IMPLEMENTING AGREEMENT

for the

WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN

by and between

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY, COUNTY OF RIVERSIDE, RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, RIVERSIDE COUNTY REGIONAL PARKS AND OPEN SPACE DISTRICT, RIVERSIDE COUNTY WASTE MANAGEMENT DISTRICT , RIVERSIDE COUNTY TRANSPORTATION COMMISSION, CITY OF BANNING, CITY OF BEAUMONT, CITY OF CALIMESA, CITY OF CANYON LAKE, CITY OF CORONA, CITY OF HEMET, CITY OF LAKE ELSINORE, CITY OF MORENO VALLEY, CITY OF MURRIETA, CITY OF NORCO, CITY OF PERRIS, CITY OF RIVERSIDE, CITY OF SAN JACINTO, CITY OF TEMECULA, CALIFORNIA DEPARTMENT OF TRANSPORTATION, CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, UNITED STATES FISH AND WILDLIFE SERVICE AND CALIFORNIA DEPARTMENT OF FISH AND GAME

TABLE OF CONTENTS

PAGE

1.0 PARTIES 1

2.0 RECITALS 1

3.0 DEFINED TERMS 4
- 3.1 "Adaptive Management" 4
- 3.2 "Adaptive Management Program" 4
- 3.3 "Additional Reserve Lands" 4
- 3.4 "Agreement" 5
- 3.5 "Agricultural Operations" 5
- 3.6 "Allowable Uses" 5
- 3.7 "Annual Report(s)" 5
- 3.8 "Area Plans" 5
- 3.9 "Area Plan Subunit" 5
- 3.10 "Biologically Equivalent or Superior Determination" 5
- 3.11 "Biological Monitoring Program" 5
- 3.12 "Biological Monitoring Report(s)" 5
- 3.13 "CDFG" 5
- 3.14 "Caltrans" 6
- 3.15 "Cell" 6
- 3.16 "Cell Group" 6
- 3.17 "CEQA" 6
- 3.18 "CESA" 6
- 3.19 "CETAP" means 6
- 3.20 "Changed Circumstances" 6
- 3.21 "Cities" 6
- 3.22 "Conceptual Reserve Design" 6
- 3.23 "Conservation" 6
- 3.24 "Conservation Strategy" 7
- 3.25 "Conserved Habitat" 7
- 3.26 "Constrained Linkage" 7
- 3.27 "Cooperative Organizational Structure" 7
- 3.28 "Core Area" 7
- 3.29 "Corridor" 7
- 3.30 "County" 7
- 3.31 "County Flood Control" 7
- 3.32 "County Parks" 7
- 3.33 "County Waste" 7

TABLE OF CONTENTS
(continued)

PAGE

3.34 "Covered Activities" 7
3.35 "Covered Species" 8
3.36 "Covered Species Adequately Conserved" 8
3.37 "Criteria" 8
3.38 "Criteria Area" 8
3.39 "Criteria Refinement Process" 8
3.40 "Critical Habitat" 8
3.41 "Development" 8
3.42 "Discretionary Project" 8
3.43 "Edge Effects" 8
3.44 "Effective Date" 8
3.45 "Endangered Species" 8
3.46 "Environmental Laws" 9
3.47 "Executive Director" 9
3.48 "Existing Agricultural Operations" 9
3.49 "Existing Agricultural Operations Database" 9
3.50 "FESA" 9
3.51 "Feasible" means 9
3.52 "Funding Coordination Committee" 9
3.53 "Habitat" 9
3.54 "HabiTrak" 9
3.55 "Incidental Take" 9
3.56 "Independent Science Advisors" 9
3.57 "Linkage" 10
3.58 "Local Development Mitigation Fee" 10
3.59 "Local Permittees" 10
3.60 "Long-Term SKR HCP" 10
3.61 "Maintenance Activities" 10
3.62 "Major Amendments" 10
3.63 "Management Unit" 10
3.64 "MBTA" 10
3.65 "MBTA Special Purpose Permit" 10
3.66 "Ministerial Approvals" 10
3.67 "Minor Amendments" 10
3.68 "Mitigation Lands" 11
3.69 "Monitoring Program" 11
3.70 "Monitoring Program Administrator" 11
3.71 "MSHCP" 11

TABLE OF CONTENTS
(continued)

PAGE

3.72 "MSHCP Conservation Area" 11
3.73 "MSHCP Plan Area" 11
3.74 "NCCP Act" 11
3.75 "NCCP Permit" 11
3.76 "NEPA" 11
3.77 "Narrow Endemic Plant Species" 11
3.78 "New Agricultural Land" 11
3.79 "New Agricultural Lands Cap" 12
3.80 "Non-Contiguous Habitat Block" 12
3.81 "No Surprises Assurances " 12
3.82 "Other Species" 12
3.83 "Participating Special Entity" 12
3.84 "Party" and "Parties" 12
3.85 "Permits" 12
3.86 "Permittees" 12
3.87 "Plan Area" 12
3.88 "Plan Participants" 12
3.89 "Planning Species" 13
3.90 "Public/Quasi-Public Lands" 13
3.91 "RCIP" 13
3.92 "RCTC" 13
3.93 "Regional Conservation Authority" 13
3.94 "Reserve Assembly" 13
3.95 "Reserve Management Oversight Committee" 13
3.96 "Reserve Management Plan(s)" 13
3.97 "Reserve Managers" 13
3.98 "Rough Step" 13
3.99 "Rough Step Analysis Unit" 13
3.100 "Section 10(a) Permit" 14
3.101 "State Assurances" 14
3.102 "State Parks" 14
3.103 "State Permittees" 14
3.104 "Take" 14
3.105 "Take Authorization" 14
3.106 "Third Party Granted Take Authorization" 14
3.107 "Third Party Take Authorization" 14
3.108 "Threatened Species" 14
3.109 "Unforeseen Circumstances" 14

TABLE OF CONTENTS
(continued)

PAGE

3.110 "Unlisted Species" 15
3.111 "Urban/Wildlands Interface" 15
3.112 "USFWS" 15
3.113 "Wildlife Agencies" 15

4.0 PURPOSES 15

5.0 INCORPORATION OF THE MSHCP 16

6.0 CONSERVATION STRATEGY 16

7.0 MSHCP CONSERVATION AREA ASSEMBLY AND HABITAT ACQUISITION 17
7.1 Overview. 17
7.2 Contribution of Existing Public Lands. 17
7.3 Conservation of Privately Owned Lands - Local Obligation. 17
7.3.1 Property Owner Initiated Habitat Evaluation and Acquisition Negotiation Process. 18
7.3.2 Terms of the Process. 18
7.3.3 Conflict Resolution Process. 18
7.4 Conservation of Privately Owned Lands - State and Federal Obligations.19 . . . . .
7.5 Reserve Assembly Accounting. 19
7.6 In-Lieu Payments. 19

8.0 MSHCP CONSERVATION AREA MANAGEMENT REQUIREMENTS 21
8.1 Overview. 21
8.2 Management Activities. 21
8.3 Adaptive Management Program. 21

9.0 MSHCP CONSERVATION AREA MONITORING REQUIREMENTS 21
9.1 Monitoring Program. 21
9.2 Monitoring Program Administrator 21
9.3 Monitoring Reporting Requirements. 21

10.0 REPORTING REQUIREMENTS 22
10.1 Annual Reporting. 22

TABLE OF CONTENTS
(continued)

PAGE

11.0 MSHCP IMPLEMENTATION STRUCTURE 23
11.1 Permittee Implementation Mechanisms. 23
11.1.1 Cities 23
11.1.2 The County 24
11.1.3 County Flood Control. 24
11.1.4 County Parks. 24
11.1.5 County Waste 24
11.1.6 Regional Conservation Authority 24
11.1.7 Riverside County Transportation Commission. 25
11.1.8 Caltrans. 25
11.1.9 State Parks 25
11.2 Cooperative Organizational Structure 25
11.2.1 Overview. 25
11.2.2 Regional Conservation Authority. 25
A. Overview. 25
B. Board of Directors Composition. 25
C. Duties and Responsibilities. 26
11.2.3 Formation and Duties of Funding Coordination Committee. 26
11.2.4 Joint Project/Acquisition Review Process. 26
11.2.5 Regional Conservation Authority Executive Director. 26
A. Selection 26
B. Duties and Responsibilities 26
11.2.6 Reserve Management Oversight Committee. 27
A. Formation and Representation. 27
B. Duties and Responsibilities 27
11.2.7 Reserve Managers. 27
A. Selection 27
B. Duties and Responsibilities 27
11.2.8 Reserve Monitoring. 27
A. Selection 27
B. Duties and Responsibilities 27
11.2.9 Independent Science Advisors. 27
A. Selection 27
B. Duties and Responsibilities 28
11.3 MSHCP Coverage of Agricultural Activities. 28
11.3.1 Definition of Agricultural Operations. 28
11.3.2 Take Authorization for Existing Agricultural Operations. 28

TABLE OF CONTENTS
(continued)

PAGE

11.3.3 Verification of Existing Agricultural Operations. 29
11.3.4 Addition of Existing Agricultural Operations Database. 29
11.3.5 Expansion of Existing Agricultural Operations (Permit Required). 30
11.3.6 New Agricultural Lands. 31
11.3.7 Increase in New Agricultural Lands Cap. 33
11.4 Changed Circumstances. 34
11.4.1 General Terms. 34
11.4.2 Permittees-Initiated Response to Changed Circumstances. 34
11.4.3 Wildlife Agency-Initiated Response to Changed Circumstances.34 . . . . . .
11.4.4 Condemnation of Lands Providing Conservation Benefits. 34
11.4.5 New Listings of Species Not Covered by the MSHCP. 35
11.5 Annexation and Deannexation of Lands. 35
11.6 Incorporation of New Cities within MSHCP Boundaries. 36
11.7 Growth-Inducing Effects 36
11.8 Participating Special Entity. 36
11.8.1 Take Authorization for Participating Special Entities. 36
11.8.2 Grant of Take Authorization to Participating Special Entity. 36
11.8.3 Requirements for Participating Special Entities 37
11.9 Criteria Application Process. 38
11.10 Process for Addressing Out of County CETAP Corridors in the MSHCP. 38
11.11 Process for Addressing Cajalco Road Improvements 38
11.12 Process for Addressing State Route 79 Road Improvements. 38
11.13 Verification of Public/Quasi-Public Lands. 38

12.0 FUNDING OF THE MSHCP 38
12.1 Local Obligations. 38
12.1.1 Additional Reserve Lands. 38
12.1.2 MSHCP Conservation Area Management Costs. 39
12.1.3 Additional Reserve Lands Monitoring Costs. 39
12.1.4 Program Administration Costs. 39
12.2 Local Funding Sources. 39
12.2.1 Local Development Mitigation Fees. 39
12.2.2 Regional Infrastructure Project Contribution. 39
12.2.3 Landfill Tipping Fees. 40
12.2.4 Density Bonus Fees. 40
12.2.5 Adaptive Management. 40
12.2.6 Additional Funding. 40

TABLE OF CONTENTS
(continued)

PAGE

12.2.7 Lands Conserved Through the Development Review Process. 40
12.3 Annual Evaluation of Funding. 40
12.4 State Permittee Obligations. 41

13.0 PERMITTEES' TAKE AUTHORIZATION AND OBLIGATIONS 41
13.1 Permittees' Take Authorization. 41
13.2 County and Cities Obligations. 41
13.3 Regional Conservation Authority Obligations. 42
13.4 County Flood Control Obligations. 43
13.5 County Parks Obligations. 44
13.6 County Waste Obligations. 45
13.7 RCTC Obligations. 46
13.8 Caltrans Obligations. 46
13.9 State Parks. 48

14.0 USFWS OBLIGATIONS AND ASSURANCES 49
14.1 Take Authorization for Covered Activities. 49
14.2 USFWS Findings - Covered Species Adequately Conserved. 49
14.3 USFWS Findings - Covered Species. 49
14.4 Section 10(a) Permit Coverage. 49
14.5 Implementation Assistance. 50
14.6 Assurances Regarding MSHCP. 50
14.7 Take Authorization for Newly Regulated Covered Species; Savings Provision. 50
14.8 Changes in the Environmental Laws. 50
14.9 Section 7 Consultations. 51
14.10 Critical Habitat Designation for Covered Species. 51
14.11 Future Recovery Plans. 52
14.12 No Surprises Assurances and Unforeseen Circumstances. 53
14.12.1 No Surprises Assurances. 53
14.13 Migratory Bird Treaty Act 54

15.0 CDFG OBLIGATIONS AND ASSURANCES 55
15.1 Issuance of NCCP Permit. 55
15.2 NCCP Permit Findings. 55
15.3 State Assurances. 55
15.4 Implementation Assistance. 56
15.5 Fully Protected Species. 56
15.6 Changes in the Environmental Laws. 56

TABLE OF CONTENTS
(continued)

PAGE

15.7 Consultations by CDFG. 57

16.0 RELATIONSHIP TO OTHER EXISTING HABITAT CONSERVATION PLANS, NCCP PERMITS AND SECTION 2081 PERMITS 57
16.1 General. 57
16.2 Long-Term SKR HCP. 57

17.0 THIRD PARTY TAKE AUTHORIZATION 58
17.1 Authorization. 58
17.2 Agricultural Activities. 58
17.3 Timing of Take Authorization. 58
17.4 Effect of MSHCP Amendments on Third Parties. 59
17.5 Effect of Revocation or Suspension of Permits on Third Parties. 59
17.6 Effect of No Surprises Assurances on Third Parties. 59
17.7 Retention of Enforcement Authority Over Third Parties. 59

18.0 COOPERATIVE EFFORT 60

19.0 TERM 60
19.1 Effective Date. 60
19.2 Term of the Agreement. 60
19.3 Term of the Permits. 60
19.4 Extension of the Permit. 60
19.5 Permanent Preservation. 60

20.0 MODIFICATIONS AND AMENDMENTS TO THE MSHCP 61
20.1 Clerical Changes. 61
20.2 Land Use Changes. 61
20.3 Adaptive Management Changes. 61
20.4 Minor Amendments. 61
20.4.1 List of Minor Amendments. 61
20.4.2 Procedure. 62
20.5 Major Amendments. 63
20.5.1 List of Major Amendments. 63
20.5.2 Procedure 64

21.0 TERMINATION OF PERMITS 64
21.1 Termination in General. 64

TABLE OF CONTENTS
(continued)

PAGE

21.2 Continuing Obligations. 64
21.3 Final Accounting. 64
21.4 Dissolution of Regional Conservation Authority. 65

22.0 WITHDRAWAL OF PERMITTEE(S) 65
22.1 Withdrawal in General. 65
22.2 Mitigation Responsibilities. 65
22.3 Termination of Permittee Take Authorization. 65
22.4 Evaluation of Remaining Permits. 65

23.0 REMEDIES AND ENFORCEMENT 66
23.1 Remedies in General. 66
23.1.1 No Monetary Damages. 66
23.2 Default. 66
23.2.1 Notice and Opportunity to Cure Default. 66
23.3 Injunctive and Temporary Relief. 67
23.4 Limitation and Extent of Enforceability. 67
23.5 Revocation or Suspension of the Permits. 67
23.6 Informal Meet and Confer Process for Disputes Concerning Covered Activities. 68
23.7 Continuation Of Take Authorization after Revocation, Suspension or Permittee Withdrawal. 69

24.0 FORCE MAJEURE 69

25.0 LEGAL AUTHORITY OF THE USFWS 70

26.0 LEGAL AUTHORITY OF THE CDFG 70

27.0 MISCELLANEOUS PROVISIONS 70
27.1 Response Times. 70
27.2 No Partnership. 70
27.3 Nullification of Agreement. 70
27.4 Notices. 71
27.5 Entire Agreement. 79
27.6 Assignment or Transfer. 79
27.7 Special Area Management Plan Collaboration. 79
27.8 Defense. 80

TABLE OF CONTENTS
(continued)

PAGE

27.9 Attorneys' Fees. 80
27.10 Elected Officials Not to Benefit. 80
27.11 Availability of Funds. 80
27.12 Governing Law. 81
27.13 Duplicate Originals. 81
27.14 Relationship to the FESA, CESA, NCCP Act and Other Authorities. 81
27.15 No Third Party Beneficiaries. 81
27.16 References to Regulations. 81
27.17 Applicable Laws. 81
27.18 Severability. 81
27.19 Headings. 81
27.20 Due Authorization. 82
27.21 Faxed Signatures. 82
27.22 Calculation of Dates and Dates of Performance. 82
27.23 Further Instruments. 82

EXHIBIT LIST 89

1.0 PARTIES

This Implementing Agreement ("Agreement"), made and entered into as of this _____ day of _____, 2003, by and among the Western Riverside County Regional Conservation Authority, County of Riverside, Riverside County Flood Control and Water Conservation District, Riverside County Regional Parks and Open Space District, Riverside County Waste Management District, Riverside County Transportation Commission, City of Banning, City of Beaumont, City of Calimesa, City of Canyon Lake, City of Corona, City of Hemet, City of Lake Elsinore, City of Moreno Valley, City of Murrieta, City of Norco, City of Perris, City of Riverside, City of San Jacinto, City of Temecula, California Department of Transportation, California Department of Parks and Recreation (together with their successors and assigns, collectively, the "Permittees"), United States Fish and Wildlife Service, and California Department of Fish and Game (all, collectively, the "Parties"), defines the Parties' roles and responsibilities and provides a common understanding of the actions that will be undertaken to implement the Western Riverside County Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan ("MSHCP" or "Plan"). The United States Fish and Wildlife Service and the California Department of Fish and Game may be referred to collectively herein as the "Wildlife Agencies."

2.0 RECITALS

This Agreement is entered into with regard to the following facts:

WHEREAS, the Western Riverside County Regional Conservation Authority ("Regional Conservation Authority") is a governmental agency, created pursuant to the provisions of the California Government Code section 6500; and

WHEREAS, the County of Riverside ("County") is a governmental agency, created pursuant to the provisions of the California Government Code, Chapter 3, Article 1, section 23300; and

WHEREAS, the Riverside County Flood Control and Water Conservation District ("County Flood Control") is a governmental agency, created pursuant to the provisions of the California Water Appendix, Chapter 48-1; and

WHEREAS, the Riverside County Regional Parks and Open Space District ("County Parks") is a governmental agency, created pursuant to the provisions of Public Resources Code section 5506.7; and

WHEREAS, the Riverside County Waste Management District ("County Waste") is a governmental agency, created pursuant to the provisions of the Health and Safety Code sections 4700 et seq.; and

WHEREAS, the Riverside County Transportation Commission ("RCTC") is a governmental agency, created pursuant to the provisions of the California Public Utilities Code section 130050; and

WHEREAS, the Cities of Banning, Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto and Temecula are California municipal corporations located within western Riverside County (collectively "Cities"); and

WHEREAS, the California Department of Transportation ("Caltrans") is a department of the California Business, Transportation and Housing Agency, created pursuant to the provisions of the California Government Code sections 14000 et seq.; and

WHEREAS, the California Department of Parks and Recreation ("State Parks") is a department of the California Resources Agency, created pursuant to the provisions of the California Public Resources Code sections 500 et seq.; and

WHEREAS, the California Department of Fish and Game ("CDFG") is a department of the California Resources Agency with jurisdiction over the conservation, protection, restoration, enhancement and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species under the California Endangered Species Act (California Fish and Game Code §§ 2050 et seq.) ("CESA"), the California Native Plant Protection Act (California Fish and Game Code §§ 1900 et seq.), the California Natural Community Conservation Planning Act ("NCCP Act") (California Fish and Game Code §§ 2800 et seq.) and other relevant state laws; and

WHEREAS, the United States Fish and Wildlife Service ("USFWS") is an agency of the United States Department of the Interior and 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 relevant federal laws; and

WHEREAS, because the County is one of the largest and fastest growing counties in the United States, the County, RCTC, the Cities, other interested public agencies and associated stakeholders have embarked upon a comprehensive planning effort entitled the Riverside County Integrated Project ("RCIP") to address local environmental, transportation and land use needs with the goal of anticipating and shaping the pattern of growth within the County to maintain and enhance the quality of life for its residents; and

WHEREAS, the RCIP encompasses three integrated planning efforts: 1) a comprehensive revision of the County's General Plan to establish future land use and housing needs ("General Plan Update"); 2) the Community and Environmental Transportation Acceptability Process ("CETAP") overseen by RCTC to identify future transportation and communication corridors designed to relieve

current traffic congestion and provide for the County's and the Cities' future transportation and communication needs; and 3) the MSHCP; and

WHEREAS, the MSHCP is a multi-jurisdictional habitat conservation plan focusing on the conservation of both sensitive species and associated habitats to address biological and ecological diversity conservation needs in western Riverside County, setting aside significant areas of undisturbed land for the conservation of sensitive habitat while preserving open space and recreational opportunities; and

WHEREAS, the MSHCP boundaries encompass approximately 1,966 square miles, consisting of approximately 1.26 million acres and include approximately 843,500 acres of unincorporated County land west of the crest of the San Jacinto Mountains to the Orange County line, as well as approximately 372,700 acres within the jurisdictional areas of the Cities; and

WHEREAS, the MSHCP is a necessary component of the RCIP because, pursuant to FESA and CESA, certain plant and animal species and habitat have been identified that exist, or may exist, within western Riverside County, and which have been: 1) state or federally listed as threatened or endangered; 2) proposed for listing as threatened or endangered; or 3) identified as a CDFG Species of Special Concern, a California Fully Protected Species, a California Specially Protected Species, a sensitive plant species as determined by the California Native Plant Society, or other unlisted wildlife considered sensitive within the MSHCP Plan Area; and

WHEREAS, future growth and land development within the MSHCP Plan Area, including both public and private projects, may result in the "taking" of such species as defined in state and federal law, thus requiring Take Authorization prior to the carrying out of otherwise lawful activities; and

WHEREAS, the MSHCP will give the County and the Cities the ability to control local land use decisions and maintain economic development flexibility while providing a coordinated reserve system and implementation program that will facilitate the preservation of biological diversity, as well as enhancing the region's quality of life. Such planning is an effective tool in protecting the region's biodiversity while reducing conflicts between protection of wildlife and plants and the reasonable use of natural resources for economic development; and

WHEREAS, the MSHCP addresses the potential impacts of urban growth, natural habitat loss and species endangerment, and creates a plan to mitigate for the potential loss of Covered Species and their habitats due to the direct and indirect impacts of future development of both private and public lands within the MSHCP Plan Area; and

WHEREAS, the MSHCP and this Agreement establish the conditions under which the Permittees will receive from the USFWS and CDFG certain long-term Take Authorizations and other assurances that will allow the taking of Covered Species incidental to lawful uses authorized by the Permittees; and

WHEREAS, Permittees will, for the benefit of public and private property owners and other project proponents within the MSHCP boundaries, transfer Take Authorization received from the Wildlife Agencies through the land use entitlement process, issuance of Certificate of Inclusion or other appropriate mechanism as set forth in the MSHCP and this Agreement; and

WHEREAS, Permittees, with technical assistance from the USFWS and CDFG, have prepared the MSHCP as part of their application for Take Authorization for Covered Species, as defined below, to the Wildlife Agencies under FESA and the NCCP Act, which describes the biological impacts of the MSHCP on Covered Species and their habitats, and defines the comprehensive avoidance, minimization, conservation, and mitigation measures required to avoid and mitigate effects of Take of Covered Species from Permittees' Covered Activities; and

WHEREAS, the MSHCP has been developed through a cooperative effort involving USFWS, CDFG, local governmental agencies, property owners, development interests, farming interests, environmental interest groups and other members of the public.

AGREEMENT

THEREFORE, the Parties do hereby understand and agree as follows:

3.0 DEFINED TERMS

The following terms used in this Agreement shall have the meanings set forth below:

Terms used in this Agreement and specifically defined in FESA, CESA, the NCCP Act or the MSHCP shall have the same meaning when utilized in this Agreement, unless this Agreement expressly provides otherwise.

3.1 "Adaptive Management" means to use the results of new information gathered through the Monitoring Program and from other sources to adjust management strategies and practices to assist in providing for the conservation of Covered Species.

