

OCEAN WARRIORS AGREEMENT

This Agreement is made between Earth Island Institute, Inc., a California nonprofit public benefit corporation ("Company"), and San Rafael City Schools, Coleman Elementary School ("Contractor"), in relation to All One Ocean, a fiscally sponsored project of the Company ("Project").

1. Payment.

a) In consideration for the services to be performed by All One Ocean, Contractor agrees to pay Project \$1,500, non-refundable payment for their Ocean Warriors Program (Third Grade Environmental Leadership Program). (Exhibit C)

b) Unless requested or approved by Project in advance, Contractor will be responsible for all expenses, including to but not limited to: field trips, offsite trips, speakers, educators, third party contractors, facilitators, supplies, tools, printing, rentals, transportation, food, props and exhibits incurred while performing services under this Agreement. (Exhibit A and B)

2. Term of Agreement. This agreement will become effective when signed by both parties and will terminate on the earliest of: (a) the date the Project completes the services required by this Agreement, (b) April 30, 2018 or (c) the date a party terminates the Agreement as provided below.

3. Terminating the Agreement. Either party may terminate this Agreement at any time by giving 30 days written notice to the other party of the intent to terminate.

4. Confidential and Proprietary Information.

a) Contractor acknowledges that it will be necessary for Project to disclose certain confidential and proprietary information to Contractor in order for Project to perform duties under this Agreement. Confidential or Proprietary Information includes, but is not limited to, information about the business of the Project (including current or future research, programmatic, or development activities), its customers, actual and potential funding sources, products, projects, and employees, as well as information which the Contractor has a reasonable basis to know was accepted by Project from any third party under an obligation of confidentiality. Confidential or Proprietary information does not include information that has been (1) published or is otherwise readily available to the public other than by a breach of this Agreement; (2) rightfully received by Contractor from a third party without confidentiality limitations; (3) independently developed for Contractor by personnel or agents having no access to the Confidential Information; or (4) known to Contractor prior to its first receipt from the Company or Project.

b) Contractor will hold Confidential and Proprietary Information in strict confidence and not disclose it to any third party, either during or after the term of this Agreement, without Project's prior written permission except to the extent necessary to perform services on Project's behalf.

c) Upon termination of this Agreement, or at Project's request, Contractor will deliver to Project all materials in Contractor's possession relating to Project's activities. Contractor's obligations in this section will survive termination of this Agreement.

d) Contractor acknowledges that breach or threatened breach of this Section will irreparably harm the Company and Project for which damages would be an inadequate remedy. Therefore, Company and Project will be entitled to equitable relief, in addition to other rights and remedies otherwise available at law, in the event of such breach or threatened breach.

5. Intellectual Property.

a) Contractor assigns to Project all right, title, and interest in anything created or developed by Contractor for Project under this Agreement ("Work Product"). Contractor will help prepare any papers that Company considers necessary to secure any copyrights, trademarks, or other proprietary rights at no charge to Company.

b) Contractor licenses to Project for use in its operations and for infinite duration all intellectual property of the Contractor conceived by the Contractor prior to the term of this Agreement and used by the Contractor in providing services to the Project under this Agreement. The license is non-exclusive and may be assigned with the Contractor's prior written approval by the Project.

c) Contractor's obligations in this section will survive termination of this Agreement. Upon termination, Contractor will deliver all Work Product to Project.

6. Independent Contractor Status.

a) Contractor is an independent contractor, not an employee of Company. Contractor has the sole right to control and direct the means, manner, and method by which the services required by this Agreement will be performed as well as the time and place of their performance. Contractor has the right to perform services for others during the term of this Agreement. Contractor has the right to use employees or subcontractors to perform some or all of the duties required. Company will not hire, supervise or pay any assistants to help Contractor.

7. Insurance. Company will not provide any insurance coverage of any kind for Contractor or Contractor's employees, students, parents or contract personnel. Contractor will maintain a broad form commercial general liability insurance policy providing combined single limits of not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate. Before commencing any work, Contractor will provide Company with proof of this insurance and that Company has been made an additional insured under this policy. Company will also provide proof of TB clearance and submit a background test.

8. Indemnification. Contractor, Project and Company agree to indemnify and hold each other harmless from and against all liabilities, claims, damages, costs, and expenses (including

reasonable legal fees and expenses) arising out of or in connection with any unauthorized, wrongful or negligent act by either party, or anyone for whom that party is legally responsible, relating to that party's performance under this Agreement.

