

DESERT AND MOUNTAIN CONSERVATION AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT is entered into pursuant to the provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code relating to the joint exercise of powers between the ANTELOPE VALLEY RESOURCE CONSERVATION DISTRICT (hereinafter "The District" or "District") and the SANTA MONICA MOUNTAINS CONSERVANCY (hereinafter "The Conservancy" or "Conservancy"), who may be referred to collectively as "the parties" or individually as "a party" to this agreement.

The District and Conservancy mutually agree as follows:

Section 1. Recitals

1.0. The District is organized pursuant to Chapter 3 of Division 9 of the Public Resources Code. The purposes of the District are, among other things, to: Facilitate resource management for watershed restoration and enhancement (§ 9001(b)(3)¹); to make improvements for, among other things, water conservation, and wildlife enhancement, including the planting of trees and other vegetation (§ 9409), and programs that promote resource conservation knowledge and education (§ 9419).

1.1. The District has the power to acquire (§ 9405) and improve (§ 9409) land and to cooperate with other public agencies (§ 9408).

1.2. The Legislature has found that: "As local agencies, resource conservation districts are well suited to work with state and federal agencies to carry out watershed management projects State and federal agencies should work cooperatively with resource conservation districts, where appropriate, to accomplish watershed protection objectives" (Stats. 1994, Ch. 719 § 1(e).)

1.3. In carrying out its responsibilities pursuant to Division 9 of the Public Resources Code, the District must provide for the appropriate conservation of resources in areas adjacent to the District boundaries which may impact or affect the conservation of resources within the District.

1.4. The Conservancy is an agency of the State of California established by the Santa Monica Mountains Conservancy Act (Division 23 [commencing with Section 33000] of the Public Resources Code).

¹ Unless otherwise indicated, all references are to the Public Resources Code.

1.5. The purposes of the Conservancy are, among other things, to preserve and protect the economic, environmental, agricultural, scientific, educational, and recreational resources of the last large undeveloped area within the greater Los Angeles metropolitan region, comprised of Los Angeles and Ventura Counties (§§ 33001, 33204.3).

1.6. In order to carry out these purposes the Conservancy has power to acquire (§ 33203) and improve (§ 33203.5) real property, and specifically to cooperate with resource conservation districts (§ 33203). It may also award grants to other state or local agencies to acquire land for park, recreation, or conservation purposes, and the development of essential related facilities (§ 33204 (c)). The Conservancy implements watershed protection activities throughout the Upper Los Angeles River Watershed pursuant to Water Code § 79508.

1.7. There is significant overlap in geographical responsibility between the Conservancy and the District in the Rim of the Valley Corridor as such boundary has been determined pursuant to § 33204.3 and the Upper Los Angeles River Watershed as defined in Water Code § 79508.

1.8. The Santa Monica Mountains Conservancy Act recognizes the interrelationships between changes in one part of the ecosystem and the effect on the whole (§ 33001), therefore the Conservancy has an interest in the resource conservation of the mountain and desert resources that impact upon its statutory responsibilities.

1.9. The Santa Monica Mountains Conservancy Strategic Plan approved by the Governor in 1997 calls for, "[f]urther cooperation with local government in the region to secure open space and parkland" and the implementation measures in the Strategic Plan call for the Conservancy to "[s]trengthen partnership agreements with local governments and establish new joint powers entities throughout the region where appropriate" and to "[e]nsure that Conservancy land acquisition expertise is made available where needed."

Section 2. Purposes of Agreement

2.0. The general purpose of this agreement is to establish an authority, separate and distinct from the parties, that will exercise the joint powers of the District and the Conservancy in order to carry out the mutual purposes and objectives of each party as outlined in the recitals of the preceding section of this agreement.

2.1. Without limiting the generality of purpose specified in Section 2.0, the specific purposes of this agreement are to:

- (a) Restore and improve habitat, including, without limitation, undertaking mitigation banking programs.

