

**Memorandum of Understanding
to Establish Cooperative Relationship and Procedures Between
Santa Barbara Local Agency Formation Commission, the Santa Ynez River Water
Conservation District, and the Santa Ynez River Water
Conservation District, Improvement District No. 1**

This Memorandum of Understanding (“Agreement”) is entered into on this ____ day of _____, 2012, by and between the Santa Barbara Local Agency Formation Commission (“LAFCO”), the Santa Ynez River Water Conservation District (“Parent District”), and the Santa Ynez River Water Conservation District, Improvement District No. 1 (“ID No. 1”), (LAFCO, the Parent District, and ID No. 1 may be referred to as Parties or Party as appropriate) at Santa Barbara, California, with reference to the following facts, intentions and positions of the Parties:

- A.** The Parent District was formed in 1939 under the Water Conservation District Act of 1931, codified in Water Code 74000 et seq.
- B.** ID No. 1 was formed in 1959 as an improvement district of the Parent District to collect a special tax on the lands of upper Santa Ynez Valley to generate funds to build and operate transmission and distribution facilities from the Cachuma Project under the supervision, direction and control of the Parent District’s Board of Directors;
- C.** In 1968, pursuant to the authority established in Water Code section 75165, the Parent District followed a statutory procedure to establish alternate provisions for the governance of ID No. 1, which provided that ID No. 1 would have “the same power, authority and jurisdiction” over the improvement district territory that the Parent District possessed with respect to its territory.
- D.** ID No. 1 is authorized to act as a special district with a separately elected Board of Trustees to engage in water conservation district activities, such as water purveying.
- E.** Local Agency Formation Commissions were created by the California Legislature in 1963 to encourage orderly formation of local government agencies and to plan and regulate changes in the organization of existing agencies, as well as to preserve agricultural land resources and discourage urban sprawl, among other matters.
- F.** The law governing these commissions was substantially revised and rewritten in 2000, by the Cortese-Knox-Hertzberg Local Government Reorganization Act, codified in Government Code 56000 et seq. (“Cortese-Knox-Hertzberg Act”).
- G.** The Cortese-Knox-Hertzberg Act obligates LAFCO to prepare a Municipal Service Review (“MSR”), a comprehensive study about the provision of municipal services in Santa Barbara County or other appropriate areas designated by

LAFCO, which analyzes governance structures and efficiencies. MSRs are a prerequisite to a sphere of influence determination in accordance with Government Code section 56425.

- H. The Reorganization Act also obligates LAFCO to determine and update at least every five years the Sphere of Influence (“SOI”) of each city and special district subject to its jurisdiction. An SOI is a plan for the probable physical boundaries and service area of a local agency.
- I. The Parties have a difference of opinion and interpretation regarding whether ID No. 1 is the type of special district that is subject to the provisions of the Cortese-Knox-Hertzberg Act. Under ID No. 1’s interpretation, the Water Code provides that the Parent District is the final decision maker as it relates to the District’s organization, and the Cortese-Knox-Hertzberg Act exempts “improvement districts” from all LAFCO jurisdiction. Under LAFCO’s interpretation, the Cortese-Knox-Hertzberg Act’s exemption of improvement districts does not extend to ID No. 1, as it does not qualify as an exempt “improvement district” as defined in Government Code Section 56041. Therefore, LAFCO asserts it is the final decision maker relating to the District’s organization comparable to other special districts in the County.
- J. The Parties wish to enter into this MOU to allow the Parties to exercise their respective statutory obligations despite the above difference of opinion and interpretation between the Parties

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Purpose.** The purpose of this MOU is to establish a cooperative inter-agency working relationship between the Parties and develop a mutually acceptable procedure for: (a) addressing ID No. 1 payments in support of LAFCO’s annual budget comparable to other independent special districts; (b) ID No. 1 providing information to LAFCO when it prepares and updates Municipal Service Reviews and adopts and updates the ID No. 1 Sphere of Influence; (c) LAFCO review of changes of organization or reorganization of ID No. 1; and, (d) LAFCO review of ID No. 1 out-of-agency service agreements .
2. **LAFCO Payments.** Once LAFCO adopts its annual budget, the County Auditor will request all independent special districts, including the Parent District and ID No. 1, for payment of their respective apportioned shares of LAFCO’s annual budget. Nothing in this Agreement shall be construed to prevent the County Auditor from sending a bill directly to ID No. 1. ID No. 1 may pay its apportioned share of the LAFCO annual budget to the Parent District provided the Parent District, in turn, shall pay the Parent District’s and ID No. 1’s apportioned shares of the LAFCO annual budget to the County Auditor. The above payments shall be made in accordance within the statutory timeframe of the Cortese-Knox-

Hertzberg Act, as specified in Government Code section 56381 and any other applicable law or regulation.

