL DISTRICT**, an air pollution control district formed and existing pursuant to California Health and Safety Code section 40002 ("ICAPCD"), and the **SALTON COMMUNITY SERVICES DISTRICT** ("SCSD"), a California community services district formed and existing pursuant to Government Code §§ 61000 *et seq.* which owns and operates the Desert Shores Park ("DSP") (individually, "Party" collectively, "Parties") shall be as follows:

RECITALS

WHEREAS, SCSD submitted a project request to the ICAPCD seeking funding assistance from ICAPCD for a community project consisting of the paving of the parking lot and driveway and upgrades to the lower lot of the DSP located at 1209 Van Buren Avenue, Ste. 1 Salton City, CA 92275 ("Project") in an attempt to mitigate PM_{10} pollutants resulting from DSP; and

WHEREAS, SCSD has requested funding through the ICAPCD's Clean Air Trust Fund in the amount of two hundred thousand dollars ($200,000) to carry out the Project; and

WHEREAS, ICAPCD desires to provide such funding to SCSD, subject to the terms and conditions provide for herein; and

WHEREAS, ICAPCD is authorized to enter into this Agreement under the provisions of California Health and Safety Code section 40701.

WHEREAS, GRANTEE submitted a request letter to ICAPCD seeking funding in the amount of two hundred thousand dollars ($200,000) for a community greening project, consisting of approximately 33,600 SQFT of green space to be created and/or enhanced at DSP in an attempt to mitigate PM_{10}; and

NOW THEREFORE, for and in consideration of the mutual promises set out herein, ICAPCD and SCSD have and hereby agree as follows:

///

RECEIVED
APR 19 2022
AIR POLLUTION
CONTROL DISTRICT

1. **INCORPORATION OF RECITALS.**

1.1. PARTIES hereby certify that to the best of their knowledge, the above recitals are true and correct.

1.2. The above recitals are hereby adopted and incorporated within this Agreement.

2. **DEFINITIONS.**

"Scope of Work" shall mean that document that describes the Project and project requirements. The Scope of Work is attached hereto as **Exhibit "A"** and incorporated herein by this reference.

3. **CONTRACT COORDINATION.**

3.1. The Air Pollution Control Officer, or his/her designee, shall be the representative of ICAPCD for all purposes under this Agreement. The Air Pollution Control Officer, or his/her designee, is hereby designated as Contract Manager for ICAPCD. He/she shall supervise the progress and execution of this Agreement.

3.2. SCSD shall assign a single Contract Manager to have overall responsibility for the progress and execution of this Agreement. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute Contract Manager for any reason, the Contract Manager designee shall be subject to the prior written acceptance and approval of ICAPCD's Contract Manager.

4. **SCOPE OF WORK.**

SCSD shall provide all materials and labor to perform this Agreement consistent with the Scope of Work, attached hereto as **Exhibit "A."** In the event of a conflict amongst this Agreement and the Scope of Work, this Agreement shall take precedence.

5. **WORK TO BE PERFORMED BY SCSD**

5.1. SCSD shall comply with all terms, conditions, and requirements of the Scope of Work and this Agreement.

5.2. SCSD shall perform such other tasks as necessary and proper for the full performance of the obligations assumed by SCSD hereunder.

5.3. SCSD shall:

5.3.1. Procure all permits and licenses, pay all charges and fees, and give all notices that may be necessary and incidental to the due and lawful prosecution of the work to be performed by SCSD under this Agreement;

5.3.2. Keep itself fully informed of all existing and proposed federal, State and local laws, ordinances, regulations, orders and decrees which may affect those under this Agreement;

5.3.3. At all times observe and comply with, and cause all of its employees to observe and comply with all of said laws, ordinances, regulations, orders and decrees mentioned above; and

5.3.4. Immediately report to ICAPCD's Contract Manager in writing any discrepancy or inconsistency it discovers in said laws, ordinances, regulations, orders, and decrees mentioned above in relation to any provisions of this Agreement.

6. **REPRESENTATIONS BY SCSD**

6.1. SCSD represents and warrants that it is a lawful entity possessing all required licenses and authorities to do business in the State of California and perform all aspects of this Agreement.

6.2. SCSD represents and warrants that the person or people executing this Agreement on behalf of SCSD have the authority of SCSD to sign this Agreement and bind SCSD to the performance of all duties and obligations assumed by SCSD herein.

6.3. SCSD represents and warrants that any employee, contractor, and/or agent who will be performing any of the duties and obligations of SCSD herein possess all required licenses and authorities, as well as the experience and training, to perform such tasks.

6.4. SCSD understands that ICAPCD considers the representations made herein to be material and would not enter into this Agreement with SCSD if such representations were not made.