- (b) Acquire land and any interests therein when necessary for resource conservation purposes, including surplus public land and tax deeded property.
- (c) Engage in watershed protection activities.
- (d) Manage land when necessary to accomplish the foregoing purposes.
- (e) Undertake programs for the interpretation of air, land, and water resources.
- (f) Evaluate and provide for the avoidance and/or mitigation of environmental impacts from projects of significant area-wide or regional significance, in particular those that would add regionally significant cumulative impacts or that would impact already protected resources as designed by Federal, state, and local agencies.
- (g) Accept donations of land from parties to the agreement, other Federal, state, or local agencies, including joint powers entities, and private parties.
- (h) Provide mutual technical assistance in all aspects of land and resource conservation to the parties and to other Federal, state, and local agencies, and, in appropriate cases, to private persons who request such assistance.
- (i) Provide for, as an integral purpose of this agreement, the utilization of the benefit assessment method of financing of capital acquisitions and improvements, and the maintenance, servicing, and operation thereof, to the greatest extent permitted by any applicable provision of the Streets and Highways Code and consistent with the provisions of Proposition 218 adopted in 1996 by the voters of California.

Section 3. Establishment of Authority

3.0. The authority hereby created shall be a public entity separate and apart from the parties to this agreement, such entity shall be known as the DESERT AND MOUNTAIN CONSERVATION AUTHORITY (hereinafter referred to as "the Authority" or "Authority").

Section 4. Powers of Authority

4.0. The Authority shall have any and all powers common to the parties to this agreement. Such common powers include, but are not limited to, all those

powers specified in Government Code § 6508, as such section existed as of the date of this Agreement and any additional powers as may be added by amendment to such section from time to time. In addition to those common powers of each party as set forth herein, the Authority shall have all such additional powers as are granted to separate public entities established pursuant to the Joint Exercise of Powers Act (Chapter 5 [commencing with Section 6500] of Division 7 of Title 1 of the Government Code) insofar as such powers are necessary or convenient to carry out the purposes and objectives of this agreement, as determined by the Governing Board of the Authority.

4.1. The Authority is hereby empowered to do all acts necessary to carry out the purposes and objectives of this Agreement, and to that end this agreement shall be liberally construed to effectuate its purposes.

4.2. The Authority shall operate within the combined jurisdictional area of the District and the Conservancy; provided, that the Authority may exercise its powers outside of such area if the Governing Board finds it necessary in order to effectuate any of the purposes of this Agreement.

4.3. For the purpose of Government Code § 6509, such powers as are granted herein shall be subject to the restrictions upon the manner of exercising such powers as are imposed upon the District.

4.4. The Authority shall have the power to finance any capital acquisition or improvement, or the maintenance, servicing, and operation of any improvement, facility, park or open space land, by the use of any applicable provision of the Streets and Highways Code and the Government Code of the State of California pertaining to municipal improvements, temporary borrowing by local agencies, and/or benefit assessments, to the fullest extent permitted by law and consistent with the provisions of Proposition 218 adopted by the voters in 1996, and any other provision of the California Constitution.

Section 5. Governing Board, Officers, Meetings, and Procedure

5.0. The Authority shall be governed by its Governing Board which shall consist of four (4) members, who shall be appointed as follows: two (2) members shall be appointed by the District, to serve at the pleasure thereof; two (2) members shall be appointed by the Conservancy, to serve at the pleasure thereof.

5.1. The Chairperson and Vice Chairperson of the Governing Board shall be elected by the board with the Chairperson selected from among the members appointed by the District and the Vice Chairperson selected from among the members appointed by the Conservancy. The Chairperson shall preside over all meetings of the Governing Board and shall, when required, authenticate its

actions. The Vice Chairperson shall act in stead of the Chairperson when he or she is unavailable or incapable of performing such office.

5.2. All meetings of the Governing Board shall be called, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (Chapter 9 [commencing with Section 54950] of Part 1 of Division 2 of Title 5 of the Government Code), and such further rules of the Governing Board as are not inconsistent therewith.

5.3. Three (3) members of the Governing Board shall constitute a quorum necessary for the transaction of business. The affirmative vote of a majority of the total membership shall constitute an action of the Governing Board. Unless the board shall have previously determined otherwise, the latest edition of Roberts Rules of Order, Newly Revised, shall govern the procedures of the Governing Board, except when inconsistent with the Ralph M. Brown Act or other provisions of law.

