

RESOLUTION NO. 2016-3564

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING A JOINT POWERS AGREEMENT BETWEEN THE CITY OF MOORPARK AND THE SANTA MONICA MOUNTAINS CONSERVANCY CREATING THE MOORPARK WATERSHED, PARKS, RECREATION AND CONSERVATION AUTHORITY, AND MAKING A DETERMINATION THE JOINT POWERS AGREEMENT IS NOT SUBJECT TO THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Moorpark (the "City") and the Santa Monica Mountains Conservancy (the "Conservancy") intend to enter into a joint exercise of powers agreement creating the Moorpark Watershed, Parks, Recreation and Conservation Authority ("Joint Powers Agreement") pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the Government Code relating to the joint exercise of powers; and

WHEREAS, the Conservancy and the City are public agencies of the State of California, and authorized to enter into the Joint Powers Agreement creating the Moorpark Watershed, Parks, Recreation and Conservation Authority attached to this Resolution and incorporated herein by this reference (the "Joint Powers Agreement"); and

WHEREAS, the City's Community Development Director has determined that the Joint Powers Agreement is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15060(c)(3) [the activity is not a project as defined in Section 15378] of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the Joint Powers Agreement has no potential for resulting in physical change to the environment, directly or indirectly; and

WHEREAS, the City Council considered a conceptual Joint Exercise of Powers Agreement creating the Moorpark Watershed Recreation and Conservation Authority at the City Council meeting on June 18, 2014, and subsequently considered and approved a Santa Monica Mountains Conservancy Moorpark Watershed Recreation and Conservation Authority Joint Exercise of Powers Agreement on July 1, 2015, and authorized the Mayor to sign subject to final language approval of City Manager and City Attorney; and

WHEREAS, on December 21, 2016, the City Council has considered rescinding the prior July 1, 2015, approval action and approving by resolution a Joint Powers Agreement between the City of Moorpark and the Santa Monica Mountains Conservancy Creating the Moorpark Watershed, Parks, Recreation and Conservation Authority.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

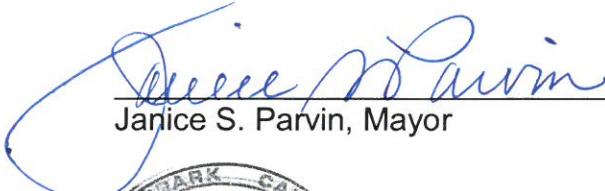
SECTION 1. The City Council, through its independent analysis and judgment, concurs with the Community Development Director and finds the proposed Joint Powers Agreement is not subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment] and 15060(c)(3) [the activity is not a project as defined in Section 15378] of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. More specifically, the Joint Powers Agreement would only form a separate public entity known as the Moorpark Watershed, Parks, Recreation and Conservation Authority with certain powers designated therein. To the extent that this new Authority undertakes any actions that would constitute a project within the meaning of CEQA, then the appropriate environmental review will be conducted at that time.

SECTION 2. The City Council of the City of Moorpark hereby rescinds the City Council's prior July 1, 2015, approval of the Santa Monica Mountains Conservancy Moorpark Watershed Recreation and Conservation Authority Joint Exercise Powers Agreement.

SECTION 3. The City Council of the City of Moorpark hereby approves the Joint Powers Agreement and the formation of the Moorpark Watershed, Parks, Recreation and Conservation Authority and authorizes the Mayor to execute the Joint Powers Agreement, subject to City Attorney and City Manager final language approval.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 21st day of December 2016.



Janice S. Parvin, Mayor

ATTEST:



Maureen Benson, City Clerk



Exhibit: A Joint Powers Agreement Creating the Moorpark Watershed, Parks, Recreation and Conservation Authority

**A Joint Powers Agreement Creating the
Moorpark Watershed, Parks, Recreation and Conservation Authority**

THIS JOINT EXERCISE OF POWERS AGREEMENT (“Agreement”) is entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the Government Code relating to the joint exercise of powers and is an agreement between the following parties:

THE SANTA MONICA MOUNTAINS CONSERVANCY (hereinafter the “Conservancy”), a public agency of the State of California established pursuant to Division 23 of the Public Resources Code (Section 33000 et seq.);

THE CITY OF MOORPARK (hereinafter the “City”), a California municipal corporation.

