



bay restoration authority

STEWARDS OF SANTA MONICA BAY

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April 18, 2016

Agenda Item #5

To: Governing Board, Santa Monica Bay Restoration Authority (SMBRA)

From: Tom Ford, Executive Director

Re: Memorandum of Understanding (MOU) with Los Angeles World Airports (LAWA)

Action Requested of the Governing Board:

- Approve the SMBRA MOU with LAWA

Background

The SMBRA was created by a joint exercise of powers agreement between the Santa Monica Bay Restoration Commission (SMBRC) and the Los Angeles County Flood Control District (FCD) and operates as a local public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the SMBRC and the FCD with the purpose of broadening funding opportunities for projects within the Santa Monica Bay.

The SMBRA was approached by the City of Los Angeles Department of Airports (dba Los Angeles World Airports (LAWA)) to collaborate on a multi-year project to restore and enhance natural dune habitats on Los Angeles International Airport (LAX) property. The attached MOU specifically identifies the relationship between the entities, the scope of work, and the budget. The SMBRA will use The Bay Foundation staff specifically assigned to the SMBRC for this project, along with partner entities to be identified at a later time and via competitive RFP processes if required. .

The SMBRA Board of Directors approved its Fiscal Year 2016 and 2017 budgets at its February 2016 meeting in anticipation of the preparation and finalization of the MOU.

Project Description

As noted above, the goal of this newly-proposed project is to restore and enhance the natural habitats and implement effective long-term habitat management at LAX dunes through collaboration between LAWA and the SMBRA. LAWA and the SMBRA will mutually benefit from this cooperation with sharing of costs and resources as the project will greatly advance the goals and objective called for by the Bay Restoration Plan as well as various restoration and management plans of the dune habitats adopted over the years by LAWA. The project also provides for research opportunities, community involvement and environmental awareness and stewardship, youth and workforce development, rare species and habitat preservation and enhancement, conducted in a manner to ensure safe airport operations.

our mission: to restore and enhance the santa monica bay through actions and partnerships that improve water quality, conserve and rehabilitate natural resources, and protect the bay's benefits and values



The project is consistent with, and will advance the mission of the FCD by educating the public about the FCD's efforts to improve water quality in the Santa Monica Bay. The FCD owns and operates 21 storm drain low-flow diversion (LFD) structures throughout Santa Monica Bay to redirect urban runoff from storm drains for treatment at a nearby waste water treatment plant. The Westchester LFD takes urban runoff from a storm drain that runs underneath the Dunes Restoration Project site and diverts it to the Hyperion Plant for treatment. The public education component of the Dunes Restoration Project will include educational messages for urban and stormwater runoff pollution prevention and the role of the LFDs in this context.

MEMORANDUM OF UNDERSTANDING

for

**LONG-TERM HABITAT RESTORATION AND
MANAGEMENT OF THE LOS ANGELES
INTERNATIONAL AIRPORT
EL SEGUNDO DUNES**

by and between

**CITY OF LOS ANGELES, DEPARTMENT OF
AIRPORTS AKA LOS ANGELES WORLD
AIRPORTS, A PROPRIETARY DEPARTMENT OF
THE CITY OF LOS ANGELES, A MUNICIPAL
CORPORATION**

and

**THE SANTA MONICA BAY RESTORATION
AUTHORITY, A JOINT POWERS AUTHORITY**

INTRODUCTION

This Memorandum of Understanding (“Agreement”), made and entered into the ____th day of _____, 2016, by and between City of Los Angeles, Department of Airports aka Los Angeles World Airports, a proprietary department of the City of Los Angeles, a municipal corporation in the County of Los Angeles (hereinafter referred to as “LAWA”); and The Santa Monica Bay Restoration Authority, a Joint Powers Authority formed between The Santa Monica Bay Restoration Commission and The Los Angeles County Flood Control District, and organized under the laws of the State of California (hereinafter referred to as “SMBRA”) (hereinafter referred to as the “Parties”).

WHEREAS, SMBRA is a Joint Powers Authority between The Santa Monica Bay Restoration Commission and Flood Control District of Los Angeles County, and is a non-regulatory, locally-based state organization whose mission is to restore and enhance Santa Monica Bay through actions and partnerships that improve water quality, conserve and rehabilitate natural resources, and protect the Santa Monica Bay’s benefits and values;

WHEREAS, the Santa Monica Bay Restoration Commission, the SMBRA, and The Bay Foundation (also known as the Santa Monica Bay Restoration Foundation) are partners in what constitutes the Santa Monica Bay National Estuary Program (SMBNEP), a program of the United States Environmental Protection Agency (US EPA);

WHEREAS, the City of Los Angeles is a member of the Governing Board of the Santa Monica Bay Restoration Commission together with federal, state and local public agency officials and employees and representatives of other stakeholder interests in the Santa Monica Bay;

WHEREAS, the SMBNEP’s work plan, the Santa Monica Bay Restoration Plan, includes restoration and enhancement of native habitat in the Los Angeles International Airport /El Segundo Dunes (hereinafter referred to as “LAX/El Segundo Dunes the Dunes”);

WHEREAS LAWA is the owner of the LAX/ El Segundo Dunes, the most significant habitat of and recovery unit for the federally endangered El Segundo Blue Butterfly; and

WHEREAS, LAWA is a responsible agency identified in the City of Los Angeles General Plan Conservation Element for protecting and promoting the restoration, to the greatest extent practical, of sensitive plant and animal species and their habitats; preserving, protecting, restoring and enhancing natural plant and wildlife diversity, habitats, corridors and linkages so as to enable the healthy propagation and survival of native species, especially those species that are endangered, sensitive, threatened or species of special concern; protecting and enhancing the diversity and sustainability of the natural ecologies of the Santa Monica and San Pedro bays, including the bay fishery populations; and protecting the coastline and watershed from erosion and inappropriate sedimentation that may or has resulted from human actions; and