6.5. SCSD understands and agrees that in the course of performance of this Agreement, SCSD may be provided with information or data considered by ICAPCD to be confidential. ICAPCD shall clearly identify such information and/or data as confidential. SCSD shall

take all necessary steps necessary to maintain such confidentiality, including but not limited to restricting the dissemination of all material received to those required to have such data in order for SCSD to perform under this Agreement.

7. **TERM OF AGREEMENT.**

This Agreement shall become effective upon the date first written above and shall remain in effect until the work to be performed under **Exhibit "A"** is completed, unless otherwise terminated as provided for herein.

8. **FUNDING.**

8.1. The total funding under this Agreement shall not exceed **two hundred thousand dollars ($200,000).**

8.2. Except as provided in Paragraph 8.1, ICAPCD shall not be responsible to pay SCSD any additional funding, compensation, out-of-pocket expenses, fees, or other remuneration.

9. **PAYMENT OF FUNDING.**

9.1 GRANTEE shall submit a final invoice for reimbursement of work performed upon completion of the Project. GRANTEE shall receive funding for the Project after a final invoice has been received by ICAPCD and the work performed has been reviewed, inspected and approved to be in accordance with **Exhibit "A"** and **Exhibit "B"** by ICAPD.

9.2 ICAPCD shall not provide funding for work that is not included in the final invoice unless otherwise agreed to in writing by both Parties.

9.3 ICAPCD shall not be responsible to pay SCSD any funding if SCSD fails to complete the Project or the work performed has not been reviewed, inspected and approved to be in accordance with **Exhibit "A"** and **Exhibit "B"** by ICAPCD.

10. **METHOD OF PAYMENT.**

Upon the satisfactory completion of the Project, SCSD may expect to receive funding within a reasonable time thereafter, and in any event, in the normal course of business, within thirty (30) days

after ICAPCD has approved the completion of the Project in accordance with **Exhibit "A and Exhibit "B."**

11. PREVAILING WAGE, REGISTRATION, APPRENTICESHIP, AND OTHER REQUIREMENTS.

11.1. SCSD is hereby on notice that the work to be performed under this Agreement in connection with the Project may be subject to the prevailing wage, registration, apprenticeship, and other provisions of the California Labor Code.

11.2. In the event a determination is made by the California Department of the Industrial Relations ("DIR") that said Work is "public works" within the meaning of the California Labor Code, the SCSD agrees to the fullest extent permitted by law to indemnify, defend, protect and hold ICAPCD and its representatives, officers, directors, designees, employees, agents, successors and assigns harmless from any and all claims, expenses, liabilities, causes of action, demands, losses, penalties, attorneys' fees and costs, in law or equity, of every kind and nature whatsoever arising out of or in connection with such a determination, and further agrees to abide by the following provisions:

11.2.1. Prevailing Wage. SCSD and its subcontractors shall pay all workers employed on the Project the higher of either the rates determined by the Director of DIR, or when applicable, the Davis-Bacon Federal wage rates as supplemented by the Department of Labor regulations.

(a) Copies of the State prevailing rate of per diem wages are on file with the Department of Industrial Relations, Division of Apprenticeship Standards, 445 Golden Gate Avenue, San Francisco, California, and at the Imperial County Department of Public Works, and are available to SCSD and any other interested party upon request.

(b) SCSD shall post the prevailing rate of per diem wages at the Project work site.

(c) SCSD is responsible for compliance with the provisions herein.

11.2.2. Mandatory Registration with the Department of Industrial Relations - NEW REQUIREMENTS PURSUANT TO SB 854.

(a) SCSD and its subcontractors shall register with the DIR and pay all applicable fees as set forth in Labor Code section 1725.5.

(b) SCSD and its subcontractors acknowledge that they shall not be listed on any bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5. The requirements of this section shall apply unless one of the limited exceptions provided under Labor Code Section 1771.1(a) applies.

(c) SCSD and its subcontractors acknowledge that they shall not be awarded any contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5.

(d) The work on the Project described herein may be subject to compliance monitoring and enforcement with the DIR.

(e) For further information concerning compliance with SB 854, please visit: http://www.dir.ca.gov/Public-Works/SB854.html.

11.2.3. Cognizance of Violations by ICAPCD.

(a) SCSD understands and agrees that ICAPCD shall take cognizance of violations of Chapter 1 of Part 7 of Division 2 of the California Labor Code committed in the course of the execution of this Agreement, and shall promptly report any suspected violations to the Labor Commissioner.