3.2 "Adaptive Management Program" means the MSHCP's program of Adaptive Management described in Section 5.0 of the MSHCP.

3.3 "Additional Reserve Lands" means conserved habitat totaling approximately 153,000 acres that are needed to meet the goals and objectives of the MSHCP and comprised of approximately 56,000 acres of state and federal acquisition and mitigation for State Permittees, and approximately 97,000 acres contributed by Local Permittees. (Lands acquired since February 3, 2000, are included in the Local Permittees' Additional Reserve Lands contribution pursuant to correspondence discussed in Section 4.0 of the MSHCP and on file with the County of Riverside.)

3.4 **"Agreement"** means this Implementing Agreement.

3.5 **"Agricultural Operations"** means the production of all plants (horticulture), fish farms, animals and related production activities, including the planting, cultivation and tillage of the soil, dairying, and apiculture; and the production, plowing, seeding, cultivation, growing, harvesting, pasturing and fallowing for the purpose of crop rotation of any agricultural commodity, including viticulture, apiculture, horticulture, and the breeding, feeding and raising of livestock, horses, fur-bearing animals, fish, or poultry, the operation, management, conservation, improvement or maintenance of a farm or ranch and its buildings, tools and equipment; the construction, operation and maintenance of ditches, canals, reservoirs, wells and/or waterways used for farming or ranching purposes and all uses conducted as a normal part of such Agricultural Operations; provided such actions are in compliance with all applicable laws and regulations. The definition of Agricultural Operations shall not include any activities on state and federal property or in the MSHCP Conservation Area.

3.6 **"Allowable Uses"** means uses allowed within the MSHCP Conservation Area as defined in Section 7.0 of the MSHCP.

3.7 **"Annual Report(s)"** means the report(s) prepared pursuant to the requirements of the MSHCP as set forth in Section 6.11 of the MSHCP.

3.8 **"Area Plans"** means the community planning areas defined in the Riverside County General Plan. Sixteen Riverside County Area Plans are located within the MSHCP Plan Area.

3.9 **"Area Plan Subunit"** means a portion of an Area Plan for which biological issues and considerations and target acreages have been specified in Section 3.3 of the MSHCP.

3.10 **"Biologically Equivalent or Superior Determination"** means documentation that a particular project alternative will be biologically equivalent or superior to a project consistent with the guidelines and thresholds established in the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools set forth in Section 6.1.2 of the MSHCP, policies for the Protection of Narrow Endemic Plant Species set forth in Section 6.1.3 of the MSHCP, Additional Survey Needs and Procedures policies set forth in Section 6.3.2 of the MSHCP and the Criteria Refinement Process set forth in Section 6.5 of the MSHCP.

3.11 **"Biological Monitoring Program"** means the program detailing the requirements for monitoring of the MSHCP Conservation Area as set forth in Section 5.3 of the MSHCP.

3.12 **"Biological Monitoring Report(s)"** means the report(s) prepared pursuant to the requirements of Section 5.3.7 of the MSHCP.

3.13 **"CDFG"** means the California Department of Fish and Game, a department of the California Resources Agency.

3.14 **"Caltrans"** means the California Department of Transportation, a department of the California Business, Transportation and Housing Agency.

3.15 **"Cell"** means a unit within the Criteria Area generally 160 acres in size, approximating one quarter section.

3.16 **"Cell Group"** means an identified grouping of Cells within the Criteria Area.

3.17 **"CEQA"** means the California Environmental Quality Act (California Public Resources Code §§ 21000 et seq.) and all guidelines promulgated thereunder, as amended. For the MSHCP, the County shall be the lead agency under CEQA as defined under State CEQA Guidelines section 15367.

3.18 **"CESA"** means the California Endangered Species Act (California Fish and Game Code §§ 2050 et seq.) and all rules, regulations and guidelines promulgated thereunder, as amended.

3.19 **"CETAP"** means the Community and Environmental Transportation Acceptability Process overseen by RCTC to identify future transportation and communication corridors designed to relieve current traffic congestion and provide for the County's and the Cities' future transportation and communication needs.

3.20 **"Changed Circumstances"** means changes in circumstances affecting a Covered Species or the geographic area covered by the MSHCP that can reasonably be anticipated by the Parties and that can reasonably be planned for in the MSHCP. Changed Circumstances and the planned responses to those circumstances are more particularly described in Section 11.4 of this Agreement and Section 6.8 of the MSHCP. Changed Circumstances do not include Unforeseen Circumstances.

3.21 **"Cities"** means collectively the cities of Banning, Beaumont, Calimesa, Canyon Lake, Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, and Temecula.

3.22 **"Conceptual Reserve Design"** means a reserve concept developed for purposes of providing quantitative parameters for MSHCP species analyses, MSHCP Conservation Area description and target acreages within Area Plan Subunits. The Conceptual Reserve Design is intended to describe one way in which the Additional Reserve Lands could be assembled consistent with the MSHCP Criteria.

3.23 **"Conservation"** means to use, and the use of, methods and procedures within the MSHCP Conservation Area and within the Plan Area as set forth in the MSHCP, that are necessary to bring any listed species to the point at which the measures provided pursuant to FESA and the California Fish and Game Code are no longer necessary. However, Permittees will have no duty to

enhance, restore or revegetate MSHCP Conservation Area lands unless required by the Plan or agreed to through implementation of the Plan.

3.24 **"Conservation Strategy"** means the overall approach to assure conservation of individual species within the Plan Area; for each individual species, the Conservation Strategy is comprised of four elements: 1) a global conservation goal; 2) global conservation objectives; 3) measurable species-specific conservation objectives; and 4) management and monitoring activities.

3.25 **"Conserved Habitat"** means the land permanently protected and managed in its natural state for the benefit of the Covered Species under legal arrangements that prevent its conversion to other land uses, and the institutional arrangements that provide for its ongoing management.

3.26 **"Constrained Linkage"** means a constricted connection expected to provide for movement of identified Planning Species between Core Areas, where options for assembly of the connection are limited due to existing patterns of use.

3.27 **"Cooperative Organizational Structure"** means the local administrative structure for implementation and management of the MSHCP as set forth in Section 6.6 of the MSHCP.

3.28 **"Core Area"** means a block of habitat of appropriate size, configuration, and vegetation characteristics to generally support the life history requirements of one or more Covered Species.

3.29 **"Corridor"** means an alignment area or footprint for manmade linear projects such as transportation facilities, pipelines and utility lines.

3.30 **"County"** means the County of Riverside.

3.31 **"County Flood Control"** means the Riverside County Flood Control and Water Conservation District.

3.32 **"County Parks"** means the Riverside County Regional Parks and Open Space District.

3.33 **"County Waste"** means the Riverside County Waste Management District.

3.34 **"Covered Activities"** means certain activities carried out or conducted by Permittees, Participating Special Entities, Third Parties Granted Take Authorization and others within the Plan Area, and described in Section 7.0 of the MSHCP, that will receive Take Authorization under the Section 10(a) Permit and the NCCP Permit, provided these activities are otherwise lawful.

3.35 **"Covered Species"** means those 146 species within the Plan Area that will be conserved by the MSHCP when the MSHCP is implemented. These species are discussed in Section 2.1.4 and Section 9.2 of the MSHCP, and listed in Exhibit "C" to this Agreement.

3.36 **"Covered Species Adequately Conserved"** means those initial 118 Covered Species and any of the remaining 28 Covered Species where the species objectives set forth in Section 9.2 of the MSHCP and Table 9-3 are met and which are provided Take Authorization through the NCCP Permit and for animals through the Section 10(a) Permit issued in conjunction with this Agreement. These species are discussed in Section 2.1.4 and Section 9.2 of the MSHCP, and listed in Exhibit "D" to this Agreement.

3.37 **"Criteria"** means descriptions provided for individual Cells or Cell Groups within the Criteria Area to guide assembly of the Additional Reserve Lands.

3.38 **"Criteria Area"** means the area comprised of Cells depicted on Figure 3-1 of the MSHCP.

3.39 **"Criteria Refinement Process"** means the process through which changes to the Criteria may be made, where the refined Criteria result in the same or greater conservation value and acreage to the MSHCP Conservation Area as determined through an equivalency analysis provided in support of the refinement.

3.40 **"Critical Habitat"** means habitat for species listed under FESA that has been designated pursuant to Section 4 of FESA and identified in 50 Code of Federal Regulations sections 17.95 and 17.96 .

3.41 **"Development"** means the uses to which land shall be put including construction of buildings, structures, infrastructure and other alterations of land.

3.42 **"Discretionary Project"** means a proposed project requiring discretionary action or approval by a Permittee, as that term is used in CEQA and defined in State CEQA Guidelines section 15357, including issuance of a grading permit for County projects.

3.43 **"Edge Effects"** means adverse direct and indirect effects to species, habitats and vegetation communities along the Urban/Wildlands Interface.

3.44 **"Effective Date"** means the date on which this Agreement takes effect, as set forth in Section 19.1 of this Agreement.

3.45 **"Endangered Species"** means those species listed as endangered under FESA and/or CESA.

3.46 "Environmental Laws" means state and federal laws governing or regulating the impact of Development activities on land, water or biological resources as they relate to Covered Species, including, but not limited to, CESA, FESA, the NCCP Act, CEQA, the National Environmental Policy Act ("NEPA"), the Federal Migratory Bird Treaty Act ("MBTA"), the Fish and Wildlife Coordination Act, the Fish and Wildlife Act of 1956, the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Native Plant Protection Act (California Fish and Game Code §§ 1900 et seq.) and sections 1801, 1802, 3511, 4700, 5050 and 5515 of the California Fish and Game Code and include any regulations promulgated pursuant to such laws.

3.47 "Executive Director" means the Director of the Western Riverside County Regional Conservation Authority.

3.48 "Existing Agricultural Operations" means those lands within the MSHCP Plan Area that are actively used for ongoing Agricultural Operations, as further defined in Section 11.3 of this Agreement and Section 6.2 of the MSHCP.

3.49 "Existing Agricultural Operations Database" means the database created by the County to identify Existing Agricultural Operations, as further defined in Section 11.3 of this Agreement.

3.50 "FESA" means the Federal Endangered Species Act (16 U.S.C. §§ 1531 et seq.) and all rules and regulations promulgated thereunder, as amended.

3.51 "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

3.52 "Funding Coordination Committee" means a committee formed by the Regional Conservation Authority Board of Directors to provide input on local funding priorities and Additional Reserve Lands acquisitions.

3.53 "Habitat" means the combination of environmental conditions of a specific place providing for the needs of a species or a population of such species.

3.54 "HabiTrak" means a GIS application to provide data on habitat loss and conservation that occurs under the Permits.

3.55 "Incidental Take" means Take of Covered Species Adequately Conserved incidental to, and not the purpose of, an otherwise lawful activity, including, but not limited to, Take resulting from modification of habitat as defined in FESA and its implementing regulations.

3.56 "Independent Science Advisors" means the biologists, conservation experts and others that may be appointed by the Regional Conservation Authority Executive Director to provide

scientific input to assist in implementation of the MSHCP for the benefit of the Covered Species, as set forth in Section 6.6.7 of the MSHCP.

3.57 "Linkage" means a connection between Core Areas with adequate size, configuration and vegetation characteristics to generally provide for "live-in" habitat and/or provide for genetic flow for identified Planning Species.

3.58 "Local Development Mitigation Fee" means the fee imposed by applicable Local Permittees on new Development pursuant to Government Code sections 66000 et seq.

3.59 "Local Permittees" means the Regional Conservation Authority, the County, County Flood Control, County Parks, County Waste, RCTC and the Cities.

3.60 "Long-Term SKR HCP" means the Long-Term Stephens' Kangaroo Rat Habitat Conservation Plan in western Riverside County dated March 1996, more specifically described in Section 16.2 of this Agreement.

3.61 "Maintenance Activities" means those Covered Activities that include the ongoing maintenance of public facilities as described in Section 7.0 of the MSHCP.

3.62 "Major Amendments" means those proposed amendments to the MSHCP and this Agreement as described in Section 20.5 of this Agreement and Section 6.10 of the MSHCP.

3.63 "Management Unit" means broad areas planned to be consolidated for overall unified management of the MSHCP Conservation Area. Five management units have been defined and are depicted on Figure 5-1 of the MSHCP Plan.

3.64 "MBTA" means the Federal Migratory Bird Treaty Act (16 U.S.C. §§ 702 et seq.) and all rules and regulations promulgated thereunder, as amended.

3.65 "MBTA Special Purpose Permit" means a permit issued by the USFWS under 50 Code of Federal Regulations, section 21.27, authorizing Take under the MBTA of the Covered Species Adequately Conserved listed as endangered or threatened under FESA in connection with the Covered Activities.

3.66 "Ministerial Approvals" means certain City approvals involving little or no judgment by the City prior to issuance but that could have adverse impacts to Covered Species and their habitat.

3.67 "Minor Amendments" means minor changes to the MSHCP and this Agreement as defined in Section 20.4 of this Agreement and Section 6.10 of the MSHCP.

3.68 **"Mitigation Lands"** means a subset of Additional Reserve Lands totaling approximately 103,000 acres, comprised of approximately 97,000 acres contributed by Local Permittees and approximately 6,000 acres contributed by State Permittees.

3.69 **"Monitoring Program"** means the monitoring programs and activities set forth in Section 5.3 of the MSHCP.

3.70 **"Monitoring Program Administrator"** means the individual or entity responsible for administering the Monitoring Program, as described in Section 5.0 of the MSHCP.

3.71 **"MSHCP"** means the Western Riverside County Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan, a comprehensive habitat conservation planning program that addresses multiple species' needs, including habitat and the preservation of native vegetation in western Riverside County, as depicted in Exhibit "A" attached.

3.72 **"MSHCP Conservation Area"** means approximately 500,000 acres comprised of approximately 347,000 acres of Public/Quasi-Public Lands and approximately 153,000 acres of Additional Reserve Lands. The MSHCP Conservation Area will provide for the conservation of the Covered Species.

3.73 **"MSHCP Plan Area"** means the boundaries of the MSHCP, consisting of an approximate 1,966 square-mile area in western Riverside County, as depicted in Exhibit "B."

3.74 **"NCCP Act"** means the California Natural Community Conservation Planning Act (California Fish and Game Code §§ 2800 et seq.) including all regulations promulgated thereunder, as amended.

3.75 **"NCCP Permit"** means the permit issued in accordance with this Agreement by CDFG under the NCCP Act to permit the Take of identified species, including rare species, species listed under CESA as threatened or endangered, a species that is a candidate for listing and Unlisted Species.

3.76 **"NEPA"** means the National Environmental Policy Act (42 U.S.C. §§ 4321 - 4335) and all rules and regulations promulgated thereunder, as amended. For the purposes of the MSHCP, the USFWS is the lead agency under NEPA as defined in 40 Code of Federal Regulations, section 1508.16.

3.77 **"Narrow Endemic Plant Species"** means plant species that are highly restricted by their habitat affinities, edaphic requirements or other ecological factors, and for which specific conservation measures have been identified in Section 6.1.3 of the MSHCP.

3.78 "New Agricultural Land" means acreage converted to Agricultural Operations after the Effective Date of this Agreement, as described in Section 11.3 of this Agreement and Section 6.2 of the MSHCP.

3.79 "New Agricultural Lands Cap" means a designated maximum number of acres of New Agricultural Land within the Criteria Area, as described in Section 11.3 of this Agreement and Section 6.2 of the MSHCP.

3.80 "Non-Contiguous Habitat Block" means a block of habitat not connected to other habitat areas via a Linkage or Constrained Linkage.

3.81 "No Surprises Assurances " means that, provided Permittees are implementing the terms and conditions of the MSHCP, this Agreement, and the Permit(s), the USFWS can only require additional mitigation for Covered Species Adequately Conserved beyond that provided for in the MSHCP as a result of Unforeseen Circumstances in accordance with the "No Surprises" regulations at 50 Code of Federal Regulations, sections 17.22(b)(5) and 17.32(b)(5) and as discussed in Section 6.8 of the MSHCP.

3.82 "Other Species" means species not identified as Covered Species under the MSHCP.

3.83 "Participating Special Entity" means any regional public facility provider, such as a utility company, a public district or agency, that operates and/or owns land within the MSHCP Plan Area and that applies for Take Authorization pursuant to Section 11.8 of this Agreement.

3.84 "Party" and "Parties" mean the signatories to this Agreement, namely the Regional Conservation Authority, the County, County Flood Control, County Parks, County Waste, RCTC, the Cities, Caltrans, State Parks, USFWS and CDFG and any other city within the Plan Area that incorporates after the Effective Date of this Agreement and complies with Section 11.6 of this Agreement.

3.85 "Permits" means, collectively, the Section 10(a) Permit and NCCP Permit issued by the Wildlife Agencies to Permittees for Take of Covered Species Adequately Conserved pursuant to FESA, CESA and the NCCP Act and in conformance with the MSHCP and this Agreement.

3.86 "Permittees" mean the Regional Conservation Authority, the County, County Flood Control, County Parks, County Waste, RCTC, the Cities, Caltrans and State Parks.

3.87 "Plan Area" means the boundaries of the MSHCP, consisting of an approximately 1,966 square-mile area in western Riverside County, as depicted in Exhibit "B" attached.

3.88 "Plan Participants" means the Regional Conservation Authority, the County, County Flood Control, County Parks, County Waste, RCTC, the Cities, Caltrans and State Parks and others receiving Take Authorization under the Permits.

3.89 **"Planning Species"** means subsets of Covered Species that are identified to provide guidance for Reserve Assembly in Core Areas and Linkages and/or Area Plans.

3.90 **"Public/Quasi-Public Lands"** means a subset of MSHCP Conservation Area lands totaling approximately 347,000 acres of lands known to be in public/private ownership and expected to be managed for open space value and/or in a manner that contributes to the conservation of Covered Species (including lands contained in existing reserves), as generally depicted in Figure 3-1 of the MSHCP.

3.91 **"RCIP"** means the Riverside County Integrated Project.

3.92 **"RCTC"** means the Riverside County Transportation Commission, created pursuant to California Public Utilities Code section 130050.

3.93 **"Regional Conservation Authority"** means the Western Riverside County Regional Conservation Authority, a joint regional authority formed by the County and the Cities to provide primary policy direction for implementation of the MSHCP, as set forth in Section 6.6 of the MSHCP and Section 11.2 of this Agreement.

3.94 **"Reserve Assembly"** means the acquisition and conservation of Additional Reserve Lands.

3.95 **"Reserve Management Oversight Committee"** means the committee established by the Regional Conservation Authority Executive Director to provide biological, technical and operational expertise for implementation of the MSHCP, including oversight of the MSHCP Conservation Area, as described in Section 11.2.6 of this Agreement and Section 6.6.4 of the MSHCP.

3.96 **"Reserve Management Plan(s)"** means the plan(s) setting forth management practices for identified portions of the MSHCP Conservation Area prepared and adopted as described in Section 5.0 of the MSHCP.

3.97 **"Reserve Managers"** mean the entities managing identified portions of the MSHCP Conservation Area for the benefit of the Covered Species as described in Section 6.6.5 of the MSHCP.

3.98 **"Rough Step"** means a Reserve Assembly accounting process to monitor conservation and loss of specified habitats within the Criteria Area.

3.99 **"Rough Step Analysis Unit"** means a geographic unit within which Rough Step is tracked. Rough Step Analysis Units are depicted in Figure 6-6 of the MSHCP.

3.100 "Section 10(a) Permit" means the permit issued by the USFWS to Permittees in conformance with this Agreement and pursuant to 16 U.S.C. section 1539(a), authorizing Take of Covered Species Adequately Conserved.

3.101 "State Assurances" means that, except for the provisions in Section 15.3 of this Agreement, provided Permittees are implementing the terms and conditions of the MSHCP, this Agreement and the Permits, if there are Unforeseen Circumstances, CDFG shall not require additional land, water or financial compensation or additional restrictions on the use of land, water or other natural resources for the life of the NCCP Permit without the consent of the Permittees, unless CDFG determines that continued implementation of this Agreement, the MSHCP, and/or the Permits would jeopardize the continued existence of a Covered Species, or as required by law and would therefore lead to NCCP Permit revocation or suspension.

3.102 "State Parks" means the California Department of Parks and Recreation, a department of the California Resources Agency.

3.103 "State Permittees" means Caltrans and State Parks.

3.104 "Take" means the definition of such term in FESA with regard to species listed under FESA, and the definition of such term in the California Fish and Game Code with regard to species listed under CESA.

3.105 "Take Authorization" means the ability to Take species pursuant to the Section 10(a) Permit and/or the NCCP Permit.

3.106 "Third Party Granted Take Authorization" means any Third Party that receives Third Party Take Authorization in compliance with Section 17.0 of this Agreement.

3.107 "Third Party Take Authorization" means Take Authorization received by a landowner, developer, farming interest or other public or private entity from the Permittees pursuant to Section 17.0 of this Agreement, thereby receiving Take Authorization for Covered Species Adequately Conserved pursuant to the Permits and in conformance with the MSHCP and this Agreement.

3.108 "Threatened Species" means those species listed as threatened under FESA and CESA.

3.109 "Unforeseen Circumstances" means changes in circumstances affecting a Covered Species Adequately Conserved or geographic area covered by the MSHCP that could not reasonably have been anticipated by the Parties at the time of the MSHCP's negotiation and development, and that result in a substantial and adverse change in the status of the Covered Species Adequately Conserved. The term "Unforeseen Circumstances" as defined in this Agreement is intended to have the same meaning as it is used: 1) to define the limit of the Permittees' obligations in the "No

Surprises" regulations set forth in 50 Code of Federal Regulations, sections 17.22(b)(5) and 17.32(b)(5); and 2) in California Fish and Game Code section 2805(k).

3.110 "Unlisted Species" means a species that is not listed as rare, endangered or threatened under FESA, CESA or other applicable state or federal law.

3.111 "Urban/Wildlands Interface" means the area where structures and other human development occurs in proximity to the MSHCP Conservation Area.

3.112 "USFWS" means the United States Fish and Wildlife Service, an agency of the United States Department of the Interior.

3.113 "Wildlife Agencies" means USFWS and CDFG, collectively.

4.0 PURPOSES

The purposes of this Agreement are:

4.1 To ensure implementation of each of the terms of the MSHCP and this Agreement for the benefit of the Covered Species, while allowing well managed and planned future economic growth;

4.2 To describe remedies and recourse should any Party fail to perform its obligations, responsibilities and tasks as set forth in the MSHCP, the Permits and this Agreement; and

4.3 To provide assurances to Permittees and others participating in the MSHCP that:

A. With respect to Covered Species Adequately Conserved, compliance with the terms of the MSHCP, the Permits and this Agreement constitutes compliance with the provisions of FESA, CESA and the NCCP Act;

B. Implementation of this Agreement and the MSHCP will adequately provide for the conservation and protection of the Covered Species Adequately Conserved and their habitats in the Plan Area; and

C. Pursuant to the "No Surprises" provisions of 50 Code of Federal Regulations, sections 17.22(b)(5) and 17.32(b)(5), and State Assurances pursuant to Sections 3.101 and 15.3 of this Agreement, as long as the terms of the MSHCP, this Agreement and the Permits are properly implemented, the Wildlife Agencies will not require additional mitigation from Permittees, with respect to Covered Species Adequately Conserved, except as provided for in this Agreement or as required by law.

5.0 INCORPORATION OF THE MSHCP

The MSHCP and each of its provisions are intended to be, and by this reference are, incorporated herein. In the event of any direct contradiction between the terms of this Agreement and the MSHCP, the terms of this Agreement will control. In all other cases, the terms of this Agreement and the terms of the MSHCP will be interpreted to be supplementary to each other.

6.0 CONSERVATION STRATEGY

The MSHCP is intended to preserve biological diversity as well as maintain the quality of life within western Riverside County by conserving species and their associated habitats and coordinating, streamlining, and planning Development. By adopting this regional approach, the MSHCP will result in much greater and more biologically effective habitat and species conservation than a project-by-project approach could produce.

