COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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IN REPLY PLEASE
REFER TO FILE: WM-7
B466

March 25, 2004

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

SANTA MONICA BAY RESTORATION AUTHORITY
JOINT EXERCISE OF POWERS AGREEMENT
SUPERVISORIAL DISTRICTS 2, 3, AND 4
3 VOTES

IT IS RECOMMENDED THAT YOUR BOARD, ACTING AS THE GOVERNING BODY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:

Approve and instruct the Chairman to sign the Joint Exercise of Powers Agreement between the Los Angeles County Flood Control District and the Santa Monica Bay Restoration Commission (SMBRC) to create a new Joint Powers Authority (JPA) to develop and facilitate programs for the protection and enhancement of the natural resources of the Santa Monica Bay and its watersheds, which will facilitate the SMBRC's ability to award State grants and other funds to do projects of mutual interest; and to provide for both parties to make monetary contributions to the JPA at a set contribution of $500 per annum to cover costs of mailing notices and other required expenditures and for both parties to contribute up to a maximum of $25,000 per year in money and in-kind services in order to carry out projects and programs, with the Governing Board members to serve without compensation except for an allowance or reimbursement not to exceed $50 to attend the Governing Board meetings, effective upon Board approval.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The SMBRC proposes to enter into a Joint Exercise of Powers Agreement with the Los Angeles County Flood Control District to create a new JPA to develop and facilitate programs for the protection and enhancement of the natural resources of the Santa Monica Bay and its watersheds consistent with the District's objectives of flood protection, water supply, groundwater recharge, water conservation, and the reduction of pollutants in the discharges from the District's storm drain system.

The JPA will provide mutual and public benefits in restoring, protecting, and conserving the water quality and natural resources of the Santa Monica Bay and its watersheds. By combining resources, the JPA will gain valuable expertise and easier access to both District and State funding.

The SMBRC is a State agency whose mission is to restore and protect the Bay's natural resources, including its watersheds. They have both expertise and resources from State bond funds and are willing to partner with the District to improve water quality in the Bay.

The District, as the principal permittee for the National Pollutant Discharge Elimination System Permit, is responsible for meeting water quality standards in the watersheds draining to the Bay. Also, the State Water Resources Control Board and U.S. Environmental Protection Agency have established Total Maximum Daily Loads for bacteria and trash in the same watersheds; and the District and County must meet those numeric water quality standards. In the future, those agencies will be establishing more Total Maximum Daily Loads for other pollutants.

Implementation of Strategic Plan Goals

This action meets the County Strategic Plan Goal of Fiscal Responsibility by developing a partnership to effectively manage our resources and Organizational Effectiveness due to cross jurisdictional collaboration.

FISCAL IMPACT/FINANCING

This JPA will facilitate the SMBRC's ability to award State grants and other funds to do projects of mutual interest.

The Agreement provides for both parties to make monetary contributions to the JPA. The District's contribution will come from the Los Angeles County Flood Control District Fund and shall not exceed $25,000 in any fiscal year, plus $500 per annum to cover costs of mailing notices and other required expenditures. The Governing Board members will serve without compensation except for a reasonable allowance or reimbursement not to exceed $50 to attend the Governing Board meetings. The cost incurred for the Governing Board members to attend meetings shall be equally split between the District and SMBRC and is included in each party's annual contributions. The Agreement also provides for the mutual exchange of services by the parties without payment of any consideration other than those services provided by the other party.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Agreement is authorized pursuant to the Joint Exercise of Powers Act (Government Code 6500, et seq.). The JPA Governing Board structure will consist of five members, three appointed by the SMBRC's Governing Board, the Director of Public Works, and the member of your Board who has been appointed to the SMBRC.

The Executive Officer of the SMBRC shall serve ex officio as the Executive Officer of the JPA without additional compensation. The Executive Officer can appoint and supervise other employees to positions established by the Governing Board and enter into contracts as authorized.

