

EXHIBIT H

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF _____ TO ESTABLISH PROCEDURES AND REQUIREMENTS FOR IMPLEMENTATION OF THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN

THE CITY COUNCIL OF THE CITY OF _____ DOES HEREBY RESOLVE AS FOLLOWS:

SECTION I. TITLE

This Resolution shall be known as the " Western Riverside County Multiple Species Habitat Conservation Plan Implementation Policy."

SECTION II. FINDINGS AND PURPOSE

- A.** The City Council finds that the ecosystems of the City of _____ ("City") and/or western Riverside County and the vegetation communities and sensitive species they support are fragile, irreplaceable resources that are vital to the general welfare of all residents; these vegetation communities and natural areas contain habitat value which contributes to the region's environmental resources; and special protections for these vegetation communities and natural areas must be established to prevent future endangerment of the plant and animal species that are dependent upon them. This Resolution will protect the City's and the region's biological resources, vegetation communities, and natural areas, and prevent their degradation and loss by guiding development outside of biological resource core areas, and by establishing mitigation standards which will be applied to development projects. Adoption and implementation of this Resolution will enable the City to achieve the conservation goals set forth in the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP"), to implement the associated Implementing Agreement executed by the City Council on _____, 2003, and to preserve the ability of affected property owners to make reasonable use of their land consistent with the requirements of the National Environmental Policy Act ("NEPA"), the California Environmental Quality Act ("CEQA"), the Federal Endangered Species Act ("FESA"), the California Endangered Species Act ("CESA"), the California Natural Community Conservation Planning Act ("NCCP Act"), and other applicable laws.

- B.** The purpose and intent of this Resolution is to maintain and restore biological diversity and the natural ecosystem processes which support this diversity, to protect vegetation communities and natural areas within the City and/or western Riverside County which support species covered under the MSHCP; to maintain a future of economic development within the City by providing a streamlined regulatory process from which development can proceed in an orderly process; and to protect the existing character of the City and the region through the implementation of a system of reserves which will provide for permanent open space, community edges, and habitat conservation for species covered by the MSHCP.

SECTION III. APPLICATION OF REGULATIONS

Except as provided in Section IV, this Resolution shall apply to all land within the City shown on the MSHCP Plan Map, attached as Exhibit "1." Upon application to the City for a development project, an applicant shall be required to comply with the procedures set forth in this Resolution. Upon the City's initiation of a project that is subject to CEQA, the City shall be required to comply with the procedures set forth in this Resolution. No project requiring a discretionary, or certain ministerial permits or approvals that could have adverse impacts to species covered under the MSHCP shall be approved by the City, and no City-initiated public project shall be undertaken, unless the project is consistent with the MSHCP and this Resolution.

SECTION IV. EXEMPTIONS

This Resolution shall not apply to the following:

- A.** The adoption or amendment of the City's General Plan.
- B.** The adoption or amendment of any land use or zoning ordinance.
- C.** Any project for which and to the extent that a vesting tentative map pursuant to the Subdivision Map Act, or a development agreement pursuant to Government Code sections 65864 et seq., approved or executed prior to adoption of this Resolution, confers vested rights under the City's ordinances or state law to proceed with the project notwithstanding the enactment of this Resolution. Projects subject to this exemption must comply with all provisions of any applicable state and federal law.
- D.** Any project for which the City Council determines that application of this Resolution would result in the property owner being deprived of all reasonable economic use of the property in violation of federal or state constitutional prohibitions against the taking of property without just compensation.