(b) If applicable, SCSD may bring an action in a court of competent jurisdiction to recover from ICAPCD the difference between the wages actually paid to an employee and the wages that were required to be paid to an employee pursuant to Chapter 1 of Part 7 of Division 2 of the California Labor Code, any penalties required to be paid pursuant to

Chapter 1 of Part 7 of Division 2 of the California Labor Code, and costs and attorney's fees related to the action, if either of the following is true:

(i) ICAPCD previously affirmatively represented to SCSD in writing, in the call for bids, or otherwise, that the work was not a "public work," as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code; or

(ii) ICAPCD received actual written notice from the Department of Industrial Relations that the work is a "public work," as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, and failed to disclose that information to SCSD before the bid opening or award.

11.2.4. Prevailing Wage Rates and Payroll Records.

(a) SCSD agrees to comply with §§ 1775 and 1776 of the California Labor Code relating to the payment of prevailing wage and the maintenance of certified payroll records and to make the certified payroll records available for inspection at all reasonable hours at SCSD' principal office. The responsibility for compliance with these provisions is fixed with SCSD. SCSD understands and agrees that it shall, as a penalty to ICAPCD, forfeit specific monetary fines for each worker paid less than the prevailing wage rates as determined by the Labor Commissioner for the work or craft in which the worker is employed for any work done pursuant to this Agreement.

(b) SCSD shall be liable for penalties when a subcontractor fails to pay its workers the general prevailing rate of per diem wages and any of the following conditions are met:

(i) SCSD had knowledge of the failure of the subcontractor to pay the specified prevailing rate of wages to those workers; or

(ii) SCSD fails to comply with the following requirement: The contract executed between SCSD and the subcontractor for the performance of work on the Project shall include a copy of the provisions of California Labor Code §§ 1771, 1775, 1776, 1777.5, 1813 and 1815; and

(iii) SCSD fails to comply with the following requirement: SCSD shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor; and

(iv) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, SCSD shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the Project; and

(v) Prior to making final payment to the subcontractor for work performed on the Project, SCSD shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the Project work and any amounts due pursuant to California Labor Code § 1813.

11.2.5. Work Day and Work Week Requirements.

(a) SCSD agrees to comply with §§ 1810 through 1815 of the California Labor Code and, when applicable, sections 103 and 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 3700 et seq., as supplemented by the Department of Labor regulations, which provide that SCSD's workers and their subcontractors' workers may not be required or permitted to work more than eight (8) hours in any one (1) calendar day and forty (40) hours in any one (1) calendar week.

(b) Work performed by employees of SCSD or their subcontractor in excess of eight (8) hours per day, and forty (40) hours during any one (1) week, shall be compensated for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

(c) The responsibility for compliance with these provisions is fixed with SCSD understand and agree that they shall, as a penalty to ICAPCD, forfeit specific monetary fines to ICAPCD should SCSD or their subcontractors fail to comply with the provisions contained within this paragraph.

11.2.6. Apprenticeship Requirements.

(a) SCSD agree to comply with §§ 1777.5, 1777.6 and 1777.7 of the California Labor Code relating to the employment of apprentices and to provide ICAPCD with copies of any contract award information and verified statements of the journeyman and apprentice hours performed pursuant to this Agreement as required by§ 1777.5(e).

(b) The responsibility for compliance with these provisions is fixed with SCSD for all apprenticeable occupations, where journeymen in the craft are employed on the public work, in a ratio of not less than one (1) apprentice for each five (5) journeymen (unless an exemption is granted in accordance with § 1777.5) and SCSD and their subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public work solely on the ground of race, religious creed, color, national origin, ancestry, sex, or age, except as provided in California Labor Code§ 3077.

(c) If the Project work falls within the jurisdiction of California Labor Code § 1777.5, ICAPCD shall, within five (5) days of the award, send a copy of the award to the Division of Apprenticeship Standards. In addition, ICAPCD shall notify the Division of Apprenticeship Standards of a

finding of any discrepancy regarding the ratio of apprentices to journeymen within five (5) days of the finding.

11.2.7. Labor Standards Compliance Requirements.

(a) It is SCSD's responsibility to provide all labor compliance documentation from their subcontractors completely and accurately in a timely manner. SCSD are responsible to review promptly and then forward on all required documentation to ICAPCD per the time schedules in the Labor Compliance Handout.

12. TIME FOR COMPLETION OF THE WORK.

12.1. The Parties agree that time is of the essence in the performance of this Agreement.

12.2. Time extensions may be allowed for delays caused by ICAPCD, other governmental agencies, or factors not directly brought about by the negligence or lack of due care on the part of SCSD

12.2.1. Such requests for extension shall be in writing and shall be forwarded to the attention of the ICAPCD Contract Manager.