Collectively, the Conservancy and the City shall be referred to as “Parties.”

SECTION 1. TERM OF AGREEMENT

1.0 This agreement shall become effective and dated upon the date that the last of the two parties have executed this Agreement (“Effective Date”) and shall revoke any prior agreements executed creating a joint powers authority between the parties, if any. The Authority shall continue to exist and remain in effect until terminated pursuant to Section 19.

SECTION 2. PURPOSE OF AGREEMENT

2.0 The purpose of this agreement is to establish an independent public agency in order to exercise powers common to the Parties to acquire, develop, maintain, manage and conserve additional park and open space lands and may include lands for watershed protection and restoration purposes.

SECTION 3. CREATION OF AUTHORITY

3.0 There is formed as of the Effective Date a public agency named the “The Moorpark Watershed, Parks, Recreation and Conservation Authority” (hereinafter referred to as “Authority”). Pursuant to Section 6507 of the Joint Exercise of Powers Act, the Authority is a public agency separate from the Conservancy and City.

SECTION 4. POWERS OF AUTHORITY

4.0 The Authority shall have all powers common to the Parties to this Agreement, and such other powers as may be provided by statute applicable to local park agencies which relate to park, open space and/or watershed real property, the management and operation of associated personal property, and the management, fiscal affairs and operation of a local agency. Said common powers include, but are not

limited to, all those powers specified in Government Code Section 6508, as the same may be amended from time to time. In addition to those powers specifically set forth herein, the Authority shall have such additional powers as apply generally 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.

4.1 The Authority is hereby empowered to do all acts necessary for the exercise of such powers within the jurisdictional boundaries of the City of Moorpark and its area of interest as identified in the Ventura Local Agency Formation Commission (LAFCO) Guidelines for Orderly Development, and this agreement shall be liberally construed to effectuate its purposes. Those powers include the power of eminent domain and the power to issue revenue bonds, as set forth in Government Code Section 6546, 6547 and other applicable sections.

4.2 For the purposes of Section 6509 of the Government Code, such powers are subject to the restrictions upon the manner of exercising the powers as imposed upon the City.

SECTION 5. GOVERNING BOARD

5.0 The Authority shall be governed by its Governing Board which shall consist of four (4) members who shall be appointed as follows:

One (1) member shall be the Director of Parks, Recreation and Community Services Department, or similarly titled position, of the City of Moorpark.

One (1) member shall be the City Manager of the City of Moorpark.

Two (2) members shall be appointed by the Conservancy.

5.1 The City Council of the City and the Governing Board of the Conservancy, as applicable, may designate in writing an alternate representative for one or more of its representatives who is authorized to attend and participate in meetings of the Authority Governing Board as if he or she was a Governing Board Member. The representative and alternate representative shall serve at the pleasure of the Governing Board of the Party that the representative or alternative representative represents and may be removed by such Governing Board at any time and replaced by a new representative or alternate representative.

5.2 The Governing Board shall conduct or authorize to be conducted all business and activities of the Authority consistent with this Agreement, Authority documents (i.e. resolutions, duly adopted motions, etc.) and applicable law.

5.3 The Governing Board may adopt from time to time policies, procedures, bylaws, rules or regulations, for the conduct of its affairs as deemed necessary by the Governing Board.

SECTION 6. MEETINGS

6.0 The Governing Board of the Authority shall fix the hour, date, and place for its regular meetings. Special meetings may be held as provided for in the Ralph M. Brown Act (Government Code Section 54950 et seq.).

6.1 All meetings of the Governing Board shall be called, held, and conducted in accordance with the provisions of the Ralph M. Brown Act, and with such further rules of the Governing Board as are not inconsistent therewith.