SECTION V. PROCEDURES

- A.** The City shall implement the requirements for private and public project contributions to the MSHCP Conservation Area as set forth in MSHCP, by electing to comply with one of the following:
- 1.** The City shall implement the Property Owner Initiated Habitat Evaluation and Acquisition Negotiation Process ("HANS"); or
 - 2.** Upon receipt of a completed application for a project that is subject to this Resolution, or prior to the City's initiation of a project, the City shall determine whether all or a portion of the real property for the project is located within the boundaries of the Criteria Area. If the City determines that all or a portion of the real property for the project is located within the Criteria Area, then the City shall perform the following:
 - a.** Determine the design criteria applicable to the project based on the particular USGS section, quadrant, and/or cell grouping in which the project property is located, as set forth in Section 3.2 of the MSHCP; and
 - b.** Impose as a condition to the City's approval of the project such conditions as are necessary to ensure the project complies with and implements the design criteria applicable to the project.
- B.** The City shall implement the requirements for the Protection of Riparian/Riverine Areas and Vernal Pools set forth in Section 6.1.2 of the MSHCP in the following manner:
- 1.** As part of the CEQA review of the project, the property owner shall comply, or the City shall comply if the project is City-initiated, with the surveying, mapping, and documentation procedures set forth in Section 6.1.2 of the MSHCP for Riparian/Riverine Areas and Vernal Pools on the project property; and
 - 2.** Based on the documentation prepared for the project, the City shall impose as a condition to the City's approval of the project such conditions as are necessary to ensure the project complies with and implements the policies for the Protection of Riparian/Riverine Areas and Vernal Pools set forth in Section 6.1.2 of the MSHCP.
- C.** The City shall implement the requirements for the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3 of the MSHCP in the following manner:

1. As part of the CEQA review of the project, the property owner shall comply, or the City shall comply if the project is City-initiated, with the site-specific focused survey procedures set forth in Section 6.1.3 of the MSHCP; and
 2. Based on the site-specific focused surveys prepared for the project, the City shall impose as a condition to the City's approval of the project such conditions as are necessary to ensure the project complies with and implements the Narrow Endemic Plant Species policies set forth in Section 6.1.3 of the MSHCP.
- D.** The City shall impose as a condition to the City's approval of a project such conditions as are necessary to ensure the project complies with and implements the Urban/Wildlands Interface Guidelines set forth in Section 6.1.4 of the MSHCP.
- E.** The City shall impose as a condition to the City's approval of a project such conditions as are necessary to ensure surveys are prepared for the project as required by Section 6.3.2 of the MSHCP.
- F.** Pursuant to Section V of this Resolution and the MSHCP, the City may transfer any property interest acquired or obtained in fee title or as a conservation easement to the Western Riverside County Regional Conservation Authority for management. The City may also grant a conservation easement to the California Department of Fish and Game for any property interest obtained pursuant to Section V of this Resolution. A Sample conservation easement is attached as Exhibit "2."

SECTION VI. DEFINITIONS

For purposes of this Resolution, the following terms shall have the meaning set forth herein:

- A.** "Area Plan" means the sixteen areas designated for purposes of providing an organizational framework for the Criteria Area, and for purposes of developing specific design criteria that will be utilized in assembling land within the Criteria Area that will become a part of the MSHCP Conservation Area.
- B.** "Criteria Area" means the general area designated and denoted on the MSHCP Plan Map as the "Criteria Area," comprised of approximately 310,000 acres from which new habitat conservation within the MSHCP Conservation Area will be assembled.
- C.** "MSHCP" means the Western Riverside County Multiple Species Habitat Conservation Plan.
- D.** "MSHCP Plan Map" means the map of the area encompassed by the MSHCP as set forth in the attached Exhibit "1."

- E.** "Project" means any action or activity that is subject to the City's ministerial or discretionary approval, or any action or activity undertaken directly by the City, for the purpose of developing or improving real property, including, but not limited to, the following: the sale, purchase, or lease of City-owned property; the approval of a tentative subdivision map; the issuance of a license, permit, certificate, variance, or other entitlement for the development or improvement of real property, including the clearing or grading of real property (except for weed or fire hazard abatement); and the construction or improvement of streets, water, sewer, or other public facilities or public works.

SECTION VII. EFFECTIVE DATE

The Mayor shall sign this Resolution and the City Clerk shall attest thereto, and thereupon and thereafter this Resolution shall take effect and be in force according to law.

PASSED, APPROVED, AND ADOPTED, this ____ day of _____, 2003.

