

**AGENDA FOR ANNUAL MEETING AND MEETING OF BOARD OF DIRECTORS
OF
SAN BERNARDINO VALLEY CONSERVATION TRUST,
a California Nonprofit Public Benefit Corporation**

Thursday, March 15, 2018 – 2:00 P.M.

Location--1630 West Redlands Boulevard, Suite A, Redlands, California

Note: Copies of staff reports and other documents relating to the items on this agenda are on file at the San Bernardino Valley Water Conservation District office and are available for public review during normal District business hours. New information relating to agenda topics listed, received, or generated by the District after the posting of this agenda, but before the meeting, will be made available upon request. It is the intention of the San Bernardino Valley Conservation Trust to follow California Open Meeting laws and the Americans with Disabilities Act (ADA) in all respects. If you need special assistance with respect to the agenda or other written materials forwarded to the members of the Board for consideration at the Board meeting, or if as an attendee or a participant at this meeting you will need special assistance, the District will attempt to accommodate you in every reasonable manner. Please contact Athena Monge at (909) 793-2503 at least 48 hours prior to the meeting to inform her of your particular needs and to determine if accommodation is feasible. Please advise us at that time if you will need accommodations to attend or participate in meetings on a regular basis.

**CALL TO ORDER
ROLL CALL**

1. PUBLIC PARTICIPATION

Members of the public may address the Board of Directors on any item that is within the jurisdiction of the Board; however, no action may be taken on any item not appearing on the agenda unless the action is otherwise authorized by Subdivision (b) Section 54954.2 of the Government Code.

2. DESIGNATION OF BOARD OF DIRECTORS

Presenter: Daniel Cozad

Action: Re-designate Paul Williams and John Longville to a subsequent term of office.

3. APPOINTMENT OF OFFICERS

Presenter: Daniel Cozad

Recommendation: Appoint officers.

4. APPROVAL OF MINUTES FROM OCTOBER 5, 2017

Presenter: Daniel Cozad

Recommendation: Review and approve minutes from October 5, 2017 as presented.

5. FINANCIAL STATUS UPDATE

Presenter: Daniel Cozad

Recommendation: Receive and file the update.

6. AUDITOR PROCUREMENT AND SELECTION

Presenter: Daniel Cozad

Recommendation: Select Rogers, Anderson, Malody, and Scott (RAMS) as the Trust's Auditor for FY 2016/2017 and FY 2017/2018 and authorize the CFO/Secretary to enter into an agreement not to exceed \$3,000. The agreement may be extended two additional years based on performance.

7. INVESTMENT ADVISOR AGREEMENT/INITIAL INVESTMENTS

Presenter: Daniel Cozad

Recommendation: Consider transferring funds from California Credit Union to PFM Asset Management to allow execution of the Investment Strategy of the Endowment Fund.

8. DIRECTORS AND OFFICERS INSURANCE

Presenter: Daniel Cozad

Recommendation: Consider proposals (handouts) for D&O insurance and authorize the CFO/Secretary to enter execute documents to obtain D&O insurance at the lowest responsible cost.

9. COMMUNITY MITIGATION POLICY

Presenter: Daniel Cozad

Recommendation: Adopt a Community Mitigation Policy.

10. COMMUNITY MITIGATION DEPOSIT AGREEMENTS

Presenter: Daniel Cozad

Recommendation: Review deposit agreement and provide recommendations on use or adoption.

11. EASEMENT REQUIREMENTS

- a. Phase 1 Environmental Assessment?
- b. Condition Expectations (i.e. homeless/dumping issues)

Presenter: David Cosgrove

Recommendation: Discuss easement requirements.

12. WASH PLAN AND PRESERVE MANAGEMENT COMMITTEE

Presenter: Jeff Beehler

Recommendation: Receive and file update on committee formation.

13. WHISTLEBLOWER POLICY

Presenter: Daniel Cozad

Recommendation: Review Whistleblower Policy and consider adoption.

ADJOURN MEETING

The next regular scheduled Board of Directors Meeting will be on _____, 2018 at _____, at 1630 W. Redlands Blvd., Redlands, CA.

**BYLAWS
OF
SAN BERNARDINO VALLEY CONSERVATION TRUST
A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION**

**ARTICLE I
NAME**

The name of this corporation shall be the San Bernardino Valley Conservation Trust.

**ARTICLE II
OFFICES**

Section 1. Principal Office. The principal office for the transaction of the business of the corporation (“principal executive office”) is located at 1630 West Redlands Blvd., Suite A, Redlands, California 92373, State of California. The directors may change the principal office from one location to another. Any change of this location shall be noted by the secretary on these Bylaws opposite this section, or this section may be amended to state the new location.

Section 2. Other Offices. The board of directors may at any time establish branch or subordinate offices at any place or places where the corporation is qualified to do business.

**ARTICLE III
PURPOSES AND OBJECTIVES**

Section 1. Specific Purpose. The specific and primary purpose of this corporation is the direct protection or stewardship of land, water, and natural resources, including, but not limited to, agricultural lands, wildlife habitat, wetlands, endangered species habitat, open-space areas, and outdoor recreational areas. This corporation is organized and shall be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).

Section 2. General Purposes. The general purposes of this corporation are the following:

- (a) to receive, hold, and disburse gifts, bequests, devises, and other funds to advance the specific and primary purpose of this corporation;
- (b) to own, lease, and maintain suitable real and personal property which is deemed necessary to accomplish the specific and primary purpose of this corporation; and
- (c) to enter into, make, and perform, and carry out contracts which are deemed necessary to accomplish the specific and primary purpose of this corporation.

ARTICLE IV
NONPARTISAN ACTIVITIES

This corporation has been formed under the California Nonprofit Public Benefit Corporation Law for the purposes described above, and it shall be nonprofit and nonpartisan. No substantial part of the activities of this corporation shall consist of the publication or dissemination of materials with the purpose of attempting to influence legislation, and this corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office or for or against any cause or measure being submitted to the people for a vote.

This corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of its purposes and objectives described above.

ARTICLE V
DEDICATION OF ASSETS

The property of this corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer, or member hereof or to the benefit of any private person. Upon the dissolution or winding up of this corporation, its assets remaining after payment, or provision for payment, of all of its debts and liabilities shall be distributed to the San Bernardino Valley Water Conservation District provided that it is then an organization described in Section 170(c)(1) of the Code or the corresponding provision of any future United States internal revenue law; and if not, such assets shall be distributed to a nonprofit fund, foundation or corporation designated by the board of directors which is organized and operated exclusively for charitable, educational or scientific purposes and which has established its tax exempt status under Section 501(c)(3) of the Code or the corresponding provision of any future United States internal revenue law.

ARTICLE VI
MEMBERS

Section 1. Directors as Members. This corporation shall have no members. Any action which would otherwise require approval by a majority of all members or approval by the members shall require only approval of the board of directors, as authorized by Section 5310 of the California Nonprofit Corporation Law.

Section 2. Meetings. There shall be no meetings of members as such. The persons constituting the board of directors may, at any given time and from time to time, act in their capacity as members pursuant to Section 1 of this Article VI, at meetings of the board of directors held as provided in Section 5 of Article VII of these Bylaws.

ARTICLE VII
DIRECTORS

Section 1. Powers.

(a) **General Corporate Powers.** Subject to the provisions of the California Nonprofit Corporation Law and any limitations in the articles of incorporation and these Bylaws, the business and affairs of this corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the board of directors; provided, however, that in order to preserve the nonprofit, exempt-from-income-tax status of this corporation, neither the board nor any member thereof shall do any act, or authorize or suffer the doing of any act by an officer or employee of this corporation, on behalf of the corporation, which is inconsistent with the articles or these Bylaws or the nonprofit purpose of this corporation. Any such act or acts shall be null and void.

(b) **Specific Powers.** Without prejudice to these general powers, and subject to the same limitations, the directors shall have the power to:

(i) Select and remove all officers, agents, and employees of this corporation; prescribe any powers and duties for them that are consistent with law, with the articles of incorporation, and with these Bylaws; and fix their compensation.

(ii) Change the principal office in Redlands, California, from one location to another; and designate any place within Redlands, California, for the holding of any meeting or meetings.

(iii) Adopt, make, and use a corporate seal; and alter the form of the seal.

(iv) Borrow money and incur indebtedness on behalf of this corporation and cause to be executed and delivered for this corporation's purposes and objectives, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities.

(v) Construct, operate, maintain and improve, buy, sell, convey, assign, mortgage, or lease any real estate and personal property necessary and incident to this corporation's purposes and objectives.

(vi) Manage the financial affairs of this corporation, including accessing all information, accounts, and property, and performing any act relating to any matter, account, transaction, or property, now owned or later acquired, as necessary and incident to this corporation's purposes and objectives.

(vii) Collect, hold, invest, manage, distribute, and apply funds in a manner consistent with this corporation's purposes and objectives.

Section 2. Number and Qualification of Directors.

(a) **Initial Number of Directors.** From 2016 to June 30, 2019, the number of directors shall be three (3), two (2) of whom shall be duly elected or appointed members of the Board of Directors of the San Bernardino Valley Water Conservation District (the "SBVWCD-Directors").

(b) **Subsequent Number of Directors.** On or before June 30, 2019, the board of directors shall determine whether to increase their number from three (3) to five (5) as of July 1, 2019. Such determination shall require a unanimous vote of the directors. If the directors increase their number to five (5), the two (2) additional directors shall be appointed by board of directors and shall be appropriately classified as an SBVWCD-Director or an Independent Director (as defined below).

(c) **Restriction on Interested Persons as Directors.** No persons serving on the board of directors at any time may be interested persons. An interested person is (i) any person being compensated by this corporation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; and (ii) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person. However, any violation of the provisions of this paragraph shall not affect the validity or enforceability of any transaction entered into by this corporation.

Section 3. Designation and Term of Office.

(a) The Board of Directors of the San Bernardino Valley Water Conservation District shall initially designate two of its members to serve as SBVWCD-Directors. One SBVWCD-Director so designated shall have an initial term of three years. One SBVWCD-Director so designated shall have an initial term of two years.

(b) The signatory parties of the Memorandum Of Understanding To Implement The Habitat Conservation Plan For The Upper Santa Ana River Wash Plan And Associated Implementing Agreement (the "HCP MOU") shall initially designate one person to serve as a director (the "Independent Director"). The director so designated shall have an initial term of one year.

(c) After the completion of the initial term, each director's term of office shall be for three years.

(d) Each director, including a director designated to fill a vacancy, shall hold office until expiration of the term for which designated and until a successor has been designated.

Section 4. Vacancies on Board.