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

6.3 The Governing Board shall hold at least one regular meeting in each year and such additional meetings as may be necessary to accomplish this purposes specified herein. Regular meetings shall be held on a date or dates and at such location as the Governing Board may determine by resolution. Minutes shall be kept of all meetings of the Authority and shall be provided to the Parties and made available to the public.

SECTION 7. QUORUM AND PROCEDURE

7.0 Three (3) members of the Governing Board shall constitute a quorum for the transaction of business, except less than a quorum may adjourn from time to time in accordance with applicable law. Three (3) affirmative votes shall constitute an action of the Governing Board. Where applicable, Robert's Rules of Order, Newly Revised, shall govern the procedures of the Governing Board, except when inconsistent with the Ralph M. Brown Act.

SECTION 8. COMPENSATION AND OFFICE

8.0 The members of the Governing Board shall serve without compensation or stipend but shall be entitled to be reimbursed for reasonable expenses incurred in the performance of their official duties for the Authority as determined and funded by the Party that appointed the representative.

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

SECTION 9. OFFICERS

9.0 The Governing Board shall elect from among themselves a Chair and Vice Chair. The Chair shall preside over all meetings of the Authority and shall represent the Authority and execute any contracts and other documents when required by law or by rules of procedures or bylaws, if any. The Vice Chair shall preside in the absence of the Chair. The Governing Board may appoint such other officers as the Board shall find appropriate. Each officer of the Board shall serve for a term of two (2) years unless sooner terminated at the pleasure of the Governing Board. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if: (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Governing Board.

SECTION 10. ADMINISTRATION

10.0 The Authority shall be administered by an executive officer who shall perform the functions stated in Government Code Section 6505.1 ("Executive Officer"). In addition, the Executive Officer is directed to file with the office of the California Secretary of State a notice of the adoption or amendment of this Agreement within thirty (30) days after the effective date of such adoption or amendment, as required by Government Code Section 6503.5 and shall file all other official notices as may be required by law.

10.1 The Executive Director of the Conservancy shall serve, without additional compensation, as Executive Officer of the Authority, unless the Governing Board, by resolution, appoints another Executive Officer, and shall file an official bond.

10.2 The Finance Director of the City shall be the duly appointed and acting Financial Officer of the Authority and shall perform the duties of treasurer and controller of the Authority, including the functions stated in Government Code Section 6505.5. and 6505.6.

10.3 The staff counsel of the Conservancy shall, without additional compensation, be the duly appointed and acting counsel for the Authority, unless the Governing Board of the Authority shall otherwise determine.

10.4 To implement this Agreement, the Conservancy and the City may loan employees to the Authority. To achieve the purposes of this Agreement, the Authority 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 other employees for positions established by the Board and shall be responsible for the supervision thereof.

SECTION 11. FISCAL CONTROLS

11.0 The fiscal year of the Authority shall be the fiscal year of the City, as established from time to time by the City.

11.1 To the extent funds are legally available therefore, the Conservancy and the City hereby authorized to make payments and contributions of public funds, as provided in and for any of the purposes specified in Section 6504 of the Government Code.

11.2 The Authority shall be strictly accountable for all funds, receipts, and disbursements. The Governing Board of the Authority shall submit to both the Conservancy and the City for their approval an initial work program and budget no later than one year from the effective date of this Agreement. Within 90 days of receiving approval of the initial work program and budget from the Conservancy and City, the Governing Board shall adopt its initial budget and shall annually adopt a budget by July 1 of each succeeding year thereafter. Prior to adoption of the subsequent annual budget, the budget shall be approved by both the Conservancy and the City. Public funds may not be disbursed by the Authority without approval of the adopted budget of the Authority, and all receipts and disbursements shall be in strict conformance with the adopted and approved budget.

11.3 The Financial Officer of the Authority shall act as the treasurer of the Authority and shall be the depository and have custody of all money of the Authority from whatever source. The Financial Officer of the Authority shall:

A. Receive all money of the Authority and place it in the treasury of the City or other appropriate account, to the credit of the Authority.

