

**SOUTH-CENTRAL NEW MEXICO  
STORMWATER MANAGEMENT COALITION  
JOINT POWERS AGREEMENT**

This Agreement is made and entered into by and between the Elephant Butte Irrigation District, Sierra County, the City of Anthony, the Village of Hatch, the Doña Ana Soil and Water Conservation District, the Caballo Soil and Water Conservation District, the Sierra Soil and Water Conservation District, the Office of the Doña Ana County Flood Commissioner, and the Office of the Sierra County Flood Commissioner.

The parties entering into this Agreement are acting pursuant to the Joint Powers Agreements Act, N.M.S.A. 1978, § 11-1-1 *et seq.* for the purpose of creating the South-Central New Mexico Stormwater Management Coalition. The parties by their signatures hereto consent to and agree to be bound by the terms of this Agreement.

**WHEREAS**, the parties to this Agreement desire to establish the South-Central New Mexico Stormwater Management Coalition to address areas of common concern with respect to stormwater management and flood control. The objectives of this coalition are to collaborate and plan and partner with various entities, to coordinate mutually beneficial, multi-jurisdictional, watershed-wide stormwater management projects, develop regional work projects for stormwater management and flood control, coordinate the region's stormwater management system, coordinate with Coalition members to identify problems related to stormwater management and develop potential solutions, lobby for and acquire funding for the stormwater management system and related work projects, acquire funding for education and training, and conduct and attend workshops and conferences.

**WHEREAS**, it is in the best interest of the parties to this Agreement to enter into a joint powers agreement for the purpose of establishing the South-Central New Mexico Stormwater Management Coalition.

**WHEREAS**, Elephant Butte Irrigation District is a political subdivision of the State of New Mexico and an irrigation district formed under the New Mexico statutes entitled "Irrigation Districts Cooperating with the United States Under Reclamation Laws" found at NMSA 1978, §§ 73-10-1 to 73-11-55; and

**WHEREAS**, Sierra County is a political subdivision of the State of New Mexico, established in accordance with NMSA 1978, § 4-27-1 *et seq.*; and

**WHEREAS**, the City of Anthony is established as a municipality under New Mexico law; and

**WHEREAS**, the Village of Hatch is established as an incorporated municipality under New Mexico law;

**WHEREAS**, the Doña Ana Soil and Water Conservation District is a “soil and water conservation district”, organized under or perpetuated by the provisions of the Soil and Water Conservation District Act, NMSA 1978 § 73-20-25, is a governmental subdivision of the state, a public body politic and corporate; and

**WHEREAS**, the Caballo Soil and Water Conservation District is a “soil and water conservation district”, organized under or perpetuated by the provisions of the Soil and Water Conservation District Act, NMSA 1978 § 73-20-25, is a governmental subdivision of the state, a public body politic and corporate; and

**WHEREAS**, the Sierra Soil and Water Conservation District is a “soil and water conservation district”, organized under or perpetuated by the provisions of the Soil and Water Conservation District Act, NMSA 1978 § 73-20-25, is a governmental subdivision of the state, a public body politic and corporate; and

**WHEREAS**, the Office of the Doña Ana County Flood Commissioner is established in accordance with NMSA 1978 §§ 4-50-1 to 4-50-9; and

**WHEREAS**, the Office of the Sierra County Flood Commissioner is established in accordance with NMSA 1978 §§ 4-50-1 to 4-50-9; and

**WHEREAS**, the parties recognize the need for present and future stormwater management and flood control; and

**WHEREAS**, the parties each have duties, responsibilities, and ownership of flood control facilities and are each charged with various aspects of public safety regarding flood control; and

**WHEREAS**, the parties desire to coordinate their efforts to identify existing problems relating to flood control within the parties’ respective jurisdictions and to collectively formulate potential solutions to those problems.

**NOW, THEREFORE**, it is mutually agreed and covenanted between the parties as follows:

1. NAME: The entity being developed and operated pursuant to this Agreement shall be known as the “South-Central New Mexico Stormwater Management Coalition” (hereinafter referred to as “the Coalition”).
  
2. COMPOSITION OF THE COALITION:
  - A. The Coalition shall consist of the parties identified above, in addition to those that may be added in the future. Appendix A is the form of the amendment to this Agreement that will be used to authorize new members to the Coalition.
  
