

**CALIFORNIA WILDLIFE CONSERVATION BOARD**  
**GRANT AGREEMENT FOR ACQUISITION OF FEE INTEREST**

**Grantee:** Santa Monica Mountains Conservancy  
5750 Ramirez Canyon Road  
Malibu, CA 90265  
(310) 589-3200 Ext. #112

**Successor Grantee:** City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265  
(310) 456-2489 Ext. #226 or #224

**Project Name:** Malibu Civic Center Chili Cook-Off Acquisition  
Los Angeles County, California

**Grant Agreement Number:** WC-5027BC

**Notices to be delivered to:**

For Grantee: Santa Monica Mountains Conservancy  
5750 Ramirez Canyon Road  
Malibu, CA 90265

For Successor Grantee: City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265

For Grantor: Executive Director  
Wildlife Conservation Board  
1807 13th Street, Suite 103  
Sacramento, CA 95814-7137

With copy to: Director  
Department of Fish and Game  
1416 Ninth Street  
Sacramento, CA 95814

Pursuant to Chapter 4, Division 2 (commencing with Section 1300) of the California Fish and Game Code, the Wildlife Conservation Board ("Grantor") hereby grants to Santa Monica Mountains Conservancy ("Grantee"), the sum of Two Million Dollars (\$2,000,000.00) ("Grant Funds"), upon and subject to the terms and conditions of this Grant Agreement for Acquisition of Fee Interest ("Agreement"). All references to Grantee within this agreement shall include the Santa Monica Mountains Conservancy as Grantee and the City of Malibu as Successor Grantee.



## TERMS AND CONDITIONS OF GRANT

### 1. PURPOSE OF GRANT

Grantor is making this Grant for the purpose of facilitating Grantee's acquisition of 19.7± acres of land, more or less, located in the City of Malibu, County of Los Angeles, California (the "Property"). The Property is more particularly described in **Exhibit A**, which is attached hereto and made a part hereof by this reference.

Grantee agrees that if the Grant Funds are deposited into escrow by Grantor and Grantee acquires the Property, such acquisition will be for the purposes of storm water treatment, creation of riparian habitat, dispersal of Title 22 tertiary treated wastewater, passive recreation, wildlife habitat restoration and management, and for compatible public or private uses, all as may be consistent with wildlife habitat preservation and protection of sensitive biological resources.

### 2. CONDITIONS OF GRANT

2.1. Conditions Precedent. As conditions precedent to Grantor's obligation to deposit the Grant Funds in escrow:

- i. Grantee and Grantor understand and agree that the Grant Funds will be used as purchase money only, which excludes escrow and title fees and any other fees and costs incurred to accomplish the transaction and the conveyance of the Property;
- ii. Grantee includes as **Exhibit B** hereof a true copy of such resolution or other formal action of Grantee's governing Board as will provide evidence that the signatory hereto has been duly authorized to execute this Agreement on behalf of Grantee;
- iii. Grantor shall have reviewed and approved in writing all documents pertaining to Grantee's acquisition of the Property, including any appraisals, preliminary title reports, agreements for purchase and sale, escrow instructions and the instruments of conveyance. Such review and approval by Grantor shall be timely and shall not be unreasonably withheld.

2.2. Essential Conditions. Effective upon the later to occur of (1) deposit of the Grant Funds into escrow and (2) acquisition of the Property, Grantee hereby agrees that:

- i. it will use, operate, maintain and manage the Property consistent with the "PURPOSE OF GRANT" as stated in section 1 hereof;
- ii. Grantee is responsible for recognizing the cooperative nature of this project and shall provide credit to the Grantor, the Department of Fish and Game ("DFG") and any other contributor on signs, demonstrations, promotional materials, advertisements, publications or exhibits prepared or approved by Grantee referencing this project, as appropriate. Subject to the mutual agreement of Grantor and Grantee regarding text, design and location, Grantee will post a sign(s) on the Property to indicate the participation of Grantor and DFG in Grantee's purchase of the Property, provided however, that the sign(s) shall display Grantor's logo, as shown on **Exhibit C**, which is attached hereto and made a part hereof by this reference, as appropriate;