9. Dispute Resolution.

a) *Conciliation*: If any dispute arises, the parties agree first to attempt to resolve the dispute through face-to-face communication between the chief executive officers, or equivalent responsible individual, of each party without presence of attorneys. Either party may demand conciliation by sending a letter describing the dispute to the other party.

b) *Mediation*: If conciliation fails to resolve the dispute, the parties agree to attempt to resolve their dispute through a mutually agreed-upon mediator in Marin County, California. If the parties are unable to agree upon a mediator, either party may initiate mediation under the Mediation Rules of the National Rules for the Resolution of Commercial Disputes of the American Arbitration Association ("AAA") which are in effect at the time of the mediation demand. The parties will share any costs and fees other than attorney fees associated with mediation equally.

c) *Arbitration*: If both conciliation and mediation fail to resolve the dispute, the parties agree to submit the dispute to a mutually satisfactory arbitrator in Alameda County, California under the AAA's National Rules for the Resolution of Commercial Disputes in effect at the time of the arbitration demand. If the parties are unable to select an arbitrator on their own, the AAA shall select an arbitrator after providing the Company and Contractor with the biographical information of three possible arbitrators and after allowing each of the Company and Contractor to strike one of the three. The arbitrator shall issue written findings of fact and a written award providing appropriate legal or equitable relief within ten days of the hearing. Judgment upon the award may be entered in any court having jurisdiction. Costs of arbitration, including attorney fees, will be allocated by the arbitrator.

d) *Prompt Action*: Any rights that either party may have to legal or equitable relief in an arbitration proceeding shall be extinguished unless said party attempts conciliation within six months after the occurrence of the event giving rise to the dispute, requests mediation within seven months after the occurrence of the event giving rise to the dispute, and demands arbitration within one month after formal mediation ends.

10. Miscellaneous

a) *Governing Law and Venue*: This Agreement will be governed by the laws of the state of California.

b) *Notices*: Any notice or communication in connection with this Agreement will be in writing and considered given when (a) personally delivered by messenger or courier service, (b) when signed for when sent by registered or certified mail (return receipt requested) from within the United States, or (3) within two days after being sent by regular First Class and simultaneously transmitted by facsimile or email, addressed as follows:

If to Contractor:

San Rafael City Schools,
Coleman Elementary School
Dr. Mayra Perez, Deputy Superintendent
310 Nova Albion Way
San Rafael, CA 94903

If to Company:

Mr. John A. Knox
Executive Director
Earth Island Institute, Inc.
2150 Allston Way, Suite 460
Berkeley, CA 94704-1375

c) *Severability*: If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remainder of the Agreement shall not in any way be affected.

d) *Waiver*: The failure of either party to this Agreement to enforce any of its terms, provisions, or covenants shall not be construed as a waiver of the same or of the right of such party to enforce the same.

e) *No partnership*: This Agreement does not create a legal partnership relationship. Contractor does not have authority to enter into contracts on Project/Company's behalf.

f) *Assignment*: This Agreement may not be assigned by Contractor without the express written consent of Company.

g) *Entire Agreement*: This Agreement (including any attached exhibits) is the entire Agreement between Company and Contractor.

h) *Modification*: This Agreement may be modified only in writing signed by both parties.

Earth Island Institute, Inc.

By: _____
John Knox, Executive Director

Date: _____

All One Ocean
A project of Earth Island Institute, Inc.

By: _____
Nicole Cibellis, Director

Date: _____

San Rafael City Schools

By: _____
Coleman Elementary

By: _____
Dept. Superintendent [insert title] *Mayra Perez*

Date: *9/7/17*

Tax ID Number: _____

EXHIBIT A

Services to Be Performed by Project

All One Ocean will provide a staff representative to be onsite for the introduction of the Program at the beginning of the school year and at the launch of each subsequent Project as outline in Ocean Warriors (See attached link). Each school visit will be no longer than 2 hours in duration. An All One Ocean representative will be available to the school for consultation during the duration of the contract for a maximum of 15 additional hours. If additional hours are needed by All One Ocean to manage, coordinate or facilitate Ocean Warriors, in addition to the outline hours above, both the Project and Contractor need to agree to the additional needed hours 15 calendar days in advance. The total hours All One Ocean contracts to the school is 37 hours of time during the contract agreement, which includes: managing, coordinating, and facilitating Ocean Warriors at the school and in offsite preparation's. All One Ocean agrees to provide onsite services between the hours of 9-3pm. If the contractor requests All One Ocean to provide services outside these hours, they must be agreed upon, in writing, 30 days in advance.

EXHIBIT B

Services to Be Performed by Contractor

Contractor agrees to follow the Ocean Warriors curriculum as agreed upon for the term of this contract. It is their responsibility to coordinate program volunteers and facilitators to manage the program and students on a weekly basis. The contractor will support the program and work with All One Ocean to deliver the best possible product to students, educators, and the school community.

EXHIBIT C

Payment Terms

Upfront Payment

All One Ocean requires one payment in full of \$1,500 USD for the Ocean Warrior Program and services under this Agreement. Contractor will pay Project within thirty (30) days of signing this contract.