



San Diego Unified

SCHOOL DISTRICT



Project Stabilization Agreement Training Class

Revised December 2019



The SDUSD Project Stabilization Agreement

Objectives

- Promoting efficient and economical completion of capital projects
- Peaceful settlement of labor disputes and grievances without work interruptions
- Establish a partnership with the local construction labor community



The SDUSD Project Stabilization Agreement

Scope of the Agreement

- Applies to construction, major rehabilitation, and renovation contracts which:
 - exceeds one million dollars as determined by the engineer's estimate prior to submittal of the individual project to the Division of State Architect; or
 - Are funded in whole or in part by State School Bonds; or
 - Are awarded using Job Order Contracting procurement
- The agreement shall remain in effect until terminated or until completion of the SDUSD Capital Bond program



The SDUSD Project Stabilization Agreement

How it works

- Pre-bid
- Prior to start of work
- Putting employees to work
- Managing PSA work
- Role of the PSA Coordination Team



Topic 1

Pre-Bid - How to Identify PSA Projects

- The PSA applies to construction, rehabilitation and capital improvement contracts awarded to prime general contractors where:
 - The contract is funded in whole or in part with proceeds from voter-approved local bond measures and have an estimated value exceeding \$1,000,000; or
 - The contract is funded in whole or in part with proceeds from state bonds regardless of the estimated value; or
 - The contract is awarded using Job Order Contracting procurement
- Contracts advertised for bid by SDUSD will contain a note indicating whether the PSA is being applied. [show examples]
- Also, District staff announce whether the PSA applies at the mandatory Job-Walk.



Topic 2

Prior to Start of Work

The Letter of Assent

- The Letter of Assent (LOA)
 - Required of the general contractor and all subcontractors *regardless of tier*
 - The LOA is required of general contractors to be submitted as part of the bid package *as a condition of bidding*. GCs failing to provide a signed Letter of Assent will be considered non-responsive.
 - The LOA is required of all subcontractors to be submitted to PSA staff *prior to start of work*.
 - The LOA represents the general contractor/subcontractors promise to accept and follow the terms of the PSA while executing the specific PSA contract.
- Additional Things to know about the LOA
 - A separate LOA is required for each PSA contract on which a general contractor or subcontractor intends to perform work.
 - The relationship established by the LOA between the general contractor/subcontractor and the unions is limited only to the specific PSA contract and only for the duration of that PSA contract
 - The LOA template is provide as Exhibit A to the PSA.
- How to submit a LOA
 - Physical Document: Mail of Fax to _____
 - Electronically: Email a scanned copy to _____ or submit via PSA App



Topic 2

Prior to Start of Work

The Letter of Assent - continued

- By signing the Letter of Assent the general contractor/subcontractor agrees to the terms and conditions of associated agreements
- Schedule A
 - Each Union's Schedule A (the local Collective Bargaining Agreement of the union that has signed on to the PSA) is considered to be part of the PSA
 - The Schedule A contains the specific terms and conditions regarding the terms and conditions of work for the particular union having jurisdiction over the scope of such work.
 - If the same subject is addressed by the PSA and the Schedule A, the language in the PSA applies. If a subject addressed by the Schedule A is not addressed in the PSA, the language in the Schedule A applies.
- Subscription/Participation Agreement
 - To enable the collection of fringe benefit contributions on behalf of workers, the company may be required to sign a Subscription or Participation Agreement with the trust fund established to accept such fringe benefit contributions.
 - The Subscription/Participation Agreement is limited to the terms and conditions of the PSA, and does not expand the company's obligation to make contributions on projects not covered by the particular contract identified in the Letter of Assent.