iii. the Property (including any portion of it or any interest in it) may not be sold, transferred or exchanged without the written approval of the State of California, through the Executive Director of the Wildlife Conservation Board ("WCB"), or its successor, provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained and all the Grant conditions must be assumed by any successor in interest;

iv. the Property (including any portion of it or interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Director of the WCB, or its successor, provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained;

v. Grantee shall record, concurrently with close of escrow in the purchase of the Property, a Notice of Unrecorded Grant Agreement (the "Notice"), incorporating by reference this Agreement and giving public notice that Grantee received funds under this Agreement in order to assist Grantee in acquiring the Property and that, in consideration for the receipt of the Grant Funds, Grantee has agreed to the terms of this Agreement. The Notice shall be in the form attached hereto as **Exhibit D**.

vi. Grantee shall provide a copy of the Recorded Document with all recording information as well as a copy of the title insurance policy covering the property or property rights acquired as a result of this Grant Agreement. Grantee shall also provide any and all other documents related to the above transaction as requested by the Wildlife Conservation Board.

vii. at the request of Grantor, not more than once in any calendar year, commencing at the close of escrow, Grantee shall make arrangements and secure the necessary approval, if any, to allow designated staff of Grantor and/or DFG to access the Property to assess compliance with the terms and conditions contained herein.

### 3. BREACH OF ESSENTIAL CONDITIONS

3.1. In the event of Grantee's breach of any of the Grant conditions in section 2.2, Grantor shall give written notice to Grantee, describing such breach. Notice shall be deemed given when deposited in the U.S. Post Office or with a reliable over-night courier, postage prepaid, addressed to Grantee, or by personal delivery to Grantee's relevant addresses set forth above.

3.2. If Grantee does not, within ninety (90) days of notice given, (a) cure the breach described in Grantor's section 3.1 notice or (b) in the event the breach is not curable within said ninety (90) days, Grantee fails to commence such cure, then Grantee shall be in default ("Default") under this Agreement.

### 4. REMEDIES

In the event of a Default under this Agreement, Grantor shall be entitled to receive, at Grantor's election, one of the following as the remedy for Grantee's Default:

a. Reimbursement to Grantor of the entire sum granted to Grantee pursuant to

this Agreement, together with interest compounded semi-annually starting from the date of this Agreement to and including the date of reimbursement, at a rate equivalent to that which is being earned at the time of Default on deposits in the State of California's Pooled Money Investment Account.

b. Conveyance by Grantee of a conservation easement over the Property in favor of the State, or at the election of Grantor, in favor of a qualified non-profit organization, together with payment of a sum to Grantor which, when combined with the fair market value of the conservation easement, equals the sum granted to Grantee pursuant to this Agreement, together with interest compounded semi-annually starting from the date of this Agreement to and including the date of reimbursement, at a rate equivalent to that which is being earned at the time of Default on deposits in the State of California's Pooled Money Investment Account. The conservation easement shall be for the purposes of wildlife habitat preservation, restoration and management, wildlife-oriented education and research, and for compatible public or private uses, all as may be consistent with wildlife habitat preservation and protection of sensitive biological resources. The value of the conservation easement shall be determined by a fair market value appraisal, as approved by Grantor and the State Department of General Services, to the extent required by law.

## 5. ADDITIONAL TERMS

5.1. Disbursement Procedure. Grantor shall disburse the Grant Funds according to the following procedure. When Grantee is ready to complete acquisition of the Property, Grantee shall request disbursement of the Grant Funds by sending a letter to the Executive Director of the WCB. The letter shall be signed by an authorized representative of Grantee and shall contain all of the following:

- a. Name and address of Grantee;
- b. Number of Grant Agreement;
- c. Dollar amount of Disbursement;
- d. Name, address and telephone number of the title company or escrow holder, and the escrow account number to which the Grant Funds will be disbursed; and
- e. A statement certified by Grantee that all funds (exclusive of the Grant Funds to be provided under this Agreement) needed for completion of acquisition of the Property have been secured and have been or will be deposited to escrow on or about the same date as the requested Grant Funds. In making this statement, Grantee shall be entitled to reasonably rely on the representations of the transferor of the Property.