(a) **Events Causing Vacancy.** A vacancy or vacancies in the board of directors shall be deemed to exist on the occurrence of the following: (i) the death,

resignation, or removal of an Independent Director; (ii) the declaration by resolution of the board of directors of a vacancy of the office of Independent Director who has been declared of unsound mind by an order of court or convicted of a felony or has been found by final order or judgment of any court to have breached any duty under Article 3 of Chapter 2 of the California Nonprofit Corporation Law; (iii) the vote of a majority of all the directors of the corporation to remove an Independent Director; provided, however, that the SBVWCD-Directors may not be removed, (iv) the expiration of the term of an Independent Director who is not re-designated to a subsequent term of office, or (v) the increase of the authorized number of directors.

(b) **Resignations.** Except as provided in this paragraph, any director may resign by giving written notice to the chairman of the board, if any, or to the president or the secretary of the board. The resignation shall be effective when notice is given unless the notice specifies a later time for the resignation to become effective. If the resignation of a director is effective at a future time, the board of directors may elect a successor to take office when the resignation becomes effective. Except upon notice to the Attorney General, no director may resign when this corporation would then be left without a duly elected director in charge of its affairs.

(c) **Filling Vacancies.**

(i) **Office of an Independent Director.** Vacancies in the office of an Independent Director shall be filled by the designee of the Mitigation Committee of the signatory parties of HCP MOU.

(ii) **Office of an SBVWCD-Director.** Vacancies in office of an SBVWCD-Director shall be filled by the designee of the Board of Directors of the San Bernardino Valley Water Conservation District; provided that an SBVWCD-Director vacancy may be filled only by a duly elected or appointed member of the Board of Directors of the San Bernardino Valley Water Conservation District.

(d) **No Vacancy on Reduction of Number of Directors.** No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

Section 5. Directors' Meetings.

(a) **Place of Meetings.** Meetings of the board of directors may be held at any place within the City of Redlands that has been designated from time to time by resolution of the board or in the notice of the meeting. In the absence of such designation, meetings shall be held at the principal office of this corporation.

(b) **Annual Meeting.** The annual meeting of the board of directors shall be held each year on a date and at a time designated by the board of directors. The date so designated shall be within fifteen (15) months after the last annual meeting. At each annual meeting officers shall be elected and any other proper business may be transacted.

(c) **Other Regular Meetings.** Other regular meetings of the board of directors may be held at such time and place as shall from time to time be fixed by the board of directors.

(d) **Special Meetings.** Special meetings of the board of directors for any purpose or purposes may be called at any time by the chairman of the board, if any, the president or any vice president, or the secretary or any two (2) directors. Notice of the time and place of special meetings shall be given to each director by one of the following methods: (i) by personal delivery of written notice; (ii) by first-class mail, postage prepaid; (iii) by telephone, either directly to the director or to a person at the director's office who would reasonably be expected to communicate that notice promptly to the director; or (iv) by telegram, charges prepaid. All such notices shall be given or sent to the director's address or telephone number as shown on the records of this corporation. In case the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. In case the notice is delivered personally or by telephone or telegram, it shall be delivered personally or by telephone or to the telegraph company at least forty-eight (48) hours before the time of the holding of the meeting. The notice shall state the time of the meeting, and the place of the meeting if other than the principal office of this corporation. It need not specify the purpose of the meeting nor the place if the meeting is to be held at the principal office of this corporation.

(e) **Quorum.** A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the board of directors, subject to the more stringent provisions of the articles of incorporation and the California Nonprofit Corporation Law, including, without limitation, those provisions relating to (i) approval of contracts or transactions in which a director has a direct or indirect material financial interest, (ii) appointment of committees, and (iii) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

(f) **Adjournment.** A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

(g) **Notice of Adjournment.** Notice of the time and place of holding an adjourned meeting shall be given in accordance with the Brown Act.

(h) **Open Meeting Law Compliance.** Notwithstanding any other provision of these Bylaws, including but not limited to this Section 4 and Section 5 of Article VII, the corporation shall be subject to, and comply with, all of the provisions of the Brown Act; and the board of directors shall be deemed to be a "legislative body" as defined by the Brown Act.

Section 6. Compensation. Directors and members of committees shall receive no compensation for their services.

ARTICLE VIII **OFFICERS**

Section 1. Officers. The officers of this corporation shall be a president, vice president, a secretary, and a chief financial officer. This corporation may also have, at the discretion of the board of directors, a chairman of the board, an executive director, more than one vice president, a treasurer, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of Sections 2 or 3 of this Article VIII. If there is a treasurer, he or she shall be the chief financial officer unless some other person is so appointed by the board of directors. Any number of offices may be held by the same person, except that no person serving as the secretary, the treasurer, or the chief financial officer may serve concurrently as the president or chairman of the board.

Section 2. Appointment of Officers. The officers of the corporation shall be appointed by the board of directors, and each shall serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment.

Section 3. Subordinate Officers. The board of directors may authorize the president, or another officer, to appoint any other officers, except those appointed in accordance with the provisions of Section 2 of this Article VIII, that the business of the corporation may require, each of whom shall have the title, hold office for the period, have the authority, and perform the duties specified in the Bylaws or determined from time to time by the board of directors, subject to the rights, if any, of an officer under any contract of employment..

Section 4. Removal of Officers. Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, with or without cause, by the board of directors, at any regular or special meeting of the board, or by an officer on whom such power of removal may be conferred by the board of directors.

Section 5. Resignation of Officers. Any officer may resign at any time by giving written notice to the board of directors. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of this corporation under any contract to which the officer is a party.

Section 6. Vacancies in Office. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled only in the manner prescribed in these Bylaws for regular designation to that office.

Section 7. Chairman of the Board. If such an officer be elected, the chairman of the board shall preside at meetings of the board of directors and exercise and perform such other powers and duties as may be from time to time assigned to him or her by the board of directors or prescribed by the Bylaws. If there is no president, the chairman of the board shall, in addition,

be the chief executive officer of the corporation and shall have the powers and duties prescribed in Section 8 of this Article.

Section 8. President. Subject to such supervisory powers, if any, as may be given by the board of directors to the chairman of the board, the president shall, subject to the control of the board of directors, generally supervise, direct, and control the business and the officers of the corporation. In the absence of the chairman of the board, or if there be none, the president shall preside at all meetings of the board of directors. The president shall have such other powers and duties as may be prescribed by the board of directors or the Bylaws. The president shall be the chief executive officer of the corporation unless the chairman of the board, if any, is so designated.

Section 9. Vice President. In the absence or disability of the president, the vice presidents, if any, in order of their rank as fixed by the board of directors or, if not ranked, a vice president designated by the board of directors, shall perform all the duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the board of directors or Bylaws and the chairman of the board.

Section 10. Secretary. The secretary shall attend to the following:

(a) **Book of Minutes.** The secretary shall keep or cause to be kept, at the principal office or such other place as the board of directors may direct, a book of minutes of all meetings and actions of directors, committees of directors, with the time and place of holding, whether regular or special, and, if special, how authorized, the notice given, the names of those present at such meetings, the number of directors present or represented at directors' meetings, and the proceedings of such meetings.

(b) **Notices, Seal and Other Duties.** The secretary shall give, or cause to be given, notice of all meetings of the board of directors required by the Bylaws or by law to be given. The secretary shall keep the seal of the corporation in safe custody. The secretary shall have other powers and perform such other duties as may be prescribed by the board of directors or the Bylaws.

Section 11. Chief Financial Officer.

(a) **Books of Account.** The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of this corporation. The chief financial officer shall send or cause to be given to the directors such financial statements and reports as are required to be given by law, by these Bylaws, or by the board. The books of account shall be open to inspection by any director at all reasonable times.

(b) **Deposit and Disbursement of Money and Valuables.** The chief financial officer shall deposit all money and other valuables in the name and to the credit of this corporation with such depositories as may be designated by the board of directors and the chief financial officer shall disburse the funds of this corporation as may be

ordered by the board of directors. The chief financial officer shall render to the president and directors, whenever they request it, an account of all transactions effected by the chief financial officer and of the financial condition of this corporation. The chief financial officer shall have such other powers and perform such other duties as may be prescribed by the board of directors or the Bylaws.

(c) **Bond.** If required by the board of directors, the chief financial officer shall give this corporation a bond in the amount and with the surety or sureties specified by the board of directors for faithful performance of the duties of such office and for restoration to this corporation of all its books, papers, vouchers, money, and other property of every kind in the possession or under control of the chief financial officer on such officer's death, resignation, retirement, or removal from office.

ARTICLE IX

INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS

Section 1. Right of Indemnity. To the fullest extent permitted by law, this corporation shall indemnify any present or former director, officer, employee or other "agent" of the corporation, as that term is defined in Section 5238 of the California Nonprofit Corporation Law, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that Section, and including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that section. "Expenses," as used in this bylaw, shall have the same meaning as in Section 5238(a) of the California Corporations Code.

Section 2. Approval of Indemnity. On written request to the board by any person seeking indemnification under Section 5238(b) or Section 5238(c) of the California Corporations Code, the board shall promptly determine under Section 5238(e) of the California Corporations Code whether the applicable standard of conduct set forth in Section 5238(b) or Section 5238(c) has been met and, if so, the board shall authorize indemnification. If the board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, application shall be made by this corporation or the agent or the attorney or other person rendering a defense to the agent to the court in which the proceeding is or was pending for a determination, whether or not the application by the agent, attorney, or other person is opposed by this corporation.

Section 3. Advancement of Expenses. To the fullest extent permitted by law and except as otherwise determined by the board in a specific instance, expenses incurred by a person seeking indemnification under Sections 1 and 2 above in defending any proceeding covered by those Sections shall be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the corporation for those expenses.

Section 4. Insurance. The corporation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and

other agents, against any liability asserted against or incurred by any officer, director, employee, or agent in such capacity or arising out of the officer's, director's, employee's, or agent's status as such.

ARTICLE X
RECORDS AND REPORTS

Section. 1 **Maintenance of Corporate Records.** The corporation shall keep:

- (a) Adequate and correct books and records of account; and
- (b) Written minutes of the proceedings of its board and committees of the board.

Section 2. **Inspection by Directors.** Every director shall have the absolute right at any reasonable time to inspect the corporation's books, records, documents of every kind, physical properties, and the records of each of its subsidiaries. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

Section3. **Annual Report.** The corporation shall cause an annual report to be sent to the directors within one hundred twenty (120) days after the close of the corporation's fiscal year. That report shall contain the following information, in appropriate detail, for the fiscal year:

- (a) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year.
- (b) The principal changes in assets and liabilities, including trust funds.
- (c) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes.
- (d) The expenses or disbursements of the corporation for both general and restricted purposes.
- (e) The balance of each individual endowment, if any, at the beginning of the fiscal year.
- (f) The amount of any contribution to any endowment, if any, during the fiscal year including, but not limited to, gifts, grants, and contributions received.
- (g) The net amounts of investment earnings, gains, and losses during the fiscal year, including both realized and unrealized amounts.
- (h) The amounts distributed during the fiscal year that accomplish the purpose for which any endowment, if any, was established.