Topic 2

Prior to Start of Work

The Letter of Assent - continued

[Contractor's Letterhead]

Date

[PSA Specialist Name]

Facilities Planning & Construction Division
San Diego Unified School District
4860 Ruffner Street
San Diego, CA 92111

Re: San Diego Unified School District Project Stabilization Agreement Construction
and Major Rehabilitation Funded by Prop. S

Dear Sir/Madam:

This is to confirm [Name of Company] agrees to be party to and bound by the San Diego Unified School District Project Stabilization Agreement – School Construction Major Rehabilitation established July 28, 2009, as such Agreement, may from time to time be amended by the negotiating parties or interpreted pursuant to its terms. Such obligation to be a party and bound by this Agreement shall extend to all work covered by the Agreement undertaken by this Company on the Project pursuant to [Contract Number and Project Name], and this Company shall require all of its subcontractors of whatever tier to be similarly bound for all work within the scope of the Agreement by signing and furnishing to you an identical Letter of Assent prior to their commencement of work.

Sincerely,

[Name of Construction Company]

By:

[Name and Title of Authorized Executive]

Copies of this Letter must be submitted to the Project Labor Coordinator, to the San Diego Building and Construction Trades Council and to the Southwestern Regional Council of Carpenters.

Exhibit A - Model Letter of Assent



Topic 2

Prior to Start of Work

The Pre-Job Form

- The Pre-Job Form – What it documents:
 - Job-related information about the company that will be performing work on a PSA contract, the location of the work, and assignment of job-related administrative tasks
 - Scope(s) of work the company will perform,
 - Tools the company plans to use
 - Subcontractors or tiered subcontractors the company plans to hire, or scopes of work the company expects to be performed by a subcontractor or tiered subcontractor
 - The anticipated start date and duration of the company's work
 - The anticipated number of worker the company expects to employ to perform the work
 - The union(s) from which the company will obtain workers, also known as a work assignment
 - **Whether the company is asserting an exclusion from the PSA, and which exclusion it is asserting**
- How the Pre-Job form works
 - The general contractor and each subcontractor, regardless of tier, must complete a Pre-Job form prior to start of work
 - Each company is solely responsible for completing its own form and making its own work assignment.
 - Modifications to the Pre-Job form are the company's responsibility, and may only occur in limited circumstances
 - (show an example)



Topic 2

Prior to Start of Work

The Pre-Job Form - continued

- How to submit the Pre-Job form
 - Physical document:
 - Electronically:

Topic 2

Prior to Start of Work

The Pre-Job Conference

- The Pre-Job Conference
 - A required meeting for each contract awarded under the PSA that is held prior to the start of any work
 - All stakeholders participate in the meeting: the general contractor, all known subcontractors regardless of tier, union representatives and PSA staff
- Purpose of the Pre-Job conference – What it confirms
 - Job-related information provided in each company's Pre-Job form
 - Work assignments for each company
 - **Any exclusions to the PSA that will be applied**
- Conducting the Pre-Job Conference
 - The general contractor describes the overall scope of the contract, announces key job-related details (project manager, superintendent, job location, project duration, work schedule, parking, restrooms, etc.)
 - Each company performing craft work explains its scope, equipment/tools to be used, work assignment, and manpower needs
 - Unions may ask clarifying questions about scope, equipment/tools to be used, how the work is to be executed
 - PSA staff documents the status of each work assignment: complete, incomplete, to be modified



Topic 2

Prior to Start of Work

The Pre-Job Conference - continued

- Pre-Job Conference Work Assignment Status
 - If the scope of work is settled and each work assignment is accepted by the applicable union, the work assignment is considered **COMPLETE**
 - If the scope of work is unclear, or one or more work assignments have not been made by the company or accepted by the applicable union, the work assignment is considered **INCOMPLETE**
 - If, during the course of the Pre-Job Conference, the company concludes that it will make substantive changes to Pre-Job form (e.g. adding, reducing, or modifying the scope of work narrative; adding, deleting, or changing a work assignment), the work assignment is considered **TO BE MODIFIED**

Topic 2

Prior to Start of Work

Core Worker Registration

- Core Worker Defined – all of the following must apply
 - Workers employed by non-union companies who
 - Have appeared on the company’s active payroll on at least 30 days during the 180 working days immediately prior to award of the PSA contract; AND
 - Possess all licenses required by the state or federal law for the PSA contract work to be performed; AND
 - Have the ability to perform the basic functions of the applicable trade; AND
 - Have lived within San Diego County for at least 180 days prior to the award of the PSA contract.
- Registering Core Workers on a PSA project
 - For each union representing the prevailing wage classification the worker will assigned, establish an account with the applicable trust fund to accept fringe benefit payments that will be paid on behalf the worker
 - Complete any required forms and pay a one-time fee, as required by the applicable union
 - Once registered, the core worker is eligible to perform work on any SDUSD PSA project.