WHEREAS, the special conditions in Coastal Commission Coastal Development Permit No. 5-92-131 issued on October 13, 1992, to LAWA, for restoration of El Segundo Blue Butterfly habitat in the LAX/El Segundo Dunes required (1) a City Council Resolution stating the City’s intent to preserve the project area as a part of an Environmentally Sensitive Habitat Area (ESHA) and restrict development in the designated area to the development approved in the permit, development that provides access to or is dependent upon the habitat, and, if there is no other feasible location, airport safety and communication devices specifically mandated by the Federal Aviation Administration (FAA); (2) a Council-approved long-term management plan that includes a source of funds to provide for long-term maintenance and monitoring, measures to ensure the ecosystem’s and reintroduced and extirpated species protection and survival, and measures to augment species of concern; (3) a public access component which provides opportunities for public access and ensures continued protection of the ESHA area; and (4) the

submission of all other required discretionary permits to the Coastal Commission and amendments as needed to execute Coastal Development Permit 5-92-131. City Council resolutions were adopted in 1992 and 1994 preserving the 307-acres LAX/El Segundo Dunes (Los Angeles Municipal Ordinances No. 167940 and 169767). In 1994, LAWA published the Long-Term Habitat Management Plan for the LAX/El Segundo Dunes. Public access is currently provided through the LAX Adopt-a-Dune volunteer dunes restoration program. A specific source of funds for implementation of the management plan was not identified in 1992 and 1994 in the Plan, but LAWA does fund annual monitoring and submits annual reports to the USFWS and Coastal Commission, and has staff dedicated to the maintenance of the preserve, including a Preserve Manager who oversees maintenance and monitoring, and public access components; and

WHEREAS, the special conditions in Coastal Commission Coastal Development Permit No. 5-12-263 issued on June 25, 2013, to LAWA for the Coastal Dunes Improvement Project (hereinafter referred to as the "CDIP") allowed for the removal of selected abandoned streets covering approximately four (4) acres, reducing non-native invasive plants, and planting approximately six (6) acres of native coastal dune and coastal prairie vegetation within a 48-acre site in the northern portion of the dunes at 8901 S. Pershing Street, El Segundo Dunes, Los Angeles (hereinafter referred to as the "CDIP Area") required (1) an ecological landscaping plan for the CDIP Area approved by the Coastal Commission; (2) submission of a monitoring report to the Coastal Commission assessing whether the on-site landscaping is in conformance with the approved ecological landscaping plan five (5) years from the date of issuance of the Permit; (3) submission of revised or supplemental landscaping plans, should the monitoring report indicate that the on-site landscaping is not in conformance with the approved ecological landscaping plan; and (4) a plan for erosion and drainage control approved by the Coastal Commission. LAWA published and the Coastal Commission approved the Ecological Landscape Plan for the Los Angeles International Airport Coastal Dunes Improvement Project in April 2013 (hereinafter referred to as the "Ecological Landscape Plan"). Permit No. 5-12-263 and the Ecological Landscape Plan are attached to this MOU as Attachments ___ and ___.

WHEREAS, the services to be provided by SMBRA under the MOU are critical in supporting LAWA's compliance with Coastal Development Permit No. 5-12-263's requirements including reducing non-native invasive plants, planting native coastal dune and coastal prairie vegetation, maintenance of the CDIP Area in conformance with the Ecological Landscape Plan, preparation the 5-year monitoring report and any revised or supplemental Ecological Landscape Plan for the CDIP Area. Services to be provided by SMBRA that involve public participation in the dunes restoration, such as the Adopt-a-Dune volunteer days, will provide for the public access to the site required by Coastal Development Permit No. 5-92-131 while accomplishing the invasive species removal and habitat maintenance requirements prescribed in Permit No. 5-12-263 in the CDIP Area; and

WHEREAS, The SMBRA and its partner The Bay Foundation are staffed and rely on science and policy experts who cover a diverse range of disciplines who work to understand and serve the entire Santa Monica Bay watershed, and through their work, they produce reports on programs and individual projects with the hope that the findings will contribute to innovative solutions and effective environmental management strategies.

WHEREAS, the Coastal Dunes Improvement Project Ecological Landscaping Plan requires long-term monitoring and maintenance of the CDIP Area in alignment with the Santa Monica Bay Restoration Plan; and

WHEREAS, the primary purpose of LAWA under the City of Los Angeles Charter is to promote and accommodate air commerce and air navigation; and

WHEREAS, airport navigational and utilities infrastructure is located in the dunes and may need to be relocated in the future; and

WHEREAS, the LAX/El Segundo Dunes, including the CDIP Area, are a limited public access, secured area of the LAX campus;

NOW, THEREFORE, in consideration of promises, covenants, and agreements hereinafter set forth, the parties hereby agree as follows:

1. Purpose

The purpose of this MOU is to establish a framework within which the Parties may accomplish their respective organizational missions through the cooperative sharing of costs and resources for the benefit of the provision of effective habitat management of the CDIP Area as called for by Coastal Commission Permit No. 5-12-263, and the Coastal Dunes Improvement Project Ecological Landscaping Plan. The collaboration of the Parties under this agreement shall provide for research opportunities, community involvement and environmental awareness and stewardship, youth and workforce development, rare species and habitat preservation and enhancement, and the maintenance of the CDIP Area and safe airport operations. At no time shall this work or the actions of the Parties restrict the City of Los Angeles, LAWA, or the FAA from safely operating and maintaining LAX and any other City facilities or infrastructure.

The respective missions or purposes of the parties are as follows:

- a. LAWA, a proprietary department of the City of Los Angeles, LAWA was created to promote and accommodate air commerce and air navigation. In order to achieve this, LAWA collaborates with the FAA to achieve safe, efficient airport operations. As the responsible agency designated by the City of Los Angeles General Plan to provide for the ecological management of the LAX/El Segundo Dunes, LAWA collaborates with natural resource and conservation agencies to achieve effective ecological management of rare habitat and species in the LAX/El Segundo Dunes.
- b. SMBRA, a Joint Powers Authority between The Santa Monica Bay Restoration Commission and The Los Angeles County Flood Control District, is a locally-based state organization. SMBRA's mission is to restore and enhance the Santa Monica Bay through actions and partnerships that improve water quality, conserve and rehabilitate natural resources, and protect the Bay's benefits and values. SMBRA and its partners are focused on research, education, planning, cleanup efforts, restoration, and other priorities identified in the SMBNEP's Santa Monica [Bay Restoration Plan](#) (BRP). Restoration of the Santa Monica Bay watershed habitat within the LAX/El Segundo Dunes is included in the Santa Monica Bay Restoration Plan.

2. Legal Authority

All of the parties to this Agreement have the legal authority to enter into this Agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay their respective share of project costs, when applicable.

3. Project Description and Scope of Work

The project will improve the CDIP Area habitat through the removal of non-native and invasive weeds from the dunes, and through seed collection and seed and plant propagation as set forth in the Coastal Dunes Improvement Project Ecological Landscaping Plan, and support LAWA compliance with Coastal Development Permit No. 5-12-263. The Scope of Work is described further in Exhibit A, which is incorporated by reference as though fully set forth herein.