- (i) The administrative expenses charged to each endowment, if any, from internal or third-party sources during the fiscal year.
- (j) The balance of any endowment or other fund at the end of the fiscal year.
- (k) The specific asset allocation percentages including, but not limited to, cash, fixed income, equities, and alternative investments.
- (l) Any information required by Section 4 below.

The annual report shall be accompanied by any report on it of independent accountants, or, if there is no such report, by the certificate of an authorized officer of the corporation that such statements were prepared without audit from the corporation's books and records.

This requirement of an annual report shall not apply if the corporation receives less than Twenty-Five Thousand Dollars (\$25,000.00) in gross receipts during the fiscal year, provided, however, that the information specified above for inclusion in an annual report must be furnished annually to all directors who request it in writing.

Section 4. Annual Statement of Certain Transactions and Indemnifications. As part of the annual report to all directors, or as a separate document if no annual report is issued, the corporation shall annually prepare and furnish to each director a statement of any transaction or indemnification of the following kind within one hundred twenty (120) days after the end of the corporation's fiscal year:

(a) Any transaction (i) in which the corporation, its parent, or its subsidiary was a party, (ii) in which an "interested person" had a direct or indirect material financial interest, and (iii) which involved more than Fifty Thousand Dollars (\$50,000.00), or was one of a number of transactions with the same interested person involving, in the aggregate, more than Fifty Thousand Dollars (\$50,000.00). For this purpose, an "interested person" is either of the following:

- (i) Any director or officer of the corporation, its parent, or subsidiary (but mere common directorship shall not be considered such an interest); or
- (ii) Any holder of more than ten percent (10%) of the voting power of the corporation, its parent, or its subsidiary.

The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the corporation, the nature of their interest in the transaction and, if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.

(b) Any indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000.00) paid during the fiscal year to any officer or director of the corporation under Article IX of these Bylaws, unless that indemnification has already

been approved by the directors under Section 5238(e)(2) of the California Corporations Code.

Section 5. Audit. No less frequently than biannually, the corporation shall cause to be performed an independent audit of any non-wasting endowment fund. The results of such audit shall be provided to all directors. All such audit costs shall be paid from the applicable non-wasting endowment fund.

ARTICLE XI

COMPLIANCE WITH CONFLICT OF INTEREST LAWS

Section 1. Application of Political Reform Act. Notwithstanding any other provision of these Bylaws, the corporation shall comply with, all of the provisions of the Political Reform Act of 1976, as amended, Government Code Section 81000, *et seq.* (“PRA”). The corporation shall operate as if it is an “agency,” and each director and officer shall operate as if he or she is a “designated employee,” as defined in the PRA. Each director and officer shall comply with the conflict of interest reporting and disqualification requirements of the PRA. The board of directors shall adopt, periodically review, and, if necessary, amend, a “conflict of interest code” as such term is defined in the PRA.

Section 2. Application of Government Code Section 1090. SBVWCD-Directors shall comply with the provisions of California Government Code section 1090, *et seq.* (“Section 1090”) and the corporation shall operate as if it is a “body” of which the SBVWCD-Director is a member. No Independent Director shall be financially interested in any contract made by him or her in his or her official capacity as a director or by the corporation. Nor shall any Independent Director be a purchaser at any sale or vendors at any purchase made by him or her in his or her official capacity as a director or made by the Board. The prohibitions in this Section 2 shall be interpreted in the same manner as the prohibitions contained in Section 1090. Every contract made in violation of this Section 2 by an Independent Director may be avoided at the instance of any party except the officer interested therein.

ARTICLE XII

MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of this corporation shall commence on July 1 and conclude on the immediately following June 30.

Section 2. Budget. Prior to the commencement of each fiscal year of this corporation, the board of directors shall adopt a budget setting forth the estimated capital, operating, and other expenditures required in connection with, and estimated receipts from, the activities of the corporation for such fiscal year; provided, however, that during its first fiscal year, the board of directors shall adopt a budget for that initial year within four months of the first meeting of the board of directors. No budget shall be deemed adopted by the board of directors unless a majority of the SBVWCD-Directors approve such budget. No expenditure may be made or obligation incurred which, when added to any other expenditure for the fiscal year of the corporation, exceeds the budget for that fiscal year by more than \$5,000.00 or any

line item specified in the budget by more than five percent (5%), without the prior written approval of a majority of the SBVWCD-Directors.

Section 3. Investment Policies; Money Manager.

(a) **Creation of an Endowment Investment Policy.** If this corporation holds an endowment, the board of directors shall create, consider, and circulate for review and comment among all the signatory parties to the HCP MOU, an endowment investment policy. To this end, upon approval of the endowment investment policy by the board of directors, this corporation will circulate written copies of same to all the signatory parties to the HCP MOU, for review and comment. If a signatory party to the HCP MOU has not provided comment within thirty (30) days of receipt of the endowment investment policy, that party shall be deemed to have approved the endowment investment policy. All comments to the endowment investment policy received by this corporation shall be circulated to all signatory parties to the HCP MOU contributing to the endowment, with a recommendation by this corporation on whether to accept, reject, or modify in whole or part any revisions suggested by the comment. Each party contributing to the endowment shall then have thirty (30) days to respond whether it concurs in this corporation's recommendation. Failure of a party to indicate whether it concurs in this corporation's recommendation within such thirty (30) day period shall be deemed as concurrence. If a majority of the parties contributing to the endowment do not concur, this corporation shall call a meeting of the parties to resolve the matter, and the decision of a majority of the parties shall govern.

(b) **Contents of an Endowment Investment Policy.** The endowment investment policy will identify the individuals or entities with authority to direct investment of the funds of the endowment, the types of investments eligible for investment of the endowment's funds, the investment strategy for such investment, and the manner in which such investments will be directed to meeting the threshold rates of return needed to sustain the application habitat mitigation program costs without reducing or imperiling the endowment's principal.

(c) **Review of the Endowment Investment Policy.** The endowment investment policy shall be reviewed annually by this corporation, and may be amended or adjusted as necessary to assure the investment of the funds in any endowment is meeting applicable criteria on returns. Any amendments to the endowment investment policy shall follow the same review and comment procedure for its original adoption in Section 3(a), above.

(d) **General Investment Policy.** To the extent this corporation has or intends to have investments outside the scope of an endowment, the board of directors shall adopt and annually review and, if necessary, amend an investment policy for such investments of the corporation. Such investment policy may be part of the endowment investment policy or separate therefrom at the discretion of the board of directors. Neither the investment policy nor any amendment thereof shall be deemed adopted by the board of directors unless a majority of the SBVWCD-Directors approve such investment policy or amendment.

(e) **Money Manager.** The board of directors may engage a reputable money management firm to manage and invest the idle funds of the corporation in accordance with the investment policy described in Section 3(d), above. Such engagement shall require the approval of a majority of the SBVWCD-Directors.

Section 4. Checks, Drafts, Evidence of Indebtedness. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to this corporation, shall be signed or endorsed by such person or persons and in such manner as from time to time shall be determined by resolution of the board of directors. Such resolution shall require the approval of a majority of the directors.

Section 5. Corporate Contracts and Instruments; How Executed. The board of directors, except as otherwise provided in these Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of this corporation, and this authority may be general or confined to specific instances; and, unless so authorized or ratified by the board of directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind this corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 6. Construction and Definitions. Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular, and the term “person” includes both a legal entity and a natural person.

Section 7. Compliance With Public Records Act. The corporation shall comply with the provisions of the California Public Records Act, California Government Code Section 6250 *et. seq.* The corporation shall be deemed a “Local Agency” as that term is used in the California Public Records Act, and as such, shall be subject to all obligations and exemptions under the California Public Records Act.

ARTICLE XIII **AMENDMENTS**

New Bylaws may be adopted or these Bylaws may be amended or repealed by approval of a majority of the board of directors.

**MINUTES FOR MEETING OF BOARD OF DIRECTORS
OF
SAN BERNARDINO VALLEY CONSERVATION TRUST,
a California Nonprofit Public Benefit Corporation**

Thursday, October 5, 2017 – 1:30 p.m.

CALL TO ORDER – 1:40 p.m.

ROLL CALL

David E. Raley, SBV Water Conservation District
Paul Williams, Inland Empire Resource Conservation District
John Longville, SBV Water Conservation District
Daniel Cozad, SBV Water Conservation District
Angie Quiroga, SBV Water Conservation District
Jeff Beehler, SBV Water Conservation District
David Cosgrove, Rutan & Tucker, LLP

1. PUBLIC PARTICIPATION - None
2. APPROVAL OF MINUTES FROM JUNE 9, 2017

Action: Motion was made by Director Longville and seconded by Vice President Williams to approve the meeting minutes from June 9, 2017. The motion carried 3-0 with all directors present voting in the affirmative.

Ayes: Raley, Williams, Longville

Noes:

Absent:

Abstain:

3. WASH PLAN STATUS

Jeff Beehler presented an update on the Wash Plan. He stated just three sections of one chapter remain to be completed of the environmental impact report/environmental impact study (EIR/EIS) in order to put the Wash Plan in the Federal Register. Local senior US Fish & Wildlife (FWS) management reduced additional review time of the EIR/EIS by six weeks upon approval of their staff and state level staff's review of the document. Mr. Beehler and Mr. Cozad are meeting tomorrow with Bureau of Land Management (BLM) to review their mark ups on a Memorandum of Understanding (MOU) to do conservation work on their property. This MOU is an important part of implementing the Wash Plan. Mr. Beehler reviewed package page 6 noting all agencies have signed and approved the Wash Plan MOU except the miners. The miners are committed to participating; they just have not formally signed the MOU yet. The City of Redlands will be first to implement a project as soon as Fall 2017. If for some reason the Wash Plan has not been fully approved, there is an agreement with FWS to allow agencies to still use the Wash Plan Habitat Conservation Plan (HCP) to

move forward with their projects. Discussion ensued. This item was received and filed by the Board.