Topic 2

Prior to Start of Work

PSA Exclusions

- As previously noted, the PSA states the work covered. It also identifies specific exclusions, addressing specific employees, particular types of work, and particular means of execution of work.
- How the PSA handles each exclusion is too detailed a discussion for this presentation, but we have prepared a chart to indicate the extent of the exclusion – whether it is an exclusion from the PSA in its entirety or an exclusion to certain terms. If the latter, the chart identifies the terms to which the exclusion applies and the practical effect of the exclusion
- Nevertheless, I will highlight a few exclusions:
 - Non-manual employees
 - Work by employees of a manufacturer or vendor necessary to maintain the manufacturer's/vendor's warranty
 - Non-construction support services



Topic 3

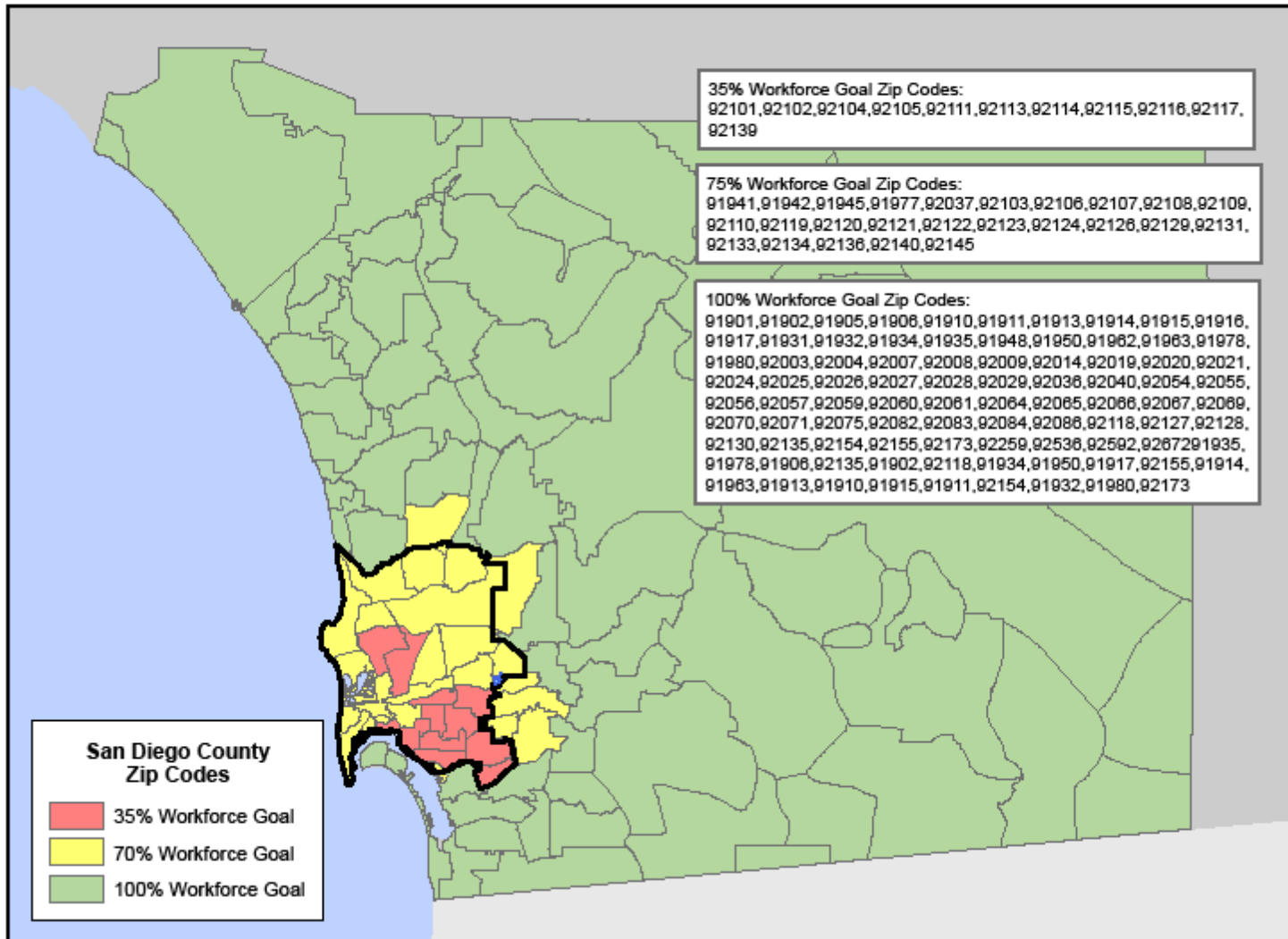
Putting Employees to Work

Employment Goals

- The PSA describes goals for the employment of local residents performing PSA-covered work;
 - 100% of all workers should be residents of San Diego County
 - 70% of all workers should be residents of the District
 - 35% should be residents of designated ZIP codes
- All workers are required to register with the appropriate hiring hall



San Diego Unified School District Project Stabilization Agreement Workforce Referral Map



Prepared by the Inst. Facilities Planning Dept. 01/10

ICOC_county.mxd



Topic 3

Putting Employees to Work

Core Employees

- What is a Core Employee? PSA definition
 - A person whose name appears on the Company's active payroll for at least 30 days within the last 180 days prior to date the PSA-covered contract was awarded
 - A person who possesses all licenses required by state or federal law necessary to perform the PSA-covered work to be performed
 - A person who has the ability to perform the basic functions of the applicable trade; and
 - A person who has been a resident of the County of San Diego for at least 180 days prior to the date the PSA-covered contract was awarded
- Establishing Core Workers eligibility for PSA work