4. Obligations of the Parties

LAWA agrees to engage SMBRA, and SMBRA agrees to engage Los Angeles Conservation Corps, Rancho Santa Ana Botanic Garden, community groups and any other appropriate third parties to undertake, carry out and complete certain work and services set forth in the

attached Exhibit A, Scope of Work, subject to the approval of LAWA, and such approval shall not unreasonably be withheld. SMBRA shall comply with all requirements as set forth in Exhibit B, Insurance Requirements of this MOU.

5. Changes in the Scope of Work

Changes in the Scope of Work under this agreement will be made by mutual written consent between the Chief Executive Officer of LAWA or designee and the Executive Director of SMBRA or designee. Minor changes, such as schedules, quantities, product supplied, may be made by common consent between appointed representatives of the Parties to this MOU.

6. Implementation

The services of SMBRA shall commence on July 1, 2016 or as soon as practicable after the execution of this MOU and shall be undertaken and discharged in such sequence as to ensure their expeditious completion in the light of the purposes of this MOU as defined under the Scope of Work and shall terminate not later than three-years from full execution of this agreement, as set forth in Exhibit C, Schedule of Deliverables, which is incorporated by reference as though fully set forth herein.

7. Payment/Reimbursement

The total project budget is set forth in the attached Exhibit D incorporated by reference as though fully set forth herein. LAWA shall provide reimbursements to SMBRA upon the completion of project deliverables that comply with the Scope of Work pursuant to the not-to-exceed budget in Exhibit D in years 1, 2 and 3.

8. Method of Payment

- a. Invoicing and Payment: SMBRA are responsible for the preparation of complete and accurate invoices. Invoices shall be prepared in such form and supported by copies of third party invoices and supporting documents, as required by LAWA to establish the amount of such invoices being allowable. Invoices and supporting documentation shall be prepared at the sole expense and responsibility of SMBRA. SMBRA shall submit a request for reimbursement in a format approved by LAWA on a quarterly basis when work has been completed in the prior month, for payment per Exhibit D. SMBRA is responsible for reimbursing any partners and/or subcontractors their respective share of invoice payments.

In its final request for disbursement, SMBRA shall itemize all services performed and the names of SMBRA's personnel, subcontractors and/or partners who worked under this Memorandum of Understanding.

It is expressly understood and agreed that in no event will the total compensation for the services and reimbursement for allowable expenses under this Memorandum of Understanding, if any, exceed the maximum sum outlined in the not-to-exceed cost set forth in the attached Exhibit D, unless this Memorandum of Understanding is mutually modified and executed by both parties.

- b. Invoice Submittal:

All payment requests submitted by SMBRA and its subcontractors shall be certified by a duly authorized and knowledgeable officer of SMBRA in a statement containing the following:

"I certify, under penalty of perjury, under the laws of the State of California, that to the best of my knowledge and belief, the above bill/invoice is just, true and correct according to the terms of this contract, and that payment therefore has not been received."

Invoices shall be submitted to:

Los Angeles World Airports
Environmental Programs Group
7301 World Way West, 7th Floor
Los Angeles, CA 90045
Attention: Invoice Processing

Electronic copy to: *rfreeman@lawa.org* and *blingat@lawa.org*.

Payment shall be by check, payable to the Santa Monica Bay Restoration Authority and mailed to:

Department of Public Works
Fiscal Division
900 S. Fremont Avenue, 7th Floor
Alhambra, CA 91803
Attention: Emilia Chlebek

- c. Invoice Submittal Deadline: LAWA shall not be responsible for payments of invoices or supplemental invoices submitted to LAWA more than one year after the date of completion of service.
- d. Invoice Approval and Processing: A payment or payments shall be made upon the submission of one or more complete and accurate invoices. LAWA shall review the invoice(s) and notify SMBRA in writing of exceptions within 15 days of receipt. LAWA shall complete requests for disbursement in the format required for reimbursement to LAWA by funding source. If an invoice is not properly submitted, then the new 15-day review period will begin upon receipt of a corrected invoice by LAWA. Once approved by LAWA, LAWA will process the payment within 30 days. No expedition of payment or explanation of payment progress shall be made within the 30-day processing period. To expedite the approval process, SMBRA is encouraged to submit draft invoices for review before submitting a final invoice. LAWA liability under this MOU shall only be to the extent of the present appropriation to fund the MOU. No action, statement, or omission of any officer, agent, or employee of LAWA shall impose any obligation upon LAWA, such officer, agent, or employee except to the extent LAWA has appropriated funds and otherwise in accordance with the terms of this MOU. SMBRA and LAWA agree that no indebtedness for work performed which results in costs under this MOU shall arise against LAWA until and unless there is an appropriation of funds to pay for such work. However, if LAWA shall appropriate funds for any successive fiscal years, LAWA's liability shall be extended to the extent of such appropriation subject to the terms and conditions of this MOU.
- e. Late Charges: LAWA does not pay any late charges, penalties, or interest on outstanding invoices. LAWA is not responsible for the payment of any interest, late charges, or penalties incurred by the SMBRA from any subcontractor or supplier for any items provided under the MOU.
- f. Disputes: In the event that a dispute arises over an invoice, the LAWA shall pay any undisputed portion of the amount due within the time period required for such payment, and any required payment of the disputed amount in accordance with existing LAWA practices.
- g. Past Expenses: Costs incurred by SMBRA prior to the actual date of full execution of the MOU shall be payable to SMBRA if said costs were incurred in completing tasks specifically authorized by this MOU and said costs are reviewed and approved by LAWA and said approval for payment occurs after this MOU is fully executed.

9. Independent Contractor

SMBRA are acting hereunder as an independent contractor and not as an agent or employee of LAWA. SMBRA shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of LAWA. LAWA shall not represent or

otherwise hold itself or any of its commissioners, directors, officers, partners, employees, or agents or employee of the SMBRA.

10. Term of Agreement

The term of this agreement shall commence on the date executed and shall continue until three years from the date of execution, until terminated by either party, or as amended by mutual consent.

11. Hold Harmless

SMBRA shall hold harmless, defend at its own expense, and indemnify LAWA, its officers, directors, agents, employees, and their respective successors against any and all liability, claims, causes of action, demands, losses, damages, or expenses, including attorneys' fees, arising from all acts or omissions of SMBRA or its officers, agents, or employees in rendering services under this MOU.

