

**RECORDING REQUESTED BY:  
WHEN RECORDED MAIL TO:**

**Mountains Recreation and  
Conservation Authority  
570 West Avenue 26, Suite 100  
Los Angeles, CA 90065**

**DOCUMENT ENTITLED TO FREE RECORDATION  
PURSUANT TO GOVERNMENT CODE SECTION 6103**

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**OPEN SPACE EASEMENT AGREEMENT**

This Open Space Easement Agreement ("Agreement") is entered into on this 13<sup>th</sup> day of October, 2006, by and between CASTLE & COOKE MOUNTAINGATE, INC. a California corporation ("Grantor"), and the MOUNTAINS RECREATION AND CONSERVATION AUTHORITY, a public entity established by joint exercise of powers agreement between the Santa Monica Mountains Conservancy and the Conejo Recreation and Park District and the Rancho Simi Recreation and Park District ("Grantee").

**RECITALS**

WHEREAS, Grantor is the owner of that certain real property situated in the City of Los Angeles, County of Los Angeles, State of California, more particularly described on Exhibit "A" attached hereto and depicted on Exhibit "B" attached hereto (the "Open Space Area"); and

WHEREAS, Grantor and Grantee desires to ensure that the Open Space Area remains as open space area to benefit the general public by protecting the natural environment from development, subject to the terms, conditions and exceptions set forth in this Agreement.

**AGREEMENT**

NOW THEREFORE, in exchange of the mutual covenants herein contained, Grantor and Grantee agree as follows:

1. Grant of Easement. Grantor hereby agrees that the Open Space Area shall, except as set forth in Section 2 below, remain as open space, meaning that Grantor shall not, except as set forth in Section 2 below, improve the Open Space Area with above-ground improvements such as dwellings, buildings, golf courses, tennis courts or other

recreational facilities, and shall not develop or use the Open Space Area for agricultural purposes, including but not limited to the use of such land for vineyards, or grazing. Grantor hereby grants to Grantee an easement in, on, over and across the Open Space Area to prevent any activity or use of the Open Space Area in violation of the provisions of this Section 1, and to otherwise enforce the provisions of this Agreement.

2. Permitted Uses of Open Space Area. Notwithstanding any provision in this Agreement to the contrary, Grantor reserves the unrestricted right to operate, maintain, improve, repair, restore, remediate, manage and control, to the extent deemed necessary or desirable in the sole discretion of Grantor ("Landfill Operations") the closed landfill located on Lot 32 of the Open Space Area (the "Landfill") and/or any portions of the Open Space Area affected by said Landfill. Without limiting the generality of the foregoing, Grantor reserves the unrestricted right, (i) to conduct Landfill Operations in connection with the collection, transportation, storage, sale, transfer, disposal and discharge of methane gas and other byproducts of the Landfill, (ii) to conduct excavation, filling, compaction, grading, and other earthwork relating to the Landfill or Landfill Operations, and (iii) to construct such improvements on the Open Space Area as may be deemed necessary or desirable in the sole discretion of Grantor for the Landfill or Landfill Operations. In addition, Grantor reserves the right, but does not assume the obligation, to conduct such activities on, use and/or improve the Open Space Area or any portions thereof as may be deemed necessary or desirable in the sole discretion of Grantor to prevent or address any nuisance or adverse condition occurring in, on or about the Open Space Area or Grantor's adjacent lands. In addition, Grantor reserves the right to conduct brush clearing and fuel modification activities, and to irrigate the Open Space Area, subject to the following limitations: (i) such activities shall be unrestricted as to Lot 32 of the Open Space Area and/or within any portions of Lots 30 and/or 31 of the Open Space Area which are graded or improved by Grantor in the course of developing Grantor's Mountaingate development project, including the mitigation planting areas outside the areas defined below as the Disturbance Area and Non-Disturbance Area (collectively, the "Unrestricted Areas"), (ii) as to the portions of Lots 30 and 31 of the Open Space Area other than the Unrestricted Areas which lie within a distance equal to three hundred (300) feet from a residential lot boundary or three hundred fifty (350) feet from a residential dwelling, whichever is greater (the "Disturbance Area"), brush clearing and fuel modification activities may be conducted, and Grantor may irrigate such Disturbance Area only to the extent necessary or reasonably desirable to protect against hillside instability or slope failure, as determined by Grantor with the advice and consent of Grantee, its successors or assigns, and its geologist (provided, that in no event shall irrigation improvements have sprayheads with more than a three (3) foot throw of water), and Grantor may install hardscaping, and landscaping with planting of non-cultivar plants native to the eastern Santa Monica mountains (as specified on the approved lists published at any time by the Santa Monica Chapter of the California Native Plant Society or the *Flora of the Santa Monica Mountains*, by Prigge and Raven), and with cut material having stems greater than one (1) inch in diameter not to be thrown within the portions of Lots 30 and 31 which lie beyond the Disturbance Area (the "Nondisturbance Area"), and (iii) as to the said Nondisturbance Area, no brush clearing or fuel modification activities shall be conducted, except that Grantor shall have the right to plant non-cultivar, native