 - Core workers are required to register with the appropriate Union Hiring hall
 - The registration process requires the core workers to complete paperwork and, in some cases, pay a one-time fee
 - No core worker may work on a PSA-covered project until registration process is complete.
 - Failure to meet the PSA definition may result in the core worker being rejected



Topic 3

Putting Employees to Work

The Project Crew

- What is a Project Crew?
 - On a PSA job, if the work the Company performs requires more than two workers, the Company will be required to request manpower from the appropriate Union hiring hall in addition to utilizing its own core employees.
 - The Project Crew is the term we use to describe this mixture of Core Employees and Union-dispatched workers
- PSA ratio requirements
 - For a Project Crew of 1-2, the Company may employ one Core Employee
 - For a Project Crew of 3-4, the Company may employ up to two Core Employees
 - For a Project Crew of 5 or greater, the Company may employ up to three Core Employees
 - Company also has the option of utilizing a Project Crew entirely comprised of Union-dispatched workers
- The Process for hiring Union workers
 - Company obligations when requesting workers
 - Union obligations in response to a request
 - Union will not refer and Contractor will not employ persons not eligible for employment under Ed Code 45123. Further, Contractors agree to remove any such individuals employed on a Project site at the request of the District



Topic 3

Putting Employees to Work

The Project Crew - continued

- What happens when Union workers are not available
 - Union Hiring Hall has up to 48 hours (excluding Weekends and Holidays) to fulfill a request. However, Union may also decline to fulfill a request prior to that deadline
 - In the event Union Hiring Hall does not fulfill the request
 - PSA ratio requirements are waived for the duration of the dispatch request
 - Company may use Core Workers for duration of dispatch request
 - Company may use non-Core Workers (“Backup” Workers) for duration of dispatch request
 - All workers required to register with the applicable Union Hiring Hall