  - B. Voting members: There shall be a Board of Directors which shall consist of a total of all of the members. Each of the participating parties shall have one board member, appointed by its respective governing body or board to the Board of Directors of the Coalition. Each of the parties shall have one vote, exercised through its board member.
  
  - C. Terms: There are no set terms for Board members. Each party to this Agreement shall appoint a person as its member on the Board of Directors of the Coalition. Each appointed Board member shall serve until replaced by the party which appointed that Board member. If a member is unable to attend a meeting, that Board member may send a designee to act in his/her place. The designee shall bring a letter to the meeting, signed by the Board member.
  
  - D. Compensation: If the Coalition has available funds, members of the board shall be entitled to receive mileage and per diem in accordance with the “Per Diem and Mileage Act,” N.M.S.A. 1978, § 10-8-1 through 10-8-8 for business conducted on behalf of the Coalition. No members shall be employed by the Coalition. If the Coalition lacks funds, board members will seek per diem and mileage through their respective appointing entities.
  
  - E. Executive Officers: The Board of Directors shall choose executive officers composed of a chairperson, vice-chairperson, secretary, and treasurer from among the members of the Board of Directors of the Coalition.
  
  - F. Meetings: The Coalition shall meet within sixty days of the signing of the Joint Powers Agreement by the parties identified above. The

Coalition will prepare appropriate resolutions regarding meetings, voting procedures and funding at the initial meeting. All meetings will be conducted in compliance with the New Mexico Open Meetings Act. Minutes of the meetings will be kept by the secretary.

G. Decisionmaking: The Coalition will make decisions and exercise its powers and authority by majority vote of a quorum of the Board of Directors. A quorum must be present in order for any meeting to proceed and for any business to be transacted. Any party may opt out of participation in a project or an action by the Coalition by not voting in favor of the project or action.

3. POWERS AND DUTIES OF THE COALITION: The Coalition is authorized to exercise powers and duties consisting of but not limited to the following:

A. Develop a work/business plan which will include:

1. Standard operating procedures (bylaws) for the Coalition;
2. Timelines;
3. Forums for communicating;
4. Needs assessments;
5. Identification and prioritization of regional needs;
6. Support for “green” methodology and technology for low impact infrastructure;
7. Sharing of resources and efforts to alleviate emergency or hazardous situations;
8. Maintenance of arroyos and drainage ways, in a natural state where practical.

B. Develop a list of regional work projects regarding the following:

1. Management of critical/select wild arroyos;
2. Flood control infrastructure;
3. Capture, storage and management of stormwater for beneficial use;
4. Improvement of stormwater quality;
5. Minimization of flooding in developed areas.

C. Follow through on the purposes of the Coalition as stated above;

- D. When funds to the Coalition become available, prepare an annual budget for approval by the fiscal agent and submission by the fiscal agent to the New Mexico Department of Finance and Administration as part of the fiscal agent's annual budget;
  - E. Represent this region in statewide stormwater and flood control planning;
  - F. Appoint a fiscal agent for the Coalition when funds to the Coalition become available;
  - G. Work with federal, state and local agencies on funding, regulation, management, planning and development of stormwater projects and flood control within the region;
  - H. Cooperate with other governmental entities which are not members of the Coalition;
  - I. Enter into contracts and appoint agents to carry out the purposes of the Coalition including but not limited to administrative and technical services, within budgeting constraints;
  - J. Review and develop legislation that would benefit the Coalition members and regional stormwater management;
  - K. Not duplicate existing powers, actions, infrastructure or plans of public entities already engaged in stormwater management and flood control;
  - L. Develop a regional watershed plan.
4. FISCAL AGENT RESPONSIBILITIES: The fiscal agent, when appointed, will maintain all fiscal records in accordance with generally accepted accounting principles and will provide for strict accountability of all receipts and disbursements. Upon termination of this Agreement, any unexpended funds shall be returned pro rata by the fiscal agent to the contributing members and third party funding sources.
5. LIMITATIONS: The provisions of this Joint Powers Agreement are not intended to restrict any party's lawful use of their water resources, or their flood control or stormwater authority, nor to interfere with the statutory

authority of the State Engineer.