B. Be responsible on his official bond for the safekeeping and disbursement of all Authority money so held by him or her.

C. Pay, when due, out of money of the Authority so held, all sums due on outstanding obligations of the Authority. Said sums shall be paid only by warrants of the public officer performing the functions of auditor or controller of this Authority.

D. Verify and report in writing on a quarterly basis to the Authority and to the Conservancy and City the amount of money held on account for the Authority, the amount of receipts since the last report, and the amount paid out since the last report.

11.4 The Finance Director of the City shall be authorized to engage the services of an independent auditing firm to perform the functions of the auditor of the Authority, including an annual audit of the accounts and records of the Authority. In each case, the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code, and shall conform to generally accepted auditing standards. Where an audit of an account and records is made by a certified public accountant, a report thereof shall be filed as public record with the Conservancy and the City and also with such other offices as the parties so require. Such report shall be filed within six months of the end of the fiscal year under examination. Any costs of the audit, including contracts with or employment of a certified public accountant shall be borne by the Authority and charged against any unencumbered funds of the Authority.

11.5 The Authority shall have the power to invest any money in the treasury of the Authority that is not required for the immediate necessities of the Authority, as the Authority determines advisable, in the same manner and upon the same conditions as local agencies pursuant to Section 53601 of the Government Code.

SECTION 12. BONDS

12.0 Each member of the Governing Board, the executive officer, and financial officer shall file an official bond with the Conservancy. When deemed appropriate by the Authority, a master bond may be utilized as referred to in Government Code Section 1481, and the bond shall also comply with the requirements of Title 1, Division 4, Chapter 3 of the Government Code (§ 1480 et. seq.), with those sections being deemed applicable to the Authority to the extent the Authority deems appropriate. The bond shall be in the amount of \$50,000. The premium shall be paid by the Authority.

SECTION 13. LIABILITY

13.0 The Governing Board, officers and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. The liability of the Authority and of all members of the Governing Board, and the executive officer and employees of the Authority, shall be controlled by the provisions of Division 3.6 of the Government Code beginning with Government Code Section 810 et. seq. The provisions of Division 3.6 of the Government Code relating to indemnification of public employees and the defense of actions arising out of any action 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. Pursuant to Sections 6508.1 of the Government Code, the City and the Conservancy agree that the Conservancy shall assume all liabilities arising out of or with respect to:

A. Any and all actions taken by Authority personnel acting on Conservancy property pursuant to a reciprocal management agreement between the Conservancy and the Authority.

B. Any and all property owned by the Authority which is subject to a reciprocal management agreement between the Conservancy and the Authority.

13.1 In addition, the Authority may insure itself and the parties, and the officers and employees of the parties, in a manner, form and amount appropriate and acceptable to the City and the Conservancy.

SECTION 14. DISPOSITION OF PROPERTY AND FUNDS

14.0 Upon termination of this Agreement, the Authority forthwith shall conclude its affairs, including discharging all of its outstanding legal obligations. Personal property and funds remaining in the Authority shall be returned to the party from which

the funds or personal property were obtained, except as mutually agreed by the parties. Except as provided for in Section 18, all real property owned by the Authority shall be conveyed to the City, unless the Authority shall determine otherwise.

SECTION 15. NON-LIABILITY OF PARTIES

15.0 Except as expressly provided for in Section 13, no debt, liability, contract, obligation, employee or agent of the Authority or the Governing Board shall be or constitute a debt, liability, contract, obligation, employee or agent of the Parties or any of them. Neither the Authority nor the Governing Board shall have the power or authority to bind the Conservancy or the City, or any of them, to any debt, liability, contract, or obligation, or to employ any person on behalf of the Parties, or any of them. Each Party's obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement or as the Parties hereto may agree

15.1 No action or omission of the parties or any of them shall be attributable to the Conservancy or the City except as expressly provided in Section 13 of this Agreement.