LAWA shall hold harmless, defend at its own expense, and indemnify SMBRA and their officers, directors, agents, employees, and their respective successors against any and all liability, claims, causes of action, demands, losses, damages, or expenses, including attorneys' fees, arising from all acts or omissions of LAWA or its officers, agents, or employees in rendering services under this MOU.

12. Changes or Modifications

- a. LAWA may at any time, by written order, make changes within the general scope of this MOU in the services or work to be performed. Changes or modifications in the terms of this MOU will be made by amendment and subject to approval of the Director of LAWA or designee and the Executive Director of SMBRA or designee. If such changes cause an increase or decrease in the SMBRA's cost or time required to perform any services under this Memorandum of Understanding, whether or not changed by any order, LAWA and SMBRA shall agree to make an equitable adjustment and modify this Memorandum of Understanding in writing. The SMBRA must assert any claim for adjustment under this clause in writing within thirty (30) days from the date it receives LAWA's notification of change, unless LAWA grants additional time before the date of final payment.
- b. No services for which SMBRA will charge an additional compensation shall be furnished without the written authorization of LAWA.

13. Force Majeure

Notwithstanding any other provisions, LAWA, and SMBRA shall not be held responsible or liable for failure to meet its respective obligations under this MOU if such failure shall be due to causes beyond their control. Such clauses include, but are not limited to: strikes, fire, flood, civil disorder, acts of God or of the public enemy, acts of federal government or any unit of state or local government in either sovereign or contractual capacity, epidemics, quarantine restrictions or delays in transportation to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

14. Stop Work Notice

Immediately upon receipt of a written notice from the Contract Manager to stop work, the SMBRA shall cease all work under this Memorandum of Understanding.

15. Severability

Should any portion of this MOU be determined to be void or unenforceable, such shall be severed from the whole and the MOU will continue as modified.

16. Termination

This Memorandum of Understanding may be terminated in whole or in part in writing by either party in the event the other party fails to substantially perform its obligations under this Memorandum of Understanding through no fault of the terminating party. No termination under this paragraph shall

be effective unless the non-terminating party is given: (1) not less than fifteen (15) calendar days written Notice of intent to terminate, and (2) prior to termination, an opportunity for consultation with the terminating party within ten (10) calendar days from the date such written termination Notice is mailed. In such event, all finished or unfinished documents, work product, and other materials associated with SMBRA's performance under this Memorandum of Understanding shall be governed by Paragraph 24 herein.

17. Disputes and Remedies

Should a dispute or controversy arise concerning provisions of this MOU or the performance of work hereunder the parties may elect to submit such to representatives of the Board of Airport Commissioners or the Santa Monica Bay Restoration Authority for resolution. Should a mutually agreed upon resolution not be found through that process, all claims, counter-claims, disputes, and other matters in question between LAWA and SMBRA arising out of, or relating to, this Memorandum of Understanding or breach of it will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of California.

18. Audit: Access to Records

- a. SMBRA shall maintain books, records, documents, and other evidence directly pertinent to performance on Federally- or State-funded work under this MOU in accordance with generally accepted accounting principles and practices consistently applied, and according to the guidelines of the State of California Controller's Office and the State Auditor General's Office and any of their authorized representatives in effect on the date of execution of this Memorandum of Understanding. Access to records is not limited to the required retention periods. The authorized representatives designated in this clause shall have access to records at any reasonable time for as long as the records are maintained. This right of access clause applies to financial records pertaining to all Memorandum of Understanding change orders made to this Memorandum of Understanding: (a) To the extent the records pertain directly to Memorandum of Understanding performance; (b) If there is any indication that fraud, gross abuse, or corrupt practices may be involved; or (c) If the Memorandum of Understanding is terminated for default or for convenience.

19. Quality Assurance

- a. SMBRA are responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports, presentations, designs, and other services furnished by SMBRA under this Memorandum of Understanding. SMBRA shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its reports, presentations, designs, and other services.
- b. Editorial Review: All published materials, including printed, audio, or video materials delivered or specified to be delivered under this MOU, must be reviewed by LAWA before printing or production. Failure to provide LAWA with the opportunity to conduct an editorial review may result in non-payment for that part of the project.

20. Release of Claims

Upon satisfactory completion of the work performed under this Memorandum of Understanding, as a condition before final payment under this Memorandum of Understanding, or as a termination settlement under this Memorandum of Understanding, SMBRA shall execute and deliver to LAWA a release of all claims against LAWA arising under, or by virtue of, this Memorandum of Understanding, except claims which are specifically exempted by SMBRA, and agreed to by LAWA to be set forth therein. Unless otherwise provided in this Memorandum of Understanding, final payment under this Memorandum of Understanding or settlement upon termination of this Memorandum of Understanding shall not constitute a waiver of LAWA's claims against SMBRA or its sureties under this Memorandum of Understanding or applicable performance and payment bonds.

21. Conflict of Interest

SMBRA covenant that presently there is no interest, and none shall be acquired, direct or indirect, which conflicts in any manner or degree with performance of services as required under this Memorandum of Understanding. SMBRA further covenants that in the performance of this Memorandum of Understanding, no person having any interest shall be employed by it.

22. Ownership Rights in Data

- a. The term "Subject Data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this MOU. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory. Examples include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to MOU administration, nor does it refer to materials and articles prepared by others which have been assembled for the purposes of this Grant Award.
- b. All Subject Data first produced in the performance of this Memorandum of Understanding and funded by the U.S. Government shall be the sole property of the U.S. Government. LAWA and SMBRA agree not to assert any rights at common law or equity and not to establish any claim to statutory copyright in such data. Except for its own internal use and for educational purposes, SMBRA shall not publish or reproduce such data in whole or in part, or in any manner or form, nor authorize others to do so, without review by LAWA until such time as LAWA may have released such data to the public.
- c. All other Subject Data and other work product first produced or generated in the performance of this Memorandum of Understanding and not funded by the U.S. Government shall be the sole property of LAWA for its use in any manner it deems appropriate. Work products are all works, tangible or not, created under this Agreement including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. SMBRA hereby assigns, and agrees to assign, all goodwill, copyright, trademarks, patent, trade secret and all other intellectual property rights worldwide in any work products originated and prepared by SMBRA under this Agreement. SMBRA further agrees to execute any documents necessary for LAWA to perfect, memorialize, or record LAWA's ownership of rights provided herein. The provisions of this paragraph shall survive expiration of this Agreement.