The MSHCP provides a broad conservation strategy, which will be implemented generally through the following:

A. As set forth in Section 3.2 of the MSHCP, the MSHCP Conservation Area shall be approximately 500,000 acres in size and will be comprised of approximately 347,000 acres of Public/Quasi-Public Lands and approximately 153,000 acres of Additional Reserve Lands. The MSHCP Conservation Area will incorporate the Core Areas and Linkages as well as habitat distributions generally as presented in the MSHCP Conservation Area description.

B. As set forth in Section 5.2 of the MSHCP, upland habitat quality within the MSHCP Conservation Area shall be maintained and managed generally in similar or better condition than at the time lands are conveyed to the MSHCP Conservation Area.

C. As set forth in Section 6.1.2 of the MSHCP, Riparian/Riverine Areas and Vernal Pools within the MSHCP Conservation Area shall be maintained and managed generally in similar or better condition than at the time lands are conveyed to the MSHCP Conservation Area for the protection of species associated with such habitat.

D. New land uses adjacent to the MSHCP Conservation Area shall implement the Urban/Wildlands Interface Guidelines presented in Section 6.1.4 of the MSHCP.

E. The "Maintenance of Existing Habitat Conditions Prior to Reserve Assembly" policies set forth in Section 6.1.5 of the MSHCP shall be implemented to ensure that habitat quality within the Criteria Area generally remains in its existing condition prior to conveyance of lands to the MSHCP Conservation Area.

F. Riparian/Riverine Areas and Vernal Pools policies presented in Section 6.1.2 of the MSHCP shall be implemented for the benefit of certain species.

G. The Protection of Narrow Endemic Plant Species policies presented in Section 6.1.3 of the MSHCP shall be implemented for the benefit of certain species.

H. The Additional Survey Needs and Procedures policies presented in Section 6.3.2 of the MSHCP shall be implemented for the benefit of certain species.

I. Covered Activities within the Criteria Area and Allowable Uses within the MSHCP Conservation Area shall be implemented in accordance with the siting, construction, design, operation and maintenance guidelines contained in Section 7.0 of the MSHCP.

J. Monitoring and management activities will be undertaken for each of the MSHCP Covered Species. Monitoring and management activities are described in Sections 5.2 and 5.3 of the MSHCP.

K. Species-specific biological objectives have been developed for each of the Covered Species in the MSHCP and are set forth in Section 9.0 of the MSHCP.

7.0 MSHCP CONSERVATION AREA ASSEMBLY AND HABITAT ACQUISITION

7.1 **Overview.** As set forth in detail in Sections 4.0 and 6.0 of the MSHCP, the MSHCP Conservation Area will be assembled as property is acquired. The MSHCP Conservation Area will contain approximately 500,000 acres comprised of the following: 1) conservation of existing publicly owned lands, 2) voluntary acquisition of privately held lands by the Cities, the County, or other Permittees, 3) voluntary acquisition of privately held lands by state and/or federal agencies, and 4) contributions from public and private Development.

7.2 **Contribution of Existing Public Lands.** The MSHCP Conservation Area will contain approximately 282,000 acres of federally and state-owned land, with approximately 248,000 acres of federal lands and 34,000 acres of state lands. Local government-owned land totals approximately 64,330 acres.

7.3 **Conservation of Privately Owned Lands - Local Obligation.** As set forth in Section 4.0 of the MSHCP, the Local Permittees will be responsible for contributing approximately 97,000 privately-owned acres of Additional Reserve Lands conserved through the development process. Approximately 56,000 acres will be acquired and approximately 41,000 acres otherwise conserved through the development review process.

7.3.1 **Property Owner Initiated Habitat Evaluation and Acquisition Negotiation Process.** To assist in assembly of the MSHCP Conservation Area, the Property Owner Initiated Habitat Evaluation and Acquisition Process ("HANS"), set forth in Section 6.1.1 of the MSHCP, may be applied to property within the Criteria Area and that may be needed for inclusion as Additional Reserve Lands. The HANS process applies only to Local Permittees. If it is determined that all or a portion of property is needed for inclusion as Additional Reserve Lands, various incentives may be available to the property owner in lieu of, or in addition to, monetary compensation in exchange for the conveyance of a property interest. These incentives may include, but shall not be limited to, waiver and/or reduction of certain development fees, monetary compensation for entering into an option agreement, fast track processing, density bonuses, clustering, density transfers and property reassessment and tax credits if feasible. The incentives are intended to provide a form of compensation to property owners who convey their property. As a property interest is obtained, it shall become part of the MSHCP Conservation Area.

The HANS process ensures that an early determination regarding the properties needed as Additional Reserve Lands is made, the owners of property needed for the MSHCP Conservation Area are compensated, and owners of property not needed for the Additional Reserve Lands will be covered for Take of Covered Species Adequately Conserved and their habitat through the Permits issued to Permittees. Local Permittees may use an alternative process to HANS that ensures the acquisition of Additional Reserve Lands.

7.3.2 **Terms of the Process.** As set forth in detail in Section 6.1.1 of the MSHCP, the HANS process includes a requirement that all proposed discretionary projects and evaluations initiated by the owners of property not subject to a development agreement are subject to: 1) an initial application review or an evaluation initiated by the owner of property not subject to a Development application, 2) negotiation of terms and incentives for the acquisition of property necessary for inclusion as Additional Reserve Lands, and 3) completion of acquisition. An expedited review process for single-family homes and mobile homes to be located on an existing lot in the Criteria Area is also provided for in the HANS process.

7.3.3 **Conflict Resolution Process.** In order to address disputes which may arise concerning: 1) the application of MSHCP Criteria, 2) available incentives, or 3) the valuation of property, a conflict resolution process has been developed ("Conflict Resolution Process"). The Conflict Resolution Process, set forth in Section 6.1.1 of the MSHCP, may be initiated by the property owner, the

County or any City and will allow for a neutral third party to assist in resolving disputes concerning the aforementioned issues. The Conflict Resolution Process includes procedures for: 1) mediation to resolve differences over proposed Development options for the property as well as differences regarding the application of MSHCP Criteria, 2) appraisal review to resolve differences concerning the valuation of property, and 3) arbitration to resolve differences concerning the application of MSHCP Criteria that could not be successfully resolved through mediation. The Conflict Resolution Process shall not be construed as a limitation on the County's or any City's ability to approve or deny a Development application, nor will it bind the Wildlife Agencies. However, consistent with the HANS process, a project may not be denied solely because a Development application does not comply with the MSHCP Criteria.

7.4 **Conservation of Privately Owned Lands - State and Federal Obligations.** As set forth in Section 4.4.2 of the MSHCP, state and federal agencies will acquire approximately 56,000 acres of privately owned land in the Criteria Area from willing sellers, of which approximately 6,000 acres constitutes mitigation for State Permittees' projects.

7.5 **Reserve Assembly Accounting.** As set forth in Section 6.7 of the MSHCP, annual reports will be prepared in order to track habitat losses and gains associated with public and private Development projects and New Agricultural Land within the Criteria Area. The annual reports will be used to demonstrate that conservation is occurring in rough proportionality with Development, ensure that the MSHCP Conservation Area is being assembled as contemplated in the MSHCP, and ensure that habitat conservation goals and objectives are being achieved.

The Regional Conservation Authority ("RCA") will prepare and provide to the Wildlife Agencies an annual report of total habitat area lost and conservation contributions made to the MSHCP Conservation Area. The annual report shall provide this information by vegetation community, consistent with "HabiTrak" methodology as described in Section 6.7 of the MSHCP.

7.6 **In-Lieu Payments.** In lieu of payment of the Local Development Mitigation Fee, a private project applicant may elect to acquire acreage from a conservation bank ("In-lieu Payment"). In order for a project applicant to utilize an In-lieu Payment, the following conditions must be met:

A. The conservation bank must be listed in Section 4.6.1 of the final MSHCP.

B. The conservation bank owner must have executed a formal, written banking agreement with the Wildlife Agencies within twelve (12) months of Permit issuance. If the conservation bank owner has taken all necessary actions to execute the banking agreement and the Wildlife Agencies fail to execute the agreement within this time frame, the bank owner, at his/her discretion, will either extend this time period for an additional twelve (12) months or provide

to the RCA and the Wildlife Agencies an irrevocable offer to record conservation easements on the conservation bank property. The RCA will have the opportunity to review and comment on all draft banking agreements prior to execution to ensure consistency with the MSHCP.

C. The In-lieu Payment must be at a 1:1 ratio to gross area of project impact, (i.e. for every acre of Development, at least one acre of land would have to be acquired from a conservation bank).

D. For conservation bank lands identified in Section 4.6.1 of the MSHCP for which conservation easements have been recorded on or before June 17, 2003, the bank owner/operator or management entity retained by the bank owner/operator must use best efforts to manage the lands consistent with and pursuant to Section 5.0 of the MSHCP. Alternatively, the bank owner/operator will transfer management of the lands with all related financial commitments for the management and monitoring of such lands, such as endowments, to the RCA, to the extent legally feasible. In the event that neither of the above options is feasible, the bank owner/operator shall cooperate with the RCA to allow any additional management activities to occur on the conservation bank lands, including but not limited to access, to ensure that management will occur pursuant to Section 5.0 of the MSHCP.

E. For conservation bank lands that have not been conserved on or before June 17, 2003, the conservation bank must be managed by the bank owner/operator or management entity retained by the bank owner/operator consistent with and pursuant to Section 5.0 of the MSHCP.

F. The conservation bank acreage relied upon for the In-lieu Payment must be contained in the bank as of June 17, 2003, as reflected in Section 4.6.1 of the MSHCP, located within the Criteria Area and contribute to Reserve Assembly.

G. The conservation bank owner/operator must provide written documentation to the RCA proving the availability of adequate acreage to meet project requirements.

The RCA must approve all In-lieu Payments pursuant to the provisions of this section as early as possible, but in no instance later than grading permit issuance.

The bank owners may, at any time, initiate negotiations for acquisition of any remaining acreage in the bank.

8.0 MSHCP CONSERVATION AREA MANAGEMENT REQUIREMENTS

8.1 Overview. The MSHCP Conservation Area will be managed pursuant to Section 5.0 of the MSHCP. To implement the management requirements of the Plan, the MSHCP Plan Area is divided into five units: 1) Santa Ana River Management Unit, 2) Badlands/San Jacinto River Management Unit, 3) National Forests Unit, 4) Lake Mathews/Lake Skinner Unit, and 5) Upper Santa Margarita River/Wilson Creek/Anza Valley Management Unit. Within each unit, management plans will be developed for species and/or habitats based on the species' groups. The management plans will ensure that the conservation efforts required by the MSHCP consider the needs of the region, ecosystem, and the individual species protected through the MSHCP.

8.2 Management Activities. Management activities pursuant to the MSHCP are set forth in Section 5.2.1 of the MSHCP. Such activities will be implemented by the Reserve Managers and the Reserve Management Oversight Committee ("RMOC").

8.3 Adaptive Management Program. Section 5.2 of the MSHCP sets forth an Adaptive Management Program, allowing flexibility to ensure protection of species for which current scientific data is currently lacking. Consistent with the Adaptive Management approach, the Parties agree that the methods and means of implementing the MSHCP shall be changed as necessary to respond to species' needs and new scientific data as these items may change over time.

9.0 MSHCP CONSERVATION AREA MONITORING REQUIREMENTS

9.1 Monitoring Program. Monitoring of the MSHCP Conservation Area will be instituted pursuant to the Monitoring Program described in Section 5.3 of the MSHCP. The Monitoring Program will be implemented in two phases. The first phase will consist of an initial inventory and assessment period to obtain additional scientific data about the biological resources covered by the MSHCP. The second phase will consist of implementation of the long-term Monitoring Program.

9.2 Monitoring Program Administrator. A Monitoring Program Administrator shall be selected by the RCA and shall be responsible for implementing the Monitoring Program. For the first eight (8) years of the Permits, the Monitoring Program Administrator shall be CDFG. Upon expiration of this term, the RCA Board of Directors may elect to have CDFG remain as the Monitoring Program Administrator or select an alternative entity, agency or individual for the position. If the RCA determines that CDFG cannot adequately perform the duties of the Monitoring Program Administrator, the RCA Board of Directors shall select an alternate entity, agency or individual to perform such duties.

9.3 Monitoring Reporting Requirements. Pursuant to Section 5.3.7 of the MSHCP, the Monitoring Program Administrator shall annually submit the following to the RMOC: 1) work plans containing a description for the following year of proposed monitoring efforts, survey protocols, schedule for field work and an estimated budget; such work plans shall be submitted in

the last quarter of each year; 2) a three-to-five year projected schedule and cost estimate for implementation of the Monitoring Program; and 3) an annual report summarizing the results of monitoring activities over the previous twelve (12) months.

10.0 REPORTING REQUIREMENTS

10.1 Annual Reporting. As described in Section 6.6.4 of the MSHCP, the RMOC will be established as part of the Cooperative Organizational Structure. The RMOC will ensure preparation and distribution of an annual report to the Wildlife Agencies and the RCA. The RMOC will determine the format of the annual report. The first report shall be prepared and submitted to the Wildlife Agencies within fifteen (15) months of issuance of the Permits and shall contain information reflecting the first twelve (12) months of the Permits. An annual report shall be prepared and submitted to the Wildlife Agencies every twelve (12) months thereafter and will include, at a minimum, the following information:

A. Documentation of Reserve Assembly activities in relationship to the Rough Step formulas presented in Section 6.7 of the Plan.

B. Documentation of the total habitat area lost and conserved throughout the Plan Area during the reporting period, consistent with "HabiTrak" methodology.

C. Documentation of single-family and mobile home activity within the Criteria Area for the preceding year and cumulatively occurring under the expedited review process for these activities set forth in Section 6.1 of the MSHCP.

D. Documentation of clerical and Minor Amendments approved for the preceding year in accordance with the procedures described in Section 6.10 of the MSHCP.

E. Documentation of ongoing management and monitoring activities identifying issues of concern and proposed remedies/actions.

F. Documentation regarding the collection of Local Development Mitigation Fees by jurisdiction and amount.

G. Information contained in the Existing Agricultural Operations Database, as described in Section 6.2 of the MSHCP, including the amount of New Agricultural Land, if any, added to the database.

H. Documentation of new or expanded Agricultural Operations within the Criteria Area for the preceding year and cumulatively occurring under the processes identified in Section 6.2 of the MSHCP.

I. A map reflecting the location of any New Agricultural Lands, as required by Section 6.2 of the MSHCP.

11.0 MSHCP IMPLEMENTATION STRUCTURE

11.1 Permittee Implementation Mechanisms. As set forth below, the County, Cities and the RCA have selected legal mechanisms to ensure implementation of the terms of the MSHCP and this Agreement ("Implementation Mechanism"). The Permits shall become effective upon execution of this Agreement. If, however, within six (6) months of execution of this Agreement, the County, Cities and the RCA have not adopted an appropriate Implementation Mechanism, the Wildlife Agencies may initiate suspension or revocation proceedings pursuant to Section 23.5 of this Agreement. In that event, the Permittees' obligations to fully implement the terms and conditions of the MSHCP and this Agreement commence upon execution of this Agreement. After adoption of an Implementation Mechanism, the Local Permittees will submit a copy of the appropriate documents to the RCA and the Wildlife Agencies.

11.1.1 Cities

A. The Cities shall adopt an ordinance imposing the Local Development Mitigation Fee as analyzed in the Nexus Fee Report. A model ordinance imposing such fees is attached as Exhibit "G." The Cities shall adopt ordinances in substantially the same form or at a minimum, containing the same requirements as the model ordinance.

B. The Cities shall adopt an ordinance or resolution that adopts the MSHCP and establishes procedures and requirements for the implementation of its terms and conditions. A model resolution is attached as Exhibit "H" and a model ordinance is attached as Exhibit "I." The Cities shall adopt an ordinance or resolution in substantially the same form or at a minimum, containing the same requirements as the model ordinance or resolution. The ordinance or resolution shall contain at least the following conditions:

1. Commitment to utilize the HANS process or appropriate alternative method to ensure compliance with the Criteria.

2. Imposition of all other terms of the MSHCP, including, but not limited to, requirements implementing policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, Narrow Endemic Plant Species and appropriate surveys as set forth in Section 6.0 of the MSHCP.

3. Agreement to enforce all other terms and conditions of the MSHCP, this Agreement and the Permits.

11.1.2 The County

A. The County shall implement the MSHCP through incorporation of the relevant terms and requirements into its General Plan including, but not limited to, the following:

1. Commitment to utilize the HANS process to ensure compliance with the Criteria.

2. Imposition of all other terms of the MSHCP, including, but not limited to, requirements implementing policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, Narrow Endemic Plant Species and appropriate surveys as set forth in Section 6.0 of the MSHCP.

3. Agreement to enforce all other terms and conditions of the MSHCP, this Agreement and the Permits.

The Open-Space Element of the County General Plan will establish general policies for compliance with the MSHCP, the Permits and this Agreement.

B. The County shall establish a development mitigation fee for the unincorporated area of the County to specifically provide for habitat acquisition pursuant to the MSHCP.

11.1.3 County Flood Control. County Flood Control shall implement the MSHCP and this Agreement through execution of this Agreement.

11.1.4 County Parks. County Parks shall implement the MSHCP and this Agreement through execution of this Agreement.

11.1.5 County Waste. County Waste shall implement the MSHCP and this Agreement through execution of this Agreement.

11.1.6 Regional Conservation Authority. The RCA will implement the MSHCP and this Agreement through approval of a resolution that adopts the MSHCP and establishes procedures and requirements for the implementation of its terms and conditions for any Covered Activities. The RCA shall adopt a

resolution in substantially the same form as the model resolution attached as Exhibit "J."

11.1.7 Riverside County Transportation Commission. RCTC shall implement the MSHCP and this Agreement through execution of this Agreement.

11.1.8 Caltrans. Caltrans shall implement the MSHCP and this Agreement through execution of this Agreement.

11.1.9 State Parks. State Parks shall implement the MSHCP and this Agreement through execution of this Agreement.

11.2 Cooperative Organizational Structure

11.2.1 Overview. Successful implementation of the MSHCP requires both a local administrative structure and effective coordination with state and federal partners. The Parties have therefore established an organizational structure for implementation and management of the MSHCP described in Section 6.6 of the MSHCP ("Cooperative Organizational Structure").

11.2.2 Regional Conservation Authority.

A. **Overview.** As set forth in Section 6.6 of the MSHCP, implementation of the MSHCP will be overseen, administered and enforced by a joint regional authority formed by the County and the Cities. This authority shall be called the Western Riverside County Regional Conservation Authority ("Regional Conservation Authority or RCA"). The RCA shall sign this Agreement and shall be a Permittee under the Permits. However, the RCA shall not limit County or City local land use authority or prevent a Permittee from approving a discretionary project. As set forth in Section 6.6.2 of the Plan, the RCA shall be formed prior to issuance of the Permits, either as a new joint powers authority or as part of an existing joint powers authority.

B. **Board of Directors Composition.** As set forth in Section 6.6.2 of the MSHCP, the RCA shall be governed by a Board of Directors, consisting of the designated member(s) of the Riverside County Board of Supervisors and an elected official from each of the Cities. The RCA Board of Directors shall establish a procedure for the Directors to appoint an alternate member to the Board of Directors to represent a regular member of the Board who is unable to attend a meeting.

C. **Duties and Responsibilities.** The RCA Board of Directors shall provide the primary policy direction for the implementation of the MSHCP and will provide opportunities for public participation in the decision-making process. The RCA shall have, at a minimum, the powers and duties as set forth in Section 6.6.2 of the MSHCP.

11.2.3 **Formation and Duties of Funding Coordination Committee.** To assist in implementing its duties under the MSHCP, the RCA Board of Directors shall form a committee to provide input on local funding priorities and Additional Reserve Lands acquisitions as set forth in Section 6.6.2 ("Funding Coordination Committee"). The Funding Coordination Committee shall be formed within one hundred twenty (120) days of the issuance of the Permits. RCA representatives on the Funding Coordination Committee shall be appointed by the RCA Board of Directors. The Funding Coordination Committee shall also have a representative from each of the Wildlife Agencies. The Funding Coordination Committee shall advise the RCA on local funding priorities and Additional Reserve Lands acquisition, prioritizing areas for conservation as requested. The Funding Coordination Committee shall take into consideration information received pursuant to Section 6.5 of the MSHCP.

11.2.4 **Joint Project/Acquisition Review Process.** To ensure that the requirements of the Permits, the MSHCP and this Agreement are properly met, a joint project/acquisition review process shall be instituted by the RCA. The process for the Joint Project/Acquisition Review Process is set forth in Section 6.6.2 of the MSHCP.

11.2.5 **Regional Conservation Authority Executive Director.**

A. **Selection.** An appropriate individual or entity shall be selected by the RCA Board of Directors to administer the Plan ("Executive Director"). The RCA Executive Director shall implement the duties and responsibilities of the RCA. The RCA shall initially contract with an appropriate Riverside County Department to act as the Executive Director within thirty (30) days of the formation of the RCA. This County Department shall be recommended by the County Executive Officer and approved by the RCA Board of Directors. This County contract shall be for an initial term of three (3) years.

B. **Duties and Responsibilities.** The Executive Director shall have the powers and duties as set forth in Section 6.6.3 of the MSHCP.

11.2.6 Reserve Management Oversight Committee.

A. **Formation and Representation.** As described in Section 6.6.4 of the MSHCP, the RMOC shall serve as the intermediary between the Reserve Managers, and others, and the decision-making function of the RCA. The RCA Executive Director shall serve as the chair of the RMOC. The RMOC shall be assembled within sixty (60) days of the effective date of the contract between the RCA Board of Directors and the County concerning appointment of the RCA Executive Director. The RMOC shall be composed of a representative from USFWS, CDFG, County Flood Control, County Parks, United States Forest Service, State Parks, the Bureau of Land Management, the County and the Cities, if applicable, the RCA and up to five representatives, as appointed by the RCA, of the private and public agencies or entities that own or manage land within the MSHCP Conservation Area.

B. **Duties and Responsibilities.** The RMOC shall have the duties and responsibilities as set forth in Section 6.6.4 of the MSHCP.

11.2.7 Reserve Managers.

A. **Selection.** Reserve Managers shall be an appropriate individual selected by, and contracted directly with, the public or private entity or agency that owns the affected MSHCP Conservation Area land.

B. **Duties and Responsibilities.** Reserve Managers shall have the duties and responsibilities as set forth in Section 6.6.5 of the MSHCP.

11.2.8 Reserve Monitoring.

A. **Selection.** A Monitoring Program Administrator shall be selected by the RCA Board of Directors as set forth in Section 6.6.6 of the MSHCP.

B. **Duties and Responsibilities.** The Monitoring Program Administrator shall have the duties and responsibilities as set forth in Section 6.6.6 of the MSHCP.

11.2.9 Independent Science Advisors.

A. **Selection.** The RCA Executive Director shall, as appropriate, appoint independent science advisors, with input from the RMOC as

described in Section 6.6.7 of the MSHCP ("Independent Science Advisors"). The Independent Science Advisors shall be qualified biologists and conservation experts, with expertise in the Covered Species and their habitats. The Independent Science Advisors, if appointed, shall be retained for a term not to exceed twelve (12) months and report to the RCA Executive Director.

B. **Duties and Responsibilities.** The Independent Science Advisors shall have the duties and responsibilities as set forth in Section 6.6.7 of the MSHCP.

11.3 MSHCP Coverage of Agricultural Activities.

11.3.1 Definition of Agricultural Operations. "Agricultural Operations" means the production of all plants (horticulture), fish farms, animals and related production activities, including the planting, cultivation and tillage of the soil, dairying, and apiculture; and the production, plowing, seeding, cultivation, growing, harvesting, pasturing and fallowing for the purpose of crop rotation of any agricultural commodity, including viticulture, apiculture, horticulture, and the breeding, feeding and raising of livestock, horses, fur-bearing animals, fish, or poultry, the operation, management, conservation, improvement or maintenance of a farm or ranch and its buildings, tools and equipment; the construction, operation and maintenance of ditches, canals, reservoirs, wells and/or waterways used for farming or ranching purposes and all uses conducted as a normal part of such Agricultural Operations; provided such actions are in compliance with all applicable laws and regulations. Execution of this Agreement shall not constitute such compliance.