12.2.2. All requests for extension outline the factual bases for the request.

13. MAINTENANCE AND ACCESS OF BOOKS AND RECORDS.

SCSD shall maintain books, records, documents, reports and other materials developed under this Agreement as follows:

13.1. SCSD shall maintain all reports, documents, and records, which demonstrate performance under this Agreement for a minimum period of five (5) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

13.2. Any records or documents required to be maintained by SCSD pursuant to this Agreement shall be made available to ICAPCD for inspection or audit at any time during SCSD's regular business hours; provided that ICAPCD provides SCSD with seven (7) days advanced written or e-mail notice. Copies of such documents shall, at no cost to ICAPCD, be provided to ICAPCD for inspection at SCSD's address indicated for receipt of notices under this Agreement.

14. **SUSPENSION OF AGREEMENT.**

ICAPCD's Contract Manager shall have the authority to suspend this Agreement, in whole or in part, for such period as deemed necessary due to unfavorable conditions or to the failure on the part of SCSD to perform any provision of this Agreement.

15. **TERMINATION.**

15.1. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, unless such period is extended by mutual written consent, shall constitute a default under this Agreement. Any notice given pursuant to this section shall specify the nature of the alleged failure and, where possible, the manner in which the failure may be satisfactorily cured.

15.2. Upon failure to cure as herein provided, the Party alleging the failure may institute legal or equitable proceedings to enforce this Agreement.

16. **INSPECTION.**

SCSD shall furnish ICAPCD with every reasonable opportunity for ICAPCD to ascertain that the work being performed by SCSD is in accordance with the requirements and intentions of this Agreement. The inspection of such work shall not relieve SCSD of any of its obligations to fulfill its Agreement as prescribed.

17. **INTEREST OF SCSD.**

17.1. SCSD covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder.

17.2. SCSD covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed.

17.3. SCSD certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of ICAPCD.

18. **INDEMNIFICATION.**

To the greatest extent permitted by law, SCSD agrees to indemnify, defend, protect and hold harmless ICAPCD and its representatives, officers, directors, designees, employees, successors and assigns from and against any and all claims, actions, demands, liabilities, damages, losses, and expenses of whatever kind, which are in any manner in whole or in part, or which are caused or contributed to in whole or in part, or which are claimed to be caused or contributed to in whole or in part even though such claims may be groundless, false, or fraudulent, by any willful misconduct or negligence, whether active or passive of SCSD, or anyone acting under his direction in connection with or incident with the services provided hereunder, unless the same be caused by the sole or concurrent negligence or willful misconduct of ICAPCD.

19. **INSURANCE REQUIREMENTS.**

19.1. SCSD hereby agrees, at its sole cost and expense, to obtain and maintain in full force during the entire term of this Agreement (or extended term thereof) the following types of insurance as detailed below:

19.1.1. Commercial General Liability. Coverage in a minimum amount of one million dollars ($1,000,000) combined single limit to any one person, and two million dollars ($2,000,000) aggregate for any one accident, including personal injury, death, and property damage.

19.1.2. Commercial Automobile Liability.

(a) Coverage in a minimum amount of one million dollars ($1,000,000) combined single limit and one million dollars ($1,000,000) aggregate, including owned, non-owned, and hired vehicles.

(b) Commercial Automobile Liability coverage shall not be required if SCSD does not, at any time, own or rent any automobile during the term of this Agreement, and any extension thereof.

(i) If SCSD does not own or rent an automobile, initial here _____.

(ii) Should this status change, SCSD shall immediately notify ICAPCD in writing and comply with the insurance requirements above.

19.1.3. Workers' Compensation.

(a) Coverage, if applicable, in full compliance with California statutory requirements, for all employees of SCSD

(b) Prior to the commencement of any work, SCSD shall sign and file with ICAPCD the following certification: "I am aware of the provisions of California Labor Code §§3700 et seq. which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

(c) This certification is included in this Agreement and signature of the Agreement shall constitute signing and filing of the certificate.

(d) SCSD understands and agrees that any and all employees, regardless of hire date, shall be covered by Workers' Compensation pursuant to statutory requirements prior to beginning any work on the Project.

(e) Worker's Compensation coverage shall not be required if SCSD does not, at any time, have any employees during the term of this Agreement, and any extension thereof.

(i) If SCSD does not have any employees, initial here _____.

(ii) Should status change, SCSD shall immediately notify ICAPCD in writing and comply with the insurance requirements above.

19.1.4. Employers Liability.

(a) Coverage, if applicable, in the minimum amount of one million dollars ($1,000,000) per accident for bodily injury and disease.

(b) Employer's Liability coverage shall not be required if SCSD does not, at any time, have any employees during the term of this Agreement, and any extension thereof.

(i) If SCSD does not have any employees, initial here _____.

(ii) Should this status change, SCSD shall immediately notify ICAPCD in writing and comply with the insurance requirements above.