Any subcontract entered into by SMBRA relating to this Agreement, to the extent allowed hereunder, shall include a like provision for work to be performed under this Agreement to contractually bind or otherwise oblige its sub-consultants performing work under this Agreement such that LAWA's ownership rights of all Work Products are preserved and protected as intended herein. Failure of SMBRA to comply with this requirement or to obtain the compliance of its sub-consultants with such obligations shall subject the consultant team to the imposition of any and all sanctions allowed by law, including but not limited to termination of SMBRA's Agreement with LAWA.

23. Confidential Information

Any reports, information, data, etc. either given to, or prepared for or by SMBRA in performance of this project, and which is properly marked as "Confidential" shall be kept confidential and shall not be made available to any individual or organization by SMBRA without the prior written approval of LAWA. Confidentially marked material will be mutually agreed to by SMBRA and LAWA.

24. Work Product

Any and all subject data and other work product produced or generated under this MOU shall be immediately turned over to LAWA, in its original form and all copies thereof, upon demand by LAWA.

25. Extension of Time

The granting of or acceptance of time extensions to complete performance by SMBRA will not operate as a release to SMBRA or to otherwise modify the terms and conditions of this Memorandum of Understanding.

26. Conservation

SMBRA shall recognize and abide by the mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 USC Section 6321, et seq.)

27. Notices

Any notices, demands, or elections required or permitted to be given or made hereunder shall be in writing, shall be personally delivered or mailed by certified mail, return receipt requested, addressed to the respective parties' MOU managers as follows:

LAWA: Mr. Robert D. Freeman
Airport Environmental Manager II
Los Angeles World Airports
Environmental Programs Group
7301 World Way West, 3rd Floor
Los Angeles, California 90045

Email: rfreeman@lawa.org
Office: (424) 646-6474
Fax: (424) 646-9260

SMBRA: Mr. Tom Ford
Executive Officer
Santa Monica Bay Restoration Authority
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
Attn: Marcelo Villagomez

Email: mvillagomez@waterboards.ca.gov
Office: (213) 576-6645
Fax: (213) 576-6646

28. Assignment/Subcontracting

This Memorandum of Understanding shall not be assigned, transferred, hypothecated, or pledged by SMBRA without prior written consent of LAWA.

29. Amendment

This Memorandum of Understanding may be amended at any time, but only by a writing signed by both parties.

30. Time of the Essence

Time is of the essence in this Memorandum of Understanding.

31. Non-Waiver

None of the provision of this MOU shall be deemed waived unless expressly waived in writing. An omission or failure of any of the Parties to demand or enforce strict performance of provisions of this MOU shall not be construed as a waiver or as a relinquishment of any rights. All provisions and rights shall continue and remain in full force and effects as if such omission or failure had not occurred.

32. Waiver

The waiver by LAWA of a breach by SMBRA of any provision of this Memorandum of Understanding shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of a different provision of this Memorandum of Understanding.

33. Entire Memorandum of Understanding

This Memorandum of Understanding is entire as to all of the performance to be rendered under it. It supersedes any and all other Memorandum of Understandings, either oral or in writing, among LAWA and SMBRA with respect to the subject matter hereof and contains all of the covenants and Memorandum of Understandings between the parties with respect to such matters. LAWA and SMBRA acknowledge that no representations, inducements, promises, or Memorandum of Understandings, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other Memorandum of Understanding, statement, or promise not contained in this Memorandum of Understanding shall be valid or binding.

34. Governing/Controlling Law

This Memorandum of Understanding and all matters relating to it shall be governed by the laws of the State of California. Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City of Los Angeles.

35. Transfer of Interest

None of the parties shall assign or transfer this MOU in whole or in part without prior written consent of the other party. The consent to assign or transfer shall not be unreasonably withheld.

36. Attorneys' Fees

In the event either of the parties brings an action or legal proceeding due to an alleged breach of this Memorandum of Understanding, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs as determined by an arbitrator or by a court of competent jurisdiction.

37. Participation in Similar Activities

This agreement, in no way, restricts the Parties from participating in similar activities with other public or private agencies, organizations, and individuals.

38. Endorsement

Any of SMBRA's contributions made under this agreement do not by direct reference or implication convey LAWA endorsement of SMBRA's products or activities.

39. Use of LAWA Insignia

In order for SMBRA to use the LAWA insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the LAWA Public Relations and Government Affairs Divisions. A written request must be submitted and approval granted in writing by the LAWA Public Relations Division prior to use of the insignia. Approval must be obtained from: Nancy Castles, Public and Community Relations Director II, Phone No. (424) 646-5260, Email - ncastles@lawa.org.

40. Non-Discrimination

In connection with the execution of this MOU, SMBRA shall not discriminate or allow harassment against any employee or applicant for employment because of sex, race, religion, color, ancestry, national origin, sexual orientation, physical handicap, disability (including HIV/AIDS), cancer-related

medical condition, age, or marital status. SMBRA shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their sex, race, religion, color, ancestry, national origin, sexual orientation, physical handicap, disability (including HIV/AIDS), cancer-related medical condition, age, or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. SMBRA shall include this non-discrimination clause and its compliance provisions into all subcontracts to perform work under this MOU, except subcontracts for standard commercial supplies or raw materials.

SMBRA and its subcontractors shall comply with the provisions of (1) the Non-discrimination clauses set forth in the Code of Federal Regulations (CFR), Title 40, Part 7 and (2) the Fair Employment and Housing Act (California Government Code § 12900, et. seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, §7285.0, et. seq.). The applicable regulations of 40 CFR Part 7 and the Fair Employment and Housing Commission implementing California Government Code §12990 (a-f) set forth in Chapter 5 of Division 4 of Title 22 of the California Code of Regulations are incorporated herein by reference, and made a part hereof as if set forth in full. SMBRA and its subcontractors shall give written notice of their obligation under this clause to labor organizations with which they have a collective bargaining or other agreement.

41. Termination of the Agreement

Any of the parties may terminate this MOU for any reason or in whole or in part by giving the other party 30 calendar days written notice by certified mail with return receipt requested.

In the event of termination by either party prior to the completion date, the parties agree to take all reasonable measures to prevent further costs under this Agreement. All parties shall be responsible for any reasonable and non-cancelable obligation incurred in the performance of this Agreement until the date of the notice to terminate, but only up to the unpaid balance of funding authorized under this Agreement.