4. FINANCIAL STATUS

Daniel Cozad directed the Board to package page 7 which provides an update to the Trust's financial status as of September 30, 2017. Robertson's and Cemex's will be required to pay the majority of their contribution after the BLM land exchange occurs. We anticipate the City of Redlands will make payment in November or December and Valley District in January once their CEQA for their enhanced recharge project is completed. Mr. Cozad stated we will want our investment advisors to attend our next meeting especially if we have a million or more dollars amassed to invest. Mr. Beehler reminded members there is a phased approach to the Wash Plan. Participant obligations begin the day the biological opinion is signed to make sure adequate funding is in place to accomplish requirements of the Wash Plan HCP. Mr. Cosgrove stated there is about \$235,000 of jump start funding needed; then, we will need to stay 5% ahead of the funding that is attributable to any habitat disturbance. Participants must follow all steps and have contributed financially prior to being issued a Certificate of Inclusion (COI) to begin their projects under this HCP. Discussion ensued. This item was received and filed by the Board.

5. REVIEW CONTRACT FOR THE PROVISION OF ADMINISTRATIVE SERVICES BETWEEN SBVCT AND SBVWCD

Mr. Cosgrove reviewed the Contract for the Provision of Administrative Services between the Trust and San Bernardino Valley Water Conservation District (SBVWCD), provided as a handout. He stated that this is a services agreement in which the SBVWCD, as lead agency of the Wash Plan, will coordinate with the Trust in collecting participant contributions to establish the non-wasting endowment. Mr. Cosgrove highlighted a few paragraphs within the contract relating to reimbursement and protections for the Trust and District. Discussion ensued.

It was moved by Vice President Williams and seconded by Director Longville to approve the Contract for the Provision of Administrative Services between SBVCT and SBVWCD. The motion carried 3-0 with all Directors present voting in the affirmative.

Ayes: Raley, Williams, Longville

Noes:

Absent:

Abstain:

6. SBVWCD REQUESTED CHANGE TO THE CONSERVATION TRUST BYLAWS

Mr. Cosgrove presented this item stating an anomaly exists in the Trust's current bylaws as originally drafted. Policy states no member of the Board may receive compensation. SBVWCD policies allow their Directors to receive a per diem for up to ten meetings a month that benefit the District. SBVWCD has made the judgement that their Directors' services on the Trust's Board provide benefit to the District and SBVWCD is willing to pay a per diem

for their service. In order for SBVWCD Directors to receive this per diem however, an amendment to the Trust's Bylaws must be made. SBVWCD is requesting the following edit shown in italics:

“Section 6. Compensation. Directors and members of committees shall receive no compensation *from the Trust* for their services.”

Discussion ensued.

It was moved by Director Longville and seconded by Vice President Williams to approve the requested amendment to the wording of the Conservation Trust Bylaws as requested. The motion carried 3-0 with all Directors present voting in the affirmative.

Ayes: Raley, Williams, Longville

Noes:

Absent:

Abstain:

7. COMMUNITY MITIGATION SUPPORT

Mr. Beehler explained a potential opportunity for the Trust to hold additional conservation easements. Lands with habitat value that were not needed to cover mitigation for the Wash Plan's proposed projects have been designated as “neutral lands”. FWS, being aware of this land, has approached SBVWCD to provide a conservation easement for SBKR mitigation for a proposed housing project on Greenspot Road in Highland and other developments. For this to take place SBVWCD would have to agree to give a conservation easement to the Trust or the developer of the housing project and the Trust would have to agree to take the easement and ensure it is adequately funded. FWS and Staff have determined the developer would have to pay for the easement, a habitat improvement or (lift) cost, and pay the long term endowment costs to monitor and maintain the land in perpetuity. Mr. Cozad and Mr. Beehler will meet with the developer next week to discuss this potential opportunity. FWS has stated there is currently about 120 acres of mitigation needed now and the Wash Plan has approximately 250 acres which may be available. Mr. Beehler provided a map of the neutral lands. Staff believes there are advantages of having a housing development on the south side of Greenspot Road. It would provide a barrier to the wash and help eliminate illegal dumping and illegal vehicle use. Discussion ensued. The Trust's Board is unanimous in its support to continue exploring these opportunities providing direction to staff to continue to develop community mitigation on behalf of the trust.

8. LAND TRUST ALLIANCE STANDARDS AND PRACTICES

Mr. Cozad directed the Board to Package page 11: Land Trust Alliance Land Trust Standards and Practices. He stated these are the standards of practice of the industry the Board is in. These standards are not being brought to the Board for approval at this time but Staff would like to get an idea of what the Board would like to do as far as embracing these standards, using them as guidelines or applying for certification at some point in the future. We need a

few more years of audits before we will even qualify for certification. Mr. Cozad reviewed the document discussing areas the Trust has already accomplished and areas that may need improved documentation to become certified. Regarding Financial Oversight on package pg. 20, Mr. Cozad stated once we have a full year of financial information, a yearly audit will be required. An independent auditor can be obtained without a significant cost. Also, Directors and Officers Liability insurance may be needed in the future. It is relatively inexpensive. He estimates between \$1,200 and \$1,500. He anticipates sometime in the Spring Staff will bring these expenses to the Board for approval. Mr. Cosgrove added this insurance will be needed for 503C-tax exempt status, grant funding and Board recruitment.

Mr. Cozad continued reviewing of the document. He stated to meet all of the standards, the Trust needs a year or more of development. One area Staff would like to discuss at the next meeting is what will be acceptable to the Trust regarding conservation easement and stewardship. Standard 11 on package pg. 29 provides standard practices. We would like to further develop a document to list the Trust's standards for easements and stewardship. Mr. Cosgrove asked if the Board would like to conform to these standards and get certified or do they just want to use them as a roadmap for organizational structures and goals within those structures and formalize it later on? Vice President Williams stated he wants to be certain we meet all legal aspects. Mr. Cosgrove stated this is more of a best practices manual than a legal requirements manual. The Board agreed the corporation will review and within six months ask professional staff to come back with further ideas of how these best practices standards might helpfully govern future activity. This item was received and filed.

9. ADJOURN MEETING – 2:40 P.M.

Action: Motion was made by Director Longville and seconded by Vice President Williams to adjourn meeting. The next regular scheduled Board of Directors Meeting will tentatively be early December or mid-January at 1630 W. Redlands Blvd., Redlands, CA. The motion carried 3-0 with all Directors present voting in the affirmative.

Ayes: Raley, Williams, Longville

Noes:

Absent:

Abstain:

Daniel B. Cozad
Secretary/CFO

San Bernardino Valley Conservation Trust

Financial Status as of March 15, 2018

Wash Plan MOU-Exhibit D (Approved July 22, 2016) Expected Income

Covered Party (Participant)	Total			Paid
	Estimated Land and Species Total	Issuance Cost /Land Buy-In	Total	
San Bernardino Valley Water Conservation District	\$ 51,427	\$ 2,616	\$ 54,042	\$ 54,042
East Valley Water District	\$ 49,286	\$ 2,507	\$ 51,792	\$ 51,792
City of Highland	\$ 193,134	\$ 9,823	\$ 202,957	\$ 202,957
Robertson's and Cemex	\$ 7,843,563	\$ 398,940	\$ 8,242,503	\$ -
City of Redlands	\$ 28,063	\$ 1,427	\$ 29,490	\$ 29,490
San Bernardino Valley Municipal Water District	\$ 1,665,027	\$ 709,687	\$ 2,374,714	\$ 2,374,714
Total:	\$ 9,830,500	\$ 1,125,000	\$ 10,995,500	\$ 2,712,995

Independent Contributions	Total:	\$ 20.00
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California Credit Union Account Balance (Account Opened July 21, 2016)

As of:	Deposits	Interest Earned	Fees	Balance
5/31/2017	\$ -	\$ 13.12	\$ -	\$ 308,839.85
6/30/2017	\$ -	\$ 12.69	\$ -	\$ 308,852.54
7/31/2017	\$ -	\$ 13.12	\$ -	\$ 308,865.66
8/31/2017	\$ -	\$ 13.12	\$ -	\$ 308,878.78
9/30/2017	\$ -	\$ 12.69	\$ -	\$ 308,891.47
10/31/2017	\$ -	\$ 13.12	\$ -	\$ 308,904.59
11/30/2017	\$ -	\$ 12.69	\$ -	\$ 308,917.28
12/31/2017	\$ -	\$ 13.12	\$ -	\$ 308,930.40
1/31/2018	\$ -	\$ 13.12	\$ -	\$ 308,943.52
2/28/2018	\$ -	\$ 11.85	\$ -	\$ 308,955.37
*3/12/2018	\$ 2,414,204			\$ 2,723,159.37
Total:	\$ 2,723,015	\$ 144.37	\$ -	\$ 2,723,159.37

SAN BERNARDINO VALLEY CONSERVATION TRUST

Proposal for Professional Auditing Services

For the fiscal years ending June 30, 2017 and 2018

PREPARED BY:

ROGERS, ANDERSON, MALODY AND SCOTT, LLP
CERTIFIED PUBLIC ACCOUNTANTS

735 E CARNEGIE DRIVE, SUITE 100
SAN BERNARDINO, CALIFORNIA 92408
(909) 889-0871

CONTACT: SCOTT W. MANNO, PARTNER
smanno@ramscpa.net

February 27, 2018



ROGERS, ANDERSON, MALODY & SCOTT, LLP
CERTIFIED PUBLIC ACCOUNTANTS, SINCE 1948

SAN BERNARDINO VALLEY CONSERVATION TRUST

PROPOSAL FOR PROFESSIONAL AUDITING SERVICES

About our firm

RAMS was founded in 1948 and is located at 735 E. Carnegie Drive, Suite 100, San Bernardino, California and offers the full range of services expected of a full service accounting firm. We are one of the oldest and most trusted and respected CPA firms in Southern California, with over 70 years of public practice experience, specializing in governmental agency and not-for-profit organization auditing, accounting and management advisory services. Over *twenty thousand hours per year* are devoted to this area of our practice, which includes cities, water districts, other special districts, not-for-profit corporations and joint power authorities. We do not use our government accounting and auditing practice as “fill work” for the firm, it is a primary focus of it.

At RAMS, we are committed to achieving the highest quality audit possible. We understand the complexity of performing governmental audits and that’s why we have a dedicated team of auditors that possess the specialized knowledge and experience to help ensure compliance and changes in regulations that may impact your District. We plan and execute our audits in a way that maximizes audit efficiency and effectiveness and provides you the highest quality services.

We understand that organizations desire that its auditors have a thorough understanding of the complex accounting and compliance issues confronting entities such as yours. Our firm has a long history of governmental accounting and auditing. Over the years, we have gained valuable experience, acquired in-depth knowledge, and obtained the technical expertise needed for governmental accounting and auditing. This expertise has enabled us to provide exceptional, high quality service and to provide solutions at fees we feel represent our value to our clients. In addition, we use our participation in various industry associations to continuously update our knowledge with respect to issues relating to governmental accounting, auditing and operations. Any insight we gain is immediately passed on to our clients if we feel they will benefit from it.