The use of pesticides is regulated by the state and federal Environmental Protection Agencies. Take associated with pesticide use is addressed in FESA Section 7 consultations between USFWS and United States Environmental Protection Agency. The MSHCP will not be interpreted as imposing greater regulatory requirements than those existing prior to issuance of the Permits. The MSHCP will not impose new or additional restrictions on Agricultural Operations adjacent to the MSHCP Conservation Area, except as set forth in Section 6.1.4 of the MSHCP. The definition of Agricultural Operations and therefore, Take Authorization, shall not extend to any activities on federal property.

11.3.2 Take Authorization for Existing Agricultural Operations. The Take Authorizations shall apply to those lands within MSHCP Plan Area actively being used for ongoing Agricultural Operations for at least one of the last five (5) years preceding the Effective Date of this Agreement ("Existing

Agricultural Operations"). A time period of less than one year or growing season may be appropriate for certain crop types, at the RCA's sole discretion, if supported by adequate factual evidence. Existing Agricultural Operations shall be exempt from payment of the Local Development Mitigation Fee or other mitigation measures, except as specifically set forth in Section 11.3.5 below. The Take Authorization shall become effective as to Existing Agricultural Operations upon their inclusion into the County database as set forth below and issuance and receipt by the RCA of a Certificate of Inclusion or other appropriate written mechanism, which will occur solely for the purpose of documenting acknowledgment of Take Authorization and ensuring compliance with the Permits, the MSHCP and this Agreement. (See Exhibit "F" attached.) The County Agricultural Commissioner will administer Certificates of Inclusion for Agricultural Operations under the direction of the RCA. Existing Agricultural Operations may change agricultural crop type and continue to receive Take Authorization, provided all requirements of this section have been met. Change in Agricultural crop type will not count towards the 10,000 New Agricultural Lands Cap and does not trigger application of the MSHCP Criteria. Conversion from grazing or pastureland uses to a tilled crop shall not fall within the definition of Existing Agricultural Operations. Excluding the conversion of grazing or pasture land uses to a tilled crop from the definition of Existing Agricultural Operations shall not be interpreted as having any precedential effect.

11.3.3 Verification of Existing Agricultural Operations. In order to verify the location of the Existing Agricultural Operations, the County will establish a database identifying Existing Agricultural Operations on or before the Effective Date of the MSHCP ("Existing Agricultural Operations Database"). The Existing Agricultural Operations Database shall include parcel numbers, acreage, ownership/operation names and mailing addresses. The County shall submit the information contained in the Existing Agricultural Operations Database to the RCA and the Wildlife Agencies on an annual basis and shall include a map or other representation identifying parcels containing Existing Agricultural Operations. A Certificate of Inclusion or other written mechanism shall be completed to obtain Take Authorization, which will occur solely for the purpose of documenting acknowledgment of Take Authorization and ensuring compliance with the Permits, the MSHCP and this Agreement. (See Exhibit "F" attached.)

11.3.4 Addition of Existing Agricultural Operations Database. Upon written request by a property owner, operator or other appropriate party, property not included in the Existing Agricultural Operations Database shall be added based upon a determination by the RCA that such land falls within the definition of Existing Agricultural Operations. The written request must be

1) submitted to the RCA within sixty (60) months of the Effective Date of this Agreement; and 2) supported by adequate factual evidence which may include, but is not limited to, the following information or other information acceptable to the RCA: a) agricultural permits obtained from, and/or registrations filed with the County, State of California or other appropriate public agency; b) an approved Agricultural Grading/Clearing Exception Form as defined in County Ordinance No. 457; c) business, tax and property records; d) Agricultural Preserve and Williamson Act contract information; or e) aerial photographs and other relevant business records and information. Parcels of forty (40) acres or less may be added to the Existing Agricultural Operations Database and, thus, receive Take Authorization within forty-eight (48) months of the Effective Date of this Agreement provided good cause can be shown why a written request was not submitted within the sixty (60) month period set forth in this section. The burden is solely upon the property owner, operator or other appropriate party to provide adequate information to the RCA in a timely manner to allow inclusion into the Database. Once the RCA has determined that property should be added to the database, the information submitted to the RCA pursuant to this section in support thereof shall be considered conclusive proof of Existing Agricultural Operations. The County and the RCA shall strictly maintain the confidentiality of documents and other information submitted in connection with verifying Existing Agricultural Operations to the maximum extent permitted under the California Public Records Act, or any other relevant statute or regulation. The RCA shall consider such requests to add land to the Existing Agricultural Operations Database and make a determination within thirty (30) days of receipt of the written request.

11.3.5 Expansion of Existing Agricultural Operations (Permit Required). Expansion of Existing Agricultural Operations of similar use requiring a County or City discretionary permit or other discretionary authorization as defined in the County's agricultural zones set forth in Riverside County Ordinance No. 348 or relevant City land use regulation shall receive Take Authorization under the Permits, provided the requirements set forth in this Section are met. If the expansion requires a County or City discretionary permit or other discretionary authorization and occurs within the Criteria Area, then the Criteria shall be applied and appropriate mitigation imposed. Such projects shall not be subject to the Criteria and mitigation requirements if construction and operation disturbance and impacts are confined solely to the existing building footprint, i.e., limited to those areas that have been recently and consistently disturbed and have little or no habitat value. If the expansion requires a County or City permit or other discretionary authorization and occurs outside the Criteria Area, then the Criteria shall not be applied. However, the policies for the Protection of Narrow Endemic

Plant Species and Riparian/Riverine Areas and Vernal Pools, requirements as set forth in Sections 6.1.2 and 6.1.3 of the MSHCP shall be applied and additional surveys required, as set forth in Section 6.3.2 of the MSHCP, if appropriate. Such projects shall not be subject to these requirements if construction and operation disturbance and impacts are confined solely to the existing building footprint. Expansion of Existing Agricultural Operations shall be subject to the HANS process or other applicable Implementation Mechanism. The following activities will not be subject to the terms and conditions of the MSHCP:

A. Well drilling permits for agricultural operations and private consumptive uses.

B. Any permits related to livestock keeping for agricultural operations.

C. Any permits related to legal pesticide and fertilizer use.

D. Any permits related to farm outbuildings for agricultural operations; Farm outbuildings are defined as structures limited to two walls, such as tractor sheds and fruit and vegetable stands.

11.3.6 New Agricultural Lands. As set forth in Section 11.3.4, all Agricultural Operations on parcels included on the Existing Agricultural Operations Database that do not require a County or City discretionary permit or other discretionary authorization will receive Take Authorization as Existing Agricultural Operations without the need to comply with the Criteria or MSHCP mitigation requirements. The Take Authorization will be applied to a limited number of new lands to be used for Agricultural Operations (including Expansion of Existing Agricultural Operations not requiring a discretionary permit or other discretionary authorization), or subsequently determined to be converted to agricultural use, after the Effective Date of this Agreement consistent with the goals of the MSHCP ("New Agricultural Lands"). The Take Authorization may be applied to up to 10,000 acres of New Agricultural Lands within the Criteria Area during the term of the MSHCP ("New Agricultural Lands Cap"). The Take Authorization shall apply to New Agricultural Lands that fall within the New Agricultural Lands Cap, as allowed to increase pursuant to the amendment process set forth in Section 6.10 of the MSHCP, upon: 1) submission and approval of an Agricultural Grading/Clearing Exception Form as set forth in Riverside County Ordinance No. 457; and 2) either a) execution of a Williamson Act contract covering the New Agricultural Lands; or b) County or City approval of any other mechanism providing equal or better assurance that the proposed New Agricultural Lands will be used for Agricultural Operations. In all

instances, issuance of a Certificate of Inclusion or other written instrument must occur prior to Take Authorization. The County will process all Agricultural Grading/Clearing Exception Forms pursuant to the requirements of Riverside County Ordinance No. 457.

In the event that Development is subsequently proposed for property that has been designated as New Agricultural Lands, such Development will not be considered by the County or appropriate City for at least a five-year period following the inclusion of such property on the Existing Agricultural Operations Database. In limited cases of documented severe economic hardship, beyond the control of the property owner or operator as determined by the appropriate Permittee, the five-year period may be waived upon completion of a Minor Amendment to the MSHCP. This five-year requirement shall not be applicable to projects: 1) currently within an agricultural zone established by Ordinance No. 348, 2) whose building footprint will be wholly within property previously tilled as part of the Existing Agricultural Operations, 3) new agricultural activities including agricultural leases on properties for which a Development project has been approved, and 4) agricultural leases on property that is not identified for conservation in the context of the MSHCP Criteria.

Potential lessees could use information developed as part of the MSHCP to assist in determining whether property to be leased for agricultural uses would conflict with the MSHCP. It was determined that such a conflict would not exist if: 1) the property is on the agricultural database; 2) the property is outside the Criteria Area; or 3) the property is not identified as desirable for conservation by the MSHCP Criteria. The County Agricultural Commissioner working as appropriate with Local Permittees can assist lessees in making these evaluations by using the initial project review process incorporated in HANS. Take Authorization may be applied to unlimited new lands for Agricultural Operations outside the Criteria Area.

New Agricultural Lands shall be exempt from the payment of any impact mitigation fee or other mitigation measures imposed by the MSHCP, except as set forth in Section 11.3.5. The cap on New Agricultural Lands acreage is intended to accommodate expansion of Agricultural Operations while providing a mechanism for accounting for Take within the Criteria Area. It is not to be interpreted as restricting the expansion of agricultural land uses in the Plan Area. The New Agricultural Lands Cap will only apply until Reserve Assembly is complete, which is estimated to be approximately twenty-five (25) years from Permit issuance.

11.3.7 Increase in New Agricultural Lands Cap. The RCA shall monitor the acreage amount of New Agricultural Lands and the County shall add the parcel numbers, acreage and ownership information for the New Agricultural Lands to the Existing Agricultural Operations Database. An annual report containing this information shall be submitted to the Wildlife Agencies. By 2004, a map reflecting the location of New Agricultural Lands and their relationship to the Criteria Area shall be created and submitted to the Wildlife Agencies. This map shall be digitized and compatible with existing GIS systems. This map will be updated in 2005 and 2010. After 2010, the Parties shall agree when the preparation of future updated maps is appropriate. When the RCA determines that approximately 70% of the New Agricultural Lands Cap within the Criteria Area has been converted to New Agricultural Lands, the RCA shall seek approval of an amendment from the Wildlife Agencies to increase the New Agricultural Lands Cap. The Wildlife Agencies shall use reasonable efforts to expeditiously consider and, if appropriate, approve said request. A Minor Amendment may be appropriate to increase the New Agricultural Lands Cap if it meets the requirements for a Minor Amendment pursuant to Section 6.10.2 of the MSHCP and Section 20.4 of this Agreement and if it can be demonstrated to the satisfaction of the Wildlife Agencies that such an increase does not: 1) preclude Reserve Assembly, 2) significantly increase the cost of MSHCP Conservation Area management or assembly, and 3) preclude achieving Covered Species conservation and goals.

When the RCA determines that approximately 70% of the New Agricultural Lands Cap within the Criteria Area has been converted to New Agricultural Lands, then the County Agricultural Commissioner will provide written notice mailed to each owner of parcels five acres or larger zoned for agricultural use of record with the County Assessor's Office and to each of the landowners on the Master Index and on the Index of the Agricultural Land Conversions, and will publish a full-page advertisement and a legal notice in the Press Enterprise and the Californian once per week for four consecutive weeks, that: 1) includes information that Take Authorizations for conversions of non-agricultural lands to agricultural lands are in jeopardy of being exceeded, 2) explains the potential legal consequences of taking a listed species without the necessary Take Authorization, and 3) describes the procedure that the RCA will follow for applying for an amendment to the MSHCP to cover agricultural land conversions in excess of the New Agricultural Lands Cap and opportunities for affected landowners to participate in the process. Every five (5) years, the RCA in conjunction with the County Agricultural Commissioner shall review the status of the New Agricultural Lands Cap acreage amount and the need to begin processing a Plan amendment to increase the Cap.

11.4 Changed Circumstances.

11.4.1 General Terms. Consistent with USFWS regulations regarding habitat conservation plan assurances, Section 6.8 of the MSHCP identifies changes in the circumstances affecting the MSHCP Conservation Area and/or Covered Species which can be reasonably anticipated and planned for in the MSHCP and describes the responses to such changes that will be carried out by the Parties. Since the MSHCP includes an Adaptive Management approach to habitat management, changes over time and adaptive responses are already contemplated and do not therefore require amendments to the MSHCP, or the Permits. The Parties agree that this section and Section 6.8 of the MSHCP address all reasonably foreseeable Changed Circumstances and describe specific responses for them; other changes not identified as Changed Circumstances will be treated as Unforeseen Circumstances.

11.4.2 Permittees-Initiated Response to Changed Circumstances. Permittee(s) will give notice to the Wildlife Agencies within sixty (60) calendar days after learning that any of the Changed Circumstances listed in Section 6.8 of the MSHCP have occurred. As soon as practicable thereafter, but no later than sixty (60) days after learning of the Changed Circumstances, Permittee(s) will modify its/their activities in the manner described in Section 6.8 of the MSHCP, to the extent necessary to address the effects of the Changed Circumstances on the Covered Species, and will report to the Wildlife Agencies on its/their actions. Permittee(s) will undertake such modifications without awaiting notice from the Wildlife Agencies.

11.4.3 Wildlife Agency-Initiated Response to Changed Circumstances. If the Wildlife Agencies determine that Changed Circumstances have occurred, they shall notify Permittee(s) in writing within sixty (60) calendar days. Within sixty (60) days after receiving such notice, Permittee(s) will begin implementation of the required changes and report to the Wildlife Agencies on its/their actions. If the USFWS and/or CDFG determine that Changed Circumstances have occurred and that a Permittee has not responded in accordance with Section 6.8 of the MSHCP, the Wildlife Agency or Agencies will so notify the affected Permittee and the RCA Executive Director and will direct Permittee to make the required changes.

11.4.4 Condemnation of Lands Providing Conservation Benefits. In the event that an authority with eminent domain powers condemns part of the lands to which the MSHCP's conservation and mitigation measures apply, the applicable Permittee will use all funds provided to the Permittee through the condemnation proceedings to provide additional conservation and mitigation

measures that will replace the conservation benefits that would have been provided by the condemned lands.

11.4.5 New Listings of Species Not Covered by the MSHCP. The USFWS or CDFG may list additional species under FESA and/or CESA as threatened or endangered, delist species that are currently listed, or declare listed species as extinct. In the event of a new listing of one or more species not covered by the MSHCP, the following steps will be taken.

If a species not covered by the MSHCP is listed as threatened or endangered under FESA and/or CESA during the life of the Permits, the USFWS and/or CDFG and the Permittee(s) will identify actions that may cause Take, jeopardy or adverse modification of Critical Habitat, and the Permittee(s) will avoid such actions in the implementation of their Covered Activities until approval of an amendment to the MSHCP to address the newly listed species in accordance with the Modifications and Amendments Procedures described in Section 6.10 of the MSHCP. Such avoidance measures will include the following: 1) evaluation of applications for Covered Activities with respect to potential effects on the newly listed species; such evaluations will include assessment of the presence of suitable habitat for the newly listed species within the areas potentially affected by the proposed Covered Activity and surveys for the newly listed species, as appropriate, using accepted protocols; and 2) implementation of measures to avoid impacts to the newly listed species based on the results of the data collected in item 1) above and the evaluation of those data in the context of the design of the proposed Covered Activity.

11.5 Annexation and Deannexation of Lands. Each of the Permittees shall enforce the terms of the Plan, the Permits, and this Agreement as to all individuals or entities subject to its jurisdiction, including lands in the Plan Area annexed into the Permittees' jurisdictions after the Effective Date of this Agreement provided the Minor Amendment requirements of Section 20.4.1(E) of this Agreement and Section 6.10.2 of the MSHCP have been met. If the Minor Amendment requirements cannot be met, a Major Amendment will be required.

In the event of the annexation or deannexation of any land within the Plan Area to another jurisdiction that is not a Permittee, the Parties shall seek to enter into an agreement between the Permittees, the Local Agency Formation Commission ("LAFCO"), the annexing or deannexing jurisdiction and the Wildlife Agencies as part of the annexation process to ensure that any Development of the annexed lands proceeds in accordance with the conservation goals of the MSHCP. If an agreement can be reached, that jurisdiction shall become a Permittee after executing an addendum to this Agreement. If an agreement cannot be reached, or if the MSHCP requirements are not imposed as a condition of annexation by LAFCO, then the annexed or deannexed land will not receive Take Authorization pursuant to the Permits, the MSHCP or this Agreement.

Additionally, such annexation or deannexation may result in the revocation or suspension of the Permits pursuant to Section 23.5 of this Agreement. Parties within such annexed or deannexed land that qualify as Participating Special Entities may receive Take Authorization as set forth in Section 11.8.

11.6 Incorporation of New Cities within MSHCP Boundaries. The Parties anticipate that during the term of the MSHCP, and after the Effective Date, one or more new cities may be incorporated within the Plan Area. Such newly incorporated cities, upon adoption of an appropriate Implementation Mechanism and execution of an Implementing Agreement with the Wildlife Agencies substantially similar in form to this Agreement, shall receive Take Authorization pursuant to the Permits and all other rights and obligations granted by the Permits, the MSHCP and this Agreement. Incorporation of a new city within Plan Area shall constitute a Minor Amendment and shall be processed as such pursuant to Section 20.4 of this Agreement and Section 6.10.2 of the MSHCP. In the event a newly incorporated city fails to participate in the MSHCP, the Permits may be revoked or suspended as set forth in Section 23.5 of this Agreement.

11.7 Growth-Inducing Effects . Once mitigation has been imposed upon the Permittees, Participating Special Entity, or Third Party Granted Take Authorization for a proposed project in conformance with the requirements of the MSHCP, Permittees shall not be required to provide or impose any additional mitigation for any growth-inducing effects that such project may have on a Covered Species and its habitat within the Plan Area.

11.8 Participating Special Entity.

11.8.1 Take Authorization for Participating Special Entities. Any public facility provider, such as a utility company or a public district, including, but not limited to, a school, water, or irrigation district, that operates facilities and/or owns land within the Plan Area ("Participating Special Entity") may request Take Authorization for its activities pursuant to the Permits. As set forth below, such activities must comply with all of the terms and requirements of the Permits, the MSHCP and this Agreement.

11.8.2 Grant of Take Authorization to Participating Special Entity. The RCA may grant Take Authorization to a Participating Special Entity for its activities upon compliance with this section. The Participating Special Entity shall submit a complete application for the proposed activity to the RCA containing a detailed description of the proposed activity, a map indicating the location of the proposed activity, an analysis of its potential impacts to Covered Species and their habitats and the MSHCP Conservation Area, and the results of survey and mapping as required pursuant to Section 6.3 of the MSHCP.

Within thirty (30) days of receipt of the complete application, RCA and Wildlife Agency staff shall review the application. If RCA staff, with the concurrence of the Wildlife Agencies finds that the proposed activity complies with all terms and requirements of the MSHCP, the Permits and this Agreement, is designed and implemented consistent with applicable Criteria if within the Criteria Area and does not compromise the viability of the Permits or the MSHCP Conservation Area, the RCA shall issue a Certificate of Inclusion upon completion or fulfillment of all appropriate requirements as set forth below and shall be deemed a Covered Activity. In the event the proposed activity crosses the MSHCP Conservation Area, RCA staff must make a finding supported by adequate evidence that the activity will result in a biologically equivalent or superior alternative to the MSHCP Conservation Area prior to issuance of a Certificate of Inclusion. The Certificate of Inclusion shall depict on an attached map the lands by parcel number, acreage and owner to which the proposed Take Authorization(s) would apply. In the event that the proposed activity does not comply with the terms and requirements of the Permits, the MSHCP and this Agreement, and/or compromises the viability of the MSHCP Conservation Area, RCA and Wildlife Agency staff shall meet with Participating Special Entity representatives to attempt to reach a mutually agreeable solution.

11.8.3 **Requirements for Participating Special Entities.** In addition to the requirements set forth in MSHCP Sections 6.1.2, 6.1.3, 6.1.4 and 6.3.2, Participating Special Entities shall also contribute to Plan implementation through payment of a fee based upon the type of proposed activity, which shall be applicable to all activities in the Plan Area. For regional utility projects that will be constructed to serve Development, such as major trunk lines, Participating Special Entities shall pay a fee in the amount of 5% of total capital costs or take such other actions as may be agreed to by the RCA and the Wildlife Agencies. For such activities that will result in only temporary impacts and disturbance, Participating Special Entities shall pay a fee in the amount of 3% of total capital costs or other appropriate measures as may be agreed to by the RCA and the Wildlife Agencies. Public district or agency projects that will be constructed to serve Development, such as new schools and treatment plants, inside the Criteria Area shall be designed and implemented pursuant to the Criteria as described in Section 3.3 of the MSHCP and all other requirements of the MSHCP, including payment of Local Development Mitigation Fees as adopted for commercial and industrial Development. For such activities outside of the Criteria Area, contribution will consist of payment of Local Development Mitigation Fees as adopted for commercial and industrial Development. All fees shall be either collected by, or submitted to, the RCA. All obligations must be satisfied prior to impacts to Covered Species and their habitats.

11.9 Criteria Application Process. Public and private projects within the Criteria Area are expected to be designed and implemented in accordance with the Criteria for each Area Plan and all other MSHCP requirements as set forth in the Plan and in Section 13.0 of this Agreement . In the event that refinements to the Criteria are appropriate to facilitate Reserve Assembly, the Criteria Refinement Process set forth in Section 6.5 of the MSHCP shall be utilized.

11.10 Process for Addressing Out of County CETAP Corridors in the MSHCP. The process for obtaining Take Authorization for an Out of County CETAP Corridor is described in Section 7.3.5 of the MSHCP.

11.11 Process for Addressing Cajalco Road Improvements. The process for obtaining Take Authorization for Cajalco Road Improvements is described in Section 7.2.3 of the MSHCP.

11.12 Process for Addressing State Route 79 Road Improvements. The process for obtaining Take Authorization for State Route 79 Road Improvements is described in Section 7.3.5 of the MSHCP.

11.13 Verification of Public/Quasi-Public Lands. Within five (5) years of issuance of the Permits, the RCA shall verify the precise acreage location, amount and status of Public/Quasi-Public Lands in the MSHCP Conservation Area. Such information shall be submitted to the Wildlife Agencies for review. In the event that a Permittee elects to use property currently depicted as Public/Quasi-Public Lands on the MSHCP Plan Map (figure 3-1 of the MSHCP) in a way that alters the land use such that it would not contribute to Reserve Assembly, that Permittee shall locate and acquire or otherwise encumber replacement acreage at a minimum ratio of 1:1 replacement taking into account direct and indirect effects of Public/Quasi-Public Lands in one location with Public/Quasi-Public Lands in another location. The Permittee must make findings that the replacement acreage is biologically equivalent or superior to the existing property as set forth in Section 6.5 of the MSHCP.

12.0 FUNDING OF THE MSHCP

The funding of the MSHCP, including financing of Reserve Assembly and management will occur pursuant to Section 8.0 of the MSHCP.

12.1 Local Obligations.

12.1.1 Additional Reserve Lands. As described in Section 8.3.1 of the MSHCP, Local Permittees are responsible for the conservation of 97,000 acres of Additional Reserve Lands. Local Permittees are responsible for the acquisition costs of 56,000 acres of Additional Reserve Lands. The projected cost under current dollars for this acreage is approximately $733 million. An

additional 41,000 acres will be conserved through the development review process.

12.1.2 MSHCP Conservation Area Management Costs. As described in Section 8.3.2 of the MSHCP, Local Permittees are responsible under the Plan for management costs for the 56,000 acres of Additional Reserve Lands, an additional 41,000 acres of Additional Reserve Lands conserved through the development process, and approximately 55,000 acres of existing locally conserved land. This land will be acquired for conservation in perpetuity and will be managed as described in Section 5.0 of the MSHCP. Management costs for the combined 152,000 acres are estimated at approximately $110.3 million for the initial 25-year period of the Permits.