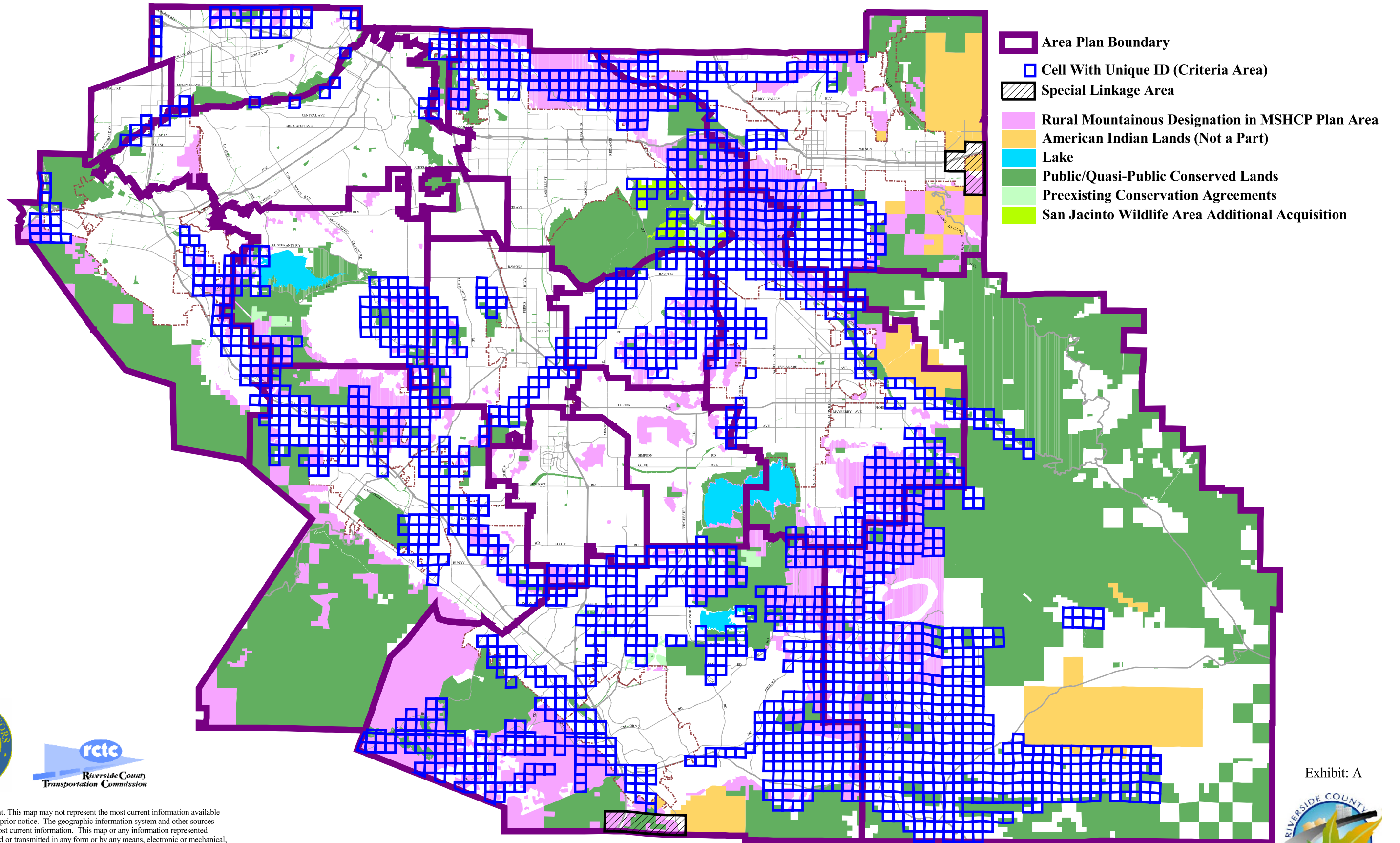
Mayor

ATTEST:

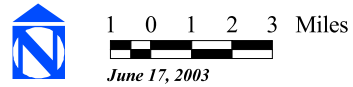
City Clerk

**EXHIBIT "1" IS THE MSHCP PLAN MAP WHICH IS EXHIBIT "A" TO THE
IMPLEMENTING AGREEMENT**

EXHIBIT "2" IS THE MODEL CONSERVATION EASEMENT



This map is a draft document. This map may not represent the most current information available and may be revised without prior notice. The geographic information system and other sources should be queried for the most current information. This map or any information represented on it, shall not be reproduced or transmitted in any form or by any means, electronic or mechanical, including photo copying and recording.