Our firm has a total staff of thirty-six people, which includes twelve certified public accountants. The staff consists of six partners, five managers, seven supervisors/senior accountants, fourteen staff accountants and four support staff. The audit staff consists of twenty-four members who devote a substantial portion of their time to governmental and not-for-profit engagements.

Scope of services

The Trust desires the auditor to express an opinion on the fair presentation of its financial statements in accordance with generally accepted accounting principles based on an audit in accordance with generally accepted auditing standards.

Our audit will be in accordance with:

- Generally Accepted Auditing Standards as promulgated by the American Institute of Certified Public Accountants.
- Government Auditing Standards issued by the Comptroller of the United States of America, if applicable.
- Requirements issued by the State Controller’s Office.
- Requirements issued by the State of California.
- Any other requirements as needed.

SAN BERNARDINO VALLEY CONSERVATION TRUST

PROPOSAL FOR PROFESSIONAL AUDITING SERVICES

Audit fees

Our fees will be based on the actual time spent, plus out-of-pocket costs such as report production, typing, postage, etc. However, we agree that the fees will not exceed the Total Maximum Fee as shown below.

Our proposed fee is based on anticipated cooperation from your personnel and on the understanding that the Trust staff will prepare a majority of work papers necessary to support the amounts in the financial statements.

Our proposed fee is also based on the assumption that unexpected circumstances will not arise which would significantly increase the scope of our audit engagement. Should we perceive that the scope of our work has increased, we would discuss with you the circumstances and estimated additional hours involved, in detail, prior to performing the additional work. Any other services requested, such as tax preparation services, will be deemed out of scope and will require an additional fee.

We estimate that our fees for the following services will be:

<u>Service</u>	<u>Fiscal year ended June 30,</u>	
	<u>2017</u>	<u>2018</u>
Audit and financial statement preparation	\$ 2,860	\$ 2,860
Other: travel, etc.	-	-
Total for fiscal year (not-to-exceed)	\$ 2,860	\$ 2,860

SAN BERNARDINO VALLEY CONSERVATION TRUST

PROPOSAL FOR PROFESSIONAL AUDITING SERVICES

External quality control review

As a member of the AICPA Private Companies Practice Section, our firm has participated in "Peer Review" since 1993 and has been examined every three years since that date. Participation in this program ensures that all of our engagements meet the standards of the AICPA, the Yellow Book and the California State Board of Accountancy. Throughout our participation in this program, the firm has received pass ratings from the peer reviewers. The latest review below included reviews of specific governmental entities.

During the current review, an independent firm reviewed our policies and procedures and then inspected a representative sample engagement workpapers and reports, including governmental entities and engagements subject to OMB A-133. For the year ended November 30, 2014, our firm received a "pass" rating which indicates our auditing practice is suitably designed and complied with to provide reasonable assurance of performing and reporting in conformity with applicable standards. The results provided confirmation that the custom audit approach and procedures we use are technically sound and in compliance with applicable standards.

In addition to the external quality control review, our firm performs in-house peer reviews over our audit and attest engagements annually.

Disciplinary action

The firm **has never** had any disciplinary action taken or pending against it with state regulatory bodies or professional organizations, nor has it ever had any pending or settled litigation, civil or criminal investigations.

Our firm does not have a record of substandard work.

The firm is not aware of any federal or state desk reviews or field reviews of its audits during the last three years.

Grant Bennett Associates
A PROFESSIONAL CORPORATION

Alliott
GROUP
A Worldwide Alliance of Independent
Accounting, Law and Consulting Firms

SYSTEM REVIEW REPORT

June 30, 2015

To the owners of Rogers, Anderson, Malody & Scott, LLP and the Peer Review Committee of the California Society of Certified Public Accountants

We have reviewed the system of quality control for the accounting and auditing practice of Rogers, Anderson, Malody & Scott, LLP (the firm) in effect for the year ended November 30, 2014. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. As part of our peer review, we considered reviews by regulatory entities, if applicable, in determining the nature and extent of our procedures. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under the *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Rogers, Anderson, Malody & Scott, LLP in effect for the year ended November 30, 2014, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Rogers, Anderson, Malody & Scott, LLP received a peer review rating of *pass*.

GRANT BENNETT ASSOCIATES
A PROFESSIONAL CORPORATION
Certified Public Accountants

Grant Bennett Associates



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INVESTMENT POLICY STATEMENT

FOR

**WASH PLAN
HABITAT CONSERVATION PLAN
ENDOWMENT FUND**

March 9, 2016

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The San Bernardino Valley Water Conservation District has established an Endowment, known as the Wash Plan Habitat Conservation Plan (HCP) Endowment Fund (the "Fund"). This Fund provides funding for the designated beneficiaries for whom the Fund was established. The Fund consists of required contributions from the entities participating in the Wash Plan and covered by the HCP. Because of the distributed governance of this effort the Board of Directors of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Conservation Trust hereby adopt this Investment Policy Statement ("Policy Statement") for the following purposes.

Purpose

The main investment objective of the Fund is to minimize risk of principal loss and maintain the ability of the portfolio to meet current and long-term spending policies, net of inflation. Long-term growth of the assets in excess of inflation is secondary.

The purpose of this Policy Statement is to achieve the following:

1. Document investment objectives, performance expectations and investment guidelines for Fund assets managed by the investment advisor.
2. Establish an appropriate investment strategy for managing the Fund assets, including an investment time horizon, risk tolerance ranges and asset allocation to provide sufficient diversification and overall return over the long-term time horizon of the Fund.
3. Establish investment guidelines to control overall risk and liquidity.
4. Establish periodic performance reporting requirements to monitor investment results and confirm that the investment policy is being followed.
5. Comply with fiduciary, prudence, due diligence and legal requirements for Fund assets.

Investment Authority

The Board will have authority to implement the investment policy and guidelines in the best interest and to best satisfy the purpose of the Fund. In implementing this Policy Statement, the Board has delegated certain functions to an investment advisor ("Advisor") to assist the Board in the investment process and to maintain compliance with this Policy Statement. The Advisor may assist the Board in establishing investment policy objectives and guidelines and may also select investments with discretion to purchase, sell, or hold specific securities, such as Exchange Traded Funds, that will be used to meet the Fund's investment objectives. The Advisor will 1) adjust asset allocation for the Fund subject to the guidelines and limitations set forth in this Policy Statement; 2) select investment managers ("Managers") and strategies consistent with its role as a fiduciary for the Fund. ; 3) monitor and review investment managers; measuring and evaluating performance; and 4) execute other tasks as deemed appropriate in its role as Advisor for Fund assets. The investment vehicles allowed may include mutual funds, commingled trusts, separate accounts, limited partnerships and other investment

vehicles deemed to be appropriate by the Advisor. The Advisor shall never take possession of securities, cash or other assets of the Fund, all of which shall be held by the custodian. The Advisor must be registered with the Securities and Exchange Commission.

Statement of Investment Objectives

The investment objectives of the Fund are as follows:

1. To invest assets of the Fund in a manner consistent with the following fiduciary standards: (a) all transactions undertaken must be for the sole interest of Fund beneficiaries, and (b) assets are to be diversified in order to minimize the impact of large losses from individual investments.
2. To provide for funding anticipated withdrawals on a continuing basis for spending policy needs and reasonable expenses for the operation of the Fund.
3. To enhance the value of Fund assets in real terms over the long-term through asset appreciation and income generation, while maintaining a reasonable investment risk profile.
4. To minimize principal fluctuations, subject to performance expectations over the long-term Time Horizon (as defined below).
5. To achieve a long-term return commensurate with contemporary economic conditions equal to or exceeding the investment objective set forth in this Policy Statement under the section labeled "Performance Expectations".

Investment Guidelines

Within this section of the Policy Statement, several terms will be used to articulate various investment concepts. The descriptions are meant to be general and may share investments otherwise considered to be in the same asset class. They are:

"Growth Assets" - a collection of investments and/or asset classes whose primary risk and return characteristics are focused on capital appreciation. Examples of such investments or asset classes are: domestic and international equities or equity funds, private or leveraged equity, certain real estate investments, and hedge funds focused on equity risk mitigation or equity-like returns.

"Income Assets" - a collection of investments and/or asset classes whose primary risk and return characteristics are focused on income generation. Examples of such investments or asset classes are: fixed income securities, guaranteed investment contracts, certain real estate investments, and hedge funds focused on interest rate risk mitigation or income investment-like returns.

"Real Return Assets" - a collection of investments and/or asset classes whose primary risk and return characteristics are focused on real returns after inflation. Investments within the Real Return category can include inflation protected securities, commodities, certain real estate investments and hedge funds.

Time Horizon

The Fund's investment objectives are based on a long-term investment horizon ("Time Horizon") of five years or longer. Interim fluctuations should be viewed with appropriate perspective. The Board has adopted a long-term investment horizon such that the risks and duration of investment losses are carefully weighed against the long-term potential for appreciation of assets.

Liquidity and Diversification

In general, the Fund may hold some cash, cash equivalent, and/or money market funds for near-term Fund spending needs and expenses (the "Fund Distributions"). Remaining assets will be invested in longer-term investments and shall be diversified with the intent to minimize the risk of long-term investment losses.

Asset Allocation

The Board believes that to achieve the greatest likelihood of meeting the Fund's investment objectives and the best balance between risk and return for optimal diversification, assets will be invested in a 70% Growth/30% Income portfolio (70/30) in accordance with the targets for each asset class as follows. A 70/30 portfolio is expected to achieve an average total annual rate of return that is equal to or greater than the Fund's target rate of return over the long-term, as described in the section titled "Performance Expectations".

<u>Asset Classes</u>	<u>Asset Weightings</u>	
	<u>Range</u>	<u>Target</u>
Growth Assets		
Domestic Equity	26% - 66%	46%
International Equity	4% - 44%	24%
Other	0% - 20%	0%
Income Assets		
Fixed Income	10% - 50%	30%
Other	0% - 20%	0%
Real Return Assets	0% - 20%	0%
Cash Equivalents	0% - 20%	0%

The Advisor and each Manager will be evaluated against their peers on the performance of the total funds under their direct management.

Rebalancing Philosophy

The asset allocation range established by this Policy Statement represents a long-term perspective. As such, rapid unanticipated market shifts or changes in economic conditions may cause the asset mix to fall outside Policy Statement ranges. When allocations breach the specified ranges, the Advisor will rebalance the assets within the specified ranges. The Advisor may also rebalance based on market conditions.

Risk Tolerance

Subject to investment objectives and performance expectations, the Fund will be managed in a style that seeks to minimize principal fluctuations over the established Time Horizon.