6. BUDGET:

- A. Once funds are available to the Coalition, prior to the last day of April the Coalition in consultation with the fiscal agent shall prepare yearly a budget for the Coalition's finances for the next fiscal year. The fiscal year shall run from the first day of July of each year to the 30<sup>th</sup> day of June of the following year.
- B. The budget shall show in detail the anticipated revenue and expenses for the next year, and shall conform to the budgetary requirements of the fiscal agent and the local government division of the Department of Finance and Administration.
- C. The fiscal agent may include the Coalition's annual budget as part of its annual budget for submittal to the Department of Finance and Administration for audit and approval.
- D. The Coalition shall make any changes to its budget in order to secure approval of the Department of Finance and Administration. The budget shall take effect after state approval. The approved expenditures shall control the Coalition's annual spending program. All spending by the Coalition through its fiscal agent shall be done in compliance with New Mexico state law.

7. FINANCES:

- A. The Coalition is authorized to apply for, receive, and utilize grants, loans or other aid from any source approved by the Board of Directors.
- B. Public funds from each party to this Agreement may be advanced or contributed for Coalition use. The use of such contributions shall be determined by the Board of Directors. No member of the Coalition is obligated to provide financial assistance or be obligated for financial contributions for any item for which the member did not voluntarily approve or vote. If a member of the Coalition does not vote in favor of a particular budget or a specific obligation, that party is not obligated to make any contribution toward the budget for those items.

- C. The Coalition shall provide for and be responsible for any debts incurred, or capital improvements, with no recourse to the respective parties to this Agreement. If the Coalition determines that funds are available, it may repay any advances made by the parties on an equitable pro rata basis.
  - D. The parties agree that they shall not be obligated or incur any liability for payment of deficits incurred by the Coalition.
  - E. Provisions for accepting and assessing new members shall be determined by the Board.
  - F. At an appropriate time, the Board of Directors shall select one of the members of the Coalition to serve as fiscal agent.
8. REPORTS: The Coalition shall make an annual written report of its activities to the respective parties signatory to this Agreement.
9. STATUTORY AUTHORITY, CONSTRUCTION AND COMPLIANCE: The South-Central New Mexico Stormwater Management Coalition is authorized under this Agreement pursuant to the Joint Powers Agreement Act, N.M.S.A. 1978, § 11-1-1 et seq. This Agreement is governed by and shall be construed in accordance with the laws of the State of New Mexico.
10. TERM OF THE AGREEMENT, AMENDMENT, TERMINATION OR WITHDRAWAL: The term of this Agreement shall be indefinite. This Agreement may be amended or revised, cancelled or terminated, by a majority vote of the Coalition Board of Directors subject to DFA approval. Any party may unilaterally withdraw from the Agreement after giving sixty days written notice of the decision to withdraw. Any withdrawal or termination of the Agreement by a party shall not affect the obligations, financial or otherwise, previously incurred by such party pursuant hereto.
11. LIABILITY/NEW MEXICO TORT CLAIMS ACT: No party shall be responsible for liability incurred as a result of another party's acts or omissions in connection with this JPA. Any liability incurred in connection with this JPA is subject to the immunities and limitations of the New Mexico Tort Claims Act (NMSA 1978 Section 41-4-1 et seq.) and any amendments thereto.

12. CONTRACTUAL AND RELATED LIABILITIES: In regard to contractual and other liabilities that do not relate to negligence, each party shall be liable for its own acts or omissions in accordance with this JPA, except as otherwise provided herein. No party has the authority to bind another party to any contract or other obligation.
  
13. EMPLOYMENT STATUS: This JPA in no way alters the employment status of employees of any party and a party's employees shall remain under the supervision of that entity, which will cover all employee benefits including, but not limited to, wages, fringe benefits, and workers' compensation coverage associated with their employment.
  
14. PROPERTY: The parties to this Agreement do not intend to acquire any jointly owned property, as each project the Coalition engages in will be owned and operated by a member. However, if any jointly owned property is acquired, the Coalition will provide for an appropriate disposition or distribution of all such property prior to termination of this Agreement.
  
15. COUNTERPARTS: This Agreement may be signed in multiple original counterparts which, when taken collectively, shall constitute one and the same instrument.
  
16. EFFECTIVE DATE: This Agreement shall become effective upon execution of this Agreement by all parties and approval by the Department of Finance and Administration of the State of New Mexico.

ELEPHANT BUTTE IRRIGATION DISTRICT

By: \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
(Title)