15.2 The Authority may maintain such public liability and other insurance as in its discretion is deemed appropriate and to the extent the cost of premiums thereof are provided for in the approved budget of the Authority. The Authority shall defend, indemnify and hold harmless the Parties and each of the their respective Board or Council members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries and liability of every kind arising directly or indirectly from the conduct, activities, operations, acts and omissions of the Authority under this Agreement.

SECTION 16. CONTRIBUTION OF CONSERVANCY

16.0 Exclusive of grants which the Conservancy may award to the Authority or the City from time to time, the Conservancy contribution to the Authority shall be less than \$10,000 in any fiscal year. Contribution is here defined to include monetary contributions, if any, and the reasonable value of the services of any employees of the Conservancy loaned by it to the Authority, if any. This section shall not affect the mutual exchange of services between parties to this agreement and the Authority without payment of any consideration other than such services. Such mutual exchange of services is hereby authorized to the extent permitted by Section 6506 of the Government Code.

SECTION 17. NON-DISCRIMINATION

17.0 The provisions of the State of California Non-Discrimination Clause (Form 17B) are by this reference incorporated herein.

SECTION 18. OWNERSHIP AND DISPOSITION OF REAL PROPERTY

18.0 Real property currently owned by City or in future purchased exclusively with City funds, including any grant or donated funds, may be transferred by City to Authority as of the date the Authority is established. Any real property so transferred shall be transferred back to City ownership upon sixty (60) days written request by City to Authority. City shall bear all reasonable costs to effectuate such transfers.

SECTION 19. TERMINATION

19.0 Either party may terminate this Agreement for any reason, and with or without cause, by providing written notice to the other party not less than 180 days prior to the effective date of the termination.

SECTION 20. MISCELLANEOUS PROVISIONS

20.0 The provisions of Section 6513 of the Government Code are hereby incorporated into this Agreement.

20.1 Severability. If one or more clauses, sentences, paragraphs, or provisions of this Agreement or its application to any person or circumstances shall be held invalid, unlawful or unenforceable, the remainder of this Agreement and the application of the provision to other persons or circumstances shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

20.2 Assignment. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of the other Party, and any attempt to assign or delegate such rights or duties in contravention of this Section shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the parties.

20.3 No Rights in Third Parties. All of the terms, conditions, rights and duties provided for in this Agreement are, and shall always be, solely for the benefit of the Parties. It is the intent of the City and Conservancy that no third party shall ever be the intended beneficiary of any performance, duty or right created or required pursuant to the terms and conditions of this Agreement.

20.4 Agreement Complete. The foregoing constitutes the full and complete Agreement of the Parties. There are no oral understandings or agreements not set forth in writing herein.

20.5 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.

20.6 Execution by Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

20.7 Parties to be Served Notice. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

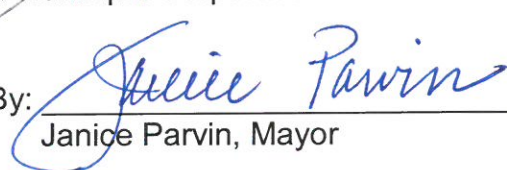
20.8 This Agreement shall be deemed to have been made, and shall be construed and interpreted, in accordance with the laws of the State of California.

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

SANTA MONICA MOUNTAINS CONSERVANCY


By: 
Joseph T. Edmiston, Executive Director

CITY OF MOORPARK,
a Municipal Corporation

By: 
Janice Parvin, Mayor

ATTEST:

By:


Maureen Benson, City Clerk



STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF MOORPARK) ss.

I, Maureen Benson, City Clerk of the City of Moorpark, California, do hereby certify under penalty of perjury that the foregoing Resolution No. 2016-3564 was adopted by the City Council of the City of Moorpark at a regular meeting held on the 21st day of December, 2016, and that the same was adopted by the following vote:

- AYES: Councilmembers Mikos, Pollock, Simons, Van Dam, and Mayor Parvin
- NOES: None
- ABSENT: None
- ABSTAIN: None

WITNESS my hand and the official seal of said City this 17th day of January, 2017.

Maureen Benson
Maureen Benson, City Clerk
(seal)