(as specified hereinabove) plants within such areas, and to irrigate such areas only to the extent necessary or reasonably desirable to protect against hillside instability or slope failure, as determined by Grantor with the advice and consent of Grantee, its successors or assigns, and its geologist, but only with temporary, above-ground, drip irrigation facilities. In conducting such brush clearing and fuel modification activities within the Disturbance Area and/or the Nondisturbance Area, Grantor shall take into consideration the adoption of erosion control measures, site steepness and geologic conditions (for example, plant roots should not be removed in the course of such activities). Grantor reserves the unrestricted right to construct, maintain, repair and replace roadways, utilities and similar facilities in, on, over and across the Unrestricted Areas and maintain, repair and replace roadways, utilities and similar facilities in, on, over and across the Disturbance Area. Grantor shall not have the right to construct roadways, utilities or similar facilities in, on, over or across the Disturbance Area or the Non-Disturbance Area, except as specifically required for the development of Grantor's Mountaingate development project. In addition, Grantor reserves the right to at any time and from time to time hereafter, install segments of fencing and gates along the linear boundaries of the Trail Areas defined in those certain Trail Easement Agreements recorded of even date herewith which (i) lie within Lot 32 of the Open Space Area or within or on the boundary line of any of the residential lots in Tract 53072, (ii) lie within any other graded or improved portions of Tract 53072, so long as such fenced segments are located at least two hundred (200) feet from said Trail Areas, and do not exceed four hundred (400) feet in length, and (iii) lie within any non-graded or unimproved portions of Tract 53072, so long as such fenced segments are located at least fifty (50) feet from the Trail Areas and do not exceed two hundred (200) feet in length. Grantor shall implement competent practices for erosion control, drainage protection and stabilization, and shall consider the steepness of terrain and weathered nature of the materials overlying the Santa Monica Slate bedrock in the design and construction of the aforementioned fencing, and shall design and construct such fencing so as to avoid impacts to any special-status plant and wildlife species, such as black walnut trees and native bird nests. Notwithstanding the foregoing, Grantor shall have the right to install segments of fencing and/or gates closer to the Trail Areas and/or in greater lengths than stated in this Section 2 by mutual written agreement between Grantor and Grantee, to the extent necessary or desirable in the opinion of both parties to prohibit or restrict access between the Trails and Grantor's adjacent lands. In doing any of the above, however, Grantor shall not interfere with public recreational use of the Trail Area pursuant to those certain Trail Easement Agreements granted by Grantor dated and recorded of even date herewith.

3. Right of Access. Grantee shall have the right, from time to time, following the giving of at least one week's written notice to Grantor, to enter upon and inspect the Open Space Area in order to ensure compliance with the provisions of this Agreement. Grantee shall indemnify, defend and hold harmless Grantor for, from and against, and in connection with, any and all claims, losses and/or liabilities (including reasonable attorneys' fees and court costs) arising from or in connection with Grantee's entry on and/or inspection of the Open Space Area, excepting only claims, losses and/or liabilities arising from, from, against or in connection with the sole acts or omissions of

Grantor. Grantee shall have no right of access to, on, over or across the Open Space Area by virtue of this Agreement, except as expressly stated in this Section 3.

4. No Affirmative Obligations. Grantor shall have no obligation by virtue of this Agreement to take any affirmative action to preserve, conserve, protect or otherwise keep or maintain any aspect of the Open Space Area. Without limiting the generality of the foregoing, Grantor shall have no obligation to preserve, conserve, protect, keep or maintain any geological feature, plant life, animal life or habitat in, on or about the Open Space Area. Except as expressly written to the contrary in this Agreement, Grantor shall have no obligation by virtue of this Agreement to refrain from taking any action or conducting any activity with respect to the Open Space Area.

5. Character of Easement. The easement granted in this Agreement is in gross.

6. Term. The easement granted in this Agreement is perpetual.

7. Non-Exclusive Easement. The easement contemplated in this Agreement shall be non-exclusive. Grantor reserves and retains the right to use and permit others to use the Open Space Area, provided that nothing in this Section 7 shall be construed to limit the rights granted to Grantee in Section 1 above. The rights granted in this Agreement are and shall be subject to any preexisting easements, licenses, exceptions, reservations and other rights granted by prior recorded documents.

8. Binding Effect and Inurement. The rights and obligations under this Agreement shall "run with the land" as to the Open Space Area, and shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of Grantor and Grantee. In the event the Grantee named in this Agreement shall hereafter cease to exist without a successor or assign, then all rights and obligations of Grantee under this Agreement shall inure to and be binding upon, upon the recordation of an instrument accepting such rights and obligations, by the Santa Monica Mountains Conservancy, or in the event the Santa Monica Mountains Conservancy has by then ceased to exist without a successor or assign to the California State Parks Department, or in the event the California State Parks Department has by then ceased to exist without a successor or assign to the City of Los Angeles, City Parks and Recreation Department.

9. Amendment. This Agreement shall not be amended except by a written agreement signed by Grantor and Grantee and recorded in the Official Records of Los Angeles County.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement on the date first written above.

**GRANTOR: CASTLE & COOKE  
MOUNTAINGATE, INC., a California  
corporation**

By: Bruce Freeman  
Name: Bruce Freeman  
Title: President

By: Laura Whitaker  
Name: Laura Whitaker  
Title: Vice President

**GRANTEE: MOUNTAINS RECREATION  
AND CONSERVATION AUTHORITY, a  
public entity established by joint exercise of  
powers agreement between SMMC and the  
Conejo Recreation and Park District and the  
Rancho Simi recreation and Park District**

By: Rorie A. Skei  
Name: RORIE A. SKEI  
Title: Chief Deputy Executive Officer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF Keen )

On Sept 8, 2006, before me, Carol A. Stringer, Notary Public, personally appeared Bruce Freeman, and Laura Whitaker, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Carol A. Stringer  
Signature



STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF Los Angeles )

On October 13, 2006, before me, Shannon Murray, Notary Public, personally appeared Kerie Stei, and \_\_\_\_\_, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(~~ies~~), and that by ~~his/her/their~~ signatures on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Shannon Murray  
Signature