Topic 3

Putting Employees to Work

Apprentices

- Importance of Training
 - Development of adequate numbers of competent workers in the construction industry
 - If utilized, apprentices must be enrolled in a California Apprenticeship Council approved program
- Employing Apprentices
 - Company's responsibility - employ journeyman qualified to assist and oversee the apprentices progress through the program in which the apprentice is participating
 - Union's responsibility - cooperate with the Company in furnishing apprentices as requested up to the maximum percentage
 - Similar to dispatch of journeyman, in the event the Union or Apprenticeship Program is unable or unwilling to dispatch an apprentice within 48 hours of request, the Company may employ its core employee apprentices without reference to the ratio requirements in Section 3.6



Topic 4

Managing PSA work

The Company-Union Relationship

- Union Recognition
 - Union is recognized as the exclusive bargaining representative for all employees engaged in PSA-covered work (including Core Employees, Warranty Employees, Backup Employees).
 - Such recognition is limited to the employee's work on the PSA-covered project.
- Union Access to PSA covered work
 - Authorized representatives shall have access to PSA-covered work, provided they do not interfere with the work of employees and comply with posted visitor, security and safety rules.
 - Union representatives shall be provided with a SDUSD issued badge indicating the representative's agreement to follow "rules of engagement"



Topic 4

Managing PSA work

Wages & Benefits

- Wages & Benefits
 - All employees covered by this Agreement shall be classified and paid in accordance with the applicable prevailing wage rate determination established by the California Department of Industrial Relations
 - Fringe benefit payments shall be paid to the trust fund account create on the employee's behalf. Such payments shall not exceed the contribution amounts set forth in the applicable prevailing wage determination.
 - No wage premiums, such as pay based on height of work, shift premiums, hazard pay, scaffold pay and special skills shall be allowed, except to the extent provided for in the applicable prevailing wage determination.



General Prevailing Wage Determination

SAMPLE- Journeyman determinations

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: # LABORER AND RELATED CLASSIFICATIONS

DETERMINATION: SD-23-102-4-2009-1

ISSUE DATE: August 22, 2009

EXPIRATION DATE OF DETERMINATION: June 30, 2010** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Division of Labor Statistics and Research for specific rates at (415) 703-4774.

LOCALITY: All localities within San Diego County.

CLASSIFICATION ^c (JOURNEYPERSON)	Basic Hourly Rate	Employer Payments					Straight-Time		Overtime Hourly Rate		
		Health and Welfare	Pension	Vacation and Holiday	Training	Other Payments	Hours	Total Hourly Rate	Daily 1 1/2X	Saturday ^a 1 1/2X	Sunday and Holiday
LABORER: BUILDING CONSTRUCTION											
Group 1	\$25.22	4.76	4.35	3.75 ^b	.64	.30	8	39.02	51.63	51.63	64.24
Group 2	25.90	4.76	4.35	3.75 ^b	.64	.30	8	39.70	52.65	52.65	65.60
Group 3	26.61	4.76	4.35	3.75 ^b	.64	.30	8	40.41	53.715	53.715	67.02
Group 4	27.41	4.76	4.35	3.75 ^b	.64	.30	8	41.21	54.915	54.915	68.62
Group 5	28.09	4.76	4.35	3.75 ^b	.64	.30	8	41.89	55.935	55.935	69.98

Indicates an apprenticeable craft. Effective as of July 1, 2008, the issuance and publication of the prevailing wage apprentice schedules/apprentice wage rates have been reassigned by the Department of Industrial Relations from the Division of Labor Statistics and Research to the Division of Apprenticeship Standards. To obtain any apprentice schedules/apprentice wage rates, please contact the Division of Apprenticeship Standards or refer to the Division of Apprenticeship Standards' website at <http://www.dir.ca.gov/das/das.html>.