5.4. Regular meetings of the Governing Board shall be held at least three times a year at a date, time, and place to be established by the Governing Board. Other meetings of the Governing Board may be called by the Chairperson or by the Executive Officer at the request of a majority of the members of the Governing Board; provided, that all meetings of the Governing Board shall be called and conducted in accordance with the Ralph M. Brown Act.

5.5. The Executive Officer of the Authority shall keep, or cause to be kept, the minutes of the Governing Board's meetings, and shall as soon as possible after each meeting forward a copy of the minutes to each member of the board and to the District and the Conservancy.

5.6. The Governing Board shall by resolution designate a specific location at which it will receive notices, correspondence, and other communications and shall designate one of its members, officers, or employees as an "officer" for the purposes of receiving service of process on behalf of the Authority.

Section 6. Compensation

6.0. Members of the Governing Board shall serve without compensation except that a reasonable allowance or reimbursement for attendance at meetings of the Governing Board, as determined by the board, may be paid to the extent compatible with Government Code § 1126, Public Contract Code §§ 10410 and 10411, and any other statutory provision.

Section 7. Administration

7.0. The Authority shall be administered by an Executive Officer who shall perform the functions specified in Government Code § 6505.1.

7.1. The Executive Director of the Conservancy shall serve, *ex officio*, without additional compensation, as the Executive Officer of the Authority.

7.2. The Chief Staff Counsel of the Conservancy shall serve, without additional compensation, as the duly appointed Staff Counsel of the Authority. In addition, as the need may arise, the Authority may use counsel to the District or may hire outside counsel.

7.3. To implement this Agreement, the District and Conservancy may contribute their employees to the Authority to provide interim or temporary staff for the Authority; however, any such employees shall not be deemed to be employees of the Authority.

7.4. When necessary to achieve the purposes of this Agreement, the Governing Board may from time to time establish positions and fix the salaries of employees of the Authority. The Executive Officer of the Authority shall appoint such employees and shall be responsible for the supervision thereof.

Section 8. Fiscal Controls

8.0. The fiscal year of the Authority shall be the fiscal year of the District. The Authority shall recommend to the parties an annual budget that is subject to approval by both the District and the Conservancy.

8.1. The Authority shall be strictly accountable for all funds, receipts, and disbursements.

8.2. The Treasurer of the District shall be the Treasurer of the Authority and shall be the depository and have custody of all money of the Authority; provided, that by unanimous vote the Governing Board may contract with a certified public accountant to perform the functions of Treasurer of the Authority. The Treasurer shall perform the duties imposed by Government Code §§ 6505 and 6505.5, except if the Authority contracts with a certified public accountant to perform the functions of Treasurer, then in accordance with subdivision (e) of Government Code § 6505.5, the auditor of the District shall be the auditor of the Authority.

8.3. To the extent that funds are legally available therefor, the District and Conservancy are hereby authorized to make advances, payments, and

contributions of public funds as provided in Government Code § 6504 and subject to the contribution limitations of § 10.0.

8.4. The Authority shall have the power to invest any money in the treasury of the Authority that is not required for immediate necessities, as the Authority determines advisable, pursuant to Government Code § 6509.5.

8.5. The District and Conservancy may require all members of the Governing Board and all officers of the Authority to file an official bond in an amount specified by the District and Conservancy. A master bond may be used as referred to in Government Code § 1481, and the bond shall also comply with the requirements of Chapter 3 (commencing with § 1450) of Division 4 of Title 1 of the Government Code, with those sections being deemed applicable to the Authority to the extent the Authority deems appropriate. The premium for any bond shall be paid by the Authority.

Section 9. Liability

9.0. The tort liability of the Authority and of all members of the Governing Board, and the Executive Officer and any employees of the Authority, shall be controlled by the provisions of Division 3.6 of Title 1 of the Government Code and the provisions of the Joint Exercise of Powers Act. The provisions of Division 3.6 relating to indemnification of public employees and the defense of actions arising out any act or omission occurring in the scope of their employment shall apply to all members of the Governing Board, officers, and employees with respect to the Authority.

9.1. The Authority may maintain comprehensive liability insurance and whatever other insurance it deems necessary and appropriate. The form, coverage and amounts of such insurance shall be as deemed appropriate by the Governing Board of the Authority.