After approval of this Agreement by the WCB, and upon receipt of the letter from Grantee requesting disbursement of the Grant Funds, Grantor will promptly and timely [estimated to be twenty-five (25) working days from the date the request is received] disburse Two Million Dollars (\$2,000,000.00) into the designated escrow account.

5.2. Liability. Grantee agrees to indemnify, hold harmless and defend Grantor, the State

of California, its officers, agents, and employees against any and all claims, demands, damages, losses, costs, expenses (including attorneys' fees) or liability based solely on Grantee's acquisition, use, ownership, management or operation of the Property.

5.3. Amendment. This Agreement may be modified only with the written approval of Grantor and Grantee. No oral understanding or agreement not incorporated in this Agreement shall be binding on either of the parties.

5.4. Term and Expiration.

5.4.1. The term of this Agreement will commence on November 17, 2005 and, unless previously terminated as provided for in section 5.5.1., will expire on June 30, 2006. Invoices requesting the disbursement of Grant Funds must be submitted, as set forth in section 5, on or before the expiration date of this Agreement.

5.4.2. After close of escrow for the acquisition of the Property, unless this Agreement has previously expired or been terminated, this Agreement shall remain in full force and effect for the purpose of securing compliance with the "PURPOSE OF GRANT" provisions set forth above.

5.5. Termination.

5.5.1. Prior to the last to occur of (1) Grantor's deposit of the Grant Funds into escrow and (2) Grantee's close of escrow for acquisition of the Property, either party may terminate this Agreement for any reason or for no reason, by providing the other party with a minimum of fifteen (15) days' written notice of such termination. If this Agreement is terminated after Grantor's deposit of the Grant Funds into escrow but before Grantee's close of escrow for acquisition of the Property, Grantee shall cause the escrow holder to immediately return all Grant Funds to Grantor.

5.5.2. Any time after the close of escrow for this acquisition of the Property, Grantee shall have the right to terminate this Agreement by:

i. providing written notice to Grantor of Grantee's election to terminate this Agreement; and

ii. reimbursing Grantor the entire sum granted to Grantee pursuant to this Agreement, together with interest compounded semi-annually starting from the date of this Agreement to and including the date of reimbursement, payable at the rate equivalent to that which is being earned at the time of termination on deposits in the State of California's Pooled Money Investment Account, or at the election of Grantor, the granting of a conservation easement over the Property to the State, or at Grantor's election, to a qualified non-profit organization, together with a sum to Grantor which, when combined with the fair market value of the conservation easement, has a value equal to the entire sum granted to Grantee pursuant to this Agreement, together with interest compounded semi-annually, starting from the date of this Agreement to and including the date of reimbursement at a rate equivalent to that which is being earned on deposits in the State of California's Pooled Money Investment Account at the time of termination. The conservation easement must be for the purposes of wildlife habitat

preservation, corridor protection, restoration and management, wildlife-oriented education and research, and for compatible public or private uses, all as may be consistent with wildlife habitat preservation and protection of sensitive biological resources. The fair market value of the conservation easement shall be determined by an appraisal, as approved by Grantor and the State Department of General Services, to the extent required by law.

5.5.3. In the event of any termination of this Agreement in accordance with this section 5.5, neither party will have any rights or remedies against the other party except as provided herein, and each party shall cooperate with the other party to execute such documents as may be necessary to clear title to the Property, including any Notice of Unrecorded Grant Agreement recorded pursuant to this Agreement.

5.6. Authorization. This Agreement shall be deemed executed and effective when signed by an authorized representative of each party and then received in the respective offices of Grantee and Grantor. An authorized representative of Grantee and Grantor shall sign four (4) originals of this Agreement. Grantee shall receive one (1) completely executed original and Grantor shall receive three (3) completely executed originals.

5.7. Designee. All references herein to "Grantee" are intended to refer to Grantee or its designee, successor or assignee as may be approved by Grantor to the extent such approval is required under this Agreement.

## 6. AUDIT

Grantee shall maintain complete and accurate records of its actual project costs and shall retain said records throughout the term of this Agreement and for a period of three (3) years after final disbursement. During such time, said records shall be made available to the State of California for audit purposes during normal business hours. Expenditures not documented, and expenditures not allowed under this Agreement or otherwise authorized by Grantor shall be borne by Grantee. The audit shall be confined to those matters connected with this Agreement, including but not limited to administration and overhead costs.