19.2. Special Insurance Requirements. All insurance required shall:

19.2.1. Be procured from California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide, acceptable to ICAPCD. A rating of at least A-VII shall be acceptable to ICAPCD; lesser ratings must be approved in writing by ICAPCD.

19.2.2. Be primary coverage as respects ICAPCD and any insurance or self-insurance maintained by ICAPCD shall be in excess of SCSD's insurance coverage and shall not contribute to it.

19.2.3. Name the Imperial County Air Pollution Control District and the County of Imperial and their officers, employees, and volunteers as additional insured on all policies, except Workers' Compensation insurance, and provide that ICAPCD may recover for any loss suffered by ICAPCD due to SCSD's negligence.

19.2.4. State that it is primary insurance and regards ICAPCD and County of Imperial as additional insureds and contains a cross-liability or severability of interest clause

19.2.5. Not be canceled, non-renewed or reduced in scope of coverage until after thirty (30) days written notice has been given to ICAPCD. SCSD may not terminate such coverage until it provides ICAPCD with proof that equal or better insurance has been secured and is in place. Cancellation or change without prior written consent of ICAPCD shall, at the option of ICAPCD, be grounds for termination of this Agreement.

19.3. Additional Insurance Requirements.

19.3.1. ICAPCD is to be notified immediately of all insurance claims. ICAPCD is also to be notified if any aggregate insurance limit is exceeded.

19.3.2. The comprehensive or commercial general liability shall contain a provision of endorsements stating that such insurance:

(a) Includes contractual liability;

(b) Does not contain any exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to by insurers as the "XCU Hazards;"

(c) Does not contain a "'pro rata" provision which looks to limit the insurer's liability to the total proportion that its policy limits bear to the total coverage available to the insured;

(d) Does not contain an "excess only" clause which require the exhaustion of other insurance prior to providing coverage;

(e) Does not contain an "escape clause" which extinguishes the insurer's liability if the loss is covered by other insurance;

(f) Includes ICAPCD and County of Imperial as additional insureds.

(g) States that it is primary insurance and regards ICAPCD and County of Imperial as additional insureds and contains a cross-liability or severability of interest clause.

19.4. Deposit of Insurance Policy. Promptly on issuance, re1ssuance, or renewal of any insurance policy required by this Agreement, SCSD shall, if requested by ICAPCD, provide ICAPCD satisfactory evidence that insurance policy premiums have been paid together with a duplicate copy of the policy or a certificate evidencing the policy and executed by the insurance company issuing the policy or its authorized agent.

19.5. Certificates of Insurance. SCSD agrees to provide ICAPCD with the following insurance documents on or before the effective date of this Agreement:

19.5.1. Complete copies of certificates of insurance for all required coverages, including additional insured endorsements, shall be attached hereto as Exhibit "B" and incorporated herein.

19.5.2. The documents enumerated in this Paragraph shall be sent to the following:

County of Imperial
Risk Management Department
940 Main Street, Suite 101
El Centro, CA 92243

and

Imperial County Air Pollution Control District
150 South 9th Street
El Centro, CA 92243

19.6. Additional Insurance. Nothing in this, or any other provision of this Agreement, shall be construed to preclude SCSD from obtaining and maintaining any additional insurance policies in addition to those required pursuant to this Agreement.

20. **INDEPENDENT CONTRACTOR.**

20.1. Nothing contained herein shall be construed to create, and the Parties hereto expressly disclaim any intent to create, any form of agency relationship, joint venture, or partnership.

20.2. SCSD on its own behalf, and on the behalf of its agents and employees, agrees that SCSD is acting as an independent contractor, and not as an agent, officer or employee of ICAPCD.

20.3. SCSD is not an employee of ICAPCD and is only responsible for the requirements and results specified by this Agreement.

20.4. SCSD shall be responsible to ICAPCD only for the requirements and results specified by this Agreement and except as specifically provided in this Agreement, shall not be subject to ICAPCD's control with respect to the physical actions or activities of SCSD in fulfillment of the requirements of this Agreement.

20.5. SCSD is not, and shall not be, entitled to receive from, or through, ICAPCD, and ICAPCD shall not provide, or be obligated to provide, SCSD with Workers' Compensation coverage or any other type of employment or worker insurance or benefit coverage required or provided by any federal, state or local law or regulation for, or normally afforded to, an employee of ICAPCD.

20.6. SCSD shall not be entitled to have ICAPCD withhold or pay, and ICAPCD shall not withhold or pay, on behalf of SCSD, any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program, or any other type of pension, annuity, or disability program required or provided by any federal, state, or local law or regulation.

20.7. SCSD shall not be entitled to participate in, or receive any benefit from, or make any claim against any ICAPCD fringe benefit program, including, but not limited to, ICAPCD's pension plan, medical and health care plan, dental and eye care plan, life insurance plan, or any other type of benefit program, plan, or coverage designated for, provided to, or offered to ICAPCD's employees.