603: Created by: MAC, Dudek, fig3-1_mshcpplan.apr

Exhibit: A



MSHCP Plan Map

**EXHIBIT 2 TO MODEL CITY RESOLUTION AND MODEL CITY ORDINANCE
ADOPTING MSHCP**

MODEL CONSERVATION EASEMENT

RECORDING REQUESTED BY AND)
WHEN RECORDED MAIL TO:)
)
State of California)
Wildlife Conservation Board)
1807 13th Street, Suite 103)
Sacramento, CA 95814)
)

Space Above Line for Recorder's Use Only

CONSERVATION EASEMENT DEED

THIS CONSERVATION EASEMENT DEED is made this ____ day of _____, 20____, by _____ ("Grantor"), in favor of THE STATE OF CALIFORNIA ("Grantee"), acting by and through its Department of Fish and Game, a subdivision of the California Resources Agency, with reference to the following facts:

R E C I T A L S

A. Grantor is the sole owner in fee simple of certain real property in the County of Riverside, State of California, designated Assessor's Parcel Number _____ and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property");

B. The Property possesses wildlife and habitat values (collectively, "conservation values") of great importance to Grantee, the people of the State of California and the people of the United States;

C. The Property provides high quality habitat for [*list plant and/or animal species*] and contains [*list habitats; native and/or non-native*];

D. The Department of Fish and Game ("DFG") has jurisdiction, pursuant to California Fish and Game Code section 1802, over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary for biologically sustainable populations of those species, and the Department of Fish and Game is authorized to hold easements for these purposes pursuant to Civil Code section 815.3, Fish and Game Code section 1348, and other provisions of California law;

E. The United States Fish & Wildlife Service ("USFWS") has jurisdiction over the conservation, protection, restoration, enhancement, and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species to the extent set forth in the Federal Endangered Species Act, 16 U.S.C. §§ 1531, *et seq.* ("FESA"), and other federal laws; and

F. This Conservation Easement provides mitigation for certain impacts of [*describe project*] located in the City of [], County of Riverside, State of California, pursuant to [*California Natural Community Conservation Planning Act Permit*] dated [] ("NCCP Permit"), Permit # _____ dated [], issued by USFWS pursuant to Section 10(a) of the FESA ("Section 10(a) Permit"), and the corresponding Implementing Agreement and Western Riverside County Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan ("MSHCP") dated []. The Section 10(a) Permit, the NCCP Permit, the Implementing Agreement, and the MSHCP are all incorporated herein by this reference. Information regarding these documents may be obtained from the USFWS and the DFG, for each respective permit, and from [RCA?] regarding the Implementing Agreement and the MSHCP. Contact information for USFWS and DFG is provided in the notice provision in Section 13 of this Conservation Easement. The RCA may be contacted at [address].

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to California law, including Civil Code sections 815, *et seq.*, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property.

1. Purpose. The purpose of this Conservation Easement is to ensure the Property will be retained forever in a natural condition and to prevent any use of the Property that will impair or interfere with the conservation values of the Property. Grantor intends that this Conservation Easement will confine the use of the Property to such activities, including, without limitation, those involving the preservation and enhancement of native species and their habitat in a manner consistent with the habitat conservation purposes of this Conservation Easement.

2. Grantee's Rights. To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee, and to USFWS as a third party beneficiary hereof, or their designee:

(a) To preserve and protect the conservation values of the Property;

(b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and to otherwise enforce the terms of this Conservation Easement, and for scientific research and interpretive purposes by Grantee or its designees, provided that Grantee shall not unreasonably interfere with Grantor's authorized use and quiet enjoyment of the Property;

(c) To enter upon the Property at reasonable times to carry out management and monitoring consistent with the conservation goals, monitoring program, and management plans for the MSHCP;

(d) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act, failure to act, or any use that is inconsistent with the purposes of this Conservation Easement;

(e) All mineral, air and water rights necessary to protect and to sustain the biological resources of the Property; and

(f) All present and future development rights.