## 7. UNION ORGANIZING

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

7.1. no state funds disbursed by this Grant will be used to assist, promote or deter union organizing;

7.2. Grantee shall account for state funds disbursed for a specific expenditure by this Grant, to show those funds were allocated to that expenditure;

7.3. Grantee shall, where state funds are not designated as described in 7.2 above, allocate, on a pro-rata basis, all disbursements that support the grant program;

7.4. if Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon

request.

The signature of the Executive Director certifies that at the Board meeting held on November 17, 2005, the Wildlife Conservation Board authorized the award of an acquisition grant to Grantee as provided herein.

This Agreement is made and entered into this 17<sup>th</sup> day of November, 2005, in the State of California, by and between the Wildlife Conservation Board, the Santa Monica Mountains Conservancy, and the City of Malibu, each of which does hereby agree to the terms and conditions referenced on pages 1 through 8, along with Exhibits, of this Agreement.

STATE OF CALIFORNIA  
WILDLIFE CONSERVATION BOARD

GRANTEE:  
Santa Monica Mountains Conservancy

By: \_\_\_\_\_  
Al Wright

By: \_\_\_\_\_  
(Name)

Title: Executive Director

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SUCCESSOR GRANTEE:  
City of Malibu

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Malibu Lagoon Restoration  
Los Angeles County  
Project I.D.: 2005058**

**CERTIFICATION:**

I hereby certify that sufficient funds are available to award this Grant.

\_\_\_\_\_  
Fiscal Officer

\_\_\_\_\_  
Date

**FUNDING CERTIFICATION**

Grantee: Santa Monica Mountains Conservancy  
5750 Ramirez Canyon Road  
Malibu, CA 90265  
Attn: Rorie Skei  
(310) 589-3200 Ext. 112

Successor Grantee: City of Malibu  
23815 Stuart Ranch Road  
Malibu, CA 90265

WCB Grant Agreement #: WC-5027BC

Agreement Term: November 17, 2005 to June 30, 2006

WCB Grant Amount: Two Million Dollars (\$2,000,000.00)

Fund Source: Water Security, Clean Drinking Water, Coastal &  
Beach Protection Fund of 2002, Section 79572(a)