20.8. ICAPCD shall not withhold or pay, on behalf of SCSD, any federal, state, or local tax, including, but not limited to, any personal income tax, owed by SCSD

20.9. SCSD is, and at all times during the term of this Agreement, shall represent and conduct itself as an independent contractor, not as an employee of ICAPCD.

20.10. SCSD shall not have the authority, express or implied, to act on behalf of, bind, or obligate ICAPCD in any way without the written consent of ICAPCD.

21. **ASSIGNMENT.**

Neither this Agreement nor any duties or obligations hereunder shall be assignable by SCSD without the prior written consent of ICAPCD.

22. **NON-DISCRIMINATION.**

22.1. During the performance of this Agreement, SCSD and its subcontractors SCSD shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over forty (40)), marital status and denial of family care leave.

22.2. SCSD and its subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

22.3. SCSD and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285 et seq.).

22.4. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code §12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

22.5. The applicable regulations of §504 of the Rehabilitation Act of 1973 (29 U.S.C. §794 (a)) are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

22.6. SCSD and its subcontractors shall give written notice of their obligations under Section 22 to labor organizations with which they have a collective bargaining or other agreement.

22.7. SCSD shall include the nondiscrimination and compliance provisions of Section 22 in all subcontracts to perform work under this Agreement.

23. **NOTICES.**

23.1. Any notice by either party to the other shall be personally delivered to the party or sent by certified mail, return receipt requested, to the addresses set forth below:

ICAPCD:
Imperial County Air Pollution Control District
150 South 9th Street
El Centro, CA 92243

SCSD:
Salton Community Services District
1209 Van Buren Avenue, Ste1
Salton City, CA 92275

and

Imperial County Air Pollution Control District
Clerk of the District Board of Directors
940 West Main Street, Suite 209
El Centro, CA 92243

23.2. Notice shall be deemed to have been delivered only upon receipt by the Party, seventy-two (72) hours after deposit in the United States mail, or twenty-four (24) hours after deposit with an overnight carrier.

23.3. The addressees and addresses for purposes of this Section may be changed to any other addressee and address by giving written notice of such change. Unless and until written notice of change of addressee and/or address is delivered in the manner provided in this Section, the addressee and address set forth in this Agreement shall continue in effect for all purposes hereunder.

24. **ENTIRE AGREEMENT.**

This Agreement contains the entire contract between ICAPCD and SCSD relating to the transactions contemplated and supersedes all prior or contemporaneous agreements, understandings, provisions, negotiations, representations, or statements, either written or oral.

25. **MODIFICATION.**

No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing and signed by both Parties.

26. **CAPTIONS.**

Captions in this Agreement are inserted for convenience of reference only and do not define, describe, or limit the scope or the intent of this Agreement or any of the terms thereof.

27. **PARTIAL INVALIDITY.**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

28. **GENDER AND INTERPRETATION OF TERMS AND PROVISIONS.**

28.1. As used in this Agreement, and whenever required by the context thereof, each number, both singular and plural, shall include all numbers, and each gender shall include all genders.

28.2. SCSD as used in this Agreement or in any other document referred to in or made a part of this Agreement shall likewise include the singular and the plural, a corporation, a partnership, individual, firm or person acting in any fiduciary capacity as executor, administrator, trustee or in any other representative capacity or any other entity.

28.3. All covenants herein contained on the part of SCSD shall be joint and several if more than one person, firm, or entity executes the Agreement.

29. **WAIVER.**

No Waiver of any breach or of any of the covenants or conditions of this Agreement shall be construed to be a waiver of any other breach or to be a consent to any further or succeeding breach of the same or any other covenant or condition.

30. **CHOICE OF LAW.**

This Agreement shall be governed by the laws of the State of California. This Agreement is made and entered into in Imperial County, California. To the extent permitted by law, any action brought by either Party with respect to this Agreement shall be brought in a court of competent jurisdiction within said County.

31. **AUTHORITY.**

31.1. Each individual executing this Agreement on behalf of SCSD represents and warrants that:

31.1.1. He/She is duly authorized to execute and deliver this Agreement on behalf of SCSD; and

31.1.2. Such execution and delivery is in accordance with the terms of any Articles of Incorporation or Partnership, by-laws, or Resolutions of SCSD and;

31.2. This Agreement is binding upon SCSD accordance with its terms.

31.3. SCSD shall deliver to ICAPCD evidence acceptable to ICAPCD of the foregoing within thirty (30) days of execution of this Agreement.