12.1.3 Additional Reserve Lands Monitoring Costs. As set forth in Sections 8.3.3 and 8.3.6 of the MSHCP, Local Permittees will be responsible under the Plan for a portion of the Monitoring Program costs. The local obligation for monitoring costs will be approximately $1-1.5 million annually.

12.1.4 Program Administration Costs. The Local Permittees will be responsible under the Plan for Plan administration costs necessary to implement the terms and conditions of the Plan, including staffing for the RCA. As described in Section 8.3.4 of the MSHCP, the local obligation for Plan administration costs is approximately $1.2 million for the first twenty-five (25) years. Once the property acquisition phase is completed after twenty-five (25) years, annual administration costs are estimated to be $500,000 annually for the remaining fifty (50) years of the Permit term.

12.2 Local Funding Sources. The local funding program consists of the local commitment for funding MSHCP Reserve Assembly, Management and Monitoring and as set forth in Section 8.5.1 of the MSHCP. The primary components are as follows:

12.2.1 Local Development Mitigation Fees. As further described in Section 8.5 of the MSHCP, the County and the Cities shall adopt fee ordinances establishing Local Development Mitigation Fees that will be a primary source of funding program implementation. The projected revenues from the Local Development Mitigation Fees are anticipated to be approximately $540 million over a 25-year period. The County and the Cities shall transmit all collected Local Development Mitigation Fees to the RCA on at least a quarterly basis to be expended to fulfill the terms of the MSHCP.

12.2.2 Regional Infrastructure Project Contribution. Permittees' regional infrastructure projects will contribute to Plan implementation. For transportation infrastructure, the local funding program anticipates

approximately $371 million in contribution over the next twenty-five (25) years.

12.2.3 Landfill Tipping Fees. Landfill tipping fees are estimated to generate approximately $90 million from El Sobrante landfill and $10 million from other County landfills.

12.2.4 Density Bonus Fees. As set forth in Section 8.5.1 of the MSHCP, the new Riverside County General Plan creates several incentive plans that can aid in the conservation of lands through non-acquisition means, including payment of density bonus fees by developers. Density bonus fees are anticipated to generate $58 million dollars over the next twenty-five (25) years.

12.2.5 Adaptive Management. Adaptive Management is an important component of the overall management of the MSHCP Conservation Area. The local funding program will provide an endowment of $70 million at the end of twenty-five (25) years to provide funds for Adaptive Management. At a 5% rate of return, this endowment will provide approximately $3.5 million annually to undertake Adaptive Management activities. The local funding program also identifies funds available for Adaptive Management for the initial 25-year period of the Permits.

12.2.6 Additional Funding. As further described in Section 8.5 of the MSHCP, the Parties shall seek additional funding from private, local, state and federal sources.

12.2.7 Lands Conserved Through the Development Review Process. As set forth in MSHCP Sections 8.4.1 and 8.4.2, approximately 41,000 acres of Additional Reserve Lands are expected to be conserved through the development review process.

12.3 Annual Evaluation of Funding. On an annual basis, the Permittees and the Wildlife Agencies will evaluate the performance of the funding mechanisms and develop any necessary modifications to address possible shortfalls. Additionally, this annual evaluation will include an assessment of the funding plan and anticipate funding needs over the next eighteen (18) months for the purpose of identifying any potential deficiencies in cash flow. If deficiencies are identified through this evaluation, the Permittees and the Wildlife Agencies will develop strategies to address any additional funding needs consistent with the terms and conditions of the Plan. Additional funding needs will be addressed as set forth in Section 8.6 of the MSHCP. Management and monitoring costs are not anticipated to exceed projections except for inflation. Management and monitoring budgets will be locally approved annually by the RCA.

12.4 State Permittee Obligations. The State Permittees are responsible for the acquisition costs for 6,000 acres of Additional Reserve Lands as their contribution towards Reserve Assembly. These responsibilities are set forth in Sections 13.8 and 13.9 of this Agreement and Section 8.0 of the MSHCP.

13.0 PERMITTEES' TAKE AUTHORIZATION AND OBLIGATIONS

13.1 Permittees' Take Authorization. Each Permittee may engage in, and receive Take Authorization for, Covered Activities as set forth in Section 7.0 of the MSHCP. Additionally, the RCA may confer Take Authorization for Covered Activities as set forth in Section 6.6 of the MSHCP. The County and Cities may also confer Take Authorization and approve projects proposed within their respective jurisdictions, as set forth in Sections 7.1 and 7.3.1 of the MSHCP. The RCA, County and Cities may also confer Take Authorization through the issuance of a Certificate of Inclusion or other written mechanism as set forth in Sections 11.3 and 11.8 of this Agreement.

13.2 County and Cities Obligations. The County and the Cities have the following obligations under the MSHCP and this Agreement;

A. Adopt and maintain ordinances or resolutions as necessary, and amend their general plans as appropriate, to implement the requirements and to fulfill the purposes of the Permits, the MSHCP and this Agreement for private and public Development projects. Such requirements and policies include: 1) the collection of Local Development Mitigation Fees and other relevant fees as set forth in Section 8.5 of the MSHCP; 2) compliance with the HANS process or equivalent process to ensure application of the Criteria and thus, satisfaction of the local acquisition obligation; 3) compliance with the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools, set forth in Section 6.1.2 of the MSHCP; 4) compliance with the policies for the Potection of Narrow Endemic Plant Species set forth in Section 6.1.3 of the MSHCP; 5) require surveys as set forth in Section 6.3.2 of the MSHCP; 6) compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; and 7) compliance with the Best Management Practices and the siting and design criteria as set forth in Section 7.0 and Appendix C of the MSHCP. The County and the Cities shall transmit to the RCA and the Wildlife Agencies relevant documents showing adoption and/or execution of the Implementation Mechanisms and any subsequent amendments thereto.

B. Transmit any collected Local Development Mitigation Fees, other appropriate fees and associated interest as described in Section 8.5 of the MSHCP to the RCA at least quarterly.

C. Contribute to Plan implementation and Reserve Assembly as determined appropriate by the affected Permittee for County and City public projects, including, but not limited to, any one or any combination of the following: 1) acquisition of replacement habitat at a 1:1 ratio that is biologically equivalent or superior to the property being disturbed; or 2) payment of the Local Development Mitigation Fees as established for commercial and industrial Development. Such contribution shall occur prior to impacts to Covered Species and their habitats.

D. Participate as a member agency in the RCA as set forth in Section 6.6.2 of the MSHCP.

E. Notify the RCA, through the Joint Project/Acquisition Review Process set forth in Section 6.6.2 of the MSHCP, of proposed discretionary projects within the Criteria Area and participate in any further requirements imposed by that section.

F. Take all necessary and appropriate actions, following its applicable land use permit enforcement procedures and practices, to enforce the terms of project approvals for public and private projects, including compliance with the MSHCP, the Permits and this Agreement.

G. Carry out all other applicable requirements of the MSHCP, this Agreement and the Permits. Notwithstanding the foregoing, nothing within this Agreement shall be construed to require any local government to provide funding, or any other form of compensation, beyond the fees collected, dedicated lands required pursuant to this Agreement and the MSHCP or other mitigation agreed to by the appropriate Parties, consistent with the terms and conditions of the MSHCP.

H. Manage MSHCP Conservation Area property or conservation easements owned or leased by the County or respective City pursuant to Sections 5.0 and 8.0 of the MSHCP.

I. Participate as a member of the RMOC as set forth in Section 6.6.4 of the MSHCP.

13.3 Regional Conservation Authority Obligations. The RCA has the following obligations under the MSHCP and this Agreement:

A. Adopt and maintain resolutions as necessary to implement the requirements and to fulfill the purposes of the Permits, the MSHCP and this Agreement for its public projects, if any and for issuance of Take Authorization for

Participating Special Entities. Such requirements include: 1) collection of Local Development Mitigation Fees; 2) compliance with the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools as set forth in Section 6.1.2 of the MSHCP; 3) compliance with the policies for the Protection of Narrow Endemic Plant Species as set forth in Section 6.1.3 of the MSHCP; 4) require surveys as set forth in Section 6.3.2 of the MSHCP; 5) compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; and 6) compliance with the Best Management Practices and the siting and design criteria as set forth in Section 7.0 and Appendix C of the MSHCP.

B. Administer and oversee implementation of the MSHCP as set forth in Section 6.0 of the MSHCP.

C. Collect and expend Local Development Mitigation Fees and other applicable funds as described in Section 8.5 of the MSHCP.

D. Transfer Take Authorization to Participating Special Entities pursuant to Section 11.8 of this Agreement.

E. Accept and manage and monitor MSHCP Conservation Area property including conservation easements that have been conveyed to the RCA by the County, Cities or other entity, agency or individual, pursuant to Sections 5.0 and 8.0 of the MSHCP.

F. Carry out all other applicable requirements of the MSHCP, this Agreement, and the Permits. Notwithstanding the foregoing, nothing within this Agreement shall be construed to require the RCA to provide funding, or any other form of compensation, beyond the fees collected or dedicated lands required pursuant to the Permits, this Agreement and the MSHCP, consistent with the terms and conditions of the MSHCP.

G. Take all necessary and appropriate actions to enforce the terms of the Permits, the MSHCP and this Agreement.

H. Participate as a member of the RMOC as set forth in Section 6.6.4 of the MSHCP.

13.4 County Flood Control Obligations. County Flood Control has the following obligations under the MSHCP and this Agreement:

A. Adopt and maintain resolutions as necessary to implement the requirements and to fulfill the purposes of the Permits, the MSHCP and this Agreement for

its Covered Activities. Such requirements include: 1) compliance with the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools as set forth in Section 6.1.2 of the MSHCP; 2) compliance with the policies for the Protection of Narrow Endemic Plant Species as set forth in Section 6.1.3 of the MSHCP; 3) conduct surveys as set forth in Section 6.3.2 of the MSHCP; 4) compliance with all requirements of Section 7.3.7 of the MSHCP; 5) compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; and 6) compliance with the Best Management Practices and the siting and design criteria as set forth in Section 7.0 and Appendix C of the MSHCP.

B. Contribute mitigation through payment of 3% of total capital costs for a Covered Activity. Such payment may be offset through acquisition of replacement habitat or creation of new habitat for the benefit of Covered Species, as appropriate. Such mitigation shall be implemented prior to impacts to Covered Species and their habitats.

C. Manage land owned or leased within the MSHCP Conservation Area that has been set aside for conservation purposes pursuant to a management agreement to be executed between County Flood Control and CDFG.

D. Carry out all other applicable requirements of the MSHCP, this Agreement and the Permits. Notwithstanding the foregoing, nothing in this Agreement shall be construed to require County Flood Control to provide funding, or any other form of compensation, beyond the fees collected or dedicated lands required pursuant to the Permits, this Agreement and the MSHCP, consistent with the terms and conditions of the MSHCP.

E. Participate as a member of the RMOC as set forth in Section 6.6.4 of the MSHCP.

13.5 County Parks Obligations. County Parks has the following obligations under the MSHCP and this Agreement:

A. Adopt and maintain resolutions as necessary to implement the requirements and to fulfill the purposes of the Permits, the MSHCP and this Agreement for its Covered Activities. Such requirements include: 1) compliance with the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools as set forth in Section 6.1.2 of the MSHCP; 2) compliance with the policies for the Protection of Narrow Endemic Plant Species as set forth in Section 6.1.3 of the MSHCP; 3) conduct surveys as set forth in Section 6.3.2 of the MSHCP; 4) compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the

MSHCP; and 5) compliance with the Best Management Practices and all other requirements of Section 7.0 and Appendix C of the MSHCP.

B. Contribute to Plan implementation and Reserve Assembly as determined appropriate by County Parks for its Covered Activities, including, but not limited to, any one or any combination of the following: 1) acquisition of replacement habitat at a 1:1 ratio that is biologically equivalent or superior to the property being disturbed; or 2) payment of Local Development Mitigation Fees as established by the County for commercial and industrial Development. Such contribution shall occur prior to impacts to Covered Species and their habitats.

C. Manage and monitor land owned or leased within the MSHCP Conservation Area that has been set aside for conservation purposes pursuant to Section 5.0 of the MSHCP, and funding for such management and monitoring shall be provided pursuant to Section 8.0 of the MSHCP.

D. Carry out all other applicable requirements of the MSHCP, this Agreement and the Permits. Notwithstanding the foregoing, nothing in this Agreement shall be construed to require County Parks to provide funding, or any other form of compensation, beyond the requirements of the Permits, this Agreement and the MSHCP, consistent with the terms and conditions of the MSHCP.

E. Participate as a member of the RMOC as set forth in Section 6.6.4 of the MSHCP.

13.6 County Waste Obligations. County Waste has the following obligations under the MSHCP and this Agreement:

A. Adopt and maintain resolutions as necessary to implement the requirements and to fulfill the purposes of the Permits, the MSHCP and this Agreement for its Covered Activities. Such requirements include: 1) contribution of landfill tipping fees as set forth in Section 8.5 of the MSHCP; 2) compliance with the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools as set forth in Section 6.1.2 of the MSHCP; 3) compliance with the policies for the Protection of Narrow Endemic Plant Species as set forth in Section 6.1.3 of the MSHCP; 4) conduct surveys as set forth in Section 6.3.2 of the MSHCP; 5) compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; and 6) compliance with the Best Management Practices and all other requirements of Section 7.0 and Appendix C of the MSHCP.

B. Manage land owned within the MSHCP Conservation Area that has been set aside for conservation purposes pursuant to Section 5.0 of the MSHCP and funding for such management shall be provided pursuant to Section 8.0 of the MSHCP.

C. Carry out all other applicable requirements of the MSHCP, this Agreement, and the Permits. Notwithstanding the foregoing, nothing within this Agreement shall be construed to require County Waste to provide funding, or any other form of compensation, beyond the requirements of the Permits, this Agreement and the MSHCP, consistent with the terms and conditions of the MSHCP.

13.7 RCTC Obligations. RCTC has the following obligations under the MSHCP and this Agreement:

A. Adopt and maintain ordinances or resolutions as necessary to implement the requirements and to fulfill the purposes of the Permits, the MSHCP and this Agreement, for its Covered Activities. Such requirements include: 1) compliance with the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools as set forth in Section 6.1.2 of the MSHCP; 2) compliance with the policies for the Protection of Narrow Endemic Plant Species as set forth in Section 6.1.3 of the MSHCP; 3) conduct surveys as set forth in Section 6.3.2 of the MSHCP; 4) compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; and 5) compliance with the Best Management Practices and the siting and design criteria as set forth in Section 7.0 and Appendix C of the MSHCP.

B. Contribute mitigation in the amount of $153 million from Measure "A" funds for mitigation of its Covered Activities as described in Section 8.5.1. of the MSHCP. Such contribution shall occur proportionately prior to impacts to Covered Species or their habitats.

C. Carry out all other applicable requirements of the MSHCP, this Agreement, and the Permits. Notwithstanding the foregoing, nothing within this Agreement shall be construed to require RCTC to provide funding, or any other form of compensation, beyond the requirements of the Permits, this Agreement and the MSHCP, consistent with the terms and conditions of the MSHCP.

13.8 Caltrans Obligations. Caltrans has the following obligations under the MSHCP and this Agreement:

A. Implement the necessary requirements to fulfill the purposes of the Permits, the MSHCP and this Agreement for its Covered Activities. Such requirements include: 1) compliance with the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools as set forth in Section 6.1.2 of the MSHCP; 2) compliance with the policies for the Protection of Narrow Endemic Plant Species as set forth in Section 6.1.3 of the MSHCP; 3) conduct surveys as set forth in Section 6.3.2 of the MSHCP; 4) compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; and 5) compliance with the Best Management Practices and the siting and design criteria as set forth in Section 7.0 and Appendix C of the MSHCP.

B. Contribute to the assembly of the Additional Reserve Lands through acquisition of two conservation land areas pursuant to Section 8.4.4 of the MSHCP, one of approximately 2,000 acres in the eastern portion of the Criteria Area and one of approximately 1,000 acres in the western portion of the Criteria Area, within the first eight (8) years of the Permits. These areas shall, if at all feasible, be acquired in close proximity to new highway projects, improvement projects for existing highways, or wildlife movement corridors. The precise locations of the conservation land shall be determined in consultation with the Wildlife Agencies. The funds utilized by Caltrans for the acquisition of the conservation land will be funded from the State Transportation Improvement Program funds.

C. Transfer and fund three positions within CDFG for the management and monitoring of Additional Reserve Lands. Two positions would be assigned primarily to management and one position to biological monitoring. Caltrans would be required to enter into an interagency agreement with CDFG within one-hundred-eighty (180) days of Permit issuance and prior to any Take associated with Caltrans Covered Activities. As an alternative, Caltrans may establish an endowment account pursuant to Section 8.4.4 of the MSHCP.

D. Enter into a conservation banking agreement with the Wildlife Agencies within twelve (12) months of issuance of the Permits. Such agreement will provide appropriate assurances to Caltrans regarding any unused mitigation credits for its Covered Activities in the event that the Permits are terminated, revoked or suspended.

E. Carry out all other applicable requirements of the MSHCP, this Agreement, and the Permits.

13.9 State Parks. State Parks has the following obligations under the MSHCP and this Agreement:

A. For Non-Off Highway Vehicle ("OHV") activities, State Parks will implement the necessary requirements to fulfill the purposes of the Permits, the MSHCP and this Agreement for its Covered Activities. Such requirements include: 1) compliance with the policies for the Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools as set forth in Section 6.1.2 of the MSHCP; 2) compliance with the policies for the Protection of Narrow Endemic Plant Species as set forth in Section 6.1.3 of the MSHCP; 3) conduct surveys as set forth in Section 6.3.2 of the MSHCP; 4) compliance with the Urban/Wildlands Interface Guidelines as set forth in Section 6.1.4 of the MSHCP; and 5) compliance with the Best Management Practices and the siting and design criteria as set forth in Section 7.0 and Appendix C of the MSHCP.

B. For OHV activities, prior to construction of the OHV Park, State Parks will contribute 3,000 acres of Additional Reserve Lands in the Badlands, within the Criteria Area, as mitigation for impacts associated with up to 600 acres of active riding areas resulting from the establishment of a State Vehicular Recreational Area in the Badlands. As discussed in Section 7.3.6 of the MSHCP, the actual disturbed active riding area could expand by 100 acres for each additional 500 acres of habitat conserved within the Criteria Area in the vicinity of the State Vehicular Recreation Area.

C. For Non-OHV activities, as set forth in Section 8.4.4 of the MSHCP, State Parks' Take Authorization for Covered Activities is contingent on the preparation of unit management plans pertaining to each Covered Activity, which will reflect the scope of work and obligation of State Parks to manage and monitor State Parks land within the MSHCP Conservation Area pursuant to Section 5.0 of the MSHCP. The unit management plans must be reviewed and approved by the Wildlife Agencies.

D. As provided in Sections 5.0 and 8.4.4 of the MSHCP, State Parks will provide for the management and monitoring of the 3,000 acres of Additional Reserve Lands referred to in 13.9(B) above, and any additional mitigation lands provided under that subsection. Management and monitoring will be accomplished by State Parks through: 1) establishing an endowment with CDFG to fund two positions for the management and monitoring of the Additional Reserve Lands; or 2) transferring and funding two positions within CDFG; or 3) dedicating and funding two State Parks positions for the management and monitoring of the Additional Reserve Lands. One position will be assigned primarily to management and one position will be assigned

to the MSHCP biological monitoring team. The estimated funding for the two positions (salary and benefits for two staff environmental scientists plus support funds) is $250,000 annually in current dollars.

E. Participate as a member of the RMOC as set forth in Section 6.6.4 of the MSHCP.

F. Carry out all other applicable requirements of the MSHCP, this Agreement, and the Permits, including but not limited to, Section 7.3.6 of the MSHCP.

14.0 USFWS OBLIGATIONS AND ASSURANCES

14.1 Take Authorization for Covered Activities. Upon execution of this Agreement by all Parties, and satisfaction of all other applicable legal requirements, the USFWS will issue Permittees a permit under Section 10(a)(1)(B) of FESA authorizing Incidental Take by Permittees of the Covered Species Adequately Conserved resulting from Covered Activities within the MSHCP Plan Area, subject to and in accordance with, the MSHCP and this Agreement.

14.2 USFWS Findings - Covered Species Adequately Conserved. The USFWS has found, following opportunity for public comment, that: 1) the taking of Covered Species Adequately Conserved within the MSHCP Plan Area in accordance with the MSHCP as implemented will be incidental to the carrying out of otherwise lawful activities; 2) the MSHCP as implemented will, to the maximum extent practicable, minimize and mitigate the impacts of such incidental taking; 3) the funding sources identified and provided for herein will ensure that adequate funding for the MSHCP will be provided; 4) the requested taking of Covered Species Adequately Conserved will not appreciably reduce the likelihood of survival and recovery of such species in the wild; and 5) the MSHCP, as implemented, will satisfy and fulfill all measures agreed upon by the parties for the purposes of the MSHCP (including procedures determined by the USFWS to be necessary to address Unforeseen Circumstances).

14.3 USFWS Findings - Covered Species. In addition to the findings in Section 14.2 above, the USFWS has found that the remaining 28 Covered Species will be adequately conserved as the result of implementation of the MSHCP when the species objectives identified in Table 9-3 of the MSHCP are met. Accordingly, concurrent with the Effective Date, the USFWS will issue the Section 10(a) Permit to the Permittees authorizing Incidental Take of these Covered Species, conditioned upon successful implementation of these species objectives in Table 9-3.

14.4 Section 10(a) Permit Coverage. The Section 10(a) Permit will identify all Covered Species . The Section 10(a) Permit will take effect for federally listed Covered Species Adequately Conserved for which Take may be authorized under FESA at the time the Section 10(a) Permit is issued.

14.5 Implementation Assistance. Subject to Section 27.11 of this Agreement, USFWS shall provide staff to serve on all appropriate committees and shall ensure, to the extent possible, staff participation in discussions and meetings with the other Parties to ensure that the implementation of this Agreement is consistent with any findings upon which the Section 10(a) Permit is based. The USFWS shall, to the extent appropriate, cooperate with the Permittees in obtaining additional funding from sources including, but not limited to, existing and future state and federal grant programs and existing and future bond issues.

14.6 Assurances Regarding MSHCP. After opportunity for public review and comment, based on the best available current scientific and commercial data, the USFWS has found that the MSHCP, as implemented by this Agreement: 1) is consistent with and will complement other applicable conservation planning and regulatory programs and efforts addressing wildlife within the region, 2) minimizes and mitigates the potential significant adverse impacts of the Covered Activities on the Covered Species, 3) will ensure that the measures agreed upon by the Permittees and the USFWS will be met, and 4) will be implemented. The USFWS shall not take a position inconsistent with the acknowledgments set forth in this section, including, without limitation, in the form of comments offered by the USFWS in the context of any CEQA or NEPA process associated with approvals for Covered Activities with regard to effects on Covered Species.

14.7 Take Authorization for Newly Regulated Covered Species; Savings Provision. Subject to compliance with all other terms of this Agreement, the Section 10(a) Permit will automatically become effective for each Unlisted Covered Species Adequately Conserved upon the listing of such species as endangered or threatened under FESA. If it is judicially determined that the USFWS was not authorized to cause the Section 10(a) Permit to become effective automatically as to Covered Species Adequately Conserved as they become listed pursuant to FESA, the USFWS shall accept the minimization and mitigation measures in the MSHCP and this Agreement as the basis for an application for a Section 10(a) amendment or separate Section 10(a) Permits, MBTA Permits, and/or other Take Authorizations. The USFWS shall use reasonable efforts to review and process the application expeditiously so as to ensure, provided the Permit amendment or application meets the requirements of FESA and other applicable federal laws, that the Take Authorization is effective concurrently with the listing of the Covered Species Adequately Conserved under FESA. In issuing such Permits, amendments and/or Take Authorizations, and to the extent that such judicial determination creating the circumstances requiring such additional review and processing allows, the USFWS shall not request, impose, recommend or require further mitigation, conservation, compensation, enhancement or other protection for such Covered Species except as expressly provided in this Agreement.