Performance Expectations

Over the long-term, five years or longer, the performance objective for the Fund will be to achieve an average total annual rate of return that is equal to or greater than the Fund's desired rate of return 6.5%, a combination of expected spending and inflation. Additionally, it is expected that the annual rate of return on Fund assets will be commensurate with the then prevailing investment environment. Measurement of this return expectation will be judged by reviewing returns in the context of industry standard benchmarks, peer universe comparisons for individual Fund investments and blended benchmark comparisons for the Fund in its entirety.

Selection of Investment Managers

The Advisor shall prudently select appropriate Managers to invest the assets of the Fund. Managers must meet the following criteria:

- Each Manager must provide historical quarterly performance data compliant with Global Investment Performance Standards (GIPS[®]), Securities & Exchange Commission (“SEC”), Financial Industry Regulatory Agency (“FINRA”) or industry recognized standards, as appropriate.
- Each Manager must clearly articulate the investment strategy that will be followed and document that the strategy has been successfully adhered to over time.
- Where other than common funds such as mutual funds or commingled trusts are utilized, each Manager must confirm receipt, understanding and adherence to this Policy Statement and any investment specific policies by signing a consent form provided to each Manager prior to investment of Fund assets.

Guidelines for Portfolio Holdings

Direct Investments by Advisor

Every effort shall be made, to the extent practical, prudent and appropriate, to select investments that have investment objectives and policies that are consistent with this Policy Statement (as outlined in the following sub-sections of the "Guidelines for Portfolio Holdings"). However, given the nature of the investments, it is recognized that there may be deviations between this Policy Statement and the objectives of these investments.

Limitations on Managers' Portfolios

EQUITIES

No more than the greater of 5% or weighting in the relevant index (Russell 3000 Index for U.S. issues and MSCI ACWI ex-U.S. for non-U.S. issues) of the total equity portfolio valued at market may be invested in the common equity of any one corporation; ownership of the shares of one company shall not exceed 5% of those outstanding; and not more than 40% of equity valued at market may be held in any one sector, as defined by the Global Industry Classification Standard (GICS).

Domestic Equities: Other than the above constraints, there are no quantitative guidelines as to issues, industry or individual security diversification. However, prudent diversification standards should be developed and maintained by the Manager.

International Equities: The overall non-U.S. equity allocation should include a diverse global mix that is comprised of the equity of companies from multiple countries, regions and sectors.

FIXED INCOME

Fixed income securities of any one issuer shall not exceed 5% of the total bond portfolio at time of purchase. The 5% limitation does not apply to issues of the U.S. Treasury or other Federal Agencies. The overall rating of the fixed income assets as calculated by the Advisor shall be investment grade, based on the rating of one Nationally Recognized Statistical Rating Organization ("NRSRO").

OTHER ASSETS (ALTERNATIVES)

Alternatives may consist of non-traditional asset classes such as hedge funds, private equity, real estate and commodities, when deemed appropriate. The total allocation to this category may not exceed 30% of the overall portfolio.

Hedge Funds: Primary objective shall be to enhance the risk-return profile of the overall portfolio. This can be accomplished by using a combination of hedge fund strategies that may enhance returns at a reasonable level of risk or reduce volatility while providing a reasonable level of return. These asset classes may differ from traditional public market asset classes due to the use of certain strategies including short-selling, leverage, and derivatives. Hedge funds may also invest across asset classes.

The use of direct hedge funds and fund-of-hedge funds are allowed. For purposes of asset allocation targets and limitations, single strategy hedge funds will be categorized under the specific asset class of the fund. For example, a long/short U.S. equity fund will be categorized as “Other” in the Growth Assets category while a long/short credit fund will be categorized as “Other” in the Income Assets category. Multi-strategy hedge funds that cannot be easily categorized under one asset class will be included in “Other” under either the Growth Assets or Income Assets category depending on the risk-return profile of the strategy.

Private Equity: Private equity is less liquid than publicly traded equity securities and can provide returns that are greater than what is available in publicly traded markets. The private equity portfolio may include investments in a variety of commingled/partnership and direct investment vehicles including, but not limited to, venture capital, buyout, turnaround, mezzanine, distressed security, and special situation funds. The private equity portfolio is recognized to be long-term in nature and highly illiquid. Due to their higher risk, private equity investments are expected to provide higher returns than publicly traded equity securities. For purposes of asset allocation targets and limitations, these funds will be categorized as “Other” under the Growth Assets category.

Real Estate: Consists of publicly traded Real Estate Investment Trust (“REIT”) securities and/or non-publicly traded private real estate and shall be diversified across a broad array of property types and geographic locations. Investments of this type are designed to provide a stable level of income combined with potential for price appreciation, particularly in periods of unexpected inflation. For private real estate, the illiquid, long-term nature should be considered. For purposes of asset allocation targets and limitations, publicly traded REITs will be categorized as “Other” under the Growth Assets category. Depending on the investment characteristics of a private real estate fund, the fund will be categorized as “Other” under either the Income Assets category, for example, a core real estate fund, or under the Growth Assets category, for example, an opportunistic real estate fund where capital gains are expected to make up a significant portion of the total return.

Inflation Hedge: Shall consist of pooled vehicles holding among other assets: Treasury Inflation Protected Securities (“TIPS”), commodities or commodity contracts, index-linked derivative contracts, certain real estate or real property funds and the equity of companies in businesses thought to hedge inflation. Inflation hedge assets will be reported in the Real Return Assets category.

CASH EQUIVALENTS

Cash equivalents shall be held in funds complying with Rule 2(a)-7 of the Investment Company Act of 1940.

Portfolio Risk Hedging

Portfolio investments designed to hedge various risks including volatility risk, interest rate risk, etc. are allowed to the extent that the investments are not used for the sole purpose of leveraging Fund assets. One example of a hedge vehicle is an exchange traded fund (“ETF”) which takes short positions.

Prohibited Investments

Except for purchase within authorized investments, securities having the following characteristics are not authorized and shall not be purchased: letter stock and other unregistered securities, direct commodities or commodity contracts, or private placements (with the exception of Rule 144A securities). Further, derivatives, options, or futures for the sole purpose of direct portfolio leveraging are prohibited. Direct ownership of real estate, natural resource properties such as oil, gas or timber and the purchase of collectibles is also prohibited.

Safekeeping

All assets of the Fund shall be held by a custodian approved by the Board for safekeeping of Fund assets. The custodian shall produce statements on a monthly basis, listing the name and value of all assets held, and the dates and nature of all transactions in accordance with the terms in the Custodial Agreement. Investments of the Fund not held as liquidity or investment reserves shall, at all times, be invested in interest-bearing accounts. Investments and portfolio securities may not be loaned.

Control Procedures

Review of Investment Objectives

The Advisor shall review annually and report to the Board the appropriateness of this Policy Statement for achieving the Fund's stated objectives. It is not expected that this Policy Statement will change frequently.

Review of Investment Performance

The Advisor shall report on a quarterly basis to the Board to review the investment performance of the Fund. In addition, the Advisor will be responsible for keeping the Board advised of any material change in investment strategy, Managers, and other pertinent information potentially affecting performance of the Fund.

The Advisor shall compare the investment results on a quarterly basis to appropriate peer universe benchmarks, as well as market indices in both equity and fixed income markets. Examples of benchmarks and indexes that will be used include the Russell 3000 Index for broad U.S. equity strategies; S&P 500 Index for large cap U.S. equities, Russell 2000 Index for small cap U.S. equities, MSCI ACWI ex-U.S. Index for broad based non-U.S. equity strategies; MSCI Europe, Australasia, and Far East (EAFE) Index for developed markets international equities, Barclays Capital Aggregate Bond Index for fixed income securities, and the U.S. 91 Day T-bill for cash equivalents. The Russell 3000 Index will be used to benchmark the U.S. equities portfolio; the MSCI ACWI ex-U.S. Index will be used to benchmark the non-U.S. equities portfolio; the Barclays U.S. Aggregate Bond Index will be used to benchmark the fixed income portfolio. The categories "Other" will be benchmarked against appropriate indices depending on the specific characteristics of the strategies and funds used.



General Liability



Highlighted Features of our General Liability Coverage

(All included at no additional charge, unless noted)

- No deductible
- Occurrence Limit \$1 million: Aggregate Limits to \$3 million
- Umbrella Limits to \$10 million available
- Occurrence Form
- Prior Acts Coverage available for additional charge
- Blanket Additional Insureds includes landlords, permittees, mortgagees, volunteers, funders, lessors of leased equipment and charitable institutions
- Fundraiser endorsement included
- Liquor Liability form included
- Medical Payments Limit \$20,000 (an increase over the \$5,000 or \$10,000 limits commonly offered)
- Aggregate Limits per Location
- Damage to Property of Others in your Care Limit \$25,000
- Newly Formed Entities covered until end of policy period
- Automatic liberalization
- Damage to Premises Rented to You (Fire Legal) Limit \$500,000. Limits up to \$1 million available for extra charge
- Client Damage to Employee's or Volunteer's Car Limit \$3,000
- Client Damage to Property of Others Limit \$5,000 occurrence/\$25,000 aggregate
- Identity Theft Expense Limit \$30,000
- Terrorism Travel Reimbursement Limit \$30,000
- Kidnap Expense Limit \$50,000
- Executive Recruitment Expense Limit \$50,000
- Bail Bonds \$5,000 and Lost Earnings up to \$1,000/day
- Non-owned Watercraft up to 75 feet
- Workplace Violence Counseling Limit \$50,000
- Unsatisfied Contributions Limit \$25,000
- Privacy Liability and Cyber Coverage
- Bodily injury includes mental anguish

From the
CLAIMS FILES Line of Business: General Liability

Slip and Fall:

A nonprofit provides janitorial work opportunities to functional disabled clients. On one occasion, a client forgot to put out warning cones while mopping an office floor and the claimant slipped and fell on her way to a restroom. She suffered a torn ligament in her right knee and a right wrist sprain. The nonprofit had the right protocols in place, which included the use of warning cones, but the client simply forgot to use them. The claim was settled at mediation for \$50,000. Legal expenses were more than \$17,000.

Wrongful Eviction:

A nonprofit runs a transitional housing program for clients recovering from alcohol or substance abuse. The clients are required to pay subsidized rent and actively participate in the recovery programs. One client was not doing either, so with the approval of its legal counsel, the nonprofit had the client removed. The client, acting as his own attorney, filed suit in both Federal and State courts, claiming \$10 million in emotional distress. The case went to a jury, and based on the nonprofit's clear records and a subsequent compliance finding by the funding agency, we obtained a defense verdict. However, legal costs were more than \$95,000.