3. Prohibited Uses. Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following uses by Grantor, Grantor's agents, and third parties, are expressly prohibited:

(a) Unseasonal watering; use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals; weed abatement activities; incompatible fire protection activities; and any and all other activities and uses which may adversely affect the purposes of this Conservation Easement;

(b) Use of off-road vehicles and use of any other motorized vehicles except on existing roadways;

(c) Grazing or other agricultural activity of any kind;

(d) Recreational activities including, but not limited to, horseback riding, biking, hunting or fishing, except as may be specifically permitted under this Conservation Easement;

(e) Commercial or industrial uses;

(f) Any legal or de facto division, subdivision or partitioning of the Property;

(g) Construction, reconstruction or placement of any building, billboard or sign, or any other structure or improvement of any kind;

(h) Depositing or accumulation of soil, trash, ashes, refuse, waste, biosolids or any other materials;

(i) Planting, introduction or dispersal of non-native or exotic plant or animal species;

(j) Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extraction of minerals, loam, soil, sands, gravel, rocks or other material on or below the surface of the Property;

(k) Altering the surface or general topography of the Property, including building of roads;

(l) Removing, destroying, or cutting of trees, shrubs or other vegetation, except as required by law for: fire breaks; maintenance of existing foot trails or roads; prevention or treatment of disease; or control of non-native or exotic plants; and

(m) Manipulating, impounding or altering any natural water course, body of water or water circulation on the Property, and activities or uses detrimental to water quality, including but not limited to, degradation or pollution of any surface or subsurface waters.

4. Grantor's Duties. Grantor shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the conservation values of the Property. In addition, Grantor shall undertake all necessary actions to perfect Grantee's rights under Section 2 of this Conservation Easement, including but not limited to, Grantee's water rights.

5. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in or to permit or invite others to engage in all uses of the Property that are consistent with the purposes of this Conservation Easement.

6. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Conservation Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand in writing the cure of such violation. If Grantor fails to cure the violation within fifteen (15) days after receipt of written notice and demand from Grantee, or if the cure reasonably requires more than fifteen (15) days to complete and Grantor fails to begin the cure within the 15-day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce compliance by Grantor with the terms of this Conservation Easement, to recover any damages to which Grantee may be entitled for violation by Grantor of the terms of this Conservation Easement or for any injury to the conservation values of the Property, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed prior to any such violation or injury. Prior to implementation of any remedial or restorative actions, Grantor shall consult with the USFWS and DFG. Without limiting Grantor's liability therefor, Grantee may apply any damages recovered to the cost of undertaking any corrective action on the Property.

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the conservation values of the Property, Grantee may pursue its remedies under this Section 6 without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this section apply equally to actual or threatened violations of the terms of this Conservation Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in Civil Code sections 815, et seq., inclusive. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from taking such action at a later time.

If at any time in the future Grantor, Grantee, or any successor in interest uses or threatens to use the Property for purposes inconsistent with this Conservation Easement, or Grantee or any successor in interest releases or abandons this Conservation Easement in whole or in part, then, notwithstanding Civil Code section 815.7, the California Attorney General, USFWS, or any entity or individual with a justiciable interest in the preservation of this Conservation Easement has standing as interested parties in any proceeding affecting this Conservation Easement.

6.1. Costs of Enforcement. Any costs incurred by Grantee, where Grantee is the prevailing party, in enforcing the terms of this Conservation Easement against Grantor, including, but not limited to, costs of suit and attorneys' and experts' fees, and any costs of restoration necessitated by Grantor's negligence or breach of this Conservation Easement shall be borne by Grantor.

6.2. Grantee's Discretion. Enforcement of the terms of this Conservation Easement by Grantee shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

6.3. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from: (a) any natural cause beyond Grantor's control, including, without limitation, fire not caused by Grantor, flood, storm, and earth movement, or any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes; or (b) acts by Grantee or its employees.

6.4. Department of Fish and Game and USFWS Right of Enforcement. All rights and remedies conveyed to Grantee under this Conservation Easement Deed shall extend to and are enforceable by the Department of Fish and Game and USFWS. These rights are in addition to, and do not limit, the rights of enforcement under [*insert title of permits/Agreement described in Recital F, above*].