14.8 Changes in the Environmental Laws. It is acknowledged and agreed by the USFWS that the Permittees are agreeing to perform substantial avoidance, minimization, mitigation, conservation and management measures as set forth in this Agreement. If a change in, or an addition to, any federal law governing or regulating the impacts of Development on land, water or biological resources as they relate to Covered Species, including, but not limited to, FESA and NEPA, the

USFWS shall give due consideration to the measures required under the MSHCP in applying the new laws and regulations to the Permittees.

14.9 Section 7 Consultations. The USFWS will evaluate the direct, indirect, and cumulative effects of the Covered Activities in its internal FESA biological opinion issued in connection with the MSHCP and issuance of the Section 10(a) Permit. As a result, and to the maximum extent allowable, in any consultation under Section 7 of FESA subsequent to the Effective Date involving the Permittee(s) or entity with Third Party Take Authorization with regard to Covered Species Adequately Conserved and Covered Activities, the USFWS shall ensure that the FESA biological opinion issued in connection with the proposed project that is the subject of the consultation is consistent with the internal FESA biological opinion. Such project must be consistent with the terms and conditions of the MSHCP and this Agreement. Any reasonable and prudent measures included under the terms and conditions of a FESA biological opinion issued subsequent to the Effective Date with regard to the Covered Species Adequately Conserved and Covered Activities shall, to the maximum extent appropriate, be consistent with the implementation measures of the MSHCP and this Agreement. The USFWS shall not impose measures in excess of those that have been or will be required by the Permittee(s) or entity with Third Party Take Authorization pursuant to the MSHCP and this Agreement. The USFWS shall process subsequent FESA consultations for Covered Activities in accordance with the process and time periods set forth in 50 Code of Federal Regulations, section 402.14. The Parties agree that this section does not create an independent cause of action.

14.10 Critical Habitat Designation for Covered Species. The USFWS acknowledges and agrees that the MSHCP and this Agreement provide a comprehensive, habitat-based approach to the protection of Covered Species by focusing on the lands essential for the long-term conservation of the Covered Species and appropriate management for those lands. This approach is consistent with the overall purposes of FESA to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved. FESA regulations specify that the criteria to be used in designating critical habitat include "those physical and biological features that are essential to the conservation of a given species and that may require special management considerations or protection." (50 C.F.R. § 424.12(b).)

The MSHCP and this Agreement provide for the protection of "those physical and biological features essential to the conservation" of the Covered Species Adequately Conserved in a manner consistent with USFWS regulations concerning the designation of Critical Habitat. The USFWS agrees that, to the maximum extent allowable after public review and comment, in the event that a Critical Habitat determination is made for any Covered Species Adequately Conserved, and unless the USFWS finds that the MSHCP is not being implemented, lands within the boundaries of the MSHCP will not be designated as Critical Habitat. In addition, if Critical Habitat is designated within the MSHCP boundaries, pursuant to Section 14.12 of this Agreement and except as expressly provided in Section 14.12 of this Agreement and Section 6.8 of the MSHCP regarding Unforeseen Circumstances, no subsequent evaluation of the Covered Species Adequately Conserved, nor any mitigation, compensation, conservation enhancement or other protective measures other than those

set forth in the MSHCP will be required. Moreover, to the maximum extent allowable after public review and comment, the USFWS agrees to reassess and revise the boundaries of existing designated and proposed Critical Habitat of Covered Species Adequately Conserved within the MSHCP boundaries after its approval, although the Parties recognize that funding constraints may influence the timing of such regulatory action.

At the time of preparation of this Agreement, Critical Habitat is designated for four species within the Plan Area: the coastal California gnatcatcher, least Bell's vireo, Quino checkerspot butterfly, and San Bernardino kangaroo rat. On April 24, 2003, the USFWS re-proposed Critical Habitat for the coastal California gnatcatcher, with a final determination due in 2004 that will supercede the current designation. In addition, the USFWS proposed Critical Habitat for the vernal pool fairy shrimp on September 24, 2002. Court orders and settlement agreements require the USFWS to reassess the prudency of designating Critical Habitat and, if prudent, propose Critical Habitat for nine species within the Plan Area; the arroyo toad, Munz's onion, Riverside fairy shrimp, San Jacinto crownscale, Santa Ana sucker, southwestern willow flycatcher, spreading navarretia, Stephens' kangaroo rat, and thread-leaved brodiaea. In recent Critical Habitat rulemakings, the USFWS has concluded that the benefits of excluding lands addressed in an approved habitat conservation plan for the subject listed species under FESA outweigh the benefits of including such lands. Future rulemaking likely will include a similar analysis under Section 4(b)(2) of FESA.

14.11 Future Recovery Plans. Recovery plans under FESA delineate actions necessary to recover and protect federally listed species. These plans frequently include information, or may lead to the development of information, that can contribute to the development of an adaptive management program. However, recovery plans do not obligate any Permittee, individual or entity to undertake specific tasks.

The Parties acknowledge that FESA recovery plans have no effect on the implementation of this MSHCP, except to the extent that they may contribute information to, or assist in achieving the goals of, the Adaptive Management Program. Any recovery plan applicable to any Covered Species within the MSHCP Plan Area that is developed after the Effective Date shall:

A. Not require any additional land or financial compensation by Permittees;

B. Be finalized only after the USFWS has consulted with and requested input from the RCA on the preparation of the recovery plan; and

C. Not in any way diminish the Take Authorization for Covered Species Adequately Conserved granted to Permittees pursuant to the MSHCP, this Agreement, or the Section 10(a) Permit.

14.12 No Surprises Assurances and Unforeseen Circumstances.

14.12.1 **No Surprises Assurances.** The USFWS has promulgated the Habitat Conservation Plan Assurances Rule, published in the Federal Register on February 23, 1998 (63 Federal Register 8859), and codified at 50 Code of Federal Regulations, sections 17.3, 17.22(b) and 17.32(b) ("No Surprises Rule").

14.12.2 Pursuant to the No Surprise Rule, the assurances by the USFWS in this section shall apply so long as the commitments and provisions of the MSHCP, this Agreement and the Section 10(a) Permit are properly implemented.

14.12.3 As set forth in Section 6.8.1 of the MSHCP, pursuant to the No Surprises Rule, as long as the MSHCP is in effect, the USFWS will not require from Permittees, Third Parties Granted Take Authorization, Participating Special Entities or other individuals or entities receiving Take Authorization under the Permits the commitment of additional land, or financial compensation or additional restrictions on the use of land or other natural resources with regard to Covered Activities and their impact on the Covered Species Adequately Conserved beyond the level and/or amounts specified in the MSHCP, the Permits and this Agreement.

14.12.4 As set forth in Section 6.8.1 of the MSHCP, pursuant to the No Surprises Rule, the USFWS has the burden of making a finding that Unforeseen Circumstances exist with regard to any Covered Species Adequately Conserved using the best scientific and commercial data available. The findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species. In deciding whether any Unforeseen Circumstances exist, the USFWS shall consider, but not be limited to the following factors:

A. The extent of the current range of the Covered Species;

B. The percentage of the range of Covered Species and habitat that has been adversely affected by the Covered Activities;

C. The percentage of the range of the Covered Species and habitat that has been conserved by the MSHCP;

D. The ecological significance of that portion of the range or habitat of the Covered Species;

E. The level of knowledge about the Covered Species and habitat and the degree of specificity of the species conservation program under the MSHCP; and

F. Whether failure to adopt additional conservation measures would appreciably reduce the likelihood of survival and recovery of the Covered Species in the wild.

14.12.5 In the event the USFWS makes a finding of Unforeseen Circumstances and such Unforeseen Circumstances warrant the requirement of additional mitigation, enhancement or compensation measures, any such additional measures shall be restricted to modification of the management of the MSHCP Conservation Area, and shall be the least burdensome measures available to address the Unforeseen Circumstances.

14.12.6 Changed Circumstances, as described in 50 Code of Federal Regulations section 17.22(b)(5)(i), are adequately addressed in Section 6.8.3 of the MSHCP, and Permittees shall implement any measures for such circumstances as called for in the MSHCP, as described in Section 11.4 of this Agreement.

14.13 Migratory Bird Treaty Act. The Section 10(a) Permit shall constitute a Special Purpose Permit under 50 Code of Federal Regulations section 21.27, for the Take of Covered Species Adequately Conserved listed under FESA and which are also listed under the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. §§ 703-712) ("MBTA"), in the amount and/or number specified in the MSHCP, subject to the terms and conditions specified in the Section 10(a) Permit. Any such Take will not be in violation of the MBTA. The MBTA Special Purpose Permit will extend to Covered Species Adequately Conserved listed under FESA and also under the MBTA after the Effective Date of the Section 10(a) Permit. This Special Purpose Permit shall be valid for a period of three (3) years from its Effective Date, provided the Section 10(a) Permit remains in effect for such period. The Special Purpose Permit shall be renewed pursuant to the requirements of the MBTA, provided the Permittees remain in compliance with the terms of this Agreement and the Section 10(a) Permit. Each such renewal shall be valid for a period of three (3) years, provided that the Section 10(a) Permit remains in effect for such period.

15.0 CDFG OBLIGATIONS AND ASSURANCES

15.1 Issuance of NCCP Permit.

15.1.1 Concurrent with the execution of this Agreement, CDFG has issued an NCCP Permit to the Permittees authorizing the Take of Covered Species, subject to and in accordance with the MSHCP and this Agreement, except as set forth in Section 15.5 of this Agreement.

15.1.2 As to each Covered Species Adequately Conserved, including both Listed and Unlisted Species, that Take Authorization shall become effective upon issuance of the NCCP Permit.

15.2 NCCP Permit Findings. CDFG has found, following opportunity for public comment, that the MSHCP and this Agreement: 1) adequately provide for the conservation and management of the Covered Species Adequately Conserved and their habitat within the MSHCP and 2) satisfy all legal requirements under the NCCP Act necessary for CDFG to issue an NCCP Authorization for such species. CDFG has found that the MSHCP meets the requirements of the NCCP Act for an NCCP Plan, and has approved the MSHCP as an NCCP Plan. CDFG has found further that the MSHCP and this Agreement adequately provide for the mitigation of potential "significant effects on the environment" (as defined in California Public Resources Code section 21068) which may result to Covered Species and their habitat from the Covered Activities in the Plan.

15.3 State Assurances. Except for the provisions in Section 15.5, provided Permittees are implementing the terms and conditions of the MSHCP, this Agreement and the Permits, if there are Unforeseen Circumstances, CDFG shall not require additional land, water or financial compensation or additional restrictions on the use of land, water or other natural resources for the life of the NCCP Permit without the consent of the Permittees, unless CDFG determines that continued implementation of this Agreement, the MSHCP, and/or the Permits would jeopardize the continued existence of a Covered Species, or as required by law and would therefore lead to NCCP Permit revocation or suspension.

The Parties acknowledge that, notwithstanding the assurances provided by this section, future modifications to mitigation that are specifically contemplated under the MSHCP and this Agreement may require adjustments in the mitigation set forth in the MSHCP as of the Effective Date, including, but not limited to, Take minimization measures and MSHCP Conservation Area management. Such changes are part of the MSHCP's operating conservation program and are not precluded by the assurances provided in this section. In particular, this section shall not be construed to diminish the obligation of the Permittees, Third Parties Granted Take Authorization or Participating Special Entities to undertake mitigation actions in response to Changed Circumstances and to revise mitigation measures under the Adaptive Management Program. However, CDFG acknowledges that neither the Adaptive Management Program, nor the MSHCP's provisions

concerning Changed Circumstances, are intended to require modifications to the MSHCP's mitigation program that would require additional funding nor to impose significant additional burdens on Permittees, discretionary approvals issued by Permittees and on Participating Special Entities with respect to Take minimization measures.

Based on the best available current scientific and commercial data, CDFG has found that the MSHCP, as implemented by this Agreement will complement other applicable conservation planning and regulatory programs and efforts addressing wildlife within the region and minimizes and mitigates the potential significant adverse impacts of the Covered Activities on the Covered Species.

15.4 Implementation Assistance. Subject to Section 27.11 of this Agreement, CDFG shall provide staff to serve on appropriate committees and shall ensure the availability of staff for informal discussions and meetings with the other Parties to ensure that the implementation of this Agreement is consistent with, and will not render invalid, any findings upon which the NCCP Permit is based. To the extent consistent with its legal authorities, CDFG shall cooperate with the Permittees in obtaining additional funding from sources including, but not limited to, existing and future state and federal grant programs and existing and future bond issues.

15.5 Fully Protected Species. Although fully protected species are included in the list of Covered Species, Take of these species is not authorized in the NCCP Permit and is prohibited by the California Fish and Game Code. The following species in the MSHCP are fully protected under the California Fish and Game Code: 1) Golden eagle; 2) White-tailed kite; 3) Peregrine falcon; and 4) Bald eagle. CDFG acknowledges and agrees that if the measures set forth in the MSHCP are fully complied with, the Covered Activities are not likely to result in Take of these species. If CDFG determines that such measures are not adequate to prevent Take of one of the fully protected species, CDFG shall notify the RCA and other affected Permittees in writing of such discovery and propose new, additional, or different conservation measures that it believes are necessary to avoid Take of these species. The affected Permittees shall implement the measures proposed by CDFG or other measures agreed to by the Parties as adequate to avoid Take of fully protected species.

If at any time there is a change in state law such that CDFG may issue a Section 2081(b) Permit, other permit, or authorization allowing the Incidental Take of any species subject to California Fish and Game Code, sections 3511, 4700, 4800, 5050 or 5515, the Permittees may apply for an amendment of the MSHCP and NCCP Permit or for a new permit for such species. In processing any such application, CDFG shall give good faith consideration to Take avoidance and mitigation measures already provided in the MSHCP and shall issue the amendment or Permit under the same terms and conditions as the existing NCCP Permit, to the extent permitted by law.

15.6 Changes in the Environmental Laws. It is acknowledged and agreed by CDFG that the Permittees are agreeing to perform substantial avoidance, minimization, mitigation, conservation and management measures set forth in this Agreement and the MSHCP. If a change

in, or addition to, the environmental laws takes place, CDFG shall give good faith consideration to the measures required under the MSHCP in applying the new laws and regulations to the Permittees.

15.7 Consultations by CDFG. Except as otherwise required by law, CDFG shall not recommend or otherwise seek to impose through consultation with other public agencies any mitigation, compensation or habitat enhancement requirements regarding impacts to Covered Species that exceed the requirements prescribed in and pursuant to the MSHCP and this Agreement, including, without limitation, in the form of comments offered by CDFG in the context of any CEQA process associated with approvals for Covered Activities, with regard to effects on Covered Species.

16.0 RELATIONSHIP TO OTHER EXISTING HABITAT CONSERVATION PLANS, NCCP PERMITS AND SECTION 2081 PERMITS

16.1 General. The Parties acknowledge that there are habitat conservation plans, MSHCPs, NCCPs, and Section 2081 Permits currently in existence for projects in western Riverside County. The Parties agree that the MSHCP is not incompatible with nor does it negate these existing plans and Permits. Upon request, the Parties may consider consolidation of these Permits and plans into the MSHCP.

16.2 Long-Term SKR HCP. In 1996, a Section 10(a) Permit and California Fish and Game Code section 2081 Management Authorization were issued to the Riverside County Habitat Conservation Agency ("RCHCA") for the Long-Term SKR Habitat Conservation Plan ("SKR HCP"). Relevant terms of the SKR HCP have been incorporated into the MSHCP and this Agreement. It is the Parties' intention that the SKR HCP will continue to be implemented as a separate HCP; however, to provide the greatest conservation for the largest number of Covered Species, the core reserves established by the SKR HCP will be managed as part of the MSHCP Conservation Area consistent with the SKR HCP. The RCA will enter into a Memorandum of Understanding with the RCHCA and Wildlife Agencies to ensure that such management will occur. Actions shall not be taken as part of the implementation of the SKR HCP that will significantly impact other Covered Species. The Parties find that the MSHCP's analysis of Take of SKR is adequately addressed in the Plan Area outside the boundaries of the SKR HCP and thus, the Take of SKR outside of the boundaries but within the Plan Area is authorized under the MSHCP and the Permits.

Upon expiration of its initial 30-year term or termination, the RCA shall process an amendment to the MSHCP to allow coverage for SKR throughout the Plan Area. Alternatively, at any time prior to the expiration of the SKR HCP, the Permittees may elect to have the MSHCP assume all or a portion of the requirements set forth in the SKR HCP. In that event, the SKR HCP shall be amended pursuant to the Amendment Process set forth in Section 5 of the SKR HCP and the RCA shall process an amendment to the MSHCP.

17.0 THIRD PARTY TAKE AUTHORIZATION

17.1 Authorization. Upon execution of this Agreement by the Parties and the issuance of the Permits by the Wildlife Agencies, the Permittees may allow the Take of Covered Species Adequately Conserved by landowners, developers, farming interests and other private and public entities undertaking Covered Activities. Such Covered Activities must be under the direct control of the Permittees in conformance with approvals granted by the Permittees or carried out in conformity with a Certificate of Inclusion or other written mechanism and in compliance with this Agreement, the Permits and the MSHCP. As set forth in Section 11.0 of this Agreement, Permittees shall include as a part of any discretionary or certain City Ministerial Approvals, Certificate of Inclusion or other written mechanism a condition requiring compliance with the Permits, the MSHCP and this Agreement, and describes the Take Authorization granted. Such property owners, developers, farming interests, private entities and other Plan Participants shall receive Take Authorization provided they are in full compliance with all requirements of this Agreement, the MSHCP, the Permits, the Implementation Mechanism adopted by Permittees, issued entitlements and all other applicable requirements.

17.2 Agricultural Activities. Take Authorization shall be extended to Agricultural Operations upon issuance of a Certificate of Inclusion as set forth in Section 6.2 of the MSHCP and Section 11.3 of this Agreement. Such Agricultural Operations shall receive Take Authorization provided they are in full compliance with all requirements of this Agreement, the MSHCP, the Permits, and all other applicable requirements.

17.3 Timing of Take Authorization. Authorization of Take for Third Parties shall occur upon issuance of a grading permit by a Local Permittee or issuance of a Certificate of Inclusion by the RCA or other Local Permittee. Alternatively, as an incentive to convey property needed for inclusion in the MSHCP Conservation Area and for which monetary compensation will not be provided, Third Party Take Authorization may be granted upon project approval and property conveyance. In order to obtain this early Take Authorization, the conveyance must occur within forty-five (45) days after project approval. Any subsequent suspension or revocation of Permits terminating Third Party Take Authorization will not be applicable to the Take Authorization granted upon the project's approval, provided the property has been conveyed and all other mitigation obligations have been satisfied, except where such Take Authorization will jeopardize a Covered Species Adequately Conserved and listed under FESA and/or CESA. In this event, the provisions of Section 17.5 of this Agreement would be triggered. No grading permit or Certificate of Inclusion shall be issued by a Local Permittee until all mitigation requirements imposed by that Permittee through the Implementation Mechanism have been fully satisfied or are guaranteed to occur within a set time frame as approved by the Permittee. In the event that such mitigation requirements have not been satisfied prior to issuance of grading permit or Certificate of Inclusion, the applicant and the Permittee shall enter into an agreement setting forth the terms and conditions of MSHCP compliance and appropriate remedies for non-compliance. The Take Authorization conferred by the Permittees to the Third Parties shall be for the length of time, and run concurrently with, the specific

land development approval or other entitlement or approval granted by the Permittees and the term of the Permits.

17.4 Effect of MSHCP Amendments on Third Parties. Amendments or other revisions to the MSHCP, subsequent to the granting of Take to a Third Party by a Permittee, shall not affect the Take conferred upon a Third Party or the level of compensation required unless the Third Party, the Wildlife Agencies and the affected Permittee all agree to such amendment or revision.

17.5 Effect of Revocation or Suspension of Permits on Third Parties. In the event that one or more of the Wildlife Agencies revoke or suspend all or a portion of the Take Authorization allowed under the Permits, and provided the affected Permittee continues to carry out its obligations under the MSHCP, this Agreement and the Permits, the Take Authorization and other assurances granted to Third Parties Granted Take Authorization by the Permittees will remain in effect as to each individual Third Party Granted Take Authorization prior to the revocation or suspension unless USFWS or CDFG determines that continuation of the Permits with regard to Take by Third Parties Granted Take Authorization would likely jeopardize a species listed under FESA and/or CESA. In this event, the RCA, applicable Permittee(s), Third Parties Granted Take Authorization and Wildlife Agencies, shall meet and confer pursuant to the provisions in Section 23.6 of this Agreement. If these parties cannot reach a mutually satisfactory resolution, the Wildlife Agencies may revoke or suspend all Take Authorization under the MSHCP for that listed species. In this event, all Local Permittees, Third Parties Granted Take Authorization and Participating Special Entities would be eligible for full or partial refund from the RCA or other appropriate Permittees of any mitigation contribution, as appropriate, except to the extent that Take had already occurred. The RCA or other applicable Permittee will issue a notice to all potentially affected property owners that Take Authorization for that listed species is no longer valid under the Plan.

17.6 Effect of No Surprises Assurances on Third Parties. Pursuant to the No Surprises Rule, the Wildlife Agencies shall not require the commitment of additional land or financial compensation or other mitigation from the Permittees and the Permittees will not require such commitments from a Third Party pursuant to the MSHCP and this Agreement beyond those measures imposed on the Third Party by the Local Permittee in accordance with the MSHCP and this Agreement, unless agreed to by the Third Party. The Parties acknowledge that additional measures may be required for a species that is not a Covered Species, as described in Section 9.2 of the MSHCP.

17.7 Retention of Enforcement Authority Over Third Parties. The Parties reserve the right to enforce all applicable federal, state, or local laws against persons or entities which engage in unlawful land development activity without obtaining proper permits and approvals. The Parties further reserve the right to enforce all applicable federal, state, or local laws against Third Parties conducting land development activities within the Plan Area not in compliance with project approvals pursuant to the MSHCP. Local Permittees have the obligation to enforce conditions of project approval as described in Section 13.0 of this Agreement.

18.0 COOPERATIVE EFFORT

In order to ensure that the legal requirements set forth in this Agreement are fulfilled, each of the Parties to this Agreement must perform certain specified tasks as set forth in this Agreement and the MSHCP. The MSHCP and this Agreement thus describe a cooperative effort by federal, state and local agencies to implement a program of conservation for the Covered Species.

Additionally, the Parties shall work cooperatively to enter into a Memoranda of Understanding or other appropriate agreements with any non-Party managing land within the MSHCP Conservation Area to manage lands in conformance and compliance with the MSHCP. A draft Memorandum of Understanding is attached hereto as Exhibit "K."

19.0 TERM

19.1 Effective Date. This Agreement shall be effective upon issuance of the Permits. Any Permittee executing this Agreement after the Effective Date shall, upon execution, become a Party to this Agreement, with all rights and obligations of Parties defined herein, and this Agreement shall be enforceable between each later executing Permittee and all prior signing Parties.

19.2 Term of the Agreement. This Agreement shall run for a term of seventy-five (75) years from the Effective Date, unless terminated in accordance with Section 21.0 of this Agreement or unless extended by agreement of all of the Parties hereto. This term was selected as reasonable due to the scope and breadth of the Plan, the need to establish an adequate endowment to manage and monitor the MSHCP Conservation Area and the extensive projected growth and planned infrastructure within the Plan Area.

19.3 Term of the Permits. The Permits shall run for a term of seventy-five (75) years from the Effective Date unless terminated as provided in this Agreement, provided the requirements of Section 11.1 of this Agreement have been met.

19.4 Extension of the Permit. Upon agreement of the Parties and in compliance with all applicable laws, the Wildlife Agencies may, with respect to the Permits under their respective jurisdiction, extend the Permits beyond their initial terms under the applicable regulations in force on the date of such extension. If Permittees desire to extend the Permits, they will so notify the Wildlife Agencies at least twelve (12) months before the then-current term is scheduled to expire. Extension of the Permits constitutes extension of the MSHCP and this Agreement for the same amount of time, subject to any modifications agreed to by the Parties at the time of extension.