In the event that SMBRA terminates this agreement during the Term of Agreement as defined above, or fails to complete their share of the Project as described in the Scope of Work, SMBRA shall be liable for repayment to LAWA of all amounts paid by LAWA under this Agreement. LAWA may at its sole discretion consider extenuating circumstances and not require payment for work partially completed.

42. Entire Agreement

This MOU contains all of the representation and understandings of the parties here to and supersedes and/or incorporates any previous understandings proposals, or commitments, whether oral or written, and may be modified or amended only as herein before provided.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding.

LOS ANGELES WORLD AIRPORTS:

By (Name): _____
Lisa Trifiletti
Deputy Executive Director
Environmental Programs Group

Dated: _____

THE SANTA MONICA BAY RESTORATION AUTHORITY

By (Name): _____

Title: _____

Tax Identification Number: _____

Telephone Number: _____

Dated: _____

Exhibit A

SCOPE OF WORK

TASK NO. 1:

LAWA Approved, Ongoing Invasive Plant eradication, Native Vegetation Restoration, and Habitat Maintenance Activities for the LAX Coastal Dunes Improvement Project (CDIP).

Santa Monica Bay Restoration Authority (SMBRA) will provide ecological and conservation expertise, engage Los Angeles Conservation Corps, Rancho Santa Ana Botanic Garden, community groups and any other appropriate third parties, and provide managerial oversight and coordination for these parties to carry out LAWA-approved activities for restoring ecological functions of the LAX Coastal Dune habitats, in compliance with (a) California Coastal Commission Permit No. 5-12-263 and (b) the Ecological Landscape Plan for the Los Angeles International Airport Coastal Dunes Improvement Project, City of Los Angeles, California dated April 2013; both of which are attached hereto.

Specific restoration tasks will include, but are not limited to:

- Scientific identification of invasive and non-native plants and technical field instructions for invasive and non-native plant eradications;
- Invasive and non-native plant eradications through engagement of LA Conservation Corps and other community groups;
- Native dune, scrub, and grassland seed collection (or purchase when not available) and native plant propagation in collaboration with the Rancho Santa Ana Botanic Garden's existing program;
- Native plant outplanting through engagement of LA Conservation Corps and other community groups;
- Conservation data collection of rare plants, if present;
- Rare plant outplanting experiments of plants approved by the Coastal Commission, U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife for outplanting in the dunes, if agreed upon by all parties; and
- GIS database development and mapping that will show locations of rare plants and indicators of progress of restoration over time (i.e. percent cover of native and non-native plants);

SMBRA will monitor and advise LAWA maintenance staff on the following tasks:

- Short-term annual invasive and non-native vegetation control through mowing and shallow disking and/or herbicide application as prescribed in the Ecological Landscaping Plan; and
- Invasive and non-native tree removals (e.g. *Acacia*) or large-scale invasive plants that may require herbicide application (e.g. *Arundo donax*).

SMBRA will also provide biological avoidance and clearance monitoring services for LAWA maintenance staff or their contractors on anthropogenic infrastructure removal such as concrete, asphalt, and trash.

TASK NO. 2:**Annual Management Plans and Quarterly Progress Reports prepared for LAWA.**

Plans and Reports (in a format approved by LAWA) to include, at a minimum, the following:

- Annual Work Plans to be provided by November 15th of each calendar year setting forth all activities to be undertaken and costs to be incurred in the following calendar year to eradicate invasive plant species, to restore native vegetation, to maintain the habitat within the CDIP area, to recruit, train, and manage volunteers, and to conduct public relations and community engagement activities, during the following calendar year;
- Annual Progress Reports to be provided by March 31st of each year summarizing the previous calendar year, including overall restoration progress, monitoring report data, volunteer restoration events, maintenance activities, and relevant photographs; and
- Quarterly Progress Reports to be provided within 30 days of the end of any quarter setting forth all activities undertaken and costs incurred, a summary of restoration and monitoring work completed, and a description of any progress made and challenges during the previous 3 months.

TASK NO. 3:**Recruitment, Training, and Management of Volunteer Workers.**

SMBRA will recruit, train, and manage volunteer workers to assist with the performance of LAWA-approved invasive plant eradication, restoration of native vegetation, and habitat maintenance. Such volunteer activities may consist of Adopt-a-Dunes days or other similar events at the discretion of LAWA. SMBRA will be responsible for training volunteer workers (training to be approved by LAWA) and for oversight of volunteer workers and their activities while in the Dunes or on any other LAWA property. SMBRA will ensure properly trained personnel with requisite expertise accompany all volunteer workers while in the Dunes.

TASK NO. 4:**Data Collection and Monitoring of Restoration Efforts and Preparation of Landscaping Monitoring Report(s).**

As directed by LAWA, SMBRA shall record and monitor habitat restoration progress in the CDIP. At a minimum, monitoring shall consist of periodically recording weed abatement and seeding efforts and assessing vegetation cover. LAWA may also request (in writing) additional monitoring efforts, at the direction of LAWA, assessing the current condition or long-term health of the ecosystem. All data will be entered and quality control checked by SMBRA. Electronic copies of the data will be provided to LAWA upon request, and will be maintained electronically for no less than 10 years after collection.

SMBRA shall prepare required Monitoring Reports which, after approval by LAWA, shall be provided to LAWA for it to submit to the Coastal Commission in accordance with Coastal Commission Permit No. 5-12-263, Section C. The report must be prepared by a biologist, landscape architect or qualified resource specialist. The report will assess whether the on-site restoration in the CDIP area is in conformance with the Ecological Landscape Plan and provides at least 80% relative coverage of planted area and resists

invasion by exotic plant species. The monitoring report shall include photographic documentation of plant species, plant coverage, and an evaluation of the conformance of the resultant restoration with special conditions set forth in Coastal Commission Permit No. 5-12-263 and the approved Ecological Landscaping Plan.

TASK NO. 5:

Revised or Supplemental Ecological Landscaping Plan(s).

SMBRA shall prepare any LAWA requested supplemental Ecological Landscaping Plans as specified in Coastal Commission Permit No. 5-12-263. Revised or supplemental ecological landscaping plans may be required if the Landscaping Monitoring Report indicates that the restoration is not in conformance with or has failed to meet the performance standards specified in the Ecological Landscaping Plan. Any revised or supplemental ecological landscaping plans shall be prepared by a biologist, landscape architect, or qualified resource specialist and shall specify measures to remediate if the work failed or is not in conformance with the Ecological Landscape Plan and/or the special conditions set forth in Coastal Commission permit 5-12-263.