Negligent Supervision:

A nonprofit had an annual event that included a zip line for children, which ran from hay bales stacked eight feet high down to the ground. It was supervised by a volunteer who, against his better judgment, allowed a 12 year-old girl, who was very anxious and fearful, to ride. She fell off as soon as she left the hay bales and suffered a leg fracture that had to be surgically repaired. Concluding that liability was adverse to the nonprofit, we negotiated a structured settlement with the family's attorney that provided for future medical care, pain and suffering, and attorney fees. The loss cost was \$60,000 and the expense was minimal.



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Directors and Officers



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www.insurancefor nonprofits.org A Head for Insurance. A Heart for Nonprofits. 800-359-6422

Highlighted Features of our Directors and Officers Coverage

(All included at no additional charge, unless noted)

- Occurrence Limit \$1 million: Aggregate Limits to \$2 million and Umbrella Limits up to \$10 million available
- Defense outside the policy limits
- Duty to defend
- Superior Event Trigger Coverage Form, not Claims-Made
- Prior Acts Coverage for an additional charge
- Broad definition of insured including the nonprofit itself as well as directors, trustees, officers, employees, volunteers, committee members, interns, students-in- training, and spouses
- Coverage extends to third-party Harassment
- Broad Employment Practices Liability coverage
- Fiduciary Liability include at full policy limit
- ERISA sublimit of \$250,000 included. \$500,000 available for additional charge.
- No “Hammer Clause”
- Breach of Contract Limit \$250,000 for defense
- Wage and Hour Limit \$250,000 for defense
- Punitive Damages where insurable
- FREE unlimited employment risk management consultations for insureds with a Directors and Officers policy including Employment Practices Liability
- Employee Handbook Builder - a highly subsidized subscription to the Thompson Handbook Builder. Annual subscription cost is \$99 (\$300 savings).
- Flat rate D&O available for nonprofits with zero employees
- Member vs. member coverage included

From the
CLAIMS FILES Line of Business: Directors and Officers Liability

Failure to Accommodate:

An employee with ongoing performance problems was eventually terminated, but alleged he was not given an accommodation due to stress in his personal life. Unfortunately, the employee’s file was not well documented on the performance issues, and the nonprofit had not addressed the accommodation request. The employee was highly paid, and the matter was heavily litigated over a four-year period. Because of the potential for an unfavorable jury verdict and the significant exposure to statutory plaintiff attorney fees, the claim was eventually mediated to a settlement of \$350,000 after \$230,000 in defense expense fees were incurred.

Retaliation:

Four employees claimed they had been wrongfully terminated for complaining about unpaid wages. Legal discovery revealed that the unpaid wage claims had some merit and the terminations based on performance problems would be difficult to establish. While the four claims were eventually settled for \$40,000, it took more than \$35,000 in defense legal costs to get to that point. Retaliation claims are currently the most significant employee practice liability exposure to employers, for both nonprofit and for-profit organizations.

Breach of Contract:

A nonprofit was sued by a builder for breach of a construction project contract, claiming unpaid contract damages. Often, breach of contract claims are not covered in D&O policies, but our forms contain a \$250,000 defense cost only enhancement, so we were able to provide the nonprofit with an experienced defense attorney to assist them. While it took almost \$25,000 in defense to get the case into settlement posture, the nonprofit was able to obtain a very favorable compromise on the contract damage issues.

DRAFT Policy Principles and Template Deal Points for Community Mitigation and/or Recharge Projects

3/1/18

Purpose – As part of the San Bernardino Valley Water Conservation District Strategic Plan approved in December 2017, the Board endorsed the development and participation in Community Mitigation and Recharge Projects. Projects that are focused on delivering multiple benefits to the District and its communities may be considered under this program. The benefits expected include the following:

1. District Benefits
 - a. Buffering District facilities from encroachment
 - b. Managing lands near to facilities essential to the District
 - c. Preserving compatibility of uses for District Land lessees, including mining uses
 - d. Reducing land management costs to groundwater charge payees
 - e. Potential access to stormwater for recharge
 - f. Improving employee access and safety
 - g. Reducing risk of trespass or unauthorized use of District Lands
 - h. Projects that provide a combination of habitat and recharge opportunity are of a higher benefit and interest to the District
2. Community Benefits
 - a. Improved habitat for sensitive species
 - b. Higher baseline reduces mitigation pressures on outside projects
 - c. Assists public and adjacent community projects with mitigation and long-term management
 - d. Reduced stormwater reduces flood control costs and development costs
 - e. Efforts should enhance partnerships and community values in the Wash
 - f. Increase land complementary to or compatible with recreational uses
3. Conservation Trust Benefits
 - a. Increased endowment funding reducing management costs and overhead
 - b. Provides economies of scale for management operations and increase efficiency, and to elevate Conservation Trust's profile for the pursuit of grant or contribution funding
 - c. Expands the Conservation Trust's role in the community and benefit the community sees in the Conservation Trust.

Policy Principles

- A. Projects accepted for Community Mitigation and Community Recharge should benefit the species, habitat, the District, the Conservation Trust, and the Community.
- B. The District should obtain market value for giving up rights and opportunity to develop land placed into conservation easement; this concession cannot be a gift of public funds.
- C. Public projects proposed by members of the Wash Plan Task Force should be given some priority, if timely.

- D. Private projects, or projects proposed from public entities not part of the Wash Plan Task Force, should be considered to the extent they do not impede Wash Plan HCP objectives and help defer the cost of the development of the Wash Plan HCP and Management Implementation.
- E. Projects should be sufficiently proximate to Wash Plan Area or other management lands near the Wash to allow cost-efficient management, and capitalization on Wash Plan HCP efforts and management experience.
- F. Should suitable habitat land become a limit to an otherwise highly beneficial project, the District or the Conservation Trust may seek to acquire or partner exchange land suitable for recharge facilities, and conversion of existing recharge facilities to habitat.
- G. Mindful both of the involvement of publicly-sourced funds, and the Conservation Trust's Non-Profit status, all non-Wash Plan projects must be evaluated and implemented only as may be consistent with sound ethical, legal and stewardship responsibilities.
- H. Consistent with the unique public resource the Wash Plan Area lands represent, projects accepted should offer unique public benefits, whether such projects originate from the public or private sector. Not all projects are appropriate, and where other private sector, public sector or nonprofit entities provide a similar option, the District and Conservation Trust should carefully consider the benefits of participating. The goal is not simply to enter a competitive habitat marketplace, but instead to capitalize on unique opportunities for habitat synergy and economic support for existing, defined programs. Some project may not be appropriate due to timing, size, species and habitat impacts, management requirements and other factors.
- I. The District and Conservation Trust must independently evaluate decisions to participate in any project, mindful that ultimate permitting decisions about appropriate levels, locations or requirements for compensatory mitigation lie with the state and federal resources agencies.
- J. Leveraging public investment and research is encouraged to expand benefits outside of compensatory mitigation.
- K. Consistent with the well documented and strong ethics policies requiring reporting of any potential economic interests and recusal in the face of any financial conflicts of interest, both District and the Conservation Trust Directors should maintain transparency in diligently reporting any proposals, inquiries, or communications with project proponents.

Template Deal Points – Guidance to Staff

- i. A Deposit agreement shall be required to fund exploratory development efforts before any significant work being undertaken by the District or the Conservation Trust on behalf of a proposed project.
- ii. When a Deposit Agreement provided by a potential Community Mitigation Applicant, the initial meeting with Staff and the Applicant, consultants and resources agency staff will identify scope and lead, schedule and funding requirements to assure all are in agreement to move forward.

- iii. Staff for the District and Conservation Trust will perform analysis to identify any additional proposed project burdens to existing Wash Plan efforts. Any increased burdens and individual efforts (above baseline Wash Plan management) shall be the responsibility of the proposed project proponent or its successor. To the extent appropriate, if a new project leverages prior Wash Plan funding or management expenditures, reasonably apportioned reimbursement on a benefit basis should be pursued.
- iv. Small projects may be aggregated to improve the cost-effectiveness of mitigation, or minimum size/costs may be established to avoid inefficiency for the Conservation Trust.
- v. Land accepted into management shall be adjacent or reasonably proximate to existing or future lands being managed, and management tasks required shall be complementary to species and habitat management already implicated in Wash Plan HCP efforts.
- vi. Land accepted must have an adequate endowment to assure permanent management of habitat and related costs.
- vii. Future costs that may vary depending on the actions or responsibilities of end users of the proposed project may be funded through recorded assessment covenants, deed restrictions, HOA security agreements, or similar enforceable agreements.
- viii. Whenever feasible, market assessment, appraisal or similar cost and benefit valuation documentation should support the professional discretionary judgment of the Directors of both the District and the Conservation Trust in assessing the costs and benefits of proposed projects.
- ix. The pursuit of outside public funding for projects that are beyond Compensatory Mitigation is encouraged.
- x. Research on a species or habitat in addition to management needs is encouraged but does not replace management funding.
- xi. Any proposed project's PAR analysis must be acceptable both to Resources Agencies, and the Conservation Trust and District.
- xii. Staffing and resource limitations of both the District and Conservation Trust must be considered in assuring adequate analysis and process is afforded to proposed project consideration, to ensure these principles are met.
- xiii. Land purchase opportunities are limited very limited for both the Conservation Trust and District. Projects citing the need for new land acquisitions must factor in longer time horizons than those implicating only conservation easements on land already owned or controlled.
- xiv. Community Recharge Projects should be reviewed by staff and vetted by a Board Committee before significant staff work expense. Should the Committee or staff determine the benefits primarily accrue to the Project Applicant and, the District is amenable to continue working on the project, a development agreement and deposit will be sought from the applicant.

SAN BERNARDINO VALLEY CONSERVATION TRUST AND SAN BERNARDINO VALLEY WATER CONSERVATION DISTRICT – COMMUNITY MITIGATION DEPOSIT AGREEMENT

This Community Mitigation Deposit Agreement ("Deposit Agreement") is entered into between the San Bernardino Valley Conservation Trust (Conservation Trust), a 501(c) 3 Public Benefit Nonprofit Corporation, the San Bernardino Valley Water Conservation District (SBVWCD), a California Special District conserving water and land in accordance with Division 21 of the California Water Code, and _____ ("Developer") as of the date set forth below. SBVCT/SBVWCD and the Developer may hereinafter be referred to as the "Parties."

1. Conservation Trust

The SBVCT is a 501(c) 3 Public Benefit Nonprofit Corporation formed to support the Upper Santa Ana River Wash Plan Habitat Conservation Plan (HCP). On March 1, 2017 the Conservation Trust was approved by the California Department of Fish and Wildlife (CDFW) to hold and manage endowments and conservation easements and implement the land management requirements of such easements. The Conservation Trust accepts grants of money, land, and conservation easements to carry out its purposes, and may establish and charge fees for services provided. The Conservation Trust performs habitat restoration, conservation and/or management activities ("conservation") for project proponents seeking permits from or with regulatory agencies in the area in an around the Santa Ana River Wash Area of Redlands, Highland and County of San Bernardino.