19.5 Permanent Preservation. Notwithstanding the stated term as herein set forth, the Parties agree and recognize that once Take of a Covered Species Adequately Conserved and/or their habitat modified within the Plan Area, such Take and habitat modification will be permanent. The

Parties therefore agree that the preservation and maintenance of the habitat provided for under this Agreement is likewise intended to be permanent and to extend beyond the term of this Agreement.

20.0 MODIFICATIONS AND AMENDMENTS TO THE MSHCP

20.1 Clerical Changes. Clerical changes to the MSHCP shall be made by the RCA on its own initiative or in response to a written request submitted by any Permittee or Wildlife Agency, which includes documentation supporting the proposed clerical change. Clerical changes shall not require any amendment to the MSHCP, the Permits or this Agreement. Clerical changes include corrections of typographical, grammatical, and similar editing errors that do not change the intended meaning and corrections of any maps or exhibits to correct insignificant errors in mapping. The Parties anticipate that most clerical changes to the MSHCP will occur during the first ten (10) years of the Permits. Annual reports shall include a summary of clerical changes made to the MSHCP in the preceding calendar year.

20.2 Land Use Changes. The Parties agree that the adoption and amendment of general plans, specific plans, community plans, zoning ordinances and similar land use ordinances, and the granting of implementing land use entitlements by the County and the Cities are matters within the sole discretion of the County and Cities and shall not require amendments to this Agreement or the approval of other Parties to this Agreement. However, the Parties agree that: 1) no such action by the County or the Cities shall in any way alter or diminish their obligations under this Agreement, the MSHCP, the Monitoring Program or the Permits, and 2) approval of certain projects may lead to revocation or suspension of the Permits pursuant to Section 23.5 of this Agreement.

20.3 Adaptive Management Changes. Except as otherwise provided, changes to minimization, mitigation, compensation and MSHCP Conservation Area management strategies developed through and consistent with the Adaptive Management Program described in Section 5.0 of the MSHCP shall not require any amendment to the MSHCP, this Agreement or the Permits.

20.4 Minor Amendments. Minor Amendments are amendments to the MSHCP of a minor or technical nature where the effect on Covered Species, levels of Take and Permittees' ability to implement the MSHCP are not significantly different than those described in the MSHCP as originally adopted. Minor Amendments to the MSHCP shall not require amendments to this Agreement or the Permits.

20.4.1 List of Minor Amendments. As set forth in Section 6.10.2 of the MSHCP, the following are contemplated as Minor Amendments to the MSHCP and the Permits and therefore, will be administratively implemented pursuant to the procedures below. Minor Amendments processed pursuant to this subsection are limited to the following:

A. Minor corrections to land ownership;

B. Minor revisions to survey, monitoring, reporting and/or management protocols that clearly do not affect species or overall MSHCP Conservation Area functions and values;

C. Transfer of target Reserve Assembly acreages between identified subunits within a single Area Plan and/or between Area Plans within a single Rough Step Analysis Unit consistent with the Criteria, as set forth in Section 6.7 of the MSHCP;

D. Application of Take Authorization to Development within cities incorporated within the MSHCP boundaries after the Effective Date of this Agreement, pursuant to Section 11.6 of this Agreement, provided such inclusion does not preclude Reserve Assembly, significantly increase the cost of MSHCP Conservation Area management or assembly or preclude achieving Covered Species conservation and goals;

E. Annexation or deannexation of property within the Plan Area pursuant to Section 11.5 of this Agreement, provided such inclusion does not preclude Reserve Assembly, significantly increase the cost of the MSHCP Conservation Area management or assembly or preclude achieving Covered Species conservation and goals;

F. Minor extension of cut or fill slopes outside of the right-of-way limits analyzed in the MSHCP for permitted roadways, to accommodate construction in rolling or mountainous terrain; and

G. Updates/corrections to the vegetation map and/or species occurrence data.

20.4.2 **Procedure.** Any Party may propose Minor Amendments to the MSHCP or this Agreement by providing written notice to all other Parties. Such notice shall include a description of the proposed Minor Amendment, an explanation of the reason for the proposed Minor Amendment, an analysis of its environmental effects including any impacts to the conservation of Covered Species and a description of why that Party believes the effects of the proposed Minor

Amendment: 1) are not significantly different from, and are biologically equivalent to, the terms in the MSHCP as originally adopted, 2) substantially conform to the terms in the MSHCP as originally adopted; and 3) will not significantly reduce the ability to acquire the Additional Reserve Lands. The Wildlife Agencies shall submit any comments on the proposed Minor Amendment in writing within sixty (60) days of receipt of such notice. Any Party can institute the informal meet and confer process set forth in Section 23.6 of this Agreement to resolve disagreements concerning Minor Amendments.

For Minor Amendments proposed for Cajalco Road Improvements, State Route 79 Road Improvements and the San Jacinto River Project, the Wildlife Agencies must concur within sixty (60) days of receipt of such notice. If the Wildlife Agencies do not concur with the analysis supporting the Minor Amendment, the project will be subject to a Major Amendment. If the Wildlife Agencies concur or if they fail to respond within the 60-day period, a Minor Amendment for these projects will be approved.

20.5 Major Amendments. Major Amendments are those proposed changes to the MSHCP and the Permits that are not clerical or Minor Amendments. Major Amendments to the MSHCP shall require a subsequent amendment to this Agreement and the Permits, and public notice as required by applicable laws and regulations. The RCA shall submit any proposed Major Amendments to the Wildlife Agencies.

20.5.1 List of Major Amendments. Major Amendments are, but are not limited to, any of the following:

A. All amendments not contemplated in this Agreement as clerical or Minor Amendments to the MSHCP, except subsequent minor changes which are not specifically listed as a Minor Amendment in this Agreement that the Wildlife Agencies have determined to be insubstantial and appropriate for implementation as a Minor Amendment;

B. Changes to the boundary of the MSHCP Plan Area;

C. Addition of species to the Covered Species list;

D. Changes in anticipated Reserve Assembly or funding strategies and schedules that would have substantial adverse effects on the Covered Species; and

E. Interpretations of MSHCP Criteria that are inconsistent with the procedure described in Section 3.0 of the MSHCP.

20.5.2 **Procedure.** Major Amendments shall require the same process followed for the original MSHCP approval. A Major Amendment will require an amendment to the MSHCP and this Agreement addressing the new circumstances, subsequent publication and public notification, CEQA/NEPA compliance and intra-Service Section 7 consultation, if one is deemed necessary. Major Amendments shall be subject to review and approval by the RCA and other Permittees as appropriate, at a noticed public hearing. The Wildlife Agencies will use reasonable efforts to process proposed Major Amendments within one hundred twenty (120) days after publication.

21.0 TERMINATION OF PERMITS

21.1 Termination in General. The Permittees may unanimously elect to terminate the MSHCP and the Permits. In order to terminate, the RCA shall make written findings at a noticed public hearing that further compliance with this Agreement, and implementation of the MSHCP, are either not feasible or no longer in the best interest of Riverside County, the Cities and the other Permittees. Termination by the Permittees shall not be effective until sixty (60) days after the RCA has provided written notice to the Wildlife Agencies of the adoption of termination findings.

21.2 Continuing Obligations. In the event of termination, consistent with the requirements of 50 Code of Federal Regulations sections 17.32(b)(7) and 17.22(b)(7), the Permittees will remain obligated to fulfill any existing and outstanding minimization and mitigation measures required under the terms of the Permits for Take that occurs prior to such termination and such minimization and mitigation measures as may be required pursuant to the terms of this Agreement and the MSHCP. With the consent of the Wildlife Agencies, the RCA may transfer its obligations to a professional land manager approved by the Wildlife Agencies or to the Wildlife Agencies directly, or to another appropriate entity and/or entities acceptable to the Wildlife Agencies.

All Local Development Mitigation Fees that have been collected and held by the RCA, the County and the Cities shall be placed in an interest bearing account governed by the RCA, and shall be transferred to a professional land manager, the Wildlife Agencies directly, or other appropriate entity and/or entities acceptable to the Wildlife Agencies.

21.3 Final Accounting. At the time of termination, the RCA shall provide to the Wildlife Agencies a final accounting of management activities and monitoring information. Such final accounting shall include, at a minimum, all of the information contained in the Annual Report described in Section 6.11 of the MSHCP and all outstanding obligations for future actions regarding implementation of the MSHCP. The final accounting shall specify the Permittees' specific responsibilities and time frames for carrying out such obligations.

21.4 Dissolution of Regional Conservation Authority. In the event the RCA disbands or is otherwise dissolved at the time of termination, the RCA's obligations under this Agreement shall be carried out by the County or other appropriate entity and/or entities acceptable to the Wildlife Agencies.

22.0 WITHDRAWAL OF PERMITTEE(S)

22.1 Withdrawal in General. Any Permittee may terminate its participation in the MSHCP and abandon its Take Authorization set forth in the Permits by notifying the Parties hereto in writing of its intent to terminate its participation. Any Permittee that elects to terminate participation in the MSHCP shall provide at least ninety (90) days written notice to all Parties. Prior to any such termination, the Permittee shall provide to the RCA a final accounting of any information gathered by the Permittee with respect to implementation of the MSHCP, and shall transfer to the RCA any Local Development Mitigation Fees or other funds related to the MSHCP that have been collected.

22.2 Mitigation Responsibilities. Consistent with the requirements of 50 Code of Federal Regulations sections 17.32(b)(7) and 17.22(b)(7), the withdrawing Permittee remains responsible for any existing and outstanding minimization and mitigation measures required under the terms of the Permits for Take that occurs prior to such withdrawal, and such minimization and mitigation measures as may be required pursuant to the terms of this Agreement and the MSHCP.

22.3 Termination of Permittee Take Authorization. Termination of participation by any Permittee will automatically terminate Take Authorization for Covered Activities within that Permittee's jurisdiction. However, for those Covered Activities within that Permittee's jurisdiction that have been issued a grading permit or if a grading permit is not required have commenced legal grading activities or have been issued a Certificate of Inclusion, Take Authorization shall continue under the remaining Permits provided all relevant obligations have been met pursuant to the MSHCP, this Agreement and the Permittee's land use entitlements. In this event, the withdrawing Permittee may elect to continue enforcement of the Plan for the Covered Activities. Otherwise, the RCA or other appropriate remaining Permittee shall enter into a Certificate of Inclusion or other written mechanism with the Third Party Granted Take Authorization or Participating Special Entity. The Certificate of Inclusion or other written mechanism shall be automatically issued provided the applicable Parties are in compliance with the MSHCP, this Agreement and the Permits.

22.4 Evaluation of Remaining Permits. In the event of termination by any Permittee, the RCA shall meet and confer with the Wildlife Agencies to determine to what extent, if any, Take Authorization may continue to be provided to the remaining Permittees. In making this determination, the Wildlife Agencies shall evaluate the benefits to Covered Species resulting from the participation of the remaining Permittees, the extent to which the withdrawing Permittee has outstanding obligations for compliance with Take minimization and mitigation measures, an evaluation of whether the Permits continue to meet issuance Criteria pursuant to FESA and the

NCCP Act, and any other relevant information. Such evaluation shall include an analysis of the viability of the MSHCP Conservation Area without the participation of the Permittee, including whether adequate funding will be available to implement the terms of the MSHCP.

23.0 REMEDIES AND ENFORCEMENT

23.1 Remedies in General. Except as set forth below, each Party shall have all remedies otherwise available to enforce the terms of the MSHCP, this Agreement and the Permits, and to seek remedies for any breach hereof, subject to the following limitations:

23.1.1 No Monetary Damages. No Party shall be liable in money damages to any other Party or any other person for any breach of this Agreement, any performance or failure to perform a mandatory or discretionary obligation imposed by this Agreement or any other cause of action arising from this Agreement. Notwithstanding the foregoing:

A. All Parties shall retain whatever liability they would possess for their present and future acts, or failure to act, without existence of this Agreement.

B. All Parties shall retain whatever liability they possess as an owner of interests in land.

C. Nothing contained in this Agreement is intended to limit the authority of the United States government or the government of the State of California to seek civil or criminal penalties or otherwise fulfill its/their enforcement responsibilities under FESA, CESA, the NCCP Act, or other applicable law.

23.2 Default. Any material breach or violation of this Agreement, the MSHCP, or the Permits shall be deemed a default under this Agreement.

23.2.1 Notice and Opportunity to Cure Default. If any Party determines that one of the other Parties is in violation of the terms of this Agreement, or that a violation is threatened, that Party shall give written notice to the violating Party of such violation and demand in writing the cure of such violation. If the violating Party fails to cure the violation within forty-five (45) days after receipt of said written notice and demand from the notifying Party, or said cure reasonably requires more than forty-five (45) days to complete and the violating Party fails to begin the cure within the forty-five (45) day period or fails to continue diligently to complete the cure, the notifying Party

may bring an action at law or in equity in a court of competent jurisdiction to: 1) enforce compliance by the defaulting Party with the terms of this Agreement, 2) recover actual damages to which the notifying Party may be entitled for violation by the defaulting Party of the terms of this Agreement subject to the limitations stated in Section 23.1 above, and/or 3) 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. The notifying Party may apply any damages recovered to the cost of undertaking any corrective action.

23.3 Injunctive and Temporary Relief. The Parties acknowledge that the Covered Species are unique and that their loss as species would result in irreparable damage to the environment and therefore injunctive and temporary relief may be appropriate to ensure compliance with the terms of this Agreement.

23.4 Limitation and Extent of Enforceability. Except as otherwise specifically provided herein, nothing in this Agreement shall be deemed to restrict the rights of the Permittees to the use of those lands, or interest in lands, constituting the MSHCP Plan Area, provided that nothing in this Agreement shall absolve the Permittees from such other limitations as may apply to such lands, or interest in lands, under other laws or regulations of the United States, the State of California, or any local agency with jurisdiction over those lands.

23.5 Revocation or Suspension of the Permits. The Wildlife Agencies shall have the right to revoke or suspend all or portions of the Permits, in accordance with the laws and regulations in force at the time of such revocation or suspension. Such action may also be triggered by: 1) failure of a Permittee to implement the Implementation Mechanisms adopted by that agency; 2) approval of a proposed Development or public project that significantly compromises the viability of the MSHCP Conservation Area; 3) approval of a Criteria Refinement that compromises the viability of the MSHCP Conservation Area or if the action would adversely affect conservation or jeopardize the continued existence of any individual Covered Species or otherwise fails to substantially comply with the terms of the MSHCP or this Agreement; 4) failure to comply with Rough Step requirements set forth in Section 6.7 of the MSHCP; and/or 5) withdrawal of a Permittee. Such suspension or revocation may apply to the entire applicable Permit, or only to a portion such as specified Area Plans, specified Covered Species, or specified Covered Activities. Such action may also be triggered if the Wildlife Agencies determine that land within the Criteria Area is annexed to a non-participating public agency and thus, development of such land could significantly compromise the viability of the MSHCP Conservation Area. However, no action or lack of action anticipated by the Plan taken by any federal agencies or non-Permittee state agencies, except for the Wildlife Agencies, shall result in the revocation or suspension of either of the Permits or a portion thereof.

Prior to taking action to revoke or suspend the Permits, the Wildlife Agencies, as applicable, shall: 1) provide thirty (30) day prior written notification to the relevant Permittee(s) and the RCA of the proposed revocation or suspension, and 2) meet and confer with the relevant Permittee(s) and the RCA to attempt to avoid the need to revoke or suspend all or a portion of the Permits. The Parties may rely upon the informal meet and confer process set forth in Section 23.6 of this Agreement for disputes concerning potential Permit revocation or suspension.

If the Permits are suspended or revoked, Permittees shall not have the authority to rely upon the Permits to approve or carry out any actions which would violate FESA or CESA in the absence of such Permits. In the event of suspension or revocation of the Permits, Permittees' obligations under this Agreement and the MSHCP to carry out all of their responsibilities under the MSHCP, the Permits and this Agreement arising from any Covered Activity approved, authorized or carried out by the Permittees between the Effective Date of the Agreement and the date the Permits are revoked or suspended will continue until the USFWS and/or CDFG determines that all Take of Covered Species that occurred under the Permits has been addressed pursuant to the terms of the Permits. Provided the suspension or revocation is not the result of the Permittee(s) failure to properly implement the MSHCP, no additional mitigation beyond that contemplated in the MSHCP and this Agreement will be required. As to any Covered Activity of a Third Party that is approved or authorized by a Local Permittee and for which Take is authorized prior to the suspension or revocation or for Caltrans and RCTC Covered Activities for which mitigation has already been contributed, so long as the Local Permittee and Third Party continue to fulfill their obligations under the Permits, the Take Authorization shall continue in effect for that project until completion pursuant to Section 23.7 of this Agreement, except where such Take Authorization will jeopardize a Species listed under FESA or CESA.

23.6 Informal Meet and Confer Process for Disputes Concerning Covered Activities. The Parties agree to work together in good faith to resolve disagreements concerning Covered Activities using the informal dispute resolution procedures set forth in this section, or such other procedures upon which the Parties may later agree. However, if at any time a Party determines that circumstances so warrant, such Party may seek any available remedy without waiting to complete this informal meet and confer process.

Unless the Parties agree upon another dispute resolution process, or unless CDFG or the USFWS has initiated administrative proceedings or litigation in federal or state court, the Parties may use the following process to attempt to resolve disputes concerning Covered Activities:

A. CDFG and/or the USFWS will notify the RCA Executive Director in writing of disagreements they may have with the impacts of a proposed Covered Activity on a Covered Species, the basis for contending that the MSHCP lacks certain identified measures necessary to the continued existence of the identified species, or that the MSHCP contains measures that may be detrimental to the continued existence of the impacted Covered Species and

the basis for contending that the proposed Covered Activity is not consistent with the MSHCP and the Permits.

B. The RCA Executive Director will have sixty (60) days, or such other time as may be agreed upon, to respond. During this time, the Parties may seek clarification of the information provided in the initial notice. The Wildlife Agencies will use reasonable efforts to provide all information available to them that may be responsive to such inquiries.

C. Within sixty (60) days after such response was provided or was due, representatives of the Parties having authority to resolve the dispute will meet and negotiate in good faith toward a mutually satisfactory solution.

D. If any disagreement cannot be resolved through such negotiations, the Parties will consider other alternative dispute resolution processes and, if a dispute resolution process is agreed upon, will make good faith efforts to resolve those remaining disagreements through that process.

23.7 Continuation Of Take Authorization after Revocation, Suspension or Permittee Withdrawal. In the event of revocation or suspension of the Permits pursuant to Section 23.5 of this Agreement or withdrawal of a Permittee pursuant to Section 22.0 of this Agreement, any Third Party Granted Take Authorization or Participating Special Entity who is in compliance with the terms and conditions of the MSHCP can automatically continue to receive Take Authorization from the RCA or other remaining Permittee upon execution of a Certificate of Inclusion or other written mechanism issued by the RCA or other remaining Permittee.

24.0 FORCE MAJEURE

In the event that the Permittees are wholly or partially prevented from performing obligations under this Agreement because of unforeseeable causes beyond the reasonable control of and without the fault or negligence of the Permittees ("Force Majeure"), including, but not limited to, acts of God, labor disputes, sudden actions of the elements, or actions of non-participating federal or state agencies or local jurisdictions, the Permittees shall be excused from whatever performance is affected by such unforeseeable cause to the extent so affected, and such failure to perform shall not be considered a material violation or breach, provided that nothing in this section shall be deemed to authorize any Party to violate FESA, CESA or the NCCP Act, and provided further that:

A. The suspension of performance is of no greater scope and no longer duration than is required by the Force Majeure;

B. Within fifteen (15) days after the occurrence of the Force Majeure, affected Permittees shall give the Wildlife Agencies written notice describing the particulars of the occurrence;

C. Permittees shall use their best efforts to remedy their inability to perform (however, this paragraph shall not require the settlement of any strike, walk-out, lock-out or other labor dispute on terms which in the sole judgment of the Permittees are contrary to their interest); and

D. When Permittees are able to resume performance of their obligations, the affected Permittees shall give the Wildlife Agencies written notice to that effect.

25.0 LEGAL AUTHORITY OF THE USFWS

The USFWS enters into this Agreement pursuant to FESA, the Fish and Wildlife Coordination Act (16 U.S.C. §§ 661-666(c)), and the Fish and Wildlife Act of 1956 (16 U.S.C. §§ 742(b) et seq.). Section 10(a)(2)(B) of FESA expressly authorizes the USFWS to issue a Section 10(a) Permit to allow the Incidental Take of animal species listed as threatened or endangered under FESA. The legislative history of Section 10(a)(1)(B) clearly indicates that Congress also contemplated that the USFWS would approve a habitat conservation plan that protects Unlisted Species as if they were listed under FESA, and that in doing so, the USFWS would provide assurances for such Unlisted Species. The USFWS routinely approves habitat conservation plans that address both listed and Unlisted Species.

26.0 LEGAL AUTHORITY OF THE CDFG

CDFG enters into this Agreement pursuant to its separate and independent authority under the NCCP Act (California Fish and Game Code §§ 2800 et seq.). CDFG may authorize the Take of Covered Species pursuant to California Fish and Game Code section 2835.

27.0 MISCELLANEOUS PROVISIONS

27.1 Response Times. The Parties agree that time is of the essence in performance of the obligations of this Agreement. Except as otherwise set forth herein or as statutorily required by CEQA, NEPA, CESA, FESA, the NCCP Act or any other laws or regulations, the Wildlife Agencies and the Permittees shall use reasonable efforts to respond to written requests within a forty-five (45) day time period.

27.2 No Partnership. Except as otherwise expressly set forth herein, neither this Agreement nor the MSHCP shall make, or be deemed to make, any Party to this Agreement the agent for, or the partner or joint venturer of, any other Party.

27.3 Nullification of Agreement. In the event that the Permits are not issued, this Agreement shall be null and void and no Party shall be bound by its terms.