ENVIRONMENTAL DOCUMENTATION

Approving the Agreement is not an action subject to the provisions of the California Environmental Quality Act (CEQA) in that it can be seen with certainty that the Agreement will not result in a direct or reasonably foreseeable indirect physical change in the environment [Section 15061(b)(3) of the State CEQA Guidelines]. Approving this Agreement will have no environmental impact. Any project that may be proposed under the JPA and pursued for construction or implementation will undergo the appropriate environmental review.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of this Agreement would not have a significant negative impact on the current level of services provided by the District or by the County of Los Angeles.

CONCLUSION

- Please return three approved copies of the Agreement and three copies of this letter to Public Works.

Respectfully submitted,

Donald L. Wolfe

JAMES A. NOYES
Director of Public Works

SR:kk
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Enc.

cc: Auditor-Controller
Chief Administrative Office
County Counsel (Mark Yanai)
Santa Monica Bay Restoration Commission (Marianne Yamaguchi)
Treasurer and Tax Collector

SANTA MONICA BAY RESTORATION AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT

THIS 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 between the following parties:

THE SANTA MONICA BAY RESTORATION COMMISSION, (hereinafter "Commission") a public agency of the State of California established pursuant to Division 20.7 of the Public Resources Code (Section 30988, et seq.); and

THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, (hereinafter "District ") a public agency of the State of California established pursuant to Los Angeles County Flood Control Act, Chapter 755 Stats of 1915, Chapter 28 of the Appendix to the California Water Code.

WHEREAS, the Commission has the responsibility, authority and expertise to restore and protect the water quality and natural resources of the Santa Monica Bay and its watershed for the public benefit; and

WHEREAS, the District operates and maintains a municipal storm drain system located within the watersheds of the Santa Monica Bay and is dedicated to the control and reduction of pollutants in storm water that is discharged from the District's storm drain system.

WHEREAS, pursuant to Title 1, Division 7, Chapter 5 of the Government Code, commonly known as the Joint Exercise of Powers Act, two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, the Santa Monica Bay and its watershed constitute a unique and valuable economic, environmental, agricultural, scientific, educational, and recreational resource which should be protected and restored for present and future generations; and

WHEREAS, the Commission and the District find and determine that it would be to their mutual advantage and the public benefit to coordinate their power and authority and expertise to develop and implement methods to reduce pollutants in the discharges from the District's storm drain system, so as to facilitate the restoration, protection and conservation of the water quality and natural resources of the Santa Monica Bay and its watersheds; and

WHEREAS, the parties desire, by means of this Agreement, to establish an organization and procedure for such exercise of power and authority, and to provide for the organization's power and procedures; Now THEREFORE, the parties mutually agree as follows:

SECTION 1. TERM OF AGREEMENT

1.0 This Agreement shall become effective upon execution by both parties.

1.1 This Agreement shall continue in full force and effect from year to year until terminated.

1.2 This Agreement may be terminated by either signatory, upon written notice to the other signatory, in accordance with the provisions of Section 13, below.

SECTION 2. PURPOSE OF AGREEMENT

2.0 The purpose of this agreement is to develop and facilitate programs for the protection and enhancement of the natural resources of the Santa Monica Bay Watersheds and the Santa Monica Bay consistent with the goals and responsibilities of the Commission and District.

SECTION 3. CREATION OF AUTHORITY

3.0 The Authority hereby created shall be a separate entity: "The Santa Monica Bay Restoration Authority", hereinafter referred to as "Authority." The Authority shall operate as a separate public agency within the Santa Monica Bay Watershed and the jurisdictional boundaries of the Commission and the District.

SECTION 4. POWERS OF AUTHORITY

4.0 The Authority is authorized to exercise the powers hereafter specified, to accomplish the purposes of this agreement, as provided for in Section 2, above.