Appropriation Item: Proposition 50, Statutes of 2002  
Item 3640-801-6031

Expenditure Code: 05-1000-811-76010

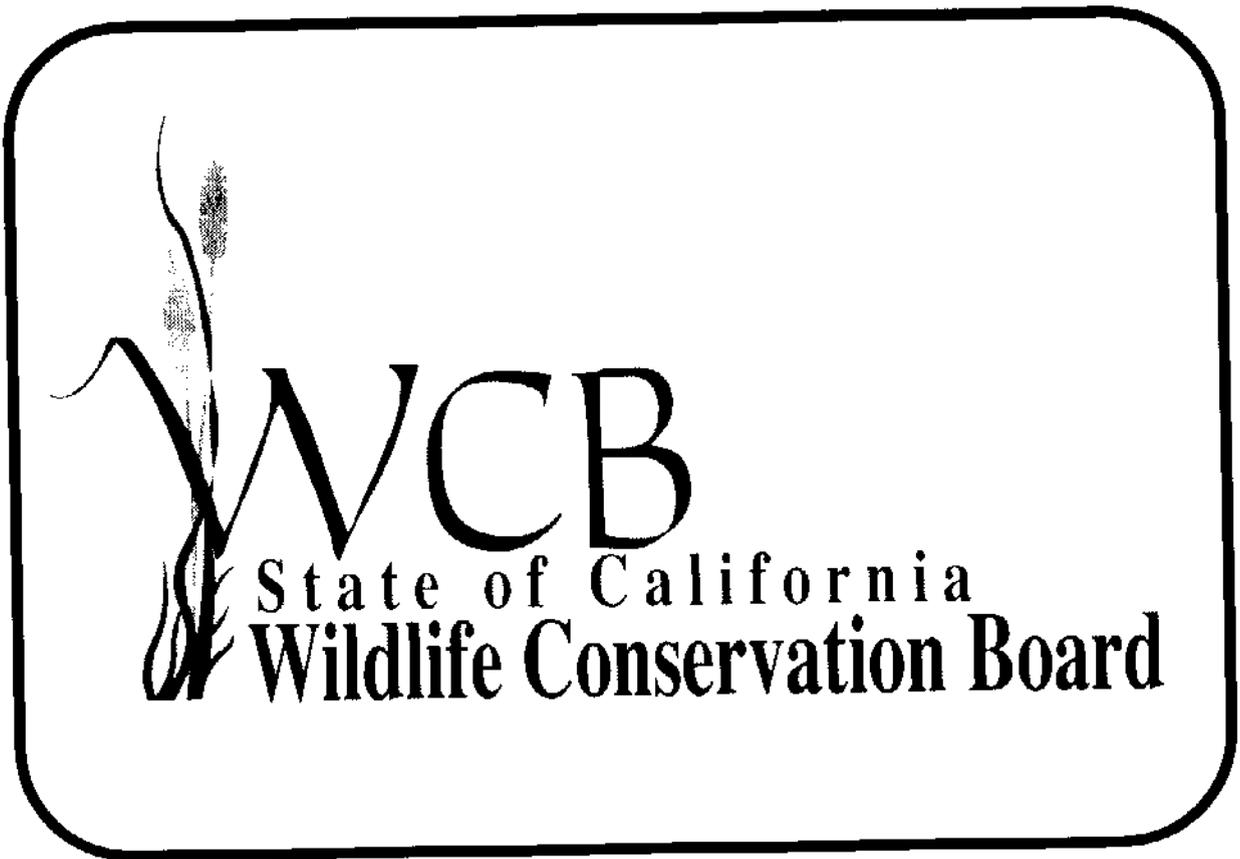
**EXHIBIT A**

(Legal Description)

**EXHIBIT B**

(Board Resolution)

(WCB Logo)



**EXHIBIT D**

Recording requested by, and )  
when recorded, return to: )  
 )  
State of California )  
Wildlife Conservation Board )  
Attn: Bob Clark )  
1807 13th Street, Suite 103 )  
Sacramento, CA 95814-7137 )

Project Name: Malibu Civic Center Chili Cook-Off Acquisition      *Space above this line for Recorder's use*  
County: Los Angeles

PAYMENT OF RECORDING FEE EXEMPT PURSUANT TO GOVERNMENT CODE SECTION 6103

**NOTICE OF UNRECORDED GRANT AGREEMENT**

This Notice of Unrecorded Grant Agreement (Notice), dated as of \_\_\_\_\_, \_\_\_\_\_, is recorded to provide notice of an agreement between the State of California, by and through the Wildlife Conservation Board ("WCB") and Santa Monica Mountains Conservancy and City of Malibu (hereinafter collectively referred to as "Recipient").

RECITALS

- A. On November 17, 2005, WCB and Recipient entered into a certain Grant Agreement, Grant No. WC-5027BC ("Grant"), pursuant to which WCB granted to Recipient certain funds for the acquisition of fee interest in certain real property, more particularly described in attached Exhibit A and incorporated by reference (the "Real Property").
- B. Under the terms of the Grant, WCB reserved certain rights with respect to the Real Property.
- C. Recipient is required under the terms of the Grant to execute this Notice to provide constructive notice to all third parties regarding WCB's reserved rights under the Grant.

NOTICE

- 1. The Real Property (including any portion of it or any interest in it) may not be sold or exchanged without the written approval of the State of California, acting through the Executive Director of the Wildlife Conservation Board, or its successor, provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained.
- 2. The Real Property (including any portion of it or any interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Director of the Wildlife Conservation Board, or its successor, provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained.

3. For additional terms and conditions of the Grant, reference should be made to the Grant Agreement which is on file with the Wildlife Conservation Board, 1807 13th Street, Suite 103, Sacramento, California 95814-7137; *mailing address*: Wildlife Conservation Board, c/o Department of Fish and Game, P. O. Box 944209, Sacramento, CA 94244-2090.

RECIPIENT OF GRANT FUNDS:

By: \_\_\_\_\_  
Santa Monica Mountains Conservancy

RECIPIENT OF GRANT FUNDS:

By: \_\_\_\_\_  
City of Malibu