2. SBVWCD

The SBVWCD is a California Special District conserving water and land in accordance with Division 21 of the California Water Code § 74000. As a water and land conservation and management agency the District owns and manages land in the Santa Ana River Wash and where appropriate may make dedicate land with a conservation easement for Agency or Community Mitigation if in the Board of Directors fins that it is in the best interest of the District.

3. Developer

_____, in the City of (Redlands or Highland), County of San Bernardino, and State of California has planned and is acquiring permits for _____ with the City. This development work (project) is projected to result in the need to place mitigation requirements, of approximately _____ SBKR or CNG or SAWS or RAFSS habitat.

4. Purpose.

A proposed community development project may adversely impact a species, habitat, riparian areas, or other sensitive environmental resources. As a condition to issuing a permit required for such project, a regulatory resource agency may require mitigation in the form of preserved land, restoration or other management activities. Regulatory resource agencies may approve the project proponent's retention of SBVCT/SBVWCD to provide such preserved lands and perform active habitat restoration for Project impacts.

In planning with the Developer and preparing the restoration and mitigation plan, reviewing associated documentation, and any other mitigation-related contracts, agreements, or other documents between the SBVCT/SBVWCD and Developer, the SBVCT/SBVWCD incurs expenses including, but not limited to, legal expenses, biological staff and administrative staff expenses, materials, labor, etc. ("Expenses"). If the proposed Community Mitigation goes forward, or if it is cancelled, abandoned, modified, disapproved or

otherwise does not proceed for any reason, then the SBVCT/SBVWCD will have expended monies, resources and/or materials to pay for the Expenses. By this Deposit Agreement, Developer agrees to provide an initial Deposit as well as potential further deposit(s) to SBVCT/SBVWCD to cover and defray SBVCT/SBVWCD's Expenses.

5. Deposit

- (a) Based on SBVCT/SBVWCD's experience, the Parties agree that _____ is an appropriate Deposit calculated to cover the anticipated Expenses incurred by SBVCT/SBVWCD prior to execution of a mitigation agreement with Developer with respect to the Project. If SBVCT/SBVWCD determines that its incurred costs will exceed the Deposit amount, SBVCT/SBVWCD shall notify Developer in writing, and request additional Deposit monies before proceeding with further negotiation and drafting of the mitigation documents contemplated by this Deposit Agreement.
- (b) In the event that the Parties ultimately enter into additional agreements with respect to the Project, SBVCT/SBVWCD shall deduct from the Deposit all Expenses relating to the negotiation and preparation of the various contracts, agreements, and/or other documents relating to the agreement. Any unused portion of the Deposit shall be returned to Developer or applied to the endowment cost. If additional deposits are owed SBVCT/SBVWCD, SBVCT/SBVWCD may refuse to seek Boards' approval to execute any documentations or agreements until such deposits are reimbursed by Developer.
- (c) In the event that the Parties do not enter into an agreement with respect to the Project, SBVCT/SBVWCD shall deduct its Expenses incurred from the Deposit and return any unused portion of such Deposit to Developer. Either party may terminate this Agreement at any time for any or provide no reason. Should Developer terminate this Agreement, to obtain any refund owing, Developer shall send to SBVCT/SBVWCD, by certified mail, a written notice of cancellation, requesting an accounting and a refund of any remaining Deposit monies. SBVCT/SBVWCD shall perform such accounting and refund any remaining Deposit monies to Developer within 30 days of receipt of the cancellation notice and request.

6. Nature of Rights Granted

Developer hereby acknowledges and agrees this Deposit Agreement only provides a deposit to cover or defray Expenses SBVCT/SBVWCD will incur in the planning and preparation of the various contracts, agreements, and/or other documents relating to the agreement requested by Developer. By this Deposit Agreement, SBVCT/SBVWCD provides no guarantee that the parties will ultimately reach agreement on the terms of a mitigation agreement.

7. Mitigation Responsibility

The Parties explicitly agree that this Deposit Agreement does not commit SBVCT/SBVWCD to perform any mitigation, mitigation-related conservation, or related activity. No responsibility or liability therefore shall accrue to SBVCT/SBVWCD. The parties agree to work cooperatively with each other during the process of attempting to negotiate a mitigation agreement for the Project. In particular, Developer agrees to provide any appropriate documentation requested by SBVCT/SBVWCD and both shall allow staff and consultants to access the conservation sites, as may be necessary.

8. Miscellaneous

- (a) Neither Party may assign its rights or obligations under this Deposit Agreement without the express written consent of the other, and both Parties agree not to unreasonably withhold such consent. In the event of an authorized assignment, this Deposit Agreement shall be binding upon and inure to the benefit of those permitted assigns.
- (b) The rights and obligations set forth herein are intended exclusively for the benefit of the Parties and shall not be construed to convey any rights or remedies to any third party.
- (c) This Deposit Agreement contains the entire understanding between the Parties with respect to its subject matter, and supersedes all prior agreements, oral or written, and all prior or contemporaneous discussions or negotiations between the Parties. This Deposit Agreement cannot be amended except in writing signed by both Parties.
- (d) This Deposit Agreement and all documents executed and delivered in connection herewith shall be governed by, and construed in accordance with, the laws of the State of California.
- (e) If any legal action or other proceeding is brought for the enforcement of this Deposit Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, expenses, and other costs incurred in that action or proceeding in addition to any other relief to which such party may be entitled.

IN WITNESS WHEREOF, the Parties have executed this Deposit Agreement as of the last date set forth below.

San Bernardino Valley Conservation Trust (Conservation Trust), a 501(c) 3 Public Benefit Nonprofit Corporation

By: _____
Name: _____
Title: _____
Date: _____

San Bernardino Valley Water Conservation District (SBVWCD), a California Special District

By: _____
Name: _____
Title: _____
Date: _____

Community Mitigation Request

3/14/2018

Preliminary Discussions and Deposit Agreements

Entity/Owner	Project	Deposit Agreement Date	Preliminary Acres	Consultant	Resource Agencies
San Bernardino County Transportation Authority	Rail to Redlands		0.15	HDR Irvine	CDFW (Kim) and USFWS (Kahi)
SP Deerfield LLC	Blossom Trails Residential	3/1/2018	10	TBD/Baker	CDFW (Joann) USFWS (Amanda)
TREH Partners - Ed Horovitz	Highland Triangle Commercial		20	Unk?	FEMA lead, USFWS and CDFW (Joann)
Greenspot Partners	Heather Glenn		30	Baker (Tom)	CDFW (Joann) USFWS (Amanda)
Hightland -Fifth-Orange Partners LLC	Woodbridge		30	Baker (Tom)	CDFW (Joann) USFWS (Amanda)
Jeff Ott	Self Storage Redlands Airport		9	First Carbon	USFWS (amanda)
SBVMWD	River HCP		UNK	NA	
Total			99.15		

San Bernardino Valley Conservation Trust - Whistleblower Policy

Approved _____

The San Bernardino Valley Conservation Trust or Conservation Trust requires Directors, Officers, Agents, San Bernardino Valley Water Conservation District Staff (Staff) and volunteers to observe the highest standards of business and personal ethics in the conduct of their duties and responsibilities. The Conservation Trust has a code of ethics and includes statements on ethics in its bylaws. To clarify its policy related to those that come forward to report potential breaches of this high standard it has established this Whistleblower Policy. Representatives of the organization must practice honesty and integrity in fulfilling their responsibilities and comply with all applicable laws and regulations. This policy is intended to encourage Conservation Trust representatives and others to report suspected or actual occurrence(s) of illegal, unethical conduct, accounting or inappropriate events, behaviors or practices without fear of retribution or retaliation.

1. Reporting Responsibility and Policy Objective

Each Director, Officer, Agent, Staff member, and volunteer of the Conservation Trust is encouraged to report, in accordance with the Whistleblower Policy, any known or suspected questionable, improper or unethical conduct or accounting.

The objectives of the Conservation Trust's Whistleblower Policy are to establish and implement its procedures for:

- The submission of Concerns by officers, employees, and other stakeholders of the organization, on a confidential and anonymous basis
- The receipt and treatment of Concerns received by the organization
- The protection of the person reporting Concerns from retaliatory actions.

2. Submission of Concern

1. The Whistleblower should promptly report the suspected or actual event to the Conservation Trust's President and Trust Legal Counsel or Executive Director.
2. If the Whistleblower is uncomfortable or otherwise reluctant to report to the President, then the Whistleblower shall report the event to another Board member and Trust Legal Counsel or Executive Director.
3. The Whistleblower can report the event with his/her identity known, or anonymously. Anonymous Concerns shall be in writing and sent directly to the Board President or another Board member and Trust Legal Counsel or Executive Director.

3. Treatment of Concerns

For each reported Concern, the person to whom the report was made is required to promptly report the Concern to the Board President and Trust Legal Counsel. The President has a specific responsibility to coordinate with Trust Legal Counsel and Executive Director as appropriate to appoint a committee of Board members and Trust Legal Counsel to investigate and/or resolve all Concerns. The person to whom the Concern was reported is responsible for communicating in a timely manner with the Whistleblower with respect to how the Concern is being addressed and the outcome of his/her investigation unless anonymously submitted.

4. No Retaliation

This Whistleblower Policy is intended to encourage and enable volunteers, and employees to raise good faith Concerns within the organization for investigation and appropriate action. With this goal in mind, no volunteer, or employee who, in good faith, reports a Concern shall be subject to retaliation or retribution or, in the case of an employee, adverse employment consequences. Moreover, a volunteer or employee who retaliates against someone who has reported a Concern in good faith and with reasonable belief in the truth of the Concern is subject to discipline up to and including dismissal from a volunteer position or termination of Board or employee status.

5. Acting in Good Faith

Anyone reporting a Concern must act in good faith and have reasonable grounds for believing the information disclosed indicates an improper practice. The act of making allegations that are determined by the Conservation Trust to have been made maliciously, recklessly, or with the foreknowledge that the allegations are false will be viewed as a serious disciplinary offense. A Whistleblower who makes a report that is not done in good faith is subject to discipline, including termination of Board or employee status as well as any other legal means to protect the reputation of the organization and members of its Board and staff.

6. Confidentiality

Reports of Concerns, and investigations pertaining thereto, shall be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation. The identity of the Whistleblower, if known, shall remain confidential to those persons directly involved in applying this policy, unless the issue requires investigation by law enforcement, in which case members of the organization shall cooperate fully with law enforcement.