9.2. Pursuant to Section 6508.1 of the Government Code, neither the Authority nor the Governing Board shall have the power or authority to bind the District or the Conservancy, or either of them, to any debt, liability or obligation. No debt, liability or obligation of the Authority or the Governing Board thereof shall constitute a debt, liability or obligation of the District or the Conservancy, or either of them.

9.3. No act or omission of the Authority or the Governing Board, or any officer or employee thereof, shall be attributable to the District or the Conservancy, or either of them.

Section 10. Contributions

10.0. Exclusive of grants that the parties may from time to time award to each other or to the Authority, the contribution of the District and the Conservancy to the Authority and from the Authority to the Conservancy during any fiscal year shall be less than fifty thousand dollars (\$50,000), or the amount established as the delegated interagency contract limit as set forth in the State Contract Manual or successor document, whichever is less. Contribution is here defined to include monetary contributions, if any, and the reasonable value of the services of any employees that are not otherwise covered by a separate reimbursement agreement. Such reimbursement agreements are hereby expressly authorized. The mutual exchange of services between parties to this Agreement and the Authority without payment of any consideration other than such services is hereby authorized to the extent permitted by Section 6506 of the Government Code.

Section 11. Term

11.0. This Agreement shall continue in force unless terminated by one of the parties, as provided for in Section 11.1, or upon mutual agreement of both parties at any time.

11.1. Within forty-five (45) days of the anniversary date of final execution of this Agreement, either party may adopt a resolution of termination and shall notify the other party of that fact by certified mail sent to the address provided for in § 15, or any subsequent address on file with the Authority. In the event that this agreement is terminated pursuant to this section or by mutual consent, this Agreement is automatically extended for the sole purpose of winding up and disposing of property and funds pursuant to §12. Such extension shall be operative only until the Authority has concluded its affairs, but in no event for longer than one year, except that with respect to any litigation in which the Authority is a party, such agreement shall remain in effect for the purposes of such litigation until the final conclusion thereof. When the Authority has concluded its affairs the Executive Officer shall notify all parties and the Secretary of State.

Section 12. Disposition of Property and Funds

12.0. Upon termination of this Agreement, the Authority shall forthwith wind up its affairs, including discharging all of its outstanding legal obligations.

12.1. Personal property and funds remaining in the Authority shall be distributed between the parties, or their designees, by mutual agreement. If the parties do

not agree as to distribution, then personal property shall be returned to the party from which the funds or personal property was obtained. If the personal property was not obtained from either party, but was purchased by, or donated to, the Authority, then it shall be distributed, to the extent practicable, in proportion to the total contribution of each party to the Authority.

12.2. Real property owned by the Authority shall be distributed according to the mutual agreement of the parties. If the parties do not agree as to distribution, then all real property shall be conveyed to the District, or its designee, if it is located exclusively within the jurisdiction of the District and all real property owned by the Authority shall be conveyed to the Conservancy, or its designee, if it is located exclusively within the jurisdiction of the Conservancy. For property located in the area of overlap of jurisdiction and the parties are unable to mutually agree as to disposition, then the Board of Supervisors of the county wherein the property is located shall determine the disposition as between the District, or its designee, or the Conservancy, or its designee. At any time prior to action by the Board of Supervisors the parties may mutually agree to a disposition of the property.

Section 13. Non-discrimination

13.0. The provisions of the State of California Nondiscrimination Clause (Form 17B) are by this reference incorporated herein.

Section 14. Amendments

14.0. This Agreement may be amended by the parties at any time. All amendments shall be approved by each party in writing and shall reproduce the entire text of the Agreement.

Section 15. Address for Correspondence

15.0. Unless a party has notified the other party by certified mail of a change of address, the address for all official correspondence between the parties shall be:

President, Board of Directors
Antelope Valley Resource Conservation District
44811 North Date Avenue, Suite G
Lancaster, California 93534

Executive Director
Santa Monica Mountains Conservancy
5750 Ramirez Canyon Road
Malibu, California 90265

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

ANTELOPE VALLEY RESOURCE CONSERVATION DISTRICT

By: James L. Doolittle

Its: President AVRD

Dated: 8 August 2006

SANTA MONICA MOUNTAINS CONSERVANCY

By: [Signature]

Its: EXECUTIVE DIRECTOR

Dated: August 9, 2006