TASK NO. 6:

Public Relations, Media, and Community Engagement.

SMBRA will, as requested by LAWA, assist LAWA with public relations, media contact, and public information distribution. All releases, contact and information distribution shall require LAWA approval prior to the release, contact or distribution.

TASK NO. 7:

Identification of Additional Funding for Ecological Habitat Restoration.

SMBRA shall identify additional funding for ecological habitat restoration in the broader LAX/EI Segundo Dunes area through grants, private sources, or other partnerships. At LAWA's direction, SMBRA may pursue additional funding opportunities within the context of this agreement.

Santa Monica Bay Restoration Authority (SMBRA)

DELIVERABLES

Calendar Year	Reporting Deliverables *, **	Deadline(s) ***	Description(s) - See "Scope of Work" for Details
Year 1 - 2016/2017	2016/2017 Work Plan	August 15, 2016	Submit Work Plan for next calendar year
	1st QR, 2nd QR, 3rd QR	Sept 30, Dec 31, Mar 31, 2017	Implement Work Plan, Submit Quarterly Reports
	2016/2017 Annual Report	June 30, 2017	Submit Annual Report, include summary of activities
Year 2 - 2017/2018	2017/2018 Work Plan	July 15, 2017	Submit Work Plan for next calendar year
	1st QR, 2nd QR, 3rd QR	Sept 30, Dec 31, Mar 31, 2018	Implement Work Plan, Submit Quarterly Reports
	2017/2018 Annual Report	June 30, 2018	Submit Annual Report, include summary of activities
Year 3 - 2018/2019	2018/2019 Work Plan	July 15, 2018	Submit Work Plan for next calendar year
	1st QR, 2nd QR, 3rd QR	Sept 30, Dec 31, Mar 31, 2019	Implement Work Plan, Submit Quarterly Reports
	2018/2019 Annual Report	June 30, 2019	Submit Annual Report, include summary of activities

* Note: Annual Report will be submitted in lieu of a 4th Quarter Report and will include activities for the entire year; a site walk will be scheduled w/LAWA & The Bay Foundation (TBF) at time of submittal.

** QR = Quarterly Report will include summary activities and an invoice to LAWA.

*** = Deadline refers to submittal date to LAWA.

"Activities" will include monitoring, restoration work, and reporting as detailed in the scope of work in the MOU.

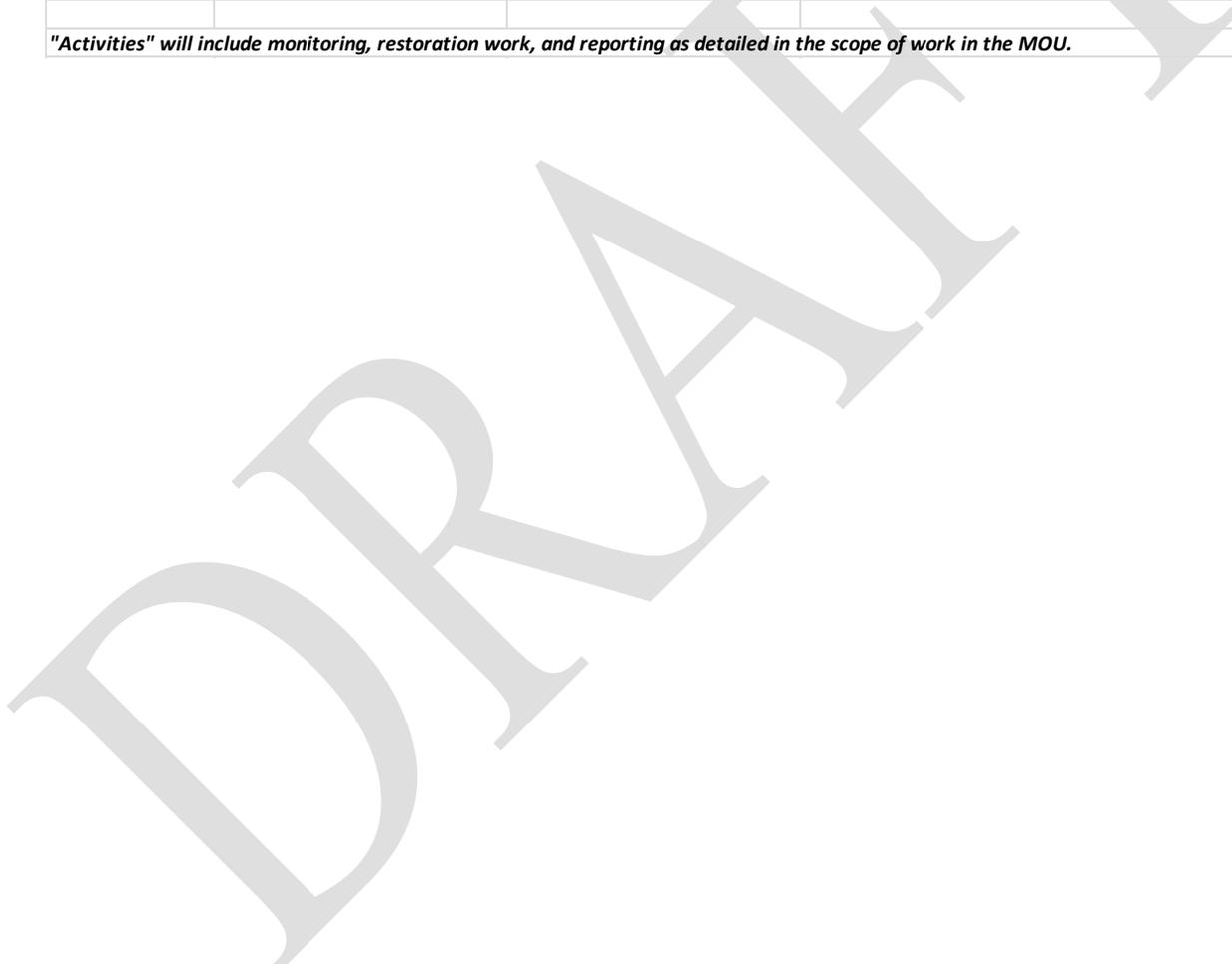


Exhibit B

RATES		
Santa Monica Bay Restoration Authority (SMBRA)		
<i>Subcontractors</i>	<i>Title</i>	<i>All-Inclusive Hourly Rates</i>
The Bay Foundation	Communications Director	\$ 98.00
	Watershed Programs Director	\$ 62.00
	Watershed Programs Manager	\$ 40.00
	Watershed Programs Coordinator	\$ 34.00
	Restoration Ecologist	\$ 36.00
	Administrative Director	\$ 72.00
	Administrative Manager	\$ 42.00
Rancho Santa Ana Botanic Gardens (RSABG)	Intern	\$ 38.00
	Nursery Assistant	\$ 48.00
	Assistant Botanist	\$ 54.00
	Seed Technician	\$ 54.00
	Lab Technician	\$ 64.00
	Seed Curation	\$ 80.00
	Nursery Management	\$ 80.00
	Principal Botanist	\$ 86.00
	Principal Scientist	\$ 107.00
Contracting	Crew Rates Range	\$18 - \$80
Professional Experts	Ornithologist	\$ 139.00
	Entomologist	\$ 177.00