7. Fence Installation and Maintenance. Grantor shall install and maintain a fence reasonably satisfactory to Grantee and USFWS around the Conservation Easement area to protect the conservation values of the Property, including but not limited to wildlife corridors.

8. Access. This Conservation Easement does not convey a general right of access to the public.

9. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property. Grantor agrees that Grantee shall have no duty or responsibility for the operation or maintenance of the Property, the monitoring of hazardous conditions thereon, or the protection of Grantor, the public or any third parties from risks relating to conditions on the Property. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any activity or use permitted by this Conservation Easement Deed, and any activity or use shall be undertaken in accordance with all applicable federal, state, local and administrative agency statutes, ordinances, rules, regulations, orders and requirements.

9.1. Taxes; No Liens. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantor shall keep Grantee's interest in the Property free from any liens, including those arising out of any obligations incurred by Grantor or any labor or materials furnished or alleged to have been furnished to or for Grantor at or for use on the Property.

9.2. Hold Harmless. Grantor shall hold harmless, protect and indemnify Grantee and its directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each an "Indemnified Party" and, collectively, "Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "Claim" and, collectively, "Claims"), arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of Grantee or any of its employees; (b) the obligations specified in Sections 4, 9, and 9.1; and (c) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably

acceptable to the Indemnified Party or reimburse Grantee for all charges incurred for services of the Attorney General in defending the action or proceeding.

9.3. Condemnation. The purposes of the Conservation Easement are presumed to be the best and most necessary public use as defined at Code of Civil Procedure section 1240.680 notwithstanding Code of Civil Procedure sections 1240.690 and 1240.700.

10. Assignment. This Conservation Easement is transferable, but Grantee or any successor in interest shall give Grantor, USFWS, and DFG, if applicable, at least thirty (30) days prior written notice of the transfer. Grantee or any successor in interest may assign its rights and obligations under this Conservation Easement only in a form reasonably approved in writing by both DFG and USFWS in favor of an entity or organization authorized to acquire and hold conservation easements pursuant to Civil Code section 815.3. Grantee or any successor in interest shall require the assignee to agree in writing that the conservation purposes that this grant is intended to advance shall continue to be fulfilled by such assignee in accordance with the NCCP Permit and the Section 10(a) Permit and shall require the assignee to record the assignment in the county where the Property is located.

11. Release or Abandonment. Grantee or any successor in interest shall not release, modify, relinquish or abandon its rights and obligations under this Conservation Easement without the prior written consent of USFWS and DFG.

12. Subsequent Transfers. Grantor agrees to incorporate the terms of this Conservation Easement in any deed or other legal instrument by which Grantor divests itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee and USFWS of the intent to transfer any interest at least thirty (30) days prior to the date of such transfer. Grantee shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Grantor or Grantee to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

13. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and be served personally or sent by recognized overnight courier that guarantees next-day delivery or by first class mail, postage fully prepaid, addressed as follows:

To Grantor:

To Grantee: Department of Fish and Game
Region __
[Region's address]
Attn: Regional Manager

With a copy to: Department of Fish and Game
Office of the General Counsel
1416 Ninth Street, 12th Floor
Sacramento, California 95814-2090
Attn: General Counsel

To USFWS: U.S. Fish and Wildlife Office
Attn: Field Supervisor
2730 Loker Avenue West
Carlsbad, CA 92008

or to such other address as either party shall designate by written notice to the other. Notice shall be deemed effective upon delivery in the case of personal delivery or delivery by overnight courier or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

14. Amendment. This Conservation Easement may be amended by Grantor and Grantee only by mutual written agreement. Any such amendment shall be consistent with the purposes of this Conservation Easement and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of Riverside County, State of California.

15. General Provisions.

(a) Controlling Law. The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California, disregarding the conflicts of law principles of such state.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed to effect the purposes of this Conservation Easement and the policy and purpose of Civil Code sections 815, et seq. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability. If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement Deed, such action shall not affect the remainder of this Conservation Easement Deed. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement Deed to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 13.