3. **Municipal Service Review (MSR).** LAFCO, as required by statute, may request the Parent District, with a copy to ID No. 1, to provide such information concerning the Parent District and ID No. 1 as necessary for LAFCO to prepare a Municipal Service Review (“MSR”) for each of them. Nothing in this Agreement shall be construed to prevent LAFCO for directly requesting such information from ID No. 1. ID No. 1 shall timely prepare a report responsive to the requested information by LAFCO related to ID No. 1 and may transmit that report to either LAFCO or to the Parent District. If ID No. 1 provides the information to the Parent District, it shall incorporate the ID No. 1 report into the Parent District’s report and transmit it to LAFCO within the statutory timeframe of the Cortese-Knox-Hertzberg Act under Government Code section 56430 et seq.
4. **Sphere of Influence (SOI) Updates and Amendments.** The Parties shall be subject to the following terms and conditions for processing an SOI update or amendment related to the ID No. 1 Sphere of Influence:
 - 4.1 **LAFCO Initiated.** In connection with a LAFCO initiated SOI update or amendment under Part 2, Chapter 4 of the Cortese-Knox-Hertzberg Act, LAFCO may request the Parent District and ID No. 1 to prepare the requisite information required by the Cortese-Knox-Hertzberg Act. ID No. 1 shall timely provide the requested information related to ID No. 1 to the Parent District. The Parent District shall incorporate the ID No. 1 information into the Parent District’s information and transmit it to LAFCO within the statutory timeframe of the Cortese-Knox-Hertzberg Act. Nothing herein shall be construed to prohibit No. 1 from submitting this information directly to LAFCO.
 - 4.2 **ID No. 1 Initiated.** In connection with a request by ID No. 1 to LAFCO for a SOI amendment, ID No. 1 shall prepare and submit the request to the Parent District, which in turn shall make a request to LAFCO for a SOI amendment for ID No. 1. Nothing in this Agreement shall be construed to prevent LAFCO from directly receiving such a request from ID No. 1.
 - 4.3. **Processing.** LAFCO shall process any update or amendment to the ID No. 1 SOI, whether initiated by ID No. 1, the Parent District or LAFCO in accordance with statutory requirements of the Cortese-Knox-Hertzberg Act. ID No. 1 and/or the Parent District may participate in the hearing on the SOI update or amendment.
 - 4.4. **Payment of LAFCO Fees.** In connection with any LAFCO fees for any SOI amendment, ID No. 1 may pay any required fee to the Parent District which, in turn, shall pay LAFCO. LAFCO shall issue copies of its

determination to the Parent District and ID No. 1. Nothing herein shall prohibit ID No. 1 from making such payments to LAFCO.

5. Applications to LAFCO. The Parties shall be subject to the following terms and conditions for processing a resolution of application or petition for a change in organization or reorganization of ID No. 1:

- 5.1. Application by ID No. 1 ID No. 1 may submit a request to the Parent District for it to file the appropriate application for any proposed change of organization or reorganization, approval of an out-of-agency service agreement, exercise of any latent power or other action that requires LAFCO approval pursuant to the Cortese-Knox-Hertzberg Act. Nothing in this Agreement shall be construed to prevent ID No. 1 from submitting an application directly to LAFCO. ID No. 1 shall not extend any services to any area outside of its existing boundaries or exercise any latent power without first obtaining LAFCO approval in accordance with this MOU.
- 5.2. Application by the Parent District. The Parent District, as an “affected district” as defined in Government Code Section 56013 and authorized by Section 56654, may prepare and submit an application to LAFCO consistent with ID No. 1’s request pursuant to section 5.1 above, in accordance with the Cortese-Knox-Hertzberg Act, for a change of organization or reorganization of ID No. 1. In the event an ID No. 1 resolution of application or petition for a change of organization or reorganization seeks to expand into territory outside the territory of the Parent District, the application submitted to LAFCO will be submitted for both the Parent District and ID No. 1.
- 5.3. Communication with LAFCO. The Parent District, with the assistance of ID No. 1, shall provide any applicable information and analysis that would be relevant to LAFCO’s consideration of an application for a change of organization or reorganization of ID No. 1 and, if applicable, the Parent District. Nothing herein shall be construed to prevent ID No. 1 from submitting this information directly to LAFCO.
- 5.4. LAFCO Processing of an Application. LAFCO will process an application for a change of organization, reorganization or other application for ID No. 1 and/or the Parent District in accordance with its procedures and the Cortese-Knox-Hertzberg Act. Any communications concerning the application shall be provided to both ID No. 1 and the Parent District.
- 5.5. Parent District Adoption of LAFCO Determination. The Parent District shall, following LAFCO’s decision, adopt LAFCO’s determination with respect to the change of organization or reorganization of ID No. 1.