27.4 Notices. Any notice permitted or required by this Agreement shall be in writing, delivered personally, by overnight mail, or by United States mail, certified and postage prepaid, return receipt requested to the persons listed below and addressed as follows, or at such other address as any Party may from time to time specify to the other Parties in writing. Notices may be delivered by facsimile or other electronic means, provided that they are also delivered personally or by overnight or certified mail. Notices shall be transmitted so that they are received within the specified deadlines. Notice delivered via certified mail, return receipt requested, shall be deemed given five (5) days after deposit in the United States mail. Notices delivered personally shall be deemed given on the date they are delivered. Notices delivered via overnight delivery shall be deemed given on the next business day after deposit with the overnight mail delivery service. The RCA shall maintain a list of individuals responsible for ensuring Plan compliance for each of the Parties, which may change. The following are the individuals currently responsible for ensuring Plan compliance:

Executive Director
Western Riverside County
Regional Conservation Authority
c/o Transportation and Land Management Agency
4080 Lemon Street, 7th Floor
Riverside, California 92502
Telephone: 909-955-6742
Telefax: 909-955-6879

Chief Executive Officer
County of Riverside
County Administrative Center
4080 Lemon Street, 4th Floor
Riverside, California 92502
Telephone: 909-955-1100
Telefax: 909-955-1105

General Manager/Chief Engineer
Riverside County Flood Control
and Water Conservation District
1995 Market Street
Riverside, CA 92501
Telephone: 909-955-1200
Telefax: 909-788-9965

General Manager
Riverside County Regional Parks
and Open Space District
4600 Crestmore Road
Riverside, California 92519-3507
Telephone: 909-955-4310
Telefax: 909-955-4305

Chief Executive Officer
Riverside County Waste Management District
14310 Frederick Street
Moreno Valley, California 92553
Telephone: 909-486-3200
Telefax: 909-486-3205

Deputy Executive Director
Riverside County Transportation Commission
County Administrative Center
P.O. Box 12008
4080 Lemon Street, 3rd Floor
Riverside, California 92502-1605
Telephone: 909-787-7141
Telefax: 909-787-7920

City Manager
City of Banning
99 East Ramsey Street
P. O. Box 998
Banning, California 92220
Telephone: 909-922-3101
Telefax: 909-922-3128

City Manager
City of Beaumont
Civic Center
550 East 6th Street
Beaumont, California 92223
Telephone: 909-769-8520
Telefax: 909-769-8526

City Manager
City of Calimesa
908 Park Avenue
Calimesa, California 92320
Telephone: 909-795-9801
Telefax: 909-795-4399

City Manager
City of Canyon Lake
31516 Railroad Canyon Road
Canyon Lake, California 92587
Telephone: 909-244-2955
Telefax: 909-246-2022

City Manager
City of Corona
815 West Sixth Street
Corona, California 91720
Telephone: 909-736-2297
Telefax: 909-736-2488

City Manager
City of Hemet
445 East Florida Avenue
Hemet, California 92543
Telephone: 909-765-2300
Telefax: 909-765-3785

City Manager
City of Lake Elsinore
130 South Main Street
Lake Elsinore, California 92530
Telephone: 909-674-3124
Telefax: 909-674-2392

City Manager
City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552
Telephone: 909-413-3000
Telefax: 909-413-3750

City Manager
City of Murrieta
26442 Beckman Court
Murrieta, California 92562
Telephone: 909-461-6010
Telefax: 909-689-9885

City Manager
City of Norco
2870 Clark Avenue
Norco, California 91760
Telephone: 909-270-5611
Telefax: 909-270-5622

City Manager
City of Perris
101 North D Street
Perris, California 92570
Telephone: 909-943-2906
Telefax: 909-657-1087

City Manager
City of Riverside
3900 Main Street
Riverside, California 92501
Telephone: 909-826-5553
Telefax: 909-826-5470

City Manager
City of San Jacinto
201 East Main Street
San Jacinto, California 92522
Telephone: 909-654-7337
Telefax: 909-654-3728

City Manager
City of Temecula
43200 Business Park Drive
Temecula, California 92589
Telephone: 909-694-6444
Telefax: 909-694-6499

District Director
District 8
California Department of Transportation
464 West 4th Street
San Bernardino, California 92401-1400
Telephone: 909-383-4561
Telefax: 909-383-6899

Director
California Department of
Parks and Recreation
1416 Ninth Street, Room 1405
Sacramento, California 95814
Telephone: 916-653-8380
Telefax: 916-657-3909

Deputy Operations Manager
United States Fish and Wildlife Service
California/Nevada Operations Office
2800 Cottage Way, Room W-2606
Sacramento, California 95825-1846
Telephone: 916-414-6464
Telefax: 916-414-6486

Deputy Director
Habitat Conservation Division
California Department of Fish and Game
1416 Ninth Street, 13th Floor
Sacramento, California 95814
Telephone: 916-653-1070
Telefax: 916-653-3673

Regional Manager
Eastern Sierra and Inland Deserts Region
California Department of Fish and Game
330 Golden Shore, Suite 250
Long Beach, California 90802
Telephone: 562-590-5113
Telefax: 562-590-5871

In addition to the above list, the following individuals will also be provided all notices as set forth in this section:

Field Supervisor
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
6010 Hidden Valley
Carlsbad, California 92009
Telephone: 760-431-9440
Telefax: 760-431-9618

Chair
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, California 92502
Telephone: 909-787-7141
Telefax: 909-787-7920

Chairman
Western Riverside County
Regional Conservation Authority
c/o Transportation and Land Management Agency
4080 Lemon Street, 7th Floor
Riverside, California 92502
Telephone: 909-955-6742
Telefax: 909-955-6879

Chair
Riverside County Board of Supervisors
4080 Lemon Street, 5th Floor
Riverside, California 92502
Telephone: 909-955-1020
Telefax: 909-955-2362

Mayor
City of Banning
99 East Ramsey Street
P. O. Box 998
Banning, California 92220
Telephone: 909-922-3101
Telefax: 909-922-3128

Mayor
City of Beaumont
Civic Center
550 East 6th Street
Beaumont, California 92223
Telephone: 909-769-8520
Telefax: 909-769-8526

Mayor
City of Calimesa
908 Park Avenue
Calimesa, California 92320
Telephone: 909-795-9801
Telefax: 909-795-4399

Mayor
City of Canyon Lake
31516 Railroad Canyon Road
Canyon Lake, California 92587
Telephone: 909-244-2955
Telefax: 909-246-2022

Mayor
City of Corona
815 West Sixth Street
Corona, California 91720
Telephone: 909-736-2297
Telefax: 909-736-2488

Mayor
City of Hemet
445 East Florida Avenue
Hemet, California 92543
Telephone: 909-765-2300
Telefax: 909-765-3785

Mayor
City of Lake Elsinore
130 South Main Street
Lake Elsinore, California 92530
Telephone: 909-674-3124
Telefax: 909-674-2392

Mayor
City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552
Telephone: 909-413-3000
Telefax: 909-413-3750

Mayor
City of Murrieta
26442 Beckman Court
Murrieta, California 92562
Telephone: 909-461-6010
Telefax: 909-689-9885

Mayor
City of Norco
2870 Clark Avenue
Norco, California 91760
Telephone: 909-270-5611
Telefax: 909-270-5622

Mayor
City of Perris
101 North D Street
Perris, California 92570
Telephone: 909-943-2906
Telefax: 909-657-1087

Mayor
City of Riverside
3900 Main Street
Riverside, California 92501
Telephone: 909-826-5553
Telefax: 909-826-5470

Mayor
City of San Jacinto
201 East Main Street
San Jacinto, California 92522
Telephone: 909-654-7337
Telefax: 909-654-3728

Mayor
City of Temecula
43200 Business Park Drive
Temecula, California 92589
Telephone: 909-694-6444
Telefax: 909-694-6499

General Counsel
Office of the General Counsel
California Department of Fish and Game
1416 Ninth Street, 12th Floor
Sacramento, California 95814
Telephone: 916-654-3821
Telefax: 916-654-3805

County Counsel
County of Riverside
3535 10th Street
Riverside, California 92501-3624
Telephone: 909-955-6301
Telefax: 909-955-6363

27.5 Entire Agreement. This Agreement, together with the MSHCP and the Permits, constitutes the entire Agreement among the Parties. This Agreement supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein. This Agreement shall not be construed as if it had been prepared by any one Party, but rather as if all Parties had prepared the Agreement.

27.6 Assignment or Transfer. This Agreement and each of its covenants and conditions shall be binding on and inure to the benefit of the Parties and their respective successors and assigns. Assignment or other transfer of the Permits shall be governed by the Wildlife Agencies regulations in force at the time.

27.7 Special Area Management Plan Collaboration. The County and RCTC, in partnership with the United States Army Corps of Engineers ("Corps"), intend to complete a Special Area Management Plan ("SAMP") for the Santa Margarita and San Jacinto Watersheds. Towards that end, the County and RCTC will work in collaboration with the Corps, United States Environmental Protection Agency, USFWS, California Environmental Protection Agency, the Regional Water Quality Control Boards, State Water Resources Control Board and CDFG in the

development and implementation of the MSHCP. The County and RCTC will support state and federal agencies in identifying funding for the SAMP.

27.8 Defense. Upon request, CDFG will, to the extent authorized by California law, provide appropriate support to the Permittees in defending, consistent with the terms of the MSHCP, lawsuits arising out of the Permittees' adoption of the MSHCP and/or this Agreement.

27.9 Attorneys' Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, each Party to the litigation shall bear its own attorneys' fees and costs, provided that attorneys' fees and costs recoverable against the United States shall be governed by applicable federal law.

27.10 Elected Officials Not to Benefit. No member of, or delegate to, the California State Legislature, the United States Congress, the Riverside County Board of Supervisors, or City Council of the Permittees shall be entitled to any share or part of this Agreement or to any benefit that may arise from it.

27.11 Availability of Funds. Implementation of this Agreement and the MSHCP by the USFWS is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any money from the United States Treasury. The Parties acknowledge and agree that the USFWS will not be required under this Agreement to expend any federal agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures as evidenced in writing.

Implementation of this Agreement and the MSHCP by CDFG is subject to the availability of appropriated funds. Nothing in this Agreement shall be construed by the Parties to require the obligation, appropriation, or expenditure of any money from the Treasury of the State of California. The Parties acknowledge and agree that CDFG shall not be required under this Agreement to expend any state appropriated funds unless and until an authorized official of that agency affirmatively acts to commit such expenditure as evidenced in writing.

Implementation of this Agreement and the MSHCP by the RCA, the County and the Cities is subject to the availability of appropriated funds. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any money from the general funds of the County or Cities unless expressly authorized by the County Board of Supervisors and/or appropriate City Councils. The obligations of County Waste, County Parks, County Flood Control and RCTC are limited to those specifically set forth in the MSHCP, the Permits and this Agreement.

27.12 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of California, as applicable.

27.13 Duplicate Originals. This Agreement may be executed in any number of duplicate originals. A complete original of this Agreement shall be maintained in the official records of each of the Parties hereto.

27.14 Relationship to the FESA, CESA, NCCP Act and Other Authorities. The terms of this Agreement are consistent with and shall be governed by and construed in accordance with FESA, CESA, the NCCP Act and other applicable state and federal law. In particular, nothing in this Agreement is intended to limit the authority of the USFWS and CDFG to seek penalties or otherwise fulfill its responsibilities under FESA, CESA and the NCCP Act. Moreover, nothing in this Agreement is intended to limit or diminish the legal obligations and responsibilities of the USFWS as an agency of the federal government or CDFG as an agency of the State of California.

27.15 No Third Party Beneficiaries. Without limiting the applicability of rights granted to the public pursuant to FESA, CESA, the NCCP Act or other applicable law, this Agreement shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damages under the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

27.16 References to Regulations. Any reference in this Agreement, the MSHCP, or the Permits to any regulation or rule of the Wildlife Agencies shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

27.17 Applicable Laws. All activities undertaken pursuant to this Agreement, the MSHCP or Permits must be in compliance with all applicable state and federal laws and regulations.

27.18 Severability. In the event one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this Agreement and the remaining parts of this Agreement shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this Agreement. The Permits are severable such that revocation of one does not automatically cause revocation of the other.

27.19 Headings. The paragraph headings used in this Agreement are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

27.20 Due Authorization. The USFWS and CDFG each represent and warrant for the benefit of the Permittees and their successors and assign that: 1) the execution and delivery of this Agreement has been duly authorized and approved by all requisite action; 2) no other authorization or approval, whether of governmental bodies or otherwise, will be necessary in order to enable the USFWS and CDFG to enter into and comply with the terms of this Agreement; and 3) the person executing this Agreement on behalf of the USFWS and CDFG has the authority to bind the USFWS and CDFG respectively.

27.21 Faxed Signatures. Any Party may deliver its signed duplicate of this Agreement to any other Party by facsimile transmission, and such delivery shall be deemed made and completed upon receipt of such facsimile transmission by such other Party. Any Party delivering a signed duplicate by facsimile transmission shall promptly send the duplicate original bearing its original signature to such other Party, provided that a delay or failure to do so shall not negate the effectiveness of the delivery made by the facsimile transmission.

27.22 Calculation of Dates and Dates of Performance. Where periods of time of forty-five (45) days or more are used in this Agreement, calculation of dates of performance shall be by calendar days, e.g. where the text reads sixty (60) days, it shall be read to mean sixty (60) calendar days. Where periods of time are used in this Agreement of less than forty-five (45) days, calculation of date or performance shall be by business or working days. In the event that the date of performance is not a business day, due to falling on a Saturday, Sunday, or observed state or federal holiday, the date of performance shall be construed to be the next business day subsequent to the calculated date of performance.

27.23 Further Instruments. Each of the Parties shall, promptly upon the request of the others, execute, acknowledge, and deliver to the others any and all further instruments and shall give such further assurances as are reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Implementing Agreement to be in effect as of the date last signed below.

UNITED STATES FISH AND WILDLIFE SERVICE

Michael B Fris

Date 22 JUNE 2004

for Deputy Manager
United States Fish and Wildlife Service
California/Nevada Operations Office
Sacramento, California

** Subject to Permit TE-088609-0 Special Term and Condition number 27.

CALIFORNIA DEPARTMENT OF FISH AND GAME

Ronald Rempel

Date 6/22/04

Deputy Director
Habitat Conservation Division
California Department of Fish and Game
Sacramento, California

CALIFORNIA DEPARTMENT OF FISH AND GAME

_____

Date _____

Regional Manager
Inland Region
California Department of Fish and Game
Long Beach, California

WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION AUTHORITY

_____

Date _____

Chair of the Board of Directors
Western Riverside County Regional Conservation Authority
Riverside, California

RIVERSIDE COUNTY BOARD OF SUPERVISORS

_____

Date _____

Chair of the Board of Supervisors
Riverside County Board of Supervisors
Riverside, California

CALIFORNIA DEPARTMENT OF FISH AND GAME

_____ Date _____

Deputy Director
Habitat Conservation Division
California Department of Fish and Game
Sacramento, California

CALIFORNIA DEPARTMENT OF FISH AND GAME

_____ Date 5/27/04

Regional Manager
Inland Region
California Department of Fish and Game
Long Beach, California

WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION AUTHORITY

_____ Date _____

Chair of the Board of Directors
Western Riverside County Regional Conservation Authority
Riverside, California

RIVERSIDE COUNTY BOARD OF SUPERVISORS

_____ Date _____

Chair of the Board of Supervisors
Riverside County Board of Supervisors
Riverside, California

CALIFORNIA DEPARTMENT OF FISH AND GAME

_____ Date _____

Deputy Director
Habitat Conservation Division
California Department of Fish and Game
Sacramento, California

CALIFORNIA DEPARTMENT OF FISH AND GAME

_____ Date _____

Regional Manager
Inland Region
California Department of Fish and Game
Long Beach, California

WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION AUTHORITY

_____ Date _____

Chair of the Board of Directors
Western Riverside County Regional Conservation Authority
Riverside, California

RIVERSIDE COUNTY BOARD OF SUPERVISORS

_____ Date _____

Chair of the Board of Supervisors
Riverside County Board of Supervisors
Riverside, California

CALIFORNIA DEPARTMENT OF FISH AND GAME

_____ Date _____

Deputy Director
Habitat Conservation Division
California Department of Fish and Game
Sacramento, California

CALIFORNIA DEPARTMENT OF FISH AND GAME

_____ Date _____

Regional Manager
Inland Region
California Department of Fish and Game
Long Beach, California

WESTERN RIVERSIDE COUNTY
REGIONAL CONSERVATION AUTHORITY

_____ Date _____

Chair of the Board of Directors
Western Riverside County Regional Conservation Authority
Riverside, California

RIVERSIDE COUNTY BOARD OF SUPERVISORS

_____ Date 7/18/03

Chair of the Board of Supervisors
Riverside County Board of Supervisors
Riverside, California

ATTEST:
NANCY ROMERO, Clerk
By _____
DEPUTY

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

Chair James A. Venable
Riverside County Flood Control and Water Conservation District
Riverside, California

Date SEP - 9 2003

ATTEST:
NANCY ROMERO, Clerk
By _____ DEPUTY

RIVERSIDE COUNTY REGIONAL PARKS
AND OPEN SPACE DISTRICT

Chair James A. Venable
Riverside County Regional Parks and Open Space District
Riverside, California

Date SEP - 9 2003

ATTEST:
NANCY ROMERO, Clerk
By _____ DEPUTY

RIVERSIDE COUNTY WASTE MANAGEMENT DISTRICT

Chair JOHN TAVAGLIONE
Riverside County Waste Management District
Riverside, California

Date SEP - 9 2003

ATTEST:
NANCY ROMERO, Clerk
By _____ DEPUTY

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

_____
Chair
Riverside County Transportation Commission
Riverside, California

Date _____

RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

_____ Date _____

Chair
Riverside County Flood Control and Water Conservation District
Riverside, California

RIVERSIDE COUNTY REGIONAL PARKS
AND OPEN SPACE DISTRICT

_____ Date _____

Chair
Riverside County Regional Parks and Open Space District
Riverside, California

RIVERSIDE COUNTY WASTE MANAGEMENT DISTRICT

_____ Date _____

Chair
Riverside County Waste Management District
Riverside, California

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

_____ Date 9/30/03

Chair
Riverside County Transportation Commission
Riverside, California

CALIFORNIA DEPARTMENT OF TRANSPORTATION

Date 7/15/02

Director
California Department of Transportation
Sacramento, California

CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

Date _____

Director
California Department of Parks and Recreation
Sacramento, California

CITY OF BANNING

Date _____

Mayor
City of Banning
Banning, California

CITY OF BEAUMONT

Date _____

Mayor
City of Beaumont
Beaumont, California

CALIFORNIA DEPARTMENT OF TRANSPORTATION

_____ Date _____

Director
California Department of Transportation
Sacramento, California

CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

Ruth Coleman _____ Date _____

Director
California Department of Parks and Recreation
Sacramento, California

CITY OF BANNING

_____ Date _____

Mayor
City of Banning
Banning, California

CITY OF BEAUMONT

_____ Date _____

Mayor
City of Beaumont
Beaumont, California

CALIFORNIA DEPARTMENT OF TRANSPORTATION

_____ Date _____

Director
California Department of Transportation
Sacramento, California

CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

_____ Date _____

Director
California Department of Parks and Recreation
Sacramento, California

CITY OF BANNING

_____ Date _____

Mayor
City of Banning
Banning, California

CITY OF BEAUMONT

_____ Date _____

Mayor
City of Beaumont
Beaumont, California

CALIFORNIA DEPARTMENT OF TRANSPORTATION

_____ Date _____

Director
California Department of Transportation
Sacramento, California

CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

_____ Date _____

Director
California Department of Parks and Recreation
Sacramento, California

CITY OF BANNING

_____ Date _____

Mayor
City of Banning
Banning, California

CITY OF BEAUMONT

_____ Date 12-31-03

Mayor
City of Beaumont
Beaumont, California

CITY OF CALIMESA

Date 05/13/04

Mayor
City of Calimesa
Calimesa, California

CITY OF CANYON LAKE

_____ Date _____

Mayor
City of Canyon Lake
Canyon Lake, California

CITY OF CORONA

_____ Date _____

Mayor
City of Corona
Corona, California

CITY OF HEMET

_____ Date _____

Mayor
City of Hemet
Hemet, California

CITY OF BANNING

_____ Date _____

Mayor
City of Banning
Banning, California

CITY OF BEAUMONT

_____ Date _____

Mayor
City of Beaumont
Beaumont, California

CITY OF CALIMESA

_____ Date _____

Mayor
City of Calimesa
Calimesa, California

CITY OF CANYON LAKE

_____ Date 2-17-08

Mayor
City of Canyon Lake
Canyon Lake, California

CITY OF CORONA

_____ Date _____

Mayor
City of Corona
Corona, California

CITY OF HEMET

CITY OF CALIMESA

_____ Date _____

Mayor
City of Calimesa
Calimesa, California

CITY OF CANYON LAKE

_____ Date _____

Mayor
City of Canyon Lake
Canyon Lake, California

CITY OF CORONA

_____ Date 10-1-03

Mayor
City of Corona
Corona, California

CITY OF HEMET

_____ Date _____

Mayor
City of Hemet
Hemet, California

CITY OF CALIMESA

_____ Date _____

Mayor
City of Calimesa
Calimesa, California

CITY OF CANYON LAKE

_____ Date _____

Mayor
City of Canyon Lake
Canyon Lake, California

CITY OF CORONA

_____ Date _____

Mayor
City of Corona
Corona, California

CITY OF HEMET

_____ Date January 13, 2004

Mayor
City of Hemet
Hemet, California

CITY OF LAKE ELSINORE

_____ Date M.19.04

Mayor
City of Lake Elsinore
Lake Elsinore, California

CITY OF MORENO VALLEY

_____ Date _____

Mayor
City of Moreno Valley
Moreno Valley, California

CITY OF MURRIETA

_____ Date _____

Mayor
City of Murrieta
Murrieta, California

CITY OF NORCO

_____ Date _____

Mayor
City of Norco
Norco, California

CITY OF LAKE ELSINORE

_____ Date _____

Mayor
City of Lake Elsinore
Lake Elsinore, California

ATTEST:

Alice Reed
City Clerk

CITY OF MORENO VALLEY

_____ Date 2/18/04

Mayor
City of Moreno Valley
Moreno Valley, California

Approved as to Form
Date 2/13/04
By RDH
City Attorney
Moreno Valley

CITY OF MURRIETA

_____ Date _____

Mayor
City of Murrieta
Murrieta, California

CITY OF NORCO

_____ Date _____

Mayor
City of Norco
Norco, California

CITY OF LAKE ELSINORE

_____ Date _____

Mayor
City of Lake Elsinore
Lake Elsinore, California

CITY OF MORENO VALLEY

_____ Date _____

Mayor
City of Moreno Valley
Moreno Valley, California

CITY OF MURRIETA

Richard D. Ostling Date 9/16/2003

Mayor
City of Murrieta
Murrieta, California

Attest: A. Kay Vinson
City Clerk

CITY OF NORCO

_____ Date _____

Mayor
City of Norco
Norco, California

CITY OF LAKE ELSINORE

_____ Date _____

Mayor
City of Lake Elsinore
Lake Elsinore, California

CITY OF MORENO VALLEY

_____ Date _____

Mayor
City of Moreno Valley
Moreno Valley, California

CITY OF MURRIETA

_____ Date _____

Mayor
City of Murrieta
Murrieta, California

CITY OF NORCO

Frank Hall Date 9/17/03

Mayor
City of Norco
Norco, California

CITY OF PERRIS

Daryl R. Busch

Date 3/31/04

Mayor
City of Perris
Perris, California

CITY OF RIVERSIDE

Date _____

Mayor
City of Riverside
Riverside, California

CITY OF SAN JACINTO

Date _____

Mayor
City of San Jacinto
San Jacinto, California

CITY OF TEMECULA

Date _____

Mayor
City of Temecula
Temecula, California

CITY OF PERRIS

_____ Date _____

Mayor
City of Perris
Perris, California

CITY OF RIVERSIDE

Ronald Loveridge Date 4/22/04

Mayor
City of Riverside
Riverside, California

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

Attest: City Clerk

By Deputy City Attorney

CITY OF SAN JACINTO

_____ Date _____

Mayor
City of San Jacinto
San Jacinto, California

CITY OF TEMECULA

_____ Date _____

Mayor
City of Temecula
Temecula, California

CITY OF PERRIS

_____ Date _____

Mayor
City of Perris
Perris, California

CITY OF RIVERSIDE

_____ Date _____

Mayor
City of Riverside
Riverside, California

CITY OF SAN JACINTO

_____ Date October 16, 2003

Mayor
City of San Jacinto
San Jacinto, California

CITY OF TEMECULA

_____ Date _____

Mayor
City of Temecula
Temecula, California

CITY OF PERRIS

_____ Date _____

Mayor
City of Perris
Perris, California

CITY OF RIVERSIDE

_____ Date _____

Mayor
City of Riverside
Riverside, California

CITY OF SAN JACINTO

_____ Date _____

Mayor
City of San Jacinto
San Jacinto, California

CITY OF TEMECULA

_____ Date 12-16-03

Mayor Jeffrey E. Stone
City of Temecula
Temecula, California

ATTEST:

_____

Susan W. Jones, CMC, City Clerk
City of Temecula

APPROVED AS TO FORM:

_____

Peter M. Thorson, City Attorney
City of Temecula

LIST OF EXHIBITS

WESTERN RIVERSIDE COUNTY MSHCP IMPLEMENTING AGREEMENT

Exhibit A	-	Map of MSHCP Plan
Exhibit B	-	Map of MSHCP Plan Area
Exhibit C	-	List of Covered Species
Exhibit D	-	List of Covered Species Adequately Conserved
Exhibit E	-	List of Narrow Endemic Plant Species
Exhibit F	-	Certificate of Inclusion
Exhibit G	-	Model City Ordinance Adopting Local Development Mitigation Fees
Exhibit H	-	Model City Resolution Adopting MSHCP
Exhibit I	-	Model City Ordinance Adopting MSHCP
Exhibit J	-	Model Non-City Resolution Adopting MSHCP
Exhibit K	-	Memorandum of Understanding for the Cooperation in Habitat Conservation Planning and Management for the Western Riverside County Multiple Species Habitat Conservation Plan/Natural Community Conservation Plan