(e) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

(f) Successors. The covenants, terms, conditions, and restrictions of this Conservation Easement Deed shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall constitute a servitude running in perpetuity with the Property.

(g) Termination of Rights and Obligations. A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

(h) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon its construction or interpretation.

(i) No Hazardous Materials Liability. Grantor represents and warrants that it has no knowledge of any release or threatened release of Hazardous Materials (defined below) in, on, under, about or affecting the Property. Without limiting the obligations of Grantor under Section 9.2, Grantor agrees to indemnify, protect and hold harmless the Indemnified Parties (defined in Section 9.2) against any and all Claims (defined in Section 9.2) arising from or connected with any Hazardous Materials present, alleged to be present, or otherwise associated with the Property at any time, except any Hazardous Materials placed, disposed or released by Grantee, its employees or agents. If any action or proceeding is brought against any of the Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Indemnified Party or reimburse Grantee for all charges incurred for services of the Attorney General in defending the action or proceeding.

Despite any contrary provision of this Conservation Easement Deed, the parties do not intend this Conservation Easement to be, and this Conservation Easement shall not be, construed such that it creates in or gives to Grantee any of the following:

(1) The obligations or liabilities of an "owner" or "operator," as those terms are defined and used in Environmental Laws (defined below), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. sections 9601 et seq.; hereinafter, "CERCLA"); or

(2) The obligations or liabilities of a person described in 42 U.S.C. section 9607(a)(3) or (4); or

(3) The obligations of a responsible person under any applicable Environmental Laws; or

(4) The right to investigate and remediate any Hazardous Materials associated with the Property; or

(5) Any control over Grantor's ability to investigate, remove, remediate or otherwise clean up any Hazardous Materials associated with the Property.

The term "Hazardous Materials" includes, without limitation, (a) material that is flammable, explosive or radioactive; (b) petroleum products, including by-products and fractions thereof; and (c) hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in CERCLA, the Hazardous Materials Transportation Act (49 U.S.C. sections 6901 et seq.); the Hazardous Waste Control Law (California Health & Safety Code sections 25100 et seq.); the Hazardous Substance Account Act (California Health & Safety Code Section 25300 et seq.), and in the regulations adopted and publications promulgated pursuant to them, or any other applicable federal, state or local laws, ordinances, rules, regulations or orders now in effect or enacted after the date of this Conservation Easement Deed.

The term "Environmental Laws" includes, without limitation, any federal, state, local or administrative agency statute, ordinance, rule, regulation, order or requirement relating to pollution, protection of human health or safety, the environment or Hazardous Materials. Grantor represents, warrants and covenants to Grantee that Grantor's activities upon and use of the Property will comply with all Environmental Laws.

(j) Warranty. Grantor represents and warrants that there are no outstanding mortgages, liens, encumbrances or other interests in the Property which have not been expressly subordinated to this Conservation Easement Deed, and that the Property is not subject to any other conservation easement.

(k) Additional Easements. Grantor shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is subordinate to this Conservation Easement Deed), or grant or otherwise abandon or relinquish any water agreement relating to the Property, without first obtaining the written consent of Grantee. Grantee may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or will impair or interfere with the conservation values of the Property. This Section 14(k) shall not prohibit transfer of a fee or

leasehold interest in the Property that is subject to this Conservation Easement Deed and complies with Section 11.

(1) Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

IN WITNESS WHEREOF Grantor has executed this Conservation Easement Deed the day and year first above written.

GRANTOR:

Approved as to form:

BY: _____

General Counsel
State of California
Department of Fish and Game

NAME: _____

TITLE: _____

BY: _____

DATE: _____

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Conservation Easement Deed by _____, dated _____, to the State of California, grantee, acting by and through its Department of Fish and Game (the "Department"), a governmental agency (under Government Code section 27281), is hereby accepted by the undersigned officer on behalf of the Department, pursuant to authority conferred by resolution of the California Fish and Game Commission on _____.

GRANTEE:

STATE OF CALIFORNIA, by and through its
DEPARTMENT OF FISH AND GAME

By: _____

Title: _____
Authorized Representative

Date: _____