Exhibit C

Proposed Costs

Santa Monica Bay Restoration Authority (SMBRA)

Subcontractors	Task Description	Year 1	Year 2	Year 3	Estimated Cost	Percentage Allocation
The Bay Foundation	Restoration Days & Activities / Volunteer Coordination	10,000	10,000	10,000	30,000	
	Monitoring & Maintenance / LAWA Coordination	35,000	30,000	25,000	90,000	
		\$ 45,000	\$ 40,000	\$ 35,000	\$ 120,000	
	Percentage	37.50%	33.33%	29.17%	100.00%	
	PR / Communications	\$ 2,000	\$ 2,000	\$ -	\$ 4,000	
	Percentage	50.00%	50.00%	0.00%	100.00%	
	Supplies / Materials	\$ 4,000	\$ 4,000	\$ 1,000	\$ 9,000	
	Percentage	44.44%	44.44%	11.11%	100.00%	
	Sub-total	\$ 51,000	\$ 46,000	\$ 36,000	\$ 133,000	53.20%
	Rancho Santa Ana Garden		\$ 15,000	\$ 10,000	\$ 10,000	\$ 35,000
		42.86%	28.57%	28.57%	100.00%	
Contracting		\$ 20,000	\$ 15,000	\$ 10,000	\$ 45,000	18.00%
		44.44%	33.33%	22.22%	100.00%	
Ornithologist		\$ 3,000	\$ 3,000	\$ 3,000	\$ 9,000	3.60%
		33.33%	33.33%	33.33%	100.00%	
Entomologist / Botanist		\$ 5,000	\$ 5,000	\$ 5,000	\$ 15,000	6.00%
		33.33%	33.33%	33.33%	100.00%	
Contingency*				\$ 13,000	\$ 13,000	5.20%
TOTAL		\$ 94,000	\$ 79,000	\$ 77,000	\$ 250,000	100.00%

Santa Monica Bay Restoration Authority (SMBRA)

PROPOSED FEES SUMMARY

TASK NO.	TASK DESCRIPTION	YEAR 1	YEAR 2	YEAR 3	TOTAL
1	LAWA-Approved Activities for the Ongoing Removal of Invasive Plant Species, Planting of Native Species, and Habitat Maintenance for the LAX Coastal Dunes Improvement Project (CDIP)	45,150	35,400	28,600	\$ 109,150
2	Annual Management Plans and Quarterly Progress Reports Prepared for LAWA	4,900	4,400	3,600	\$ 12,900
3	Recruitment, Training, and Management of Volunteer Workers	2,450	2,200	1,800	\$ 6,450
4	Data Collection and Monitoring of Restoration Efforts and Preparation of Landscaping Monitoring Report(s)	39,500	35,000	30,000	\$ 104,500
5	Revised or Supplemental Ecological Landscaping Plan(s)	-	-	-	\$ -
6	Public Relations, Media, and Community Engagement	2,000	2,000	-	\$ 4,000
7	Identification of Additional Funding for Ecological Habitat Restoration	-	-	-	\$ -
	Contingency *			13,000	\$ 13,000
TOTAL		\$ 94,000	\$ 79,000	\$ 77,000	\$ 250,000

COMPENSATION - LUMP SUM PER QUARTER

Year	Proposed Fees	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
		(Jan - Mar)	(Apr - Jun)	(Jul - Sept)	(Oct - Dec)
1	\$ 94,000	23,500	23,500	23,500	23,500
2	\$ 79,000	19,750	19,750	19,750	19,750
3	\$ 77,000	19,250	19,250	19,250	19,250
TOTAL	\$ 250,000	\$ 62,500	\$ 62,500	\$ 62,500	\$ 62,500

*Contingency will be added to the quarterly lump sum compensation, if applicable.

EXHIBIT D

Insurance Requirements

Coverage Requirement

A. Workers Compensation Coverage

If SMBRA employs any person to perform work in conjunction with this Memorandum of Understanding, SMBRA shall obtain Workers Compensation Insurance Coverage for all its employees, as necessary, to comply with the laws of the State of California.

B. Automobile-General Liability

If SMBRA operates any vehicles in performing services under, or in connection with this Memorandum of Understanding, SMBRA shall obtain Automobile-General Liability Insurance for bodily injury/property damage with limits not less than One-Hundred-Thousand Dollars (\$100,000) per occurrence.

C. Errors and Omissions

If SMBRA performs any services under or in connection with this Memorandum of Understanding requiring it to hold a license or permit in any one or more of the fields of accounting, architecture, engineering, law or medicine in connection with the Memorandum of Understanding, SMBRA shall obtain Errors and Omissions Insurance, on an occurrence basis, in an amount not less than One-Million Dollars (\$1,000,000) per occurrence.

D. Commercial General Liability

The LAWA requires all contractors and subcontractors, and organizations with which LAWA coordinates or to which funds are distributed for programs, projects, events, products, or other deliverables to obtain Commercial General Liability (CGL). If the LAWA requires CGL insurance, the LAWA requires naming the LAWA as an additional insured with a limit of not less than One Million Dollars (\$1,000,000).

Evidence of Coverage

All of the policies referenced herein shall be in a form and by insurance companies acceptable to LAWA. LAWA must be named as an Additional Insured. SMBRA shall pay premiums for such insurance. SMBRA shall deliver such policies, or certified copies to LAWA. SMBRA shall give thirty (30) days' prior written Notice to LAWA before such insurance is altered or canceled. All insurance referenced in Paragraph 1 shall be primary.