^a Saturdays in the same workweek may be worked at straight-time rate for the first 8 hours, if the employee was unable to complete the 40 hours during the normal workweek.

^b Includes an amount per hour worked for supplemental dues.

^c For classifications within each group, see page 29A.

RECOGNIZED HOLIDAYS: Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the



Topic 4

Managing PSA work

Prohibition on Work Disruptions

- Work Disruptions are prohibited!
 - No strikes or similarly disruptive activation are permitted by unions or their members, agents, representatives, or the employees they represent. Such actions constitute a breach of the PSA. Company may fire any employee violating this prohibition
 - No lock-outs, i.e. a Contractors exclusion of employees in order to secure collective bargaining advantage
 - **We will discuss how to pursue or defend against Strike/Lockout allegations in later in this presentation.**

Topic 4

Managing PSA work

Contractor Rights

- Plan, Direct and Control execution of the work
- Establish and require observance of reasonable job rules and security and safety regulations
- Layoff employees, including union-dispatched employee in accordance with PSA layoff rules
- Assign overtime to employees as necessary to perform the work, subject to applicable rules requiring such assignments to be made in a nondiscriminatory manner
- Modify the Project Crew and/or Dispatch Request, in accordance with applicable PSA rules
- Transfer the Project Crew from one PSA-covered project to another PSA-covered project



Topic 4

Managing PSA work

Conflict Resolution - Labor Compliance

- Labor Compliance on PSA-covered Work
 - Every PSA-covered project is subject to the California Public Contract Code, Education Code and Labor Code
 - In cases where there is conflict, California law supersedes the conflicting PSA provision
- PSA provisions related to Labor Compliance
 - Letter of Assent **[should require DIR number]**
 - Union right to Certified Payroll Reports
 - Prevailing Wage Complaints



Topic 4

Managing PSA work

Conflict Resolution – Jurisdictional Disputes

- Jurisdictional Disputes
 - What is a Jurisdictional Dispute?
 - How is a Jurisdictional Dispute identified, settled and applied?
- Company Role in Jurisdictional Disputes
 - Making the work assignment
 - “Discretionary” modifications to the work assignment
 - Externally imposed modifications to the work assignment



Topic 4

Managing PSA work

Conflict Resolution - Grievances

- PSA Grievance Procedure **[how it works]**
- Grievance Procedure may not be used to resolve Jurisdictional Disputes

Topic 5

Role of the PSA Coordination Team

Pre-bid

- PSA staff member will be assigned to every PSA-covered project
- Call us with questions regarding PSA work being advertised
- During the mandatory job walk, PSA staff available for answering specific PSA-related questions
- PSA staff will respond in writing to questions raised during the RFI period



Topic 5

Role of the PSA Coordination Team Prior to Start of Work

- Collecting all Letters of Assent associated with the PSA project, monitoring timeliness of submissions.
- Collecting Pre-job forms, reviewing for completeness, monitoring timeliness of submissions
- Managing PSA exclusion requests, classifying and monitoring recognized exclusions
- Scheduling, Arranging and Facilitating the Pre-Job Conference
 - Tracking attendees
 - Tracking work assignment status
- Monitoring Core Worker registrations



Topic 5

Role of the PSA Coordination Team

Putting Employees to Work

- Upon request, investigating Core Worker eligibility
- Monitoring PSA compliance regarding Project Crews
- Monitoring exceptions to PSA ratio rules for Project Crews



Topic 5

Role of the PSA Coordination Team

Managing PSA work

- Actively Monitoring PSA compliance
- Investigating/Resolving Allegations of Labor Compliance Violations
- Managing Grievances



Thank You

Project Stabilization Agreement Team

George A. Harris, III

gharris@sandi.net

(858) 637-6269

Ivory J. Anderson, Jr.

ianderson1@sandi.net

(858) 637-6262

Rey Pedregon

rpedregon@sandi.net

Todd Ethridge

tethridge@sandi.net

Edmundo Avila

eavilaii@sandi.net

Elisa Bravo

ebravo@sandi.net