32. **COUNTERPARTS.**

This Agreement (as well as any amendments hereto) may be executed in any number of counterparts, each of which when executed shall be an original, and all of which together shall

constitute one and the same Agreement. No counterparts shall be effective until all Parties have executed a counterpart hereof.

33. **REVIEW OF AGREEMENT TERMS.**

This Agreement has been reviewed and revised by legal counsel for both ICAPCD and SCSD, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of the same or any subsequent amendments thereto.

34. **NON-APPROPRIATION.**

This Agreement is based upon the availability of public funding. In the event that public funds are unavailable and not appropriated for the performance of the work set forth in this Agreement, the Agreement shall be terminated without penalty after written notice to SCSD of the unavailability and/or non-appropriation of funds.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first above written.

Imperial County Air Pollution Control District

By: Michael W. Kelley

Michael W. Kelley, Chairman
District Board of Directors

Salton Community Services District (SCSD)

By: Rogelio Flores

~~Dale Johnson,~~ President
SCSD
Rogelio Flores

ATTEST:

Blanca Acosta, Clerk of the District Board,
Imperial County Air Pollution Control District

APPROVED AS TO FORM:
Eric Havens, County Counsel

By: _____

Deputy County Counsel

CLEAN AIR TRUST FUND
FUNDING PROJECT

EXHIBIT "A"
DESERT SHORES COMMUNITY PARK. ("SCSD")

This Exhibit "A" is intended to provide direction and specific requirements necessary to fully execute the proposed project described as the following:

Upgrade of the Desert Shores Community Park located at 57 Palm Dr. Desert Shores, CA 92274, by, leveling and grading and layout real grass.

NOW THEREFORE, SCSD agrees with the following:

1. PM_{10} Reduction Project: SCSD agrees that Project was approved by the ICAPCD for funding. The following information describes the PM_{10} reduction project(s):

PROJECT NAME AND DESCRIPTION	REQUESTED GRANT AMOUNT
Site Preparation: prepare area by leveling dirt, check the slope and compaction. Layout real grass Provide all the necessary equipment, material and labor to perform the job. Total of new grass area 33,600 sf. Prevailing wages applied.	$200,000

2. SCSD agrees that if the Project identified and set forth in Section No. 1 is funded or considered for funding by any other incentive program sponsored by either State, federal, or any local jurisdiction, another ICAPCD or State program, SCSD will notify the ICAPCD immediately.

3. SCSD agrees that the ICAPCD will be contacting the SCSD to set up a pre- inspection of the Project described and set forth in Section No.1. The inspection is composed of the following:

a. Photographic evidence sufficient to identify the Project as that described in Section No. 1. The photographic evidence may include but is not limited to the photographing of different angular directions identifying the roads, public access ways, signs etc. such that the location of the Project is clearly identifiable.

b. Formal Notice of Pre-Inspection Completeness. The ICAPCD will inform SCSD when the pre-inspection process has been completed in the following manner.

   i. In person

   ii. Electronic Mail with a request "Request a Read Receipt" and/or request within the body of the electronic mail for verification of receipt.

4. SCSD agrees that time is of the essence and that an essential part of the funding process is the verification of continued progress towards the completion of the Project described and set forth in Section No.1.

   a. Tentative Timeline. SCSD shall provide to the ICAPCD a tentative timeline indicating the process required for the completion of the Project. The tentative timeline may be remitted in the fallowing manner:

      i. In person

      ii. Electronic Mail with a request "Request a Read Receipt" and/or request within the body of the electronic mail for verification of receipt.

   b. Periodic Updates. SCSD shall remit to the ICAPCD periodic updates that indicate whether the Project described and set forth in Section No.1 is on schedule or are delayed. Periodic updates shall be remitted on a monthly basis beginning one month after the execution of the Funding Agreement. Should a delay occur or is anticipated to occur SCSD shall remit the following information:

      i. Reasonable Delays. SCSD agrees that there are circumstances beyond their reasonable control that may cause an inadvertent delay towards completion of the Project. Reasonable delays are delays that occur which cause the Project not to conform to its tentative timeline by days but not months. Such reasonable delays shall be included within the periodic update with a brief summary describing the delay. Depending on the nature of the delay the ICAPCD may request from SCSD the remittance of an adjusted "Timeline".

      ii. Long Term Delays. Long-term delays are delays that occur which cause the Project not to conform to its tentative timeline by months as opposed to days. Such long term delays shall be included within the periodic update with a brief summary describing

the delay and the submission of an extension of time (form provided by the ICAPCD), approvable by the Air Pollution Control Officer.

c. Remittance of the Periodic Update. The periodic update described in this Section shall be remitted in the following manner to the ICAPCD:

   i. In person

   ii. Electronic Mail with a request "Request a Read Receipt" and/or request within the body of the electronic mail for verification of receipt.