- 5.6. **Reimbursement to Parent District.** ID No. 1 and the Parent District agree that ID No. 1 shall reimburse the Parent District for all fees or other reasonable costs incurred by the Parent District to process an ID No. 1 application through LAFCO.
6. **Cooperation.** The Parties agree to exercise their reasonable best efforts and good faith to communicate and work cooperatively to effectuate the terms and conditions of this Agreement.
7. **Permanent Solution.** The Parties agree to continue their mutual collaborative efforts to explore and develop a permanent solution to resolve their differences of opinion as to whether ID No. 1 is a special district that is subject to the special district provisions of the Cortese-Knox-Hertzberg Act and/or to provide a more efficient process to address some or all of the matters provided for in this Agreement.
8. **No Admissions or Limitations.** No Party, by entering into, by complying with its obligations under, or performing in accordance with this Agreement, waives or releases any of its rights, contentions or positions with respect to whether ID No. 1 is exempt from the authority of LAFCO, except as specifically provided herein, nor shall this Agreement operate or be construed as an admission by any party of any liability or obligation, other than those created by this Agreement. The Parties expressly reserve their respective rights in regard to the above recitals, contentions and positions and to assert them in other proceedings.
9. **Indemnification Between Parent District and ID No. 1.** ID No. 1 shall indemnify, defend and hold harmless the Parent District and its directors, elected officials, officers, agents, and employees, from and against any and all claims, liabilities, damages, losses, costs and expenses of any nature whatsoever, including attorneys, paralegals and expert fees and costs which arise out of, relate to or result from ID No. 1 and its trustees, elected officials, officers, agents and employees activities and obligations under this Agreement, except to the extent of any liability, loss, cost or expense caused by the Parent District's active negligence or willful misconduct.
10. **Good Faith Negotiations.** The Parties agree that if there is any dispute arising from or in any way relating to this Agreement, they will engage in good faith negotiations in an effort to find a solution that serves their respective and mutual interests, including their continuing obligations under this Agreement. The Parties agree to participate directly in negotiations with each other.
11. **Termination.** This Agreement may be terminated by any Party, at any time and for any reason, by giving the other Parties at least thirty (30) days prior written notice. Such termination by a Party shall be in writing and effective upon receipt by the other Parties.

12. General Provisions.

- 12.1. Further Assurances. The Parties each agree to cooperate with one another, to use their best efforts, to act in good faith and to promptly perform such acts and to execute such documents or instruments as are reasonably necessary and proper to consummate the transactions contemplated by this Agreement.
- 12.2. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 12.3. No Waiver. Any failure to enforce any of the provisions of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the rights of either Party to enforce any and each such provision. Any consent or approval given pursuant to this Agreement shall be limited to its express terms and shall not otherwise increase the obligations of the Party giving such consent or approval or otherwise reduce the obligations of the Party receiving such consent or approval.
- 12.4. Authority. All individuals executing this and other documents on behalf of the respective Parties certify and warrant that they have the capacity and have been duly authorized to execute the documents on behalf of the entity so indicated.
- 12.7. Notices. Any notices, approvals, consents or requests permitted or required hereunder shall be in writing and shall be deemed to have been given when 1) personally delivered or 2) sent by facsimile to the number set forth below if said facsimile is followed by certified mail notice as provided below, or 3) on the third business day after the date on which mailed by certified or registered mail, postage prepaid, or at such other address, notice of which is given as provided herein:

To: Parent District: Bruce Wales, General Manager
Santa Ynez River Water Conservation District
PO Box 719
Santa Ynez, CA 93460
FAX (805) 688-8065

To: District: Chris Dahlstrom, General Manager
Santa Ynez River Water Conservation District,
Improvement District No. 1
PO Box 157
Santa Ynez, CA 93460
FAX (805) 688-3078

To: LAFCO: Bob Braitman, Executive Officer
Santa Barbara County Local Agency Formation
Commission
105 East Anapamu Street
Santa Barbara, CA 93101
FAX (805) 647-7647

- 12.8. Construction. The provisions of this Agreement shall be liberally construed to effectuate its purposes. The language of all parts of this Agreement shall be construed simply according to its plain meaning and shall not be construed for or against either Party, as each Party has participated in the drafting of this document and had the opportunity to have their counsel review it.
- 12.9 Entire Agreement. This Agreement contains the entire understanding and agreement of the Parties, and supersedes all prior agreements and understandings, oral and written, between the Parties. There have been no binding promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature, except as stated in this Agreement. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the Parties to this Agreement and by no other means. Each Party waives its future right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the date first above written.

Santa Ynez River Water Conservation
District,

Santa Ynez River Water Conservation
District, Improvement District No. 1

By: _____
Jon Picciuolo, President

By: _____
Dennis Beebe, President

Santa Barbara Local Agency Formation
Commission

By: _____
Jeff Moorhouse, Chair