4.1 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 both parties which relate to the protection, restoration and conservation of coastal bays and watersheds, except as specifically prohibited in this agreement. Said common powers include, but are not limited to, all those powers specified in the Joint Exercise of Powers Act, codified in Chapter 5 of Division 7 of Title 1 of the Government Code, (commencing with section 6500), as may be amended during the term of this Agreement.

4.2 The Authority may request, receive and expend funds from any and all legally available sources for the purposes of this Agreement.

4.3 The Authority shall have no power to acquire property through the exercise of eminent domain.

4.4 Except as otherwise provided in paragraph 4.5 below such powers are subject to the restrictions upon the manner of exercising the powers as imposed upon the District, as provided in, and for the purposes of, Government Code Section 6509.

4.5 The Authority shall be subject to all laws (including building ordinances and zoning ordinances), regulations and general and specific plans of any city or county in which the Authority proposes to take action.

SECTION 5. GOVERNING BOARD

5.0..The Authority shall be governed by a board constituted pursuant to the agreement, within the meaning of Government Code Section 6500, et seq.

5.1 The Governing Board shall consist of five (5) voting members as follows:

(a) Three voting members of the Governing Board of the Commission appointed by the Governing Board of the Commission, none of whom may be a member appointed by the Los Angeles County Board of Supervisors.

(b) The Director of the Los Angeles County Department of Public Works or his/her designee.

(c) The member of the Los Angeles County Board of Supervisors of the Los Angeles County Flood Control District, or his/her designee, who has been appointed to the Governing Board of the Commission.

SECTION 6. MEETINGS

6.0 All meetings of the Governing Board shall be called, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (Government Code Section 54950, et seq.) and with such further rules of the Governing Board as are not inconsistent therewith.

6.1 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 Commission and the District.

SECTION 7. QUORUM AND PROCEDURE

7.0 A majority of the members of the Governing Board shall constitute a quorum necessary for the transaction of business. The affirmative vote of a majority of the quorum 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.

7.1 The Governing Board shall elect its own chairperson and one vice chairperson. The chairperson shall preside over all meetings of the Authority. The vice chairperson shall preside in the absence of the chairperson.

SECTION 8. COMPENSATION AND OFFICE

8.0 The 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 Governing Board, may be paid, in an amount not to exceed $50, to the extent compatible with Government Code Section 1126, Public Contract Code Sections 10410 and 10411, and any other applicable statutory provision.

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. ADMINISTRATION

9.0 The Authority shall have an executive officer who shall implement the policies and directives of the Governing Board and who shall perform the functions stated in Government Code Section 6505.1.

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

9.2 The Authority may use counsel from its member agencies or may retain independent counsel.

9.3 To implement this Agreement, the signatory members of this Agreement 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. Further, the Authority may authorize contracts and the hiring of contractors to deliver such products or services as the Authority may deem necessary.

9.4 The Executive Officer of the Authority shall appoint such other employees for positions established by the Governing Board and shall be responsible for the supervision thereof. The Executive Officer shall issue, manage and supervise such contracts as may be authorized by the Governing Board.

SECTION 10. FISCAL CONTROLS

10.0 The fiscal year of the Authority shall be the fiscal year of the District.

10.1 To the extent funds are legally available therefore, the Commission and the District are hereby authorized to make payments and contributions of public funds, as provided in Section 6504 of the Government Code.

10.2 The Authority shall be strictly accountable for all funds, receipts, and disbursements. The Authority shall adopt an annual budget, in a form approved by the Commission and

the District, which budget shall be submitted to the Commission and to the Board of Supervisors of the District for approval, in the time and manner as specified by all of these public agencies. Public funds may not be disbursed by the Authority without a budget adopted by the Authority, and approved by the Board of Supervisors of the District and the Governing Board of the Commission, and all receipts and disbursements shall be in strict conformance with the adopted and approved budget.

10.3 As provided in Section 6505.5 of the Government Code, the treasurer of the District 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 Authority shall reimburse the District for costs incurred pursuant to this section, subject to the approval of the Governing Board of the Authority. The treasurer so designated shall:

(a) Receive all money of the Authority and place it in the treasury of the District or other appropriate account, to the sole credit of the Authority.