5. SCSD agrees that the following provisions apply with respect to the Final Inspection:

   a. Notification by SCSD, SCSD agrees to notify the ICAPCD of the completion of the described Project set forth in Section No. 1. This will allow the ICAPCD an opportunity to schedule and conduct a final inspection. Notification by SCSD may be in the following manner:

      i. In person

      ii. Electronic Mail with a request "Request a Read Receipt" and/or request within the body of the electronic mail for verification of receipt.

   b. Final Inspection. SCSD agrees that vital to the final inspection is the verification of the completion of the Project as described and set forth in Section No.1. Once notice has been received by SCSD. that the Project has been completed, the ICAPCD shall conduct a final inspection which shall include but is not limited to:

      i. Photographic evidence sufficient to identify the Project as the original complete Project described in Section No.1. The photographic evidence may include but is not limited to the photographing of different angular directions identifying the roads, public access ways, signs etc., such that the location of the Project is clearly identifiable.

   c. Formal Notice of Final Inspection Completeness. SCSD agrees that once the ICAPCD receives verification from the inspector that all material aspects of the newly completed Project, as described and set forth in Section No.1, are true and correct, notification by the ICAPCD to SCSD that the Project is complete shall be in the following manner:

      i. In person

      ii. Electronic Mail with a request "Request a Read Receipt" and/or request within the body of the electronic mail for verification of receipt.

6. SCSD affirmatively states that he or she has legal authority to agree sign to the terms of this Agreement.

SALTON COMMUNITY SERVICES DISTRICT

Date: 04/16/2022

Rogelio Flores

~~Dale Johnson,~~ President

Rogelio Flores SCSD

AIR POLLUTION CONTROL DISTRICT

Date: 12-15-21

Matt Dessert

Matt Dessert

Air Pollution Control Officer

APCB APPROVED: 12-21-21
M.O. #16

OFFICIAL BUDGET AMENDMENT RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL, AUTHORIZING AN AMENDMENT TO THE FINAL BUDGET FOR FISCAL YEAR 2021-2022 FOR Air Pollution Control District DEPARTMENT

BUDGET AMENDMENT RESOLUTION NO. 21-22-045

The Final Budget for Fiscal Year 2021-2022 was duly adopted by ***Resolution No. 2021-090,*** of the Board of Supervisors on September 21, 2021 in accordance with the State of California Government Code; and

The Board of Supervisors has determined it is appropriate to amend the Final Budget, in accordance with proper governmental accounting and financial reporting practices; and

Funds are available, as designated in the requested action; and

Therefore, the Board of Supervisors approves the following action(s):

BUDGET ADJUSTMENTS:

Section 1. Record Revenue Estimate(s):

Fund No.	Fund Title	Object Code	Object Code Title	Amount	
1596001	Air Pollution Control District	491135	Contribution from Trust	$200,000	00
			Total	$200,000	00

Section 2. Authorize Appropriation(s):

Fund No.	Fund Title	Object Code	Object Code Title	Amount	
1596001	Air Pollution Control District	530080	Special Department Expense – Other	$200,000	00
			Total	$200,000	00

Section 3. Authorize Transfer of Funds from the following source(s):

FROM:

Fund No.	Fund Title	Object Code	Object Code Title	Amount	
1648000	Clean Air Fund	301000	Fund Balance	$200,000	00
			Total	$200,000	00

CAPITAL EXPENDITURE AUTHORIZATION:

Section 4. Authorize Specific Capital Item(s) or Project:

Fund No.	Fund Title	Object Code	Object Code Title	Qty	Description	Amount	
					Total		

APCB APPROVED: 12-21-21
M.O. #16

1. Purpose of Budget Amendment:

Appropriate funds from Clean Air Trust for the creation and enhancement of the green space at Desert Shores Community Park, per the agreement with Salton Community Services District.

THE ABOVE AMENDMENT RESOLUTION WAS APPROVED BY ACTION OF THE BOARD at a regular meeting of the Board of Supervisors of the County of Imperial held on the 21st day of December, 2021 by the following vote, to-wit:

AYES: Escobar, Plancarte, M. Kelley, R. Kelley, Castillo
NOES: None
ABSTAINED: None
ABSENT: None

Blanca Acosta, Clerk of the Board of Supervisors
County of Imperial, State of California

cc: Department
Auditor-Controller
CEO
GSA-Budget Fiscal

CLERK, BOARD OF SUPERVISORS ★ COUNTY OF IMPERIAL ★ CALIFORNIA

I hereby certify that the foregoing instrument is a correct copy of the original on file with this office.

Date: 5/10/22

Approved by the Board of Supervisors
12/21/21 Date 16 Minute Order #

Clerk of the Board of Supervisors
County of Imperial

BY: Deputy