(b) Be responsible on his official bond for the safekeeping and disbursement of all Authority money so held by him.

(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, the Commission and the District 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.

10.4 The Auditor Controller of the District shall perform the functions of the auditor or controller of the Authority. The Auditor-Controller shall either make or contract with a certified public accountant to make 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 a public record with each of the parties to this agreement and with such other offices as the parties may so require. Such report shall be filed within six months of the end of the fiscal year under examination. All 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. The Authority shall reimburse the District for the costs incurred in the connection with the performance of any other functions by the Auditor Controller, pursuant to this section, subject to the approval of the Governing Board of the Authority.

10.5 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 11. BONDS

11.0 Each member of the Governing Board, the executive officer, and the treasurer shall file an official bond with the Authority. 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, 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 12. LIABILITY

12.0 The tort 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. The provisions of Division 3.6 of the Government Code 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.

12.2 The Commission and the District specify that the debts, liabilities, and obligations of the Authority shall not be the debts, liabilities and obligations of either of the parties to this agreement, and neither the Authority nor its Governing Board shall have the power or authority to bind the Commission or the District to any debt, liability, contract, or obligation, or to employ any person on behalf of the parties, or any of them.

12.3 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.

12.4 No action or omission of the parties or any of them shall be attributable to the Commission or the District except as expressly provided in this Agreement.

SECTION 13. WITHDRAWL OF PARTIES AND TERMINATION OF AGREEMENT

13.0 Any party may withdraw as a party to this Agreement provided that: (1) at the time of withdrawal, that party has either discharged, or arranged to the satisfaction of the other party to this Agreement for the discharge of, any pending legal or financial obligations it has assumed under or pursuant to this Agreement and (2) it provides written notice of its intent to withdraw to the Executive Officer not less than three months prior to the effective date of its withdrawal.

13.1 Upon the effective date of the withdrawal of either party from this Agreement, this Agreement shall be deemed terminated.

SECTION 14. DISPOSITION OF PROPERTY AND FUNDS

14.0 Upon termination of this Agreement, the Authority forthwith shall wind up 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. All real property, if any, owned by the Authority shall be conveyed as the Authority shall determine, and if no determination is made, then such property shall be deemed to the conveyed to the Commission and to the District, in equal interests, as tenants in common.

SECTION 15. CONTRIBUTION OF THE SIGNATORY PARTIES

15.0 The Commission contribution to the Authority for administrative and operational purposes shall not exceed $25,000 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 Commission that are loaned by it to the Authority, if any, and that are not otherwise covered by a separate reimbursement agreement. Such reimbursement agreements are hereby expressly authorized.

15.1 The District contribution to the Authority for operational and administrative purposes shall not exceed $25,000 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 District loaned by it to the Authority, if any.

Sections 15.0 and 15.1 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 the Section 6506 of the Government Code.

15.3 Each signatory party to this agreement shall contribute $500 (five hundred dollars) per annum to cover the costs of mailing notices and other required expenditures.

SECTION 16. NON-DISCRIMINATION

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

SECTION 17. AMENDMENT TO THE AGREEMENT

17.0 The provisions of this Agreement shall be amended solely upon the adoption of a resolution to amend by each party to the Agreement.

SECTION 18. TERM

18.0 This Agreement shall continue in full force and effect from year to year until terminated.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the _____ day of _____, 2004, by their duly authorized representatives.

Santa Monica Bay Restoration Commission

By: _____
Chairperson

Los Angeles County Flood Control District

By: _____

COUNTY OF LOS ANGELES, acting on behalf
of the Los Angeles County Flood Control District

By: _____ Date: _____
Chairman

ATTEST:
VIOLET VARONA-LUKENS
Executive Officer-Clerk of
the Board of Supervisors

APPROVED AS TO FORM:
LLOYD W. PELLMAN
County Counsel

By: _____ _____